

FEDERAL ENERGY REGULATORY COMMISSION  
Washington, D.C. 20426

January 26, 2006

In Reply Refer To:  
Solios Asset Management LLC  
Solios Power LLC  
Docket Nos. ER06-270-000 and  
ER06-271-000

Van Ness Feldman, P.C.  
Attn: Margaret A. Moore, Esq.  
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1050 Thomas Jefferson Street, N.W.  
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Dear Ms. Moore:

1. On November 30, 2005, Solios Asset Management LLC (Solios Management) and Solios Power LLC (Solios Power) (collectively, Applicants) filed applications for market-based rate authority, with accompanying tariffs. The proposed market-based rate schedules provide for the sale of energy, capacity, and ancillary services at market-based rates, the reassignment of transmission capacity, and the resale of firm transmission rights or their equivalents (FTRs).<sup>1</sup> Applicants include the Commission's market behavior rules<sup>2</sup> and also the Commission's change in status reporting requirement pursuant to Order No. 652.<sup>3</sup> Applicants request waivers commonly given to similar market-based

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<sup>1</sup> Applicants state that they plan to sell certain 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), and California Independent System Operator Corp. (CAISO).

<sup>2</sup> *Investigation of Terms and Conditions of Public Utility Market-Based Rate Authorizations*, 105 FERC ¶ 61,218 (2003), *order on reh'g*, 107 FERC ¶ 61,175 (2004).

<sup>3</sup> *Reporting Requirement for Changes in Status for Public Utilities with Market-Based Rate Authority*, Order No. 652, 70 Fed. Reg. 8,253 (Feb. 18, 2005), FERC Stats. & Regs. ¶ 31,175, *order on reh'g*, 111 FERC ¶ 61,413 (2005).

rate applicants. Applicants' submittals, as discussed below, satisfy the Commission's standards for market-based rate authority and are accepted for filing, effective December 30, 2005, as requested.<sup>4</sup>

2. Solios Power states that it is a corporation that will operate as a marketer and broker of electric power and ancillary services. Solios Power states that Solios Master Fund Ltd. (Solios Master Fund), a company that will be registered as a mutual fund pursuant to the laws of the Cayman Islands, owns all of Solios Power's non-voting shares.<sup>5</sup>

3. Solios Management states that it is a limited liability company that owns 100 percent of the voting shares of Solios Power. Solios Management states that it will provide investment advisory services to Solios Power with respect to Solios Power's wholesale power trades and will also be authorized by Solios Power to execute wholesale power trades on behalf of Solios Power. Furthermore, Solios Management states that it may operate as a marketer and broker of electric power and ancillary services on its own behalf. Solios Management states that it is currently owned by Pythagoras Investment Management LLC (Pythagoras Investment) (90 percent), an investment management firm in Cambridge, Massachusetts, and New America Partners LLC (New America) (10 percent), a private equity firm based in Cambridge, Massachusetts. Furthermore, Applicants state that they are affiliated with Pythagoras Global Investors L.P. (PGI), a power marketer with market-based rate authorization.<sup>6</sup>

### **Procedural Matters**

4. Notice of Applicants' filings was published in the *Federal Register*, 70 Fed. Reg. 73,999 (2005), with motions to intervene and protest to be filed by December 21, 2005. None was filed.

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<sup>4</sup> Solios Asset Management LLC, Rate Schedule FERC No. 1, Original Sheet Nos. 1-5; Solios Power LLC, Rate Schedule FERC No. 1, Original Sheet Nos. 1-5. Waiver of section 35.3 of the Commission's regulations is granted to allow for the effective date noted above. *Central Hudson Gas & Electric Corp.*, 60 FERC ¶ 61,106, *reh'g denied*, 61 FERC ¶ 61,089 (1992).

<sup>5</sup> Solios Power filed concurrently a request for disclaimer of jurisdiction under section 203(a) of the FPA with respect to acquisitions, sales, or other dispositions of the direct and indirect interests in Solios Power's passive shareholder, Solios Master Fund Ltd. That filing is currently pending before the Commission in Docket No. EL06-21-000.

<sup>6</sup> *Pythagoras Global Investors, L.P.*, 109 FERC ¶ 61,109 (2004).

## Discussion

### Market-Based Rate Authorization

5. The Commission allows power sales at market-based rates if the seller and its affiliates do not have, or have adequately mitigated, market power in generation and transmission and cannot erect other barriers to entry. The Commission also considers whether there is evidence of affiliate abuse or reciprocal dealing.<sup>7</sup> As discussed below, the Commission concludes that Applicants satisfy the Commission's standards for market-based rate authority.
6. In its order issued in *AEP Power Marketing, Inc.*, 107 FERC ¶ 61,018, *order on reh'g*, 108 FERC ¶ 61,026 (2004), the Commission adopted two indicative screens for assessing generation market power, the pivotal supplier screen and the wholesale market share screen. Applicants state that neither they nor any of their affiliates owns or controls any electric generation facilities in the United States. Based on these representations, the Commission finds that Applicants satisfy the Commission's generation market power standard for the grant of market-based rate authority.
7. Applicants state that neither they nor their affiliates own or control any transmission facilities in the United States. Based on these representations, the Commission finds that Applicants satisfy the Commission's transmission market power standard for the grant of market-based rate authority.
8. Applicants state that neither they nor their affiliates own or control fuel supplies, unique land sites, or other inputs to electric power generation that could be used to prevent other competitors from entering markets in the United States. Based on these representations, the Commission is satisfied that Applicants cannot erect barriers to entry.
9. Applicants state they do not have any franchised electric utility affiliates in the United States. Furthermore, Applicants' tariffs prohibit them from selling power to any public utility affiliate with a franchised service territory without first receiving approval from the Commission under section 205 of the Federal Power Act.<sup>8</sup> Based on these representations, the Commission finds that Applicants satisfy the Commission's concerns with regard to affiliate abuse.
10. Applicants request authority to engage in the sale of certain ancillary services (listed in the proposed tariff) at market-based rates into the markets administered by PJM,

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<sup>7</sup> See, e.g., *Progress Power Marketing, Inc.*, 76 FERC ¶ 61,155, at 61,919 (1996); *Northwest Power Marketing Co., L.L.C.*, 75 FERC ¶ 61,281, at 61,899 (1996); *accord Heartland Energy Services, Inc.*, 68 FERC ¶ 61,223, at 62,062-63 (1994).

<sup>8</sup> 16 U.S.C. § 824d (2000).

NYISO, ISO-NE, and the CAISO. Consistent with Commission precedent granting authority to sellers to engage in such transactions in those markets, the Commission will grant Applicants' request.<sup>9</sup>

11. Applicants propose to sell additional ancillary services in additional geographic markets as the Commission may specify and authorize from time-to-time in orders that extend such authority to all sellers previously authorized to sell energy and/or capacity at market-based rates. This request is granted in this regard; however, this grant does not relieve Applicants of the requirement to have current and complete tariffs on file with the Commission, pursuant to 18 C.F.R. § 35.1 (2005).<sup>10</sup>

12. Applicants also request authority to reassign transmission capacity and to resell FTRs or their equivalent. The Commission finds these provisions consistent with the Commission's requirements.<sup>11</sup> Accordingly, the Commission will grant this request.

### **Other Waivers, Authorizations and Reporting Requirements**

13. Applicants request the following waivers and authorizations: (1) waiver of Subparts B and C of Part 35 of the Commission's regulations requiring the filing of cost-of-service information, except as to sections 35.12(a), 35.13(b), 35.15 and 35.16; (2) waiver of Parts 41, 101 and 141 of the Commission's accounting and periodic reporting requirements; and (3) blanket authorization under Part 34 of the Commission's regulations for all future issuances of securities and assumptions of liability.

14. The Commission will grant the requested waivers and authorizations consistent with those granted other entities with market-based rate authorizations.<sup>12</sup>

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<sup>9</sup> See, e.g., *New England Power Pool*, 85 FERC ¶ 61,379 (1998), *reh'g denied*, 95 ¶ 61,074 (2001); *PJM Interconnection, LLC*, 86 FERC ¶ 61,247 (1999); *Cal. Indep. Sys. Operator Corp.*, 100 FERC ¶ 61,060 (2002), *order on reh'g*, 101 FERC ¶ 61,061 (2002); *New York Indep. Sys. Operator, Inc.*, 89 FERC ¶ 61,196 (1999), *order on reh'g*, *New York Indep. Sys. Operator, Inc.*, 90 FERC ¶ 61,317 (2000).

<sup>10</sup> *Calhoun Power Company*, 96 FERC ¶ 61,056 (2001).

<sup>11</sup> See *Southwestern Public Service Company*, 80 FERC ¶ 61,245 (1997); *California Independent System Operator, Inc.*, 89 FERC ¶ 61,153 (1999).

<sup>12</sup> It should be noted that the Commission is examining the issue of continued applicability of the waivers of its accounting and reporting requirements (18 C.F.R. Parts 41, 101 and 141) as well as continued applicability of the blanket authorization for the issuance of securities and the assumption of obligations and liabilities, (18 C.F.R. Part 34). See *Accounting and Reporting of Financial Instruments, Comprehensive Income, Derivatives and Hedging Activities*, Order No. 627, 67 Fed. Reg. 67,691 at P 23-24 (November 6, 2002), FERC Stats. & Regs. ¶ 31,134 (2002).

Notwithstanding the waiver of the accounting and reporting requirements here, the Commission expects Applicants to keep its accounting records in accordance with generally accepted accounting principles.

15. Within 30 days of the date of the issuance of this order, any person desiring to be heard or to protest the Commission's blanket approval of issuances of securities or assumptions of liabilities by Applicants should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. §§ 385.211 and 385.214 (2004).

16. Absent a request to be heard within the period set forth above, Applicants are hereby authorized to issue securities and assume obligations or liabilities as guarantor, endorser, 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 Applicants, compatible with the public interest, and reasonably necessary or appropriate for such purposes.

17. The Commission reserves the right to modify this order to require a further showing that neither the public nor private interests will be adversely affected by continued Commission approval of Applicants' issuances and securities or assumptions of liabilities.

18. Consistent with the procedures the Commission adopted in Order No. 2001, an entity with market-based rates must file electronically with the Commission an Electric Quarterly Report containing: (1) a summary of the contractual terms and conditions in every effective service agreement for market-based power sales; and (2) transaction information for effective short-term (less than one year) and long-term (one year or greater) market-based power sales during the most recent calendar quarter.<sup>13</sup> Electric Quarterly Reports must be filed quarterly no later than 30 days after the end of

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<sup>13</sup> *Revised Public Utility Filing Requirements*, Order No. 2001, 67 Fed. Reg. 31,043 (May 8, 2002), FERC Stats. & Regs. ¶ 31,127 (2002). Required data sets for contractual and transaction information are described in Attachments B and C of Order No. 2001. The Electric Quarterly Report must be submitted 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>.

the reporting quarter.<sup>14</sup> Accordingly, Applicants must file their first Electric Quarterly Reports no later than 30 days after the first quarter Applicants' rate schedules are in effect.

19. Applicants 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.<sup>15</sup>

20. Applicants are directed to file an updated market power analysis within three years of the date of this order. The Commission also reserves the right to require such an analysis at any intervening time.

By direction of the Commission.

Magalie R. Salas,  
Secretary.

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<sup>14</sup> The exact dates for these reports are prescribed in 18 C.F.R. § 35.10b (2005). Failure to file an Electric Quarterly Report (without an appropriate request for extension), or failure to report an agreement in an Electric Quarterly Report, may result in forfeiture of market-based rate authority, requiring filing of a new application for market-based rate authority if the applicant wishes to resume making sales at market-based rates.

<sup>15</sup> *Reporting Requirement for Changes in Status for Public Utilities with Market-Based Rate Authority*, Order No. 652, 70 Fed. Reg. 8,253 (Feb. 18, 2005), FERC Stats. & Regs. ¶ 31,175, *order on reh'g*, 111 FERC ¶ 61,413 (2005).