

125 FERC ¶ 61,075  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;  
Sudeen G. Kelly, Marc Spitzer,  
Philip D. Moeller, and Jon Wellinghoff.

PPL Electric Utilities Corporation	Docket Nos. ER00-1712-008
	ER00-1712-009
Lower Mount Bethel Energy LLC	ER02-2408-003
	ER02-2408-004
PPL Brunner Island LLC	ER00-744-006
PPL Holtwood LLC	ER00-744-007
PPL Martins Creek LLC	
PPL Montour LLC	
PPL Susquehanna LLC	
PPL University Park LLC	
PPL EnergyPlus LLC	ER02-1327-005
	ER02-1327-006
PPL Edgewood Energy LLC	ER00-1703-003
	ER00-1703-004
PPL Shoreham Energy LLC	ER02-1749-003
	ER02-1749-004
PPL Great Works LLC	ER02-1747-003
	ER02-1747-004
PPL Maine LLC	ER99-4503-005
	ER99-4503-006
PPL Wallingford Energy LLC	ER00-2186-003
	ER00-2186-004
	ER01-1559-004
	ER01-1559-005

ORDER CONDITIONALLY ACCEPTING UPDATED MARKET POWER  
ANALYSIS AND COMPLIANCE FILING, AND DIRECTING  
FURTHER COMPLIANCE FILING

(Issued October 17, 2008)

1. In this order, the Commission conditionally accepts an updated market power analysis filed by PPL Electric Utilities Corporation (PPL Electric) and its affiliates Lower Mount Bethel Energy LLC, PPL Brunner Island LLC, PPL Holtwood LLC, PPL Martins

Creek LLC, PPL Montour LLC, PPL Susquehanna LLC, PPL University Park LLC, PPL EnergyPlus LLC (PPL EnergyPlus), PPL Edgewood Energy LLC, PPL Shoreham Energy LLC, PPL Great Works LLC, PPL Maine LLC and PPL Wallingford Energy LLC (collectively, PPL East Companies). As discussed below, the Commission concludes that, subject to the Commission's acceptance of the compliance filing directed herein, PPL East Companies continue to satisfy the Commission's standards for market-based rate authority. In this order, we direct PPL East Companies to file, within 30 days of the date of this order, a description of the sites for generation capacity development that they own or control in the PJM Interconnection, LLC (PJM) market. The Commission accepts PPL East Companies' proposed market-based rate tariff revisions to incorporate provisions as adopted in Order Nos. 697 and 697-A.<sup>1</sup>

2. Additionally, the Commission finds that PPL East Companies meet the criteria for Category 2 sellers and are so designated. PPL East Companies' next updated market power analysis must be filed according to the regional schedule adopted in Order Nos. 697 and 697-A.<sup>2</sup>

## **I. Background**

3. PPL Electric owns transmission facilities located within the PJM market. PPL Electric provides electric energy and capacity to retail customers within its service territory in central eastern Pennsylvania as a provider of last resort.

4. PPL East Companies own or control generation resources located in: (1) the PJM market, the PJM-East submarket within PJM; (2) the ISO New England, Inc. (ISO-NE) market and the Southwestern Connecticut (SWCT) submarket within ISO-NE; and (3) the New York Independent System Operator, Inc. (NYISO) market and Long Island submarket within NYISO.<sup>3</sup>

---

<sup>1</sup> *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 914-18, *clarified*, 121 FERC ¶ 61,260 (2007) (Order Clarifying Final Rule), *order on reh'g*, Order No. 697-A, FERC Stats. & Regs. ¶ 31,268 (2008).

<sup>2</sup> Order No. 697, FERC Stats. & Regs. ¶ 31,252 at P 882-93, App. D; Order Clarifying Final Rule, 121 FERC ¶ 61,260 at P 9, 10, App. D-1.

<sup>3</sup> PPL East Companies were authorized to sell electric energy and capacity at wholesale at market-based rates in *Pennsylvania Power & Light, Co.*, 80 FERC ¶ 61,053 (1997); *Lower Mount Bethel Energy, LLC*, Docket No. ER02-2408-000 (Sept. 18, 2002) (unpublished letter order); *Southaven Power, LLC*, 90 FERC ¶ 61,063 (2000) (market-based rate authority for PPL Brunner Island LLC, PPL Holtwood LLC, PPL Martins Creek LLC, PPL Montour LLC, and (continued...))

5. On January 14, 2008, PPL East Companies filed an updated market power analysis in accordance with the regional reporting schedule adopted in Order No. 697.<sup>4</sup> PPL East Companies also submitted revised tariff sheets to incorporate the required provisions adopted by the Commission in Order No. 697.<sup>5</sup>

6. On March 21, 2008, PPL East Companies submitted a filing stating that there was no material change to the results of its market power analysis for the PJM and PJM-East markets when they took into account the results of a simultaneous import limitation study (SIL) prepared by PJM. PPL East Companies also noted that it accidentally overstated the capacity that it attributed to PPL Holtwood, LLC.

7. On April 4, 2008, the Director, Division of Tariffs and Market Development – West, acting under delegated authority, requested additional information in relation to the updated market power analyses filed by numerous filers within PJM (PJM RTO Filers). Specifically, the request noted that the identified PJM RTO Filers had failed to provide a SIL study with their updated market power analyses as required by the Commission in Order No. 697. The April 4, 2008 request for information directed the PJM RTO Filers to provide a SIL study consistent with the requirements of Order No. 697, or in the alternative to provide a SIL study done by PJM that adequately addresses the Order No. 697 principles for how to measure transmission import capability.

8. On April 30, 2008, the PJM RTO Filers submitted a partial response to the April 4, 2008 request for information stating that PJM was submitting a SIL study for the PJM

---

PPL Susquehanna LLC); *PPL University Park, LLC*, Docket No. ER00-744-005 (Feb. 13, 2006) (unpublished letter order); *PPL Shoreham Energy, LLC, and PPL Edgewood Energy, LLC*, Docket Nos. ER02-1747-000 and ER02-1749-000 (June 28, 2000) (unpublished letter order); *PP&L EnergyPlus Co.*, 85 FERC ¶ 61,377 (1998); *Middletown Power, LLC*, 89 FERC ¶ 61,151 (1999) (market-based rate authority for PPL Great Works, LLC); *Northeast Utilities Service Co.*, 87 FERC ¶ 61,063 (1999) (market-based rate authority for PPL Maine, LLC); *PPL Wallingford Energy, LLC*, Docket No. ER01-1559-000 (May 10, 2001) (unpublished letter order).

<sup>4</sup> Order No. 697, FERC Stats. & Regs. ¶ 31,252 at P 882. The Commission stated that “both the Commission and market participants will benefit from greater data consistency that will result from regional examination of updated market power analyses and a methodical study of all sellers in the same region. This will give the Commission a more complete view of market forces in each region and the opportunity to reconcile conflicting submissions, enhancing our ability to ensure that sellers’ rates remain just and reasonable.” *See also* Order Clarifying Final Rule, 121 FERC ¶ 61,260 at P 13.

<sup>5</sup> Order No. 697, FERC Stats. & Regs. ¶ 31,252 at P 914-18.

market at the request of the PJM RTO filers and requested an extension of time to file their individual responses to the April 4, 2008 request for information.

9. On April 30, 2008, PJM filed a motion to intervene out-of-time in the above-captioned dockets and a SIL study for the entire PJM region (PJM SIL Study). On June 2, 2008, as amended on July 14, 2008, PJM filed a SIL study for the PJM-East submarket (PJM-East SIL Study).<sup>6</sup> On August 6, 2008, the Commission found in *PSEG Energy Resources & Trade LLC*, 124 FERC ¶ 61,147 (2008) (PJM SIL Order),<sup>7</sup> that the PJM SIL Study and PJM-East SIL Study meet the Commission's requirements for SIL studies as discussed in Appendix E of the April 14 Order<sup>8</sup> and Order No. 697. In the PJM SIL Order, the Commission gave the PJM RTO Filers the following three options: (1) choose to rely on the PJM SIL Study and the PJM-East SIL Study; (2) conduct sensitivity studies on the PJM SIL Study and the PJM-East SIL Study, which they would submit along with the PJM SIL Study or PJM-East SIL Study; or (3) perform their own SIL studies.<sup>9</sup>

10. On July 30, 2008, PPL East Companies submitted a notice of change in status to report PPL EnergyPlus' acquisition of the purchaser interests in a long-term tolling agreement with AES Ironwood LLC (AES Ironwood) for the output of the Ironwood generating facility owned and operated by AES Ironwood and located in Lebanon, Pennsylvania. PPL East Companies also submitted revised tariff sheets to incorporate the required provisions adopted by the Commission in Order No. 697-A.<sup>10</sup>

11. On September 2, 2008, PPL East Companies filed a revised market power analysis that incorporates the results of the PJM-East SIL Study.

---

<sup>6</sup> On June 27, 2008, PPL East Companies filed a protest to the PJM SIL Study and PJM-East SIL Study. On July 14, 2008, the FirstEnergy Operating Companies (FirstEnergy) filed an answer to the PPL East Companies' protest.

<sup>7</sup> The entire history and findings relating to the PJM SIL Study and the PJM-East SIL Study are detailed in the PJM SIL Order and are not repeated here.

<sup>8</sup> *AEP Power Marketing, Inc.*, 107 FERC ¶ 61,018, *order on reh'g*, 108 FERC ¶ 61,026 (2004).

<sup>9</sup> PJM SIL Order, 124 FERC ¶ 61,147 at P 22.

<sup>10</sup> Order No. 697-A, FERC Stats. & Regs. ¶ 31,268 at P 382-89.

## **II. Notices and Responsive Pleadings**

12. Notice of PPL East Companies' January 14, 2008 filing was published in the *Federal Register*,<sup>11</sup> with interventions or protests due on or before March 14, 2008. The PP&L Industrial Customer Alliance (PP&L Customers), PJM Industrial Customer Coalition (PJM Industrial Customers), and Montana Consumer Counsel (Montana Counsel) filed motions to intervene and protests on March 14, 2008.

13. Notices of PPL East Companies' March 21, 2008, July 30, 2008, and September 2, 2008 filings were published in the *Federal Register*,<sup>12</sup> with interventions or protests due on or before April 11, 2008, August 20, 2008, and September 23, 2008, respectively. None was filed.

## **III. Discussion**

### **A. Procedural Matters**

14. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2008), the timely, unopposed motions to intervene of PP&L Customers, PJM Industrial Customers, and Montana Counsel serve to make them parties to this proceeding.<sup>13</sup>

### **B. Market-Based Rate Authorization**

15. The Commission allows power sales at market-based rates if the seller and its affiliates do not have, or have adequately mitigated, horizontal and vertical market power.<sup>14</sup> As discussed below, the Commission concludes that PPL East Companies satisfy the Commission's standards for market-based rate authority.

---

<sup>11</sup> 73 Fed. Reg. 5,540 (2008).

<sup>12</sup> 73 Fed. Reg. 17,967 (2008); 73 Fed. Reg. 46,619 (2008); 73 Fed. Reg. 53,214 (2008).

<sup>13</sup> As noted, PJM filed a motion to intervene out-of-time in the above-captioned dockets. The Commission granted PJM's late-filed motion to intervene in the PJM SIL Order. PJM SIL Order, 124 FERC ¶ 61,147 at P 12.

<sup>14</sup> Order No. 697, FERC Stats. & Regs. ¶ 31,252 at P 62, 399, 408, 440.

## 1. Horizontal Market Power

16. The Commission adopted two indicative screens for assessing horizontal market power, the pivotal supplier screen and the wholesale market share screen.<sup>15</sup> PPL East Companies have prepared the pivotal supplier and wholesale market share screens for the ISO-NE market, the SWCT submarket, the PJM market, and the PJM-East submarket, consistent with the requirements of Order No. 697.<sup>16</sup> PPL East Companies also prepared a streamlined analysis for the NYISO market and the Long Island submarket consistent with the requirements of Order No. 697.<sup>17</sup>

### a. ISO-NE and SWCT

17. For the ISO-NE market and the SWCT submarket, PPL East Companies did not submit a SIL study but instead based their import analysis on the ISO-NE's 2006 Regional System Plan. As the Commission explained in the April 14 Order, an applicant is required to provide a reasonable approximation of simultaneous import capability that would have been available to suppliers in surrounding first-tier markets during each seasonal peak.<sup>18</sup> The Commission has concluded that the ISO-NE's 2006 Regional System Plan satisfies these requirements.<sup>19</sup>

18. PPL East Companies represent that they are not pivotal and that their market shares in the relevant geographic markets range from 0 percent to 2.4 percent. Specifically, PPL East Companies' market shares for SWCT are less than 1 percent, and range from 1.4 percent to 2.4 percent in ISO-NE.

19. Accordingly, the Commission finds that PPL East Companies pass the pivotal supplier screen and the wholesale market share screen in the ISO-NE market and SWCT submarket.

---

<sup>15</sup> *Id.* P 62.

<sup>16</sup> *Id.* P 235.

<sup>17</sup> *Id.* P 321, 337.

<sup>18</sup> *AEP Power Marketing, Inc.*, 107 FERC ¶ 61,018, at P 84 (April 14 Order), *order on reh'g*, 108 FERC ¶ 61,206 (2004). *See also Pinnacle West Capital Corp.*, 117 FERC ¶ 61,316 (2006).

<sup>19</sup> *Niagara Mohawk Power Corp.*, 123 FERC ¶ 61,175, at P 20-21 (2008).

**b. PJM and PJM-East**

20. PPL East Companies did not submit a SIL Study for the PJM market as they conservatively assumed zero competing imports into the PJM market. For the PJM-East market, PPL East Companies rely on the PJM-East SIL Study. As noted above, in the PJM SIL Order, the Commission found that the PJM-East SIL Study meets the Commission's requirements.<sup>20</sup> PPL East Companies represent that they are not pivotal and that their market shares for the PJM market range from 3.2 percent to 4.5 percent, and range from 7.7 percent to 10.5 percent in the PJM-East submarket.<sup>21</sup>

21. Accordingly, the Commission finds that PPL East Companies pass the pivotal supplier screen and the wholesale market share screen in the PJM market and PJM-East submarket.

**c. NYISO and Long Island**

22. PPL East Companies state that, during the study period, they had no uncommitted capacity located in the NYISO market or the Long Island submarket. PPL East Companies presented simplifying assumptions to demonstrate that they do not have the ability to exercise market power in those markets. Specifically, PPL East Companies compared their control of 253 MWs against the NYISO's installed capacity of 39,000 MW<sup>22</sup> to demonstrate that PPL East Companies pass the pivotal supplier screen and

---

<sup>20</sup> We recognize that PPL East Companies and FirstEnergy protested PJM's treatment of transmission reservations in conducting the SIL studies. We addressed these concerns in the PJM SIL Order, and will not discuss them further here. PJM SIL Order, 124 FERC ¶ 61,147 at P 20-22.

<sup>21</sup> In its change in status filing, PPL EnergyPlus notes that, on June 30, 2008, it acquired through a tolling agreement the output of the 664 MW-Ironwood generating facility located within the PJM market. The related disposition of jurisdictional facilities was accepted by the Commission in *PPL Energy Plus, LLC*, 123 FERC ¶ 62,170 (2008). However, PPL East Companies state that the control of additional generation associated with the tolling agreement does not affect the conditions the Commission relied upon when granting PPL East Companies market-based rate authority.

<sup>22</sup> Although PPL East Companies used NYISO's installed capacity of 39,000 MW, we compared PPL East Companies' uncommitted capacity in those markets against the NYISO's and Long Island's uncommitted capacity (19,866 MW and 2,899 MW, respectively) and find that its market shares are 1.3 percent and 0.1 percent, respectively.

market share screen in the NYISO market.<sup>23</sup> PPL East Companies similarly compared their exports into the Long Island submarket against the uncommitted capacity in that submarket to demonstrate that they pass the pivotal supplier and market share screens in the Long Island submarket.

23. Based on PPL East Companies' simplifying assumptions for the NYISO market and the Long Island submarket, the Commission finds that PPL East Companies pass the pivotal supplier screen and the wholesale market share screen in the NYISO market and the Long Island submarket.

24. Accordingly, we find that PPL East Companies satisfy the Commission's requirements for market-based rates regarding horizontal market power for all relevant markets.

## 2. Vertical Market Power

25. In cases where a public utility, or any of its affiliates, owns, operates, or controls transmission facilities, the Commission requires that there be a Commission-approved Open Access Transmission Tariff (OATT) on file before granting a seller market-based rate authorization.<sup>24</sup>

26. The Commission also considers a seller's ability to erect other barriers to entry as part of the vertical market power analysis.<sup>25</sup> The Commission requires a seller to provide a description of its ownership or control of, or affiliation with an entity that owns or controls, intrastate natural gas transportation, storage or distribution facilities; sites for generation capacity development; and sources of coal supplies and equipment for the transportation of coal supplies such as barges and rail cars (collectively, inputs to electric power production).<sup>26</sup> The Commission also requires sellers to make an affirmative

---

<sup>23</sup> In particular, PPL East Companies control via a long-term contract approximately 100 MW that is delivered into the NYISO, and further control potential exports from PJM and ISO-NE into the NYISO of 153 MW.

<sup>24</sup> Order No. 697, FERC Stats. & Regs. ¶ 31,252 at P 408.

<sup>25</sup> *Id.* P 440.

<sup>26</sup> *Id.* P 447. In Order No. 697-A, the Commission revised the definition of inputs to electric power production to include "physical coal supply sources and ownership of or control over who may access transportation of coal supplies." Order No. 697-A, FERC Stats. & Regs. ¶ 31,268 at P 176.

statement that they have not erected barriers to entry into the relevant market and will not erect barriers to entry into the relevant market.<sup>27</sup>

27. PPL Electric states that it is a member of PJM which is a Commission-approved Regional Transmission Operator with an OATT on file with the Commission.<sup>28</sup>

28. PPL East Companies state that they are affiliated with PPL Gas Utilities, which own intrastate gas transmission, distribution, and storage facilities. PPL East Companies state that PPL Gas Utilities have facilities in Pennsylvania and Maryland which are regulated by the Pennsylvania Public Service Commission (Pennsylvania Commission) and the Maryland Public Service Commission. PPL East Companies state that they are affiliated with PPL Interstate Energy Company, which owns and operates an intrastate natural gas and oil distribution system, also regulated by the Pennsylvania Commission. PPL East Companies represent that neither they nor their affiliates control undeveloped sites suitable for the development of generation capacity in the NYISO or ISO-NE markets. Additionally, PPL East Companies state that they own or control several sites in the PJM Market available for the development of new generation capacity and that they do not have the ability to prevent the siting of new generation facilities owned by their competitors. PPL East Companies state that neither they nor their affiliates control coal supplies or barges and rail cars used for the transportation of coal supplies, except as rail sets leased solely to deliver fuel for their generating plants.

29. The Commission adopted a rebuttable presumption that the ownership or control of, or affiliation with any entity that owns or controls, inputs to electric power production does not allow a seller to raise entry barriers but will allow intervenors to demonstrate otherwise.<sup>29</sup>

30. PPL East Companies affirmatively state that they have not erected barriers to entry and will not erect barriers to entry into the relevant markets.

31. PP&L Customers state that PPL East Companies fail to meet the Commission's requirements outlined in Order No. 697 for demonstrating ownership or control of sites for new generation capacity development. PP&L Customers argue that PPL East Companies did not describe the sites located in PJM that PPL East Companies own or

---

<sup>27</sup> Order No. 697, FERC Stats. & Regs. ¶ 31,252 at P 447.

<sup>28</sup> See *Pennsylvania-New Jersey-Maryland Interconnection*, 81 FERC ¶ 61,257 (1997).

<sup>29</sup> Order No. 697, FERC Stats. & Regs. ¶ 31,252 at P 446.

control and that therefore, their filing is deficient. PP&L Customers request that the Commission direct PPL East Companies to identify and describe these sites.

32. Based on PPL East Companies' representations, we find PPL East Companies' submittal conditionally satisfies the Commission's requirements for market-based rates regarding vertical market power. However, we will direct PPL East Companies to describe the sites for generation capacity development owned or controlled by PPL East Companies within the PJM market as required by Order No. 697.<sup>30</sup> We direct PPL East Companies to make a compliance filing in this regard within 30 days of the date of this order.

### **3. Other Matters**

33. The PJM Industrial Customers repeat arguments they raised on rehearing of Order No. 697 that the Commission fails to answer a threshold question of whether the PJM market rules and structure result in a competitive market for electric energy and capacity. The PJM Industrial Customers thus assert that Order No. 697 is unlawful and, therefore, the approval or continuation of a seller's market-based rate authority is unlawful. They further assert that unless and until the Commission identifies the characteristics of a competitive market and finds that such a market actually exists, the Commission cannot approve the instant request for authorization to continue making sales at market-based rates.

34. We find that the PJM Industrial Customers' arguments are improper in this proceeding. The Commission recently addressed the PJM Industrial Customers' arguments on rehearing of Order No. 697. Specifically, in Order No. 697-A, the Commission rejected the argument that Order No. 697 does not reflect reasoned decision-making because the Commission did not find the existence of a competitive market before relying on market-based rate authority.<sup>31</sup> Thus, we reject the PJM Industrial Customers' arguments here.

35. Montana Counsel requests confirmation that any Commission order accepting PPL East Companies' updated market power analysis in this filing will not provide PPL East Companies with market-based rate authority within the NorthWestern Energy Montana balancing authority or affect sales (or obligations to sell) within that area. In the alternative, Montana Counsel requests that any Commission order accepting PPL East Companies' updated market power analysis in this filing will not affect the Commission's

---

<sup>30</sup> *Id.* P 447-48.

<sup>31</sup> Order No. 697-A, FERC Stats. & Regs. ¶ 31,268 at P 407-12.

ability to provide relief, should the Court of Appeals remand the Commission's orders in Docket Nos. ER99-3491, *et al.*<sup>32</sup>

36. Montana Counsel's comments concern PPL East Companies' market power analysis in the NorthWestern Energy Montana balancing authority. However, the only region before the Commission in this proceeding is the Northeast region. We find that Montana Counsel's comments involving the NorthWestern Energy Montana balancing authority are not relevant to our analysis of the Northeast region. Montana Counsel may present arguments relating to PPL East Companies' potential market power in the NorthWestern Energy Montana balancing authority for the Commission's consideration when PPL East Companies file their updated market power analysis for that region.

### C. Affiliate Restrictions

37. PPL Electric states that it does not have captive customers, as defined by the Commission and therefore, neither it nor the other PPL Companies are subject to the affiliate restrictions contained in the Commission's regulations. PPL East Companies represent that because customers have the ability to select a retail supplier based on the rates, terms, and conditions of service offered, all customers in PPL Electric's franchised service territory have retail choice as defined by the Commission.<sup>33</sup>

38. Although the PPL East Companies represent that they lack retail captive customers, they have not addressed whether they have wholesale customers and, if so, whether those wholesale customers are adequately protected against affiliate abuse.<sup>34</sup> Accordingly, they have not demonstrated that the affiliate restrictions should not apply. Thus, pursuant to the "Compliance with Commission Regulations" provision in their

---

<sup>32</sup> *PPL Montana LLC*, 115 FERC ¶ 61,204 (2006) and *PPL Montana LLC*, 120 FERC ¶ 61,096 (2007) are on appeal before the Court of Appeals for the Ninth Circuit in *Montana Consumer Counsel v. FERC*, Docket Nos. 07-73256 and 07-73547 (9th Cir. Filed Aug. 14, 2007). In these orders, the Commission found that PPL Montana, LLC rebutted the presumption of market power in the balancing authority operated by NorthWestern Corporation and satisfied the Commission's standards for market-based rate authority.

<sup>33</sup> See Electricity Generation Customer Choice and Competition Act, 66 Pa. C.S. §§ 2801 *et. seq.* (1996); Application of Pennsylvania Power & Light Co. for Approval of its Restructuring Plan under Section 2806 of the Public Utility Code, 1998 Pa. PUC Lexis 197 (Aug. 27, 1998).

<sup>34</sup> Order No. 697, FERC Stats. & Regs. ¶ 31,252 at P 551; Order No. 697-A, FERC Stats. & Regs. ¶ 31,268 at P 201.

tariffs, PPL East Companies are required to comply with the affiliate restrictions in section 35.39 of the Commission's regulations.<sup>35</sup>

**D. Order No. 697 Compliance Filing**

39. In Order No. 697, the Commission adopted two standard required provisions that each seller must include in its market-based rate tariff: (1) a provision requiring compliance with the Commission's regulations; and, (2) a provision identifying any limitations and exemptions regarding the seller's market-based rate authority.<sup>36</sup> In addition to the required tariff provisions, the Commission adopted a set of standard provisions that must be included in a seller's market-based rate tariff to the extent that they are applicable. In Order No. 697-A, the Commission also required that each seller include in its market-based rate tariff a provision identifying which category of seller it qualifies as in each region.<sup>37</sup>

40. PPL Companies' revised market-based rate tariffs<sup>38</sup> include the Commission's two

---

<sup>35</sup> 18 C.F.R. § 35.39 (2008).

<sup>36</sup> Order No. 697-A, FERC Stats. & Regs. ¶ 31,268 at P 914.

<sup>37</sup> Order No. 697-A, FERC Stats. & Regs. ¶ 31,268 at P 391-93.

<sup>38</sup> Lower Mount Bethel Energy LLC, FERC Electric Tariff, Original Volume No. 1, Second Revised Sheet Nos. 1-2, First Revised Sheet No. 1A (superseding First Revised Sheet Nos. 1-2 and Original Sheet No. 1A); PPL Brunner Island LLC, FERC Electric Tariff, Original Volume No. 1, Second Revised Sheet Nos. 1-2, First Revised Sheet No. 1A (superseding First Revised Sheet Nos. 1-2 and Original Sheet No. 1A), PPL Holtwood LLC, FERC Electric Tariff, Original Volume No. 1, Second Revised Sheet Nos. 1-2, First Revised Sheet No. 1A (superseding First Revised Sheet Nos. 1-2 and Original Sheet No. 1A); PPL Martins Creek LLC, FERC Electric Tariff, Original Volume No. 1, Second Revised Sheet Nos. 1-2, First Revised Sheet No. 1A (superseding First Revised Sheet Nos. 1-2 and Original Sheet No. 1A); PPL Montour LLC, FERC Electric Tariff, Original Volume No. 1, Second Revised Sheet Nos. 1-2, First Revised Sheet No. 1A (superseding First Revised Sheet Nos. 1-2 and Original Sheet No. 1A); PPL Susquehanna LLC, FERC Electric Tariff, Original Volume No. 1, Second Revised Sheet Nos. 1-2, First Revised Sheet No. 1A (superseding First Revised Sheet Nos. 1-2 and Original Sheet No. 1A); PPL University Park LLC, FERC Electric Tariff, Original Volume No. 1, Third Revised Sheet No. 1, First Revised Sheet No. 1A, Second Revised Sheet No. 2 (superseding Second Revised Sheet No. 1, Original Sheet No. 1A, First Revised Sheet No. 2); PPL EnergyPlus LLC, FERC Rate Schedule No.1, Fourth Revised Sheet No. 1, First Revised Sheet No. 1A, First Revised Sheet No. 2 (superseding Third Revised Sheet No. 1, Original Sheet No. 1A, Original Sheet No. 2); PPL Edgewood

(continued...)

required provisions and a set of standard provisions regarding sales of certain ancillary services in various markets, as well as sales of ancillary services as a third-party provider. Additionally, the tariffs include the required provision concerning seller categories. We find that the PPL East Companies' revised market-based rate tariffs satisfy the Commission's requirements set forth in Order Nos. 697 and 697-A, and accept their revised market-based rate tariffs, effective September 18, 2007, as requested.

41. PPL East Companies also include in their filing a list of assets, as required by Order No. 697.<sup>39</sup>

### **E. Reporting Requirements**

42. Consistent with the procedures the Commission adopted in Order No. 2001, an entity with market-based rates 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 longer) market-based power sales during the most recent calendar quarter.<sup>40</sup> Public

---

Energy LLC, FERC Electric Tariff, Original Volume No. 1, Second Revised Sheet No. 1, First Revised Sheet No. 1A, Second Revised Sheet No. 2 (superseding First Revised Sheet Nos. 1-2, Original Sheet No. 1A); PPL Shoreham Energy LLC, FERC Electric Tariff, Original Volume No. 1, Second Revised Sheet No. 1, First Revised Sheet No. 1A, Second Revised Sheet No. 2 (superseding First revised Sheet Nos. 1-2, Original Sheet No. 1A); PPL Great Works LLC, FERC Electric Tariff, Original Volume No. 1, Second Revised Sheet Nos. 1-2 (superseding First Revised Sheet Nos. 1-2); PPL Maine LLC, FERC Electric Tariff, Original Volume No.1, Third Revised Sheet Nos. 1-2 (superseding Second Revised Sheet Nos. 1-2); PPL Wallingford Energy LLC, FERC Electric Tariff, Original Volume No. 1, Second Revised Sheet No. 1, First Revised Sheet No. 1A, Third Revised Sheet No. 2 (superseding First Revised Sheet No. 1, First Revised Sheet No. 1A, Second Revised Sheet No. 2); and PPL Electric Utilities Corporation, FERC Electric Tariff, First Revised Volume No. 5, Sixth Revised Sheet No. 1, Second Revised Sheet No. 1A, Third Revised Sheet No. 2 (superseding Fifth Revised Sheet No. 1, Second Revised Sheet No. 1A, Second Revised Sheet No. 2).

<sup>39</sup> Order No. 697, FERC Stats. & Regs. ¶ 31,252 at P 894-95.

<sup>40</sup> *Revised Public Utility Filing Requirements*, Order No. 2001, FERC Stats. & Regs. ¶ 31,127, *reh'g denied*, Order No. 2001-A, 100 FERC ¶ 61,074, *reh'g denied*, Order No. 2001-B, 100 FERC ¶ 61,342, *order directing filing*, Order No. 2001-C, 101 FERC ¶ 61,314 (2002), *order directing filing*, Order No. 2001-D, 102 FERC ¶ 61,334 (2003). Attachments B and C of Order No. 2001 describe the required data sets for contractual and transaction information. Public utilities must submit Electric

(continued...)

utilities must file Electric Quarterly Reports no later than 30 days after the end of the reporting quarter.<sup>41</sup>

43. PPL East Companies must 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>42</sup>

44. Additionally, in Order No. 697, the Commission created two categories of sellers.<sup>43</sup> Category 1 sellers are not required to file regularly scheduled updated market power analyses. Category 1 sellers are wholesale power marketers and wholesale power producers that own or control 500 MW or less of generation in aggregate per region; that do not own, operate, or control transmission facilities other than limited equipment necessary to connect individual generation facilities to the transmission grid (or have been granted waiver of the requirements of Order No. 888); that are not affiliated with anyone that owns, operates or controls transmission facilities in the same region as the seller's generation assets; that are not affiliated with a franchised public utility in the same region as the seller's generation assets; and that do not raise other vertical market power issues.<sup>44</sup> Sellers that do not fall into Category 1 are designated as Category 2 and are required to file regularly scheduled updated market power analyses.<sup>45</sup>

---

Quarterly Reports 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>41</sup> The exact filing dates for these reports are prescribed in 18 C.F.R. § 35.10b (2008). 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>42</sup> *Reporting Requirement for Changes in Status for Public Utilities with Market-Based Rate Authority*, Order No. 652, FERC Stats. & Regs. ¶ 31,175, *order on reh'g*, 111 FERC ¶ 61,413 (2005); 18 C.F.R. § 35.42 (2008).

<sup>43</sup> Order No. 697, FERC Stats. & Regs. ¶ 31,252 at P 848.

<sup>44</sup> 18 C.F.R. § 35.36(a)(2) (2008).

<sup>45</sup> Order No. 697, FERC Stats. & Regs. ¶ 31,252 at P 850.

45. Based on PPL East Companies' representations, we find that PPL East Companies meet the criteria for a Category 2 seller for the Northeast region and are so designated based on their ownership of generation totaling greater than 500 MW of capacity and ownership of transmission facilities in PJM. Thus, PPL East Companies must file an updated market power analysis for the Northeast region in compliance with the regional reporting schedule adopted in Order No. 697.<sup>46</sup> The Commission also reserves the right to require such an analysis at any intervening time.

The Commission orders:

(A) PPL East Companies are hereby directed to submit a compliance filing, to describe the sites for generation capacity development owned or controlled by PPL East Companies in the PJM market, within 30 days of the date of this order, as discussed in the body of this order.

(B) PPL East Companies' updated market power analysis is hereby conditionally accepted for filing, subject to Commission acceptance of the compliance filing directed in Ordering Paragraph (A) above, as discussed in the body of this order.

(C) PPL East Companies' revised market-based rate tariff sheets are hereby accepted for filing, effective September 18, 2007, as requested.

(D) PPL East Companies' change in status filing is hereby accepted, as discussed in the body of the order.

(E) PPL East Companies are hereby directed to file an updated market analysis according to the regional reporting schedule adopted in Order No. 697.

By the Commission.

( S E A L )

Kimberly D. Bose,  
Secretary.

---

<sup>46</sup> *Id.* P 882.