

FEDERAL ENERGY REGULATORY COMMISSION
Washington, D.C. 20426

OFFICE OF ENERGY MARKET REGULATION

In Reply Refer To:
NextEra Blythe Solar Energy Center, LLC
Docket No. ER16-2443-000

October 6, 2016

Mr. Joel D. Newton
Senior Attorney for NextEra Blythe Solar Energy Center, LLC
NextEra Energy Resources, LLC
801 Pennsylvania Avenue, N.W.
Suite 220
Washington, D.C. 20004

Reference: Market-Based Rate Authorization

Dear Mr. Newton:

On August 18, 2016, you filed on behalf of NextEra Blythe Solar Energy Center, LLC (Blythe Solar) 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 Blythe Solar requests waivers commonly granted to similar market-based rate applicants.

Your filing was noticed on August 19, 2016, with comments, protests or interventions due on or before September 8, 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 submittal filed in the referenced

¹ Blythe Solar 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), Midcontinent Independent System Operator, Inc. (MISO), and Southwest Power Pool, Inc. (SPP). Blythe Solar also requests authorization to engage in the sale of certain ancillary services as a third-party provider in other markets.

docket is accepted for filing, effective August 19, 2016, as requested.² Based on your representations, Blythe Solar 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.³

You state that Blythe Solar is a Delaware limited liability company that does not own or control generation. You further represent that Blythe Solar is a direct subsidiary of Blythe Solar 110, LLC, and Blythe Solar is affiliated with approximately 2,293 megawatts (MW) of electric generation in the CAISO market. You state that Blythe Solar owns a 10 mile 220 kilovolt generation tie line used to connect its affiliates to Southern California Edison Company's Colorado River Substation. You state that Blythe Solar and its affiliates' interconnection facilities qualify for the blanket open access transmission tariff (OATT) waiver under Order No. 807.⁴ You also state that certain

² We note that Blythe Solar 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 its own customers. If Blythe Solar 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). *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). Blythe Solar 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. *See* Order No. 816, FERC Stats. & Regs. ¶ 31,374 at P 353.

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

affiliates of Blythe Solar have an OATT on file with the Commission,⁵ and therefore, Blythe Solar and its affiliates have mitigated any transmission market power. Further, you affirmatively state that Blythe Solar and its affiliates have not erected barriers to entry and will not erect barriers to entry into the relevant market.

Blythe Solar requests Category 1 seller status for the SPP, Southeast, Central, Northwest, and Northeast regions. You state that Blythe Solar does not own or control 500 MW or more of generation capacity in any of these regions. You further state that Blythe Solar is not affiliated with anyone that owns, operates or controls transmission facilities in the same regions as Blythe Solar's assets. You state that Blythe Solar is not affiliated with a franchised public utility in these regions, and Blythe Solar 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.⁶

You state that Blythe Solar relies on Blythe Solar 110, LLC's currently pending market power analysis,⁷ to demonstrate that Blythe Solar passes both the pivotal supplier and the wholesale market share screens for the CAISO market. Accordingly, based on your representations and subject to the outcome of Blythe Solar 110, LLC's currently pending proceeding, Blythe Solar's submittal⁸ satisfies the Commission's requirements

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).

⁵ *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). *Sky River LLC*, 136 FERC ¶ 61,162 (2011). *Florida Power & Light Company*, 77 FERC ¶ 61,025 (1996). *Peetz Logan Interconnect, LLC*, 136 FERC ¶ 61,075 (2011) and *Peetz Logan Interconnect, LLC*, 142 FERC ¶ 61,035 (2013).

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

⁷ The Blythe Solar 110, LLC triennial market power analysis is currently pending in Docket No. ER16-91-002 submitted to the Commission on June 30, 2016.

for market-based rates regarding horizontal market power.

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

Blythe Solar'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. Blythe Solar'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 141.15.⁹ Blythe Solar'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.¹⁰ Notwithstanding the waiver of the accounting and reporting requirements here, Blythe Solar is expected to keep its accounting records in accordance with generally accepted accounting principles.

Blythe Solar 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. Blythe Solar 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

⁸ The next time Blythe Solar makes a market-based rate filing with the Commission, it 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.

⁹ *See* Order No. 697, FERC Stats. & Regs. ¶ 31,252 at PP 984-985.

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

object within the corporate purposes of Blythe Solar, compatible with the public interest, and reasonably necessary or appropriate for such purposes.¹¹

Blythe Solar must file an Electric Quarterly Report (EQR) with the Commission, consistent with Order Nos. 2001¹² and 768.¹³ Blythe Solar must file EQRs electronically with the Commission consistent with the procedures set forth in Order No. 770.¹⁴ Blythe Solar 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.¹⁵

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).

¹¹ See Order No. 697, FERC Stats. & Regs. ¶ 31,252 at PP 999-1000.

¹² *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).

¹³ *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).

¹⁴ 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).

¹⁵ 18 C.F.R. § 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).

Docket No. ER16-2443-000

- 6 -

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) 502-6479
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)

ER16-2443-000.DOC.....1-6