



Control Number: 14406



Item Number: 531

Addendum StartPage: 0

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March 17, 2011

James Galloway
Filing Clerk
Central Records
Public Utility Commission of Texas
1701 N. Congress Avenue
Austin, Texas 78701

Re: **Project No. 14406, Registration of Power Marketers, Exempt Wholesale Generators, and Qualifying Facilities Pursuant to P.U.C. SUBST. R. 25.105**

Dear Mr. Galloway:

Societe Generale Energy Corp. ("Applicant") respectfully requests to be registered with the Public Utility Commission of Texas as a Power Marketer, pursuant to the above-referenced substantive rule, and in support of such request submits the following information.

1. Name and Address of Applicant

Societe Generale Energy Corp.
58 Commerce Road
Stamford, CT 06902

2. Person to Whom Communications Should Be Addressed

Marcia Greenblatt
Societe Generale Energy Corp.
58 Commerce Road
Stamford, CT 06902
Ph: 203-355-5405
Fax: 203-355-6585
Marcia.Greenblatt@sgcib.com

3. Names and Types of Business of Owners

Societe Generale Energy Corp. is a Delaware corporation and is a wholly-owned subsidiary of a French entity, Societe Generale Energie,

Austin

• • • •

Dallas

• • • •

Houston

which is a wholly-owned subsidiary of Société Générale, a bank formed under the laws of France.

4. Affiliates in Texas

Applicant has no affiliate that buys or sells electricity at wholesale in Texas, sells electricity at retail in Texas, or is an electric or municipally-owned utility in Texas.

5. Facilities in Texas

Applicant has no facilities in Texas that it will use to provide service.

6. Description of Type of Service Provided

Applicant will buy and sell energy, capacity and ancillary services in the wholesale markets.

Copies of all registration information filed by Applicant with the Federal Energy Regulatory Commission are attached, as is an affidavit attesting that Applicant is a Power Marketer.

Please do not hesitate to contact the undersigned if you have any questions, and thank you for your attention to this matter.

Respectfully submitted,

Marianne Carroll by ed
Marianne Carroll *with permission*
Attorney for Societe Generale Energy Corp.

STATE OF CONNECTICUT
COUNTY OF FAIRFIELD

§
§
§

AFFIDAVIT

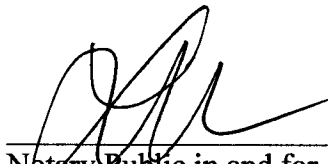
BEFORE ME, the undersigned authority, on this day personally appeared the undersigned, who, after being duly sworn, stated on his oath that he is entitled to make his affidavit, and that the statements contained below are true and correct.

"My name is Michael A. Goldstein. I am the Co-CEO of Societe Generale Energy Corp. My business address is 58 Commerce Road, Stamford, CT 06902. All statements made herein are based upon personal knowledge gained in the course of my employment.

I am familiar with the factual statements contained in the foregoing letter filed by Societe Generale Energy Corp. in Project No. 14406, *Registration of Power Marketers, Exempt Wholesale Generators, and Qualifying Facilities Pursuant to P.U.C. SUBST. R. 25.105*. To the best of my information, knowledge and belief, the factual statements contained therein are true, and Societe Generale Energy Corp. is a Power Marketer."



Subscribed and sworn before me on this
3rd day of March 2011.


Notary Public in and for NY County, NY

My commission expires:

LIMOR NISSAN
Notary Public, State of New York
No. 31-5007524
Qualified in New York County
Commission Expires Feb. 2, 1995

May 8, 2011, 20

LIMOR NISSAN
Notary Public, State of New York
No. 31-5007524
Qualified in New York County
Commission Expires Feb. 2, 1995
May 8, 2011

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VIENNA

October 12, 2010

By Electronic Filing

Kimberly D. Bose
Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, DC 20426

RE: Societe Generale Energie (USA) Corp., Docket No. ER11-____-000
(FERC Electric Tariff, First Revised Volume No. 1)
Baseline eTariff Filing Pursuant to Order No. 714

Dear Secretary Bose:

In accordance with the requirements of Order No. 714¹ establishing a new program for the electronic filing of tariffs, Societe Generale Energie (USA) Corp. ("SGE USA") hereby submits the baseline filing of its FERC Electric Tariff, First Revised Volume No. 1 ("Tariff") for acceptance pursuant to section 205 of the Federal Power Act² and part 35³ of the Commission's regulations. This tariff supersedes SGE USA's FERC Electric Tariff, Original Volume No. 1 for sales at market-based rates.

SGE USA is submitting its Tariff in an Order No. 714-compliant electronic format, with an effective date of October 12, 2010, the date of the instant filing. Attached to this transmittal letter, SGE USA provides (1) the proposed Tariff in RTF format with metadata attached, (2) the clean version of the Tariff, and (3) the marked version of the Tariff detailing all changes and additions. Other than adding a title page to comply with section

¹ See *Electronic Tariff Filings*, Order No. 714, 124 FERC ¶ 61,270 (2008) ("Order No. 714").

² 16 U.S.C. § 824d.

³ 18 C.F.R. pt. 35.

Kimberly D. Bose
October 12, 2010
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35.10(a)⁴ and eliminating Order No. 614⁵ formatting as required by Order No. 714, the attached Tariff is an exact duplicate of SGE USA's currently-effective tariff.⁶

Communications with respect to this filing and other matters in this proceeding should be addressed to the following individual, whose name should be entered on the official service list maintained by the Secretary in this proceeding:

Jerry L. Pfeffer,
Energy Industries Advisor
Skadden, Arps, Slate, Meagher & Flom LLP
1440 New York Ave., N.W.
Washington, DC 20005
(tel.) (202) 371-7009
(fax) (202) 661-9053
jpfeffer@skadden.com

Please feel free to contact the undersigned with any questions concerning the instant filing. Thank you for your assistance in this matter.

Respectfully submitted,

/s/ Jerry L. Pfeffer

Jerry L. Pfeffer,
Energy Industries Advisor

*On Behalf of
Societe Generale Energie (USA) Corp.*

Enclosures
cc: Allison Cyr

⁴ 18 C.F.R. § 35.10(a).

⁵ *Designation of Elec. Rate Schedule Sheets*, Order No. 614, FERC Stats. & Regs. ¶ 31,096 (2000) (previously codified at 18 C.F.R. § 35.9).

⁶ In accordance with the request for extension of the Order No. 714 deadline submitted on September 30, 2010, SGE USA will soon be making a separate filing to amend the terms of its market-based rate tariff to incorporate the changes required by Order No. 697. Under Commission rules, such substantive changes cannot be made in a baseline filing under Order No. 714.

Societe Generale Energie (USA) Corp.
FERC Electric Tariff, First Revised Volume No. 1
(Market-Based Rate Tariff)

1. **Availability of Service:**

- a. **Electric Capacity and Energy:** Societe Generale Energie (USA) Corp. ("Seller" or "SGE USA") may make available under this Tariff for wholesale sale to any purchaser for resale electric capacity and/or energy under such other terms and conditions, all as agreed to between SGE USA and the purchaser.
- b. **Ancillary Services:** The ancillary services that SGE USA may make available under this Tariff for wholesale sale to any purchaser for resale are as follows:
 - (1) The following ancillary services in the PJM Interconnection ("PJM") market: (a) Operating Reserves (which includes Spinning Reserves, Ten Minute Reserves and Thirty Minute Reserves) and (b) Regulation Service;
 - (2) Installed Capacity and the following ancillary services in the New York ISO ("NYISO") market: (a) Operating Reserve Service (including, Spinning Reserves, Ten Minute Non-Synchronized Reserves and Thirty Minute Reserves) and (b) Regulation Service;
 - (3) Installed Capability and the following ancillary services in the NEPOOL markets administered by the ISO New England, Inc. ("ISO-NE"): (a) Energy Imbalance, (b) Operating Reserve-Spinning, (c) Operating Reserve-Supplemental and (d) Regulation and Frequency Response (Automatic Generation Control);
 - (4) The following ancillary services in the California Independent System Operator ("CAISO") Market: (a) Regulation, (b) Spinning Reserves, (c) Non-Spinning Reserves and (d) Replacement Reserves; and
 - (5) In addition, Applicant will make available under this Tariff for wholesale sale to any purchaser for resale additional ancillary services in the PJM, NYISO, ISO-NE, CAISO and other 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.

2. **Applicability:** This Tariff is applicable to all sales by SGE USA of electric energy or capacity or electric generation or other services described above that (i) are located outside of the Electric Reliability Council of Texas and (ii) not otherwise subject to a particular Tariff of SGE USA.

3. **Rates:** All rates for sales under this rate schedule shall be established by agreement between SGE USA and the purchaser.

4. **Terms and Conditions:** All other terms and conditions for any sales under this Tariff shall be established by agreement between SGE USA and the purchaser.

5. **Affiliate Sales:** No sale may be made pursuant to this Tariff to any electric utility with a franchised electric service territory that is controlled by, or under the common control with, or controlling SGE USA, without first receiving acceptance from the Commission in a separate filing under Section 205 of the Federal Power Act, 16 U.S.C. § 824d (2000).
6. **Transmission Service:** If SGE USA takes from an affiliate any transmission service that is subject to the jurisdiction of the Commission, SGE USA will do so under the applicable Commission tariff.
7. **Reassignment of Transmission Capacity:** SGE USA 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 SGE USA; (2) the applicable transmission provider's maximum stated firm transmission rate on file at the time of the transmission reassignment; or (3) SGE USA's own opportunity costs, capped at the applicable transmission provider's cost of expansion at the time of the sale to the eligible customer. SGE USA 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. SGE USA may only reassign transmission capacity to a customer eligible to take the service under the transmission provider's open access tariff or other transmission rate schedules. SGE USA will report the assignee's name in its quarterly reports.
8. **Reporting Requirement:** SGE USA 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.
9. **Market Behavior Rules:** As a condition of market-based rate authority, SGE USA (hereafter, Seller) will comply with the following Market Behavior Rules:
 - a. **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.

- b. **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:
1. 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");
 2. 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;
 3. 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
 4. collusion with another party for the purpose of manipulating market prices, market conditions, or market rules for electric energy or electricity products.
- c. **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.
- d. **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 status. In addition, Seller shall adhere to such other standards and requirements for price reporting as the Commission may order.

- e. **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.
- f. **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.

Societe Generale Energie (USA) Corp.
FERC Electric Tariff, First Revised Volume No. 1
(Market-Based Rate Tariff)

~~SOCIETE GENERALE ENERGIE (USA) CORP.~~
~~FERC ELECTRIC TARIFF NO. 1~~

1. **Availability of Service:**

- a. **Electric Capacity and Energy:** Societe Generale Energie (USA) Corp. ("Seller" or "SGE USA") may make available under this Tariff for wholesale sale to any purchaser for resale electric capacity and/or energy under such other terms and conditions, all as agreed to between SGE USA and the purchaser.
- b. **Ancillary Services:** The ancillary services that SGE USA may make available under this Tariff for wholesale sale to any purchaser for resale are as follows:
 - (1) The following ancillary services in the PJM Interconnection ("PJM") market: (a) Operating Reserves (which includes Spinning Reserves, Ten Minute Reserves and Thirty Minute Reserves) and (b) Regulation Service;
 - (2) Installed Capacity and the following ancillary services in the New York ISO ("NYISO") market: (a) Operating Reserve Service (including, Spinning Reserves, Ten Minute Non-Synchronized Reserves and Thirty Minute Reserves) and (b) Regulation Service;
 - (3) Installed Capability and the following ancillary services in the NEPOOL markets administered by the ISO New England, Inc. ("ISO-NE"): (a) Energy Imbalance, (b) Operating Reserve-Spinning, (c) Operating Reserve-Supplemental and (d) Regulation and Frequency Response (Automatic Generation Control);
 - (4) The following ancillary services in the California Independent System Operator ("CAISO") Market: (a) Regulation, (b) Spinning Reserves, (c) Non-Spinning Reserves and (d) Replacement Reserves; and
 - (5) In addition, Applicant will make available under this Tariff for wholesale sale to any purchaser for resale additional ancillary services in the PJM, NYISO, ISO-NE, CAISO and other 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.

Issued by: Christophe Lepage
Director, Societe Generale Energie (USA) Corp.

Issued on: July 25, 2005

Effective: September 23, 2005

2. **Applicability:** This Tariff is applicable to all sales by SGE USA of electric energy or capacity or electric generation or other services described above that (i) are located outside of the Electric Reliability Council of Texas and (ii) not otherwise subject to a particular Tariff of SGE USA.
3. **Rates:** All rates for sales under this rate schedule shall be established by agreement between SGE USA and the purchaser.
4. **Terms and Conditions:** All other terms and conditions for any sales under this Tariff shall be established by agreement between SGE USA and the purchaser.
5. **Affiliate Sales:** No sale may be made pursuant to this Tariff to any electric utility with a franchised electric service territory that is controlled by, or under the common control with, or controlling SGE USA, without first receiving acceptance from the Commission in a separate filing under Section 205 of the Federal Power Act, 16 U.S.C. § 824d (2000).
6. **Transmission Service:** If SGE USA takes from an affiliate any transmission service that is subject to the jurisdiction of the Commission, SGE USA will do so under the applicable Commission tariff.
7. **Reassignment of Transmission Capacity:** SGE USA 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 SGE USA; (2) the applicable transmission provider's maximum stated firm transmission rate on file at the time of the transmission reassignment; or (3) SGE USA's own opportunity costs, capped at the applicable transmission provider's cost of expansion at the time of the sale to the eligible customer. SGE USA 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. SGE USA may only reassign transmission capacity to a customer eligible to take the service under the transmission provider's open access tariff or other transmission rate schedules. SGE USA will report the assignee's name in its quarterly reports.
8. **Reporting Requirement:** SGE USA 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

Issued by: ~~Christophe Lepage~~
~~Director, Societe Generale Energie (USA) Corp.~~

Issued on: ~~July 25, 2005~~

~~Effective: September 23, 2005~~

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.

9. **Market Behavior Rules:** As a condition of market-based rate authority, SGE USA (hereafter, Seller) will comply with the following Market Behavior Rules:

- a. **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.
- b. **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:
 1. 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");
 2. 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;
 3. 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
 4. collusion with another party for the purpose of manipulating market prices, market conditions, or market rules for electric energy or electricity products.
- c. **Communications:** Seller will provide accurate and factual information and not submit false or misleading information, or omit material

Issued by: Christophe Lepage
Director, Societe Generale Energie (USA) Corp.

Issued on: July 25, 2005

Effective: September 23, 2005

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.

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

FEDERAL ENERGY REGULATORY COMMISSION
Washington, D.C. 20426

September 2, 2005

In Reply Refer To:
Societe Generale Energie (USA) Corp.
Docket Nos. ER05-1244-000, and
ER05-1244-001

Skadden, Arps, Slate, Meagher & Flom LLP
Attn: Robert W. Warnement, Esq.
Attorney for Societe Generale Energie (USA) Corp.
1440 New York Avenue, N.W.
Washington, D.C. 20005-2111

Dear Mr. Warnement:

1. On July 25, 2005, as amended August 17, 2005, Societe Generale Energie (USA) Corp (Societe USA) filed an application for market-based rate authority, with an accompanying tariff. The proposed market-based tariff provides for the sale of capacity, energy and ancillary services at market-based rates and the reassignment of transmission capacity.¹ It also includes the Commission's market behavior rules,² and the change in status reporting requirement adopted by the Commission in Order No. 652.³ Societe USA's submittal satisfies the Commission's standards for market-based rate authority and is accepted for filing, effective July 26, 2005, as requested.⁴

¹ Societe USA 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).

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 *Reporting Requirement for Changes in Status for Public Utilities with 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 FERC Electric Tariff, Original Volume No. 1, Original Sheet Nos. 1 - 4.

2. Societe USA is a Delaware corporation and is a wholly-owned subsidiary of a French entity, Societe Generale Energie S.A., which is wholly-owned subsidiary of Societe Generale, a bank formed under the laws of France. Societe USA states that it will engage in energy-related marketing and trading and physical commodity trading activities, provide energy-related asset management services, sell energy-related financial and capital products, and invest in energy-related assets.

Procedural Matters

3. Notice of Societe USA's July 25, 2005 filing was published in the *Federal Register*, 70 Fed. Reg. 45,382 (2005), with comments, protests, and interventions due on or before August 15, 2005. None was filed.

4. Notice of Societe USA's August 17, 2005 filing was published in the *Federal Register*, 70 Fed. Reg. 50,313 (2005), with comments, protests, and interventions due on or before August 29, 2005. None was filed.

Discussion

Market-Based Rate Authorization

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.⁵ As discussed below, the Commission concludes that Societe USA's submittal satisfies the Commission's standards for market-based rate authority.

6. 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. Societe USA states that it does not own or control generation or uncommitted capacity in any of the relevant markets. However, Societe USA states that its affiliates own generation in the ISO-NE, CAISO, NYISO, and Midwest Independent System Operator, Inc. (MISO) markets, the Arizona Public Service Company (APS) control area, and the Entergy control area, and it has prepared the indicative screens for these markets. The Commission's review of these generation market power screens indicates that Societe USA passes the pivotal supplier and

⁵ See, e.g., *Progress Power Marketing, Inc.*, 76 FERC ¶ 61,155 at 61,919 (1996), 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.*, 68 FERC ¶ 61,223 at 62,062-63 (1994).

wholesale market share screens in each of these markets. Accordingly, the Commission finds that Societe USA satisfies the Commission's generation market power standard for the grant of market-based rate authority.

7. Societe USA states that neither it nor its affiliates own or control transmission or distribution facilities other than those necessary to interconnect its generating assets with the grid. Based on this representation, the Commission finds that Societe USA satisfies the Commission's transmission market power standard for the grant of market-based rate authority.

8. Societe USA states that its parent, Societe Generale, indirectly owns 4.9 percent of the Trans-Union Interstate Pipeline, L.P. (Trans-Union). Societe USA states that Trans-Union has an approved open access gas transportation tariff on file with the Commission. Societe USA states that other than its parent's negligible ownership share of Trans-Union, neither it nor any of its affiliates owns or controls the type of resources that might be used to create barriers to entry. As the Commission has explained, affiliation with an interstate natural gas pipeline does not raise market power concerns because the pipeline is subject to the Commission's open access requirements for natural gas pipelines.⁶ Further, no intervenors have raised concerns regarding barriers to entry. Based on these representations, the Commission is satisfied that Societe USA cannot erect barriers to entry.

9. Societe USA states that it has no franchised utility affiliates. Societe USA further states that it will not sell electric energy or capacity to any electric utility affiliate with a franchised service area without first receiving approval by the Commission under a specific filing under section 205 of the Federal Power Act (FPA).⁷ Based on Societe USA's representation, the Commission finds that Societe USA satisfies the Commission's concerns with regard to affiliate abuse.

10. Societe USA requests authority to engage in the sale of certain ancillary services (listed in the proposed rate schedule) at market-based rates into the markets administered by ISO-NE, PJM, NYISO, and the CAISO. Consistent with Commission precedent granting authority to sellers to engage in such transactions in those markets, the

⁶ See *Vantus Energy Corporation*, 73 FERC ¶ 61,099 (1995); *Enron Power Marketing, Inc.*, 65 FERC ¶ 61,305 (1993).

⁷ 16 U.S.C. § 824d (2000).

Commission will grant Societe USA's request.⁸ In addition, Societe USA proposes to sell additional 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 previously authorized to sell energy and/or capacity at market-based rates. The Commission grants Societe USA's request in this regard; however, our grant does not relieve Societe USA of the requirement to have current and complete tariffs on file with the Commission, pursuant to 18 C.F.R. § 35.1 (2004).⁹

11. Societe USA also requests that the Commission grant authority to reassign transmission capacity. The Commission finds this provision to be consistent with our requirements.¹⁰ Accordingly, the Commission grants this request.

Waivers, Authorizations and Reporting Requirements

12. Societe USA requests 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) waiver of the full filing requirements of Parts 45 and 46 of the Commission's regulations, (requiring only an abbreviated filing identifying any interlocking directorates); and (4) blanket authorization under Part 34 of the Commission's regulations for all future issuances of securities and assumptions liability. The Commission will grant the requested waivers and authorizations consistent with those granted other entities with market-based rate authorizations.¹¹ Notwithstanding the

⁸ See, e.g., *New England Power Pool*, 85 FERC ¶ 61,379 (1998), *reh'g denied*, 95 FERC ¶ 61,074 (2001); *Atlantic City Electric Company*, 86 FERC ¶ 61,248, *clarified*, 86 FERC ¶ 61,310 (1999); *Central Hudson Gas & Electric Corporation*, 86 FERC ¶ 61,062, *order on reh'g*, 88 FERC ¶ 61,138 (1999); *AES Redondo Beach, L.L.C.*, 85 FERC ¶ 61,123 (1998), *order on reh'g*, 87 FERC ¶ 61,208 (1999), *order on reh'g and clarification*, 90 FERC ¶ 61,036 (2000).

⁹ *Calhoun Power Co.*, 96 FERC ¶ 61,056 (2001).

¹⁰ See *Southwestern Public Service Company*, 80 FERC ¶ 61,245 (1997).

¹¹ 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 (Oct. 10, 2002), FERC Stats. & Regs. ¶ 32,558, at P 23-24 (2002).

waiver of the accounting and reporting requirements here, the Commission expects Societe USA to keep its accounting records in accordance with generally accepted accounting principles.

13. 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 Societe USA. Any such person instead shall file a sworn application providing the following information:¹²

- (1) full name and business address; and
- (2) all jurisdictional interlocks, identifying the affected companies and the positions held by that person.

14. The Commission reserves the right to modify this order to require a further showing that neither public nor private interests will be adversely affected by continued Commission approval of Societe USA's issuances of securities or assumptions of liabilities or by the continued holding of any affected interlocks. Societe USA's 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.¹³

15. Within 30 days of the date of the issuance of this order, any person desiring to be heard or to protest the Commission's blanket approval of issuances of securities or assumptions of liabilities by Societe USA should file a motion to intervene or protest 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 C.F.R. §§ 385.211 and 385.214 (2005).

¹² 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.

¹³ *Enron Power Marketing, Inc.* 65 FERC ¶ 61,305 (1993), *order on reh'g*, 66 FERC ¶ 61,244 (1994).

16. Absent a request to be heard within the period set forth above, Societe USA is hereby authorized to issue securities and assume obligations or liabilities as guarantor, indorser, 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 Societe USA, compatible with the public interest, and reasonably necessary or appropriate for such purposes.

17. Consistent with the procedures the Commission adopted in Order No. 2001, Societe USA 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.¹⁴ Electric Quarterly Reports must be filed quarterly no later than 30 days after the end of the reporting quarter.¹⁵ Accordingly, Societe USA must file its first Electric Quarterly Report no later than 30 days after the first quarter Societe USA's tariff is in effect.

18. Societe USA 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.¹⁶ 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. As previously mentioned, Societe USA included the change in status reporting requirement in its tariff.

¹⁴ *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/docs-filing/eqr.asp>.

¹⁵ 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.

¹⁶ *See supra* Note 3.

19. Societe USA 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.

ORIGINAL

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July 25, 2005

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

RE: Societe Generale Energie (USA) Corp.
Docket No. ER05-1244-000

Dear Ms. Salas:

Attached please find an original and six copies of the Application of Societe Generale Energie (USA) Corp. For Waivers, Blanket Authorizations and Order Accepting Tariff (the "Application").

Please call me if you have any questions regarding this filing. Thank you for your attention to this matter.

Respectfully submitted,



Glenn J. Berger

Robert W. Warnement

Skadden, Arps, Slate, Meagher & Flom LLP
1440 New York Avenue, N.W.
Washington, D.C. 20005

Attorneys for
Societe Generale Energie (USA) Corp.

Enclosure

FEDERAL ENERGY
REGULATORY COMMISSION

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FILED
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SECRETARY

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

Societe Generale Energie (USA) Corp.) Docket No. ER05-____-000

***APPLICATION OF SOCIETE GENERALE ENERGIE (USA) CORP.
FOR WAIVERS, BLANKET AUTHORIZATIONS
AND ORDER ACCEPTING TARIFF***

Pursuant to Section 205 of the Federal Power Act ("FPA"), 16 U.S.C. § 824d (2000), Part 35 of the regulations of the Federal Energy Regulatory Commission (the "Commission" or "FERC"), 18 C.F.R. § 35 (2004), Societe Generale Energie (USA) Corp. ("Applicant" or "SGE USA") hereby petitions the Commission for: (1) an order accepting and approving Applicant's proposed FERC Electric Tariff, Original Volume No. 1 ("Tariff"), attached as Attachment A. Applicants request Commission approval of the Tariff at the earliest possible date but no later than sixty days after filing; (2) the grant of blanket authorization for Applicant to make sales of power and energy and certain ancillary services at rates to be negotiated with the purchaser pursuant to the Tariff; and (3) waiver of, and authorizations under, the Commission's regulations under the FPA. In support of its Application, Applicant states as follows:

I. LIST OF DOCUMENTS SUBMITTED WITH THIS FILING

**Attachment A – Tariff
Attachment B – SGE USA Organization Chart
Attachment C – Passive Interests in Net Capacity by Market
Attachment D – Affidavit of Julie A. Murphy Supplying Market
Power Analysis**

II. COMMUNICATIONS AND CORRESPONDENCE

All correspondence, pleadings, orders and other communications concerning this filing should be directed to:

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Persons denoted by an asterisk are those designated for service pursuant to 18 C.F.R. § 385.2010.

III. BACKGROUND

As discussed more fully in Part IV.A below, Applicant is a Delaware corporation formed and capitalized by Societe Generale, a bank formed under the laws of France, who will wholly own Applicant either directly or indirectly through affiliates.

Applicant seeks authority to charge market-based rates for wholesale sales of electric energy, capacity and certain ancillary services. Applicant will engage in energy marketing and trading activities nationwide. All wholesale electric power transactions between Applicant and its purchasers and sellers will be at rates negotiated between the parties to the transactions.

IV. DESCRIPTION OF APPLICANT AND RELEVANT AFFILIATES

A. Description of Applicant

SGE USA will engage in energy, energy-related marketing and trading and physical commodity trading activities, provide energy-related asset management services, sell energy-related financial and capital products, and invest in energy-related assets. SGE USA, a Delaware Corporation, is a wholly-owned subsidiary of the French entity,

Societe Generale Energie S.A., which is a wholly-owned subsidiary of Societe Generale. Applicant has no subsidiaries. Applicant's affiliates have passive or non-controlling interests in the energy affiliates described below. A simplified organization chart identifying Applicant and its energy affiliates is attached as Attachment B.

B. Description of Relevant Affiliates

Societe Generale,¹ indirectly through its wholly-owned subsidiary, Edouard VII Properties, Inc. ("Edouard VII"), owns passive or non-controlling interests in various generation assets and related interconnection facilities in the following markets: the markets administered by the California Independent System Operator Corporation ("CAISO"); the markets administered by the Midwest Independent System Operator, Inc. ("MISO"); the markets administered by the ISO New England, Inc. ("ISO-NE"); the markets administered by the New York Independent System Operator ("NYISO"); the market consisting of the Arizona Public Service Company ("APS") control area; and the market consisting of the Entergy control area. A table identifying the net capacity (in MWs) attributable to Societe Generale's passive or non-controlling interests for each of the above markets is attached as Attachment C.

Each of the generation assets in which Societe Generale owns passive or non-controlling interests can be described as a distressed generating asset whose previous owners had defaulted on loans made by bank syndicates of which Societe Generale was a

¹ Societe Generale and/or certain of its affiliates may, from time to time, in the conduct of their banking financial services business hold (i) passive or non-controlling interests in partnerships or companies that, in turn, hold investments in generating facilities or other energy businesses, (ii) transitory portfolio investments in energy businesses related to its investment banking, market-making or proprietary trading activities, (iii) investments in energy businesses held in a fiduciary capacity, including mutual funds managed by Societe Generale and/or its affiliates for their customers, and (iv) passive oil and royalty interests. The Commission has held that non-controlling passive interests do not constitute ownership or control under the FPA. See, e.g., *Unicom Invs., Inc.*, 91 FERC ¶ 61,109 (2000); *Oglethorpe Power Corp.*, 77 FERC ¶ 61,334 (1996); *Morgan Stanley Capital Group Inc.*, 69

member. As further discussed below, Societe Generale acquired its passive or non-controlling interests in each of these generation assets as a result of workout and/or sale in lieu of foreclosure transactions and/or Chapter 11 proceedings approved by the Commission under Section 203 of the FPA.

La Paloma. La Paloma Generating Company, LLC ("La Paloma"), a Delaware limited liability company, owns and operates a 1,120 MW (nameplate capacity) gas-fired generating facility located near McKittrick, California, within the CAISO. La Paloma is an exempt wholesale generator² and is authorized by the Commission to make wholesale sales at market-based rates.³ Edouard VII indirectly owns 8.63% of La Paloma through its 8.63% interest in La Paloma Holding Company, LLC acquired as a result of a workout and/or sale in lieu of foreclosure by La Paloma to a group of lenders that includes Societe Generale.⁴ Edouard VII has no control over the operation of, or marketing of power from, the La Paloma facility. Other than interconnection facilities necessary to interconnect its generation facilities to the relevant transmission system, La Paloma does

FERC ¶ 61,175 (1994); *City of Vidalia, La.*, 52 FERC ¶ 61,199 (1990); *El Paso Elec. Co.*, 36 FERC ¶ 61,055 (1986); *Pacific Power & Light Co.*, 3 FERC ¶ 61,119 (1978).

² *Letter Order re: La Paloma Generating Co., LLC*, 89 FERC ¶ 62,148 (1999).

³ *Letter Order re: AES Placerita, Inc.*, 89 FERC ¶ 61,202 (1999). See Updated Triennial Market Power Analysis, Docket No. ER00-107-003 (Mar. 31, 2005) (subject to filing of compliance filing to cure certain noted deficiencies in *Letter Order re: La Paloma Generating Co., LLC* (Docket No. ER00-107-003) dated July 6, 2005).

⁴ See *La Paloma Generating Trust Ltd.*, 107 FERC ¶ 62,179 (2004) (approving reorganization of La Paloma ownership and corporate structure and transfer of upstream ownership interests to group of Lenders – including Societe Generale – who had provided financing to the La Paloma project). On March 24, 2005, La Paloma requested authorization under Section 203 of the FPA for (i) certain proposed indirect transfers among certain lenders of their ownership interests in La Paloma and (ii) certain categories of future transfers of ownership or control of equity interests in La Paloma. See Application for Order Authorizing Disposition of Jurisdictional Facilities under Section 203 of the Federal Power Act and Request for Waivers and Expedited Action, Docket No. EC05-62-000 (Mar. 24, 2005). These requests were approved by FERC subject to certain conditions on July 8, 2005. See *La Paloma Holding Co., LLC*, 112 FERC ¶ 61,052 (2005). Pursuant to this authority Edouard VII intends to reduce its ownership interest in La Paloma to zero by the end of the year. Applicant will notify the Commission of the occurrence of such transaction as required in accordance with governing Commission precedent.

not own, either directly or indirectly, transmission or other generation assets or other energy related inputs in the relevant markets.

Lake Road. Lake Road Generating Company, L.P. ("Lake Road"), a Delaware limited partnership, owns and operates a 840 MW (nameplate capacity) gas-fired generating facility located near Killingly, Connecticut, within the ISO-NE. Lake Road is an exempt wholesale generator⁵ and is authorized by the Commission to make wholesale sales at market-based rates.⁶ Edouard VII indirectly owns 12.06% of Lake Road through its 12.06% interest in Lake Road Holding Company, LLC acquired as a result of a workout and/or sale in lieu of foreclosure by Lake Road to a group of lenders that includes Societe Generale.⁷ Edouard VII has no control over the operation of, or marketing of power from, the Lake Road facility. Other than interconnection facilities necessary to interconnect its generation facilities to the relevant transmission system, Lake Road does not own, either directly or indirectly, transmission or other generation assets or other energy related inputs in the relevant markets.

MACH Gen. Edouard VII owns 12.41% of the total Common Membership Units of MACH Gen, LLC, a Delaware limited liability company ("MACH Gen"). MACH Gen owns 100% of four project companies – Millennium, New Athens, New Covert and

⁵ Letter Order re: *Lake Road Generating Co., L.P.*, 86 FERC ¶ 62,178 (1999).

⁶ See Letter Order re: *Rockingham Power, LLC*, 86 FERC ¶ 61,337 (1999).

⁷ See *Lake Road Trust Ltd.*, 105 FERC ¶ 62,184 (2003) (approving reorganization of Lake Road ownership and corporate structure and transfer of upstream ownership interests to group of lenders – including Societe Generale – who had provided financing to the Lake Road project). On March 24, 2005, Lake Road requested authorization under Section 203 of the FPA for (i) certain proposed indirect transfers among certain lenders of their ownership interests in Lake Road and (ii) certain categories of future transfers of ownership or control of equity interests in Lake Road. See Application for Order Authorizing Disposition of Jurisdictional Facilities under Section 203 of the Federal Power Act & Request for Waivers & Expedited Action, Docket No. EC05-63-000 (Mar. 24, 2005). These requests were approved by FERC subject to certain conditions on July 8, 2005. See *Lake Road Holding Co., LLC*, 112 FERC ¶ 61,051 (2005). Pursuant to this authority Edouard VII intends to reduce its ownership interest in Lake Road to zero within the next month pursuant to an agreement whose closing was conditioned on the Commission's approval of Lake Road's March 24, 2005 request.

New Harquahala (each as defined below) – as a result of a workout and/or sale in lieu of foreclosure by those project companies to a group of lenders that includes Societe Generale.⁸

Millennium. Millennium Power Partners, L.P. ("Millennium"), a Delaware limited partnership, owns and operates a 360 MW (nameplate capacity) gas-fired generating facility located near Charlton, Massachusetts, within the ISO-NE. Millennium is an exempt wholesale generator⁹ and is authorized by the Commission to make wholesale sales at market-based rates.¹⁰ Edouard VII indirectly owns 12.41% of Millennium through its 12.41% interest in MACH Gen. Edouard VII has no control over the operation of, or marketing of power from, the Millennium facility. Other than interconnection facilities necessary to interconnect its generation facilities to the relevant transmission system, Millennium does not own, either directly or indirectly, transmission or other generation assets or other energy related inputs in the relevant markets.

New Athens. New Athens Generating Company, LLC ("New Athens"), a Delaware limited liability company, owns and operates a 1,323 MW (nameplate capacity) gas-fired generating facility located near Athens, New York, within the NYISO. New

Applicant will notify the Commission of the occurrence of such transaction in accordance with governing Commission precedent.

⁸ See *Athens Generating Co., L.P.*, 103 FERC ¶ 61,290 (2003) (authorizing two-stage transfer of jurisdictional facilities held by four wholly-owned project companies); *Athens Generating Co., L.P.*, 104 FERC ¶ 62,076 (2003) (authorizing additional flexibility in structuring and implementing two-stage transfer). On June 17, 2005, an application for the transfer of Edouard VII's interests in MACH Gen (as well as certain other lender owners) to other lenders in the bank group was filed with the Commission under Section 203 of the FPA. See *Application for Order Authorizing Upstream Disposition of Jurisdictional Facilities Under Section 203 of the Federal Power Act and Request for Waivers, Expedited Action and Blanket Authorization of Certain Future Dispositions*, Docket No. EC05-97-000 (June 17, 2005). Upon receipt of Commission approval of this application Edouard VII intends to reduce its ownership interest in MACH Gen to zero. Applicant will notify the Commission of the occurrence of such transaction in accordance with governing Commission precedent.

⁹ *Letter Order re: Millennium Power Partners, L.P.*, 82 FERC ¶ 62,085 (1998).

¹⁰ *Millennium Power Partners, L.P.*, 82 FERC ¶ 61,024 (1998); *Letter Order re: Millennium Power Partners, L.P.*, 110 FERC ¶ 61,217 (2005) (approving updated Market Power Study).

Athens is an exempt wholesale generator¹¹ and is authorized by the Commission to make wholesale sales at market-based rates.¹² Edouard VII indirectly owns 12.41% of New Athens through its 12.41% interest in MACH Gen. Edouard VII has no control over the operation of, or marketing of power from, the New Athens facility. Other than interconnection facilities necessary to interconnect its generation facilities to the relevant transmission system, New Athens does not own, either directly or indirectly, transmission or other generation assets or other energy related inputs in the relevant markets.

New Covert. New Covert Generating Company, LLC ("New Covert"), a Delaware limited liability company, owns and operates a 1,176 MW (nameplate capacity) gas-fired generating facility located near Covert township in Van Buren County, Michigan, within the MISO market. New Covert is an exempt wholesale generator¹³ and is authorized by the Commission to make wholesale sales at market-based rates.¹⁴ Edouard VII indirectly owns 12.41% of New Covert through its 12.41% interest in MACH Gen. Edouard VII has no control over the operation of, or marketing of power from, the New Covert facility. Other than interconnection facilities necessary to interconnect its generation facilities to the relevant transmission system, New Covert does not own, either directly or indirectly, transmission or other generation assets or other energy related inputs in the relevant markets.

New Harquahala. New Harquahala Generating Company, LLC ("New Harquahala"), a Delaware limited liability company, owns and operates a 1,240 MW (nameplate capacity) gas-fired generating facility located near the town of Tonopah in

¹¹ Letter Order re: *New Athens Generating Co., LLC*, 103 FERC ¶ 62,145 (2003).

¹² Letter Order re: *New Athens Generating Co., LLC*, (Docket Nos. ER03-719-000, ER03-720-000, ER03-721-000 and ER03-722-000) dated June 6, 2003 (approving market based rate authorization) ("New Athens Letter Order").

¹³ Letter Order re: *New Covert Generating Co., LLC*, 103 FERC ¶ 62,144 (2003).

Maricopa County Arizona, within the market of the APS control area. New Harquahala is an exempt wholesale generator¹⁵ and is authorized by the Commission to make wholesale sales at market-based rates.¹⁶ Edouard VII indirectly owns 12.41% of New Harquahala through its 12.41% interest in MACH Gen. Edouard VII has no control over the operation of, or marketing of power from, the New Harquahala facility. Other than interconnection facilities necessary to interconnect its generation facilities to the relevant transmission system, New Harquahala does not own, either directly or indirectly, transmission or other generation assets or other energy related inputs in the relevant markets.

Entegra Power. Societe Generale indirectly owns 6.04% of the voting interests in Entegra Power Group, LLC, a Delaware limited liability company ("Entegra Power") through its wholly-owned subsidiary Edouard VII.¹⁷ Entegra Power owns 100% of two energy subsidiary project companies – Union Power and Gila River Power (each as defined below) –as a result of a restructuring under a Chapter 11 proceeding by those project companies to a group of lenders that includes Societe Generale.¹⁸

Union Power. Union Power Partners, L.P., a Delaware limited partnership ("Union Power"), owns and operates a 2,428 MW (nameplate capacity) gas-fired generating facility located in Union County, Arkansas, within the market of the Entergy

¹⁴ See New Athens Letter Order.

¹⁵ Letter Order re: *New Harquahala Generating Co., LLC*, 103 FERC ¶ 62,146 (2003).

¹⁶ See New Athens Letter Order.

¹⁷ Entegra Power's LLC Agreement provides for both voting and non-voting membership units each of which represents an equal economic interest in Entegra Power. Societe Generale's total economic interest in Entegra when both voting and non-voting interests are considered is diluted to 4.9%. Under the Entegra LLC agreement Societe Generale's voting interests in Entegra do not convey upon Societe Generale the ability to direct any aspect of the commercial operation of any of the generating facilities of the two project companies (described below) owned by Entegra Power.

¹⁸ *LenderCo*, 110 FERC ¶ 61,044 (2005) (authorizing indirect transfer of jurisdictional assets held by two project companies to their lenders) (the "LenderCo Transaction").

control area. Union Power is an exempt wholesale generator¹⁹ and is authorized by the Commission to make wholesale sales at market-based rates.²⁰ Edouard VII indirectly owns 6.04% of Union Power through its 6.04% interest in Entegra Power.²¹ Edouard VII has no control over the operation of, or marketing of power from, the Union Power facility.

As part of the restructuring transaction under Chapter 11 by which the lenders through Entegra Power acquired Union Power, the lenders also acquired all of the former owner's partnership interests in Trans-Union Interstate Pipeline, L.P. ("Trans-Union").²² Trans-Union owns and operates a 42 mile interstate gas pipeline - certificated under Section 7(a) of the NGA²³ - that delivers gas to the Union Power generating facility. Trans-Union has a filed, approved open access gas transportation tariff on file with the Commission;²⁴ the only customer taking service under the tariff is Union Power.

Other than interconnection facilities necessary to interconnect its generation facilities to the relevant transmission system, Union Power does not own, either directly or indirectly, transmission or other generation assets or other energy related inputs in the relevant markets.

Gila River Power. Gila River Power, L.P., (formerly known as Panda Gila River L.P.) a Delaware limited partnership ("Gila River Power"), owns and operates a 2,214

¹⁹ Letter Order re: *Union Power Partners, L.P.*, 90 FERC ¶ 62,048 (2000).

²⁰ See Letter Order re: *Union Power Partners, L.P.*, (Docket Nos. ER01-930-00 and ER01-930-001), dated Mar. 13, 2001; Letter Order re: *TECO-PANDA Generating Co., L.P.*, (Docket No. ER01-930-002) dated Aug. 28, 2003 (accepting Notice of Change in Status for filing).

²¹ See *supra* note 17.

²² See LenderCo Transaction at PP 23 (finding no vertical or horizontal market power impacts in proposed transfer of Union Power to lenders). The transfer of Trans-Union itself to Entegra Power was not subject to regulatory approval by the Commission under the Natural Gas Act ("NGA").

²³ *Trans-Union Interstate Pipeline, L.P.*, 92 FERC ¶ 61,066 (2000).

²⁴ See *Trans-Union Interstate Pipeline, L.P.*, 104 FERC ¶ 61,135 (2003); *Order on Reh'g.*, 107 FERC ¶ 61,293 (2004).

MW (nameplate capacity) gas-fired generating facility located in Gila Bend, Arizona, within the market of APS control area. Gila River Power is an exempt wholesale generator²⁵ and is authorized by the Commission to make wholesale sales at market-based rates.²⁶ Edouard VII indirectly owns 6.04% of Gila River Power through its 6.04% interest in Entegra Power.²⁷ Edouard VII has no day-to-day control over the operation of, or marketing of power from, the Gila River Power facility. Other than interconnection facilities necessary to interconnect its generation facilities to the relevant transmission system, Gila River Power does not own, either directly or indirectly, transmission or other generation assets or other energy related inputs in the relevant markets.

V. REQUEST FOR BLANKET AUTHORIZATION TO SELL POWER AND CERTAIN ANCILLARY SERVICES AT NEGOTIATED MARKET-BASED RATES

Applicant requests authorization to sell electricity, capacity and certain ancillary services at negotiated market-based rates pursuant to the Tariff. The Commission requires an applicant for market-based rate authority to show that it and its affiliates do not have, or have adequately mitigated, market power in generation or transmission, that the applicant and its affiliates cannot erect other barriers to entry, and that the applicant has taken adequate steps to safeguard against affiliate abuse. As demonstrated below, Applicant complies with all of these requirements.

A. Lack of Generation Market Power

Applicant neither owns nor controls any uncommitted capacity in any of the relevant markets. Applicant's affiliates own only passive or non-controlling interests in a

²⁵ *Letter Order re: Gila River Power, L.P.*, 90 FERC ¶ 62,194 (2000).

²⁶ *See Letter Order re: Panda Gila River, L.P.*, (Docket Nos. ER01-931-000 and ER01-931-001) dated Mar. 14, 2001; *Letter Order re: Panda Gila River, L.P.*, (Docket No. ER01-931-002) dated Sept. 17, 2003 (accepting Notice of Change in Status for filing); (Change in Tariff and Notice of Succession, Docket No. ER05-1178, June 30, 2005) (notifying Commission of succession of Gila River Power to Panda Gila River, L.P. market-based rate tariff following close of the LenderCo Transaction).

deminimis pro rata share of uncommitted capacity in the relevant markets. As discussed above, these passive or non-controlling interests were acquired as part of a series of workout and/or sale in lieu of foreclosure transactions and/or Chapter 11 proceeding associated with Societe Generale's lending activities and do not convey to Applicant or its affiliates any control over the operation of, or marketing of power from, any of the generating facilities. On these facts alone, this Application raises no generation market power concerns.

Nevertheless, Applicant has performed the market power analyses using the two new indicative tests required under the Commission's *Order on Rehearing and Modifying Interim Generation Market Power*, 107 FERC ¶ 61,018 (2004) ("April 14 Order") as clarified on reh'g by 108 FERC ¶ 61,018 (2004) (the "Rehearing Order") (collectively, the "Market Power Analysis Modifying Order"). See Affidavit of Julie A. Murphy attached as Attachment D ("Murphy Affidavit"). The Market Power Analysis Modifying Order requires the use of two new market power screens – the pivotal supplier screen and the market power screen – by applicants seeking market-based rate authority and applicants filing updated market studies pursuant to the terms of their existing authority. As shown in the Murphy Affidavit, Applicant passes both screens by wide margins. See Murphy Affidavit at ¶ 4. Thus, this application raises no generation market power concerns. *Id.*

B. Lack of Transmission Market Power

To ensure that an affiliated power marketer does not possess transmission market power, the Commission requires that the power marketer's public utility affiliate, if any, providing transmission service have on file an open access transmission tariff consistent

²⁷ See *supra* note 17.

with the Commission's Order No. 888 pro forma tariff.²⁸ As noted above, neither Applicant nor any of its affiliates own or control any transmission or distribution facilities (other than passive interests or non-controlling interests in those interconnection facilities necessary to interconnect with the relevant transmission or distribution system). Consequently, neither Applicant nor any of its affiliates possess market power over transmission in the relevant markets.

C. Lack of Ability to Erect Other Barriers to Market Entry

In addition to generation and transmission market power, the Commission also analyzes whether an applicant's affiliation with entities involved in natural gas sales, the production or sale of other fuel supplies or inputs for generation, local natural gas distribution, engineering or construction, or the ownership of generating sites, could be used to erect barriers to entry into the Applicant's markets. Neither Applicant nor any of its affiliates have dominant control over sites or other scarce inputs, including fuel supply and transportation facilities, into generation in the relevant markets. Further, as the Commission has consistently recognized, the ownership, control or affiliation with an interstate natural gas pipeline does not raise market power concerns because the pipeline is subject to the Commission's open access requirements for natural gas pipelines.²⁹ Consequently, Applicant and its affiliates cannot erect barriers to entry by a potential competitor in any of the relevant markets.

²⁸ See *Promoting Wholesale Competition Through Open Access Non-discriminatory Transmission Service by governing Public Utilities, Recovery of Stranded Costs By Transmitting Utilities, Final Rule*, Order No. 888, 61 FR 21,540, FERC Stats. & Regs. ¶ 61, 347 (1996) ("Order No. 888").

²⁹ See *Reporting Requirement for Changes in Status for Public Utilities With Market-Based Rate Authority*, Order on Reh'g, 111 FERC ¶ 61,143, P 35 (2005); see also *Vantus Energy Corp.*, 73 FERC ¶ 61,099 (1995); *Enron Power Mktg., Inc.*, 65 FERC ¶ 61,305 (1993).

D. Protections Against Affiliate Abuse and Self-Dealing

Because Applicant has no franchised utility affiliates, this Application does not raise any affiliate abuse issues.

VI. REASSIGNMENT OF TRANSMISSION CAPACITY

The Tariff contains standard provisions governing reassignment of transmission capacity. The provisions are consistent with the Commission's requirements.³⁰

VII. MARKET-BASED RATES FOR SALES OF ANCILLARY SERVICES

The Tariff contains provisions for sales of ancillary services at market-based rates under terms and conditions consistent with those approved by the Commission in Calhoun Power Company I, LLC and Tampa Electric Company.³¹ In particular, Applicant requests authorization to make sales of ancillary services into those markets – ISO-NE, NYISO, the PJM Interconnection, L.L.C. ("PJM"), and CAISO – where the Commission has granted blanket authority to transact in certain ancillary services without using the type of Internet-based site required in Avista.³² Per the Commission's requirements, Applicant has listed in its Tariff the specific ancillary services it may sell in the ISO-NE, NYISO, PJM and CAISO markets.³³

³⁰ See, e.g., *Richmond County Power, LLC*, 96 FERC ¶ 61,149 (2001); *Puget Sound Energy, Inc.*, 86 FERC ¶ 61,088 (1999); *Enron Power Mktg., Inc.*, 81 FERC ¶ 61,277 at 62,361-62 (1997).

³¹ *Calhoun Power Co. I, LLC*, 96 FERC ¶ 61,056 (2001); *Letter Order re: Tampa Elec. Co.*, (Docket No. ER01-2185-000) dated July 23, 2001.

³² *Avista Corp.*, 87 FERC ¶ 61,223, *order on reh'g*, 89 FERC ¶ 61,136 (1999).

³³ See *Minergy Neenah, L.L.C.*, 88 FERC ¶ 61,102 (1999).

VIII. WAIVERS, AUTHORIZATIONS AND REPORTING REQUIREMENTS

Applicant respectfully requests that the Commission waive certain of its filing requirements and grant such blanket authorizations as are traditionally accorded to applicants seeking to sell power at market-based rates. Specifically, Applicant requests:

- Waiver of the requirements of Parts 41, 101 and 141, except Sections 141.14 and 141.15;
- Waiver of Part 45 of the Commission's regulations regarding interlocking directorates, with filing of an abbreviated statement under Part 46 identifying jurisdictional interlocks;
- Waiver of the reporting requirements of Subparts B and C of Part 35, except Sections 35.12(a), 35.13(b), 35.15 and 35.16;
- Blanket authorization under Part 34 of all future issuances of securities and assumption of liability; and
- Waiver of any other Commission requirement that may be necessary for Applicant's rate schedules to be made effective as requested in this Application.

Applicant will file contract data and transaction data for all power sales under the Tariff in its Electronic Quarterly Reports filed pursuant to the Commission's revised filing requirements established in Order No. 2001, announced by Final Rule dated April 25, 2002,³⁴ as such may be amended by the Commission from time-to-time.

Applicant will either notify 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, or include such information in the updates to its market power analysis every three years.

³⁴ *Revised Public Utility Filing Requirements, Order No. 2001*, 67 FR 31043, FERC Stats. & Regs. ¶ 31,127 (2002).

IX. REQUESTED EFFECTIVE DATE

Applicant requests that the Commission accept its FERC Electric Tariff, Original Volume No. 1, and the other authorizations and waivers requested herein to be effective at the earliest possible date.

X. CONCLUSION

WHEREFORE, for the foregoing reasons, Applicant requests that the Commission accept its tariff for filing, find the rates thereunder just and reasonable and grant the authorizations and waivers sought herein.

Respectfully submitted,



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Robert W. Warnement
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Attorneys for
Societe Generale Energie (USA) Corp.

Dated: July 25, 2005

ATTACHMENT A

**SOCIETE GENERALE ENERGIE (USA) CORP.
FERC ELECTRIC TARIFF
ORIGINAL VOLUME No. 1**

Societe Generale (USA) Corp.
FERC Electric Tariff, Original Volume No. 1

Original Sheet No. 1

**SOCIETE GENERALE ENERGIE (USA) CORP.
FERC ELECTRIC TARIFF NO. 1**

1. Availability of Service:

- a. **Electric Capacity and Energy:** Societe Generale Energie (USA) Corp. ("Seller" or "SGE USA") may make available under this Tariff for wholesale sale to any purchaser for resale electric capacity and/or energy under such other terms and conditions, all as agreed to between SGE USA and the purchaser.
- b. **Ancillary Services:** The ancillary services that SGE USA may make available under this Tariff for wholesale sale to any purchaser for resale are as follows:
- (1) The following ancillary services in the PJM Interconnection ("PJM") market: (a) Operating Reserves (which includes Spinning Reserves, Ten Minute Reserves and Thirty Minute Reserves) and (b) Regulation Service;
 - (2) Installed Capacity and the following ancillary services in the New York ISO ("NYISO") market: (a) Operating Reserve Service (including, Spinning Reserves, Ten Minute Non-Synchronized Reserves and Thirty Minute Reserves) and (b) Regulation Service;
 - (3) Installed Capability and the following ancillary services in the NEPOOL markets administered by the ISO New England, Inc. ("ISO-NE"): (a) Energy Imbalance, (b) Operating Reserve-Spinning, (c) Operating Reserve-Supplemental and (d) Regulation and Frequency Response (Automatic Generation Control);
 - (4) The following ancillary services in the California Independent System Operator ("CAISO") Market: (a) Regulation, (b) Spinning Reserves, (c) Non-Spinning Reserves and (d) Replacement Reserves; and
 - (5) In addition, Applicant will make available under this Tariff for wholesale sale to any purchaser for resale additional ancillary services in the PJM, NYISO, ISO-NE, CAISO and other 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.

Issued by: Christophe Lepage
Director, Societe Generale Energie (USA) Corp.

Issued on: July 25, 2005

Effective: September 23, 2005

Societe Generale (USA) Corp.
FERC Electric Tariff, Original Volume No. 1

Original Sheet No. 2

2. **Applicability:** This Tariff is applicable to all sales by SGE USA of electric energy or capacity or electric generation or other services described above that (i) are located outside of the Electric Reliability Council of Texas and (ii) not otherwise subject to a particular Tariff of SGE USA.
3. **Rates:** All rates for sales under this rate schedule shall be established by agreement between SGE USA and the purchaser.
4. **Terms and Conditions:** All other terms and conditions for any sales under this Tariff shall be established by agreement between SGE USA and the purchaser.
5. **Affiliate Sales:** No sale may be made pursuant to this Tariff to any electric utility with a franchised electric service territory that is controlled by, or under the common control with, or controlling SGE USA, without first receiving acceptance from the Commission in a separate filing under Section 205 of the Federal Power Act, 16 U.S.C. § 824d (2000).
6. **Transmission Service:** If SGE USA takes from an affiliate any transmission service that is subject to the jurisdiction of the Commission, SGE USA will do so under the applicable Commission tariff.
7. **Reassignment of Transmission Capacity:** SGE USA 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 SGE USA; (2) the applicable transmission provider's maximum stated firm transmission rate on file at the time of the transmission reassignment; or (3) SGE USA's own opportunity costs, capped at the applicable transmission provider's cost of expansion at the time of the sale to the eligible customer. SGE USA 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. SGE USA may only reassign transmission capacity to a customer eligible to take the service under the transmission provider's open access tariff or other transmission rate schedules. SGE USA will report the assignee's name in its quarterly reports.
8. **Reporting Requirement:** SGE USA 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

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Societe Generale (USA) Corp.
FERC Electric Tariff, Original Volume No. 1

Original Sheet No. 3

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.

9. **Market Behavior Rules:** As a condition of market-based rate authority, SGE USA (hereafter, Seller) will comply with the following Market Behavior Rules:

- a. **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.
- b. **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:
 1. 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");
 2. 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;
 3. 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
 4. collusion with another party for the purpose of manipulating market prices, market conditions, or market rules for electric energy or electricity products.

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Director, Societe Generale Energie (USA) Corp.

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Societe Generale (USA) Corp.
FERC Electric Tariff, Original Volume No. 1

Original Sheet No. 4

- c. **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.
- d. **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 status. In addition, Seller shall adhere to such other standards and requirements for price reporting as the Commission may order.
- e. **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.
- f. **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.

Issued by: Christophe Lepage
Director, Societe Generale Energie (USA) Corp.

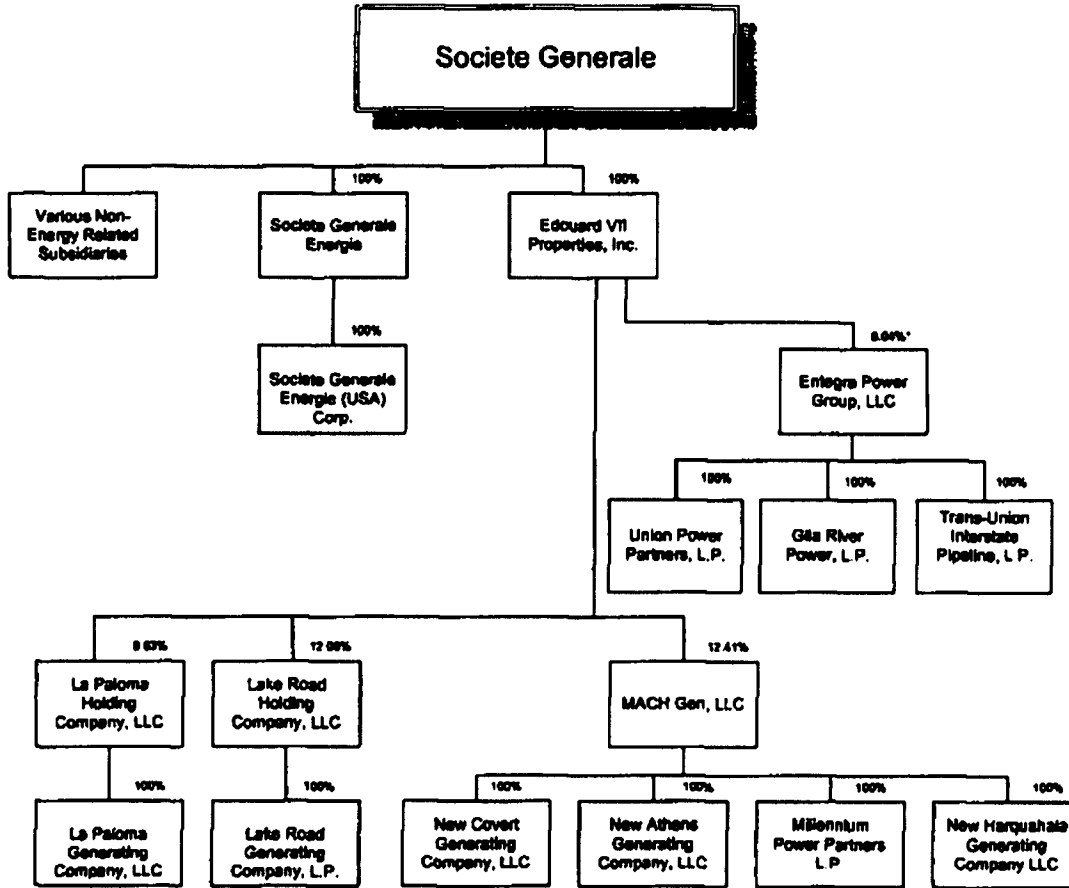
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ATTACHMENT B

SGE USA ORGANIZATION CHART

Simplified Societe Generale Energie (USA) Corp.
Organization Chart Showing Energy-Related Affiliates



- * Represents Societe Generale's percentage share of voting interests in Entegra Power Group, LLC ("Entegra Power"); Societe Generale's percentage share of all economic ownership interests in Entegra Power is 4.9%.

ATTACHMENT C

PASSIVE INTERESTS IN NET CAPACITY BY MARKET

**PASSIVE OR NONCONTROLLING INTERESTS IN NET CAPACITY BY
MARKET**

<u>Market</u>	<u>Net Capacity Allocable to SGE USA Affiliate</u>
CAISO	97 MWs
ISO-NE	146 MWs
NYISO	164 MWs
MISO	146 MWs
APS	262 MWs
Entergy	119 MWs

ATTACHMENT D

AFFIDAVIT OF JULIA E. MURPHY SUPPLYING MARKET POWER ANALYSIS

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

Societe Generale Energie (USA) Corp)
) **Docket No. ER05-[]-000**
)

**AFFIDAVIT
OF JULIE A. MURPHY**

I. Introduction

1. My name is Julie A. Murphy. I am a Principal at LECG LLC, Inc. My office is located at 1725 Eye Street, NW, Suite 800, Washington, DC 20006. I hold a Bachelor of Economics from Allegheny College in Meadville, Pennsylvania and a Masters of Economics from Pennsylvania State University in State College, Pennsylvania. I am an economist who focuses on financial and economic issues pertaining to network industries, such as electric utilities, telecommunications firms and railroads. I have worked in the electric utility industry for more than a decade primarily as an economic consultant. I have consulted on a wide array of regulatory issues including antitrust, market analyses, and other financial and economic issues. I have testified numerous times before regulatory agencies on matters involving long-term fuel supply projections, evaluations of economic generating capacity and power plant performance, fuel source decisions and other issues pertaining to new and existing electric generating capacity. I have also spent a significant amount of time developing cost, profitability and other types of sophisticated economic models for use within

federal and state regulatory proceedings as well as for normal course of business decision making processes. My Curriculum Vitae, which is included as Exhibit 1 to this affidavit, provides additional information on my background and qualifications.

II. Overview and Summary of Results

2. *The purpose of my affidavit is to conduct an economic evaluation of Societe Generale Energie (USA) Corp. ("SGE USA") as required by the Commission for the granting of market-based ratemaking authority for the sale of electricity. SGE USA is a Delaware Corporation formed and capitalized by Societe Generale, a bank formed under the laws of France ("Societe Generale"), who will wholly own SGE USA indirectly through affiliates. SGE USA has no subsidiaries. Societe Generale indirectly through affiliates owns very small amounts of passive or non-controlling interests in various generation assets located in 6 different markets. SGE USA neither owns nor controls any generation or uncommitted capacity in any of the relevant markets. Societe Generale has only minority interests in all of these projects, with a maximum of 13% ownership in any one plant. These interests are passive, with no operating function, and in particular Societe Generale has no authority to withhold capacity from the market or exercise market power. As a result, I conclude that Societe Generale has no market power.*

3. To fully consider market power issues as required by the FERC, I have conducted analyses consistent with the Commission's April 14, 2004 and July 8, 2004 Orders. These Orders set forth the details of the market screens required to obtain market-based ratemaking authority. In these analyses, I have included capacity (i.e. MWs) attributable to SGE USA through its affiliates based on Societe Generale's