

136 FERC ¶ 61,210  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;  
Marc Spitzer, Philip D. Moeller,  
John R. Norris, and Cheryl A. LaFleur.

The Detroit Edison Company	Docket Nos. ER11-4042-000
Gratiot County Wind LLC	ER11-4048-000
Gratiot County Wind II LLC	ER11-4049-000

ORDER CONDITIONALLY ACCEPTING AGREEMENT FOR FILING AND  
GRANTING WAIVERS

(Issued September 27, 2011)

1. In this order, the Commission conditionally accepts the Amended and Restated Assignment, Co-Tenancy, and Shared Facilities Agreement (Shared Facilities Agreement)<sup>1</sup> filed by The Detroit Edison Company (Detroit Edison), Gratiot County Wind LLC (Gratiot I) and Gratiot County Wind II LLC (Gratiot II) (collectively, the Applicants), subject to the Applicants submitting a compliance filing, as discussed below. Further, we grant the Applicants' requests for waivers of the requirements under Order Nos. 888,<sup>2</sup> 889,<sup>3</sup> and 890,<sup>4</sup> and section 35.28,<sup>5</sup> Part 37,<sup>6</sup> and Part 358 of the Commission's regulations.<sup>7</sup>

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<sup>1</sup> Consistent with eTariff procedures on filing joint rate schedules, each party filed the Shared Facilities Agreement in a separate docket. The Shared Facilities Agreement, filed by Detroit Edison in Docket No. ER11-4042-000, is designated as Detroit Edison's FERC Electric Rate Schedule No. 43. Gratiot I filed the same Shared Facilities Agreement in Docket No. ER11-4048-000 and designated it as Gratiot I's FERC Electric Rate Schedule No. 1. Gratiot II filed the same Shared Facilities Agreement in Docket No. ER11-4049 and designated it as Gratiot II's FERC Electric Rate Schedule No. 1.

<sup>2</sup> *Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Services by Public Utilities; Recovery of Stranded Costs by Public Utilities and Transmitting Utilities*, Order No. 888, FERC Stats. & Regs. ¶ 31,036 (1996), *order*

(continued...)

## I. Background

2. Gratiot I<sup>8</sup> states that it is developing, and will construct, own and operate a wind-powered electric generation facility with expected capacity of up to 110.4 megawatts (MW) located in Gratiot County, Michigan (Gratiot I Project).<sup>9</sup> The Gratiot I Project will

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*on reh'g*, Order No. 888-A, FERC Stats. & Regs. ¶ 31,048, *order on reh'g*, Order No. 888-B, 81 FERC ¶ 61,248 (1997), *order on reh'g*, Order No. 888-C, 82 FERC ¶ 61,046 (1998), *aff'd in relevant part sub nom. Transmission Access Policy Study Group v. FERC*, 225 F.3d 667 (D.C. Cir. 2000), *aff'd sub nom. New York v. FERC*, 535 U.S. 1 (2002).

<sup>3</sup> *Open Access Same-Time Information System and Standards of Conduct*, Order No. 889, FERC Stats. & Regs. ¶ 31,035 (1996), *order on reh'g*, Order No. 889-A, FERC Stats & Regs. ¶ 31,049, *reh'g denied*, Order No. 889-B, 81 FERC ¶ 61,253 (1997).

<sup>4</sup> *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, FERC Stats. & Regs. ¶ 31,241, *order on reh'g*, Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 (2007), *order on reh'g*, Order No. 890-B, 123 FERC ¶ 61,299 (2008) *order on reh'g*, Order No. 890-C, 126 FERC ¶ 61,228 (2009), *order on clarification*, Order No. 890-D, 129 FERC ¶ 61,126 (2009).

<sup>5</sup> 18 C.F.R. § 35.28 (2011).

<sup>6</sup> 18 C.F.R. Part 37 (2011).

<sup>7</sup> 18 C.F.R. Part 358 (2011); *Standards of Conduct for Transmission Providers*, Order No. 2004, FERC Stats. & Regs. ¶ 31,155 (2003), *order on reh'g*, Order No. 2004-A, FERC Stats. & Regs. ¶ 31,161, *order on reh'g*, Order No. 2004-B, FERC Stats. & Regs. ¶ 31,166, *order on reh'g*, Order No. 2004-C, FERC Stats. & Regs. ¶ 31,172 (2004), *order on reh'g*, Order No. 2004-D, 110 FERC ¶ 61,320 (2005), *vacated and remanded as it applies to natural gas pipelines sub nom. National Fuel Gas Supply Corp. v. FERC*, 468 F.3d 831 (D.C. Cir. 2006); *see Standards of Conduct for Transmission Providers*, Order No. 690, FERC Stats. & Regs. ¶ 31,237, *order on reh'g*, Order No. 690-A, FERC Stats. & Regs. ¶ 31,243 (2007); *see also Standards of Conduct for Transmission Providers*, Order No. 717, FERC Stats. & Regs. ¶ 31,280 (2008), *order on reh'g*, Order No. 717-A, FERC Stats. & Regs. ¶ 31,297, *order on reh'g*, Order No. 717-B, 129 FERC ¶ 61,123 (2009), *order on reh'g*, Order No. 717-C, 131 FERC ¶ 61,045 (2010).

<sup>8</sup> Gratiot I is an indirect subsidiary of Invenergy Investment Company LLC.

<sup>9</sup> Gratiot I Transmittal Letter at 2-3.

be interconnected to transmission facilities owned by Michigan Electric Transmission Company, LLC (METC) and under the operational control of Midwest Independent Transmission System Operator, Inc. (MISO). Gratiot I's facilities will consist of: (1) an approximately five mile 138 kV power line and associated poles, conductors, insulators, buswork, two 123 kV transformers, a 138 kV substation and other related equipment that will connect the Gratiot I Project to METC's transmission system (Generator-Tie Line Facilities); and (2) certain 34.5 kV collection lines and related equipment that will connect Gratiot I's wind generation facilities to the Generator-Tie Line Facilities (Gratiot Collection Lines).<sup>10</sup> Gratiot I states that it is an exempt wholesale generator (EWG).<sup>11</sup>

3. Gratiot I further states that it may transfer up to six wind turbines with an expected capacity of up to 9.6 MW to Gratiot II (Gratiot II Project).<sup>12</sup> If such transfer occurs, the Gratiot I Project will decrease by the amount of generation capacity of the transferred facilities, which will be owned and operated by Gratiot II. The Gratiot II Project would also be interconnected with METC's transmission system through Gratiot II's facilities, which will consist of: (1) certain collection lines and related equipment that are part of the Gratiot Collection Lines that Gratiot I transfers to Gratiot II and that will connect the Gratiot II Project to the Generator-Tie Line Facilities; and (2) an undivided joint ownership interest in Generator-Tie Line Facilities that Gratiot II may acquire pursuant to the Shared Facilities Agreement.<sup>13</sup> Gratiot I and Gratiot II state that each company has filed, concurrently with this filing, an application for market-based rate authority.<sup>14</sup>

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<sup>10</sup> *Id.* at 3.

<sup>11</sup> *Id.* at 3. Gratiot I states that it filed a notice of self-certification for EWG status on January 26, 2011 in Docket No. EG11-49-000 and received a Notice of Effectiveness in Docket No. EG11-49-000 (April 13, 2011). Gratiot I explains that, concurrently with its filing, it has separately filed in Docket No. EG11-49-000 a notice of change in material fact with the Commission with respect to changes in size of its project and related matters. *See id.* n.5.

<sup>12</sup> *Id.* at 2. Gratiot II is also an indirect subsidiary of Invenergy Investment Company LLC.

<sup>13</sup> Gratiot II Transmittal Letter at 3.

<sup>14</sup> Gratiot I Transmittal Letter at 3; Gratiot II Transmittal Letter at 3. *See* Docket Nos. ER11-4044-000 (Gratiot I), ER11-4046-000 (Gratiot II).

Gratiot II states that, concurrent with this filing, it has filed a notice of self-certification for EWG status with the Commission.<sup>15</sup>

4. Detroit Edison states that it is developing, and will own and operate a wind-powered electric generation facility with an expected capacity of up to 102.4 MW located in Gratiot County, Michigan (Detroit Edison Project).<sup>16</sup> The Detroit Edison Project will be interconnected to METC's transmission system through: (1) underground 34.5 kV electrical circuits, step-up transformers and junction boxes that run between the wind turbine generators and terminate at the point at which they connect to the Generator-Tie Line Facilities (Detroit Edison Project Collection System); and (2) an undivided joint ownership interest in Generator-Tie Line Facilities that Gratiot II may acquire pursuant to the Shared Facilities Agreement. The Detroit Edison Project will be interconnected to transmission facilities owned by METC and under the operational control of MISO at the same point of interconnection as the Gratiot I and Gratiot II Projects.<sup>17</sup>

5. The Applicants state that the Shared Facilities Agreement memorializes the terms and conditions of the joint ownership arrangements associated with the planned development of the Gratiot I Project, the Gratiot II Project and the Detroit Edison Project (the Projects). According to the Applicants, pursuant to the Shared Facilities Agreement, certain portions of the Generator-Tie Line Facilities will be owned jointly by all of the Applicants, while other portions of the Generator-Tie Line Facilities will be jointly owned only by Gratiot I and Gratiot II.<sup>18</sup>

6. The Shared Facilities Agreement provides that the actual costs associated with the operation and maintenance of the Generator-Tie Line Facilities and real property will be shared on the basis of the respective owners' pro rata ownership interests.<sup>19</sup> The Applicants state that the cost-sharing arrangements will be implemented, and the pro rata allocation adjusted, as each of the Applicants acquires its interest in the jointly-owned interconnection facilities.<sup>20</sup> The Applicants assert that, because the Shared Facilities

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<sup>15</sup> Gratiot II Transmittal at 3. *See* Docket No. EG11-105-000.

<sup>16</sup> Detroit Edison Transmittal Letter at 3.

<sup>17</sup> *Id.* at 4.

<sup>18</sup> *See* Shared Facilities Agreement §§ 2.1, 6.1(a) and Exhibit D.

<sup>19</sup> Shared Facilities Agreement §§ 6.2, 6.1(a).

<sup>20</sup> Shared Facilities Agreement §§ 6.1(a) and (b). In addition, the Shared Facilities Agreement also provides that, if any future transfers of ownership occur, such transfers

Agreement provides only for the pass-through of actual costs based on each owner's pro rata ownership interests, these terms are consistent with joint ownership or shared facility agreements previously accepted by the Commission.<sup>21</sup> The Shared Facilities Agreement provides that Gratiot II and Detroit Edison's acquisition of joint ownership may not occur at the same time and, therefore, the pro rata allocation will be reset when each acquisition occurs to reflect the actual ownership interests as they change.<sup>22</sup>

7. Under the Shared Facilities Agreement, Invenergy Services LLC (Invenergy) "will simply provide [operation and maintenance] services to the [Applicants] for their jointly-owned facilities, including the Generator-Tie Line Facilities, subject to the [Applicants'] direction and approval."<sup>23</sup> The Applicants represent that, while Invenergy is a party to the Shared Facilities Agreement, it will not own or operate jurisdictional facilities or sell power at wholesale, and therefore, the services Invenergy will provide are not subject to the Commission's jurisdiction.<sup>24</sup>

8. The Shared Facilities Agreement further establishes a net revenue loss calculation methodology (loss methodology) that will be used as the basis for indemnification and reimbursement of losses suffered by a party to the Shared Facilities Agreement if its facilities are disconnected or its power deliveries are curtailed due to the operation, maintenance or construction of another of the parties' facilities.<sup>25</sup> The Applicants assert

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will be based on the actual capital costs incurred by the transferor. *Id.* at §§ 6.1(a) and (c). The Applicants add that, if either Detroit Edison or Gratiot II requires access to the Generator-Tie Line Facilities prior to obtaining their joint ownership interest (e.g., to deliver test energy), access will be provided at no charge up until the time the company becomes responsible for its pro rata share of costs applicable to its shared facilities. *Id.* §§ 5.1 and 6.2.

<sup>21</sup> Detroit Edison Transmittal Letter at 7 (citing, e.g., *Grand Ridge Energy*, 128 FERC ¶ 61,134 (2009) (*Grand Ridge*); *Amergen Vermont LLC*, 90 FERC ¶ 61,307 (2000)).

<sup>22</sup> Shared Facilities Agreement § 6.1(b).

<sup>23</sup> Detroit Edison Transmittal Letter at 6; Shared Facilities Agreement at Recital L.

<sup>24</sup> Gratiot I Transmittal Letter at 6 (citing *Duke Energy Corp.*, 97 FERC ¶ 61,177 (2001)); Gratiot II Transmittal Letter at 6 (same); Detroit Edison Transmittal Letter at 6 (same).

<sup>25</sup> Shared Facilities Agreement §§ 2.6, 5.5 and 8.4 through 8.6.

that the loss methodology provides only for reimbursement of the curtailed Applicants' actual lost revenues, without mark up or other fees.<sup>26</sup> Moreover, according to the Applicants, the loss methodology satisfies the Commission's requirements for pricing the energy component of such losses, by reflecting actual prices reported by MISO for the relevant period.<sup>27</sup> In addition, the Shared Facilities Agreement states that should a Shared Facilities Agreement party incur costs in order to support another Shared Facilities Agreement party's compliance with other agreements or to execute and deliver documents required by another Shared Facilities Agreement party, the supporting Shared Facilities Agreement party shall be reimbursed for its actual costs.<sup>28</sup>

9. Pursuant to the Shared Facilities Agreement, each Applicant's rights and obligations will not become effective until the "Operative Date," i.e., the date that the Commission accepts the Shared Facilities Agreement in this proceeding and various other statutory requirements are satisfied.<sup>29</sup> Hence, the Applicants request that the Commission accept the Shared Facilities Agreement for filing, to become effective as of the Operative Date. To the extent the Operative Date occurs less than 60 days from the date of this filing, the Applicants request waiver of the Commission's 60-day prior notice

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<sup>26</sup> Gratiot I Transmittal Letter at 8; Gratiot II Transmittal Letter at 8; Detroit Edison Transmittal Letter at 8.

<sup>27</sup> Gratiot I Transmittal Letter at 8 (citing *Brownsville Power I, LLC*, 111 FERC ¶ 61,398, at P 10 (2005)); Gratiot II Transmittal Letter at 8 (same (2005)); Detroit Edison Transmittal Letter at 8 (same (2005)).

<sup>28</sup> Shared Facilities Agreement §§ 8.6 and 17.9.

<sup>29</sup> Some or all of the Applicants must also be granted: (1) exempt wholesale generator status; (2) Commission authorization under section 203 of the Federal Power Act (FPA) to transfer ownership interests in jurisdictional facilities contemplated under the Shared Facilities Agreement; (3) market-based rate authority under section 205 of the FPA for the sale of power at wholesale; (4) waivers of the Commission's accounting and related reporting requirements under Parts 41, 101 and 141 of the Commission's regulations; and (5) blanket authorization to issue securities or assume liabilities under Part 34 of the Commission regulations. Shared Facilities Agreement § 12.1 and definition of "Operative Date" in Appendix A of the Shared Facilities Agreement.

requirement.<sup>30</sup> In accordance with Order No. 614,<sup>31</sup> each Applicant commits to making a filing within 10 days of the Operative Date to revise its rate schedule to include the actual FERC rate schedule effective date.<sup>32</sup>

10. The Applicants further request waivers of certain requirements under Order Nos. 888, 889, and 890 and the Commission's Standards of Conduct regulations. In support of their requests, the Applicants assert that the Generator-Tie Line Facilities constitute limited, discrete facilities, constructed for the sole purpose of delivering power generated by each Applicant's wind generation facilities to the MISO-controlled transmission grid and do not form an integrated transmission grid.<sup>33</sup> The Applicants further contend that the Generator-Tie Line Facilities are the type of limited, discrete interconnection facilities for which the Commission routinely grants waiver of its open access requirements unless and until the owner of such facilities receives a request for transmission service.<sup>34</sup>

## II. Notice of Filing

11. Notices of the filings were published in the *Federal Register*, 76 Fed. Reg. 43,681 (2011), with interventions or protests due on or before August 3, 2011. METC filed a timely motion to intervene in each filing, raising no substantive issues. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2011), the timely, unopposed motion to intervene serves to make METC a party to this proceeding.

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<sup>30</sup> 18 C.F.R. § 35.3 (2011). The Applicants state that waiver is consistent with *Central Hudson Gas & Electric Corp.*, 60 FERC ¶ 61,106, *order on reh'g*, 61 FERC ¶ 61,089 (1992) because the Shared Facilities Agreement provides for a new service and has been filed before the proposed effective date.

<sup>31</sup> *Designation of Electric Rate Schedule Sheets*, Order No. 614, 65 FR 18221 (Apr. 7, 2000), FERC Stats. and Regs. ¶ 31,096 (2000).

<sup>32</sup> Gratiot I Transmittal Letter at 9 (citing *Grand Ridge*, 128 FERC ¶ 61,134); Gratiot II Transmittal Letter at 9 (citing *Grand Ridge*, 128 FERC ¶ 61,134); Detroit Edison Transmittal Letter at 9 (citing *Grand Ridge*, 128 FERC ¶ 61,134).

<sup>33</sup> Gratiot I Transmittal Letter at 11; Gratiot II Transmittal Letter at 11; Detroit Edison Transmittal Letter at 10.

<sup>34</sup> Gratiot I Transmittal Letter at 11 (citing *Black Creek Hydro Inc.*, 77 FERC ¶ 61,232, at 61,940-1 (1996) (*Black Creek*)); Gratiot II Transmittal Letter at 11 (same); Detroit Edison Transmittal Letter at 10 (same).

### III. Discussion

12. The Commission finds the terms and conditions of the Shared Facilities Agreement to be just and reasonable and not unduly discriminatory or preferential. Accordingly, we will conditionally accept the proposed Shared Facilities Agreement, to become effective as of the Operative Date, subject to a further compliance filing, as discussed below.

13. As the Applicants commit to do, we will require them to submit a compliance filing, within 10 days of the Operative Date, revising each of the FERC rate schedules to reflect the effective date of the Shared Facilities Agreement (i.e., the Operative Date), in accordance with Order No. 614. To the extent that the effective date (i.e., the Operative Date) happens to be earlier than 60 days from the date that the proposed Shared Facilities Agreement was submitted for filing, we will grant the Applicants' requests for waiver of the Commission's 60-day notice requirement.

14. As mentioned above, the Applicants also seek waiver of certain requirements under Order Nos. 888, 889, and 890 and section 35.28, Part 37, and Part 358 of the Commission's regulations. In support of their requests for waiver, the Applicants state that the Generator-Tie Line Facilities are designed, constructed, and used solely for the purpose of interconnecting the Gratiot I Project, Gratiot II Project, and Detroit Edison Project to METC's transmission system. They further contend that the Generator-Tie Line Facilities do not comprise an integrated transmission system.

15. The Commission will grant the Applicants' requested waivers. Order Nos. 888 and 890 and section 35.28 of the Commission's regulations require public utilities that own, control, or operate facilities used for the transmission of electric energy in interstate commerce to file an OATT. Order Nos. 889 and Part 37 of the Commission's regulations require public utilities to establish and maintain an Open Access Same-Time Information System (OASIS), and Order Nos. 889, 2004, and 717, and Part 358 of the Commission's regulations<sup>35</sup> require public utilities to abide by certain standards of conduct.<sup>36</sup> In prior orders, the Commission has enunciated the standards for waiver of, or exemption from, some or all of the requirements of Order Nos. 888, 889, and 890.<sup>37</sup> The Commission has stated that the criteria for waiver of the requirements of Order No. 890 and Order

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<sup>35</sup> 18 C.F.R. Part 358 (2011).

<sup>36</sup> Order No. 889, FERC Stats. & Regs. ¶ 31,035 at 31,590; Order No. 2004, FERC Stats. & Regs. ¶ 31,155 at P 16; Order No. 717, FERC Stats. & Regs. ¶ 31,280 at P 313.

<sup>37</sup> See, e.g., *Black Creek*, 77 FERC at 61,941; *Entergy Mississippi, Inc.*, 112 FERC ¶ 61,228, at P 22 (2005) (*Entergy*).

No. 2004 are unchanged from those used to evaluate requests for waiver under Order No. 888 and Order No. 889.<sup>38</sup> Order No. 717 did not change those criteria.<sup>39</sup>

16. The Commission may grant requests for waiver of the obligation to file an OATT to public utilities that can show that they own, operate, or control only limited and discrete transmission facilities (facilities that do not form an integrated transmission grid), until such time as the public utility receives a request for transmission service.

17. The Commission has also determined that waiver of the requirement to establish an OASIS and abide by the Standards of Conduct would be appropriate for a public utility if the applicant: (1) owns, operates, or controls only limited and discrete transmission facilities (rather than an integrated transmission grid); or (2) is a small public utility that owns, operates, or controls an integrated transmission grid, unless it is a member of a tight power pool, or other circumstances are present that indicate that a waiver would not be justified.<sup>40</sup> The Commission has held that waiver of Order No. 889 will remain in effect until the Commission takes action in response to a complaint to the Commission that an entity evaluating its transmission needs could not get the information necessary to complete its evaluation (for OASIS waivers) or an entity complains that the public utility has unfairly used its access to information about transmission to benefit the utility or its affiliate (for Standards of Conduct waivers).<sup>41</sup>

18. Based on the Applicants' representations, we find that the Generator Tie-Line Facilities are limited and discrete facilities that do not constitute an integrated transmission system for the purpose of the waiver analysis considered in this order. The Generator Tie-Line Facilities were built exclusively to deliver the power generated by the Gratiot I, Gratiot II and Detroit Edison Projects and the Applicants will only utilize the

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<sup>38</sup> See *Alcoa Power Generating Inc.*, 120 FERC ¶ 61,035, at P 3 (2007); *Alcoa Power Generating Inc.*, 108 FERC ¶ 61,243, at P 27 (2004).

<sup>39</sup> See Order No. 717, FERC Stats. & Regs. ¶ 31,280 at P 31-33.

<sup>40</sup> *Black Hills Power, Inc.*, 135 FERC ¶ 61,058, at P 3 (2011) (*Black Hills*). As we explained in *Black Hills*, membership or non-membership in a tight power pool is no longer a factor in this determination. Additionally, as we stated in *Black Hills*, size is not relevant to whether waivers are granted to public utilities that participate in a Commission-approved Independent System Operator or Regional Transmission Organization. *Id.* at P 2.

<sup>41</sup> *Entergy*, 112 FERC ¶ 61,228 at P 23 (citing *Central Minnesota Municipal Power Agency*, 79 FERC ¶ 61,260, at 62,127 (1997); *Easton Utilities Commission*, 83 FERC ¶ 61,334, at 62,343 (1998)).

facilities to interconnect with, and deliver their power to, METC's transmission system.<sup>42</sup> Accordingly, we will grant the Applicants' requests for waivers of the requirements of Order Nos. 888 and 890 to have an OATT on file.<sup>43</sup>

19. The Commission will also grant the Applicants' waivers of the requirements to maintain an OASIS and of the Standards of Conduct.<sup>44</sup>

The Commission orders:

(A) The Applicants' proposed Shared Facilities Agreement is hereby conditionally accepted for filing, subject to each Applicant submitting a compliance filing, within 10 days of the effective date of the Shared Facilities Agreement, revising each of the FERC rate schedule tariff sheets to reflect the effective date of the Shared Facilities Agreement.

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<sup>42</sup> Detroit Edison states that it does not own a transmission system and therefore is not required to have an OATT on file with the Commission. *See The Detroit Edison Company*, Docket Nos. ER10-820-000, *et al.* (May 5, 2010) (delegated letter order). Detroit Edison further states that the Commission has previously granted it waivers from the Standards of Conduct for two discrete segments of 230 kV lines located in Dearborn, Michigan. With respect to the 230 kV lines, the Commission determined that Detroit Edison owned limited and discrete transmission facilities that do not form an integrated grid. Detroit Edison Transmittal Letter at 10 (citing *High Island Offshore System, L.L.C.*, 116 FERC ¶ 61,047 (2006); *The Detroit Edison Co.*, 119 FERC ¶ 61,017 (2007)).

<sup>43</sup> However, if an Applicant receives a request for transmission service from a customer other than another Applicant, it must file with the Commission a *pro forma* OATT within 60 days of the date of the request, and must comply with any additional requirements effective on the date of the request in compliance with Order Nos. 888 and 890. *See Ashtabula Wind, LLC, LLC*, 127 FERC ¶ 61,215, at P 10 and n.16 (2009); *Terra-Gen Dixie Valley, LLC*, 132 FERC ¶ 61,215, at P 47 (2010), *order on reh'g*, 134 FERC ¶ 61,021 (2011).

<sup>44</sup> We note that the Applicants' waivers of the requirement to establish an OASIS will remain in effect until the Commission takes action in response to a complaint to the Commission that an entity evaluating its transmission needs could not get the information necessary to complete its evaluation. Likewise, the Applicants' waivers of the Standards of Conduct will remain in effect unless and until the Commission takes action on a complaint by an entity that an Applicant has unfairly used its access to information to unfairly benefit itself or its affiliate. *Entergy*, 112 FERC ¶ 61,228 at P 23 (citing *Central Minnesota Municipal Power Agency*, 79 FERC at 62,127); *Easton Utilities Commission*, 83 FERC at 62,343.

(B) The Applicants' requests for waiver of the requirements of Order Nos. 888, 889, and 890, and of section 35.28, Part 37 and the Standards of Conduct requirements of Part 358 of the Commission's regulations are hereby granted, as discussed in the body of this order.

By the Commission.

( S E A L )

Kimberly D. Bose,  
Secretary.