

FEDERAL ENERGY REGULATORY COMMISSION
Washington, D.C. 20426

OFFICE OF ENERGY MARKET REGULATION

In Reply Refer To:
Solar Partners II, LLC
Docket No. ER13-2020-000

August 26, 2013

Ms. Marcia A. Stanford
Attorney for Solar Partners II, LLC
Leonard, Street and Deinard
1350 I Street, N.W., Suite 800
Washington, D.C. 20005

Reference: Market-Based Rate Authorization

Dear Ms. Stanford:

On July 24, 2013, as supplemented on July 30, 2013 and August 2, 2013, you filed on behalf of Solar Partners II, LLC (Solar Partners II) an application for market-based rate authority with an accompanying tariff. The proposed market-based rate tariff provides for the sale of energy, capacity, and ancillary services at market-based rates.¹ Solar Partners II requests waivers commonly granted to similar market-based rate applicants.

Your filing was noticed on July 25, 2013 and July 31, 2013, with comments, protests or interventions due on or before August 5, 2013. None was filed.

Pursuant to the authority delegated to the Director, Division of Electric Power Regulation - West, under 18 C.F.R. § 375.307, your submittals filed in the referenced docket is accepted for filing, effective August 12, 2013, as requested. Based on your

¹ Solar Partners II requests authorization to sell ancillary services in the markets administered by PJM Interconnection, L.L.C. (PJM), New York Independent System Operator, Inc. (NYISO), ISO New England Inc. (ISO-NE), California Independent System Operator Corp. (CAISO), and Midwest Independent Transmission System Operator, Inc. (MISO). Effective April 26, 2013, MISO changed its name from “Midwest Independent Transmission System Operator, Inc.” to “Midcontinent Independent System Operator, Inc.” Solar Partners II also requests authorization to engage in the sale of certain ancillary services as a third-party provider in other markets.

representations, Solar Partners II meets the criteria for a Category 2 seller in the Southwest Region and a Category 1 seller in all other regions and is so designated.²

You state that Solar Partners II is the owner of the Ivanpah I facility, a 126 megawatt solar thermal electric generating facility located in the CAISO market. You add that Solar Partners II is a wholly owned subsidiary of Ivanpah Project I Holdings, LLC, which is a wholly owned subsidiary of Ivanpah Master Holdings, LLC. You state that neither Solar Partners II nor its affiliates own or control transmission facilities other than limited interconnection facilities used solely to deliver a generating facility's output to the grid. Further, you affirmatively state that Solar Partners II and its affiliates have not erected barriers to entry and will not erect barriers to entry into the relevant market.

You state that Solar Partners II is a Category 2 seller in the Southwest region and a Category 1 seller in all other regions. You represent that Solar Partners II meets the definition of a Category 1 seller in the Northeast, Southeast, Central, Southwest Power Pool, and Northwest regions because Solar Partners II: 1) does not own 500 MW of generation in any region outside of the Southwest region; 2) does not own any transmission facilities; 3) is not affiliated with any entities which own transmission facilities in the same region as Solar Partners II's generation assets; 4) is not affiliated with a franchised public utility in any region; and 5) does not raise any other vertical market power concerns.

Market-Based Rate Authorization

The Commission allows power sales at market-based rates if the seller and its affiliates do not have, or have adequately mitigated, horizontal and vertical market power.³

² *Market-Based Rates for Wholesale Sales of Electric Energy, Capacity and Ancillary Services by Public Utilities*, Order No. 697, FERC Stats. & Regs. ¶ 31,252, at PP 848-50, *clarified*, 121 FERC ¶ 61,260 (2007), *order on reh'g*, Order No. 697-A, FERC Stats. & Regs. ¶ 31,268, *clarified*, 124 FERC ¶ 61,055, *order on reh'g*, Order No. 697-B, FERC Stats. & Regs. ¶ 31,285 (2008), *order on reh'g*, Order No. 697-C, FERC Stats. & Regs. ¶ 31,291 (2009), *order on reh'g*, Order No. 697-D, FERC Stats. & Regs. ¶ 31,305 (2010), *aff'd sub nom. Mont. Consumer Counsel v. FERC*, 659 F.3d 910 (9th Cir. 2011), *cert. denied*, 133 S. Ct. 26 (2012). Solar Partners II must file an updated market power analysis for all regions in which they are designated as Category 2 sellers in compliance with the regional reporting schedule adopted in Order No. 697.

³ Order No. 697, FERC Stats. & Regs. ¶ 31,252 at PP 62, 399, 408, 440.

You state that Solar Partner II relies on NRG Power Marketing LLC's, recently accepted notice of change in status⁴ to demonstrate that Solar Partners II passes both the pivotal supplier and the wholesale market share screens for the CAISO market. Accordingly, Solar Partners II's submittal satisfies the Commission's requirements for market-based rate authority regarding horizontal market power.

Based on your representations, Solar Partners II's submittal⁵ also satisfies the Commission's requirements for market-based rates regarding vertical market power.

Solar Partners II's request for waiver of Subparts B and C of Part 35 of the Commission's regulations requiring the filing of cost-of-service information, except for sections 35.12(a), 35.13(b), 35.15 and 35.16 is granted. Solar Partners II's request for waiver of Part 41, Part 101, and Part 141 of the Commission's regulations concerning accounting and reporting requirements is granted with the exception of 18 C.F.R. §§ 141.14 and 141.15.⁶ Notwithstanding the waiver of the accounting and reporting requirements here, Solar Partners II is expected to keep its accounting records in accordance with generally accepted accounting principles.

Solar Partners II requests blanket authorization under Part 34 of the Commission's regulations for all future issuances of securities and assumptions of liability. A separate notice was published in the Federal Register establishing a period during which protests could be filed. None was filed. Solar Partners II is authorized to issue securities and assume obligations or liabilities as guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issue or assumption is for some lawful object within the corporate purposes of Solar Partners II, compatible with the public interest, and reasonably necessary or appropriate for such purposes.⁷

⁴ *NRG Power Marketing LLC*, Docket No. ER10-1569-001 (March 1, 2013) (delegated letter order).

⁵ The next time you make a market-based rate filing with the Commission, you must include a revised tariff in compliance with Appendix C – Limitations and Exemptions Regarding Market-Based Rate Authority to include appropriate citations. *Niagara Mohawk Power Corporation*, 121 FERC ¶ 61,275 (2007) at P 8. *See also*, Order No. 697-A, FERC Stats. & Regs. ¶ 31,268 at P 384.

⁶ *Citizens Energy Corp.*, 35 FERC ¶ 61,198 (1986); *Citizens Power and Light Corp.*, 48 FERC ¶ 61,210 (1989) (*Citizens Power*); *Enron Power Marketing, Inc.*, 65 FERC ¶ 61,305 (1993), *order on reh'g*, 66 FERC ¶ 61,244 (1994) (*Enron*).

⁷ *Citizens Power*, 48 FERC ¶ 61,210; *Enron*, 65 FERC ¶ 61,305.

Solar Partners II must file electronically with the Commission Electric Quarterly Reports.⁸ Solar Partners II further must timely report to the Commission any change in status that would reflect a departure from the characteristics the Commission relied upon in granting market-based rate authority in accordance with Order No. 697.⁹

This action does not constitute approval of any service, rate, charge, classification, or any rule, regulation, or practice affecting such rate or service provided for in the filed documents; nor shall such action be deemed as recognition of any claimed contractual right or obligation affecting or relating to such service or rate; and such acceptance is without prejudice to any findings or orders which have been or may hereafter be made by the Commission in any proceeding now pending or hereafter instituted by or against any of the applicant(s).

This order constitutes final agency action. Requests for rehearing by the Commission may be filed within 30 days of the date of issuance of this order, pursuant to 18 C.F.R § 385.713.

⁸ *Revised Public Utility Filing Requirements*, Order No. 2001, FERC Stats. & Regs. ¶ 31,127, *reh'g denied*, Order No. 2001-A, 100 FERC ¶ 61,074, *reh'g denied*, Order No. 2001-B, 100 FERC ¶ 61,342, *order directing filing*, Order No. 2001-C, 101 FERC ¶ 61,314 (2002), *order directing filing*, Order No. 2001-D, 102 FERC ¶ 61,334 (2003). Attachments B and C of Order No. 2001 describe the required data sets for contractual and transaction information. Public utilities must submit Electric Quarterly Reports to the Commission using the EQR Submission System Software, which may be downloaded from the Commission's website at <http://www.ferc.gov/docs-filing/eqr.asp>.

⁹ *Reporting Requirement for Changes in Status for Public Utilities with Market-Based Rate Authority*, Order No. 652, FERC Stats. & Regs. ¶ 31,175, *order on reh'g*, 111 FERC ¶ 61,413 (2005); 18 C.F.R. § 35.42 (2013).

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Questions regarding the above order should be directed to:

Federal Energy Regulatory Commission
Attn: Michelle Barnaby
Phone: (202) 502-8407
Office of Energy Market Regulation
888 First Street, N.E.
Washington, D.C. 20426

Sincerely,

Steve P. Rodgers, Director
Division of Electric Power
Regulation - West

Document Content(s)

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