



Control Number: 14406



Item Number: 852

Addendum StartPage: 0

# JONES DAY

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June 22, 2020

Public Utility Commission of Texas  
Central Records  
1701 N Congress PO Box 13326  
Austin, Texas 78711-3326

Re: Project No. 14406 — Update to Orsted US Trading LLC Power Marketer Registration

Dear Sir or Madam:

Pursuant to 16 Tex. Admin. Code § 25.105, Orsted US Trading LLC (“OUTL”) respectfully submits an update to its registration as a Power Marketer. This update reflects (a) an update to the operational status of Lockett Windfarm, LLC, an affiliate that transacts in the Texas wholesale market, (b) the addition of Sage Draw Wind, LLC, an affiliate that transacts in the Texas wholesale market, and (c) acceptance by the Federal Energy Regulatory Commission (“FERC”) of OUTL’s Application for Market-Based Rate Authorization, Acceptance of Initial Tariff, and Request for Certain Waivers and Blanket Authority (Docket Number ER20-886-000), effective April 1, 2020. In support of this updated registration, and in accordance with the above regulations and the Commission’s instructions, OUTL hereby submits the following:

**1. Name/Address of Registrant:**

Orsted US Trading LLC  
401 North Michigan Avenue  
Suite 510  
Chicago, IL 60611-4255

**2. Name, Title, Telephone Number, Fax Number, and E-mail Address of the Person to Whom Communications Relating to Power Marketing Should be Addressed:**

Marius Strønen  
President, Orsted US Trading LLC  
401 North Michigan Avenue  
Suite 510  
Chicago, IL 60611-4255  
Telephone: 617-712-9949  
Email: [mastr@orsted.com](mailto:mastr@orsted.com)

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**3. Names of the Owners and Ownership Percentages:**

Name	Type of Business	Percentage of Ownership
Orsted Customer Solutions Holding LLC	Delaware limited liability company	100% owner of Orsted US Trading LLC
Orsted Holdings N.A. Inc.	Delaware corporation	100% owner of Orsted Customer Solutions Holding LLC
Ørsted North America Holding A/S	Danish limited liability company	100% owner of Orsted Holdings N.A. Inc.
Ørsted Wind Power Holding A/S	Danish limited liability company	100% owner of Ørsted North America Holding A/S
Ørsted A/S	Danish public listed company	100% owner of Ørsted Wind Power Holding A/S

**4. Affiliates that Buy or Sell Electricity at Wholesale in Texas; Sells Electricity at Retail in Texas, or are Electric or Municipally Owned Utilities in Texas: [UPDATED]**

- Dermott Wind, LLC
- Willow Springs Windfarm, LLC
- Tahoka Wind, LLC
- Lockett Windfarm, LLC (project is now operational)
- Sage Draw Wind, LLC (new operating affiliate)

**5. Description of the Location of any Facility in Texas Used to Provide Service:**

None.

**6. Description of the Service Provided:**

OUTL will buy and sell wholesale power within the ERCOT market, as well as other business necessary to facilitate those activities.

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**7. Copies of All Registration Information Filed with FERC: [UPDATED]**

OUTL's FERC Application for Market-Based Rate Authorization, Acceptance of Initial Tariff, and Request for Certain Waivers and Blanket Authority (Docket Number ER20-886-000) became effective on April 1, 2020. A copy of the FERC delegated letter order confirming that OUTL's market-based rate tariff is effective is attached hereto as Exhibit A.

**8. Affidavit by an Authorized Person that the Registrant is a Power Marketer:**

An Affidavit by an Authorized Person was attached to OUTL's original filing (Control Number: 14406; Item Number: 797).

Respectfully submitted,

/s/ James C. Beh  
James C. Beh  
Serena A. Rwejuna

*Attorneys for Orsted US  
Trading LLC*

Attachment

# **EXHIBIT A**

**OUTL FERC DELEGATED LETTER ORDER  
DOCKET NO. ER20-866-000**

FEDERAL ENERGY REGULATORY COMMISSION  
Washington, D.C. 20426

OFFICE OF ENERGY MARKET REGULATION

In Reply Refer To:  
Orsted US Trading LLC  
Docket No. ER20-886-000

Issued: March 12, 2020

James C. Beh  
Jones Day  
51 Louisiana Avenue, N.W.  
Washington, D.C. 20001

Reference: Market-Based Rate Authorization

On January 28, 2020, you filed on behalf of Orsted US Trading LLC (Orsted US) an application for market-based rate authority with an accompanying tariff. The proposed market-based rate tariff provides for the sale of energy, capacity, and ancillary services at market-based rates.<sup>1</sup> You request on behalf of Orsted US waivers commonly granted to similar market-based rate applicants. Orsted US's market-based rate tariff is accepted for filing, effective April 1, 2020, as requested.<sup>2</sup> Based on your representations, Orsted US meets the criteria for a Category 1 seller in all regions and is so designated.<sup>3</sup>

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<sup>1</sup> Orsted US requests authorization to sell ancillary services in all of the regional transmission organization or independent system operator markets for which the Commission has approved sales of specific ancillary services.

<sup>2</sup>Orsted US Trading LLC, FERC FPA Electric Tariff, Market Based Rates; Section 1, Market Based Rates, 0.0.0. The next time Orsted US makes a market-based rate filing with the Commission, it must include a revised tariff in compliance with Order Nos. 697 and 697-A to include appropriate citations. *See Market-Based Rates for Wholesale Sales of Elec. Energy, Capacity & Ancillary Servs. by Pub. Utils.*, Order No. 697, 119 FERC ¶ 61,295, at P 916 (2007), *order on reh'g*, Order No. 697-A, 123 FERC ¶ 61,055, at P 384 (2008). *See also Niagara Mohawk Power Corporation*, 121 FERC ¶ 61,275 (2007) at P 8.

<sup>3</sup> *See Refinements to Policies and Procedures for Market-Based Rates for Wholesale Sales of Elec. Energy, Capacity & Ancillary Servs. by Pub. Utils.*, Order No. 816, 153 FERC ¶ 61,065, at P 320 (2015). Order No. 697, 119 FERC ¶ 61,295 at

Your filing was noticed on January 28, 2020, with comments, protests, or interventions due on or before February 18, 2020. None was filed.

### **Market-Based Rate Authorization**

The Commission allows power sales at market-based rates if the seller and its affiliates do not have, or have adequately mitigated, horizontal and vertical market power.<sup>4</sup>

You represent that Orsted US is owned by Ørsted A/S and is a power marketer. You rely on a market power analysis for the Southwest Power Pool (SPP) market which you represent demonstrates that Plum Creek Wind, LLC and Willow Creek Wind Power, LLC pass both the pivotal supplier and wholesale market share screens in that market.<sup>5</sup> Based on your representations, Orsted US satisfies the Commission's requirements for market-based rate authority regarding horizontal market power.<sup>6</sup>

With respect to vertical market power, you represent that Orsted US and its affiliates either do not own, operate, or control any transmission facilities; or own, operate, or control transmission facilities that: (a) have a Commission-approved Open Access Transmission Tariff (OATT) on file; (b) are under the operational control of a regional transmission organization or an independent system operator; (c) have received

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PP 848-850. Orsted US must file an updated market power analysis for each region in which it is designated as a Category 2 seller in compliance with the regional reporting schedule. *See* Order No. 816, 153 FERC ¶ 61,065 at P 353.

<sup>4</sup> Order No. 697, 119 FERC ¶ 61,295 at PP 62, 399, 408, 440.

<sup>5</sup> Your study of the SPP market relies on Buckeye Wind Energy LLC's market power analysis, which has been accepted by the Commission. *See Buckeye Wind Energy LLC*, Docket No. ER15-1873-010 (June 12, 2019) (delegated order). Plum Creek Wind, LLC, Docket No. ER20-720-000, Delegated Letter, February 14, 2020; Willow Creek Wind Power, LLC, Docket No. ER20-721-000.

<sup>6</sup> We note that Orsted US is not being granted authority to make third-party sales of operating reserves to a public utility that is purchasing ancillary services to satisfy its own open access transmission tariff requirements to offer ancillary services to its own customers. If Orsted US seeks such authority, it must make the required showing and receive Commission authorization prior to making such sales. *See Third-Party Provision of Ancillary Servs.; Accounting and Financial Reporting for New Elec. Storage Technologies*, Order No. 784, 144 FERC ¶ 61,056, at PP 200-202 (2013), *order on clarification*, Order No. 784-A, 146 FERC ¶ 61,114 (2014).

waiver of the OATT requirement under 18 C.F.R. § 35.28(d)(1); or (d) satisfy the requirements for a blanket waiver under 18 C.F.R. § 35.28(d)(2).<sup>7</sup> Further, you affirmatively state that Orsted US and its affiliates have not erected barriers to entry and will not erect barriers to entry into the relevant market. Based on your representations, Orsted US satisfies the Commission's requirements for market-based rate authority regarding vertical market power.

### **Waivers, Authorizations, and Reporting Requirements**

Orsted US's request for waiver of Subparts B and C of 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 is granted. Orsted US's request for waiver of Part 41 and Part 141 of the Commission's regulations concerning accounting and reporting requirements is granted with the exception of 18 C.F.R. §§ 141.14 and 141.15.<sup>8</sup> Orsted US's request for waiver of Part 101 of the Commission's regulations is hereby granted, with the exception that waiver of the provisions of Part 101 that apply to hydropower licensees is not granted with respect to licensed hydropower projects.<sup>9</sup> Notwithstanding the waiver of the accounting and reporting requirements here, Orsted US is expected to keep its accounting records in accordance with generally accepted accounting principles.

Orsted US requests blanket authorization under Part 34 of the Commission's regulations for all future issuances of securities and assumptions of liability. A separate notice was published in the Federal Register establishing a period during which protests could be filed. None was filed. Orsted US is authorized to issue securities and assume

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<sup>7</sup> See *Open Access and Priority Rights on Interconnection Customer's Interconnection Facilities*, Order No. 807, 150 FERC ¶ 61,211, *order on reh'g*, Order No. 807-A, 153 FERC ¶ 61,047 (2015).

<sup>8</sup> See Order No. 697, 119 FERC ¶ 61,295 at PP 984-985.

<sup>9</sup> Hydropower licensees are required to comply with the requirements of the Uniform System of Accounts pursuant to 18 C.F.R. Part 101 to the extent necessary to carry out their responsibilities under Part I of the Federal Power Act (FPA). We further note that a licensee's status as a market-based rate seller under Part II of the FPA does not exempt it from its accounting responsibilities as a licensee under Part I of the FPA. See Order No. 816, 153 FERC ¶ 61,065 at PP 345-350; *Seneca Gen., LLC*, 145 FERC ¶ 61,096, at P 23, n.20 (2013) (citing *Trafalgar Power, Inc.*, 87 FERC ¶ 61,207, at 61,798 (1999) (noting that "all licensees are required to comply with the requirements of the Uniform System of Accounts to the extent necessary to carry out their responsibilities under [s]ections 4(b), 10(d) and 14 of the FPA"))).

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 Orsted US, compatible with the public interest, and reasonably necessary or appropriate for such purposes.<sup>10</sup>

Orsted US must file Electric Quarterly Reports (EQRs) with the Commission, consistent with Order Nos. 2001<sup>11</sup> and 768.<sup>12</sup> Orsted US must file EQRs electronically with the Commission consistent with the procedures set forth in Order No. 770.<sup>13</sup> Orsted US further 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.<sup>14</sup>

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).

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<sup>10</sup> See Order No. 697, 119 FERC ¶ 61,295 at PP 999-1000.

<sup>11</sup> *Revised Pub. Util. Filing Requirements*, Order No. 2001, 99 FERC ¶ 61,107, *reh'g denied*, Order No. 2001-A, 100 FERC ¶ 61,074, *reh'g denied*, Order No. 2001-B, 100 FERC ¶ 61,342, *order directing filing*, Order No. 2001-C, 101 FERC ¶ 61,314 (2002), *order directing filing*, Order No. 2001-D, 102 FERC ¶ 61,334, *order refining filing requirements*, Order No. 2001-E, 105 FERC ¶ 61,352 (2003), *order on clarification*, Order No. 2001-F, 106 FERC ¶ 61,060 (2004), *order revising filing requirements*, Order No. 2001-G, 120 FERC ¶ 61,270, *order on reh'g and clarification*, Order No. 2001-H, 121 FERC ¶ 61,289 (2007), *order revising filing requirements*, Order No. 2001-I, 125 FERC ¶ 61,103 (2008).

<sup>12</sup> *Elec. Mkt. Transparency Provisions of Section 220 of the Fed. Power Act*, Order No. 768, 140 FERC ¶ 61,232 (2012), *order on reh'g*, Order No. 768-A, 143 FERC ¶ 61,054 (2013).

<sup>13</sup> See *Revisions to Elec. Quarterly Report Filing Process*, Order No. 770, 141 FERC ¶ 61,120, at P 3 (2012) (citing Order No. 2001, 99 FERC ¶ 61,107 at P 31).

<sup>14</sup> 18 C.F.R. § 35.42 (2019); see also *Reporting Requirement for Changes in Status for Pub. Utils. with Market-Based Rate Authority*, Order No. 652, 110 FERC ¶ 61,097, *order on reh'g*, Order No. 652-A, 111 FERC ¶ 61,413 (2005).

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This action is taken pursuant to the authority delegated to the Director, Division of Electric Power Regulation - West, under 18 C.F.R. § 375.307. 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 C.F.R § 385.713.

Issued by: Steven T. Wellner, Director, Division of Electric Power Regulation - West

Document Content(s)

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