

FEDERAL ENERGY REGULATORY COMMISSION
Washington, D.C. 20426

OFFICE OF ENERGY MARKET REGULATION

In Reply Refer To:
Terrapin Energy LLC
Docket No. ER16-2135-001

August 31, 2016

Mr. Jeffrey M. Gray
Attorney for Terrapin Energy LLC
Gray PLLC
P.O. Box 620323
Middleton, Wisconsin 53562-0323

Reference: Market-Based Rate Authorization

Dear Mr. Gray:

On July 6, 2016, as amended on July 22, 2016, you filed on behalf of Terrapin Energy LLC (Terrapin Energy) 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 Terrapin Energy requests waivers commonly granted to similar market-based rate applicants.

Your filings were noticed on July 6, 2016 and July 22, 2016, with comments, protests or interventions due on or before July 27, 2016 and August 12, 2016. 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 are accepted for filing, effective September 1, 2016, as requested.² Based on your

¹ Terrapin Energy requests authorization to sell ancillary services in the markets administered by Midcontinent Independent System Operator, Inc. (MISO). Terrapin Energy also requests authorization to engage in the sale of certain ancillary services as a third-party provider in other markets.

² We note that Terrapin Energy is 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 (OATT) requirements to offer ancillary services to its own customers. If Terrapin Energy seeks such authority, it must make the

representations, Terrapin Energy meets the criteria for a Category 1 seller in all regions and is so designated.³

You state that Terrapin Energy is constructing a 29.4 megawatt (MW) wind-powered electric generating facility located in Huron County, Michigan. You state that Terrapin Energy and its affiliates own interconnection facilities that qualify for the blanket Open Access Transmission Tariff waiver under 18 C.F.R. § 35.28(d)(2),⁴ and therefore, Terrapin Energy and its affiliates have mitigated any transmission market power. Further, you affirmatively state that Terrapin Energy and its affiliates have not erected barriers to entry and will not erect barriers to entry into the relevant market.

You state that Terrapin Energy meets the criteria for a Category 1 seller in all regions because Terrapin Energy and its affiliates owns or controls less than 500 MW of generation in the Southwest region and in each of the other regions; Terrapin Energy and its affiliates do not own, operate, or control transmission facilities in any region; Terrapin

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). *See also Third-Party Provision of Primary Frequency Response Service*, Order No. 819, FERC Stats. & Regs. ¶ 31,375 at P 70 (2015).

³ *See Refinements to Policies and Procedures for Market-Based Rates for Wholesale Sales of Electric Energy, Capacity and Ancillary Services by Public Utilities*, Order No. 816, FERC Stats. & Regs. ¶ 31,374, at P 320 (2015), *order on reh'g*, Order No. 816-A, 155 FERC ¶ 61,188 (2016); *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 848-850, *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).

⁴ *See Open Access and Priority Rights on Interconnection Customer's Interconnection Facilities*, Order No. 807, FERC Stats. & Regs. ¶ 31,367, at P 57, *order on reh'g*, Order No. 807-A, 153 FERC ¶ 61,047 (2015) (waiving the OATT requirements of 18 C.F.R. § 35.28, the Open Access Same-Time Information System requirements of Part 37, and the Standards of Conduct requirements of Part 358, under certain conditions, for entities that own interconnection facilities). *See also Oildale Energy, LLC*, 153 FERC ¶ 61,013 at P 14 (2015).

Energy is not affiliated with a franchised public utility in any region; and Terrapin Energy does not raise any other vertical market power issues.

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.⁵

Terrapin Energy has prepared the pivotal supplier and wholesale market share screens for the MISO market consistent with the requirements of Order Nos. 816 and 697.

Terrapin Energy's horizontal market power screens have been reviewed, and Terrapin Energy passes both the pivotal supplier and wholesale market share screens in that market. Based on your representations, Terrapin Energy's submittal satisfies the Commission's requirements for market-based rate authority regarding horizontal market power.

Based on your representations, Terrapin Energy's submittal also satisfies the Commission's requirements for market-based rates regarding vertical market power.

Terrapin Energy'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. Terrapin Energy's 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 141.15.⁶ Terrapin Energy's 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 is not granted with respect to licensed hydropower projects.⁷ Notwithstanding the waiver of the accounting and reporting requirements here,

⁵ Order No. 697, FERC Stats. & Regs. ¶ 31,252 at PP 62, 399, 408, 440.

⁶ See Order No. 697, FERC Stats. & Regs. ¶ 31,252 at PP 984-985.

⁷ 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 Order No. 816, FERC Stats. & Regs. ¶ 31,374 at PP 345-350; *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

Terrapin Energy is expected to keep its accounting records in accordance with generally accepted accounting principles.

Terrapin Energy 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. Terrapin Energy 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 Terrapin Energy, compatible with the public interest, and reasonably necessary or appropriate for such purposes.⁸

Terrapin Energy must file an Electric Quarterly Report (EQR) with the Commission, consistent with Order Nos. 2001⁹ and 768.¹⁰ Terrapin Energy must file EQRs electronically with the Commission consistent with the procedures set forth in Order No. 770.¹¹ Terrapin Energy 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.¹²

under [s]ections 4(b), 10(d) and 14 of the FPA”).

⁸ See Order No. 697, FERC Stats. & Regs. ¶ 31,252 at PP 999-1000.

⁹ *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).

¹⁰ *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).

¹¹ See *Revisions to Electric Quarterly Report Filing Process*, Order No. 770, FERC Stats. & Regs. ¶ 31,338, at P 3 (2012) (citing Order No. 2001, FERC Stats. & Regs. ¶ 31,127 at P 31).

¹² 18 C.F.R. § 35.42 (2016); 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).

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 the applicant.

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
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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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