

on equity of 14 percent, cost of capital (NRG proposes 9.05 percent cost of credit), accumulated deferred income taxes, depreciation (NRG uses 6.6 years to calculate accumulated depreciation), net negative salvage value (NRG has increased its depreciation base by \$92,420,000), operations and maintenance expenses, interconnection rights, and recovery of an acquisition premium.

Commission Response

52. Applicants filed proposed rates to recover the costs of all subject generating units in each power plant, *i.e.*, separate rates for Devon, Middletown, Montville, and Norwalk. Under this approach all of the units under each RMR Agreement would have received the same rate regardless of which unit(s) run at the plant. The rejection of the agreements and the Commission's changes to the mitigation rules discussed above renders as moot the cost-of-service analysis for the original intended purpose of developing specified rates for the recovery of fixed and variable costs of each plant. Under the Commission's directive, a Peaking Unit Safe Harbor bid ceiling with a fixed cost adder will need to be developed for each unit or plant to replace the CT Proxy for these peaking units based on the amount of generation produced during the previous year, *i.e.* 2002. The cost-of-service analyses filed by the Applicants will therefore need to serve as the basis for the determination of the Peaking Unit Safe Harbor.

53. Interveners have raised several issues regarding the cost-of-service analysis including rate of return, depreciation rates, and accumulated deferred income taxes (ADIT). In addition, the Commission performed a cost-of-service analysis for each Agreement based on the information provided in the filing. The Commission identified several cost-of-service items that were not fully supported by the Applicants in their filing and made adjustments as follows: A return on equity of 13.39% (based on Commission Staff's preliminary analysis), the addition of ADIT, and the elimination of net negative salvage and associated depreciation expenses. The Commission's analysis supports fixed charges of: \$21,154,792 for the Devon units; \$17,687,684 for the Norwalk Harbor units; \$19,327,732 for the Montville units; and \$45,262,975 for the Middletown units. These values, subject to adjustment for all revenues received from other sources, are to be used to develop fixed cost adder and the initial Peaking Unit Safe Harbor bid ceilings for these units.

54. Issues that are driving how the Commission will deal with the filed costs-of-service include: The need for intervenors to comment; the need for the Peaking Unit Safe Harbor to be implemented in short order; and the inability to order refunds because of the interaction between Peaking Unit Safe Harbor and the market price of electricity. The safe harbor bids by definition are approximations; and therefore, the Commission will provide an avenue for intervenors to comment in order to accommodate the above driving factors. The Commission will allow the costs-of-service with the adjustments discussed above to serve as the basis for developing initial Peaking Unit Safe Harbor to be placed into effect with the market mitigation measures described above. We will allow parties to comment specifically about the costs-of-service as they pertain to the development of the Peaking Unit Safe Harbor bid levels as well as to allow the Applicants to comment on and to support the items that the Commission adjusted in developing the above fixed charges within 30 days. The Commission will set an expedited timetable for the resolution of any issues. Changes to the costs-of-service resulting from this process will be reflected in recalculated reference prices that will go into effect on a going forward basis from the date of an order that establishes revised Peaking Unit Safe Harbor levels.

The Commission orders:

(A) The proposed agreements are hereby accepted for filing, as revised as directed in ordering paragraph B below, suspended to become effective February 27, 2003, subject to refund and the escrow arrangements consistent with the March 25 Order.

(B) Applicants are hereby directed to file revised agreements within 30 days of the date of this order, that provide only for the recovery of costs related to the Reliability Projects as discussed in the body of this order.

(C) ISO-NE is hereby directed on or before May 30, 2003, to make a compliance filing to revise the Proxy CT mitigation measures contained in Market Rule 1 and to develop Peaking Unit Safe Harbor bid ceilings as discussed in the body of this order.

(D) ISO-NE and NEPOOL are directed to file revised ICAP rules no later than March 1, 2004, as discussed in the body of this order.

(E) The Secretary is hereby directed to publish a copy of the order in the **Federal Register**.

By the Commission.

Magalie R. Salas,
Secretary.

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ENVIRONMENTAL PROTECTION AGENCY

[OPPT-2002-0048; FRL-7492-4]

Agency Information Collection Activities; Submission of EPA ICR No. 0795.11 (OMB No. 2070-0030) to OMB for Review and Approval; Comment Request

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: Notification of Chemical Exports—TSCA Section 12(b) (EPA ICR No. 0795.11; OMB Control No. 2070-0030). The ICR, which is abstracted below, describes the nature of the information collection and its estimated cost and burden. On August 19, 2002 (67 FR 53792), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received comments from Kokopelli Chemists, Inc.; the Proctor & Gamble Co.; the Color Pigments Manufacturers Association, Inc.; and the American Chemistry Council, which are addressed as an attachment to the ICR.

DATES: Additional comments may be submitted on or before June 2, 2003.

ADDRESSES: Submit your comments, identified by docket ID number OPPT-2002-0048, to both (1) EPA online at <http://www.epa.gov/edocket> (our preferred method) or by mail to: EPA Docket Center, Environmental Protection Agency, Mailcode: 7407T, 1200 Pennsylvania Ave., NW., Washington, DC 20460, and (2) OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Barbara Cunningham, Director, Environmental Assistance Division, Office of Pollution Prevention and Toxics, Environmental Protection Agency, Mailcode: 7408, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: 202-554-