environmental and related issues associated with development of the St. Lawrence-FDR Power Project license application that was filed on October 31, 2001. These staff will continue to be available to assist the parties, if requested, to resolve issues during the pendency of the license application. However, these ''separated staff'' will take no part in Commission review of the application, or deliberations concerning the merits of the application.

Office of General Counsel

Merrill Hathaway

Office of Energy Projects

Jennifer Hill

Mark Pawlowski

Patti Leppert

Steve Naugle

Different Commission ''advisory staff'' will be assigned to process the license application, including providing advice to the Commission with respect to it. Separated staff and advisory staff are prohibited from communicating with one another concerning this license application. However, in the interest of efficiency and consistency, Environmental Resource Management, Inc. (ERM), per agreement with and under the direction of the New York Department of Environmental Conservation (Department) and the Commission, will continue to assist the Department and the Commission in producing the final project environmental impact statement.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–29416 Filed 11–26–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL01–118–000]

Investigation of Terms and Conditions of Public Utility Market-Based Rate Authorizations; Notice of Initiation of Proceeding and Refund Effective Date

November 21, 2001.

Take notice that on November 20, 2001, the Commission issued an order in the above-indicated dockets initiating a proceeding in Docket No. EL01–118–000 under section 206 of the Federal Power Act.

The refund effective date in Docket No. EL01–118–000 will be 60 days after publication of this notice in the **Federal Register**.

David P. Boergers,

Secretary.

[FR Doc. 01–29449 Filed 11–26–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL01–118–000]

Before Commissioners: Pat Wood, III, Chairman; William L. Massey, Linda Breathitt, and Nora Mead Brownell; Investigation of Terms and Conditions of Public Utility Market-Based Rate Authorizations; Order Establishing Refund Effective Date and Proposing To Revise Market-Based Rate Tariffs and Authorizations

Issued November 20, 2001.

I. Introduction

In this order, the Commission institutes a proceeding pursuant to section 206 of the Federal Power Act (FPA)[1] to investigate the justness and reasonableness of the terms and conditions of market-based rate tariffs and authorizations[2] of public utilities that sell electric energy and ancillary services at wholesale in interstate commerce. As discussed below, the Commission proposes to revise all existing market-based rate tariffs and authorizations to condition all public utility sellers' market-based rate authority to ensure that such rates remain just and reasonable and do not become unjust or unreasonable as a result of anticompetitive behavior or abuse of market power. The Commission intends to condition all new market-based rate tariffs and authorizations in a similar manner. The proposed condition, including the refund effective date, will protect customers from excessive rates and charges resulting from anticompetitive behavior or abuse of market power, as discussed more fully below.

Independently, in light of numerous concerns raised by market participants in cases involving market-based rates, the Commission intends to review its approach to evaluating market-based rate applications. The Commission will in the near future hold a series of outreach meetings with industry experts. The Commission expects that such meetings will inform a generic rulemaking proceeding on potential new analytical methods for assessing markets and market power. In addition, the Commission has initiated a proceeding on market design and market structure to reform open access transmission tariffs and standardize market design rules as appropriate.

II. Discussion

In an order issued on November 1, 2000, we found that the ''electric market structure and market rules for wholesale sales of electric energy in California were seriously flawed and that these structures and rules, in conjunction with an imbalance of supply and demand in California, have caused, and continue to have the potential to cause, unjust and unreasonable rates for short-term energy * * * under certain conditions.''[3] In a series of subsequent orders, the Commission reiterated those earlier findings and, among other things, established conditions, including refund liability, on sellers' market-based rate authority to prevent anticompetitive bidding behavior.[4] In its June 19 Order, the Commission stated that abuse of market power cannot and will not be tolerated, that sellers will be subject to losing their market-based rates for engaging in anti-competitive conduct, and that ''as a condition of continued authorization of market-based rates, public utility sellers in the WSCC [Western Systems Coordinating Council] must agree to refunds, with interest pursuant to 18 CFR 35.19a, of any overcharges resulting from anticompetitive bidding or behavior.''[5]

Based on our recent experience involving wholesale electric markets in California and the rest of the WSCC, and consistent with our intention to review the Commission's approach to evaluating market-based rate applications and also to explore generic transmission and market design protocols, we believe it is necessary and appropriate to impose a tariff condition on all public utility sellers with market-based rate authority. This tariff condition, described more fully below, will ensure that rates collected pursuant

[1] 16 U.S.C. § 824e (1994).

[2] Our use in this order of the term ''market-based rate tariffs and authorizations'' is intended to include all tariffs and rate schedules under which a public utility is authorized to make sales of electric energy and ancillary services at market-based rates.

[3] San Diego Gas & Electric Company, *et al.,* 93 FERC ¶61,121 at 61,349–50 (2000), *reh'g pending* (November 1 Order).

[4] San Diego Gas & Electric Company, *et al.,* 93 FERC ¶61,294 (2000), *reh'g pending* (December 15 Order); San Diego Gas & Electric Company, *et al.,* 95 FERC ¶61,115 at 61,360 (2001) (April 26 Order), *order on reh'g,* 95 FERC ¶61,418 (2001), *reh'g pending* (June 19 Order); San Diego Gas & Electric Company, *et al.,* 96 FERC ¶ 61,120 (2001), *reh'g pending* (July 25 Order).

[5] June 19 Order, 95 FERC at 62,548, 62,565.