

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

November 19, 2004

In Reply Refer To:
PPL Wallingford Energy LLC
Docket Nos. ER01-1559-002 and
ER01-1559-003

Preston Gates Ellis & Rouvelas Meeds LLP
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Dear Ms. Tucker:

1. On July 12, 2004, as amended October 8, 2004, PPL Wallingford Energy LLC (PPL Wallingford) filed an updated market power analysis and notice of change in status pursuant to the requirements of the Commission's order granting PPL Wallingford market-based rate authorization.¹ PPL Wallingford also submitted a revised rate schedule incorporating the Commission's market behavior rules.² PPL Wallingford's submittal is accepted for filing.³ As discussed below, the Commission concludes that PPL Wallingford satisfies the Commission's standards for market-based rate authority.
2. PPL Wallingford owns a 250-MW natural gas-fired generating facility in Wallingford, Connecticut. PPL Wallingford is a wholly-owned subsidiary of PPL Generation, LLC, which is an indirect subsidiary of PPL Corporation, a public utility holding company. PPL Wallingford, through its parent company, is affiliated with

¹ *PPL Wallingford Energy LLC*, Docket No. ER01-1559-000 (May 10, 2001) (unpublished letter order).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 Sheet Nos. 6-7.

several entities that own generating facilities in the ISO-New England (ISO-NE) control area market. PPL Wallingford is also affiliated with entities in other markets, including those that own and operate intrastate natural gas distribution systems.

3. To satisfy its change in status reporting requirement, PPL states that it is now affiliated with several entities that were created or acquired since PPL Wallingford's initial application for market-based rate authority. These include PPL Southwest Generation Holdings, LLC; Griffith Energy LLC; PPL Edgewood Energy, LLC; PPL Shoreham Energy, LLC; Lower Mount Bethel Energy, LLC; and PPL University Park, LLC.

Procedural Matters

4. Notice of PPL Wallingford's filing was published in the *Federal Register*, 69 Fed. Reg. 44,527 (2004), with motions to intervene, protests and comments to be filed by September 27, 2004. Notice of PPL Wallingford's amendment was also published in the *Federal Register*, 69 Fed. Reg. 61,822 (2004), with motions to intervene, protests and comments to be filed by October 22, 2004. 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 Wallingford satisfies the Commission's standards for market-based rate authority.

6. In its order issued in *AEP Power Marketing, Inc., et al.*, 107 FERC ¶ 61,018, *order on reh'g*, 108 FERC ¶ 61,026 (2004), the Commission adopted two indicative screens for assessing generation market power. The Commission has reviewed PPL Wallingford's generation market power screens for the ISO-NE control area market, which indicate that PPL Wallingford passes both the pivotal supplier and wholesale market share screens in that geographic market. Accordingly, the Commission finds that PPL Wallingford satisfies the Commission's generation market power standard for the grant of market-based rate authority.

⁴ See, e.g., *Progress Power Marketing, Inc.*, 76 FERC ¶ 61,155 at 61,919 (1996), *Letter Order Approving Settlement*, 79 FERC ¶ 61,149 (1997); *Northwest Power Marketing Co., L.L.C.*, 75 FERC ¶ 61,281 at 61,899 (1996); *accord Heartland Energy Services, Inc., et al.*, 68 FERC ¶ 61,223 at 62,062-63 (1994).

7. PPL Wallingford states that neither it nor any of its affiliates owns or operates any transmission facilities in the ISO-NE control area market, other than certain limited facilities used to interconnect its facility to the transmission system. PPL Wallingford's only transmission-owning affiliate, PPL Electric Utilities Corporation, is located outside of the ISO-NE control area market, and its transmission facilities are operated by PJM Interconnection, L.L.C. Based on PPL Wallingford's representation, the Commission finds that PPL Wallingford satisfies the Commission's transmission market power standard for the grant of market-based rate authority.

8. PPL Wallingford states that neither it nor any of its affiliates can erect barriers to entry, and that there have been no changes in the facts that the Commission relied upon initially to conclude that PPL Wallingford cannot erect barriers to entry. Based on this representation, the Commission is satisfied that neither PPL Wallingford nor any of its affiliates can erect barriers to entry. As noted above, PPL Wallingford is affiliated with entities that own and operate intrastate natural gas and oil distribution systems. Should PPL Wallingford or any of its affiliates deny, delay or require unreasonable terms, conditions, or rates for natural gas service to a potential electric competitor in bulk power markets, that electric competitor may file a complaint with the Commission that could result in the suspension of PPL Wallingford's authority to sell power at market-based rates.⁵

9. PPL Wallingford states that it will continue to comply with the Commission-approved code of conduct for affiliate sales, which is contained in its market-based rate tariff. PPL Wallingford's rate schedule as accepted for filing by the Commission specifically prohibits transactions between PPL Wallingford and PPL Electric Utilities Corporation or any affiliate of PPL Wallingford having a franchised electric service area. The Commission finds that PPL Wallingford satisfies the Commission's concerns with regard to affiliate abuse.

10. 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

⁵ See PPL Wallingford's Application for Market-Based Rate Authority at 11-13 (accepting these limitations on affiliate conduct), Docket No. ER01-1559-000, (March 15, 2001). See also *Louisville Gas & Electric Co.*, 61 FERC ¶ 61,016 (1993).

greater) market-based power sales during the most recent calendar quarter.⁶ Electric Quarterly Reports must be filed quarterly no later than 30 days after the end of the reporting quarter.⁷

11. 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, in a Notice of Proposed Rulemaking in Docket No. RM04-14-000, the Commission is proposing to amend its regulations and to modify the market-based rate authority of current market-based rate sellers to establish a reporting obligation for changes in status that apply to public utilities authorized to make wholesale power sales in interstate commerce at market-based rates.⁸ Accordingly, the change in status reporting obligation for PPL Wallingford is subject to the outcome of the rulemaking.

12. PPL Wallingford 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.

⁶ *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>.

⁷ The exact dates for these reports are prescribed in 18 C.F.R. § 35.10b (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.

⁸ *Reporting Requirement for Changes in Status for Public Utilities with Market-Based Rate Authority*, 69 Fed. Reg. 61,180 (Oct. 15, 2004), FERC Stats. & Regs. ¶ 32,576 (2004).