

132 FERC ¶ 61,264
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

September 27, 2010

In Reply Refer To:
RRI Energy Florida, LLC
RRI Energy Services, Inc.
Docket Nos. ER09-1110-002
ER09-1114-003

Larry F. Eisenstat
Dickstein Shapiro LLP
1825 Eye Street, NW
Washington, DC 20006-5403

Reference: Notice of Change in Status

Dear Mr. Eisenstat:

1. On February 1, 2010, RRI Energy Florida, LLC (RRI Florida) and RRI Energy Services, Inc. (together, RRI Companies) filed a notice of change in status to inform the Commission of the expiration of a long-term power sale agreement (Indian River PSA), under which 566 megawatts from RRI Florida's Indian River Generating Station was committed to Florida Power & Light Company (FP&L). The RRI Companies explained that expiration of the Indian River PSA resulted in RRI Companies' failure of the Commission's wholesale market share screen for the Florida Municipal Power Pool (FMPP) balancing authority area. RRI Companies argued that, despite this screen failure, they do not have the ability to exercise market power in the FMPP balancing authority area.¹
2. On May 19, 2010, RRI Companies submitted additional evidence regarding the FMPP balancing authority area.
3. On August 5, 2010, RRI Companies supplemented their filing. In the August 5, 2010 filing, RRI Companies explain that they have decided to relinquish their

¹ RRI Energy Florida, LLC, Notice of Change in Status, Docket Nos. ER09-1110-002 and ER09-1114-003, Transmittal Letter at 9, Attachment 1 at 18-19 (Feb. 1, 2010).

market-based rate authority in the FMPP balancing authority area. In addition, the RRI Companies commit to submit a compliance filing amending their respective market-based rate tariffs to state that “[n]o sales will be made under this Tariff in the [FMPP] balancing authority area.”² They also commit to amend their tariffs to include the specific language the Commission approved for sales at the metered boundary.³ RRI Companies explain that before making any future sales in the FMPP balancing authority area, they will seek Commission approval for either cost-based rates or amendments to their market-based rate tariffs to eliminate the restriction on sales in the FMPP balancing authority area.⁴ Further, RRI Companies also state that, as part of their compliance filing, they will submit revisions to RRI Florida’s tariff to reflect the fact that it has been granted Category 1 status in the Northeast, Central, Southwest Power Pool, Southwest, and Northwest regions.⁵

4. Notice of RRI Companies’ February 1, 2010 filing was published in the *Federal Register* with interventions or protests due on or before February 22, 2010.⁶ None was filed.

5. Notice of RRI Companies’ May 19, 2010 filing was published in the *Federal Register* with interventions or protests due on or before June 9, 2010.⁷ None was filed.

² *Id.* at 3-4.

³ *Id.* at 4 (citing *Market-Based Rates for Wholesale Sales of Electric Energy, Capacity and Ancillary Services by Public Utilities*, Order No. 697-C, FERC Stats. & Regs. ¶ 31,291, at P 42, Appendix C (2009), *order on reh’g*, Order No. 697-D, FERC Stats. & Regs. ¶ 31,305 (2010)).

⁴ August 5, 2010 filing at 4.

⁵ On June 21, 2010, in Docket ER09-1110-003, RRI Florida submitted a request to be designated as a Category 1 seller, including proposed revisions to its market-based rate tariff to reflect its request. While RRI Florida’s proposed revisions were pending before the Commission, RRI Florida submitted its baseline tariff filing pursuant to Order No. 714. Its baseline tariff filing did not include the revisions that it had proposed in Docket No. ER09-1110-003. Both RRI Florida’s request for Category 1 status and its baseline tariff were subsequently accepted by the Commission. *See Orion Power Midwest, L.P.*, Docket No. ER00-2129-004, at 2 (Aug. 6, 2010) (unpublished letter order); *Carolina Power & Light Company*, Docket No. ER10-1760-000 (Aug. 25, 2010) (unpublished letter order).

⁶ 75 Fed. Reg. 6653 (2010).

⁷ 75 Fed. Reg. 32,454 (2010).

6. Notice of RRI Companies' August 5, 2010 filing was published in the *Federal Register* with interventions or protests due on or before August 26, 2010.⁸ None was filed.

Discussion

7. We will accept⁹ the RRI Companies' notice of change in status for filing on the condition that they submit a compliance filing, within 15 days of the issuance of this order, revising their respective market-based rate tariffs effective the date of this order to state that they will not make any sales in the FMPP balancing authority area and to include the Commission's language regarding sales at the metered boundary.¹⁰

By direction of the Commission.

Kimberly D. Bose,
Secretary.

⁸ 75 Fed. Reg. 49,918 (2010).

⁹ We are accepting the notice of change in status with the understanding that RRI Companies will seek Commission approval for either cost-based rates or appropriate amendments to their market-based rate tariffs before making any future sales in the FMPP balancing authority area.

¹⁰ We also note that RRI Companies have committed to submit revisions to their electronic market-based rate tariff to reflect the revisions accepted in Docket No. ER09-1110-003.