

119 FERC ¶ 61,054  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;  
Sudeen G. Kelly, Marc Spitzer,  
Philip D. Moeller, and Jon Wellinghoff.

Compliance with Financial Forms Filing Requirements	Docket No. IN07-7-000
Black Creek Hydro, Inc.	Docket No. IN07-08-000
Chugach Electric Association	Docket No. IN07-09-000
Dauphin Island Gathering Partners	Docket No. IN07-10-000
Eastern Shore Natural Gas Company	Docket No. IN07-11-000
Energy West Development	Docket No. IN07-12-000
Golden State Water Company	Docket No. IN07-13-000
Granite State Gas Transmission Inc.	Docket No. IN07-14-000
Jackson Prairie Underground Storage Project	Docket No. IN07-16-000
MarkWest New Mexico, L.P.	Docket No. IN07-17-000
Nornew Energy Supply, Inc.	Docket No. IN07-18-000
Omya, Inc.	Docket No. IN07-19-000
Panther Interstate Pipeline Energy, LLC	Docket No. IN07-20-000
Steuben Gas Storage Company	Docket No. IN07-21-000
UGI Utilities, Inc.	Docket No. IN07-22-000

ORDER TERMINATING PROCEEDINGS,  
DIRECTING FUTURE FILING, AND  
REFERRING MATTER TO OFFICE OF ENFORCEMENT

(Issued April 19, 2007)

1. On February 15, 2007, the Commission issued an order with respect to the above-captioned companies, directing them to show cause why they have failed to comply with the Commission's requirement to file certain financial forms.<sup>1</sup> The Commission gave the

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<sup>1</sup> *Compliance with Financial Forms Filing Requirements*, 118 FERC ¶ 61,107 (2007) (*Order to Show Cause*).

companies thirty days in which to file, or explain their failure to file, their overdue FERC Form Nos. 1, 1-F, 2, 2-A, 3-Q, 6 and 6-Q (financial forms) and their overdue CPA certifications, or face the imposition of penalties.<sup>2</sup>

2. The financial forms, more fully described in the *Order to Show Cause*, provide financial information to the Commission from electric utilities and licensees, natural gas companies, and oil pipeline companies. The financial information reported to the Commission, on both an annual and quarterly basis, includes, among other things, a statement of income; balance sheet with supporting information; and sales, operating and statistical data. The financial and operational information is essential to the Commission's ability to carry out its responsibilities under the Federal Power Act, the Natural Gas Act, and the Interstate Commerce Act.<sup>3</sup> The information also is available to the public and allows customers, state commissions, and others to evaluate rates and determine if they are just and reasonable. The CPA certifications, which must be filed with FERC Form Nos. 1, 1-F, 2, and 2-A, provide assurance that the financial statements and related notes are prepared in conformity with the Commission's accounting regulations and that the statements are free of material misstatement.<sup>4</sup>

3. In the *Order to Show Cause*, the Commission directed the companies it had identified to file all delinquent forms within 30 days of the date of issuance of the order; directed companies who may have filed the information to show proof of their compliance; and directed all others to show cause why the filing was not made, why they are unable to make the required filings; or why they believe they are not subject to these requirements.<sup>5</sup> In this order, we are terminating the dockets in which companies have filed the required information and complied with the *Order to Show Cause*, directing a further filing be made by one company, granting extensions of time to three companies,

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<sup>2</sup> Sections 4, 304 and 309 of the Federal Power Act, sections 10(a) and 16 of the Natural Gas Act, and section 20 of the Interstate Commerce Act grant authority to the Commission to prescribe periodic financial and non-financial reporting. *See* 16 U.S.C. §§797, 825c, and 825h (2000); 15 U.S.C. §§ 717i(a) and 717o (2000); and 49 App. U. S.C. §§ 1-85 (1988), respectively. The Commission may assess up to \$1 million per day per violation of its rules and regulations. *See* FPA § 316(a) (2005), 16 U.S.C. § 825o(a), and NGA § 22(a), 15 U.S.C. § 717t-1(a).

<sup>3</sup> *See* 16 U.S.C. 797, 825c and 825h (2000); 15 U.S.C. 717i(a) and 717o (2000); and 49 App. U.S.C. 1-85 (2000).

<sup>4</sup> *See* 18 C.F.R. §§ 41.10- 41.12, and 18 C.F.R. §§158.10-12.

<sup>5</sup> *Order to Show Cause* at Ordering Paragraphs A-C.

and referring the non-compliance by one company to the Commission's Office of Enforcement under 18 C.F.R. § 1b.5.

### **Terminated Dockets**

4. The following companies filed the information required by the *Order to Show Cause* within the 30 days prescribed by the Commission: Black Creek Hydro, Inc. (Docket No. IN07-08-000); Chugach Electric Association (Docket No. IN07-09-000); Dauphin Island Gathering Partners (Docket No. IN07-10-000); Eastern Shore Natural Gas Company (Docket No. IN07-11-000); Energy West Development (Docket No. IN07-12-000); Granite State Gas Transmission (Docket No. IN07-14-000); Jackson Prairie Underground Storage Project (Docket No. IN07-16-000) MarkWest New Mexico, L.P. (Docket No. IN07-17-000); Panther Interstate Pipeline Energy, LLC (Docket No. IN07-20-000); and, Steuben Gas Storage Company (Docket No. IN07-21-000). These companies have complied with the *Order to Show Cause* and, accordingly, the respective proceedings identified for each company, listed below in the Ordering Paragraphs, are hereby terminated.

### **Dockets Requiring Further Filings**

5. On February 28, 2007, Golden State Water Company (GSW) submitted a request for an extension of time until April 18, 2007, to file an amended Form No. 1 for 2005 stating that it had determined that filing an amended FERC Form No. 1 would facilitate its ability to file a CPA Certification. GSW's request for an extension of time in which to file the amended Form No. 1 was granted on March 16, 2007.<sup>6</sup> On March 19, 2007, GSW filed a response to the *Order to Show Cause* stating that it would file both an amended 2005 Form No. 1 and the 2006 Form No. 1 on April 18, 2007. GSW states further that it filed the Annual Report, FERC Form No. 1, on May 26, 2006, but was unaware of the CPA Certification filing requirement. On April 12, 2007, GSW filed a request for an additional extension of time, to May 18, 2007, to make the required filings, due to a software problem they have experienced. The Commission finds good cause to grant GSW's request for an extension of time in which to file the 2005 amended Form 1 and overdue CPA Certification, and will keep Docket No. IN07-13-000 open and issue a subsequent order when we have confirmed that GSW has made the required filings.

6. On March 15, 2007, UGI Utilities, Inc. (UGI) filed a response to the *Order to Show Cause*, requesting an extension of time, until April 27, 2007, to file its 2005 CPA Certification. UGI states that preparation of the CPA Certification is a time-consuming endeavor since UGI operates on a fiscal year that is not coterminous with the calendar year. We will grant UGI's request for an extension of time until April 27, 2007, to file

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<sup>6</sup> See Letter Order issued March 16, 2007 in Docket No. AC07-66-000.

the CPA Certification and at that time, a determination will be made with respect to UGI's compliance status. However, the *Order to Show Cause* clearly stated that the Commission's regulations require the CPA Certification to provide assurance that the financial statements are prepared in conformity with the Commission's accounting practices and that the statements are free of material misstatement.<sup>7</sup> UGI must put in place the processes necessary to ensure that it is in compliance with the Commission's regulations and that a CPA Certification is filed annually together with the Form 1-F or 30 days thereafter.<sup>8</sup> The UGI proceeding, Docket No. IN07-22-000, will remain open pending the issuance of a subsequent Commission order when we have confirmed that UGI has made the required filing.

7. On March 9, 2007, Nornew Energy Supply, Inc. (Nornew) filed a request for an extension of time, until April 16, 2007, to file its 2005 FERC Form No. 2-A, 2005 CPA Certification for FERC Form No. 2-A, and FERC Form 3-Qs for the first three quarters of 2005 and the first two quarters of 2006. Subsequently, Nornew made a second filing on March 16, 2007, in which it alleges that it is not required to file a 2005 FERC Form No. 2-A, 2005 CPA Certification for FERC Form No. 2-A, or FERC Form 3-Qs for the first three quarters of 2005 and the first two quarters of 2006.

8. Nornew argues that it is not required to file FERC Form No. 2-A for 2005 because its total transportation volumes for 2005 were less than 200,000 Dth, the threshold volume requirement for non-major natural gas companies.<sup>9</sup> According to Nornew, its annual transportation volumes for 2005 are only 99,540 Dth.<sup>10</sup> Nornew lists its transportation transactions for 2003 and 2004 as 309,785 Dth and 425,390 Dth, respectively. Further, Nornew states that it interprets the "previous three calendar years" language of section 260.2, 18 C.F.R. §260.2, of the Commission's regulations to include the calendar year being reported, and thus the smaller volume for 2005 exempts Nornew from the filing requirement for 2005.<sup>11</sup>

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<sup>7</sup> See *Order to Show Cause* at P 6.

<sup>8</sup> See 18 C.F.R. §§ 41.10-12.

<sup>9</sup> The filing requirements for FERC Form No. 2-A state that a natural gas company that does not meet the filing threshold for FERC Form No. 2, *i.e.*, a major pipeline company defined as one whose combined transportation and storage volumes exceed 50 million Dth in each of the three previous calendar years, must file the FERC Form No. 2-A if its total gas sales or volume transactions exceed 200,000 Dth in each of the three previous calendar years.

<sup>10</sup> See Answer to Show Cause Order of Nornew Energy Supply, Inc. at p. 3.

<sup>11</sup> *Id.*

9. Nornew's interpretation of section 260.2 of the Commission's regulations is incorrect. Section 260.2 defines a non-major pipeline as one which has "total gas sales or volume transactions exceeding 200,000 Dth in each of the three previous calendar years." Exemption from the Commission's reporting requirement is granted only when the volume transactions fall beneath the 200,000 Dth for each of the three years, not when the volume transactions fail to meet the filing threshold for only one of the three years. Moreover, the "three proceeding years" does not encompass the year being reported. The same definition is found in the General Instructions of the Uniform System of Accounts at Part 201 of the Commission's regulations, 18 C.F.R. Part 201, which states that the class of natural gas companies is determined by its annual gas volume in each of the last three consecutive years. Part 201 states further that "changes in classification shall be made when the volume for each of the three immediately preceding years exceeds the upper limit, or is less than the lower limit of the classification previously applicable to the natural gas company."<sup>12</sup>

10. Nornew's argument that it is exempt from the 2005 filing requirements is rejected. Nornew's filing requests that if the Commission does not agree with Nornew, it be given 30 days in which to file the forms and certifications. We will grant Nornew's request for a 30-day extension of time. At that time, Nornew will file a 2005 FERC Form No. 2-A, 2005 CPA Certification for FERC Form No. 2-A, and FERC Form 3-Q for the first three quarters of 2005 and the first two quarters of 2006. The Nornew proceeding, Docket No. IN07-18-000, will remain open until Nornew makes the required filing within 30 days of the date of this order.

#### **Docket Referred for Investigation**

11. One company, Omya, Inc., a licensee in Vermont, failed to respond to the *Order to Show Cause*.<sup>13</sup> In order to determine whether Omya, Inc.'s actions have violated or are continuing to violate the Commission's regulations and our *Order to Show Cause*, we refer the matter to the Commission's Office of Enforcement under 18 C.F.R. §1b.5.

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<sup>12</sup> Part 201, General Instructions, at 1(C).

<sup>13</sup> As noted in the *Order to Show Cause*, Omya, Inc. failed to file its 2005 CPA Certification for the FERC Form 1-F and its FERC Form 3-Q for the first and second quarters of 2006.

The Commission orders:

(A) By this Order, the following dockets are hereby terminated: Docket Nos. IN07-08-000, IN07-09-000, IN07-10-000, IN07-11-000, IN07-12-000, IN07-14-000, IN07-16-000, IN07-17-000, IN07-20-000, and IN07-21-000.

(B) Docket No. IN07-13-000, GSW, will remain open pending the issuance of a subsequent Commission order when we have confirmed that GSW has made the required filings of an amended FERC Form No. 1 and a CPA certification for 2005. GSW's request for an extension of time until May 18, 2007, is hereby granted.

(C) Docket No. IN07-22-000, UGI, shall remain open pending the receipt of UGI's compliance filing. UGI's request for an extension of time until April 27, 2007 is hereby granted. On or before April 27, 2007, UGI Utilities shall file the overdue 2005 CPA Certification for its 2005 Form 1-F filing. A subsequent Commission order will be issued when we have confirmed the receipt of UGI's filing.

(D) Docket No. IN07-18-000, Nornew Energy Supply, shall remain open pending the issuance of a subsequent Commission order when we have confirmed the receipt of Nornew's filing. Within 30 days of the date of this order, Nornew Energy Supply shall file with the Commission a 2005 FERC Form No. 2-A, 2005 Certification for the FERC Form No. 2-A, and Form No. 3-Q for the first three quarters of 2005 and the first two quarters of 2006.

(E) The issue of whether Omya, Inc. has violated or is continuing to violate Commission regulations and the *Order to Show Cause*, and whether a civil penalty is appropriate, is referred to the Commission's Office of Enforcement for investigation under 18 C.F.R. § 1b.5.

By the Commission

( S E A L )

Kimberly D. Bose,  
Secretary.