

104 FERC ¶ 61, 222
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;
William L. Massey, and Nora Mead Brownell.

Aquila Merchant Services, Inc. (f/k/a Aquila, Inc.)	Docket No. EL03-138-000
Aquila Merchant Services, Inc. (f/k/a Aquila, Inc.)	Docket Nos. EL03-181-000
Eugene Water & Electric Board	EL03-188-000
PPM Energy, Inc. (f/k/a PacifiCorp Power Marketing, Inc.)	EL03-197-000

ORDER GRANTING MOTIONS TO CHANGE
DESIGNATIONS OF SHOW CAUSE RESPONDENTS

(Issued August 22, 2003)

Introduction

1. In this order, we grant unopposed motions to revise the designations of certain entities as respondents to show cause orders issued on June 25, 2003.¹ This order ensures that the appropriate parties are show cause respondents to the June 25 Orders.

Background

2. In the June 25 Orders, the Commission instituted proceedings concerning certain entities' alleged participation in activities that constituted gaming and/or anomalous market behavior in violation of the California Independent System Operator Corporation's (ISO) and California Power Exchange's (PX) tariffs during the period January 1, 2000 to June 20, 2001. The orders directed the entities listed in the captions of the orders to show cause, in a trial-type evidentiary hearing to be held before an administrative law judge why their

¹American Electric Power Service Corp., *et al.*, 103 FERC & 61,345 (2003), reh'g pending (Gaming Practices Order); Enron Power Marketing, Inc., *et al.*, 103 FERC & 61,346 (2003), reh'g pending (Partnership Gaming Order) (collectively, the June 25 Orders).

behavior during the relevant period did not constitute gaming and/or anomalous market behavior as defined in the ISO and PX tariffs.

3. The Gaming Practices Order, in pertinent part, identified "Aquila, Inc." as a show cause respondent. On July 11, 2003, Aquila, Inc. and Aquila Merchant Services, Inc. (Aquila Movants) filed a motion to amend the caption of the Gaming Practices Order by removing "Aquila, Inc." and substituting "Aquila Merchant Services, Inc." as the party to the show cause proceeding. They explain that Aquila, Inc. has never done business in California, but Aquila Merchant Services, Inc. has engaged in sales of energy in California, including in the ISO and PX markets during the time period addressed by the show cause proceeding. They also note that (1) Aquila Merchant Services, Inc. was formerly known as "Aquila, Inc." until March 1, 2002,² and (2) on March 15, 2002, the company formerly known as "UtiliCorp United Inc." changed its name to "Aquila, Inc." Thus, Aquila Movants believe that the Gaming Practices Order was apparently intended to be directed to Aquila Merchant Services, Inc. rather than Aquila, Inc.

4. The Partnership Gaming Order, in pertinent part, identified "Aquila, Inc.," Eugene Water and Electricity Board" and "PacifiCorp" as show cause respondents. On July 11, 2003, Aquila Movants filed a motion to amend the caption of the Partnership Gaming Practices Order by removing "Aquila, Inc." and adding "Aquila Merchant Services, Inc." as a party to the show cause proceeding, for the same reasons discussed above.

5. On July 23, 2003, the Eugene Water & Electric Board filed a motion stating that its correct name is the "Eugene Water & Electric Board" and requesting that the Commission correct the caption of the Partnership Gaming Order by changing "Eugene Water and Electricity Board" to "Eugene Water & Electric Board."

6. On July 30, 2003, PacifiCorp and PPM Energy, Inc. (collectively, PacifiCorp Movants) filed a motion to amend the caption of the Partnership Gaming Order to remove "PacifiCorp" and substitute "PPM Energy, Inc." as the party to this proceeding. They state that PPM Energy, Inc. formerly did business as "PacifiCorp Power Marketing, Inc.," but it adopted its current name on January 15, 2003. Further, PacifiCorp Movants note that the California Parties' testimony and exhibits, which provided a basis for identifying alleged Partnership Gaming entities, were corrected to refer to PPM Energy, Inc. rather than

²Aquila Movants also state that Aquila Merchant Services, Inc. was the successor by merger to Aquila Energy Marketing Corporation which, in turn, was formerly known as Aquila Power Corporation. The Commission accepted a notice of succession reflecting a name change from Aquila Energy Marketing Corporation to Aquila Merchant Services, Inc. on May 22, 2002, in Docket No. ER02-1381-000.

PacifiCorp. They state that, on March 11, 2003, the California Parties submitted an errata filing which corrected Exhibit CA-187 and the testimony of Dr. Fox-Penner by changing references to "PacifiCorp" to read either "PacifiCorp Power Marketing" or "PPM."

Discussion

7. In each instance described above, the intended show cause respondent, in fact, has a different name than the name listed in the caption of the order; we find that movants' explanations constitute good cause for granting their motions to correct the June 25 Orders, and no party opposes the motions. Accordingly, we will grant the motions to correct the names of the intended show cause respondents, as ordered below.

The Commission orders:

(A) The motion to amend the designations of show cause respondents in the Gaming Practices Order to add "Aquila Merchant Services, Inc." and remove "Aquila, Inc." is hereby granted, as discussed in the body of this order.

(B) The motions to amend the designations of show cause respondents in the Partnership Gaming Order to (1) add "Aquila Merchant Services, Inc." and remove "Aquila, Inc.," (2) add "Eugene Water & Electric Board" and remove "Eugene Water and Electricity Board" and (3) add "PPM Energy, Inc." and remove "PacifiCorp," are hereby granted, as discussed in the body of this order.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.