

FEDERAL ENERGY REGULATORY COMMISSION
Washington, D.C. 20426

March 3, 2005

In Reply Refer To:
Telemagine, Inc.
Docket No. ER05-419-000,
ER05-419-001, and
ER05-419-002

Telemagine, Inc.
Attn: Geoffrey W. Hocker, Principal
Telemagine, Inc.
6150 West 61 Street
Mission, KS 66202

Dear Mr. Hocker:

1. On January 4, 2005, as amended on January 21, 2005 and January 27, 2005, Telemagine, Inc. (Telemagine) filed an application for market-based rate authority with an accompanying tariff. The proposed market-based rate tariff provides for the sale of capacity, energy, and ancillary services at market-based rates; the reassignment of transmission capacity; and the resale of firm transmission rights (FTR).¹ It also includes the Commission's market behavior rules.² Telemagine's submittal, as discussed below, satisfies the Commission's standards for market-based rate authority and is accepted for filing, effective February 1, 2005, as requested.³

¹ Telemagine plans 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 Corporation (CAISO).

² *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).

³ Rate Schedule FERC No. 1, Original Sheet Nos. 1-6. Waiver of section 35.3 of the Commission's regulations, 18 C.F.R. § 35.3 (2004), is granted to allow for the effective date noted above.

2. Telemagine is a newly formed Oklahoma corporation with its principal place of business in Mission, Kansas. Telemagine states that it will operate as a power marketer of electric power and ancillary services. Geoffrey W. Hocker is Telemagine's principal. Telemagine states that it is not a subsidiary of any other company. Telemagine states that Geoffrey W. Hocker is not affiliated with any public utilities and is not employed by any other company. Furthermore, Telemagine states that it is not affiliated with any public utilities.

Procedural Matters

3. Notice of Telemagine's January 4, 2005 filing was published in the *Federal Register*, 70 Fed. Reg. 3,694 (2005), with motions to intervene and protests to be filed by January 25, 2005. Notice of Telemagine's January 21, 2005 and January 27, 2005 filings was published in the *Federal Register*, 70 Fed. Reg. 5,992 (2005), with motions to intervene and protests to be filed by February 14, 2005. None was filed.

Discussion

Market-Based Rate Authorization

4. 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.⁴ As discussed below, we conclude that Telemagine satisfies the Commission's standards for market-based rate authority.

5. 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. Telemagine states that it has no electric generating facilities in the United States for sale or service to the public. Further, Telemagine asserts that it does not have any long-term power purchase commitments. Accordingly, the Commission finds that Telemagine satisfies the Commission's generation market power standard for the grant of market-based rate authority.

6. Telemagine states that it does not own, operate, or control any transmission facilities in the United States. Based on this representation, the Commission finds that Telemagine satisfies the Commission's transmission market power standard for the grant of market-based rate authority.

⁴ 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).

7. Telemagine states that it does not own or control fuel supplies, unique land sites, or other inputs to electric power generation that could be used to prevent competitors from entering markets in the United States. Based on this representation, the Commission is satisfied that neither Telemagine nor any of its affiliates can erect barriers to entry.

8. Telemagine states that it does not have any franchised electric utility affiliates. Based on this representation, the Commission finds that Telemagine satisfies the Commission's concerns with regard to affiliate abuse.

9. Telemagine requests authority to engage in the sale of certain ancillary services (listed in the proposed tariff) at market-based rates into the markets administered by ISO-NE, PJM, NYISO, and CAISO. Consistent with Commission precedent granting authority to sellers to engage in such transactions in those markets, the Commission will grant Telemagine's request.⁵

10. Telemagine proposes 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. The Commission will grant Telemagine's request in this regard; however, this grant does not relieve Telemagine of the requirement to have current and complete tariffs on file with the Commission, pursuant to 18 C.F.R. § 35.1 (2004).⁶

11. Telemagine also requests authority to reassign transmission capacity and to resell FTRs or their equivalent. The Commission finds these provisions consistent with the Commission's requirements.⁷ Accordingly, the Commission will grant this request.

Other Waivers, Authorizations and Reporting Requirements

12. Telemagine requests 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;

⁵ See, e.g., *New England Power Pool*, 85 FERC ¶ 61,379 (1998), *reh'g denied*, 95 FERC ¶ 61,074 (2001); *Atlantic City Electric Co.*, 86 FERC ¶ 61,248, *clarified*, 86 FERC ¶ 61,310 (1999); *Central Hudson Gas & Electric Corp.*, 86 FERC ¶ 61,062, *order on reh'g*, 88 FERC ¶ 61,138 (1999); *AES Redondo Beach, L.L.C.*, 85 FERC ¶ 61,123 (1998), *order on reh'g*, 87 FERC ¶ 61,208 (1999), *order on reh'g and clarification*, 90 FERC ¶ 61,036 (2000).

⁶ See *Calhoun Power Co.*, 96 FERC ¶ 61,056 (2001).

⁷ See *Southwestern Public Service Co.*, 80 FERC ¶ 61,245 (1997); *Calif. Indep. Sys. Operator, Inc.*, 89 FERC ¶ 61,153 (1999).

(2) waiver of Parts 41, 101, and 141 of the Commission's accounting and periodic reporting requirements; (3) abbreviated filings with respect to interlocking directorates under Part 45 of the Commission's regulations; and (4) blanket authorization under Part 34 of the Commission's regulations for all future issuances of securities and assumptions of liability.

13. The Commission will grant the requested waivers and authorizations consistent with those granted other entities with market-based rate authorizations.⁸ Notwithstanding the waiver of the accounting and reporting requirements here, the Commission expects Telemagine to keep its accounting records in accordance with generally accepted accounting principles.

14. 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 Telemagine should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., 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).

15. Absent a request to be heard within the period set forth above, Telemagine 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 Telemagine, compatible with the public interest, and reasonably necessary or appropriate for such purposes.

16. Until further order of this Commission, the full requirements of Part 45 of the Commission's regulations, except as noted below, are hereby waived with respect to any person now holding or who may hold an otherwise proscribed interlocking directorate involving Telemagine. Any such person instead shall file a sworn application providing the following information:

⁸ 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 (Oct. 10, 2002), FERC Stats. & Regs. ¶ 32,558, at P 23-24 (2002).

- (1) full name and business address; and
- (2) all jurisdictional interlocks, identifying the affected companies and the positions held by that person

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 Telemagine's issuances and securities or assumptions of liabilities, or by the continued holding of any affected interlocks.

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.⁹ Electric Quarterly Reports must be filed quarterly no later than 30 days after the end of the reporting quarter.¹⁰ Accordingly, Telemagine must file its first Electric Quarterly Report no later than 30 days after the first quarter Telemagine rate schedule is in effect.¹¹

19. Telemagine 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 A change in status includes, but is not limited to, each of the following: (i) ownership or control of generation or transmission facilities or inputs to electric power production other than fuel supplies; or (ii) affiliation with any entity not

⁹ *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>.

¹⁰ The exact filing dates for these reports are prescribed in 18 C.F.R. § 35.10b (2004).

¹¹ 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.

¹² *Reporting Requirement for Changes in Status for Public Utilities With Market-Based Rate Authority*, Order No. 652, 110 FERC ¶ 61,097 (2005) (Order No. 652).

disclosed in the application for market-based rate authority that owns or controls generation or transmission facilities or inputs to electric power production, or affiliation with any entity that has a franchised service area. Any change in status must be filed no later than 30 days after the change in status occurs.

20. Order No. 652 requires that the change in status reporting requirement be incorporated in the market-based rate tariff of each entity authorized to make sales at market-based rates. Accordingly, Telemagine is directed, within 30 days of the date of issuance of this order, to revise its market-based rate tariff to incorporate the change in status reporting requirement adopted in Order No. 652.

21. Telemagine is directed to file an updated market power analysis within three years of the date of this order, and every three years thereafter. The Commission also reserves the right to require such an analysis at any intervening time.

By direction of the Commission.

Linda Mitry,
Deputy Secretary.