

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

#### Order on Intent To Revoke Market-Based Rate Authority

Issued June 25, 2010.

Before Commissioners: Jon Wellinghoff, Chairman; Marc Spitzer, Philip D. Moeller, and John R. Norris.

In the matter of: ER02–2001–015, ER00–167–000, ER03–752–000, Electric Quarterly Reports, Strategic Energy Management Corp., Solaro Energy Marketing Corporation.

1. Section 205 of the Federal Power Act (FPA), 16 U.S.C. 824d (2006), and 18 CFR part 35 (2009), require, among other things, that all rates, terms, and conditions of jurisdictional services be filed with the Commission. In Order No. 2001, the Commission revised its public utility filing requirements and established a requirement for public utilities, including power marketers, to file Electric Quarterly Reports summarizing the contractual terms and conditions in their agreements for all jurisdictional services (including market-based power sales, cost-based power sales, and transmission service) and providing transaction information (including rates) for short-term and long-term power sales during the most recent calendar quarter.<sup>1</sup>

2. Commission staff's review of the Electric Quarterly Report submittals indicates that two utilities with authority to sell electric power at market-based rates have failed to file their Electric Quarterly Reports. This order notifies these public utilities that their market-based rate authorizations will be revoked unless they comply with the Commission's requirements within 15 days of the date of issuance of this order.

3. In Order No. 2001, the Commission stated that:

[i]f a public utility fails to file a[n] Electric Quarterly Report (without an appropriate request for extension), or fails to report an agreement in a report, that public utility may forfeit its market-based rate authority and may be required to file a new application for market-based rate authority if it wishes to resume making sales at market-based rates.<sup>2</sup>

4. The Commission further stated that:

[o]nce this rule becomes effective, the requirement to comply with this rule will

<sup>1</sup> Revised Public Utility Filing Requirements, Order No. 2001, FERC Stats. & Regs. ¶ 31,127, *reh'g denied*, Order No. 2001–A, 100 FERC ¶ 61,074, *reconsideration and clarification denied*, Order No. 2001–B, 100 FERC ¶ 61,342, *order directing filings*, Order No. 2001–C, 101 FERC ¶ 61,314 (2002), *order directing filings*, Order No. 2001–D, 102 FERC ¶ 61,334 (2003).

<sup>2</sup> Order No. 2001 at P 222.

supersede the conditions in public utilities' market-based rate authorizations, and failure to comply with the requirements of this rule will subject public utilities to the same consequences they would face for not satisfying the conditions in their rate authorizations, including possible revocation of their authority to make wholesale power sales at market-based rates.<sup>3</sup>

5. Pursuant to these requirements, the Commission has revoked the market-based rate tariffs of several market-based rate sellers that failed to submit their Electric Quarterly Reports.<sup>4</sup>

6. As noted above, Commission staff's review of the Electric Quarterly Report submittals identified two public utilities with authority to sell power at market-based rates that failed to file Electric Quarterly Reports through the first quarter of 2010. Commission staff contacted these entities to remind them of their regulatory obligations.<sup>5</sup> None of the public utilities listed in the caption of this order has met those obligations.<sup>6</sup> Accordingly, this order notifies these public utilities that their market-based rate authorizations will be revoked unless they comply with the Commission's requirements within 15 days of the issuance of this order.

7. In the event that any of the above-captioned market-based rate sellers has already filed its Electric Quarterly Report in compliance with the Commission's requirements, its inclusion herein is inadvertent. Such market-based rate seller is directed, within 15 days of the date of issuance of this order, to make a filing with the Commission identifying itself and providing details about its prior filings that establish that it complied with the Commission's Electric Quarterly Report filing requirements.

8. If any of the above-captioned market-based rate sellers do not wish to continue having market-based rate authority, they may file a notice of cancellation with the Commission pursuant to section 205 of the FPA to cancel their market-based rate tariff.

#### *The Commission orders:*

(A) Within 15 days of the date of issuance of this order, each public utility listed in the caption of this order shall file with the Commission all

<sup>3</sup> *Id.* P 223.

<sup>4</sup> See, e.g., *Electric Quarterly Reports*, 75 FR 19,646 (Apr. 15, 2010); *Electric Quarterly Reports*, 74 FR 44,841 (Aug. 31, 2009).

<sup>5</sup> See *Solaro Energy Marketing Corporation*, Docket No. ER03–752–000 (April 22, 2010) (unpublished letter order); *Strategic Energy Management Corp.*, Docket No. ER00–167–000 (April 22, 2010) (unpublished letter order).

<sup>6</sup> According to the Commission's records, both companies subject to this order failed to file their Electric Quarterly Reports for the 4th quarter of 2009 and the 1st quarter of 2010.

delinquent Electric Quarterly Reports. If a public utility fails to make this filing, the Commission will revoke that public utility's authority to sell power at market-based rates and will terminate its electric market-based rate tariff. The Secretary is hereby directed, upon expiration of the filing deadline in this order, to promptly issue a notice, effective on the date of issuance, listing the public utilities whose tariffs have been revoked for failure to comply with the requirements of this order and the Commission's Electric Quarterly Report filing requirements.

(B) The Secretary is hereby directed to publish this order in the **Federal Register**.

By the Commission.

**Kimberly D. Bose,**

*Secretary.*

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## ENVIRONMENTAL PROTECTION AGENCY

[EPA–R01–OW–2010–0316, FRL–9170–4]

### Massachusetts Marine Sanitation Device Standard—Notice of Determination

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of determination.

**SUMMARY:** The Regional Administrator of the Environmental Protection Agency—New England Region, has determined that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for the coastal waters of Pleasant Bay/Chatham Harbor, MA.

**ADDRESSES:** *Docket:* All documents in the docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available electronically in <http://www.regulations.gov>.

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