

FEDERAL ENERGY REGULATORY COMMISSION  
Washington, D.C. 20426

OFFICE OF ENERGY MARKET REGULATION

In Reply Refer To:  
Darby Power, LLC  
Gavin Power, LLC  
Lawrenceburg Power, LLC  
Waterford Power, LLC  
Lightstone Marketing LLC  
ECP ControlCo, LLC  
Docket No. EC24-125-000

January 6, 2025

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Reference: Deficiency Letter

Dear Counsel:

On September 27, 2024, you filed an application (Application) on behalf of Darby Power, LLC, Gavin Power, LLC (Gavin), Lawrenceburg Power, LLC, Waterford Power, LLC, Lightstone Marketing LLC (together, Lightstone Public Utilities) and ECP ControlCo, LLC (ECP) (collectively, Applicants) pursuant to sections 203(a)(1) and 203(a)(2) of the Federal Power Act<sup>1</sup> (FPA) requesting Commission authorization for a transaction whereby funds controlled by ECP and Javelin Global Commodities US Holdings Inc. (Javelin) will indirectly acquire 100% of the voting equity interests in Gavin, and funds controlled by ECP will indirectly acquire 100% of the voting equity interests in the remaining Lightstone Public Utilities.

Please be advised that the Application is deficient and the Commission requires additional information in order to process it. Accordingly, please respond to provide the information requested below.

1. There appear to be discrepancies between the description of Javelin's affiliates' coal sales in the Application, including Exhibit J of the Application (Solomon-Opgrand Affidavit), Applicants' answer filed on December 11, 2024 (Answer), and data collected by the U.S. Energy Information Administration (EIA) in Form EIA-923, which Applicants relied upon in conducting their competitive analyses.<sup>2</sup> The Solomon-Opgrand Affidavit states that "Javelin's affiliate, Bluegrass Natural Resources, produces, stores and sells coal, but makes no coal sales to any electric generation facilities."<sup>3</sup> In the Answer, Applicants state that Bluegrass Commodities is another affiliate of Javelin and that "Bluegrass Commodities has made sales of coal to power facilities outside of PJM, but did not make sales of coal to power facilities in PJM in either of 2023 or 2024."<sup>4</sup> However, the Form EIA-923 data appears to indicate sales made by entities identified as "Bluegrass Commodities" and "Bluegrass Commodities LP" to the CCT Terminal in

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<sup>1</sup> 16 U.S.C. § 824b(a)(1) & (2).

<sup>2</sup> See Solomon-Opgrand Affidavit at 18-20.

<sup>3</sup> *Id.* at 19-20.

<sup>4</sup> Answer at 3-4 n.9.

2023.<sup>5</sup> The Form EIA-923 data identifies Indiana Michigan Power Co. as the generator operator for the sales to the CCT Terminal.

- a. Please identify the generating facility that was the destination of the coal sales to the “CCT Terminal,” as well as the location of the generating facility and the destination market where the generating facility is located.
- b. Please explain the discrepancies noted above between the representations in Exhibit J of the Application, the Answer, and the Form EIA-923 data.

2. In the Application, you assert that “an affiliate of Javelin, Javelin Global Commodities, sells a *de minimis* amount of coal to power plants located in PJM, which sales accounted for only approximately 0.01% of net generation in PJM. Thus, consistent with [s]ection 33.4(a)(i)(ii) of the Commission’s regulations, Javelin’s affiliates’ coal supplies constitute a *de minimis* amount of downstream electricity production in PJM.”<sup>6</sup> You further state that, “[a]ccordingly, under [s]ection 33.4(a)(2) of the Commission’s regulations, there is no need to file a vertical competitive analysis, and the Proposed Transaction does not raise any vertical market power concerns.”<sup>7</sup>

- a. Please provide a vertical Competitive Analysis as required by section 33.4(a)(1), and described in section 33.4(b) through (e), of the Commission’s regulations. To the extent you assert that a vertical Competitive Analysis need not be filed, please make the demonstrations required by section 33.4(a)(2)(i) and (ii).

The information requested in this letter will constitute an amendment to the Application. The Application will not be a completed application for purposes of section 33.11(a) of the Commission’s regulations, 18 C.F.R. § 33.11(a) (2024), until the information requested in this letter is submitted. A notice of amendment will be issued upon receipt of your response.

This letter is issued pursuant to the authority delegated to the Director, Division of Electric Power Regulation – West, under 18 C.F.R. § 375.307(a)(1)(iv) and is

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<sup>5</sup> U.S. Energy Information Administration, *Electricity*, <https://www.eia.gov/electricity/>. Form EIA-923 detailed data with previous form data, including 2023 final data is available at [www.eia.gov/electricity/data/eia923/](https://www.eia.gov/electricity/data/eia923/).

<sup>6</sup> Application at 24.

<sup>7</sup> *Id.*

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interlocutory. This order is not subject to rehearing pursuant to 18 C.F.R. § 385.713. Please file the requested information within 30 days of the date of this letter.

Please submit your response electronically.

In addition, please provide a copy of the response to all parties that have either requested or been granted intervention in this proceeding. Failure to respond to this letter within the time period specified may result in an order rejecting the filing.

Sincerely,

Amery S. Poré, Director  
Division of Electric Power  
Regulation – West

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