

136 FERC ¶ 61,209
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.

Invenergy Wind Development Michigan LLC

Docket No. ER11-4047-000

ORDER CONDITIONALLY ACCEPTING AGREEMENT FOR FILING
AND GRANTING WAIVERS

(Issued September 27, 2011)

1. In this order, the Commission conditionally accepts the Facilities Use Agreement¹ between Invenergy Wind Development Michigan LLC (Invenergy) and The Detroit Edison Company (Detroit Edison), subject to a compliance filing, as discussed below. Further, we grant Invenergy's request for waiver of the requirements under Order Nos. 888,² 889,³ and 890⁴ and section 35.28, Part 37, and Part 358 of the Commission's

¹ The Facilities Use Agreement is designated as Invenergy's FERC Electric Rate Schedule No. 1.

² *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 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).

³ *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).

⁴ *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

(Continued...)

regulations.⁵ We also grant Invenergy: (1) waiver of the filing requirements of Subparts B and C of 18 C.F.R. Part 35 (2011), except sections 35.12(a), 35.13(b), 35.15, and 35.16; (2) waiver of the accounting and related reporting requirements of 18 C.F.R. Parts 41, 101, and 141 (2011), except sections 141.14 and 141.15; and (3) blanket authorization under 18 C.F.R. Part 34 (2011) for all future issuances of securities and assumptions of liability.

I. Background

2. Invenergy⁶ states that it is developing and will construct, start-up, and test a wind generation project with expected capacity of up to 102.4 megawatts (MW) located in Gratiot County, Michigan (Detroit Edison Project) pursuant to a build-transfer contract (Build-Transfer Contract) between Invenergy and Detroit Edison.⁷ The Detroit Edison Project will consist of up to 64 wind turbine generators and associated facilities and equipment necessary for the generation of power from the Detroit Edison Project.⁸

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).

⁵ 18 C.F.R. § 35.28 (2011); 18 C.F.R. Part 37 (2011); 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).

⁶ Invenergy states that it is an indirect, wholly-owned subsidiary of Invenergy Investment Company LLC, which is in the business of developing or acquiring, through subsidiaries, electric generation facilities and associated interconnection facilities. Transmittal Letter at 3, n.1.

⁷ Transmittal Letter at 3.

⁸ *Id.*

Invenergy explains that the electric interconnection facilities will include a limited, radial collection system (Detroit Edison Project Collection System) comprised of underground 34.5 kV electrical circuits, step-up transformers, and junction boxes that will run between the wind turbine generators and terminate at a substation.⁹ Invenergy further states that the substation, to which the Detroit Edison Project Collection System will connect, will be part of a separate set of 138 kV radial interconnection facilities (Generator-Tie Line Facilities). In turn, the Generator-Tie Line Facilities will connect the Detroit Edison Project to the transmission system owned by Michigan Electric Transmission Company LLC (METC) at a switchyard owned by METC and under the operational control of Midwest Independent Transmission System Operator, Inc. (MISO).¹⁰

3. Invenergy explains that the Generator-Tie Line Facilities will initially be owned and operated by Gratiot County Wind LLC (Gratiot I), an affiliate of Invenergy that is constructing and will own and operate a separate wind generation project (Gratiot I Project) and will use the Generator-Tie Line Facilities to deliver the energy produced from its project to its wholesale power purchaser.¹¹ Detroit Edison and Gratiot County Wind II LLC (Gratiot II)¹² may acquire undivided joint ownership interests in the Generator-Tie Line Facilities needed to connect their respective wind generation projects to the METC transmission system.¹³

4. Invenergy states that, during the period the Detroit Edison Project is being constructed and Invenergy is conducting start-up and testing of the project, Invenergy will own the Detroit Edison Project Collection System and certain other elements of the Detroit Edison Project (e.g., land rights and certain project contract rights associated with the Detroit Edison Project) while Detroit Edison will own other elements of the Detroit Edison Project (e.g., wind generation turbines and associated transformer equipment and

⁹ *Id.*

¹⁰ *Id.*

¹¹ Transmittal Letter at 3, n.3.

¹² Gratiot II, an affiliate of Gratiot I, may acquire from Gratiot I and own generation facilities (Gratiot II Project) that will connect to the Generator-Tie Line Facilities. *Id.*

¹³ Gratiot I, Gratiot II and Detroit Edison have entered into a co-tenancy and shared facilities agreement that will govern their proposed potential joint ownership and use of the Generator-Tie Line Facilities. *See* Facilities Use Agreement, Recital 2; Docket Nos. ER11-4042-000, ER11-4048-000 and ER11-4049-000.

related project contract rights).¹⁴ Invenergy states that Detroit Edison will acquire title and ownership of the wind turbines and transformer equipment as such assets are delivered, which will be before their energization.¹⁵ If Invenergy owns the Detroit Edison Project Collection System during the period in which it is energized to deliver power to the transmission grid, Invenergy will transfer title to the remainder of the Detroit Edison Project to Detroit Edison, including the Detroit Edison Project Collection System, once the Detroit Edison Project is completed, pursuant to the terms of the Build-Transfer Contract or on an earlier date as may be permitted under the Build-Transfer Contract such as in the case of default (“Transfer Date”). However, if Invenergy does not obtain certain Commission approvals that are a condition to the effectiveness of the Facilities Use Agreement and necessary before Invenergy can own the energized Detroit Edison Project Collection System to provide use to Detroit Edison, Invenergy will transfer ownership of the Detroit Edison Project Collection System to Detroit Edison prior to its energization.¹⁶

5. According to Invenergy, during the period between initial connection and energization of the Detroit Edison Project to the METC transmission system (through connection with the Generator-Tie Line Facilities) and the Transfer Date (Interim Period), Detroit Edison intends to sell at wholesale into the MISO market the test power generated by the wind turbines.¹⁷ During this period, the test power will flow through the Detroit Edison Project Collection System to reach the MISO market. If Invenergy owns the Detroit Edison Project Collection System during the Interim Period, then Invenergy will permit Detroit Edison to deliver power from the Detroit Edison Project utilizing the Detroit Edison Project Collection System.¹⁸ Invenergy states that the Interim Period is expected to be a limited period of time of approximately three months.

6. Invenergy states that the Facilities Use Agreement allows Detroit Edison to connect to, and use, the Detroit Edison Project Collection System during the Interim Period when: (1) the Detroit Edison Project Collection System is available; (2) the Generator-Tie Line Facilities are available to receive energy; and (3) Detroit Edison has made all necessary scheduling arrangements with MISO for it to accept the energy and

¹⁴ Transmittal Letter at 3-4.

¹⁵ *Id.* at 4.

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*

METC's transmission facilities are available to accept the energy.¹⁹ Invenergy states that the Facilities Use Agreement provides that Invenergy will not charge Detroit Edison for using the Detroit Edison Project Collection System during the Interim Period.²⁰ Invenergy states that Detroit Edison will be responsible under the Facilities Use Agreement for any line losses on the Detroit Edison Project Collection System.²¹

7. Pursuant to the Facilities Use Agreement, each Party's rights and obligations will not become effective until the "Effective Date," i.e., the date that the Commission accepts the Facilities Use Agreement in this proceeding and other statutory requirements are satisfied.²² Hence, Invenergy requests that the Commission accept the Facilities Use Agreement for filing, to become effective as of the Effective Date. To the extent the Effective Date occurs less than 60 days from the date of this filing, Invenergy requests waiver of the Commission's 60-day prior notice requirement.²³ In accordance with Order No. 614,²⁴ Invenergy commits to make a filing within 10 days of the Effective Date to revise the rate schedule to include the actual FERC rate schedule effective date.²⁵

8. Invenergy further requests waiver of certain requirements under Order Nos. 888, 889, and 890 and the Commission's Standards of Conduct regulations. In support of its request, Invenergy asserts that the Detroit Edison Project Collection System constitutes limited, discrete facilities constructed for the sole purpose of delivering the output of energy produced by the Detroit Edison Project to the MISO transmission system and will

¹⁹ *Id.*

²⁰ Transmittal Letter at 4-5 (citing Facilities Use Agreement § 2.2).

²¹ Transmittal Letter at 5 (citing Facilities Use Agreement § 2.3).

²² Invenergy must also be granted exempt wholesale generator status. Facilities Use Agreement § 3.1 and definition of "Effective Date."

²³ 18 C.F.R. § 35.3 (2011). Invenergy states 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 Facilities Use Agreement provides for a new service and has been filed before the proposed effective date.

²⁴ *Designation of Electric Rate Schedule Sheets*, Order No. 614, 65 FR 18221 (Apr. 7, 2000), FERC Stats. and Regs. ¶ 31,096 (2000).

²⁵ Transmittal Letter at 5 (citing *Grand Ridge Energy*, 128 FERC ¶ 61,134 (2009) (*Grand Ridge*)).

not form an integrated transmission system.²⁶ Invenergy further contends that the Detroit Edison Project Collection System is the type of limited, discrete interconnection facility 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.²⁷

9. Invenergy also requests waiver of certain accounting and reporting requirements, along with rules governing issuances of securities and assumptions of liabilities.²⁸ Invenergy asserts that the Commission has granted these waivers and authorizations to owners of limited interconnection facilities, market-based rate sellers, and qualifying facilities selling at avoided cost rates because the primary purpose of such regulation is to assist the Commission in determining a public utility's cost-of-service in order to determine whether its rates are just and reasonable cost-based rates. However, where an entity is not subject to traditional cost-based regulation by the Commission, Invenergy states that these requirements are not applicable.²⁹ Invenergy further contends that the logic underlying the Commission's waiver of these requirements for market-based rate sellers and other companies owning discrete interconnection facilities similarly applies to Invenergy. Invenergy argues that no regulatory purpose would be served by subjecting Invenergy to the significant expense of maintaining its accounts in accordance with the Uniform System of Accounts and denying it the more flexible reporting requirements and authorizations that are afforded to other companies, including companies owning limited and discrete interconnection facilities, that do not provide services under traditional

²⁶ Transmittal Letter at 7.

²⁷ Transmittal Letter at 7 (citing *Black Creek Hydro Inc.*, 77 FERC ¶ 61,232, at 61,940-41 (2006) (*Black Creek*); *Grand Ridge*; *Evergreen Wind Power III, LLC*, 135 FERC ¶ 61,030 (2011); *Ashtabula Wind, LLC*, 127 FERC ¶ 61,215 (2009); *Hardee Power Partners Ltd.*, 114 FERC ¶ 61,131, at P 13, 16 (2006); *Wolverine Creek Goshen Interconnection LLC*, Docket No. ER06-267-000, (Jan. 13, 2006); *see also id.*, errata Docket No. ER06-267-000 (Jan. 27, 2006) (collectively, *Wolverine Goshen*); *Entergy Mississippi, Inc.*, 112 FERC ¶ 61,228, at P 24 (2005)).

²⁸ Transmittal Letter at 8. Invenergy has specifically requested: (1) waiver of the requirements of Parts 41, 101, and 141 with the exceptions of sections 141.14 and 141.15; (2) waiver of the reporting requirements of Subparts B and C of Part 35, except sections 35.12(a), 35.13(b), 35.15, and 35.16; and (3) blanket authorization under Part 34 of all future issuances of securities and assumptions of liability.

²⁹ Transmittal Letter at 8 (citing *Wolverine Goshen, supra*; *Energy Louisiana, Inc.*, 110 FERC ¶ 61,300 (2005); *Resources Recovery (Dade County), Inc.*, 20 FERC ¶ 61,138, at 61,301 (1982)).

cost-based rates.³⁰ Invenergy represents that it will not be selling any energy or capacity nor will it assess charges to Detroit Edison under the Facilities Use Agreement. Invenergy states that it will allow Detroit Edison to use the Detroit Edison Project Collection System during the Interim Period at no charge.³¹

10. Further, Invenergy states that consistent with the grant of waivers to an interconnection-only company in *Wolverine Goshen*, the Commission should grant Invenergy blanket authorization with respect to the issuance of securities under Part 34.³² Invenergy claims that it would be unnecessary and unduly burdensome to require Invenergy to obtain prior approval for issuance of securities under Part 34 of the Commission's regulations given that the purpose of Federal Power Act (FPA) section 204, which Part 34 implements, is to ensure the financial viability of franchised public utilities obligated to serve captive customers or obligated to provide requirements at cost-based rates.³³ Invenergy argues that the central purpose of FPA section 204 does not apply to Invenergy because it is not a franchised utility, is not obligated to serve captive customers and will not assess charges to Detroit Edison under the Facilities Use Agreement for the use of the Detroit Edison Project Collection System during the Interim Period.³⁴

II. Notice of Filing

11. Notice of Invenergy's filing was published in the *Federal Register*, 76 Fed. Reg. 43,681 (2011), with interventions or protests due on or before August 3, 2011. None were filed.

³⁰ Transmittal Letter at 8.

³¹ Transmittal Letter at 8-9.

³² Transmittal Letter at 9.

³³ Transmittal Letter at 9 (citing *Market-Based Rates for Wholesale Sales of Electric Energy, Capacity and Ancillary Services by Public Utilities*, Order No. 697, FERC Stats. & Regs. ¶ 31,252, at P 999, *clarified*, 121 FERC ¶ 61,260 (2007), *order on reh'g*, Order 697-A, FERC Stats. & Regs. ¶ 31,268, *clarified*, 124 FERC ¶ 61,055, *order on reh'g*, Order 697-B, FERC Stats & Regs. ¶ 31,285 (2008), *order on reh'g*, Order 697-C, FERC Stats. & Regs. ¶ 31,291 (2009), *order on reh'g*, Order 697-D, FERC Stats. & Regs. ¶ 31,305 (2010); *Merrill Lynch Commodities, Inc.*, 108 FERC ¶ 61,233, at P 16 (2004)).

³⁴ *Id.*

12. On July 18, 2011, the Commission issued a supplemental notice explaining that Invenergy's filing includes a request for blanket authorization under Part 34 of the Commission's rules and regulations for the future issuance of securities and assumptions of liability. This supplemental notice was separately published in the *Federal Register*, 76 Fed. Reg. 43,997 (2011), with interventions or protests due on or before August 8, 2011. None were filed.

III. Discussion

A. Facilities Use Agreement

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

14. As Invenergy commits to do, we will require it to submit a compliance filing, within 10 days of the Effective Date, revising its FERC rate schedule to reflect the effective date of the Facilities Use Agreement (i.e., the Effective Date), in accordance with Order No. 614. To the extent that the Effective Date happens to be earlier than 60 days from the date that the proposed Facilities Use Agreement was submitted for filing, we will grant Invenergy's request for waiver of the Commission's 60-day prior notice requirement.

B. Waiver of Order Nos. 888, 889 and 890, and of Requirements Concerning OASIS and Standards of Conduct

15. As explained above, Invenergy also seeks waiver of certain requirements under Order Nos. 888, 889, and 890 and section 35.8, Part 37, and Part 358 of the Commission's regulations. In support of its requests for waiver, Invenergy states that it does not own, operate, or control any transmission-related equipment other than the limited and discrete facilities interconnecting the Detroit Edison Project to METC's transmission system. Specifically, Invenergy states that its transmission facilities are designed, constructed, and used for the purpose of interconnecting the Detroit Edison Project to the METC transmission system and will not form an integrated transmission system.

16. 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 require public utilities to abide by certain standards of conduct.³⁵ 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 890.³⁶ The Commission has stated that the criteria for waiver of the requirements of Order No. 890 and Order No. 2004 are unchanged from those used to evaluate requests for waiver under Order No. 888 and Order No. 889.³⁷ Order No. 717 did not change those criteria.³⁸

17. 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.

18. 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.³⁹ 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

³⁵ 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.

³⁶ See, e.g., *Black Creek*, 77 FERC at 61,941; *Entergy Mississippi, Inc.*, 112 FERC ¶ 61,228, at P 22 (2005) (*Entergy*).

³⁷ 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).

³⁸ See Order No. 717, FERC Stats. & Regs. ¶ 31,280 at P 31-33.

³⁹ *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.* P 2.

public utility has unfairly used its access to information about transmission to benefit the utility or its affiliate (for Standards of Conduct waivers).⁴⁰

19. Based on Invenergy's representations, we find that the Detroit Edison Project Collection System constitutes limited and discrete facilities that do not constitute an integrated transmission system for the purpose of the waiver analysis considered in this order. The Detroit Edison Project Collection System was built exclusively to provide transmission service to Detroit Edison for the output of the Detroit Edison Project and Invenergy will only utilize the facilities to interconnect with, and deliver Detroit Edison's power to, METC's transmission system. Accordingly, we will grant Invenergy's request for waivers of the requirements of Order Nos. 888 and 890 to have an OATT on file.⁴¹ The Commission will also grant Invenergy's waiver⁴² of the requirements to maintain an OASIS and of the Standards of Conduct.⁴³

⁴⁰ *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)).

⁴¹ However, if Invenergy receives a request for transmission service from a customer other than Detroit Edison, 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 & n.16 (2009).

⁴² *Id.* Invenergy must notify the Commission if there is a material change in facts that affect its waiver, within 30 days of the date of such change. *Material Changes in Facts Underlying Waiver of Order No. 889 and Part 358 of the Commission's Regulations*, 127 FERC ¶ 61,141, at P 5 (2009).

⁴³ We note that Invenergy's waiver 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, Invenergy's waiver of the Standards of Conduct will remain in effect unless and until the Commission takes action on a complaint by an entity that Invenergy 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 ¶ 61,260, at 62,127 (1997)); *Easton Utilities Commission*, 83 FERC at 62,343.

C. Other Waivers, Approvals and Authorizations

20. Invenergy requests a number of other waivers and authorizations, typically granted by the Commission to entities that are not providing cost-based service, such as market-based rate sellers. In particular, Invenergy requests the following waivers and authorizations under the Commission's regulations: (1) waiver of the filing requirements of Subparts B and C of Part 35, except sections 35.12(a), 35.13(b), 35.15, and 35.16; (2) waiver of the accounting and related reporting requirements of Parts 41, 101, and 141, except sections 141.14 and 141.15; and (3) blanket authorization under Part 34 for all future issuances of securities and assumptions of liability.

21. The Commission will grant the requested waivers and authorizations for the Interim Period consistent with those waivers and authorizations granted to entities with market-based rate authorizations.⁴⁴ Notwithstanding the waiver of the accounting and reporting requirements, the Commission expects Invenergy to keep its accounting records in accordance with generally accepted accounting principles.

The Commission orders:

(A) Invenergy's proposed Facilities Use Agreement is hereby conditionally accepted for filing, subject to Invenergy submitting a compliance filing, within 10 days of the effective date of the Facilities Use Agreement, revising its FERC rate schedule tariff sheets to reflect the effective date of the Facilities Use Agreement.

(B) Invenergy's request 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 is hereby granted, as discussed in the body of this order.

(C) Waiver of the provisions of Subparts B and C of Part 35 of the Commission's regulations, with the exception of sections 35.12(a), 35.13(b), 35.15, and 35.16 is hereby granted for the Interim Period, as defined herein.

⁴⁴ It should be noted that the Commission has recently examined and approved the continued applicability of the waiver of its accounting and reporting requirements in Parts 41, 101, and 141 of the Commission's regulations, as well as the continued applicability of the blanket authorization for the issuance of securities and the assumption of liabilities. *See* Order No. 697, FERC Stats. & Regs. ¶ 31,252 at P 984-985 (regarding waiver of Parts 41, 101, and 141), 999-1000 (regarding blanket approval under Part 34).

(D) Waiver of Parts 41, 101, and 141 of the Commission's regulations, with the exception of sections 141.14 and 141.15, is hereby granted for the Interim Period, as defined herein.

(E) Blanket authorization under Part 34 of the Commission's regulations for all future issuances of securities and assumptions of liability is hereby granted for the Interim Period, as defined herein. Invenergy is hereby 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 such issue or assumption is for some lawful object within the corporate purposes of Invenergy compatible with the public interest, and reasonably necessary or appropriate for such purposes.

(F) The Commission reserves the right to modify this order to require a further showing that neither the public nor private interests will be adversely affected by continued Commission approval of Invenergy's issuance of securities or assumptions of liability.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.