

170 FERC ¶ 61,080
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Neil Chatterjee, Chairman;
Richard Glick and Bernard L. McNamee.

Bolt Energy Marketing, LLC

Docket No. ER20-660-000

ORDER REQUIRING PRODUCTION OF MATERIAL PURSUANT TO A
PROTECTIVE AGREEMENT

(Issued February 4, 2020)

1. On December 20, 2019, Bolt Energy Marketing, LLC (Bolt Energy Marketing) filed an application for authorization under section 205 the Federal Power Act¹ to make wholesale sales of electric energy, capacity, and certain ancillary services at market-based rates. Bolt Energy Marketing requested confidential treatment of certain portions of the application containing descriptions of its upstream ownership.

2. As discussed below, we order Bolt Energy Marketing to provide Public Citizen with the privileged portions of the market-based rate application within five days of the date of this order.

I. Notice of Filing and Responsive Pleadings

3. Notice of Bolt Energy Marketing's December 20, 2019 filing was published in the *Federal Register*,² with interventions and protests due on or before January 10, 2020. On December 30, 2019, Public Citizen filed a motion to intervene. On January 13, 2020, Public Citizen filed a protest concerning Bolt Energy Marketing's failure to respond to Public Citizen's multiple requests for the complete application.

4. Public Citizen states that on December 30, 2019, Public Citizen sent, via email to the four addresses listed for Bolt Energy Marketing on the FERC eService list, a signed copy of the non-disclosure agreement for access to the privileged parts of the application. Public Citizen states that it never received any response. Public Citizen states that it sent a second email on January 8, 2020, reminding Bolt Energy Marketing of its obligation to

¹ 16 U.S.C. § 824d (2018).

² 84 Fed. Reg. 71,915 (2019).

respond to the original December 30, 2019 request within five days. Public Citizen states that it again received no response.³

II. Discussion

5. Section 388.112(a) of the Commission's regulations permits any person filing a document with the Commission to request privileged treatment for some or all of the information contained in the document that the filer claims is exempt from the mandatory public disclosure requirements of the Freedom of Information Act.⁴ Section 388.112(b) provides that a filer requesting privileged treatment must: (1) include a justification for requesting privileged treatment; (2) designate the document as privileged; and (3) submit a public version of the document with the information that is claimed to be privileged material redacted, to the extent practicable.⁵ In addition, when such material is filed in a proceeding to which a right to intervene exists (as is the case here), the filer is required to include a proposed form of protective agreement with the filing.⁶

6. Section 388.112(b) further provides that any person who is a participant in the proceeding or has filed a motion to intervene in the proceeding may make a written request to the filer for the complete, non-public version of the document. The request must include an executed copy of the protective agreement. A filer, or any other person, may file an objection to such disclosure.⁷ If no objection to disclosure is filed, the filer must provide a copy of the complete, non-public document to the requesting person within five days after receipt of the written request that is accompanied by an executed copy of the protective agreement. If an objection to disclosure is filed, the filer shall not provide the non-public document to the person or class of persons identified in the objection until ordered by the Commission or a decisional authority.⁸

7. Public Citizen has complied with section 388.112 of the Commission's regulations because it filed a motion to intervene and signed the protective agreement included with Bolt Energy Marketing's application. No one, including Bolt Energy Marketing, filed a timely objection to disclosure. Thus, Public Citizen should be granted access to the

³ Public Citizen's January 13 Protest at 1.

⁴ 18 C.F.R. § 388.112(a) (2019).

⁵ 18 C.F.R. § 388.112(b)(1).

⁶ 18 C.F.R. § 388.112 (b)(2)(i).

⁷ 18 C.F.R. § 388.112(b)(2)(iii).

⁸ 18 C.F.R. § 388.112(b)(2)(iv).

complete, non-public version of the application as governed by the terms of the protective agreement. Accordingly, we order Bolt Energy Marketing to provide Public Citizen with a complete, un-redacted copy of Bolt Energy Marketing's market-based rate application within five days of the date of this order. In addition, Bolt Energy Marketing must inform the Commission, within five days thereafter, of the date on which Bolt Energy Marketing provided an un-redacted copy of the market-based rate application to Public Citizen.

The Commission orders:

(A) Within five days after the issuance of this order, Bolt Energy Marketing shall provide a complete, un-redacted copy of Bolt Energy Marketing's market-based rate application to Public Citizen pursuant to the terms of the executed Protective Agreement, as required by section 388.112(b)(2) of the Commission's regulations.

(B) Bolt Energy Marketing is hereby directed to inform the Commission, within five days thereafter, of the date that it provided an un-redacted copy of the market-based rate application to Public Citizen.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.