

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;
William L. Massey, and Nora Mead Brownell.

SP Newsprint Co.

Docket Nos. ER03-432-000 and
ER03-432-001

ORDER DISMISSING APPLICATION FOR MARKET-BASED RATE AUTHORITY

(Issued May 16, 2003)

1. In this order, the Commission dismisses as moot the proposed market-based rate application filed by SP Newsprint Co. (SP), as discussed below.
2. SP owns and operates a natural gas-fired 100 MW cogeneration facility, certified as a qualifying facility (QF) under the Public Utility Regulatory Policies Act of 1978 (PURPA), that will produce, on average, 40 MW of electricity for sale, while concurrently producing the electricity and steam requirements for the host facility.¹ The facility has a nameplate capacity of up to 140 MW, is located near the city of Newberg, Oregon, and will be interconnected with a transmission system owned by Portland General Electric Company (PGE). SP will sell power into the PGE control area.
3. On January 21, 2003, as amended on March 17, 2003, SP filed an application under Section 205 of the Federal Power Act (FPA)² seeking authority to sell energy and capacity at market-based rates. In addition, SP requests waivers and authorizations the

¹See SP Newsprint Co., 102 FERC ¶ 62,167 (2003).

²16 U.S.C. § 824d (2000).

Commission typically grants to other entities authorized to transact at market-based rates.³ SP also seeks waiver of the Commission's 60-day prior notice requirement.⁴ SP requests the earliest possible effective date, but no later than March 15, 2003, in order to support SP's anticipated start-up and commercial operations.

Notice of Filing, Interventions and Protests

4. Notices of SP's filings were published in the Federal Register, 68 Fed. Reg. 4772 and 68 Fed. Reg. 15162 (2003), with motions to intervene and protests due on or before April 7, 2003. On February 11, 2003, a timely motion to intervene and protest was filed by Portland General Electric Company (PGE).

Discussion

5. The Commission notes that we granted SP certification of its topping-cycle cogeneration facility as a qualifying facility (QF) in Docket No. QF03-34-000 on March 13, 2003.⁵

6. The Commission has exempted QFs from most provisions of the FPA.⁶ Because QFs are exempt from most of the provisions of the FPA, including Section 205 of the FPA, a QF does not need additional Commission authority to make market-based rate sales. A QF, however, may believe that it is advisable to seek market-based rate authority where it believes that the way it is operating may result in the loss of QF status.⁷ SP, which only recently was granted QF status, and in its QF application indicated it expected to

³Commission Staff issued a deficiency letter on March 5, 2003 requesting SP to define certain terms in the proposed tariff filing, and to support their inclusion in SP's proposed market-based rate tariff, or in the alternative to remove those terms from the proposed tariff. The deficiency letter also required SP to amend its tariff to conform it to Order No. 614. SP submitted an amended tariff filing on March 17, 2003.

⁴18 C.F.R. § 35.3 (2002).

⁵See SP Newsprint Co., 102 FERC ¶ 62,167 (2003).

⁶See generally 18 C.F.R. § 292.601 (2002). However, 18 C.F.R. § 292.601 does not apply to certain qualifying small power production facilities. See 18 C.F.R. § 292.601(b) (2002).

⁷See, e.g., Lowell Cogeneration Company Limited Partnership, 80 FERC ¶ 61,052 (1997).

operate as a QF, has provided no explanation in its market-based rate filing in this docket as to why it needs additional market-based rate authority. Under these circumstances and in light of SP's assertion in its QF application that it expects to operate only as a QF, we find that SP needs no additional authority to make power sales, and accordingly, we will dismiss the application as moot.

The Commission orders:

SP's application for market-based rate authority is hereby dismissed as moot.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.