

143 FERC ¶ 61,199
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;
Philip D. Moeller, John R. Norris,
Cheryl A. LaFleur, and Tony Clark.

St. Paul Cogeneration, LLC

Docket No. ER13-1247-000

ORDER ACCEPTING MARKET-BASED RATE TARIFF REVISIONS

(Issued June 3, 2013)

1. In this order, the Commission accepts tariff revisions filed on April 4, 2013 by St. Paul Cogeneration, LLC (St. Paul Cogen) to be effective April 5, 2013, as discussed below. Specifically, the Commission concludes that St. Paul Cogen may remove certain restrictions on its market-based rate authority from its market-based rate tariff.

I. Background

2. St. Paul Cogen states that it owns a 37 megawatt cogeneration facility located in St. Paul, Minnesota. St. Paul Cogen explains that on October 1, 2012, DEGS of St Paul LLC, an indirect, wholly-owned subsidiary of Duke Energy Corporation (Duke), transferred its 50 percent ownership share in St. Paul Cogen to DTE Energy Services, Inc., an indirect, wholly-owned subsidiary of DTE Energy Company.¹ According to St. Paul Cogen, the remaining 50 percent voting interest in St. Paul Cogen is held by Ever-Green Energy, LLC (Ever-Green), a subsidiary of District Energy St. Paul, Inc. and District Cooling St. Paul, Inc.²

¹ St. Paul Cogen April 4, 2013 Filing at 2. St. Paul Cogen notes that the transaction was approved by the Commission (citing *DTE Energy Servs., Inc.*, 140 FERC ¶ 62,145 (2012); *Notice of Consummation of DTE Energy Servs., Inc.*, Docket No. EC12-122-000 (filed Oct. 4, 2012)). We note that the related notice of change in status filed by St. Paul Cogen and other DTE Energy Services, Inc. affiliates on October 31, 2012 in Docket No. ER10-1329-004 is currently pending before the Commission.

² St. Paul Cogen April 4, 2013 filing at 2 (stating that Ever-Green's voting interests in St. Paul Cogen did not change as a result of the transaction).

3. St. Paul Cogen explains that its market-based rate authorization was subject to certain restrictions because of its previous affiliation with Duke.³ Specifically, it had restrictions on making sales at market-based rates in the Duke Energy Carolinas and Progress Energy Carolinas balancing authority areas, as well as in Peninsular Florida.⁴ St Paul Cogen's tariff also contained some restrictions on market-based rate sales to Duke Energy Indiana, Inc., and Duke Energy Kentucky, Inc. in the Midwest Independent Transmission System Operator, Inc. market (collectively, the Mitigated Areas).⁵

4. St. Paul Cogen maintains that now that it is no longer affiliated with Duke, limitations in St. Paul Cogen's market-based rate tariff to mitigate affiliate abuse and market power concerns relating to Duke and its affiliates are no longer applicable. Accordingly, St. Paul Cogen requests that the Commission approve the revised market-based rate tariff removing the restrictions on sales into the Mitigated Areas.

5. St. Paul Cogen also proposes to insert the word "Tariff" in Section 5a following the text "PJM Open Access Transmission." St. Paul Cogen states that this revision comports with the Commission authorized language for sales of ancillary services in PJM Interconnection, L.L.C. in Order No. 697.⁶ Finally, St. Paul Cogen requests authorization to revise its market-based rate tariff to clarify that the Commission granted it waiver of 18 C.F.R. Part 141, with the exceptions of sections 141.14 and 141.15.

³ *St. Paul Cogeneration, LLC*, Docket No. ER03-1212-000 (Sept. 25, 2003) (delegated letter order).

⁴ Peninsular Florida as defined in *Carolina Power & Light Company*, Docket No. ER12-2336-000, at n.5 (filed Jul. 27, 2012).

⁵ Effective April 26, 2013, Midwest Independent Transmission System Operator, Inc. changed its name to Midcontinent Independent System Operator, Inc.

⁶ *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 Appendix C, *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).

II. Notice of Filings

6. Notice of St. Paul Cogen's April 4, 2013 filing was published in the *Federal Register*, 78 Fed. Reg. 21,926 (2013) with interventions or protests due on or before April 25, 2013. None was filed.

III. Discussion

7. The Commission grants St. Paul Cogen's request to remove from its market-based rate tariff the prohibitions on market-based rates sales into the Mitigated Areas. Based on St. Paul Cogen's representation that it is no longer affiliated with Duke, the market-based rate tariff restrictions are no longer necessary.

8. We also grant St. Paul Cogen's requests to: (1) insert the word "Tariff" in Section 5a following "PJM Open Access Transmission;" and (2) clarify that the Commission granted St. Paul Cogen waiver of 18 C.F.R. Part 141 with the exceptions of sections 141.14 and 141.15.

The Commission orders:

St. Paul Cogen's revised market-based rate tariff is hereby accepted for filing, effective April 5, 2013, as requested, as discussed in the body of this order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.