

110 FERC ¶ 61,114
FEDERAL ENERGY REGULATORY COMMISSION
Washington, D.C. 20426

February 10, 2005

In Reply Refer To:
PPL Southwest Generation Holdings, LLC
Docket Nos. ER01-1870-002
ER01-1870-003 and
ER01-1870-005

Preston Gates, Ellis & Rouvelas Meeds LLP
Attn: Ms. Lisa H. Tucker, Esq.
Counsel for PPL Southwest Generation Holdings, LLC
1735 New York Avenue NW, Suite 500
Washington D.C. 20006-5206

Dear Ms. Tucker:

1. On July 12, 2004, as amended on October 25, 2004 and December 7, 2004, PPL Southwest Generation Holdings, LLC (PPL Southwest Generation) filed an updated market power analysis pursuant to the requirements of the Commission's order granting PPL Southwest Generation authority to sell capacity and energy at market-based rates.¹ It also submitted a revised rate schedule incorporating the Commission's market behavior rules.² PPL Southwest Generation's submittal is accepted for filing. As discussed below, the Commission concludes that PPL Southwest Generation satisfies the Commission's standards for market-based rate authority.³

2. PPL Southwest Generation is a Delaware limited liability company that owns an indirect 50 percent interest in Griffith Energy LLC. Griffith Energy LLC is an exempt wholesale generator that owns and operates the Griffith Energy Project, a combined cycle electric generating plant located in Mohave County, Arizona. PPL Southwest Generation is also affiliated with a number of entities that are owned by PPL Southwest's parent PPL Generation, LLC.

¹ *PPL Southwest Generation Holdings, LLC*, Docket No. ER01-1870-000 (June 21, 2001) (unpublished letter order)

² *Investigation of Terms and Conditions of Public Utility Market-Based Rate Authorizations*, 105 FERC ¶ 61,218 (2003), *order on reh'g*, 107 FERC ¶ 61,175 (2004).

³ FERC Electric Tariff, Original Volume No. 1, Original Sheets Nos. 4-5.

3. PPL Southwest Generation is affiliated with PPL Sundance Energy, LLC (PPL Sundance), which owns and controls generation assets located in the Western Area Lower Colorado (WALC) control area.

Procedural Matters

4. Notice of PPL Southwest Generation's filings was published in the *Federal Register*, 69 Fed. Reg. 44,527 (2004), 69 Fed. Reg. 64,746 (2004) and 69 Fed. Reg. 75,943 (2004) respectively, with motions to intervene, protests and comments to be filed by August 2, 2004, November 15, 2004 and December 28, 2004, respectively. None was filed.

Discussion

5. The Commission allows power sales at market-based rates if the seller and its affiliates do not have, or have adequately mitigated, market power in generation and transmission and cannot erect other barriers to entry. The Commission also considers whether there is evidence of affiliate abuse or reciprocal dealing.⁴ As discussed below, the Commission concludes that PPL Southwest Generation satisfies the Commission's standards for market-based rate authority.

6. PPL Southwest Generation cites section 35.27 of the Commission's regulations, which provides that applicants shall not be required to demonstrate any lack of market power in generation with respect to sales from capacity constructed after July 9, 1996.⁵ If an applicant sites generation in an area where it or its affiliates own or control other generation assets, the applicant must study whether its new capacity, when added to existing capacity, raises generation market power concerns.⁶

7. PPL Southwest Generation commenced construction of the Griffith Energy Project after July 9, 1996. As stated above, PPL Southwest Generation is affiliated with PPL Sundance Energy, LLC, (PPL Sundance) which owns and controls generation assets also

⁴ See, e.g., *Progress Power Marketing, Inc.*, 76 FERC ¶ 61,155 at 61,919 (1996); *Northwest Power Marketing Co., L.L.C.*, 75 FERC ¶ 61,281 at 61,899 (1996); accord *Heartland Energy Services, Inc.*, 68 FERC ¶ 61,223 at 62,062-63 (1994).

⁵ 18 C.F.R. § 35.27(a)(2004). We note that the Commission intends to address as part of the generic rulemaking proceeding in Docket No. RM04-7-000 whether to retain or modify section 35.27(a) of its regulations.

⁶ *AEP Power Marketing, Inc.*, 107 FERC ¶ 61,018 at P 69, *order on reh'g*, 108 FERC ¶ 61,026 (2004).

located in the WALC control area. PPL Sundance also commenced construction of its facility after July 9, 1996. The Commission finds that PPL Southwest Generation satisfies the Commission's generation market power standard for the grant of market-based rate authority.

8. PPL Southwest Generation states that it does not own, operate, or control any transmission facilities. It is, however, affiliated with PPL Electric Utilities Corporation (PPL Electric), which owns transmission facilities. PPL Southwest Generation states that PPL Electric's transmission facilities are operated by PJM Interconnection, LLC, and transmission service is provided under the PJM Interconnection L.L.C. open access transmission tariff. Based on these representations, the Commission finds that PPL Southwest Generation satisfies the Commission's transmission market power standard for the grant of market-based rate authority.

9. PPL Southwest Generation states that nothing has occurred since submitting its initial application for market-based rate authority to change the conclusion that PPL Southwest Generation does not control any barriers to entry. Based on this representation, the Commission is satisfied that neither PPL Southwest Generation nor any of its affiliates can erect barriers to entry.

10. PPL Southwest Generation states that it will continue to comply with the code of conduct contained in its market-based rate tariff, the terms of which are consistent with the Commission's *pro forma* code of conduct. Based on this representation, the Commission finds that PPL Southwest Generation satisfies the Commission's concerns with regard to affiliate abuse.

11. Consistent with the procedures the Commission adopted in Order No. 2001, an entity with market-based rates must file electronically with the Commission an Electric Quarterly Report containing: (1) a summary of the contractual terms and conditions in every effective service agreement for market-based power sales; and (2) transaction information for effective short-term (less than one year) and long-term (one year or greater) market-based power sales during the most recent calendar quarter.⁷ Electric Quarterly Reports must be filed quarterly no later than 30 days after the end of the reporting quarter.⁸

⁷ *Revised Public Utility Filing Requirements*, Order No. 2001, 67 Fed. Reg. 31,043 (May 8, 2002), FERC Stats. & Regs. ¶ 31,127 (2002). Required data sets for contractual and transaction information are described in Attachments B and C of Order No. 2001. The Electric Quarterly Report must be submitted to the Commission using the EQR Submission System Software, which may be downloaded from the Commission's website at <http://www.ferc.gov/Electric/eqr/eqr.htm>.

12. With regard to reporting changes in status that would reflect a departure from the characteristics the Commission has relied upon in approving market-based pricing, the Commission instituted a rulemaking proceeding in Docket No. RM04-14-000.⁹ The Commission proposed to amend its regulations to modify the market-based rate authority of current market-based rate sellers to establish a reporting obligation for changes in status. Accordingly, the change in status reporting obligation for PPL Southwest Generation is subject to the provisions of the Change In Status Final Rule.

13. PPL Southwest Generation is directed to file an updated market power analysis within three years of the date of this order and every three years thereafter. The Commission also reserves the right to require such an analysis at any intervening time.

By direction of the Commission.

Magalie R. Salas,
Secretary.

⁸ The exact dates for these reports are prescribed in 18 C.F.R. § 35.10(b) (2004). Failure to file an Electric Quarterly Report (without an appropriate request for extension), or failure to report an agreement in an Electric Quarterly Report may result in forfeiture of market-based rate authority, requiring filing of a new application for market-based rate authority if the applicant wishes to resume making sales at market-based rates.

⁹ *Reporting Requirement for Changes in Status for Public Utilities with Market-Based Rate Authority*, Order No. 652, 110 FERC ¶ 61,097 (2005) (Change in Status Final Rule).