



## Public Utilities Commission

### Competitive Retail Electric Service (CRES) Provider Application

Case Number: 06 - 1387 - EL - CRS

Please complete all information. Identify all attachments with a label and title (example: Exhibit C-2 Financial Statements). For paper filing, you can mail the original and three complete copies to the Public Utilities Commission of Ohio, Docketing Division, 180 East Broad Street, Columbus, Ohio 43215-3793.

#### A. Application Information

##### A-1. Provider Type.

Select the competitive retail electric service (CRES) provider type(s) for which the applicant is seeking certification. Please note you can select more than one.

Aggregator

☐

Power Broker

☐

Power Marketer

☒

Retail Electric  
Generation Provider

☐

##### A-2. Applicant's legal name and contact information.

Provide the name and contact information of the business entity.

Legal Name: Liberty Power Delaware LLC  
Street Address: 2100 W Cypress Creek Road, STE 130  
City: Fort Lauderdale State: FL Zip: 33309  
Telephone: (866) 769-3799 Website: www.libertypowercorp.com

##### A-3. Names and contact information under which the applicant will do business in Ohio.

Provide the names and contact information the business entity will use for business in Ohio. This does not have to be an Ohio address and may be the same contact information given in A-2.

Name: Liberty Power Delaware LLC  
Street Address: 2100 W Cypress Creek Road, STE 130  
City: Fort Lauderdale State: FL Zip: 33309  
Telephone: (866) 769-3799 Website: www.libertypowercorp.com

##### A-4. Names under which the applicant does business in North America.

Provide all business names the applicant uses in North America. You do not need to include the names provided in A-2 and A-3.

Name(s): \_\_\_\_\_

**A-5. Contact person for regulatory matters.**

Name: Stephen Gibelli  
Street Address: 2100 W Cypress Creek Road, STE 130  
City: Fort Lauderdale State: FL Zip: 33309  
Telephone: \_\_\_\_\_ Email: sgibelli@libertypowercorp.com

**A-6. Contact person for PUCO Staff use in investigating consumer complaints.**

Name: Jackie Garcia-Culp  
Street Address: 2100 W Cypress Creek Road, STE 130  
City: Fort Lauderdale State: FL Zip: 33309  
Telephone: (954) 740-5137 Email: complaints@libertypowercorp.com

**A-7. Applicant's address and toll-free number for customer service and complaints.**

Street Address: complaints@libertypowercorp.com  
City: Fort Lauderdale State: FL Zip: 33309  
Toll-free Telephone: (866) 759-3799 Email: customercare@libertypowercorp.com

**A-8. Applicant's federal employer identification number.**

FEIN: 71-1009769

**A-9. Applicant's form of ownership (select one).**

Sole Proprietorship	Limited Liability Partnership (LLP)	Corporation	Partnership
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Limited Liability Company (LLC)	Other: _____		
<input checked="" type="checkbox"/>			

**A-10. Identify current or proposed service areas.**

Identify each service area in which the applicant is currently providing service or intends to provide service and identify each customer class that the applicant is currently serving or intends to serve.

Service area selection:

AEP Ohio	DP&L	Duke Energy Ohio	FirstEnergy – Cleveland Electric Illuminating
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

FirstEnergy – Ohio  
Edison



FirstEnergy – Toledo  
Edison



Class of customer selection:

Commercial



Industrial



Mercantile



Residential



**A-11. Start Date.**

Indicate the approximate start date the applicant began/will begin offering services.

Licensed since 02/07/07  
Date: \_\_\_\_\_

**A-12. Principal officers, directors and partners.**

Please provide an attachment for all contacts that should be listed as an officer, director or partner.

**A-13. Company history.**

Provide an attachment with a concise description of the applicant's company history and principal business interests.

**A-14. Secretary of State.**

Provide evidence that the applicant is currently registered with the Ohio Secretary of State.

## **B. Managerial Capability**

Provide a response or attachment for each of the sections below.

**B-1. Jurisdiction of operations.**

List all jurisdictions in which the applicant or any affiliated interest of the applicant is certified, licensed, registered or otherwise authorized to provide retail natural gas service or retail/wholesale electric service as of the date of filing the application.

**B-2. Experience and plans.**

Describe the applicant's experience in providing the service(s) for which it is applying (e.g., number and type of customers served, utility service areas, amount of load, etc.). Include the plan for contracting with customers, providing contracted services, providing billing statements and responding to customer inquiries and complaints in accordance with Commission rules adopted pursuant to Sections [4928.10](#) and/or [4929.22](#) of the Ohio Revised Code.

**B-3. Disclosure of liabilities and investigations.**

For the applicant, affiliate, predecessor of the applicant, or any principal officer of the applicant, describe all existing, pending or past rulings, judgments, findings, contingent liabilities, revocation of authority, regulatory investigations, judicial actions, or other formal or informal notices of violations, or any other matter related to competitive services in Ohio or equivalent services in another jurisdiction.

**B-4. Disclosure of consumer protection violations.**

Has the applicant, affiliate, predecessor of the applicant, or any principal officer of the applicant been convicted or held liable for fraud or for violation of any consumer protection or antitrust laws within the past five years? If yes, attach a document detailing the information.

Yes

☐

No

☒

**B-5. Disclosure of certification denial, curtailment, suspension, or revocation.**

Has the applicant, affiliate, or a predecessor of the applicant had any certification, license, or application to provide retail natural gas or retail/wholesale electric service denied, curtailed, suspended, revoked, or cancelled or been terminated or suspended from any of Ohio's Natural Gas or Electric Utility's Choice programs within the past two years? If yes, attach a document detailing the information.

Yes

☐

No

☒

**B-6. Environmental disclosure.**

This section is only applicable if power marketer or retail electric generation provider have been selected in A-1.

Provide a detailed description of how the applicant intends to determine its generation resource mix and environmental characteristics, including air emissions and radioactive waste. Include the annual projection methodology and the proposed approach to compiling the quarterly actual environmental disclosure data. See 4901:1-21-09 of the Ohio Administrative Code for additional details of this requirement.

## **C. Financial Capability**

Provide a response or attachment for each of the sections below.

**C-1. Financial reporting.**

Provide a current link to the most recent Form 10-K filed with the Securities and Exchange Commission (SEC) or attach a copy of the form. If the applicant does not have a Form 10-K, submit the parent company's Form 10-K. If neither the applicant nor its parent is required to file Form 10-K, state that the applicant is not required to make such filings with the SEC and provide an explanation as to why it is not required.

**C-2. Financial statements**

Provide copies of the applicant's two most recent years of audited financial statements, including a balance sheet, income statement, and cash flow statement. If audited financial statements are not available, provide officer certified financial statements. If the applicant has not been in business long enough to satisfy this requirement, provide audited or officer certified financial statements covering the life of the business. If the applicant does not have a balance sheet, income statement, and cash flow statement, the applicant may provide a copy of its two most recent years of tax returns with social

security numbers and bank account numbers redacted.

If the applicant is unable to meet the requirement for two years of financial statements, the Staff reviewer may request additional financial information.

**C-3. Forecasted financial statements.**

Provide two years of forecasted income statements based solely on the applicant's anticipated business activities in the state of Ohio.

Include the following information with the forecast: a list of assumptions used to generate the forecast; a statement indicating that the forecast is based solely on Ohio business activities only; and the name, address, email address, and telephone number of the preparer of the forecast.

The forecast may be in one of two acceptable formats: 1) an annual format that includes the current year and the two years succeeding the current year; or 2) a monthly format showing 24 consecutive months following the month of filing this application broken down into two 12-month periods with totals for revenues, expenses, and projected net incomes for both periods. Please show revenues, expenses, and net income (revenues minus total expenses) that is expected to be earned and incurred in business activities only in the state of Ohio for those periods.

If the applicant is filing for both an electric certificate and a natural gas certificate, please provide a separate and distinct forecast for revenues and expenses representing Ohio electric business activities in the application for the electric certificate and another forecast representing Ohio natural gas business activities in the application for the natural gas certificate.

**C-4. Credit rating.**

Provide a credit opinion disclosing the applicant's credit rating as reported by at least one of the following ratings agencies: Moody's Investors Service, Standard & Poor's Financial Services, Fitch Ratings or the National Association of Insurance Commissioners. If the applicant does not have its own credit ratings, substitute the credit ratings of a parent or an affiliate organization and submit a statement signed by a principal officer of the applicant's parent or affiliate organization that guarantees the obligations of the applicant. If an applicant or its parent does not have such a credit rating, enter "Not Rated".

**C-5. Credit report.**

Provide a copy of the applicant's credit report from Experian, Equifax, TransUnion, Dun and Bradstreet or a similar credit reporting organization. If the applicant is a newly formed entity with no credit report, then provide a personal credit report for the principal owner of the entity seeking certification. At a minimum, the credit report must show summary information and an overall credit score. Bank/credit account numbers and highly sensitive identification information must be redacted. If the applicant provides an acceptable credit rating(s) in response to C-4, then the applicant may select "This does not apply" and provide a response in the box below stating that a credit rating(s) was provided in response to C-4.

**C-6. Bankruptcy information.**

Within the previous 24 months, have any of the following filed for reorganization, protection from creditors or any other form of bankruptcy? If yes, attach a document detailing the information.

Applicant

Parent company of the applicant

Affiliate company that guarantees the financial obligations of the applicant

Any owner or officer of the applicant

Yes

☐

No

☒

**C-7. Merger information.**

Is the applicant currently involved in any dissolution, merger or acquisition activity, or otherwise participated in such activities within the previous 24 months? If yes, attach a document detailing the information.

Yes

☐

No

☒

**C-8. Corporate structure.**

Provide a graphical depiction of the applicant's corporate structure. Do not provide an internal organizational chart. The graphical depiction should include all parent holding companies, subsidiaries and affiliates as well as a list of all affiliate and subsidiary companies that supply retail or wholesale electricity or natural gas to customers in North America. If the applicant is a stand-alone entity, then no graphical depiction is required, and the applicant may respond by stating that it is a stand-alone entity with no affiliate or subsidiary companies.

**C-9. Financial arrangements.**

This section is only applicable if power marketer or retail electric generation provider have been selected in A-1.

Provide copies of the applicant's financial arrangements to satisfy collateral requirements to conduct retail electric/natural gas business activities (e.g., parental guarantees, letters of credit, contractual arrangements, etc., as described below).

Renewal applicants may provide a current statement from an Ohio local distribution utility (LDU) that shows that the applicant meets the LDU's collateral requirements. The statement or letter must be on the utility's letterhead and dated within a 30-day period of the date the applicant files its renewal application.

First-time applicants or applicants whose certificate has expired must meet the requirements of C-9 in one of the following ways:

- .. The applicant itself states that it is investment grade rated by Moody's Investors Service, Standard & Poor's Financial Services, or Fitch Ratings and provides evidence of rating from the rating agencies. If you provided a credit rating in C-4, reference the credit rating in the statement.

1. The applicant's parent company is investment grade rated (by Moody's, Standard & Poor's, or Fitch) and guarantees the financial obligations of the applicant to the LDU(s). Provide a copy of the most recent credit opinion from Moody's, Standard & Poor's or Fitch.
1. The applicant's parent company is not investment grade rated by Moody's, Standard & Poor's or Fitch but has substantial financial wherewithal in the opinion of the Staff reviewer to guarantee the financial obligations of the applicant to the LDU(s). The parent company's financials and a copy of the parental guarantee must be included in the application if the applicant is relying on this option.
1. The applicant can provide evidence of posting a letter of credit with the LDU(s) listed as the beneficiary, in an amount sufficient to satisfy the collateral requirements of the LDU(s).

## D. Technical Capability

Provide an attachment for each of the sections below.

### D-1. Operations.

**Power brokers/aggregators:** Include details of the applicant's business operations and plans for arranging and/or aggregating for the supply of electricity to retail customers.

**Power Marketers/Generators:** Describe the operational nature of the applicant's business, specifying whether operations will include the generation of power for retail sales, the scheduling of retail power for transmission and delivery, the provision of retail ancillary services, as well as other services used to arrange for the purchase and delivery of electricity to retail customers.

### D-2. Operations expertise and key technical personnel.

Provide evidence of the applicant's experience and technical expertise in performing the operations described in this application. Include the names, titles, e-mail addresses, telephone numbers and background of key personnel involved in the operational aspects of the applicant's business.

### D-3. FERC power marketer authorization.

Provide the FERC docket granting the applicant power marketer authority.

**As authorized representative for the above company/organization, I certify that all the information contained in this application is true, accurate and complete. I also understand that failure to report completely and accurately may result in penalties or other legal actions.**

**Stephen Gibelli**  
Signed on 2021/03/05 12:39:27 -8:00

Signature

03/05/2021

Date

**General Counsel**

Title



# **Competitive Retail Electric Service Affidavit**

County of Broward :

State of Florida :

Stephen Gibelli, Affiant, being duly sworn/affirmed, hereby states that:

1. The information provided within the certification or certification renewal application and supporting information is complete, true, and accurate to the best knowledge of affiant, and that it will amend its application while it is pending if any substantial changes occur regarding the information provided.
2. The applicant will timely file an annual report of its intrastate gross receipts, gross earnings, and sales of kilowatt-hours of electricity pursuant to Sections [4905.10\(A\)](#), [4911.18\(A\)](#), and [4928.06\(F\)](#), Ohio Revised Code.
3. The applicant will timely pay any assessment made pursuant to Sections [4905.10](#), [4911.18](#), and [4928.06\(F\)](#), Ohio Revised Code.
4. The applicant will comply with all applicable rules and orders adopted by the Public Utilities Commission of Ohio pursuant to [Title 49](#), Ohio Revised Code.
5. The applicant will cooperate fully with the Public Utilities Commission of Ohio, and its Staff on any utility matter including the investigation of any consumer complaint regarding any service offered or provided by the applicant.
6. The applicant will fully comply with Section [4928.09](#), Ohio Revised Code regarding consent to the jurisdiction of Ohio Courts and the service of process.
7. The applicant will comply with all state and/or federal rules and regulations concerning consumer protection, the environment, and advertising/promotions.
8. The applicant will use its best efforts to verify that any entity with whom it has a contractual relationship to purchase power is in compliance with all applicable licensing requirements of the Federal Energy Regulatory Commission and the Public Utilities Commission of Ohio.
9. The applicant will cooperate fully with the Public Utilities Commission of Ohio, the electric distribution companies, the regional transmission entities, and other electric suppliers in the event of an emergency condition that may jeopardize the safety and reliability of the electric service in accordance with the emergency plans and other procedures as may be determined appropriate by the Commission.
10. If applicable to the service(s) the applicant will provide, it will adhere to the reliability standards of (1) the North American Electric Reliability Council (NERC), (2) the appropriate regional reliability council(s), and (3) the Public Utilities Commission of Ohio.
11. The Applicant will inform the Public Utilities Commission of Ohio of any material change to the information supplied in the application within 30 days of such material change, including any change in contact person for regulatory purposes or contact person for Staff use in investigating consumer complaints.





12. The facts set forth above are true and accurate to the best of his/her knowledge, information, and belief and that he/she expects said applicant to be able to prove the same at any hearing hereof.

13. Affiant further sayeth naught.

**Stephen Gibelli**  
Signed on 2021/03/05 12:39:27 -8:00

Signature of Affiant & Title

Sworn and subscribed before me this \_\_\_\_\_ day of 03/05/2021, \_\_\_\_\_  
Month Year

Sign Anne Katz administering oath  
Signed on 2021/03/05 12:39:27 -8:00

Print Name and Title

My commission expires

**Anne M. Katz**  
**Commission # GG 938157**  
Notary Public - State of Florida  
My Commission Expires Jan 18, 2024

Notary Stamp 2021/03/05 13:39:27 PST

0A5B5CFD744B



**EXHIBIT A-12**

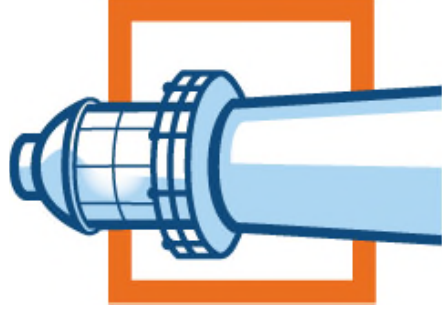
**“Principal Officers, Directors & Partners”**

<b>Name</b>	<b>Title</b>	<b>Phone</b>	<b>Address</b>
David Hernandez	CEO- Partner	954-598-7007	2100 W Cypress Creek Rd Suite 130 Fort Lauderdale, FL 33309
Alberto Daire	Co-founder - Partner	954-598-7003	2100 W Cypress Creek Rd Suite 130 Fort Lauderdale, FL 33309
Eliezer Hernandez	CRO- Partner	954-598-7070	2100 W Cypress Creek Rd Suite 130 Fort Lauderdale, FL 33309
Derik Viner	President	954-598-7089	2100 W Cypress Creek Rd Suite 130 Fort Lauderdale, FL 33309

**EXHIBIT A-13**

**“Company History”**

Please see the attached description of the Liberty Power company history.



**LibertyPower™**  
Powerful Together



## Liberty Power Overview

# Liberty Power Overview

EXHIBIT A-13

- Liberty Power was founded in 2001 and is one of the largest, privately-held, independent retail electricity providers (“REP”)
- One of only five REPs with a national footprint
- Provides a wide-ranging portfolio of electricity products and services for customers in a variety of market sectors
  - Large Commercial and Industrial (LCI)
  - Small & Mid-Size Business (SMB)
  - Residential Customers
- Serves approximately 150,000 accounts and has served more than 20% of Fortune 500 customers
- The first certified, minority-owned retail electricity provider with a national presence and the largest Hispanic-owned energy company in the U.S.
- Headquartered in Fort Lauderdale, Florida



**LibertyPower™**  
Powerful Together

## EXHIBIT A-13

2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
		Named NW MSDC 2013 Minority Business Enterprise of the Year; Finalist for 2013 Ernst & Young Entrepreneur of the Year Award; Ranked #14 largest REP by KEMA	Signed multi- year supply agreement with Shell Energy; Launched mass market Green products with National and Regionally sourced REC's	Expanded offerings beyond energy- successfully launched LPC Solutions	Online Enrollment launched	Expanded Beyond Commodity, offering Energy Efficiency / Management Services	Online Enrollment & Field Sales Expand into Texas	Expanded renewable energy offerings to include Community Solar benefits	Signed new multi-year energy supply agreement with Mitsubishi subsidiary
Entered Maine and Rhode Island; exceeded 100,000 business locations; 274 employees	Entered Ohio, Residential market expansion								

# Liberty Power's Vision and Mission

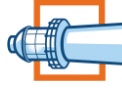
EXHIBIT A-13

## Vision

To be the leading provider of smart, connected, and sustainable energy solutions in our communities.

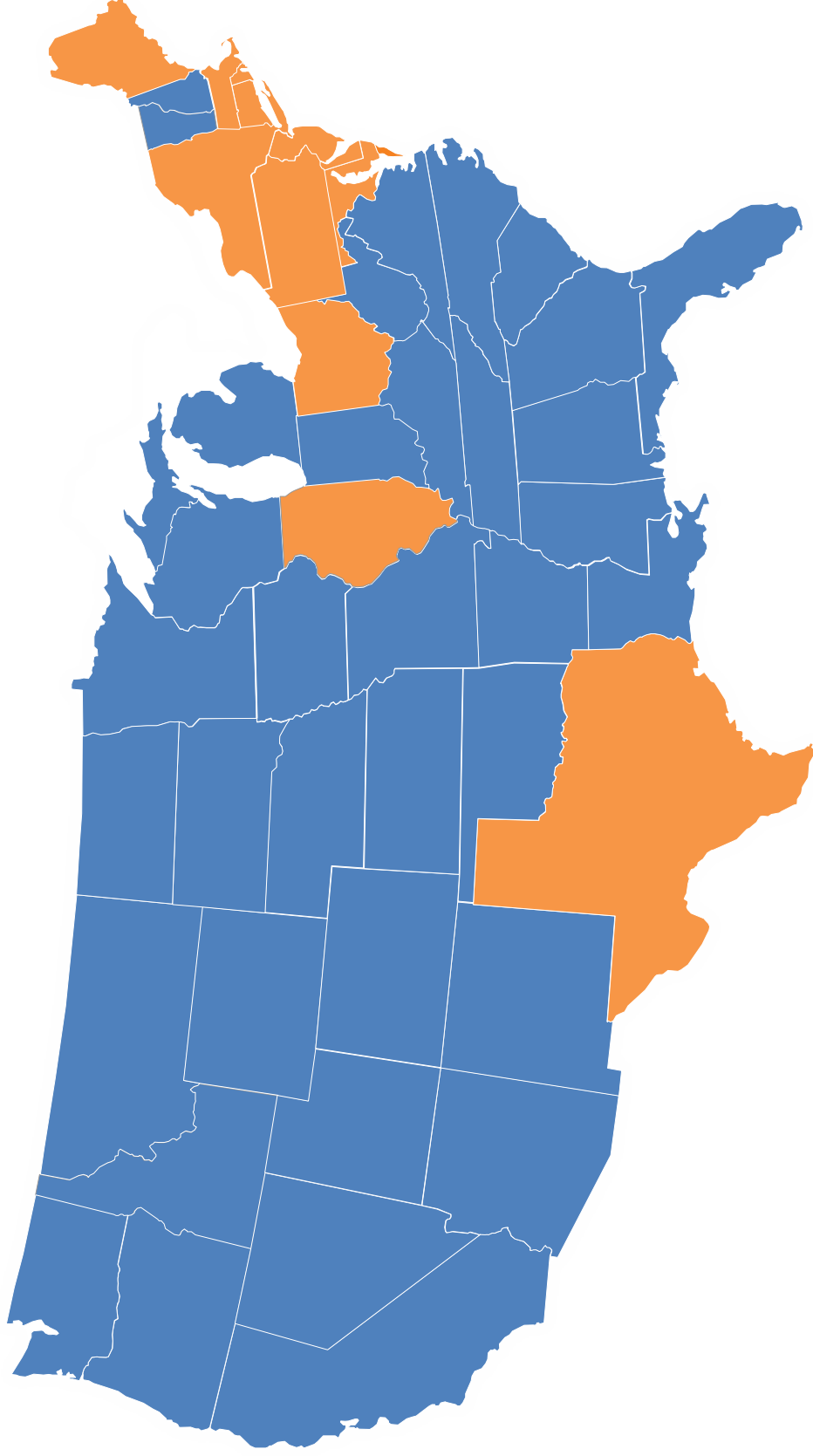
## Mission

To provide customers with comprehensive energy solutions and an exceptional customer experience.

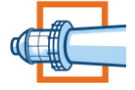


**LibertyPower™**  
Powerful Together

# Liberty Power's National Footprint



Liberty Power Existing Markets



**LibertyPower™**  
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**EXHIBIT A-14**

**“Secretary of State”**

Please see the attached information from the Ohio Secretary of State.



## BUSINESS DETAILS & FILINGS

[Close](#)

### Business Details

Entity #:	1659373	Business Name:	LIBERTY POWER DELAWARE LLC
Filing Type:	FOREIGN LIMITED LIABILITY COV	Status:	Active
Original Filing Date:	11/08/2006	Exp. Date:	-

### AGENT/REGISTRANT INFORMATION

CORPORATE CREATIONS NETWORK, INC.  
 119 E. COURT STREET  
 CINCINNATI OH 45202  
 05/15/2007  
 Active

Business ID Theft  
Protect Yourself

**Sign up to receive e-mail notifications of any changes or updates made to this business entity.**

### FILINGS

Filing Type	Date of Filing	Document ID	Download Image to PDF
REGISTRATION OF FOREIGN LIMITED LIABILITY CO	11/08/2006	200631300250	<a href="#">Download Image</a>
AGENT ADDRESS CHANGE/LIMITED/LIABILITY/PARTNERS	05/15/2007	200713700888	<a href="#">Download Image</a>

**EXHIBIT B-1****“Jurisdictions of Operation”****Liberty Power Corp and Subsidiaries**

<b>State</b>	<b>Issuer</b>	<b>LPH</b>	
		<b>License #</b>	<b>Date Granted</b>
CA	Public Utilities Commission (E)	1372	6/28/2007
CT	Department of Public Utility Control (E)	06-12-07	2/16/2007
DC	Public Service Commission (E)	N/A	7/13/2006
DE	Public Service Commission (E)	7149	4/4/2007
IL	Commerce Commission (E)	07-0187	3/18/2007
ME	Public Utilities Commission (E)	2006-684	1/30/2007
MD	Public Service Commission (E)	IR-957	3/7/2007
MA	Department of Public Utilities (E)	CS-057	4/10/2007
MI	Public Service Commission (E)	U-15139	4/24/2007
NJ	Board of Public Utilities (E)	EE06110827L	2/7/2007
NJ	Board of Public Utilities (NG)	EE116090877L	12/12/2016
NY	Department of Public Service (E)	N/A	12/13/2006
OH	Public Utilities Commission (E)	07-137(1)	2/16/2007
PA	Public Utility Commission (E)	A-110175	4/11/2008
RI	Division of Public Utilities and Carriers (E)	D-96-6 (I3)	3/6/2006
TX	Public Utility Commission (E)	33339	11/17/2006
VA	State Corporation Commission (E)	PUE-2006-00124	4/10/2007

## **EXHIBIT B-2**

### **“Experience & Plans”**

Liberty Power has been selling electricity in U.S. deregulated markets since 2002. Customers will be acquired through telemarketing, energy broker relationships and direct sales. Liberty Power intends to contract Sales Channels for phone or for visits to prospective small/ medium-sized business customers; company representatives will contact large commercial/industrial and public sector prospects. Liberty Power intends to also contract Sales Channels to conduct residential sales in certain markets through door-to-door visits and phone calls. If the authorized person accepts the rate and terms presented, the enrollment process will begin.

Liberty Power does not plan to enroll customers until they have met the following qualifications:

- 1) Written authorization or Third Party Verified verbal authorization is provided.
- 2) A welcome letter is sent from Liberty Power. The customer will have a rescission period based on regulatory requirements.

Billing will be managed through an internal proprietary system as well as a contracted Third-Party billing partner. Liberty Power intends to utilize Utility Consolidated Billing as available; if dual or direct billing is required, Liberty Power has a Third-Party billing partner.

All inquiries will be directed to the Liberty Power in-house Customer Care team, via toll-free phone, fax or email. This team, as well as new representatives, will receive initial entry and on-going training to ensure a high level of industry and regulatory knowledge and attention to meeting customer needs. Customer Care tracking metrics will be regularly assessed by management to ensure compliance with expected customer service levels.

Liberty Power will also maintain a Quality Assurance team that will monitor Sales Channel calls and visits, verify Third-Party Verbal Verifications and will manage any escalation in complaints. It is our policy to pro-actively manage all customer services to significantly reduce the possibility of complaints and to handle every customer concern seriously. Reporting from this team will also be reviewed by management.

### **EXHIBIT B-3**

#### **“Disclosures of Liabilities and Investigation for the Liberty Power Companies”**

##### **Massachusetts:**

1. On June 5, 2015, Liberty Power received a Civil Investigation from the office of the Massachusetts Attorney General requiring the Company to produced documents relating to its marketing and sales practices in Massachusetts. The Company has been cooperating with the AGO and has responded to all requests for information. Discovery is completed, and the Company is actively working with the AG to resolve this matter.

##### **Connecticut:**

1. PURA Docket No. 06-12-07RE05: On April 9, 2014, the State of Connecticut Public Utilities Regulatory Authority (“PURA”) reopened the Company’s licensing docket “for the limited purpose of reviewing Liberty Power’s recent re-billing of customers”. The matter pertains to the Company’s attempt to back-bill 286 commercial customers whose fixed term contracts had expired but due to a system malfunction were not being billed at the contractual roll-over variable rate. Liberty Power canceled the back-billing and communicated that fact to PURA and the customers. Customers that may have received an inappropriate invoice (based on PURA’s back-billing rules) were promptly sent a corrected invoice. Nevertheless, PURA conducted hearings regarding this matter, and on August 9, 2016, 2016 issued a Reconsidered Decision imposing a Civil Penalty in the amount of \$60,500.00. The Company appealed that Decision to the Superior Court for the Judicial District of New Britain. On December 28, 2017, the Superior Court issued a Final Decision, dismissing the appeal in part, and remanding to PURA on the issue of damages and utility reimbursements. In its Reopening Decision, dated March 28, 2018, PURA upheld the civil penalty but revised the utility reimbursements to reflect their April 2014 rates.
2. PURA Docket No. 06-12-07RE07: On September 7, 2017, PURA further reopened the Company’s licensing docket to investigate allegations regarding the Company’s sales and marketing practices.

Following discovery and hearings, on July 31, 2019, the Connecticut Public Utilities Regulatory Authority (“PURA”) issued a final decision in this matter that assessed the Company a one million five hundred thousand dollars (\$1,500,000) civil penalty, among other sales and marketing related obligations.

Liberty Power disagreed with PURA's final decision and filed an action in Superior Court, captioned as *Liberty Power Holdings, LLC v. Public Utilities Regulatory Authority*, Docket No. HHB-CV19-6054568-S, before the Judicial District of New Britain (the "*Liberty Power Superior Court Action*"). In the interest of resolving the *Liberty Power Superior Court Action*, and without admitting each other's respective positions, and to ameliorate the risks of litigation, the parties entered into a Settlement Agreement.

As full compliance of the civil penalty assessed in PURA’s final decision dated July 31, 2019, and in order to resolve the Liberty Power Superior Court Action, Liberty Power agreed to pay the amount of

seven hundred fifty thousand dollars (\$750,000) to the General Fund of the State of Connecticut in two (2) installments, with the second payment of \$500,000 due on July 6, 2020.

#### **New York:**

1. On April 15, 2013, the New York Attorney General's office (the "NYAG") issued a subpoena requesting certain documents concerning Liberty Power's residential door to door marketing practices in New York State. Liberty fully cooperated with the NYAG's subpoena, including by providing responsive documents and regularly communicating with the NYAG in response to its questions. On March 26, 2014, the NYAG provided Liberty with a draft settlement agreement titled Assurance of Discontinuance (draft "AOD"). The Company and the NYAG have now agreed to the terms of an AOD and have executed the AOD, pursuant to which the Company, without admitting liability, agreed, among other things, to make a restitution payment in the amount of \$550,000, to be paid in three installments, the last of which was made on April 15, 2019.

#### **Pennsylvania:**

1. Docket No. M-2019-2568471: On January 27, 2017, the Pennsylvania Public Utility Commission, after the Company's self-reporting of the termination of one of its third-party sales channels for engaging in fraudulent marketing activities, opened an informal investigation regarding six customer complaints of unauthorized switching and the presentation of pricing information on the Company's contract documents. On June 11, 2019, the Commission and the Company entered into a settlement agreement. Under this agreement, the Commission acknowledged the Company's self-reporting the fraudulent switching activities of a field sales channel which the Company terminated promptly upon becoming aware of its unlawful activities. Had this matter been litigated, as the settlement states, Liberty Power would have denied all of the violations alleged by the Commission, but instead, pursuant to the Commission's policy of encouraging settlements that are reasonable and in the public interest, agreed to settle by paying a civil penalty of \$82,800. The Company is awaiting a final approval of the Settlement Agreement.

#### **Illinois:**

1. On May 7, 2019, the Illinois AG initiated an investigation of the Company concerning potential "deceptive marketing practices in the sale of retail electricity supply in the State of Illinois". The Company has been providing information to the AGO in response to a subpoena for document production as well as responding to interrogatories. Liberty has been cooperating with the AG. On February 18, 2020, without notice to the Company, the AG filed a Complaint and a Motion for a Temporary Restraining Order (TRO) against the Company in the Circuit Court of Cook County, Illinois. The company vigorously denies the alleged wrongdoing and has hired counsel. At a hearing on February 20, the Court denied the State's request for a TRO. The matter is continuing, and the Company believes it is in compliance with the Illinois Commerce Commission consumer protection rules, which were revised and effective as of January 1, 2020.

**EXHIBIT B-6**

**“Environmental Disclosure”**

Liberty Power Delaware intends to rely on the environmental disclosure template and environmental information (regional) available from the Public Utilities Commission of Ohio.

## **EXHIBIT C-1**

### **“Financial Reporting”**

Liberty Power Delaware LLC is an independent, privately-held company. As such, the company is not required to submit 10-K/8-K SEC filings.



**EXHIBIT C-2**

**“Financial Statements”**

This Exhibit contains confidential information and is being submitted under seal.

**EXHIBIT C-3**

**“Forecasted Financial Statements”**

This Exhibit contains confidential information and is being submitted under seal.

## **EXHIBIT C-4**

### **“Credit Rating”**

Liberty Power Delaware LLC is an independent, privately-held company. As such, Liberty Power Delaware LLC does not have a credit rating, nor does its parent or affiliates which are also privately-held.

**EXHIBIT C-5**

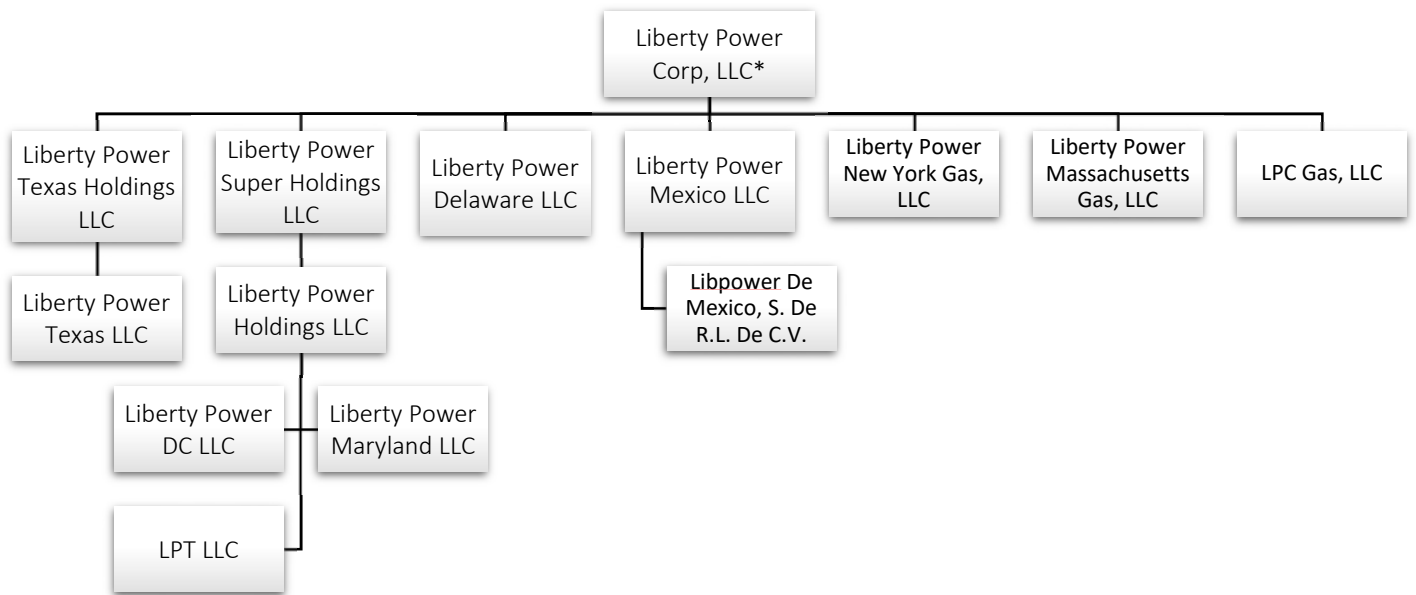
**“Credit Report”**

This Exhibit contains confidential information and is being submitted under seal.

**EXHIBIT C-8**

**“Corporate Structure”**

**Liberty Power Corp LLC  
Organizational Structure**



**EXHIBIT C-9**

**“Financial Arrangements”**

This Exhibit contains confidential information and is being submitted under seal.

## **EXHIBIT D-1**

### **“Operations”**

Liberty Power Delaware LLC intends to service customers by the same team of professionals that have supported all Liberty Power operating companies since 2002. As such, Liberty Power Delaware LLC will maintain capabilities to comply with all scheduling, operating, planning, reliability, customer registration and settlement policies, rules, guidelines, and procedures established by the PUCO.

Liberty Power Delaware LLC intends to purchase capacity and reserves, or other ancillary services as may be required by PJM ISO or other independent organization to provide adequate electricity to all of Liberty Power Delaware LLC's customers in its certified areas.

Liberty Power Delaware LLC intends to purchase all capacity, reserve and other ancillary service requirements, either through bilateral purchases with qualified wholesalers, or directly from PJM. Liberty Power Delaware LLC will satisfy all PJM credit/collateral requirements for direct purchases of the same.

## **EXHIBIT D-2**

### **“Operations Expertise”**

Founded in Houston in 2001, Liberty Power began serving retail electricity customers in 2002. Liberty Power was certified by the Federal Energy Regulatory Commission (FERC) in 2003 to market wholesale electricity nationally. Liberty Power is profitable, liquid, and has no debt. We have a proven track record with customers such as the Department of Defense, Department of Homeland Security, and companies like NY Life, JCPenney, and Ryder and now serve approximately more than 144,000 customers. Liberty Power has operations in California, Connecticut, Delaware, Washington DC, Illinois, Maine, Maryland, Massachusetts, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, and Texas.

Please also see EXHIBIT A-13.



**“Liberty Power Principal Bios”**

**Derik Viner, President**

- Twenty-three years of industry experience in energy management including nine at the Liberty Power companies; has previously led a number of roles in the Companies, including Business Strategy, Marketing Operations, Sales Analytics and Competitive Intelligence
- Prior to joining the Liberty Power companies, held various leadership positions in sales, pricing and structuring, and in risk management at Constellation New Energy, San Diego Gas & Electric and AES New Energy
- Bachelor of Arts from Johns Hopkins University; Completed Masters course work in Energy and Mineral Resource Management at the University of Texas in Austin

**Renato Corrales, SVP Wholesale Supply & Risk Management**

- Twenty-three years of business experience, including 17 at the Liberty Power companies, within the Wholesales and Finance areas.
- Prior experience includes Equity Research at Swiss-Re within investment banking arm of Fox Pitt, Kelton and Morgan Stanley.
- Post Graduate degree in Organizational Leadership from the University of Oxford in progress; MBA in Finance and Accounting from New York University, Stern School of Business.

**Shane McDonald, SVP, Operations and Technology.**

- Leads areas of Operations, including: enrollment, credit, collections, learning and development, compliance, sales audit, quality assurance, and customer care at the Liberty Power companies.
- Prior experience includes 20 years in retail energy operations, and related technology and consulting, including many years with TXU, Entrust and Direct Energy.
- Shane has been with the Liberty Power companies as a full-time employee for over a year. In this short time, he has made remarkable progress in improving a wide range of operations performance metrics, including building out EMITE dashboard reporting and creating Operational monthly business metric review as well as implementing several new technologies and capabilities, such as an SMS communication channel for our customers.

**EXHIBIT D-3**

**“FERC Power Marketer Authorization”**

Please see the attached authorization from the Federal Energy Regulatory Commission.

EXHIBIT D-3

FEDERAL ENERGY REGULATORY COMMISSION  
Washington, D.C. 20426

Liberty Power Maine LLC  
Liberty Power New Jersey LLC  
Liberty Power Rhode Island LLC  
Liberty Power Massachusetts LLC  
Liberty Power Illinois LLC  
Liberty Power Montana LLC  
Liberty Power Delaware LLC  
Liberty Power Michigan LLC  
Liberty Power Virginia LLC  
Liberty Power Arizona LLC  
Liberty Power Oregon LLC  
Liberty Power Nevada LLC  
Liberty Power New Hampshire LLC  
Liberty Power Pennsylvania LLC  
Liberty Power Ohio LLC  
Liberty Power California LLP  
Liberty Power Connecticut LLP

In Reply Refer To:  
Docket No. ER06-1147-000  
Docket No. ER06-1148-000  
Docket No. ER06-1149-000  
Docket No. ER06-1150-000  
Docket No. ER06-1151-000  
Docket No. ER06-1155-000  
Docket No. ER06-1157-000  
Docket No. ER06-1156-000  
Docket No. ER06-1158-000  
Docket No. ER06-1159-000  
Docket No. ER06-1161-000  
Docket No. ER06-1166-000  
Docket No. ER06-1167-000  
Docket No. ER06-1168-000  
Docket No. ER06-1170-000  
Docket No. ER06-1172-000  
Docket No. ER06-1173-000  
**July 14, 2006**

Mr. Alberto Daire  
COO  
Liberty Power Entities  
800 West Cypress Creek Road  
Suite 330  
Fort Lauderdale, Florida 33309

Reference: Market-Based Rate Authorization

Dear Mr. Daire:

Pursuant to the authority delegated to the Director, Division of Tariffs and Market Development - West, under 18 C.F.R. § 375.307, your submittals filed in the referenced dockets are accepted for filing, effective June 29, 2006, as requested.<sup>1</sup>

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<sup>1</sup> Only the following sheets are accepted: Liberty Power Maine, LLC, Rate Schedule FERC No. 1, Original Sheet Nos. 1-2, Liberty Power New Jersey LLC, Rate Schedule FERC No. 1, Original Sheet Nos. 1-2, Liberty Power Rhode Island LLC, Rate Schedule FERC No. 1, Original Sheet Nos. 1-2, Liberty Power Massachusetts LLC, Rate

## EXHIBIT D-3

Docket No. ER06-1147-000, *et al.*

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On June 19, 2006, June 20, 2006, June 22, 2006, and June 23, 2006, you filed on behalf of the above-captioned entites (Liberty Power Entities) applications for market-based rate authority, with accompanying rate schedules. The proposed market-based rate schedules provide for the sale of energy and capacity at market-based rates. The Liberty Power Entities also request waivers commonly given to similar market-based rate applicants.

You state that the Liberty Power Entities are located in Fort Lauderdale, Florida and intend to act as power marketers. You also state that the Liberty Power Entities do not own or operate any generation facilities nor are they affiliated with an entity that owns or controls generation. You further state that the Liberty Power Entities do not own or control any transmission facilities and therefore do not have transmission market power. You state that the Liberty Power Entities are unable to erect barriers to entry and they are not affiliated with a public utility with a franchised electric service territory, so no affiliate abuse concerns exist.

Your filings were noticed on June 23, 2006, and June 26, 2006, with comments, protests or interventions due on or before June 29, 2006, July 3, 2006, and July 5, 2006. None was filed.

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Schedule FERC No. 1, Original Sheet Nos. 1-2, Liberty Power Illinois LLC, Rate Schedule FERC No. 1, Original Sheet Nos. 1-2, Liberty Power Montana LLC, Rate Schedule FERC No. 1, Original Sheet Nos. 1-2, Liberty Power Delaware LLC, Rate Schedule FERC No. 1, Original Sheet Nos. 1-2, Liberty Power Michigan LLC, Rate Schedule FERC No. 1, Original Sheet Nos. 1-2, Liberty Power Virginia LLC, Rate Schedule FERC No. 1, Original Sheet Nos. 1-2, Liberty Power Arizona LLC, Rate Schedule FERC No. 1, Original Sheet Nos. 1-2, Liberty Power Oregon LLC, Rate Schedule FERC No.1, Original Sheet Nos. 1-2. Liberty Power Nevada LLC, Rate Schedule FERC No. 1, Original Sheet Nos. 1-2, Liberty Power New Hampshire LLC, Rate Schedule FERC No. 1, Original Sheet Nos. 1-2 Liberty Power Pennsylvania LLC, Rate Schedule FERC No. 1, Original Sheet Nos. 1-2, Liberty Power Ohio LLC, Rate Schedule FERC No. 1, Original Sheet Nos. 1-2, Liberty Power California LLP, Rate Schedule FERC No. 1, Original Sheet Nos. 1-2 and Liberty Power Connecticut LLP, Rate Schedule FERC No. 1, Original Sheet Nos. 1-2. With regard to the market behavior rules, the Commission issued an order rescinding market behavior rules 2 and 6, effective February 27, 2006. *Investigation of Terms and Conditions of Public Utility Market-Based Rate Authorizations*, 114 FERC ¶ 61,165 (2006). The Commission also adopted a final rule codifying market behavior rules 1, 3, 4 and 5 in the Commission's regulations, effective February 27, 2006. *Conditions for Public Utility Market-Based Rate Authorization Holders*, Order No. 674, 71 Fed. Reg. 9,695 (Feb. 27, 2006), 114 FERC ¶ 61,163 (2006). See *Cantor Fitzgerald Brokerage, L.P.*, 114 FERC ¶ 61,239 (2006).

EXHIBIT D-3

Docket No. ER06-1147-000, *et al.* 3

**Market-Based Rate Authorization**

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>2</sup>

Based on your representations, your submittals satisfy the Commission's requirements for market-based rates regarding generation market power, transmission market power, other barriers to entry, and affiliate abuse.

**Other Waivers, Authorizations and Reporting Requirements**

Your request for waiver of Subparts B and C Part 35 of the Commission's regulations requiring the filing of cost-of-service information, except for sections 35.12(a), 35.13(b), 35.15 and 35.16 is granted. Your request for waiver of Part 41, Part 101, and Part 141 of the Commission's regulations concerning accounting and reporting requirements is granted with the exception of 18 C.F.R. §§ 141.14 and 141.15.<sup>3</sup> Notwithstanding the waiver of the accounting and reporting requirements here, the Liberty Power Entities are expected to keep their accounting records in accordance with generally accepted accounting principles.

You request blanket authorization under Part 34 of the Commission's regulations for all future issuances of securities and assumptions of liability. A separate notice will be published in the Federal Register following this letter order establishing a period during which protests may be filed. Absent a request to be heard within the period set, you are 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

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<sup>2</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).

<sup>3</sup> *Citizens Energy Corp.*, 35 FERC ¶ 61,198 (1986); *Citizens Power and Light Corp.*, 48 FERC ¶ 61,210 (1989) (*Citizens Power*); *Enron Power Marketing, Inc.*, 65 FERC ¶ 61,305 (1993), *order on reh'g*, 66 FERC ¶ 61,244 (1994) (*Enron*). 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).



## EXHIBIT D-3

Docket No. ER06-1147-000, *et al.*

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such issue or assumption is for some lawful object within the corporate purposes of the Liberty Power Entities, compatible with the public interest, and reasonably necessary or appropriate for such purposes.<sup>4</sup>

Your request for waiver of the full requirements of Part 45 of the Commission's regulations is denied. The Commission has stated that it no longer grants waivers of the full requirements of Part 45 in orders granting market based rate authority.<sup>5</sup>

Consistent with the procedures the Commission adopted in Order No. 2001, you 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>6</sup> Electric Quarterly Reports must be filed quarterly no later than 30 days after the end of the reporting quarter.<sup>7</sup> Accordingly, the Liberty Power Entities must file their first Electric Quarterly Report no later than 30 days after the first quarter that the Liberty Power Entities' rate schedules are in effect.

Order No. 652 requires that you 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.<sup>8</sup>

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<sup>4</sup> *Citizens Power*, 48 FERC ¶ 61,210; *Enron*, 65 FERC ¶ 61,305.

<sup>5</sup> See *Commission Authorization to Hold Interlocking Positions*, Order No. 664, 112 FERC ¶ 61,298 at P 34, FERC Stats. & Regs. ¶ 31,194 (2005) ("[W]e intend to no longer grant waivers of the full requirements of [P]art 45 in our orders granting market-based rate authority. Rather, persons seeking to hold interlocking positions will be required henceforth to comply with the full requirements of [P]art 45").

<sup>6</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/docs-filing/eqr.asp>.

<sup>7</sup> The exact dates for these reports are prescribed in 18 C.F.R. § 35.10b. 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.

<sup>8</sup> *Reporting Requirement for Changes in Status for Public Utilities with Market-Based Rate Authority*, Order No. 652, 70 Fed. Reg. 8,253 (Feb. 18, 2005), FERC Stats. &

EXHIBIT D-3

Docket No. ER06-1147-000, *et al.*

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Your updated market power analysis is due within three years of the date of this order. The Commission has stated it reserves the right to require such an analysis at any time.<sup>9</sup>

This action does not constitute approval of any service, rate, charge, classification, or any rule, regulation, or practice affecting such rate or service provided for in the filed documents; nor shall such action be deemed as recognition of any claimed contractual right or obligation affecting or relating to such service or rate; and such acceptance is without prejudice to any findings or orders which have been or may hereafter be made by the Commission in any proceeding now pending or hereafter instituted by or against any of the applicant(s).

This order constitutes final agency action. Requests for rehearing by the Commission may be filed within 30 days of the date of issuance of this order, pursuant to 18 C.F.R § 385.713.

Questions regarding the above order should be directed to:

Federal Energy Regulatory Commission  
Attn: Michelle Barnaby  
Phone: (202) 502- 8407  
Office of Energy Markets and Reliability  
888 First Street, N.E., EM-5.6  
Washington, D.C. 20426

Sincerely,

Steve P. Rodgers, Director  
Division of Tariffs and Market  
Development - West

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Regs. ¶ 31,175, *order on reh'g*, 111 FERC ¶ 61,413 (2005).

<sup>9</sup> See, e.g., *Duke/Louis Dreyfus Energy Services (New England) L.L.C.*, 75 FERC ¶ 61,165 (1996); *Western Resources, Inc.*, 94 FERC ¶ 61,050 (2001).

**This foregoing document was electronically filed with the Public Utilities**

**Commission of Ohio Docketing Information System on**

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**in**

**Case No(s). 06-1387-EL-CRS**

Summary: Application to Renew Competitive Retail Electric Service (CRES) Provider Certification electronically filed by Mrs. Gretchen L. Petrucci on behalf of Liberty Power Delaware LLC