

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Market-Based Rates For Public Utilities	Docket No. RM04-7-000
AEP Power Marketing, Inc., AEP Service Corporation, CSW Power Marketing, Inc., 4143-004, CSW Energy Services, Inc., and Central and South West Services, Inc.	Docket Nos. ER96-2495-016, ER96-2495-017, ER97-4143-005, ER97-1238-011, ER97-1238-012, ER98-2075-010, ER98-2075-011, ER98-542-006 and ER98-542-007
(Not consolidated)	
Entergy Services, Inc.	Docket Nos. ER91-569-018 and ER91-569-019
Southern Company Energy Marketing L.P.	Docket Nos. ER97-4166-010 and ER97-4166-011
Conference on Supply Margin Assessment	Docket No. PL02-8-000

SUPPLEMENTAL NOTICE OF AGENDA FOR TECHNICAL CONFERENCE

(June 3, 2004)

1. The attachment to this supplemental notice provides additional information concerning the technical conference to discuss issues associated with the rulemaking proceeding on market-based rates that is scheduled for June 9, 2004 from 9:30 a.m. to 4:30 p.m. (EST) in the Commission's Meeting Room at the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, D.C. All interested persons are invited to attend. Microphones will be available to enable those in the audience to participate in the discussion as issues arise. Members of the Commission will participate in the conference. While the Commission does not intend the conference discussion to include the merits of any issues pending on rehearing in the AEP Power Marketing, Inc., et al. proceeding in Docket No. ER96-2495-016, et al., we have included those docket numbers out of an abundance of caution since the issues in the conference may overlap with issues in the rehearing dockets.

2. The conference will be transcribed. Those interested in acquiring the transcript should contact Ace Reporters at 202-347-3700 or 800-336-6646. Transcripts will be placed in the public record ten days after the Commission receives the transcripts.

Additionally, Capitol Connection offers the opportunity for remote listening and viewing of the conference. It is available for a fee, live over the Internet, by phone or via satellite. Persons interested in receiving the broadcast, or who need information on making arrangements, should contact David Reininger or Julia Morelli at Capitol Connection (703-993-3100) as soon as possible or visit the Capitol Connection website at <http://www.capitolconnection.org> and click on "FERC."

3. For more information about the conference, please contact Mary Beth Tighe at 202-502-6452 or mary.beth.tighe@ferc.gov

Magalie R. Salas
Secretary

MARKET-BASED RATES FOR PUBLIC UTILITIES
TECHNICAL CONFERENCE
JUNE 9, 2004 9:30 a.m. – 4:30 p.m.
AGENDA

For many years the Commission has conducted the following four-part test to determine whether an applicant should be granted market-based rate authority: (1) whether the applicant has generation market power; (2) whether the applicant has transmission market power, (2) whether the applicant can erect barriers to entry, and (3) whether there are concerns involving the applicant that relate to affiliate abuse and/or reciprocal dealing. The Commission recently initiated a rulemaking proceeding with respect to the adequacy of the current four-prong analysis and whether and how it should be modified to assure that electric market-based rates are just and reasonable under the Federal Power Act. The public technical conference that is the subject of this notice is the first step in this rulemaking proceeding. The purpose of this conference will be to frame the issues that will comprise the rulemaking proceeding, including a discussion of how all four parts of the current test interrelate, as well as what other factors the Commission should consider in granting market-based rate authorizations.

Panelists will each be asked to address issues among the following in an overview prepared statement, which will be followed by questions and general discussion:

1. To what extent, if any, does the Commission's current four-part test need to be revised, consolidated or expanded? Are there other factors the Commission should consider in granting market-based rate authorizations?
2. Should the interim generation market power screens that were adopted in the AEP Order¹ be retained over the long-term?
3. How do each of the four parts of the test relate to the other parts? Should the Commission's review of generation market power and transmission market power be more integrated than it is currently? How do these two factors interrelate? Should the Commission's analysis explicitly address vertical market power issues?
4. Should the Commission adopt a regional approach to assessing market power wherein all jurisdictional entities selling at wholesale in a particular region are reviewed for authorization to sell at market-based rates simultaneously, rather than the current applicant-by-applicant approach? If we adopted such an approach, how should we address the associated data

¹ AEP Power Marketing, Inc., 107 FERC ¶ 61,018 (2004) (AEP Order).

and procedural/transition issues that would be needed to implement such an approach?

5. Should there be new Commission regulations promulgated expressly for electric market-based rate filings? If so, in what areas are such regulations specifically needed?
6. Transmission specific issues:
 - a. How should we calculate transmission access to the market?
 - b. Are the current rights under the Order No. 888 transmission tariffs sufficient to ensure access to competitive markets?
 - c. Did Order No. 888 eliminate the potential for exercise of transmission market power? If not, how can transmission market power be exercised under the Open Access Transmission Tariff (OATT)? If Order No. 888 did not eliminate the potential for expansion of transmission market power, what policies are likely to do so? How should incentives factor into the analysis?
 - d. Is transmission market power a more serious concern than generation market power?
 - e. How can transmission market power be mitigated?
 - f. What is the best method to identify instances where market power is being exercised over transmission?
 - g. Should a public utility with transmission market power be eligible for market-based rate authorization?
7. Entry specific issues:
 - a. As part of the Commission's review of barriers to entry, should we examine the planning and expansion process with respect to generation siting? If so, how should that be done?
 - b. Who should be able to nominate sites for planning purposes?
 - c. What elements should go into the planning process?
 - d. What actions, if any, should be taken if barriers to entry exist that are not caused by any one entity?
 - e. What is the role of merchant transmission entry in reducing market power?
8. Affiliate Issues:
 - a. Should the Commission adopt different approaches to affiliate transactions than it currently does?
 - b. How should the history of affiliate violations factor into the analysis?
 - c. In general, are rules or proper incentives best for market efficiency?
 - d. What are the benefits and detriments that affiliate transactions bring to the market or to customers?

- e. Do our affiliate rules hinder gains from economies of scope?
 - f. Is there an efficiency rationale for affiliate transactions given our behavioral rules?
 - g. Should any revisions to the current code of conduct be made and if so, what?
9. Are there certain entities that should not be granted market-based rate authority (e.g., trading platforms or banks that loan money to potential energy-related competitors)? If so, why?
10. Should there be revisions to how market-based rates associated with ancillary services outside RTOs are currently authorized? If so, in what way?

Panel I 9:30 a.m. – 12:00 p.m. (Generation Market Power, Transmission Market Power, Vertical Market Power and Barriers to Entry)

David DeRamus, Partner, Bates White

Mark Hegedus, of counsel, Spiegel & McDiarmid, on behalf of American Public Power Association

Paul Bonavia, President of Commercial Enterprises for Xcel Energy

Robert Weishaar, Partner, McNeese, Wallace & Nurick, on behalf of industrial customers

Mathew Morey, Senior Consultant, Lauritsr.Christensen Associates, on behalf of National Rural Electric Cooperative Association

Michael Wroblewski, Federal Trade Commission

Panel II 1:30 p.m. – 4:30 p.m. (Affiliate Abuse, Other Factors the Commission Should Consider in Granting Market-Based Rates, Other Issues (Substantive and Procedural) That Should be Addressed in the Rulemaking)

Julie Simon, Vice President of Policy, Electric Power Supply Association

Fred Bryant, General Counsel for Florida Municipal Power Agency, on behalf of Transmission Access Policy Study (TAPS) Group

Gerald Norlander, Chairman of the Electricity Committee of the National Association of State Utility Consumer Advocates

Diana Moss, Vice President and Senior Research Fellow, American Antitrust Institute