majority of the panel found that this contention was not consistent with the findings of the Department of Education, the memorandum issued by the General Counsel of the Department of Defense in November 1998, and the Comptroller General's opinion of June 1993, which stated that generally military dining facilities are cafeterias and are indeed included within the scope of and subject to the Act.

Therefore, the majority of the panel ruled that the SLA was correct in asserting that procurements with appropriated funds are equally subject to the priority provisions of the Act as are procurements with non-appropriated funds. Similarly, the panel ruled that military dining facilities have been considered to come within the definition of *cafeterias* as defined in the Act and by administrative interpretation.

However, the panel concluded that the Act's priority is not applicable if the contract is for discrete services rather that the overall ''operation'' of the dining facilities. The facts of the case supported the Army's decision to give the contract to the other vendor and not to the SLA. Specifically, the majority of the panel determined that, although the Army contracted out certain functions, it retained overall operation of the dining facility and operated it on an in house basis. Thus, the panel concluded that the factual setting of the Fort Richardson dining contract did not constitute the operation of a cafeteria, which would trigger the priority provisions of the Act. Moreover, the panel majority ruled that no vending occurred and no concessions were involved in the Fort Richardson dining contract. Consequently, the contract was not an entrepreneurial activity of the type contemplated by the Randolph-Sheppard Act.

One panel member dissented.

The views and opinions expressed by the panel do not necessarily represent the views and opinions of the U.S. Department of Education.

Dated: April 3, 2001.

Andrew J. Pepin,

Executive Administrator for Special Education and Rehabilitative Services.

[FR Doc. 01–8557 Filed 4–5–01; 8:45 am]

BILLING CODE 4000–01–U

DEPARTMENT OF ENERGY

Bonneville Power Administration

Wallula Power Project

AGENCY: Bonneville Power Administration (BPA), Department of Energy (DOE).

ACTION: Notice of intent to prepare an Environmental Impact Statement (EIS).

SUMMARY: This notice announces BPA's intention to prepare a joint National Environmental Policy Act (NEPA)/State Environmental Policy Act (SEPA) EIS in cooperation with the State of Washington Energy Facility Site Evaluation Council (EFSEC) for an electrical interconnection including a new 29-mile 500-kilovolt (kV) transmission line associated with a proposed power plant. BPA is the lead Federal agency under NEPA and EFSEC is the lead Washington State agency under SEPA. The Wallula Power Project is a 1,300-megawatt (MW) generating station proposed by Newport Northwest, LLC (Newport Northwest) that would be located near Wallula in Walla Walla County, Washington. Newport Northwest has requested an interconnection and upgrade to BPA's transmission system that would allow firm power delivery to customers in the Pacific Northwest. BPA proposes to execute an agreement with Newport Northwest to provide the interconnection and firm power transmission.

ADDRESSES: To be placed on the project mailing list, including notification of proposed meetings, call toll-free 1–800–622–4520, name this project, and leave your complete name and address. To comment, call toll-free 1–800–622–4519; send an e-mail to the BPA Internet address *comment@bpa.gov;* or send a letter to Communications, Bonneville Power Administration—KC–7, P.O. Box 12999, Portland, Oregon 97212.

FOR FURTHER INFORMATION CONTACT: Thomas C. McKinney, Bonneville Power Administration—KEC–4, P.O. Box 3621, Portland, Oregon 97208–3621; toll-free telephone 1–800–282–3713; direct telephone 503–230–4749; or e-mail *tcmckinney@bpa.gov.* Additional information can be found at BPA's web site: *www.bpa.gov.*

SUPPLEMENTARY INFORMATION: The EIS will assess the environmental consequences of the proposed project, including:

- The interconnection agreement that BPA proposes with Newport Northwest;
- The construction and operation of the power plant;
- The construction and operation of a 5.9-mile, 20-inch-diameter gas line to tie into Pacific Gas & Electric (PG&E) Gas Transmission Northwest's (GTN) pipeline;
- The construction and operation of an interconnection consisting of 4.3 miles of 500-kV line plus a substation; and
- The construction and operation of a new 500-kV transmission line from the interconnection to the McNary switching station, roughly paralleling the existing 500-kV line from Lower Monumental Dam to McNary Dam.

Later this spring, an open house and public information meeting will be conducted by BPA, EFSEC, and Newport Northwest to discuss the project, associated BPA transmission interconnection and upgrades, and topics to be addressed in the EIS. At least two weeks' notice will be provided to interested parties concerning the time and location of this meeting.

After July 2001, one or more EIS scoping meetings will be held, and a 45-day comment period will be announced, during which affected landowners, concerned citizens, special interest groups, local governments, and any other interested parties are invited to comment on the scope of the proposed EIS. A 30-day notice of the meeting(s), including time and location, will be provided to interested persons. At the meeting(s), BPA and EFSEC will answer questions and accept oral and written comments.

Receiving comments from interested parties will assure that BPA and EFSEC address in the EIS the full range of issues and potentially significant impacts related to the proposed project. When completed, the Draft EIS will be circulated for review and comment, and BPA and EFSEC will hold at least one public comment meeting on the Draft EIS. BPA and EFSEC will consider and respond in the Final EIS to comments received on the Draft EIS.

Proposed Action. The Wallula Power Project would be a gas-fired combined-cycle plant with a nominal generating capacity of 1,300 MW. The plant site would be located on 175 acres of land that is zoned for industry and which is located on the east side of U.S. Highway 12, between the J.D. Simplot Feedlot and the Boise Cascade Wallula Mill.

Natural gas would be burned in a gas turbine engine, in which the expanding gases from combustion would turn the turbine's rotor, driving a generator to produce electrical energy. Hot exhaust from the gas turbine would be used to boil water, using a heat recovery steam generator (HRSG). Steam produced by the HRSG turns a steam turbine, that

would connect to another generator, producing additional electrical energy.

Water would be required to generate steam and cool the steam process, as well as for sanitary uses. The proposed power plant would require an average water consumption rate of up to 6,000 gallons per minute, which would be supplied from various sources including an on-site well being developed by the Port of Walla Walla.

Water discharges, primarily consisting of blowdown from the cooling towers, would be regulated under a Washington Department of Ecology permit or through the use of onsite disposal methods.

The proposed Wallula Power Project would deliver electricity to the regional power grid through an interconnection and a new 500-kV transmission line paralleling the existing Lower Monumental-McNary transmission line. BPA would also modify the existing McNary Substation.

The power plant and the gas and power interconnections would be located within Walla Walla County, Washington. Approximately 7 miles of the new 500-kV transmission line would be located in Walla Walla County with the remaining 22 miles in Umatilla County, Oregon.

Responsibility for construction and operation of the new facilities is principally with Newport Northwest who would build and operate the power plant. However, the interconnection and the new 500-kV transmission line would be constructed under BPA's management, and BPA would be responsible for the operation and maintenance of these facilities. GTN would build and operate the proposed 5.9-mile gas pipeline that would supply fuel to the power plant.

Process to Date. BPA is the lead Federal agency for the joint NEPA/SEPA EIS, and EFSEC is the lead Washington State agency. EFSEC has already held open houses introducing the Wallula Power Project to interested parties in Walla Walla County. Subsequent to these meetings, BPA determined that a new 500-kV transmission line was necessary for firm power delivery on the existing transmission system. Newport Northwest will prepare an Application for Site Certification and submit it to EFSEC in July 2001. This initial application will address the Wallula Power Project in detail. BPA and EFSEC will conduct joint scoping meetings after receipt and preliminary review of the initial submission.

Alternatives Proposed for Consideration. Alternatives thus far identified for evaluation in the EIS are (1) the proposed actions, and (2) no action. Other alternatives may be identified through the scoping process.

Identification of Environmental Issues. EFSEC will prepare an EIS consistent with its responsibilities under Chapter 80.50 of the Revised Code of Washington and Chapter 197–11 of the Washington Administrative Code. BPA has determined in a System Impact Study requested by Newport Northwest that, for firm transmission service, the construction of 29 miles of 500-kV transmission line may be required. Such an action triggers a need for BPA to prepare an EIS. Therefore, BPA and EFSEC intend to prepare a joint NEPA/SEPA EIS addressing both the power plant and the associated electric power interconnection and transmission facilities. The principal issues identified thus far for consideration in the Draft EIS are (1) air quality impacts, (2) noise impacts from plant operation, (3) aesthetic and visual impacts, (4) socio-economic impacts, (5) wetlands and wildlife habitat impacts, and (6) cultural resource impacts. These issues, together with any additional significant issues identified through the scoping process, will be addressed in the EIS.

Issued in Portland, Oregon, on March 26, 2001.

Steven G. Hickok,

Acting Administrator and Chief Executive Officer.

[FR Doc. 01–8509 Filed 4–5–01; 8:45 am]

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IN01–5–000]

Public Utilities Commission of the State of California v. El Paso Natural Gas Company, El Paso Merchant Energy-Gas, L.P., and El Paso Merchant Energy Company; Order of Investigation

Issued April 2, 2001.

Before Commissioners: Curt Hébert, Jr., Chairman; William L. Massey, and Linda Breathitt.

Pursuant to the authority of 18 CFR 1.b (2000) and at the recommendation of FERC's General Counsel, the Commission is instituting a formal, non-public investigation into the apparent disclosure of non-public information and/or documents filed in Docket No. RP00–241–000. As discussed below, the Chief Administrative Law Judge (Chief ALJ) is designated to conduct the investigation and to report the results of the investigation to the Commission, along with any recommended remedies, within 30 days of the date of issuance of this order.

On April 4, 2000, the Public Utilities Commission of the State of California (CPUC) filed a complaint under section 5 of the Natural Gas Act (NGA) [1] against El Paso Natural Gas Company (El Paso Pipeline), El Paso Merchant Energy-Gas, L.P., and El Paso Merchant Energy Company [2] (jointly, El Paso Merchant). The complaint asserts, *inter alia*, that three transportation contracts between El Paso Pipeline and El Paso Merchant for approximately 1,220 MMcf/day of firm capacity to California (El Paso Contracts) raise issues of possible affiliate abuse, of anti-competitive impact on the delivered price of gas and the wholesale electric market in California.

The procedural background of this proceeding is fully described in the Commission's Order Denying Rehearing and Affirming Protective Order that was issued January 10, 2001 (January 10, 2001 order) [3] and will be addressed in this order only briefly. On June 28, 2000, the Commission issued an Order on Complaint Requiring Responses to Data Requests (June 28, 2000 order).[4] Pursuant to that order and the terms of a confidentiality agreement, El Paso Pipeline and El Paso Merchant provided to CPUC and filed with this Commission under seal certain information in response to the data requests approved by the Commission. El Paso Pipeline and El Paso Merchant sought privileged treatment of the information pursuant to section 388.112 of the Commission's regulations (18 CFR 388.112 (2000)).

On August 31, 2000, CPUC filed a motion for a protective order, asserting that other parties to this proceeding should be given access to the information provided to CPUC and this Commission in compliance with the June 28, 2000 order. On September 15, 2000, the Commission issued the requested protective order (September 15, 2000 Protective Order).[5]

In the January 10, 2001 order, the Commission, *inter alia*, required El Paso Merchant to provide Protected

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[1] 15 U.S.C. § 717d (1994).

[2] Effective January 1, 2001, El Paso Merchant Energy Company changed its name to El Paso Merchant Energy, L.P.

[3] Public Utilities Commission of the State of California v. El Paso Natural Gas Co., 94 FERC ¶ 61,021 (2001).

[4] Public Utilities Commission of the State of California v. El Paso Natural Gas Co., 91 FERC ¶ 61,312 (2001).

[5] Public Utilities Commission of the State of California v. El Paso Natural Gas Co., 92 FERC ¶ 61,225 (2000).