

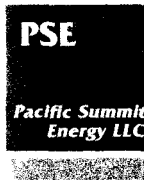


Control Number: 14406



Item Number: 435

Addendum StartPage: 0



P. 14486

Filing Clerk
1701 N. Congress, Room 8-100
P.O. Box 13326
Austin, TX 78711-3326

2000 JUN -3 AM 9:14

Good Day,

Pacific Summit Energy LLC wishes to register with the Public Utility Commission of Texas as a wholesale power marketer. Following is the pertinent information for our company:

Address: 4675 MacArthur Ct. Suite 750, Newport Beach, CA 92660.

Communications can be directed to Mr. Jiro Miyazaki.

His phone number is (949) 777-3216 and his fax number is (949) 777-3246.

Our owners are Sumitomo Corporation (70%) and Sumitomo Corporation of America (30%), which are major integrated trading and investment enterprises.

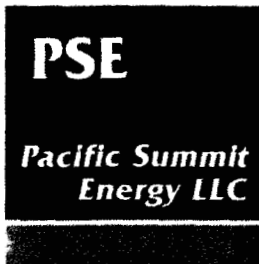
We have no affiliates buying or selling electricity in Texas.
We have no affiliates which are a municipally owned utility in Texas.
We have no facilities in Texas used to provide electric service.

We will be providing wholesale power marketing services from our Newport Beach, California location.

Enclosed please find an affidavit from our chairman as well as our registration information filed with FERC.

Please do not hesitate to contact us with any further questions or concerns.

435



DATE: March 6, 2008

Public Utility Commission of Texas
1701 N. Congress, Room 8-100
Austin, TX 78711-3326

INCUMBANCY AND AUTHORITY CERTIFICATE

On behalf of Pacific Summit Energy LLC ("PSE"), I the undersigned confirm that Pacific Summit Energy is engaged in the business of wholesale power marketing. I also confirm that Jiro Miyazaki is a Senior Vice President with Pacific Summit Energy LLC.

Name: Yoshihiko Hori

Role: Chairman & Secretary

Signature

A handwritten signature in cursive script, reading "Yoshihiko Hori", is written over a horizontal line.

FEDERAL ENERGY REGULATORY COMMISSION
Washington, D.C. 20426

In Reply Refer To:
Pacific Summit Energy LLC
Docket Nos. ER05-743-000 and
ER05-743-001
June 24, 2005

Iskender H. Catto
Kirkland & Ellis LLP
Citigroup Center
1563 East 53rd Street
New York, New York 10022-4611

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 application filed in the referenced docket, along with the proposed designation, is accepted for filing subject to the compliance filing discussed below, effective the date of this order.¹

On March 30, 2005, as amended May 26, 2005, you filed on behalf of Pacific Summit Energy LLC (Pacific) an application for market-based rate authority, with an accompanying rate schedule. The proposed market-based rate schedule provides for the sale of capacity, energy, and ancillary services at market-based rates, the reassignment of transmission capacity, and the resale of firm transmission rights.² The rate schedule also includes the Commission's market behavior rules and change in status reporting requirement.³ Pacific requests waivers commonly given to similar market-based rate applicants.

¹ Rate Schedule FERC No. 1, Original Sheet Nos. 1-5.

² Pacific plans to sell certain ancillary services in the markets administered by PJM Interconnection, L.L.C. (PJM), New York Independent System Operator, Inc. (NYISO), ISO New England (ISO-NE), and California Independent System Operator, Inc. (CAISO).

³ Reporting Requirement for Changes in Status for Public Utilities with Market-

Pacific is a Delaware limited liability company with its principal place of business in Newport Beach, California. Pacific intends to act as a power marketer. Pacific is ultimately owned by both Sumitomo Corporation of America and Sumitomo Corporation.

You state that Pacific does not currently own, operate or control any generating or transmission facilities and therefore cannot have market power. You further state that it is unable to erect barriers to entry because it does not own or control building sites for energy-related assets, interstate natural gas pipelines, engineering and construction firms, or gas distribution facilities. You also assert that Pacific is not affiliated with a public utility with a franchised electric service territory, so no affiliate abuse concerns exist.

Your filings were noticed on April 5, 2005, and June 9, 2005, with comments, protests or interventions due on or before April 20, 2005, and June 13, 2005, respectively. None was filed.

Market-Based Rate Authorization

In its order issued in *AEP Power Marketing, Inc.*, 107 FERC ¶ 61,018, *order on reh'g*, 108 FERC ¶ 61,026 (2004), the Commission adopted two indicative screens for assessing generation market power. You state that Pacific does not own or control generation facilities. You state that Pacific is affiliated with two facilities that are fully committed under long-term contract. Accordingly, based on this representation, Pacific satisfies the Commission's generation market power standard for the grant of market-based rate authority.

In addition, based on your representations, Pacific's submittal satisfies the Commission's requirements for market-based rates regarding transmission market power, other barriers to entry, and affiliate abuse.

Your request for approval to reassign transmission capacity is consistent with the Commission's requirements.⁴ Your request for approval to buy and sell firm transmission rights is also consistent with the Commission's requirements.⁵ You propose to sell any other ancillary services in the PJM, NYISO, ISO-NE and CAISO 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 Rate Authority, Order No. 652, 70 Fed. Reg. 8,253 (Feb. 18, 2005), FERC Stats. & Regs. ¶ 31,175, *order on reh'g*, 111 FERC ¶ 61,413 (2005).

⁴ See *Southwestern Public Service Co.*, 80 FERC ¶ 61,245 (1997).

⁵ See *California Independent System Operator, Inc.*, 89 FERC ¶ 61,153 (1999).

based rates. Your request in this regard is granted; however, this grant does not relieve you of the requirement to have current and complete tariffs on file with the Commission, pursuant to 18 C.F.R. § 35.1 (2004).⁶

Other Waivers, Authorizations and Reporting Requirements

You request the following waivers and authorizations: (1) waiver of Subparts B and C of Part 35 of the Commission's regulations requiring the filing of cost-of-service information, except as to sections 35.12(a), 35.13(b), 35.15, and 35.16; (2) waiver of Parts 41, 101, and 141 of the Commission's accounting and periodic reporting requirements; (3) abbreviated filings with respect to interlocking directorates under Part 45 of the Commission's regulations; and (4) blanket authorization under Part 34 of the Commission's regulations for all future issuances of securities and assumptions of liability.

You request waiver of Subparts B and C Part 35 of the Commission's regulations requiring the filing of cost-of-service information, except for Sections 35.12(a), 35.13(b), 35.15 and 35.16. This waiver is granted. You request waiver of Part 41, Part 101, and Part 141 of the Commission's Regulations concerning accounting and reporting requirements. This waiver is granted with the exception of 18 C.F.R. §§ 141.14 and 141.15.⁷ Notwithstanding the waiver of the accounting and reporting requirements here, the Commission expects Pacific to keep its accounting records in accordance with generally accepted accounting principles.

You request for authorization to make abbreviated filings with respect to interlocking directorates under Part 45 of the Commission's regulations is granted with respect to any person now holding or who may hold an otherwise proscribed interlocking directorate involving the applicant. Such personnel shall timely file a sworn application providing his or her full name and business address and all jurisdictional interlocks,

⁶ *Calhoun Power Co.*, 96 FERC ¶ 61,056 (2001).

⁷ *Citizens Energy Corp.*, 35 FERC ¶ 61,198 (1986); *Citizens Power and Light Corp.*, 48 FERC ¶ 61,210 (1989) (*Citizens Power*); *Enron Power Marketing, Inc.*, 65 FERC ¶ 61,305 (1993), *order on reh'g*, 66 FERC ¶ 61,244 (1994) (*Enron*). 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) 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). *See Accounting and Reporting of Financial Instruments, Comprehensive Income, Derivatives and Hedging Activities*, Order No. 627, 67 Fed. Reg. 67,691 at P 23 and P 24 (October 10, 2002), FERC Stats. & Regs. ¶ 32,558 (2002).

identifying the affected companies and the positions held by that person.⁸ 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.

Your request for waiver of Part 46 of the Commission's regulations regarding interlocking directors is denied. The Commission has stated that the requirements of Part 46 regarding interlocking directors are statutory in nature and may not be waived.⁹

Your request for clarification that funds received from the sale of electricity are not jurisdictional facilities within the meaning of Section 203 of the Federal Power Act is granted.¹⁰ To the extent Pacific seeks a case-specific finding on this or any related point, it may file a petition for declaratory order.

Your request 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.¹¹

Consistent with the procedures the Commission adopted in Order No. 2001, you 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.¹² Electric Quarterly Reports must be filed

⁸ *Enron*, 65 FERC ¶ 61,305 (1993). For current interlocks, applications should be filed within 30 days of the date of this order. We note that the Commission has issued a proposed rulemaking, *Commission Authorization to Hold Interlocking Directorates*, 110 FERC ¶ 61,343 (2005), which is considering modifications to 18 C.F.R. Part 45. The Commission is considering changing its requirements as to timing and also is examining the possibility of no longer granting a waiver of the full requirements of Part 45 in its orders granting market-based rate authority.

⁹ *Enron*, 65 FERC ¶ 61,305.

¹⁰ *Citizens Power*, 48 FERC ¶ 61,210.

¹¹ *See Heartland Energy Services, Inc.*, 68 FERC ¶ 61,223 (1994).

¹² *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

quarterly no later than 30 days after the end of the reporting quarter.¹³ Accordingly, Pacific must file its first Electric Quarterly Report no later than 30 days after the first quarter Pacific's tariff is in effect.

Pacific must timely report to the Commission any change in status that would reflect a departure from the characteristics the Commission relied upon in granting market-based rate authority. Order No. 652 requires that the change in status reporting requirement be incorporated in the market-based rate tariff of each entity authorized to make sales at market-based rates. The tariff language proposed by Pacific does not comply with the requirements of Order No. 652. Accordingly, Pacific is directed, within 30 days of the date of issuance of this order, to revise its market-based rate tariff to incorporate the following provision, without variation, consistent with Order No. 652:

[insert market-based rate seller name] must timely report to the Commission any change in status that would reflect a departure from the characteristics the Commission relied upon in granting market-based rate authority. A change in status includes, but is not limited to, each of the following: (i) ownership or control of generation or transmission facilities or inputs to electric power production other than fuel supplies, or (ii) affiliation with any entity not disclosed in the application for market-based rate authority that owns or controls generation or transmission facilities or inputs to electric power production, or affiliation with any entity that has a franchised service area. Any change in status must be filed no later than 30 days after the change in status occurs.

Pacific's proposed tariff does not state that Pacific will not make any sales to any affiliate with a franchised electric service territory "without first receiving" Commission authorization of the transaction under section 205 of the FPA.¹⁴ Therefore, Pacific is also directed to revise its market-based rate tariff to include such language within 30 days of the date of this order.

EQR Submission System Software, which may be downloaded from the Commission's website at <http://www.ferc.gov/docs-filing/eqr.asp>.

¹³ The exact dates for these reports are prescribed in 18 C.F.R. § 35.10b. Failure to file an Electronic Quarterly Report (without an appropriate request for extension), or failure to report an agreement in an Electronic 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.

¹⁴ *Aquila, Inc.*, 101 FERC ¶ 61,331 at P 12 (2002).

Pacific 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.

This action does not constitute approval of any service, rate, charge, classification, or any rule, regulation, 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 acceptance 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 any of the applicant(s).

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,

William C. Early / *for*

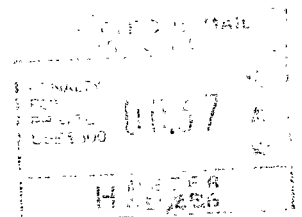
Steve P. Rodgers, Director
Division of Tariffs and Market
Development - South

**FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON D.C. 20426**

**OFFICIAL BUSINESS
PENALTY FOR PRIVATE USE, \$300**

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ER05-743



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January 31, 2008

VIA HAND DELIVERY

Federal Energy Regulatory Commission
Secretary of the Commission
Kimberly D. Bose
FERC-566
888 First Street, N.E.
Washington, D.C. 20426

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SECRETARY
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REGULATORY COMMISSION

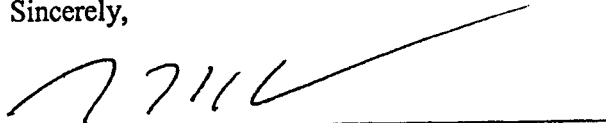
Dear Secretary Bose:

Pursuant to Section 46.3 of the regulations of the Federal Energy Regulatory Commission, 18 C.F.R. § 46.3 (2007), Pacific Summit Energy LLC ("Pacific Summit") hereby submits its Report of the Twenty Largest Customers on Form FERC-566 for the last three calendar years (2005, 2006, 2007).

Pacific Summit has made no retail sales (*i.e.*, sales for purposes other than resale) during the calendar years 2005, 2006, and 2007. As a result, Pacific Summit has no retail sales to report for such years.

If you need any additional information, please do not hesitate to contact the undersigned.

Sincerely,



Iskender H. Catto
Counsel for Pacific Summit Energy LLC