

FEDERAL ENERGY REGULATORY COMMISSION
Washington, D.C. 20426

OFFICE OF ENERGY MARKET REGULATION

In Reply Refer To:
RE Barren Ridge 1 LLC
Docket No. ER16-645-000

February 24, 2016

Mr. Adam Wenner
Attorney for RE Barren Ridge 1 LLC
Orrick, Herrington & Sutcliffe LLP
1152 15th Street, N.W.
Washington, D.C. 20005

Reference: Market-Based Rate Authorization

Dear Mr. Wenner:

On December 29, 2015, as amended on February 2, 2016, you filed on behalf of RE Barren Ridge 1 LLC (RE Barren Ridge) 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 within the Southwest region.¹ RE Barren Ridge requests waivers commonly granted to similar market-based rate applicants.

Your filings were noticed on December 29, 2015 and February 3, 2016, with comments, protests or interventions due on or before January 19, 2016 and February 12, 2016, respectively. 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 February 29, 2016.² Based on your

¹ RE Barren Ridge requests authorization to sell ancillary services in the market administered by California Independent System Operator Corp. RE Barren Ridge also requests authorization to engage in the sale of certain ancillary services as a third-party provider in other markets.

² We note that RE Barren Ridge 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 requirements to offer ancillary services to

representations, RE Barren Ridge meets the criteria for a Category 2 seller in the Southwest region, and is so designated.³

You state that RE Barren Ridge will own and operate a solar electric generation facility with 60 megawatts (MW) of capacity located in Kern County, California, in the Los Angeles Department of Water and Power (LADWP) balancing authority area. In addition, you represent that you have an additional 342 MW of affiliated capacity in LADWP and other first-tier balancing authority areas. You further describe that all of RE Barren Ridge and its affiliates' capacity is fully committed to long-term power purchase agreements. You add that RE Barren Ridge is wholly owned by Canadian Solar Inc., a publicly traded Canadian company. You state that RE Barren Ridge and its affiliates' interconnection facilities qualify for the blanket Open Access Transmission Tariff waiver under Order No. 807.⁴ Therefore, RE Barren Ridge has mitigated any transmission market power. Further, you affirmatively state that RE Barren Ridge and its affiliates have not erected barriers to entry and will not erect barriers to entry into the relevant market.

its own customers. If RE Barren Ridge seeks such authority, it 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). RE Barren Ridge must file an updated market power analysis for each region in which it is designated as a Category 2 seller in compliance with the regional reporting schedule adopted in Order No. 697.

⁴ In Order No. 807, the Commission amended its regulations to waive the Open Access Transmission Tariff 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 Open Access and Priority Rights on Interconnection Customer's Interconnection Facilities*, Order No. 807, FERC Stats. & Regs. ¶ 31,367 at PP 57, 176 (2015). *See also Kingfisher Wind, LLC*, 151 FERC ¶ 61,276 (2015); *Balko Wind Transmission, LLC*, 152 FERC ¶ 61,011 (2015).

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

You state that all of RE Barren Ridge and its affiliates' generation capacity is fully committed under long-term power purchase agreements and thus they do not have any uncommitted capacity in the LADWP market. Based on your representations, RE Barren Ridge's submittals⁶ satisfy the Commission's requirements for market-based rate authority regarding horizontal market power.

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

RE Barren Ridge'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. RE Barren Ridge'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 141.15.⁷ RE Barren Ridge'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.⁸ 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 The next time RE Barren Ridge makes a market-based rate filing with the Commission, they 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.

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*).

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

RE Barren Ridge is expected to keep its accounting records in accordance with generally accepted accounting principles.

RE Barren Ridge 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. RE Barren Ridge 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 RE Barren Ridge, compatible with the public interest, and reasonably necessary or appropriate for such purposes.⁹

RE Barren Ridge must file an Electric Quarterly Report (EQR) with the Commission, consistent with Order Nos. 2001¹⁰ and 768.¹¹ RE Barren Ridge must file EQRs electronically with the Commission consistent with the procedures set forth in Order No. 770.¹² RE Barren Ridge 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

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, 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. §

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

35.42 (2015). *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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