

FEDERAL ENERGY REGULATORY COMMISSION  
Washington, D.C. 20426

OFFICE OF ENERGY MARKET REGULATION

In Reply Refer To:  
SEPG Energy Marketing Services, LLC  
Docket Nos. ER15-1657-000 and  
ER15-1657-001

July 23, 2015

Ms. Jessica C. Friedman  
Attorney for SEPG Energy Marketing Services, LLC  
VanNess Feldman LLP  
1050 Thomas Jefferson Street, N.W.  
Seventh Floor  
Washington, D.C. 20007

Reference: Market-Based Rate Authorization

Dear Ms. Friedman:

On May 4, 2015, as amended on June 19, 2015, you filed on behalf of SEPG Energy Marketing Services, LLC (SEPG) 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.<sup>1</sup> SEPG requests waivers commonly granted to similar market-based rate applicants.

Your filing was noticed on May 4, 2015 and June 19, 2015, with comments, protests or interventions due on or before May 26, 2015 and July 10, 2015. 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 docket is accepted for filing, effective July 6, 2015, as requested. Based on your

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<sup>1</sup> SEPG 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). SEPG also requests authorization to engage in the sale of certain ancillary services as a third-party provider in other markets.

representations, SEPG meets the criteria for a Category 2 seller in the Northeast, Southeast, and Southwest regions and a Category 1 seller in the Central, Northwest, and SPP regions and is so designated.<sup>2</sup>

You state that SEPG is a Delaware limited liability company that intends to act as a power marketer. You further represent that SEPG is wholly owned by CPP SEPG Holdings, LLC and SEPG is affiliated with certain entities that own or control generation facilities throughout the country. You add that SEPG is not affiliated with any entity that owns or controls transmission facilities. Further, you affirmatively state that SEPG has not erected barriers to entry and will not erect barriers to entry into the relevant market.

You request that the Commission designate SEPG as a Category 1 seller in the Central, Northwest, and SPP regions. You state that SEPG neither owns, controls, nor is affiliated with more than 500 MW of generation in the Central, Northwest, and SPP regions. You add that neither SEPG nor its affiliates own, operate, or control transmission facilities. You further state that SEPG is not affiliated with a franchised public utility in any region and SEPG does not raise 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.<sup>3</sup>

You state that SEPG relies on an accepted market power analysis submitted by Danskammer Energy, LLC,<sup>4</sup> AV Solar Ranch 1, LLC,<sup>5</sup> Alcoa Power Generating Inc.<sup>6</sup>

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<sup>2</sup> *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 848-50, *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). SEPG 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 adopted in Order No. 697.

<sup>3</sup> Order No. 697, FERC Stats. & Regs. ¶ 31,252 at PP 62, 399, 408, 440.

<sup>4</sup> *Danskammer Energy, LLC*, 148 FERC ¶ 61,090 (2014).

<sup>5</sup> *AV Solar Ranch 1, LLC*, 148 FERC ¶ 61,102 (2014).

and NRG Power Marketing LLC,<sup>7</sup> to demonstrate that SEPG passes both the pivotal supplier and the wholesale market share screens for the NYISO and PJM markets, the PJM East, 5004/5005, and AP South submarkets, and the Progress Energy Carolinas – East, and CAISO markets. You state that all of SEPG’s affiliated generation capacity is fully committed under long-term power purchase agreements and thus it does not have any uncommitted capacity in the Southern Company Services, Inc., Public Service Company of Colorado, and JEA balancing authority areas. Accordingly, SEPG’s submittal satisfies the Commission’s requirements for market-based rate authority regarding horizontal market power.

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

SEPG’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. SEPG’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.<sup>8</sup> SEPG’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.<sup>9</sup> Notwithstanding the waiver of the accounting and reporting requirements here, SEPG is expected to keep its accounting records in accordance with generally accepted accounting principles.

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<sup>6</sup> *Alcoa Power Generating Inc.*, Docket No. ER10-3069-005 (February 4, 2015) (delegated letter order).

<sup>7</sup> *NRG Power Marketing LLC*, Docket No. ER10-1569-007 (April 22, 2014) (delegated letter order).

<sup>8</sup> *Citizens Energy Corp.*, 35 FERC ¶ 61,198 (1986); *Citizens Power and Light Corp.*, 48 FERC ¶ 61,210 (1989) (*Citizens Power*); *Enron Power Marketing, Inc.*, 65 FERC ¶ 61,305 (1993), *order on reh’g*, 66 FERC ¶ 61,244 (1994) (*Enron*).

<sup>9</sup> 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 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”)).

SEPG 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. SEPG 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 object within the corporate purposes of SEPG, compatible with the public interest, and reasonably necessary or appropriate for such purposes.<sup>10</sup>

SEPG must file an Electric Quarterly Report (EQR) with the Commission, consistent with Orders Nos. 2001<sup>11</sup> and 768.<sup>12</sup> SEPG must file EQRs electronically with the Commission consistent with the procedures set forth in Order No. 770.<sup>13</sup> SEPG 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 in accordance with Order No. 697.<sup>14</sup>

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

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<sup>10</sup> *Citizens Power*, 48 FERC ¶ 61,210; *Enron*, 65 FERC ¶ 61,305.

<sup>11</sup> *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).

<sup>12</sup> *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).

<sup>13</sup> *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).

<sup>14</sup> Order No. 697, FERC Stats. & Regs. ¶ 31,252 at PP 1015-1046; 18 C.F.R. § 35.42 (2013). *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).

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 applicants.

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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Sincerely,

Steve P. Rodgers, Director  
Division of Electric Power  
Regulation - West