



DIS Case Number: 21-0577-EL-CRS

Section A: Application Information

Section B: Applicant Managerial Capability and Experience

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..

File Attached

Section C: Applicant Financial Capability and Experience

Section D: Applicant Technical Capacity



Public Utilities
Commission

Application Attachments

Exhibit B-3

Disclosure of Liabilities and Investigations

1. BP Energy Company (BPEC) entered into a settlement that was approved by the PUC of Texas on 1/12/12 resolving ancillary service provider obligations under ERCOT protocols in Docket No. 39963. Further information can be obtained at the PUCT website (www.puc.texas.gov).
2. The FERC issued an Order to Show Cause and Notice of Proposed Penalty on 8/5/13 to BP Energy Company and other BP entities in FERC Docket No. IN13-15, relating to alleged market manipulation of the next-day fixed price natural gas market at Houston Ship Channel from mid-September through November 30, 2008 in violation of 18 CFR 1c.1 and section 4A of the Natural Gas Act. On 5/15/14, the FERC voted to send the allegations of market manipulation against BP to administrative hearing, preliminarily rejecting arguments BP made that the agency did not have jurisdiction to pursue the case. BP America Inc. 147 FERC ¶ 61,130 (2014). The hearing before an administrative law judge concluded 4/15/15. An initial decision was issued 8/13/15, ruling that BP manipulated the market by selling next-day fixed price natural gas at Houston Ship Channel in 2008 to suppress the Gas Daily Index and benefit its financial position. BP filed an appeal to the initial decision with the FERC on 9/14/15. On 7/11/16 the FERC issued an Order affirming the initial decision and directing BP to pay a civil penalty of \$20.16 million and to disgorge \$207,169 in unjust profits. Opinion No. 549, BP America Inc., 156 FERC ¶ 61,031 (2016). On 8/10/16 BP filed a request for rehearing with the FERC of Opinion No. 549. On September 9, 2016, BP filed with the U.S. Court of Appeals for the Fifth Circuit in case No. 16-60624 a petition for review of certain determinations deemed final in Opinion No. 549. On 12/17/20, FERC issued its Order Addressing Arguments Raised on Rehearing, 173 FERC ¶ 61,239, Opinion No. 549-A, (2020). Opinion No. 549-A denied BP's request for rehearing of Opinion No. 549 and further directed BP: (1) pay to the United States Treasury by a wire transfer a sum of \$20.16 million in civil penalties within 30 days; and (2) disgorge an amount of \$207,169 within 30 days. BP notified FERC on December 28, 2020, it paid the civil penalty and on January 19, 2021 it paid the disgorgement amount per Opinion No. 549-A under protest and with full reservation of rights pending the outcome of judicial review. On 2/4/21, BP filed with the U.S. Court of Appeals for the Fifth Circuit in case No. 21-60083 a petition for review challenging Opinion No. 549-A in all respects, including the payment directives contained therein. On 2/11/21, the U.S. Court of Appeals for the Fifth Circuit consolidated the appeals in case No. 16-60624 and case No. 21-60083.
3. The California ISO (CAISO) notified BPEC on 11/22/13 of a sanction for violating the Inaccurate or Late Actual Settlement Quality Meter requirements for the trading days of 7/10/2012 and 7/11/2012. BPEC paid a sanction of \$2000.
4. The California ISO (CAISO) notified BPEC on 6/25/13 of a sanction for violating the Inaccurate or Late Actual Settlement Quality Meter requirements for the trading days of 6/11 to 6/22/2012. BPEC paid a sanction of \$15,000.
5. The California ISO (CAISO) notified BPEC on 3/9/15 of a sanction for violation of the Inaccurate or Late Actual Settlement Quality Meter requirements for the trading days of 5/25/2014 to 5/27/2014. BPEC paid a sanction of \$3,000.
6. The California ISO (CAISO) notified BPEC on March 25, 2019 of a sanction of \$3000 for violating the Inaccurate or Late Actual Settlement Quality Meter requirements for the trading days of 2/2/2018 through 2/4/2018.
7. BPEC and certain BP entities, including its ultimate parent, BP p.l.c. (collectively BP), received notice 11/28/12 that the United States Environmental Protection Agency (EPA) temporarily suspended BP from entering into new federal government contracts. The temporary suspension was issued in EPA Case No. 12-0295-00, et. al., following BP Exploration and Production Company's entry into a plea agreement

with the United States Department of Justice relating to the Deepwater Horizon accident, oil spill and response. BP entered into an administrative agreement with the EPA on 3/13/14 resolving all matters related to the suspension and debarment. As a result of the agreement, BP is eligible to enter into new contracts with the U.S. Federal Government again.

8. The California Attorney General filed a notice in California state court on 11/4/14 that it was intervening in a previously-sealed California False Claims Act lawsuit filed by relator Christopher Schroen against BP p.l.c., BP Energy Company, BP Corporation North America Inc., BP Products North America Inc., and BP America Production Company. On January 7, 2015, the Attorney General filed a complaint in intervention alleging that BP violated the False Claims Act and the California Unfair Competition Law by falsely and fraudulently overcharging California state entities for natural gas. The relator's complaint makes similar allegations, in addition to individual claims. In January 2018 the parties reached a settlement pursuant to which BP, while denying liability, agreed to pay \$102 million to the state of California.

9. BP Energy Company (BPEC) entered into a settlement with ICE Futures U.S. (IFUS) effective September 30, 2015 relating to alleged violations of IFUS rules pertaining to wash trades and block trading relating to an April 11, 2013 transaction. BPEC neither admitted nor denied the rule violation. BPEC paid a penalty of \$12,500 and agreed to cease and desist from future violations of Rules 4.02(c) and 4.07(a)(iii).

10. The U.S. Commodity Futures Trading Commission (CFTC) filed a complaint against BP Products North America Inc. (BPPNA) and others in the United States District Court for the Northern District of Illinois, alleging that in February and March 2004 BPPNA manipulated the price of February 2004 TET propane and attempted to manipulate the price of April 2003 TET propane. On 10/25/07, BPPNA entered into a Consent Order For Permanent Injunction with the CFTC resolving all civil enforcement matters concerning the company's propane and gasoline trading in Civil Action No. 06-C-3503, U.S. District Court, Northern District of Illinois, Eastern Division

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

5/18/2021 1:14:13 PM

in

Case No(s). 21-0577-EL-CRS

Summary: In the Matter of the Application of BP Energy Retail LLC