

125 FERC ¶ 61,090
FEDERAL ENERGY REGULATORY COMMISSION
Washington, D.C. 20426

October 24, 2008

In Reply Refer To:
Red Shield Environmental LLC
Docket No. ER08-1502-000

Bernstein, Shur, Sawyer & Nelson, P.A.
Katherine A. Joyce, Esq.
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Dear Ms. Joyce:

1. On August 28, 2008, Red Shield Environmental LLC (RSE) submitted a notice of cancellation requesting that the Commission cancel its market-based rate tariff effective August 29, 2008. In this order, the Commission accepts the notice of cancellation filed by RSE and grants waiver of the Commission's prior notice requirement.¹
2. Notice of RSE's filing was published in the *Federal Register*, 73 Fed. Reg. 52,346, with interventions or protests due on or before September 18, 2008.
3. Ms. Hillary Lister filed a motion to intervene out of time and an untimely protest of RSE's notice of cancellation. Ms. Lister protests RSE's request to waive the prior notice requirement and RSE's notice of cancellation of its Rate Schedule FERC No. 1 (Rate Schedule).
4. Pursuant to Rule 214(d) of the Commission's Rules of Practice and Procedure,² the Commission will grant Ms. Lister's late-filed motion to intervene given her interest in this proceeding, the early stage of the proceeding, and the absence of undue prejudice or delay.

¹ 18 C.F.R. § 35.15 (2008).

² 18 C.F.R. § 385.214(d) (2008).

5. RSE states that based on its status as a qualifying small power production facility of less than 20 MW, RSE's sales of electricity fall within the exemption of 18 C.F.R. § 292.601(c)(1);³ therefore, it is exempt from the applicable requirements of section 205 of the Federal Power Act,⁴ and is not required to hold market-based rate authority to make wholesale power sales. RSE states that the sole power producer to whom notice must be provided is ISO New England, which RSE served at the time of filing. RSE further states that cancelling the tariff will not harm customers or market participants.

6. Ms. Lister's protest asserts that waiving the prior notice requirement could allow negative impacts on the local water, air, land and community resulting from RSE operations. Ms. Lister also argues that waiving the prior notice requirement could effectively limit or eliminate needed public notice, participation, and oversight.

7. The Commission has determined that Ms. Lister's protest does not provide any justification why the Commission should deny RSE's request to cancel its Rate Schedule or deny RSE waiver of the prior notice requirement. For example, Ms. Lister does not explain the relationship between her concerns and the proposed cancellation of RSE's market-based rate authority. The Commission's market-based rate policy is designed to ensure that market-based rates charged by public utilities are just and reasonable.⁵ The Commission may grant cancellation of market-based rate authority when a public utility submits a statement giving the reason for the proposed cancellation or termination, and a list of affected purchasers to whom the notice has been mailed.⁶ Likewise, for good cause shown the Commission may by order provide that notice of cancellation or termination shall be effective as of the date prior to the date of filing or prior to the date the filing would become effective in accordance with Commission rules.⁷

8. The Commission accepts the notice of cancellation filed by RSE effective August 29, 2008, as requested.⁸

³ 18 C.F.R. § 292.601(c)(1) (2008).

⁴ 16 U.S.C. § 824d (2006).

⁵ *Market-Based Rates for Wholesale Sales of Electric Energy, Capacity and Ancillary Services by Public Utilities*, Order No. 697, FERC Stats. & Regs. ¶ 31,252, *clarified*, 121 FERC ¶ 61,260 (2007), *order on reh'g*, Order No. 697-A, 73 Fed. Reg. 25,832 (May 7, 2008), FERC Stats. & Regs. ¶ 31,268 (2008).

⁶ 18 C.F.R. § 35.15 (2008).

⁷ *Id.*

⁸ Rate Schedule FERC No. 1, First Revised Sheet No. 1 (cancels FERC Rate Schedule No. 1).

9. The Commission notes that because the request by RSE to cancel its market-based rate authority is granted herein, any waivers and authorizations previously granted in connection with its market-based rate authority are no longer applicable.

By direction of the Commission.

Nathaniel J. Davis, Sr.,
Deputy Secretary.