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December 23, 2009

VIA HAND DELIVERY

The Honorable Kimberly D. Bose
Secretary
Federal Energy Regulatory Commission
888 First Street, N.E., Room 1-A
Washington, DC 20426

FILED
SECRETARY OF THE
COMMISSION
2009 DEC 23 A 11:34
FEDERAL ENERGY
REGULATORY COMMISSION

Re: Filing of Google Energy LLC for an Order Accepting Initial Market-Based Rate Tariffs and Granting Certain Waivers and Blanket Approvals, Docket No. ER10-468-000

Dear Secretary Bose:

Enclosed for filing are an original and six copies of the Application for Market-Based Rate Authority and Granting of Waivers and Blanket Authority, submitted by Google Energy LLC. The application requests acceptance of market-based rate tariff, under which Google Energy LLC will engage in wholesale electric power and energy transactions as a marketer; the granting of certain blanket approvals, including the authority to sell electricity at market-based rates; and the waiver of certain Federal Energy Regulatory Commission regulations.

Please file, stamp, and return one copy of the cover letter, using the enclosed stamped self-addressed envelope.

Respectfully,

WILSON SONSINI GOODRICH & ROSATI, PC



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Enclosures

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

FILED
SECRETARY OF THE
COMMISSION
2009 DEC 23 A. 11: 35
FEDERAL ENERGY
REGULATORY COMMISSION

Google Energy LLC

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Docket No. ER10-468-000-35

**APPLICATION OF GOOGLE ENERGY LLC
FOR MARKET BASED RATE AUTHORITY AND
GRANTING OF WAIVERS AND BLANKET AUTHORIZATIONS**

Pursuant to Section 205 of the Federal Power Act (“FPA”), 16 U.S.C. § 824d, Rule 205 of the Rules Of Practice and Procedure of the Federal Energy Regulatory Commission (the “FERC” or “Commission”), 18 C.F.R. § 385.205, and Part 35 of the Commission’s regulations, 18 C.F.R. § Part 35, Google Energy LLC, a Delaware limited liability company (“Applicant”), a wholly-owned subsidiary of Google, Inc., a Delaware corporation (“Google”), hereby submits this application (“Application”) for an order accepting Applicant’s proposed market-based rate schedule (“Rate Schedule FERC No. 1”), attached as **Attachment A**. Applicant requests that the Commission issue and order: (1) accepting the Tariff; (2) granting blanket authorization for Applicant to make sales of electric energy, capacity and ancillary services at market-based rates; and (3) granting of certain waivers of, and authorizations under, the Commission’s regulations. Applicant also seeks a determination from the Commission that Applicant shall be deemed a Category 1 seller.

I. COMMUNICATION

All communications and service related to this Application should be directed to the following persons:

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* The persons denoted by asterisks are designated for service pursuant to 18 C.F.R. § 385.2010.

II. DESCRIPTION OF APPLICANT

Google's innovative search technologies connect millions of people around the world with information every day. Founded in 1998 by Stanford Ph.D. students Larry Page and Sergey Brin, Google today is a top web property in all major global markets. Google's utility and ease of use have made it one of the world's best known brands almost entirely through word of mouth from satisfied users. As a business, Google generates revenue by providing advertisers with the opportunity to deliver measurable, cost-effective online advertising that is relevant to the information displayed on any given page. Google's targeted advertising program provides businesses of all sizes with measurable results, while enhancing the overall web experience for users. Google is headquartered in Silicon Valley with offices throughout the Americas, Europe and Asia.

Applicant, a wholly-owned subsidiary of Google, was formed to identify and develop opportunities to contain and manage the cost of energy for Google. In addition to engaging in sales of electricity that are unregulated by the Commission, Applicant proposes to act as a power marketer, purchasing electricity and reselling it to wholesale customers. Applicant may also

engage in other, non-jurisdictional, activities to facilitate efficient trade in the bulk power market, such as arranging services in related areas such as transmission and fuel supplies. All transactions between Applicant and its purchasers will be at rates negotiated between the parties to the transaction.

None of Applicant, Google, nor any affiliate of Applicant (“Affiliate”) own or control any commercial electric generation or transmission facilities in North America, nor has a franchised service area for the sale of electricity to captive customers. In addition, pursuant to Order No. 697,¹ Applicant states that there are no contractual or other arrangements that will result (a) in the transfer of control of any electric generation assets owned by third parties to Applicant, Google, or any Affiliate or (b) in the transfer of any electric generation assets owned by Applicant, Google, or any Affiliate to third parties.

As of now, none of Applicant, Google nor any Affiliate own or control any generation facilities that produce power for sale into the wholesale markets. The extent of Google's electric generation ownership is presently non-commercial, not for sale into the wholesale markets, and solely for use at its own facilities and for emergency backup power at its own facilities.

III. REQUEST FOR BLANKET AUTHORIZATION TO PURCHASE AND RESELL ELECTRICITY AT NEGOTIATED, MARKET BASED RATES

A. Authorization Requested

Applicant requests authorization to sell electricity, energy, and related services and products (including ancillary services, the reassignment of transmission capacity, the trading of

¹ *Market-Based Rates for Wholesale Sales of Elec. Energy, Capacity and Ancillary Servs. by Pub. Utils*, Order No. 697, FERC Stats. & Regs. ¶ 31,252, *order clarifying final rule*, 121 FERC ¶ 61,260 (2007), *order on reh'g and clarif.*, Order No. 697-A, FERC Stats. & Regs. ¶ 31,268, *order on reh'g and clarif.*, 124 FERC ¶ 61,055, *order on reh'g and clarif.*, Order No. 697-B, FERC Stats. & Regs. ¶ 31,285 (2008), *order on reh'g and clarif.*, Order No. 697-C, 127 FERC ¶ 61,284 (2009).

financially settled Financial Transmission Rights, and virtual trading and nodal trading in the regional organized markets) at market-based rates pursuant to the Rate Schedule FERC No. 1 attached as **Attachment A**. The Commission has granted open-ended market rate authority to power marketers when it has determined that the marketer and its affiliates do not have, or have adequately mitigated, market power in generation and transmission; cannot engage in anticompetitive practices through preferential affiliate transactions or reciprocal dealing; and cannot otherwise erect barriers to market entry by competing suppliers. Under the approach adopted in Order No. 697, which Applicant follows here, the Commission will grant market-based rate authority to a seller that demonstrates that its lack horizontal and vertical market power (including a lack of barriers to entry) and will not engage in affiliate abuse.

B. No Horizontal Market Power

None of Applicant, Google, nor any Affiliate own or control any wholesale power generation facilities in North America. Accordingly, Google lacks generation market power and cannot bar entry to the market by virtue of generation market power.

C. No Vertical Market Power

Pursuant to the Commission's policies and consistent with 18 C.F.R. § 35.37(d), Applicant herein demonstrates that it lacks vertical market power. Specifically, it lacks market power in transmission and cannot raise barriers to entry into any relevant market. First, none of Applicant, Google, nor any Affiliate owns or controls any commercial electric transmission and distribution facilities in North America. Accordingly, Applicant lacks transmission market power and cannot bar entry to the market by virtue of transmission market power. Second, consistent with 18 C.F.R. § 35.37, Applicant also lacks vertical market power because none of

Applicant, Google, nor any Affiliate owns or controls intrastate natural gas transportation, storage or distribution facilities; any unique sites for the construction of new generation capacity, sources of coal supplies and the transportation of coal supplies; or other essential resources or inputs that could be used to restrict market entry by competing power suppliers in North America. Accordingly, Applicant cannot bar entry into the market.

D. Affiliate Abuse

The Commission has indicated that its concern over affiliate abuse and reciprocal dealing arises in the context of a seller affiliated with an electric utility having a franchised service territory. None of Applicant, Google, nor any Affiliate has a franchised service area for the sale of electricity. Accordingly, none of Applicant, Google, nor any Affiliate has the power to gain a competitive advantage by pass-through to ratepayers of excessive costs paid to affiliates for power or by ratepayer cross-subsidy or preferential pricing of services.

D. Ancillary Services

Applicant requests authority to sell specified ancillary services that the Commission has authorized market-based entities to sell in the markets operated by PJM Interconnection, L.L.C. (“PJM”), Midwest Independent Transmission System Operator, Inc. (“MISO”), the New York Independent System Operator, Inc. (“NYISO”), ISO New England, Inc. (“ISO-NE”) and the California Independent System Operator Corporation (“CAISO”). In addition, Applicant seeks authorization to sell ancillary services at market-based rates under the requirements of *Avista Corp.*,² as modified by FERC Order No. 697, in markets for which the Commission has not accepted a market power study and has not generally authorized the sale of ancillary services at

² 87 FERC ¶ 61,223, *order on reh’g*, 89 FERC ¶ 61,136 (1999).

market-based rates. In accordance with Order No. 697, Applicant has listed in FERC Rate Schedule No. 1 the specific ancillary services that it may sell in each of these markets. Applicant agrees to be bound by the relevant conditions which the Commission has imposed on such market-based sales of ancillary services.

IV. REQUEST FOR WAIVERS AND ADDITIONAL BLANKET AUTHORITY

Applicant requests waiver from the following Commission Regulations, which are traditionally granted to other power marketers. Specifically, Applicant requests:

- Waiver of the reporting requirements of Subparts B and C of Part 35, regarding the filing of rate schedules, except sections 35.12(a), 35.13(b), 35.15, and 35.16;
- Waiver of the requirements of Part 41, regarding accounts, records, and memoranda;
- Waiver of the requirements of Part 101, regarding the uniform system of accounts;
- Waiver of the requirements of Part 141, regarding statements and reports;
- Blanket approval under Part 34 of the Commission's regulations for future issuances of securities and assumptions of liabilities, subject to objection of an interested party; and
- Waiver of any other Commission requirement and granting of any other authorizations that may be necessary for Applicant's Tariff to be made effective as required in this Application.

V. EFFECTIVE DATE

Applicant requests that the rate schedule be effective sixty days after filing, or the date the Commission issues an order accepting the rate schedule, whichever occurs first.

VI. QUARTERLY FILINGS

Applicant agrees to submit quarterly transaction reports of its purchase and sales transactions, as required by the Commission for other power marketers. Applicant agrees to

submit such reports even to state that no transactions occurred during the particular calendar quarter.

VII. STATUS CHANGE REPORTING REQUIREMENT

Applicant also agrees to comply with the reporting requirements normally imposed on sellers that are permitted to sell power at market-based rates. Applicant agrees to promptly inform the Commission of any departure from the facts relied upon by the Commission in its market analysis, including affiliation with generation or transmission facilities, or an electric utility with a franchised service area.

VIII. SELLER CATEGORY AND ASSET INDEX

As shown in **Attachment B**, none of Applicant, Google, nor any Affiliate own or control any commercial electric generation or transmission facilities in North America, nor has a franchised service area for the sale of electricity to captive customers. As of now, none of Applicant, Google nor any Affiliate own or control any generation facilities that produce power for sale into the wholesale markets. The extent of Google's electric generation ownership is presently non-commercial, not for sale into the wholesale markets, and solely for use at its own facilities and for emergency backup power at its own facilities.

Applicant meets the requirements for Category 1 status in all regions. Therefore, Applicant respectfully requests that the Commission designate Applicant as a Category 1 seller.

X. CONCLUSION

WHEREFORE, Applicant requests the Commission to issue an order accepting Rate Schedule FERC No. 1 and granting the waivers and authorizations requested in this Application.

Respectfully Submitted,

WILSON SONSINI GOODRICH & ROSATI, PC



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Dated: December 23, 2009

Attachment A

FERC Rate Schedule No. 1

**GOOGLE ENERGY LLC
RATE SCHEDULE FERC NO. 1**

1. Availability of Electric Energy and Capacity: Google Energy LLC ("Seller") makes electric energy and/or capacity available under this Rate Schedule to any purchaser for resale.
2. Availability of Ancillary Services: Seller makes ancillary services available under this Rate Schedule to any purchaser as follows:

PJM Interconnection: Seller offers regulation and frequency response service, energy imbalance service, and operating reserve service (which includes spinning, 10-minute, and 30-minute reserves) for sale into the market administered by PJM Interconnection, L.L.C. ("PJM") and, where the PJM Open Access Transmission Tariff permits, the self-supply of these services to purchasers for a bilateral sale that is used to satisfy the ancillary services requirements of the PJM Office of Interconnection.

New York ISO: Seller offers regulation and frequency response service, and operating reserve service (which include 10-minute non-synchronous, 30-minute operating reserves, 10-minute spinning reserves, and 10-minute non-spinning reserves) for sale to purchasers in the market administered by the New York Independent System Operator, Inc.

New England ISO: Seller offers regulation and frequency response service (automatic generator control), operating reserve service (which includes 10-minute spinning reserve, 10-minute non-spinning reserve, and 30-minute operating reserve service) to purchasers within the markets administered by the ISO New England, Inc.

California ISO: Seller offers regulation service, spinning reserve service, and non-spinning reserve service to the California Independent System Operator Corporation ("CAISO") and to others that are self-supplying ancillary services to the CAISO.

Midwest ISO: Seller offers regulation service and operating reserve service (which includes 10-minute spinning reserve and 10-minute supplemental reserve) for sale to the Midwest Independent Transmission System Operator, Inc. ("Midwest ISO") and to others that are self-supplying ancillary services to Midwest ISO.

Third-party ancillary services: Seller offers regulation service, energy imbalance service, spinning reserves and supplemental reserves. Sales will not include the following: (a) sales to an RTO or an ISO, i.e., where that entity has no ability to self-supply ancillary services but instead depends on third parties; (b) sales to a traditional, franchised public utility affiliated with the third-party supplier, or sales where the underlying transmission service is on the system of the public utility affiliated with the third-party supplier; and (c) sales 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.

Google Energy LLC
Rate Schedule FERC No. 1

Original Sheet No. 2

3. **Applicability:** This Rate Schedule is applicable to all sales of energy, capacity and/or ancillary services by Seller not otherwise subject to a particular rate schedule of Seller.
4. **Rates:** All sales shall be made at rates established by agreement between purchaser and Seller.
5. **Other Terms and Conditions:** All other terms and conditions shall be established by agreement between the purchaser and Seller.
6. **Affiliate Sales Prohibited:** No sale may be made pursuant to this Rate Schedule to any public utility with a franchised electric service territory that is controlled by, or under common control with, or controlling Seller.
7. **Reporting of Material Changes in Status:** Seller 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. A change in status includes, but is not limited to, each of the following: (a) ownership or control of generation or transmission facilities or inputs to electric power production other than fuel supplies, or (b) 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. Any change in status must be filed no later than thirty (30) days after the change in status occurs.
8. **Compliance with Commission Regulations:** Seller shall comply with the provisions of 18 C.F.R. Part 35, Subpart H, as applicable, and with any conditions the Commission imposes in its orders concerning Seller's market-based rate authority, including orders in which the Commission authorizes Seller to engage in affiliate sales under this Rate Schedule or otherwise restricts or limits Seller's market-based rate authority. Failure to comply with the applicable provisions of 18 C.F.R. Part 35, Subpart H, and with any orders of the Commission concerning Seller's market-based rate authority, will constitute a violation of this Rate Schedule.
9. **Limitations and Exemptions Regarding Market-Based Rate Authority:** Seller's market-based rate authority is not subject to any limitations. Seller has been granted the following waivers and blanket authorization: (a) waiver of Subparts B and C of Part 35 of the Commission's regulations requiring the filing of rate schedules, except for sections 35.12(a), 35.13(b), 35.15, and 35.16; (b) waiver of the accounting and other requirements of Parts 41, 101 and 141; and (c) blanket approval as to Part 34 of the Commission's regulations for all future issuances of securities and assumption of liabilities.
10. **Seller Category:** Seller is a Category 1 seller, as defined in 18 C.F.R. § 35.36(a).

Attachment B

Market-Based Rate Authority and Generation Assets

Filing Entity and its Energy Affiliates	Docket #	Generation Name	Owned By	Controlled By	Date Control Transferred	Balancing Authority Area	Geographic Region	In-Service Date	Nameplate and/or Seasonal Rating
Google Energy LLC	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Google, Inc.	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A