

FEDERAL ENERGY REGULATORY COMMISSION  
Washington, D.C. 20426

February 10, 2005

In Reply Refer To:  
Sirius Investment Management, Inc.  
Docket Nos. ER05-71-000  
ER05-71-001  
ER05-71-002

Mr. Alan R. Juraska  
Vice President  
Sirius Investment Management, Inc.  
Suite 3520  
141 West Jackson Boulevard  
Chicago, Illinois 60604

Dear Mr. Juraska:

1. On October 26, 2004, as amended on December 15, 2004, and on January 3, 2005, Sirius Investment Management, Inc. (Sirius) filed an application for market-based rate authority, with an accompanying market-based rate tariff. The proposed market-based rate tariff provides for the sale of capacity and energy at market-based rates. It also includes the Commission's market behavior rules.<sup>1</sup> Sirius's submittal, as discussed below, satisfies the Commission's standards for market-based rate authority and is accepted for filing, effective February 27, 2005, as requested.<sup>2</sup>

2. Sirius states that it is an Illinois corporation with its principal place of business in Chicago, Illinois. Sirius is involved in natural gas marketing and the marketing of electricity. Sirius states that it is "primarily engaged in the management consulting and trading in commodity, futures and options on futures contracts." Sirius states that neither it nor its affiliates own or control any generation or transmission facilities, nor has a franchised service territory for the sale of electricity to captive customers. Sirius intends

---

<sup>1</sup> *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).

<sup>2</sup> Rate Schedule FERC No. 1, Original Sheet Nos. 1-3.

to act as a power marketer, purchasing electricity and reselling it to wholesale customers. Sirius states that it may also engage in other non-jurisdictional activities to facilitate efficient trade in bulk power markets, such as facilitating the purchase and sale of wholesale energy without taking title to the electricity and arranging services in related areas such as transmission and fuel supplies.

### **Procedural Matters**

3. Notice of Sirius' October 26, 2004 Filing was published in the *Federal Register*, 69 Fed. Reg. 64,746 (2004), with motions to intervene and protest due on November 16, 2004. Notices of Sirius's amendments were published in the *Federal Register*, 69 Fed. Reg. 78,012 (2004), with motions to intervene and protest due on or before January 5, 2005, and January 24, 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.<sup>3</sup> As discussed below, the Commission concludes that Sirius 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. Sirius states that it does not own or control generation facilities. Based on this representation, the Commission finds that Sirius satisfies the Commission's generation market power standard for the grant of market-based rate authority.

6. Sirius states that neither it nor any of its affiliates owns or controls transmission facilities. Based on Sirius's representations, the Commission finds that Sirius satisfies the Commission's transmission market power standard for the grant of market-based rate authority.

---

<sup>3</sup> 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).

7. Sirius states that neither it nor any of its affiliates owns or controls 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 Sirius's representations, the Commission is satisfied that neither Sirius, nor any of its affiliates, can erect barriers to entry.

8. Sirius states that neither it nor any of its affiliates has a franchised service area for the sale of electricity. Based on this representation, the Commission finds that Sirius satisfies the Commission's concerns with regard to affiliate abuse.

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

9. Sirius 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.<sup>4</sup> Notwithstanding the waiver of the accounting and reporting requirements here, the Commission expects Sirius 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 Sirius 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 (2004).

12. Absent a request to be heard within the period set forth above, Sirius is hereby authorized to issue securities and assume obligations or liabilities as guarantor, endorser, surety, or otherwise in respect of any security of another person; provided that such issue

---

<sup>4</sup> 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 23-24 (October 10, 2002), FERC Stats. & Regs. ¶ 32,558 (2002).

or assumption is for some lawful object within the corporate purposes of Sirius, compatible with the public interest, and reasonably necessary or appropriate for such purposes.

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 Sirius. Any such person instead shall file a sworn application providing the following information:

- a. full name and business address; and
- b. 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 Sirius' 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 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.<sup>5</sup> Electric Quarterly Reports must be filed quarterly no later than 30 days after the end of the reporting quarter.<sup>6</sup> Accordingly, Sirius must file its first Electric Quarterly Report no later than 30 days after the first quarter Sirius' rate schedule is in effect.<sup>7</sup>

16. Sirius 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

---

<sup>5</sup> *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>.

<sup>6</sup> The exact dates for these reports are prescribed in 18 C.F.R. § 35.10b (2004).

<sup>7</sup> 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.

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.<sup>8</sup>

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, Sirius 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. Sirius 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.

---

<sup>8</sup> *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.