



Control Number: 14406



Item Number: 325

Addendum StartPage: 0

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PUBLIC UTILITY COMMISSION
FILING CLERK

Styrka Energy Fund LLC
c/o Provident Advisors LLC
294 Grove Lane East, Suite 280
Wayzata, MN 55391
(952) 345-5200 (phone)
(952) 345-5230 (fax)

January 19, 2005

Filing Clerk
Central Records Division
Public Utility Commission of Texas
1701 North Congress Avenue
Austin, Texas 78711-3326
VIA HAND DELIVERY

Re: Registration under Section 25.105 of the Substantive Rules of the Public Utility
Commission of Texas ("PUCT"); Project No. 14406

Dear Filing Clerk:

Styrka Energy Fund LLC is hereby registering with the PUCT under the captioned rule as a power marketer. The information required under the rule is attached as Exhibit A to this letter. If you have any questions, do not hesitate to contact the undersigned.

Sincerely,

Styrka Energy Fund LLC

By: Provident Advisors LLC,
the investment manager of Provident Premier Fund LP,
the owner of Styrka Energy Fund LLC

By: _____

Scott Nelson


Chief Operating Officer

EXHIBIT A


The following information is provided under Section 25.105 (c) of the Substantive Rules of the Public Utility Commission of Texas:

1. For Styrka Energy Fund LLC ("SEF"), communications should be addressed to:
Scott M. Nelson
Chief Operating Officer
Provident Advisors LLC
294 Grove Lane East, Suite 280
Wayzata, MN 55391
(952) 345-5225 (phone)
(952) 345-5230 (fax)
scottnelson@providentadvisors.com
2. SEF is a private investment partnership managed by its manager, Styrka Energy Products LLC which is wholly owned by and managed by Provident Advisors LLC. The intent, at this time, is to buy and sell electricity at wholesale.
3. At this time, SEF has no affiliates that: (1) sell electricity at retail in Texas; or (2) is an electric utility or a municipally owned utility in Texas. SEF is a partial owner of Styrka Energy Master Fund LLC ("SEMF") which may buy or sell electricity at wholesale in Texas. No transactions have been done in Texas by SEF or SEMF as of the date of this registration.
4. SEF has no facilities in Texas at this time.
5. SEF intends to buy and sell physical and financial electricity in Texas.
6. The market-based rate filing with the Federal Energy Regulatory Commission ("FERC") by SEF is attached along with the FERC's orders.
7. The affidavit of Scott Nelson is attached.

STATE OF MINNESOTA \$
COUNTY OF Hennepin \$



Scott Nelson



Notary Public
State of Minnesota





ORIGINAL

ORIGINAL

Jeffrey D. (Dan) Watkins
Partner

2000 K Street NW, Suite 500
Washington, DC 20006-1872
Phone: 202.828.5851
Fax: 202.223.1225
dan.watkins@bracepatt.com

February 23, 2004

The Honorable Magalie R. Salas
Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, D.C. 20426

Re: Application of Styrka Energy Fund Ltd. for Expedited Order Accepting Rate
Schedule and Granting Certain Blanket Authorizations and Waivers, Docket No.
ER04-577-000

Dear Secretary Salas:

Enclosed for filing are an original and six copies of the referenced Application of Styrka Energy Fund Ltd. The Application requests acceptance of Styrka Energy Fund Ltd. Rate Schedule FERC No. 1, under which Styrka Energy Fund Ltd. will engage in wholesale electric power and energy transactions; the granting of blanket approvals, including the authority to sell electricity at market-based rates; and the waiver of Commission regulations.

Styrka Energy Fund Ltd. requests that the Commission issue an order on an expedited basis that permits the Rate Schedule to become effective February 24, 2004.

Attached to the Application as Attachment B is a form of notice of this filing suitable for publication in the *Federal Register*, and a copy of the notice on a 3.5" diskette.

Styrka Energy Fund Ltd. is not currently subject to the jurisdiction of any state public utility regulatory commission nor is it selling electric power to any person pursuant to the proposed rate schedule. Accordingly, no copies have been served on other parties.

Please direct all communications regarding this application to the contact persons indicated below:

Disk
copy

• The Honorable Magalie R. Salas
February 23, 2004
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Jeffrey D. Watkiss
Morgan K. Whitlatch
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scottnelson@providentadvisors.com

Please acknowledge receipt of this letter and the enclosure by stamping and returning three receipt copies to our courier. Please contact the undersigned if you have any questions.

Very Truly Yours,

Bracewell & Patterson, L.L.P.



Jeffrey D. Watkiss
Counsel for Styrka Energy Fund Ltd.

Enclosures

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

Styrka Energy Fund Ltd. _____

Docket No. ER04-____ - 000

**APPLICATION OF STYRKA ENERGY FUND LTD.
FOR ACCEPTANCE OF INITIAL RATE SCHEDULE,
WAIVERS, BLANKET AUTHORITY,
AND REQUEST FOR EXPEDITED ACTION**

Pursuant to 16 U.S.C. § 824d (1994) and 18 C.F.R. §§ 35.12, 385.205, and 385.212 (2003), Styrka Energy Fund Ltd. ("Applicant") submits for filing its Rate Schedule FERC No. 1 ("Rate Schedule"), attached as Attachment A, under which the Applicant may sell electrical capacity, energy, ancillary services, and Firm Transmission Rights, Congestion Credits, Fixed Transmission Rights, and Auction Revenue Rights (collectively, "FTRs"), or their equivalent, as well as reassignments of transmission capacity, to wholesale customers at market-based rates. The Applicant also respectfully requests expedited Commission action on this application. Pursuant to section 35.3(a) of the Commission's regulations, the Applicant requests waiver of the 60-day notice requirement to permit its Rate Schedule to become effective February 24, 2004. The Applicant respectfully requests that the Commission approve this Application on an expedited basis.

The Applicant also requests that the Commission waive certain regulations and authorize on a blanket basis other actions as set forth below:

- (1) Waive accounting and related reporting requirements under Parts 41, 101 and 141 of the Commission's regulations;
- (2) Permit abbreviated filings under Part 45 of the Commission's interlocking directorate regulations;

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- (3) Waive all of subparts B and C of Part 35 of the Commission's regulations, except those parts that the Commission has declined to waive for other power marketer applicants;¹
- (4) Grant blanket authorization under 16 U.S.C. § 824c and Part 34 of the Commission's regulations for the Applicant to issue securities and assume obligations and liabilities; and
- (5) Grant any other appropriate waivers and authorizations granted to other power marketers.

In support of this Application, the Applicant states:

I. COMMUNICATIONS

Direct communications and correspondence regarding this Application to:

Jeffrey D. Watkiss
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scottnelson@providentadvisors.com

II. DESCRIPTION OF APPLICANT

A. *Styrka Energy Fund Ltd.*

The legal name of the Applicant is Styrka Energy Fund Ltd. The Applicant is organized in the Cayman Islands. The Applicant's principal place of business is in the Cayman Islands. The Applicant was formed for the purpose of making financial trades in U.S. energy markets. The Applicant may also engage in other non-jurisdictional activities to facilitate efficient trade in

¹ The Commission has declined to waive sections 35.12(a), 35.13(b), 35.15, and 35.16. See *Enron Power Marketing, Inc.*, 65 FERC ¶ 61,305, at 62,406 (1993), *order on reh'g*, 66 FERC ¶ 61,244 (1994).

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bulk power markets, such as facilitating the purchase and sale of wholesale energy without taking title to the electricity. The Applicant is wholly owned by Provident Premier Fund Ltd., which is organized in the Cayman Islands and is part of a master/feeder hedge fund described below. The Applicant has not yet engaged in any business activity.

B. *Styrka Energy Products, LLC*

Styrka Energy Products LLC, a Delaware limited liability company, is the investment manager of the Applicant and the manager of Styrka Energy Fund LLC. Styrka Energy Products LLC is wholly owned by Provident Advisors LLC ("Provident").

C. *Provident Advisors LLC*

Provident, a Delaware limited liability company, is the investment manager for a master/feeder hedge fund system, consisting of Provident Premier Fund LP (a Delaware limited partnership) and Provident Premier Fund Ltd. (an entity organized in the Cayman Islands), each of which invest part of its assets in Provident Premier Master Fund Ltd., a Cayman Island off-shore multi-strategy fund.² Provident is an investment management company that serves a global clientele of banks, insurance companies, pension funds, foundations, endowments, high net worth individuals, family offices, and related financial intermediaries. Provident is 99% owned by Deephaven Inc. and 1% owned by Barbara Anderson. Deephaven Inc. is 100% owned by Irvin Kessler, Chief Executive Officer of Provident, and serves as an investment vehicle for Mr. Kessler. Barbara Anderson is the wife of Mr. Kessler.

² Styrka Energy Fund Ltd. will not invest in Provident Premier Master Fund Ltd.

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D. *Styrka Energy Fund LLC*

Styrka Energy Fund LLC, a Delaware limited liability company, is wholly owned by Provident Premier Fund LP, the on-shore feeder in the above-described master/feeder hedge fund. Styrka Energy Fund LLC was formed for the purpose of making physical and financial trades in U.S. energy markets and to engage in other energy provision, trading, and ancillary activities and services. Concurrent with the filing of this application, Styrka Energy Fund LLC is filing a market-based rate application and initial rate schedule, under which it may make sales of electrical capacity, energy, ancillary services, and FTRs, as well as reassignment of transmission capacity, to wholesale customers at market-based rates.

Neither the Applicant nor any of its affiliates: (1) owns or controls generation or transmission facilities; (2) has franchised service area for the sale of electricity to captive customers; (3) owns or controls any interstate natural gas fuel supply facilities, construction/engineering firms that could engage in the construction of generation or transmission facilities, generation sites, and any other business asset or activity that could be used to erect a barrier to entry.

III.
SHOWING IN SUPPORT OF MARKET-BASED RATE AUTHORIZATION

The Commission allows a seller to sell power at market-based rates when the seller can demonstrate that it (and each of its affiliates) (1) does not have, or has adequately mitigated, market power in generation; (2) does not have, or has adequately mitigated, market power in transmission; (3) cannot erect barriers to entry; and (4) cannot engage in anticompetitive practices through preferential affiliate transactions or reciprocal dealing. *E.g., Kincaid Generation, L.L.C.*, 78 FERC ¶ 61,082, at 61,299 (1997); *Heartland Energy Services, Inc.*, 68

FERC ¶ 61,223, at 62,060 (1994) ("*Heartland*"). Under the analysis that the Commission has applied to other power marketer applications, the Applicant satisfies the Commission's standard for market-based rate authority.

A. *The Applicant and Its Affiliates Do Not Possess Generation Market Power*

In *AEP Power Marketing, Inc.*, 97 FERC ¶ 61,219 (2001) ("*AEP*"), the Commission announced its intention to replace the traditional market-power analysis with the Supply Margin Assessment ("SMA") screen.³ The SMA builds on the traditional market-power test in two ways. First, the SMA screen considers transmission constraints in determining the scope of the geographic market. See *AEP*, 97 FERC at 61,969. Second, the SMA establishes a threshold based on whether an applicant is a pivotal supplier in the market, *i.e.*, whether at least some of the applicant's capacity must be used to meet the geographic market's peak demand. *Id.* The SMA is applied separately to the control area where the applicant is located, and to the control areas neighboring the applicant's home control area. *Id.* at 61,970. An applicant will pass the SMA screen if it or its affiliates own, or control through contract, an amount of generation located in a control area that is less than the supply margin (*i.e.*, generation in excess of peak load) in the control area. *Id.* The margin includes the amount of generation that can be imported into the control area, limited by the total transfer capability of the transmission system. *Id.* Conversely, an applicant will fail the screen if the amount of its capacity exceeds the market's supply margin. *Id.* at 61,969-70.

³ Under the Commission's traditional test for evaluating market power, the Commission considered the market share of installed and uncommitted generating capacity owned or controlled by the applicant and its affiliates to determine dominance in the generation market. Under that test, a market share of twenty percent or less evidenced a lack of market power. See *USGen Power Servs., L.P.*, 73 FERC ¶ 61,302 (1995); *Louisville Gas & Electric Co.*, 62 FERC ¶ 61,016 (1995).

Exempt from the SMA screen are sales, including bilateral sales, into an Independent System Operator ("ISO") or Regional Transmission Organization ("RTO") that operate Commission-approved market monitoring and mitigation programs. *Id.* at 61,970. Instead, specific thresholds and mitigation provisions approved for those programs will govern sales in those markets. *Id.* The Commission has also determined that no SMA screen is required in the market-based rate applications of power marketers that are not affiliated with any entity that owns or controls generation resources and have no long-term purchase power agreements in place. *See UBS AG*, 98 FERC ¶ 61,255, at 61,021 (2002); *see also Citadel Energy Products LLC*, Letter Order, Docket No. ER02-2339-000, at 2 (Aug. 12, 2002) (no SMA required for a "power marketer . . . not affiliated with an investor-owned utility in the United States and ha[ving] no long-term purchase power agreements in place").

As indicated above, the Applicant does not currently own, operate, or control any generating capacity, is not affiliated with any entity that owns or controls generation resources, and has no long-term power purchase agreements in place. Accordingly, no SMA-related screen is required for this Application. *See id.* If the Applicant enters into such long-term agreements in the future, it will file them with the Commission, as required.

Neither the Applicant nor its affiliates have a franchised electric service area for the sale of electricity, or are either affiliated with any other entities that engage in the generation or sale of electric power or have a franchised electric service area for the sale of electricity. Consequently, the Applicant does not possess market power in generation. Provident Advisors LLC may hold, on an incidental and/or transitory basis, securities in a wide variety of businesses, including, at times, electric utilities and other companies that participate in the electric and gas industries. These holdings, however, do not confer on the Applicant, Provident, or their affiliates

ownership or control. *Morgan Stanley Capital Group Inc.*, 69 FERC ¶ 61,175, at 61,693 (1994) ("*Morgan Stanley I*").

B. *The Applicant and Its Affiliates Do Not Possess Transmission Market Power*

Neither the Applicant nor its affiliates own, operate, or control any transmission facilities. Moreover, consistent with previous Commission rulings, Provident's incidental and/or transitory holding of securities in companies that may own transmission assets (e.g., electric utilities) does not confer ownership or control of transmission facilities on the Applicant or Provident or their affiliates. Accordingly, the Applicant has no transmission market power. *Id.*

C. *The Applicant and Its Affiliates Cannot Erect Other Barriers to Entry*

Neither the Applicant nor its affiliates own or control resources that could be used to restrict the market entry of competing suppliers, marketers, or brokers. Further, they do not have the ability to prevent the siting of new generation facilities of competitors. In addition, neither the Applicant nor its affiliates own or control any natural gas transportation or distribution facilities that could hinder competitors' access to natural gas supplies. Moreover, Provident's incidental and/or transitory holding of securities in companies that participate in the electric and gas industries and provide inputs to generation, does not confer on the Applicant, Provident, or their affiliates control over inputs to generation or any other resources that could be used to create any barriers to other suppliers attempting to enter the wholesale generation markets in which the Applicant competes. *Id.*

Provident also cannot confer on the Applicant the ability to control any barriers to entry by virtue of the fact that it provides investment and financial services. Since many financial institutions are available to provide financial services to the electric utility industry, a company

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providing investment and financial services lacks the power to control or limit the access of competitors of its affiliated power marketer to these investment and financial services. *Id.*

The Applicant itself does not directly or indirectly own building sites, interstate natural gas pipelines, engineering and construction firms, or local natural gas distribution systems, and hence cannot erect barriers to entry.

D. The Applicant Does Not Engage in Affiliate Abuse and Reciprocal Dealing

The Commission has indicated that its concern over affiliate abuse and reciprocal dealing arises in the context of a seller affiliated with an electric utility having a franchised service territory. *See Heartland*, 68 FERC at 62,062; *see also Morgan Stanley I*, 69 FERC at 61,693. The Applicant does not have a franchised service territory or captive wholesale customers, nor is it not affiliated with an electric utility that has a franchised service territory. Consequently, there is no potential for the Applicant to engage in abusive self-dealing or dealing with affiliates. *See USGen Power Services, L.P.*, 73 FERC ¶ 61,302, at 61,845-46 (1995). The Applicant will promptly inform the Commission if it, or any of its affiliates, should acquire captive customers or franchise obligations in the future.

IV.
ANCILLARY SERVICES

Rate Schedule No. 1 contains provisions for sales of ancillary services at market-based rates that are consistent with Commission precedent. *See, e.g., Black Oak Energy, LLC*, Letter Order, Docket No. ER03-447-000 (Feb. 28, 2003). In accordance with *UBS AG*, the Applicant may make sales of certain ancillary services into markets where the Commission has granted

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blanket authority to sell those ancillary services.⁴ *UBS AG*, 98 FERC at 62,022 & n.17. In compliance with Commission's requirements, the application has listed in rate Schedule No. 1 the specific ancillary services that it may sell in the PJM Interconnection L.L.C. ("PJM"), ISO New England, Inc. ("ISO-NE"), California Independent System Operator ("California ISO"), and New York Independent System Operator ("NYISO") markets respectively. See *Atlantic City Electric Co.*, 86 FERC ¶ 61,248, *clarified*, 86 FERC ¶ 61,310 (1999); *New England Power Pool*, 85 FERC ¶ 61,379 (1998), *reh'g denied*, 95 FERC ¶ 61,074 (2001); *AES Redondo Beach, L.L.C.*, 83 FERC ¶ 61,358 (1998), *orders on reh'g and clarification*, 85 FERC ¶ 61,123 (1998), 87 FERC ¶ 61,208 (1999), 90 FERC ¶ 61,036 (2000); *Central Hudson Gas & Electric Corp.*, 86 FERC ¶ 61,062, *order on reh'g*, 88 FERC ¶ 61,138 (1999); *CH Resource, Inc.*, 86 FERC ¶ 61,140 (1999); *Indeck-Olean Limited Partnership*, 87 FERC ¶ 61,305 (1999). Furthermore, Rate Schedule No. 1 contains Commission-approved provisions authorizing the Applicant to sell such additional products in PJM, ISO-NE, California ISO, and NYISO markets, and in such additional geographical markets as the Commission may specify and authorize from time to time in orders that extend such authority to all sellers previously authorized to sell energy and/or capacity at market-based rates. See *High Desert Power Project, L.L.C.*, Letter Order, Docket No. ER01-2641-000 (Sept. 18, 2001); *Richard County Power, L.L.C.*, 96 FERC ¶ 61,149, at 61,641 (2001).

⁴ Consistent with *UBS AG*, the Applicant plans to make sales of certain ancillary services in these markets without using the type of Internet-based site required in *Avista Corp.*, 87 FERC ¶ 61,223, *order on reh'g*, 89 FERC ¶ 61,136 (1999), for sales of ancillary services in markets other than where blanket authorization has been granted. See also *AES Placerita, Inc.*, 89 FERC ¶ 61,202, at 61,613 n.2 (1999).

V.
**AUTHORIZATION TO TRADE TRANSMISSION RIGHTS AND
CAPACITY**

A. *Reassignment of Transmission Capacity*

The Applicant requests authorization for reassignment of transmission capacity to the same extent authorized by the Commission in previous decisions. *See, e.g., Enron Power Mktg.*, 81 FERC ¶ 61,277 (1997).

B. *Authorization to Sell Firm Transmission Rights*

The Applicant requests authorization to sell FTRs to the same extent authorized by the Commission in previous decisions. *See, e.g., California Independent System Operator Corp.*, 89 FERC ¶ 61,153 (1999), *order on reh'g*, 94 FERC ¶ 61,343 (2001) ("California ISO Order"); *Merrill Lynch Capital Serv., Ind.*, Letter Order, Docket No. ER00-740-000 (Jan. 11, 2000). In addition, the Applicant seeks authorization for the sale of FTRs in any other markets in which FTRs are purchased and sold subject to Commission jurisdiction. The Applicant has included in its rate schedule the conditions that the Commission indicated in the California ISO Order must be attached to resales of FTRs. The Commission has accepted similar language in the tariffs of other power marketers. *See, e.g., CAM Energy Products, LP*, Letter Order, Docket No. ER04-481-000 (Feb. 11, 2004), *LMP Capital, LLC*, Letter Order, Docket No. ER04-483-000 (Feb. 11, 2004); *Epic Merchant Energy, L.P.*, Letter Order, Docket No. ER04-31-000 (Nov. 7, 2003).

VI.
MARKET BEHAVIORAL RULES

On November 17, 2003, the Commission issued its order amending market-based rate tariffs and authorizations to include the Market Behavioral Rules ("MBRs"), in *Investigation of Terms and Conditions of Public Utility Market-Based Rate Authorizations*, 105 FERC ¶ 61,218

Styrka Energy Fund Ltd.
Docket No. ER04-____-000

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(2003) ("MBR Order"). The Commission directed all market-based rate sellers to include in their rate schedules and tariffs the MBRs listed in Attachment A of the MBR Order. Pursuant to this directive, the Applicant's FERC Rate Schedule No. 1 includes the MBRs.

VII. REPORTING REQUIREMENTS

The Commission has routinely required public utilities with market rate authorization to report any change in business operations that is a departure from the facts the Commission relied upon in its market analysis. *See, e.g., Morgan Stanley I*, 69 FERC at 61,695; *Cenergy, Inc.*, 69 FERC ¶ 61,316, at 62,209 (1994). Specifically, the Commission has required power marketers to report:

- (1) ownership of generation or transmission facilities or other power production inputs;
- (2) affiliation with any entity that owns generation or transmission facilities or power production inputs; and
- (3) affiliation with any entity that has a franchised service area;

The Commission has permitted power marketers to exercise the option available to traditional utilities to submit new market power analyses every three years rather than to report continually changes in investments or other entry barriers. *See Morgan Stanley I*, 69 FERC at 61,695. The Applicant understands that the triennial reporting option does not apply to its obligation to comply on an ongoing basis with 16 U.S.C. § 824b, which requires Commission authorization of transfers or other dispositions of jurisdictional facilities. The Applicant further understands that the sale of accounts receivable is not considered to be such a disposition of jurisdictional facilities. *See Enron Power Marketing, Inc.*, 65 FERC ¶ 61,305, at 62,405 (1993). 5. The Applicant agrees to comply with the obligation to report changes on an ongoing basis. The Applicant will file a revised market power analysis every three years, consistent with

Commission precedent. *See, e.g., Morgan Stanley I*, 69 FERC at 61,695 (as clarified in *Engelhard Power Marketing, Inc.*, 70 FERC ¶ 61,250, at 61,778 (1995).

The Applicant also agrees to submit quarterly reports of the purchase and sales transactions that result in the actual delivery of electricity, as required by the Commission. *See, e.g., Morgan Stanley I*, 69 FERC at 61,698, and *Enron Power Marketing, Inc.*, 65 FERC at 62,407.

VIII. REQUEST FOR WAIVERS AND ADDITIONAL BLANKET AUTHORITY

The Applicant respectfully requests the same waivers and blanket authority that have been granted to other power marketers. *See, e.g., Millennium Power Partners, L.P.*, 82 FERC ¶ 61,024 (1998); *Morgan Stanley I*, 69 FERC ¶ 61,175 (1994); *Enron Power Marketing, Inc.*, 65 FERC ¶ 61,305 (1993), *clarified*, 66 FERC ¶ 61,244 (1994); *Citizens Energy Corp.*, 35 FERC ¶ 61,198 (1986).

A. Effective Date and Request for Expedition

The Applicant requests waiver of the 60-day prior notice requirement set forth in 16 U.S.C. § 824d(d) (1994) and 18 C.F.R. § 35.3 (2003) so that the enclosed Rate Schedule can become effective February 24, 2004. Good cause exists to grant this waiver because authorizing the applicant's market-based rates on an expedited basis will enhance competition in the wholesale electric power market by speeding the Applicant's entry into the market.

B. Accounting and Reporting Requirements

The Applicant requests that the Commission waive the accounting and related reporting requirements under Parts 101, 41, and 141 of the Commission's regulations, consistent with *Enron*, *Morgan Stanley I*, and others.

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C. *Interlocking Directorate Regulations*

The Applicant requests that the Commission waive the requirements of Part 45 and require instead only the abbreviated affidavit filing required in *Morgan Stanley I*, 69 FERC at 61,696-97, with respect to any person now holding or who may hold an otherwise proscribed interlocking directorship involving the Applicant.

D. *Rate Schedule Filing Requirements*

The Applicant requests that the Commission waive all parts of subparts B and C of Part 35, except those parts for which the Commission has denied waiver to other power marketer applicants. The Applicant will comply with the transmittal requirements of 18 C.F.R. §§ 35.12(a) and 35.13(b) (2003), and the requirements of 18 C.F.R. §§ 35.15 and 35.16 for notification of succession and cancellation of service, respectively.

E. *Blanket Authority to Issue Securities and Assume Obligations*

The Applicant requests blanket advance authorization under 16 U.S.C. § 824c (1994) and Part 34 of the Commission's Regulations for the Applicant to issue securities and assume obligations and liabilities for any lawful object within the corporate purposes of the Applicant, compatible with the public interest, and reasonably necessary or appropriate for such purposes. The Commission has granted such authority after notice in several power marketer orders, including *Morgan Stanley I*, 69 FERC at 61,696, and *Enron Power Marketing, Inc.*, 65 FERC at 62,407.

F. *Other Waivers and Authorities*

The Applicant requests that the Commission grant any other appropriate waivers and authorizations granted to other power marketers that the Applicant may have failed to request specifically.

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**IX.
CONCLUSION**

WHEREFORE, Styrka Energy Fund Ltd. requests that the Commission issue an expedited order accepting the Styrka Energy Fund Ltd. Rate Schedule FERC No. 1 that permits it to become effective February 24, 2004, and granting authorizations and the waivers requested in this Application.

Respectfully submitted,



Jeffrey D. Watkiss
Bracewell & Patterson, L.L.P.
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(202) 223-1225 (fax)

Counsel for Styrka Energy Fund Ltd.

February 23, 2004

ATTACHMENT A

Styrka Energy Fund Ltd.
Original Rate Schedule FERC No. 1

Original Sheet No. 1

Styrka Energy Fund Ltd.

RATE SCHEDULE FERC NO. 1

1. **Availability.** Styrka Energy Fund Ltd. ("Seller") makes electric energy and capacity available under this Rate Schedule to any purchaser for resale, except as prohibited in Paragraph 5 below. Seller also makes available to any purchaser, except as prohibited by Paragraph 5 below, the ancillary services listed in this Paragraph 1 and FTRs as specified in Paragraph 7.
 - a. **PJM:** Seller offers energy imbalance service and operating reserve service (spinning reserves, 10-minute reserves, and 30-minute reserves) for sale into the Pennsylvania-New Jersey-Maryland Interchange Energy Market (PJM PX) and, where the PJM Open Access Transmission Tariff (PJM OATT) permits, the self-supply of these services to any purchaser for a bilateral sale that is used to satisfy the ancillary services requirements of the PJM Office of Interconnection (PJM OI).
 - b. **New York:** Seller offers operating reserves (spinning reserves, 10-minute reserves, and 30-minute reserves) and regulation and frequency response service (load following) for sale to any purchaser in the market administered by the New York Independent System Operator (NY ISO).
 - c. **New England:** Seller offers 10-minute spinning reserve, automatic generation control, 10-minute non-spinning reserve, and 30-minute operating reserve service to any purchaser within the New England Power Pool/ISO-New England.
 - d. **California:** Seller offers regulation, spinning reserve, and non-spinning reserve service to the Independent System Operator (ISO) and to others that are self-supplying ancillary services to the ISO. Seller also makes replacement reserve service available to the ISO and to others that are self-supplying ancillary services to the ISO.
 - e. **Other:** Seller offers additional ancillary services in the geographic markets identified above, and ancillary services in additional geographic markets, as the Commission may specify and authorize from time to time in orders that extend such authority to all sellers authorized to sell energy and capacity at market-based rates.
2. **Applicability.** This Rate Schedule is applicable to all of Seller's sales of energy, capacity, ancillary services, and firm transmission rights not otherwise subject to a particular rate schedule of Seller.
3. **Rates.** All sales shall be made at rates established by agreement between the purchaser and Seller.

Issued By: Scott M. Nelson, Chief Operating Officer of Provident Advisors LLC, the investment manager of Provident Premier Fund Ltd., the owner of Styrka Energy Fund Ltd.

Effective: February 24, 2004

Issued On: February 23, 2004

**Styrka Energy Fund Ltd.
Original Rate Schedule FERC No. 1**

Original Sheet No. 2

4. **Other Terms and Conditions.** All other terms and conditions shall be established by agreement between the purchaser and Seller.
5. **Affiliate Sales Prohibited.** No sale may be made pursuant to this Rate Schedule to any public utility with a franchised electric service territory that is controlled by, or under common control with, or controlling Seller.
6. **Reassignment of Transmission.** Seller may reassign transmission capacity that it has reserved for its own use at a price not to exceed the highest of: (1) the original transmission rate paid by Seller; (2) the applicable transmission provider's maximum stated firm transmission rate on file at the time of the transmission reassignment; or (3) Seller's opportunity costs, capped at the applicable transmission provider's cost of expansion at the time of the sale to the eligible customer. Seller will not recover opportunity costs in connection with reassignments without making a separate filing under Section 205 of the Federal Power Act. Except for the price, the terms and conditions under which the reassignment is made shall be the terms and conditions governing the original grant by the transmission provider. Transmission capacity may only be reassigned to a customer eligible to take service under the transmission provider's open access transmission tariff or other transmission rate schedules. Seller will report the name of the assignee in its quarterly reports.
7. **Resale of Firm Transmission Rights, Transmission Congestion Contracts, Fixed Transmission Rights, and Auction Revenue Rights.** Seller may resell Firm Transmission Rights, Transmission Congestion Contracts, Fixed Transmission Rights, and Auction Revenue Rights ("FTRs"), or their equivalent, whether financial or physical in nature, that it has acquired for its own benefit at a price not to exceed any caps imposed by the Commission in its order authorizing the issuance of such FTRs. Except for the price, the terms and conditions under which the resale is made shall be consistent with the terms and conditions imposed by the transmission provider. FTRs may only be resold to a customer eligible to purchase FTRs from the transmission provider. Seller will report the names of any purchasers of FTRs in its quarterly reports.
8. **Effective Date.** This Rate Schedule is effective on and after February 24, 2004 (the date set by the Federal Energy Regulatory Commission).
9. **Market Behavior Rules.** As a condition of market-based rate authority, Styrka Energy Fund Ltd. (hereafter, Seller) will comply with the following Market Behavior Rules:
 - 9.1. **Unit Operation:** Seller will operate and schedule generating facilities, undertake maintenance, declare outages, and commit or otherwise bid supply in a manner that complies with the Commission-approved rules and regulations of the applicable power market. Compliance with this Market Behavior Rule 1 does not require Seller to bid or supply electric energy or other electricity products unless such requirement is a part of a separate Commission-approved tariff or requirement applicable to Seller.

Issued By: Scott M. Nelson, Chief Operating Officer of Provident Advisors
LLC, the investment manager of Provident Premier Fund Ltd.,
the owner of Styrka Energy Fund Ltd.

Effective: February 24, 2004

Issued On: February 23, 2004

**Styrka Energy Fund Ltd.
Original Rate Schedule FERC No. 1**

Original Sheet No. 3

9.2. Market Manipulation: Actions or transactions that are without a legitimate business purpose and that are intended to or foreseeably could manipulate market prices, market conditions, or market rules for electric energy or electricity products are prohibited. Actions or transactions undertaken by Seller that are explicitly contemplated in Commission-approved rules and regulations of an applicable power market (such as virtual supply or load bidding) or taken at the direction of an ISO or RTO are not in violation of this Market Behavior Rule. Prohibited actions and transactions include, but are not limited to:

- a. pre-arranged offsetting trades of the same product among the same parties, which involve no economic risk and no net change in beneficial ownership (sometimes called "wash trades");
- b. transactions predicated on submitting false information to transmission providers or other entities responsible for operation of the transmission grid (such as inaccurate load or generation data; or scheduling non-firm service or products sold as firm), unless Seller exercised due diligence to prevent such occurrences;
- c. transactions in which an entity first creates artificial congestion and then purports to relieve such artificial congestion (unless Seller exercised due diligence to prevent such an occurrence; and
- d. collusion with another party for the purpose of manipulating market prices, market conditions, or market rules for electric energy or electricity products.

9.3. Communications: Seller will provide accurate and factual information and not submit false or misleading information, or omit material information, in any communication with the Commission, Commission-approved market monitors, Commission-approved regional transmission organizations, or Commission-approved independent system operators, or jurisdictional transmission providers, unless Seller exercised due diligence to prevent such occurrences.

9.4. Reporting: To the extent Seller engages in reporting of transactions to publishers of electricity or natural gas price indices, Seller shall provide accurate and factual information, and not knowingly submit false or misleading information or omit material information to any such publisher, by reporting its transactions in a manner consistent with the procedures set forth in the Policy Statement issued by the Commission in Docket No.PL03-3 and any clarifications thereto. Seller shall notify the Commission within 15 days of the effective date of this tariff provision of whether it engages in such reporting of its transactions and update the Commission within 15 days of any subsequent change to its transaction reporting

Issued By: Scott M. Nelson, Chief Operating Officer of Provident Advisors LLC, the investment manager of Provident Premier Fund Ltd., the owner of Styrka Energy Fund Ltd.

Effective: February 24, 2004

Issued On: February 23, 2004

Styrka Energy Fund Ltd.
Original Rate Schedule FERC No. 1

Original Sheet No. 4

status. In addition, Seller shall adhere to such other standards and requirements for price reporting as the Commission may order.

9.5. Record Retention: Seller shall retain, for a period of three years, all data and information upon which it billed the prices it charged for the electric energy or electric energy products it sold pursuant to this tariff or the prices it reported for use in price indices.

9.6. Related Tariffs: Seller shall not violate or collude with another party in actions that violate Seller's market-based rate code of conduct or Order No. 889 standards of conduct, as they may be revised from time to time.

Any violation of these Market Behavior Rules will constitute a tariff violation. Seller will be subject to disgorgement of unjust profits associated with the tariff violation, from the date on which the tariff violation occurred. Seller may also be subject to suspension or revocation of its authority to sell at market-based rates or other appropriate non-monetary remedies.

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LLC, the investment manager of Provident Premier Fund Ltd.,
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Effective: February 24, 2004

Issued On: February 23, 2004

ATTACHMENT B

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

Styrka Energy Fund Ltd. _____

Docket No. ER04-____ - 000

NOTICE OF FILING

Take notice that on February 23, 2004, Styrka Energy Fund Ltd. tendered for filing an application for waivers and blanket approvals under various regulations of the Commission and for an order accepting Styrka Energy Fund Ltd.'s FERC Electric Rate Schedule No. 1. Styrka Energy Fund Ltd. is seeking authority to make sales of electrical capacity, energy, ancillary services, and Firm Transmission Rights, Congestion Credits, Fixed Transmission Rights, and Auction Revenue Rights (collectively, "FTRs"), as well as reassignments of transmission capacity, to wholesale customers at market-based rates. Styrka Energy Fund Ltd. requests waiver of the 60-day prior notice requirement to permit the Rate Schedule to be effective February 24, 2004, and requests expeditious Commission approval of this Application.

Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's web site at <http://www.ferc.gov>, using the eLibrary (FERRIS) link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at FERCOnlineSupport@ferc.gov or toll-free at (866)208-3676, or for TTY, contact (202)502-8659. Protests and interventions may be filed electronically via the Internet in lieu of paper; see 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link. The Commission strongly encourages electronic filings.

Comment Date: _____, 2004

Magalie R. Salas
Secretary

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

In Reply Refer To:
Styrka Energy Fund Ltd.
Styrka Energy Fund LLC
Docket No. ER04-577-000 and
Docket No. ER04-578-000
April 7, 2004

Jeffrey D. Watkiss
Bracewell & Patterson, L.L.P.
2000 K Street, NW, Suite 500
Washington, D.C. 20006-1872

Reference: Market-Based Rate Authorization

Ladies and Gentlemen:

Pursuant to the authority delegated to the Director, Division of Tariffs and Market Development - South, under 18 C.F.R. § 375.307, the market-based rate applications filed in the referenced dockets, along with the proposed designations, are accepted for filing, effective February 24, 2004, as requested.

On February 23, 2004, you filed on behalf of Styrka Energy Fund Ltd. (Styrka Ltd.) and Styrka Energy Fund LLC (Styrka LLC), applications for market-based rate authority, with accompanying rate schedules. The proposed market-based rate schedules provide for sales of capacity, energy, ancillary services, reassignment of transmission capacity, and the authorization to sell firm transmission rights.

Styrka Ltd. is wholly owned by Provident Premier Fund Ltd. Styrka Ltd. is organized in the Cayman Islands with its principal place of business in the Cayman Islands. Styrka Ltd. was formed for the purpose making financial trades in the U.S. energy markets and to engage electric power and energy transactions as a power marketer.

Styrka LLC is also wholly owned by Provident Premier Fund LP. Styrka LLC is a Delaware limited liability company with its principal place of business in Wayzata, Minnesota. Styrka LLC was formed for the purpose of making physical and financial

Docket Nos. ER04-577-000 and
ER04-578-000

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trades in the U.S. energy markets and to engage in energy trading and ancillary services as a power marketer.

Your market-based rate schedules comply with the Commission's requirements for market-based rate authority. Applicant is granted those waivers and authorizations typically granted to other sellers of power at market-based rates, to the extent specified in Appendix A. In addition, Applicant must comply with the reporting requirements specified in Appendix A. Applicant is hereby informed of the rate schedule designation.¹

Applicant proposes to sell "ancillary services in additional geographical markets as the Federal Energy Regulatory Commission may specify and authorize from time-to-time in orders that extend such authority to all sellers previously authorized to sell energy and/or capacity at market-based rates." We will grant Applicant's requests in this regard; however, our grant does not relieve parties of the requirement to have current and complete tariffs on file with the Commission, pursuant to 18 C.F.R. '35.1 (2001).²

Your filings were noticed on February 25, 2004, with comments, protests or interventions due on or before March 15, 2004. No protests or adverse comments were filed. Notices of intervention and unopposed timely filed motions to intervene are granted pursuant to the operation of Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR ¶ 385.214). Any opposed or untimely filed motion to intervene is governed by the provisions of Rule 214.

This action does not constitute approval of any service, rate, charge, classification, or any rule, regulation, contract, or practice affecting such rate or service provided for in the filed documents; nor shall such action be deemed as recognition of any claimed contractual right or obligation affecting or relating to such service or rate; and such action is without prejudice to any findings or orders which have been or may hereafter be made by the Commission in any proceeding now pending or hereafter instituted by or against Applicant(s).

¹ Styka Energy Fund Ltd.'s Rate Schedule FERC No. 1, Original Sheet Nos. 1 - 4, and Styka Energy Fund LLC's Rate Schedule FERC No. 1, Original Sheet Nos. 1 - 4.

² Calhoun Power Company, 96 FERC & 61,056 (2001).

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ER04-578-000

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This order constitutes final agency action. Requests for rehearing by the Commission may be filed within 30 days of the date of issuance of this order, pursuant to 18 CFR § 385.713.

Sincerely,

Steve P. Rodgers, Director
Division of Tariffs and Market
Development – South

Appendix A

Waivers and Authorizations¹

Any waivers or authorizations requested by the applicant are granted to the extent specified herein. Waiver of the prior or advance notice requirements, if requested, is granted. The applicant must comply with the reporting requirements specified herein.

If requested, the following waivers of the Commission's Regulations are granted:²

- 1) Part 41, regarding accounts, records, and memoranda;
- 2) Part 101, regarding the uniform system of accounts; and
- 3) Part 141, regarding statements and reports, with the exception of 18 C.F.R. §§ 141.14, .15 (2002). Licensees remain obligated to file the Form No. 80 and the Annual Conveyance Report.

See Citizens Energy Corporation (Citizens Energy), 35 FERC ¶ 61,198 (1986), Citizens Power and Light Corporation (Citizens P&L), 48 FERC ¶61,210 (1989), and Enron Power Marketing, Inc. (Enron), 65 FERC ¶ 61,305 (1993), order on rehearing, 66 FERC ¶ 61,244 (1994).

The requirements of Part 34 of the Commission's Regulations regarding securities and assumptions of liabilities are statutory in nature and cannot be waived. If an applicant requested blanket approval under Part 34, a separate notice will be published in the Federal Register following this letter order, establishing a period during which protests may be filed. Absent a request to be heard in opposition within the period set forth in the notice, if the applicant has requested such approval, the applicant is authorized to issue securities and assume obligations or liabilities as guarantor, endorser,

¹ It should be noted that the Commission is examining the issue of continued applicability of the waivers of its accounting and reporting requirements (18 C.F.R. Parts 41, 101 and 141 (2002)), as well as continued applicability of the blanket authorization for the issuance of securities and the assumption of obligations and liabilities, (18 C.F.R. Part 34 (2002)). Accounting and Reporting of Financial Instruments, Comprehensive Income, Derivatives and Hedging Activities, See Order No. 627, Docket No. RM02-3-000 at P 23 and P 24, III FERC Stats. & Regs. ¶ 32,558 (Oct. 10, 2002). The continued applicability of these waivers and blanket authorizations will be reevaluated as a result of Commission activities in that proceeding.

² In Southern Company Services, Inc., et al., 99 FERC ¶ 61,103 (2002), the Commission put all utilities on the same footing with regard to Part 35 filing requirements. Therefore, Tariffs/Rate Schedules must be filed, but conforming service agreements do not. No waiver is necessary.

surety, or otherwise in respect of any security of another person; provided that such issue or assumption is for some lawful object within the corporate purposes of the applicant, compatible with the public interest, and reasonably necessary or appropriate for such purposes. See Citizens P&L and Enron.

Requests that the Commission waive the requirements of Part 46 of its Regulations regarding interlocking directors are denied. In Enron, the Commission stated that the requirements of Part 46 regarding interlocking directors are statutory in nature and may not be waived.

If requested, until further order of the Commission, the full requirements of Part 45 of the Commission's Regulations, except as noted below, are hereby waived with respect to any person now holding or who may hold an otherwise proscribed interlocking directorate involving the applicant. Any such person instead shall file a sworn application providing the following information: (1) full name and business address, and (2) all jurisdictional interlocks, identifying the affected companies and the positions held by that person. See Enron.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued Commission approval of issuances of securities or assumptions of liabilities, or by the continued holding of any affected interlocks.

Requests for disclaimer of jurisdiction over brokering activities, in which title to electricity is not taken, must be filed separately as a petition for a declaratory order accompanied by the appropriate filing fee. See Citizens Energy and Heartland Energy Services, Inc., 68 FERC ¶ 61,223 (1994).

Requests that the Commission waive annual charges for power marketers, under Part 382 of the Commission's Regulations, are denied. See Morgan Stanley Capital Group Inc. (Morgan Stanley I), 69 FERC ¶ 61,175 (1994) and Morgan Stanley Capital Group Inc. (Morgan Stanley II), 72 FERC ¶ 61,082 (1995).

Requests for waiver of the provisions of Section 203 regarding the disposition of jurisdictional facilities, the merger or consolidation of such facilities, or the acquisition of the securities of another public utility, are denied. The provisions of Section 203 are statutory in nature and may not be waived. See Resources Recovery (Dade County), Inc., 20 FERC ¶ 61,138 (1982). Requests for clarification that sales of accounts receivable

are not dispositions of jurisdictional facilities and are, therefore, not within the scope of Section 203, are granted. See Enron. Requests for clarification that the assignment of a power sales contract constitutes a disposition of jurisdictional facilities under Section 203 are granted. See Enron. Requests for clarification that funds received from the sale of electricity are not jurisdictional facilities within the meaning of Section 203 are granted. See Citizens Energy. Also, requests for clarification that the requirements of Section 203 do not apply to the facilities of a power marketer that are not involved in the generation, transmission or sale for resale of electric energy, are granted. See Howell Gas Management Co., 40 FERC ¶ 61,336 (1987).

If requested, waiver of compliance with the requirements of Order Nos. 888 and 889 is granted. Waiver of compliance with the requirements of Order No. 888 is granted until such time as the applicant receives a request for transmission service. See Black Creek Hydro, Inc., et al., 77 FERC ¶ 61,232 at 61,941 (1996). Waiver of compliance with the requirements of Order No. 889 is appropriate because: (1) the applicant owns, operates, or controls only limited and discrete transmission facilities (rather than an integrated transmission grid); or (2) the applicant is a small public utility that owns, operates, or controls an integrated transmission grid. See Midwest Energy, Inc., et al., 77 FERC ¶ 61,208 at 61,854 (1996).

Requests that the Commission waive its requirement that purchasers of electricity under market-based rate schedules certify that the purchase price was equal to or less than its avoided cost, are moot. The Commission eliminated the requirement in Louisville Gas & Electric Company, 62 FERC ¶ 61,016 (1993).

Requests for approval to reassign transmission capacity are found to be consistent with the Commission's requirements. See Southwestern Public Service Company, 80 FERC ¶ 61,245 (1997). Power marketers not requesting approval to reassign transmission capacity are informed that they are authorized to reassign transmission capacity pursuant to the Commission's order in Enron Power Marketing, Inc., 81 FERC ¶ 61,277 (1997).

Requests for approval to buy and sell firm transmission rights are found to be consistent with the Commission's requirements. See California Independent System Operator, Inc., 89 FERC ¶ 61,153 (1999).

Should an applicant or any of its affiliates deny, delay, or require unreasonable terms, conditions, or rates for natural gas fuel or services to a potential electric competitor in bulk power markets, then that electric competitor may file a complaint with the Commission that could result in the applicant's or its affiliate's authority to sell power at

market-based rates being suspended. See, e.g., Louisville Gas & Electric Company, 62 FERC ¶ 61,016 at 61,148 (1993).

Reporting Requirements

Order No. 2001³ changed the filing requirements applicable to agreements for public utilities with market-based power sales tariffs and rate schedules. Previous requirements that public utilities file agreements and Quarterly Transaction Reports, in hard copy format, detailing their market-based power sales transactions were rescinded as of July 1, 2002. Effective July 1, 2002, all executed market-based rate agreements will no longer be filed with the Commission in hard copy format. Instead, each public utility (including traditional electric utilities and power marketers with market-based rate authority) must file electronically with the Commission an Electric Quarterly Report⁴ containing: (1) a summary of the contractual terms and conditions in every effective service agreement; and (2) detailed transaction information for effective short-term (less than one year) and long-term (one year or greater) power sales during the most recent calendar quarter.⁵ Electric Quarterly Reports must be filed no later than the last day of the month following each calendar quarter.⁶

If the applicant fails to file an Electric Quarterly Report (without an appropriate request for extension), or fails to report an agreement in a report, the applicant may forfeit its market-based rate authority requiring filing of a new application for market-based rate authority if it wishes to resume making sales at market-based rates.

³ Revised Public Utility Filing Requirements, 99 FERC ¶ 61,107 (2002); reh'g denied, 100 FERC ¶ 61,074 (2002), reh'g denied, 100 FERC ¶ 61,342 (2002).

⁴ 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>. A company-unique PIN code is required for submission of data to the Commission. To obtain a PIN Code contact ferconline@ferc.gov, or call (866) 208-3676, or in Washington, DC call (202) 502-6652.

⁵ Required data sets for contractual and transaction information are described in Attachments B and C of Order No. 2001.

⁶ The exact filing dates for these reports are prescribed in 18 C.F.R. § 35.10b.

Each applicant must file an updated market 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.

Applicant must inform the Commission promptly of any change in status that would reflect a departure from the characteristics the Commission has relied upon in approving market-based pricing. These include, but are not limited to: (a) ownership of generation or transmission facilities or inputs to electric power production other than fuel supplies; or (b) affiliation with any entity not disclosed in the applicant's filing and that owns generation or transmission facilities or inputs to electric power production, or that has a franchised service area. Applicant may elect to report such changes in conjunction with its updated market analysis or in a separate report filed under the docket number in which it received market-based rate authority.