

**DEPARTMENT OF ENERGY****Federal Energy Regulatory Commission**

[Docket No. ER10-853-000]

**Dynamic PL, Inc.; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization**

March 19, 2010.

This is a supplemental notice in the above-referenced proceeding of Dynamic PL, Inc.'s application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC, 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is April 8, 2010.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at <http://www.ferc.gov>. To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC, 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any

FERC Online service, please e-mail [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

Kimberly D. Bose,  
Secretary.

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BILLING CODE 6717-01-P

**DEPARTMENT OF ENERGY****Office of Energy Efficiency and Renewable Energy****Nationwide Limited Public Interest Waivers Under Section 1605 (Buy American) of the American Recovery and Reinvestment Act of 2009 (Recovery Act)**

**AGENCY:** Office of Energy Efficiency and Renewable Energy, U.S. Department of Energy (DOE).

**ACTION:** Notice of limited waivers.

**SUMMARY:** The Office of Energy Efficiency and Renewable Energy (EERE) of the U.S. Department of Energy hereby provides notice that on March 19, 2010, the Assistant Secretary for EERE granted nationwide limited waivers of the Buy American requirements of the American Recovery and Reinvestment Act of 2009 (Recovery Act; Pub. L. 111-5) under the authority of section 1605(b)(1) [application of the restrictions of section 1605 would be inconsistent with the public interest] for the purchase of light-emitting diode LED lighting (lamps, fixtures, and any supporting components) and heating, ventilation and air conditioning (HVAC) units. These nationwide limited waivers apply to projects using EERE Recovery Act funds for the construction, alteration, maintenance and repair of a public building or public work. These limited waivers only apply in circumstances where the recipient of EERE Recovery Act funds ("grantee") has taken substantial steps to commit funds for the purchase of LED lights or HVAC units between February 17, 2009 and March 31, 2010. Substantial steps to commit funds would include, but are not limited to: (1) issuing a Request for Proposals (RFP) on or before March 31, 2010 (applicable only where the grantee accepts a proposal received under that RFP); (2) in the case of a sole source selection: placing an order for the goods on or before March 31, 2010; (3) commencing a bidding process on or before March 31, 2010; (4) in circumstances where the grantee solicited quotes without an RFP: the grantee purchases the goods based on a quote dated on or before March 31, 2010

and the order for the goods is placed on or before March 31, 2010; and (5) grantee has executed a contract or purchase agreement with a supplier to acquire affected goods between February 17, 2009 and March 31, 2010.

On March 31, 2010, these limited waivers of Buy American provisions will expire, with the exception of LED traffic lights, arrows, and crosswalk signals, which are covered by a nationwide categorical waiver based on domestic nonavailability issued on February 11, 2010. After March 31, 2010, EERE grantees are required to procure LED lighting and HVAC units from domestic manufacturers in accordance with the Recovery Act Buy American provisions.

**DATES:** *Effective Date:* March 19, 2010.

**FOR FURTHER INFORMATION CONTACT:** Benjamin Goldstein, Energy Technology Program Specialist, Office of Energy Efficiency and Renewable Energy (EERE), (202) 287-1553, Department of Energy, 1000 Independence Avenue, SW., Mailstop EE-2K, Washington, DC 20585.

**SUPPLEMENTARY INFORMATION:** Section 1605 of the Recovery Act prohibits the use of recovery funds for the construction, alteration, maintenance, or repair of a public building or public work unless all of the iron, steel, and manufactured goods used in the project are produced in the United States, or unless a waiver is granted by the head of the Federal department or agency. A waiver may be granted if the head of the Federal department or agency determines that one of three listed exceptions applies: (1) The application of Section 1605 requirements would be inconsistent with the public interest; (2) the iron, steel, or relevant manufactured good is not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or (3) the cost of domestic iron, steel, or relevant manufactured goods will increase the cost of the overall project by more than 25 percent.

In accordance with section 1605(c) of the Recovery Act and Section 176.80 of Title 2 of the Code of Federal Regulations, DOE hereby provides notice that, pursuant to a delegation of authority by the Secretary of Energy, dated November 10, 2009, the Assistant Secretary, EERE, has granted limited nationwide waivers of the requirements of Section 1605 of the Recovery Act for LED lighting (lamps, fixtures, and any supporting components) and heating, ventilation and air conditioning (HVAC) units in circumstances where the recipient of EERE Recovery Act funds ("grantee") has taken substantial steps to

commit funds for the purchase of LED lights or HVAC units between February 17, 2009 and March 31, 2010. Under the authority of section 1605(b)(1) of the Recovery Act, the Assistant Secretary, EERE, has determined that the application of section 1605 requirements in these circumstances would be inconsistent with the public interest.

The limited waivers for these two categories of manufactured goods are intended to resolve the confusion surrounding the characterization of LED lights and HVAC units as “supply” items, and thus not subject to the Recovery Act Buy American provisions. The concept of the “supply” item has its origins in the Buy American Act (41 U.S.C. 10a–10d) and the Federal Acquisition Regulation (FAR), neither of which applies to section 1605 of the Recovery Act. The concept of a “supply” item has no significance in the context of section 1605 (the Buy American provisions) of the Recovery Act. The Buy American provisions apply to all iron, steel, and manufactured goods used for a project funded by Recovery Act appropriations for the construction, alteration, maintenance, or repair of a public building or public work. However, there is no requirement with regard to the origin of components or subcomponents in manufactured goods used in the project, as long as the manufacturing occurs in the United States (2 CFR 176.70).

However, it is understandable that a general lack of familiarity with the Buy American provisions would lead Recovery Act stakeholders to reference a similar set of procurement regulations—such as those codified by the FAR and Buy American Act—for guidance in understanding and interpreting section 1605 of the Recovery Act. This confusion ultimately led some recipients of EERE Recovery Act funds to rely on the “supply” item characterization to procure some LED lighting products and HVAC units from foreign manufacturers, without first seeking and obtaining an official waiver of section 1605 of the Recovery Act.

The purpose of the Recovery Act Buy American provisions is to support economic recovery by driving investment into the domestic manufacturing sector and recycling Recovery Act dollars within the U.S. economy. Given that the majority of Recovery Act-related procurement for EERE-funded projects has yet to occur, the Buy American provisions still have ample opportunity to fulfill their purpose and potential. This nationwide limited waiver being issued for LED lighting and HVAC units is critical to

resolving the existing confusion, clearly elucidating the requirements of section 1605 of the Recovery Act, and moving forward in a proactive manner.

To support this potential, facilitate the implementation of section 1605 of the Recovery Act, and ensure that Recovery Act funds are deployed expeditiously, EERE is operationalizing a robust and proactive strategy to locate domestic manufacturers for the hard-to-find products sought by grantees. This strategy is outlined in a Request for Information published in **Federal Register** Vol. 75, No. 23 on Thursday, February 4 (and posted on the EERE Buy American Web page [http://www1.eere.energy.gov/recovery/buy\\_american\\_provision.html](http://www1.eere.energy.gov/recovery/buy_american_provision.html)), and demonstrates EERE's commitment to the fulfillment of the economic and job-creation potential of the Recovery Act Buy American provisions.

Finally, the installation of LED lights and more efficient HVAC units is a proven strategy to achieve impressive energy savings, reduce energy expenditures, and to create immediate jobs in the building, construction, and electrical trades. All three of these attributes can support near-term economic recovery and long-term sustainability in locations across the country. Hence, the installation of these products has inherently supported the goals of the Recovery Act and—as a popular use of Recovery Act funds by EERE grantees—will continue to do so in the unambiguous regulatory landscape made possible by this nationwide limited waiver.

This **SUPPLEMENTARY INFORMATION** constitutes the detailed written justification required by Section 1605(c) for waivers based on a finding under subsection (b).

This waiver determination is pursuant to the delegation of authority by the Secretary of Energy to the Assistant Secretary for Energy Efficiency and Renewable Energy with respect to expenditures within the purview of her responsibility. Consequently, this waiver applies to EERE projects carried out under the Recovery Act.

**Authority:** Pub. L. 111–5, section 1605.

Dated: March 19, 2010.

**Cathy Zoi,**

*Assistant Secretary for Energy Efficiency and Renewable Energy, U.S. Department of Energy.*

[FR Doc. 2010–6720 Filed 3–25–10; 8:45 am]

**BILLING CODE 6450–01–P**

## ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–8989–4]

### Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at 202–564–7146 or <http://www.epa.gov/compliance/nepa/>. An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated July 17, 2009 (74 FR 34754).

### Notice

In accordance with Section 309(a) of the Clean Air Act, EPA is required to make its comments on EISs issued by other Federal agencies public. Historically, EPA has met this mandate by publishing weekly notices of availability of EPA comments, which includes a brief summary of EPA's comment letters, in the **Federal Register**. Since February 2008, EPA has been including its comment letters on EISs on its Web site at: <http://www.epa.gov/compliance/nepa/eisdata.html>. Including the entire EIS comment letters on the Web site satisfies the Section 309(a) requirement to make EPA's comments on EISs available to the public. Accordingly, after March 31, 2010, EPA will discontinue the publication of this notice of availability of EPA comments in the **Federal Register**.

### Draft EISs

*EIS No. 20090429, ERP No. D–IBR–L39067–ID, Minidoka Dam Spillway Replacement Project, To Prevent Structural Failure of the Minidoka Dam Spillway and Canal Headworks, Lake Walcott, Minidoka County, ID.*

**Summary:** EPA expressed environmental concerns about water quality impacts, the potential extent of jurisdictional wetlands, and the extent to which the wetlands below the dam would be monitored and adaptively managed. Rating EC1.

*EIS No. 20090432, ERP No. D–NPS–D65042–DC, National Mall Plan, To Prepare a Long-Term Plan that will Restore National Mall, Implementation, Washington, DC.*

**Summary:** EPA expressed environmental concerns about impacts