

FEDERAL ENERGY REGULATORY COMMISSION
Washington, D.C. 20426

OFFICE OF ENERGY MARKET REGULATION

In Reply Refer To:
Slate Creek Wind Project, LLC
Roosevelt Wind Project, LLC
Milo Wind Project, LLC
Docket Nos. ER15-2129-000
ER15-2130-000
ER15-2131-000

August 26, 2015

Ms. Andrea Wolfman
Counsel for Slate Creek Wind Project, LLC, Roosevelt Wind Project, LLC, and Milo
Wind Project, LLC
Alston & Bird LLP
950 F Street, N.W.
Washington, D.C. 20004

Reference: Market-Based Rate Authorization

Dear Ms. Wolfman:

On July 8, 2015, as amended on July 31, 2015, you filed on behalf of Slate Creek Wind Project, LLC (Slate Creek), Roosevelt Wind Project, LLC (Roosevelt Wind), and Milo Wind Project, LLC (Milo Wind) (collectively, Sellers) applications for market-based rate authority with accompanying tariffs. The proposed market-based rate tariffs provide for the sale of energy, capacity, and ancillary services at market-based rates.¹ Sellers request waivers commonly granted to similar market-based rate applicants.

Your filings were noticed on July 8, 2015, and August 3, 2015, with comments, protests or interventions due on or before July 29, 2015, and August 21, 2015,

¹ Sellers request authorization to sell ancillary services in the markets administered by PJM Interconnection, L.L.C., New York Independent System Operator, Inc., ISO New England Inc., California Independent System Operator Corp., Midcontinent Independent System Operator, Inc. (MISO), and Southwest Power Pool, Inc. (SPP). Sellers also request authorization to engage in the sale of certain ancillary services as third-party providers in other markets.

respectively.² 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 dockets are accepted for filing, effective September 7, 2015, as requested. Based on your representations, Sellers meet the criteria for Category 1 sellers in the Northeast, Southeast, Central, and Northwest regions and Category 2 sellers in the SPP and Southwest regions and are so designated.³

You state that Slate Creek will own and operate a 150 megawatt (MW) wind-powered generation facility, Roosevelt Wind will own and operate a 250 MW wind-powered generation facility, and Milo Wind will own and operate a 49.65 MW wind-powered generation facility, all located in the SPP market. You represent that Sellers are wholly owned by EDF Renewable Energy, Inc. You state that Sellers are affiliated with an additional 262 MW of generation capacity in the SPP market, and 416 MW of generation capacity in the MISO market. You further state that Sellers are affiliated with Sagebrush, a California Partnership, which has an Open Access Transmission Tariff (OATT) on file with the Commission,⁴ and with Pacific Wind Lessee, LLC and Catalina

² We note that Sellers are not being granted authority to make third-party sales of operating reserves to a public utility that is purchasing ancillary services to satisfy its own open access transmission tariff requirements to offer ancillary services to its own customers. If Sellers seek such authority, they must make the required showing and receive Commission authorization prior to making such sales. *See Third-Party Provision of Ancillary Services; Accounting and Financial Reporting for New Electric Storage Technologies*, Order No. 784, FERC Stats. & Regs. ¶ 31,349, at PP 200-202 (2013), *order on clarification*, Order No. 784-A, 146 FERC ¶ 61,114 (2014).

³ *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). Sellers must file an updated market power analysis for each region in which they are designated as Category 2 sellers in compliance with the regional reporting schedule adopted in Order No. 697.

⁴ *Sagebrush, a California partnership*, 130 FERC ¶ 61,093, *order on reh'g*, 132 FERC ¶ 61,234 (2010). *See also, Sagebrush, a California Partnership*, Docket No. ER10-1988-001 (Feb. 28, 2011) (delegated letter order); and *Sagebrush, a California Partnership*, Docket No. ER11-2526-000 (Feb. 28, 2011) (delegated letter order).

Solar, LLC, which have received waiver of the Commission's OATT requirements,⁵ and therefore have mitigated any transmission market power. Further, you affirmatively state that Sellers have not erected barriers to entry and will not erect barriers to entry into the relevant market.

You state that Sellers meet the requirements for Category 1 sellers in the Northeast, Southeast, Central, and Northwest regions because they own or control less than 500 MW of generation in those regions; they do not own or control transmission assets in those regions; they are not affiliated with an owner or operator of transmission facilities in those regions; they are not affiliated with a franchised public utility; and they do not raise any vertical market power issues in those regions.

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.⁶

You represent that all of Sellers' and their affiliates' generation capacity in the SPP and MISO markets, is fully committed under long-term power purchase agreements and thus they do not have any uncommitted capacity in the SPP market. Based on your representations, Sellers' submittals satisfy the Commission's requirements for market-based rate authority regarding horizontal market power.

Based on your representations, Sellers' submittals also satisfy the Commission's requirements for market-based rates regarding vertical market power.

Sellers' 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. Sellers' request for waiver of Part 41 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 141.15.⁷ Sellers' request for waiver of Part 101 of the Commission's regulations is hereby granted, with the exception that waiver of the provisions of Part 101 that apply to hydropower licensees

⁵ *Pacific Wind Lessee, LLC*, 141 FERC ¶ 61,122 (2012). *See also, Pacific Wind Lessee, LLC*, 151 FERC ¶ 61,216 (2015).

⁶ Order No. 697, FERC Stats. & Regs. ¶ 31,252 at PP 62, 399, 408, 440.

⁷ *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*).

is not granted with respect to licensed hydropower projects.⁸ Notwithstanding the waiver of the accounting and reporting requirements here, Sellers are expected to keep their accounting records in accordance with generally accepted accounting principles.

Sellers request 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. Sellers are 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 Sellers, compatible with the public interest, and reasonably necessary or appropriate for such purposes.⁹

Sellers must file Electric Quarterly Reports (EQR) with the Commission, consistent with Orders Nos. 2001¹⁰ and 768.¹¹ Sellers must file EQRs electronically with the Commission consistent with the procedures set forth in Order No. 770.¹² Sellers

⁸ Hydropower licensees are required to comply with the requirements of the Uniform System of Accounts pursuant to 18 CFR Part 101 to the extent necessary to carry out their responsibilities under Part I of the Federal Power Act (FPA). We further note that a licensee's status as a market-based rate seller under Part II of the FPA does not exempt it from its accounting responsibilities as a licensee under Part I of the FPA. *See Seneca Gen., LLC*, 145 FERC ¶ 61,096, at P 23, n.20 (2013) (citing *Trafalgar Power, Inc.*, 87 FERC ¶ 61,207, at 61,798 (1999) (noting that "all licensees are required to comply with the requirements of the Uniform System of Accounts to the extent necessary to carry out their responsibilities under [s]ections 4(b), 10(d) and 14 of the FPA")).

⁹ *Citizens Power*, 48 FERC ¶ 61,210; *Enron*, 65 FERC ¶ 61,305.

¹⁰ *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, *order refining filing requirements*, Order No. 2001-E, 105 FERC ¶ 61,352 (2003), *order on clarification*, Order No. 2001-F, 106 FERC ¶ 61,060 (2004), *order revising filing requirements*, Order No. 2001-G, 120 FERC ¶ 61,270, *order on reh'g and clarification*, Order No. 2001-H, 121 FERC ¶ 61,289 (2007), *order revising filing requirements*, Order No. 2001-I, FERC Stats. & Regs. ¶ 31,282 (2008).

¹¹ *Elec. Mkt. Transparency Provisions of Section 220 of the Fed. Power Act*, Order No. 768, FERC Stats. & Regs. ¶ 31,336 (2012), *order on reh'g*, Order No. 768-A, 143 FERC ¶ 61,054 (2013).

¹² *See Revisions to Electric Quarterly Report Filing Process*, Order No. 770,

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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. 697.¹³

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.

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

FERC Stats. & Regs. ¶ 31,338, at P 3 (2012) (citing Order No. 2001, FERC Stats. & Regs. ¶ 31,127 at P 31).

¹³ Order No. 697, FERC Stats. & Regs. ¶ 31,252 at PP 1015-1046; 18 C.F.R. § 35.42 (2013). *See also 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).

Document Content(s)

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