

132 FERC ¶ 61,054
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;
Marc Spitzer, Philip D. Moeller,
John R. Norris, and Cheryl A. LaFleur.

Ameren Services Company,
on behalf of Ameren Energy Generating Company

Docket No. ES10-36-000

ORDER GRANTING BLANKET AUTHORIZATION TO ISSUE SECURITIES
AND ASSUME LIABILITIES

(Issued July 16, 2010)

1. On April 27, 2010, pursuant to section 204 of the Federal Power Act (FPA)¹ and Part 34 of the Commission's regulations,² Ameren Services Company (Ameren Services), on behalf of Ameren Energy Generating Company (Ameren Generating), filed an application for blanket authorization for the issuance of securities and assumption of liabilities. We will grant the request of Ameren Generating for blanket authorization as discussed below.

I. Background

2. Ameren Generating is an exempt wholesale generator and an indirect wholly-owned subsidiary of Ameren Corporation. Ameren Generating owns and operates electric generating facilities in Illinois and Missouri, and has a combined generating capacity of approximately 4,100 megawatts. Ameren Generating does not own any transmission or distribution facilities and does not have any captive customers.

3. Ameren Generating is affiliated with Ameren Energy Marketing Company (Ameren Marketing).³ Ameren Marketing is a power marketer and power broker, and

¹ 16 U.S.C. § 824c (2006).

² 18 C.F.R. Part 34 (2010).

³ Ameren Generating also is affiliated with Union Electric Company (AmerenUE), Central Illinois Public Service Company (Ameren CIPS), Central Illinois Light Company (continued...)

does not own any generation, transmission, or distribution facilities. Ameren Marketing makes wholesale sales of capacity, energy and ancillary services at market-based rates⁴ and is also a certified alternative retail supplier in Illinois. Ameren Marketing sells the capacity and energy produced by Ameren Generating in wholesale and retail transactions, including wholesale sales to affiliates AmerenCIPS, AmerenCILCO, and AmerenIP. Additionally, Ameren Generating is affiliated with several other public utilities that own generating facilities and have market-based rate authority.⁵

4. As noted above, Ameren Generating sells the capacity and energy of its generating facilities to its affiliate Ameren Marketing. It does not sell any capacity or energy directly to AmerenCIPS, AmerenCILCO, and AmerenIP. Ameren Marketing, however, is authorized to make sales of wholesale capacity and energy to AmerenCIPS, AmerenCILCO, and AmerenIP under its market-based rate tariff on file with the Commission.⁶

5. When Ameren Generating initially applied for market-based rate authority on August 14, 2000, it had a cost-based wholesale power supply agreement on file with the Commission under which Ameren Generating sold wholesale power to Ameren Marketing.⁷ Ameren Marketing then resold the power to AmerenCIPS under a cost-based wholesale power sales rate schedule to allow AmerenCIPS to satisfy its retail service obligations.

6. Ameren Services states that, while the Commission routinely grants blanket authorization under Part 34 of its regulations⁸ for future issuances of securities and

(AmerenCILCO), and Illinois Power Company (Ameren IP). Ameren Services states that these companies are public utilities that provide retail and wholesale electric service to customers in parts of Missouri and Illinois, and they have no captive wholesale customers. In an order issued June 17, 2010, the Commission authorized an internal reorganization involving AmerenCIPS, AmerenCILCO and AmerenIP. *Ameren Corp.*, 131 FERC ¶ 61,240 (2010).

⁴ *Madison Gas and Elec. Co.*, 90 FERC ¶ 61,115 (2000); *Ameren Marketing Co.*, 95 FERC ¶ 61,448 (2001).

⁵ Those public utilities are AmerenEnergy Medina Valley Cogen, LLC; AmerenEnergy Resources Generating Company; and Electric Energy, Inc.

⁶ *Ameren Energy Marketing Co.*, 127 FERC ¶ 61,131 (2009).

⁷ *Madison Gas & Elec. Co.*, 90 FERC ¶ 61,115 (2000).

⁸ 18 C.F.R. Part 34 (2010).

assumptions of liabilities concurrently with market-based rate authorization, the Commission typically does not grant Part 34 blanket authorizations to public utilities subject to cost-based rate regulation. In the Ameren Generating Market-Based Rate Order,⁹ the Commission granted market-based rate authority but, consistent with its policy, did not grant Ameren Generating blanket authorization under Part 34 of its regulations.

7. Ameren Services states that the previous cost-based arrangement Ameren Generating had with Ameren Marketing, and cost-based rate schedule Ameren Marketing had with AmerenCIPS, were terminated in 2004. Currently, neither Ameren Generating nor Ameren Marketing is subject to any cost-based rate regulation. Ameren Generating sells its entire capacity and the energy output of its generating facilities to Ameren Marketing at market-based rates, and Ameren Marketing re-sells that power at market-based rates.

II. Request for Blanket Authorization

8. Ameren Generating seeks blanket authorization to issue securities and assume liabilities. Ameren Services contends that Ameren Generating satisfies the Commission's criteria for blanket authorization under section 204 of the FPA for future issuances of securities and assumptions of liabilities given that, as described above, the cost-based contracts with its affiliates were terminated in 2004 and neither Ameren Generating nor Ameren Marketing are subject to cost-based rate regulation. Further, Ameren Generating is not itself a franchised public utility, and does not provide requirements service to any franchised public utility at cost-based rates. Ameren Generating sells its capacity and energy to Ameren Marketing and in turn Ameren Marketing sells to AmerenCIPS, AmerenCILCO, and AmerenIP capacity and energy at market-based rates pursuant to the Illinois Power Agency's competitive procurement process overseen by the Illinois Commerce Commission. Ameren Services also states that Ameren Generating does not have any captive customers, and that AmerenCIPS, AmerenCILCO, and AmerenIP do not have any captive customers due to the availability of retail choice under Illinois law.

9. Ameren Services argues that the Commission has granted blanket authorizations to similarly-situated public utilities with market-based rate authority, including public utilities that are authorized to sell power at market-based rates to their affiliates through

⁹ *Ameren Energy Generating Co.*, 93 FERC ¶ 61,024 (2000), *order denying reh'g*, 95 FERC ¶ 61,009 (2001) (Ameren Generating Market-Based Rate Order).

competitive procurement processes.¹⁰ Ameren Services argues that, in *PSEG*, the Commission granted blanket authorization for future issuances of securities and assumptions of liabilities to PSEG Energy Resources and Trade LLC (PSEG ER&T) under the same circumstances presented here. PSEG ER&T had previously been granted market-based rate authority by the Commission but had not been granted a blanket authorization at the time it applied because it was subject to cost-based rate regulation at that time. After its cost-based sales arrangements expired, it asked the Commission for blanket authorization under section 204 and Part 34 for future issuances of securities and assumptions of liabilities, which the Commission granted.¹¹ Ameren Generating requests that the Commission grant it the same blanket authorization granted to PSEG ER&T under similar circumstances.

10. Notice of the filing was published in the *Federal Register*, 75 Fed. Reg. 23,753 (2010), with interventions or protests due on or before May 18, 2010. None was filed.

III. Discussion

11. The Commission has granted blanket authorization for the issuance of securities and assumptions of liabilities to power sellers not subject to cost-based rate regulation, i.e., power sellers that make their sales pursuant to market-based rate authority.¹² Ameren Generating is authorized to sell capacity and energy at market-based rates. The cost-based sales arrangements that previously existed were terminated in 2004 and

¹⁰ See, e.g., *PSEG Fossil LLC*, 119 FERC ¶ 61,245 (2007) (*PSEG*); *Exelon Generation Co., LLC*, 93 FERC ¶ 61,140 (2000); *Allegheny Energy Supply Co.*, 88 FERC ¶ 61,303 (1999).

¹¹ *PSEG*, 119 FERC ¶ 61,245 at P 11, 16.

¹² *Id.*; *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 P 999, *clarified*, 121 FERC ¶ 61,260 (2007), *order on reh'g*, Order No. 697-A, FERC Stats. & Regs. ¶ 31,268, *clarified*, 124 FERC ¶ 61,055 (2008), *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); see also *Citizens Utilities Co.*, 71 FERC ¶ 61,251, at 61,965 (1995) (in granting section 204 blanket authorization, the Commission noted, among other things, the lack of intention to become a public service franchise providing electricity to consumers dependent upon that service); *accord St. Joe Minerals Corp.*, 21 FERC ¶ 61,323 (1982), *order on reh'g*, 22 FERC ¶ 61,211, at 61,388 (1983); *Dominion Retail, Inc.*, 104 FERC ¶ 61,091, at P 9 (2003).

neither Ameren Generating nor Ameren Marketing is currently subject to cost-based rate regulation.¹³ As such, Ameren Generating's circumstances are similar to those in *PSEG*,¹⁴ and Ameren Generating qualifies for the blanket authorization sought here. Accordingly, we will grant blanket authorization to issue securities and assume liabilities under section 204 of the FPA and Part 34 of the Commission's regulations.

12. Ameren Generating also seeks to withdraw its prior request for authorization to issue up to \$500 million in short-term debt securities in Docket No. ES10-20-000,¹⁵ effective upon issuance of an order in the instant docket.¹⁶ The blanket authorization granted herein will supersede the provision of our March 31, 2010 order authorizing issuance by Ameren Generating of up to \$500 million in short-term debt securities.

The Commission orders:

(A) Pursuant to section 204 of the FPA and Part 34 of the Commission's regulations, Ameren Generating is hereby 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 the applicant, compatible with the public interest, and reasonably necessary or appropriate for such purposes.

(B) The previous authorization granted to Ameren Generating in Docket No. ES10-20-000 to issue short-term debt securities in an amount not to exceed \$500 million outstanding at any one time is hereby superseded, effective upon the issuance of this order, as discussed in the body of this order. All other authorizations for Ameren

¹³ Moreover, Ameren Generating does not have any captive customers.

¹⁴ In *PSEG*, the Commission granted blanket authorization, previously denied, to a power marketer authorized to sell energy at market-based rates after its contracts containing cost-based rates had expired. *See supra* note 11.

¹⁵ Application at 7-8.

¹⁶ The Commission acted upon the request by Ameren Generating for authorization to issue up to \$500 million in short-term debt securities in an order issued March 31, 2010. *Ameren Serv. Co.*, 130 FERC ¶ 62,270 (2010).

Generating's affiliates under the order dated March 31, 2010 in the above-noted docket remain in effect until the date of termination as indicated in that order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.