

FEDERAL ENERGY REGULATORY COMMISSION
Washington, D.C. 20426

February 10, 2005

In Reply Refer To:
Promet Energy Partners LLC
Docket No. ER05-331-000

Ms. Melissa A. Plotsky
Executive Vice President and Chief Operating Officer
174 Wildwood Road
Lake Forest, Illinois 60045

Dear Ms. Plotsky:

1. On December 14, 2004, Promet Energy Partners LLC (Promet) filed an application for market-based rate authority, with an accompanying rate schedule. The proposed market-based rate schedule provides for the sale of capacity and energy at market-based rates. It also includes the Commission's market behavior rules.¹ Promet's submittal, as discussed below, satisfies the Commission's standards for market-based rate authority and is accepted for filing, effective the date of this order.²

2. Promet is a Delaware limited liability company with its principal place of business in Southfield, Michigan. Promet is jointly owned by four major owners with a total ownership of eighty-three percent.³ Promet states that none of these owners are in any way affiliated with any jurisdictional utility or generation or transmission companies, members of the board of directors of any utility or generation or transmission company, or otherwise employed by any utility or generation or transmission company. Promet notes that it intends to market electric energy and capacity to wholesale customers as a power marketer.

¹ *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).

² Rate Schedule FERC No. 1, Original Sheet Nos. 1-3.

³ The remaining 17 percent of Promet is jointly owned by 15 other members, each owning less than 2.5 percent.

Procedural Matters

3. Notice of Promet's filing was published in the *Federal Register*, 69 Fed. Reg. 78,010 (2004), with protests and interventions due on or before January 4, 2005. None was filed.

Discussion

Market-Based Rate Authorization

4. The Commission allows power sales at market-based rates if the seller and its affiliates do not have, or have adequately mitigated market power in generation and transmission and cannot erect other barriers to entry. The Commission also considers whether there is evidence of affiliate abuse or reciprocal dealing.⁴ As discussed below, the Commission concludes that Promet satisfies the Commission's standards for market-based rate authority.

5. 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. Promet states that it does not own or control any generation nor is it affiliated with generation asset-owning utilities. Based on this representation, the Commission finds that Promet satisfies the Commission's generation market power standard for the grant of market-based rate authority.

6. Promet states that Promet does not own or control transmission facilities. Based on this representation, the Commission finds that Promet satisfies the Commission's transmission market power standard for the grant of market-based rate authority.

7. Promet states that it does not own or control any sites for the construction of new generating capacity, interstate or intrastate natural gas transmission lines, or other essential resources or inputs that could be used to restrict market entry by competing power suppliers. Based on this representation, the Commission is satisfied that Promet cannot erect barriers to entry.

⁴ See, e.g., *Progress Power Marketing, Inc.*, 76 FERC ¶ 61,155 at 61,919 (1996); *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).

8. Promet states that it does not have a franchised service territory. In addition, Promet's proposed tariff states that no sale may be made under the tariff to any public utility with a franchised electric service territory that is controlled by, or under common control with Promet. Based on these representations, the Commission finds that Promet satisfies the Commission's concerns with regard to affiliate abuse.

Other Waivers, Authorizations and Reporting Requirements

9. Promet 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) abbreviated filings with respect to interlocking directorates under Part 45 of the Commission's regulations; and (4) blanket authorization under Part 34 of the Commission's regulations for all future issuances of securities and assumptions of liability.

10. The Commission will grant the requested waivers and authorizations consistent with those granted other entities with market-based rate authorizations.⁵ Notwithstanding the waiver of the accounting and reporting requirements here, we expect Promet to keep its accounting records in accordance with generally accepted accounting principles.

11. 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 Promet should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, 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.

12. Absent a request to be heard within the period set forth above, Promet 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 Promet, compatible with the public interest, and reasonably necessary or appropriate for such purposes.

⁵ It should be noted that the Commission is examining the issue of continued applicability of the waivers of its accounting and reporting requirements (18 C.F.R. Parts 41, 101 and 141) as well as continued applicability of the blanket authorization for the issuance of securities and the assumption of obligations and liabilities (18 C.F.R. Part 34). *See Accounting and Reporting of Financial Instruments, Comprehensive Income, Derivatives and Hedging Activities*, Order No. 627, 67 Fed. Reg. 67,691 at P 23 and P 24 (October 10, 2002), FERC Stats. & Regs. ¶ 32,558 (2002).

13. Until further order of this 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 Promet. Any such person instead shall file a sworn application providing the following information:

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

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

15. Consistent with the procedures the Commission adopted in Order No. 2001, an entity with market-based rates must file electronically with the Commission an Electric Quarterly Report containing: (1) a summary of the contractual terms and conditions in very 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.⁶ Electric Quarterly Reports must be filed quarterly no later than 30 days after the end of the reporting quarter.⁷ Accordingly, Promet must file its first Electric Quarterly Report no later than 30 days after the first quarter Promet's rate schedule is in effect.⁸

⁶ *Revised Public Utility Filing Requirements*, Order No. 2001, 67 Fed. Reg. 31,043 (May 8, 2002), FERC Stats. & Regs. ¶ 31,127 (2002). Required data sets for contractual and transaction information are described in Attachments B and C of Order No. 2001. The Electric Quarterly Report must be submitted to the Commission using the EQR Submission System Software, which may be downloaded from the Commission's website at <http://www.ferc.gov/Electric/eqr/eqr.htm>.

⁷ The exact filing dates for these reports are prescribed in 18 C.F.R. § 35.10b (2004).

⁸ Failure to file an Electric Quarterly Report (without an appropriate request for extension), or failure to report an agreement in an Electric Quarterly Report, may result in forfeiture of market-based rate authority, requiring filing of a new application for market-based rate authority if the applicant wishes to resume making sales at market-based rates.

16. Promet 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. Any change in status must be filed no later than 30 days after the change in status occurs. 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.⁹

17. The Change in Status Final Rule 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. Accordingly, Promet is directed, within 30 days of the date of issuance of this order, to revise its market-based rate tariff to incorporate the change in status reporting requirement adopted in the Change in Status Final Rule.

18. In addition, Promet 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.

Linda Mitry,
Deputy Secretary.

⁹ *Reporting Requirement for Changes in Status for Public Utilities With Market-Based Rate Authority*, Order No. 652, 110 FERC ¶ 61,097 (2005) (Change in Status Final Rule). This rulemaking was in Docket No. RM04-14-000.