

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

July 25, 2005

In Reply Refer To:
WKE Station Two, Inc.
Docket Nos. ER05-1080-000
ER98-1278-008
ER98-1278-009
ER98-1278-010
EL05-99-000

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Dear Mr. Jakubiak:

1. On November 19, 2004, in Docket No. ER98-1278-009, *et al.* (the November 2004 Filing), LG&E Energy Marketing Inc., Louisville Gas & Electric Company, Kentucky Utilities Company, WKE Station Two, Inc. (WKE Station Two), and Western Kentucky Energy Corporation (collectively, the LG&E Parties) filed an updated market power analysis pursuant to the Commission's order issued on May 13, 2004.¹ The LG&E Parties also filed revised tariff sheets to their market-based rate tariffs to include the Commission's market behavior rules.

¹ *Acadia Power Partners, LLC*, 107 FERC ¶ 61,168 (2004) (May 13 Order). The May 13 Order addressed the procedures for implementing the generation market power analysis announced on April 14, 2004, and clarified on July 8, 2004. *AEP Power Marketing, Inc.*, 107 FERC ¶ 61,018, *order on reh'g*, 108 FERC ¶ 61,026 (2004).

2. On May 5, 2005, the Commission issued an order² on the LG&E Parties' updated market power analysis, which, among other things, instituted a proceeding in Docket No. EL05-99-000 pursuant to section 206 of the Federal Power Act³ to determine whether the LG&E Parties may continue to charge market-based rates and established a refund effective date.

3. On June 6, 2005, in Docket No. ER05-1080-000, WKE Station Two submitted a notice of cancellation of the WKE Station Two tariff sheets that were erroneously submitted with the November 2004 Filing.⁴ WKE Station Two states that at the time of the November 2004 Filing, the LG&E Parties were under the impression that WKE Station Two had a market-based rate tariff on file with the Commission. WKE Station Two further states that the LG&E Parties had recently come to understand that, while WKE Station Two did have such a tariff on file with the Commission at one time, that tariff was cancelled effective February 4, 1999.⁵ As a result of the cancellation of its market-based rate tariff, WKE Station Two asserts that the tariff sheets submitted by the LG&E Parties on behalf of WKE Station Two in the November 2004 Filing, and accepted by the Commission in the May 2005 Investigation Order, should not have been submitted in the first instance.

Procedural Matters

4. Notice of WKE Station Two's filing was published in the *Federal Register*, 70 Fed. Reg. 35,421 (2005), with interventions or protests due on or before June 27, 2005. None was filed.

Discussion

5. The Commission accepts, effective December 17, 2003, the notice of cancellation of the WKE Station Two tariff sheets that were erroneously submitted with the November 2004 Filing. Because WKE Station Two's market-based rate tariff had already been cancelled effective February 4, 1999, the filing of the WKE Station Two tariff sheets to incorporate the market behavior rules was unnecessary. In this context,

² *LG&E Energy Marketing, Inc.*, 111 FERC ¶ 61,153 (May 2005 Investigation Order).

³ 16 U.S.C. § 824e (2000).

⁴ Rate Schedule FERC No. 1, First Revised Sheet No. 2 (cancels Original Sheet Nos. 2-3).

⁵ See *WKE Station Two Inc.*, Docket No. ER99-1755-000 (unpublished letter order) (March 16, 1999).

we will accept the notice of cancellation of the tariff sheets, effective December 17, 2003, to coincide with the date on which the erroneously filed tariff sheets were made effective.⁶ Further, because WKE Station Two does not have a market-based rate tariff on file with the Commission, this order terminates the section 206 proceeding instituted in Docket No. EL05-99-000 with regard to WKE Station Two. Accordingly, Docket Nos. ER98-1278-008, ER98-1278-009, and ER98-1278-010 are hereby terminated.

By direction of the Commission.

Linda Mitry,
Deputy Secretary.

⁶ Waiver of section 35.15 of the Commission's regulations, 18 C.F.R. § 35.15 (2005), is granted to allow the effective date noted above.