

137 FERC ¶ 61,102
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Rockland Wind Farm LLC

Docket Nos. ER11-4475-001
ER11-4475-002
ER11-4475-003

ORDER GRANTING MARKET-BASED RATE AUTHORIZATION AND REQUESTS
FOR WAIVERS

(Issued November 2, 2011)

1. In this order, the Commission grants Rockland Wind Farm LLC (Rockland Wind) authority to make wholesale sales of electric energy and capacity at market-based rates, effective October 17, 2011, as requested. Also, as discussed below, we grant Rockland Wind waiver of the requirements under Order Nos. 888¹ and 890² and section 35.28 of the Commission's regulations³ to file an Open Access Transmission Tariff (OATT), the

¹ *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).

² *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, *order on clarification*, Order No. 890-D, 129 FERC ¶ 61,126 (2009).

³ 18 C.F.R. § 35.28 (2011).

requirements under Order No. 889⁴ and Part 37 of the Commission's regulations⁵ to establish an Open Access Same-Time Information System (OASIS), and the requirements under Order Nos. 889, 2004,⁶ and 717,⁷ and Part 358 of the Commission's regulations⁸ to comply with the Standards of Conduct. We also grant Rockland Wind's request for other waivers commonly granted to market-based rate sellers.

2. Additionally, we find that Rockland Wind meets the criteria for a Category 1 seller in the Northeast, Northwest, Southeast, Southwest, Southwest Power Pool, and Central regions and is so designated.⁹

⁴ *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).

⁵ 18 C.F.R. Part 37 (2011).

⁶ *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*, Notice of Proposed Rulemaking, FERC Stats. & Regs. ¶ 32,611 (2007); Notice of Proposed Rulemaking, FERC Stats. & Regs. ¶ 32,630 (2008).

⁷ *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), *order on reh'g*, Order No. 717-D, 135 FERC ¶ 61,017 (2011).

⁸ 18 C.F.R. Part 358 (2011).

⁹ *See 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 848-850, *clarified*, 121 FERC ¶ 61,260 (2007), *order on reh'g*, Order No. 697-A, FERC Stats. & Regs. ¶ 31,268, *clarified*, 124 FERC ¶ 61,055, *order on reh'g*, Order

(continued...)

I. Background

3. On September 8, 2011, as amended on October 4, 2011, October 7, 2011, and October 11, 2011, pursuant to section 205 of the Federal Power Act (FPA),¹⁰ Rockland Wind filed an application for market-based rate authority with an accompanying tariff providing for the sale of electric energy and capacity at market-based rates. Rockland Wind states that it owns a 79.86 megawatt (MW) wind-powered electric generation facility near American Falls, Idaho located within the Idaho Power Company (Idaho Power) balancing authority area, and interconnected to the Idaho Power transmission system.¹¹ Rockland adds that the output of its facility is fully committed to Idaho Power under a long-term contract.

4. Further, Rockland Wind represents that it owns and will operate 2.5 miles of the 7.5-mile, 138 kilovolt (kV) generator tie-line that interconnects at the Brady substation in American Falls, Idaho. Rockland Wind states that Idaho Power owns the approximately 5 miles of the 138 kV generator tie-line from the Brady substation to the interconnection point with Rockland Wind, with Rockland Wind owning the remaining 2.5 miles of the tie-line from the interconnection point to the Rockland substation. Rockland Wind states that this tie-line is not a networked transmission facility, is not designed or constructed to serve as a transmission facility, and is not intended to serve as a transmission facility for third-party transmission customers.¹² For the portion of the tie-line that Rockland Wind owns, Rockland Wind requests that the Commission waive the OATT, OASIS, and Standards of Conduct requirements.

5. Rockland Wind states that it is a direct, wholly-owned subsidiary of Rockland Wind Intermediate Holdings LLC, which in turn is wholly owned by Rockland Wind Holdings LLC. Rockland Wind Holdings LLC is 50 percent owned by Rockland Wind Ridgeline Holdings LLC and 50 percent owned by Diamond Clematis LLC.

No. 697-B, FERC Stats. & Regs. ¶ 31,285 (2008), *order on reh'g*, Order No. 697-C, FERC Stats. & Regs. ¶ 31,291 (2009), *order on reh'g*, Order No. 697-D, FERC Stats. & Regs. ¶ 31,305 (2010) *aff'd sub nom. Montana Consumer Counsel v. FERC*, No. 08-71827, 2011 U.S. App. LEXIS 20724 (9th Cir. Oct. 13, 2011).

¹⁰ 16 U.S.C. § 824d (2006).

¹¹ Rockland Wind expects to first produce test power on or about October 17, 2011, and the facility is expected to be placed in service in December 2011.

¹² Rockland Wind September 8, 2011 Application at 6, n.11; October 4, 2011 Filing at 6, n.11.

6. Rockland Wind Ridgeline Holdings LLC is wholly owned by Ridgeline Alternative Energy LLC, which in turn is wholly owned by Ridgeline Energy LLC, a limited liability company formed for the purpose of developing wind energy projects. Ridgeline Energy LLC is wholly owned by Ridgeline Energy Holdings, Inc., which in turn is wholly owned by EOLFI S.A., a French Corporation. EOLFI S.A. is approximately 71.5 percent owned by Veolia Environnement S.A. (Veolia), a French corporation; 19 percent by Transvers, a French private investment corporation; and 9.5 percent by Asah Lm, a French civil partnership.

7. Diamond Clematis LLC is 80 percent owned by Diamond Generating Corporation (Diamond) and 20 percent owned by Mitsubishi International Corporation. Mitsubishi Corporation owns 100 percent of both Diamond and Mitsubishi International Corporation.

8. Rockland Wind states that, through its relationships with Veolia and Diamond, it is affiliated with various companies that own and operate electric generating facilities in the United States, although no such affiliate owns, operates, or controls electric generating facilities in the Idaho Power balancing authority area.

9. Rockland Wind represents that one of Rockland Wind's indirect owners, Ridgeline Alternative Energy LLC, has an indirect ownership interest in Wolverine Creek Goshen Interconnection LLC, which is a public utility that owns and operates an approximately 17-mile electric interconnection line located in the PacifiCorp East balancing authority area. This line connects the output of generation projects owned by Wolverine Creek Energy LLC and Goshen Phase II, LLC, an affiliate of Rockland Wind, which owns a 7-mile tie-line connecting its facility to the line. Rockland Wind states that Wolverine Creek Goshen Interconnection LLC and Goshen Phase II, LLC have been granted waivers of the Commission's open access transmission requirements.¹³

II. Notice of Filing

10. Notice of Rockland Wind's September 8, 2011 Filing was published in the *Federal Register*, 76 Fed. Reg. 57,982 (2011), with interventions and comments due on or before September 29, 2011. None was filed.

¹³ See *Wolverine Creek Goshen Interconnection LLC*, Docket No. ER06-267-000 (Jan. 13, 2006) (delegated letter order), Errata Notice, Docket No. ER06-267-000 (Jan. 27, 2006); *Goshen Phase II, LLC*, 133 FERC ¶ 61,090 (2010).

11. Notice of Rockland Wind's request for blanket authorization under Part 34 was separately published in the *Federal Register*, 76 Fed. Reg. 57,731(2011), with interventions or protests due on or before October 3, 2011. None was filed.

12. Notice of Rockland Wind's October 4, 2011 Filing was published in the *Federal Register*, 76 Fed. Reg. 63,292 (2011), with interventions and comments due on or before October 25, 2011. None was filed.

13. Notice of Rockland Wind's October 7, 2011 Filing was published in the *Federal Register*, 76 Fed. Reg. 64,938 (2011), with interventions and comments due on or before October 24, 2011. None was filed.

14. Notice of Rockland Wind's October 11, 2011 Filing was published in the *Federal Register*, 76 Fed. Reg. 64,938 (2011), with interventions and comments due on or before October 26, 2011. None was filed.

III. Determination

15. As discussed below, we will grant Rockland Wind's request for authorization to make wholesale sales of electric energy and capacity at market-based rates and Rockland Wind's request for certain waivers.

A. Market-Based Rate Authorization

16. 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.¹⁴ As discussed below, we find that Rockland Wind satisfies the Commission's standards for market-based rate authority and we will accept Rockland Wind's market-based rate tariff, effective October 17, 2011, as requested.¹⁵

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

¹⁵ We note that we are only accepting the tariff filed October 11, 2011. As a result of the way Rockland Wind submitted its filings through the eTariff filing system, the tariff filed September 8, 2011 is no longer pending but the October 4, 2011 and October 7, 2011 eTariff filings remain pending. Accordingly, we will reject Rockland Wind's October 4, 2011 and October 7, 2011 eTariff filings as moot.

1. Horizontal Market Power

17. The Commission has adopted two indicative screens for assessing horizontal market power: the pivotal supplier screen and the wholesale market share screen.¹⁶ The Commission has stated that passage of both screens establishes a rebuttable presumption that the applicant does not possess horizontal market power, while failure of either screen creates a rebuttable presumption that the applicant has horizontal market power.¹⁷

18. As stated above, Rockland Wind represents that the facility is located in the Idaho Power balancing authority area, and that the full output of the facility is committed to Idaho Power under a long-term contract. Rockland Wind states that it does not have uncommitted capacity available to sell in the Idaho Power balancing authority area and therefore cannot exercise market power in that area. Accordingly, we find that Rockland Wind satisfies the Commission's requirements for market-based rates regarding horizontal market power.

2. Vertical Market Power

19. 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 OATT on file or that the seller has received waiver of the OATT requirement before granting a seller market-based rate authorization.¹⁸

20. In this case, as discussed more fully below, the Commission will grant Rockland Wind's request for waiver of the requirement to have an OATT on file for its transmission facilities.¹⁹ In addition, as noted above, Wolverine Creek Goshen

¹⁶ Order No. 697, FERC Stats. & Regs. ¶ 31,252 at P 62.

¹⁷ *Id.* P 33, 62-63.

¹⁸ Order No. 697, FERC Stats. & Regs. ¶ 31,252 at P 408.

¹⁹ A generator lead line is a transmission facility. *See* 16 U.S.C. §§ 796(23), 824(a)-(b) (2006). Rockland Wind is subject to the requirement under Order Nos. 888 and 890 to file an OATT, or seek a waiver of the requirement to file an OATT unless and until it receives a request for transmission service. *See Milford Wind Corridor, LLC*, 129 FERC ¶ 61,149, at P 24 (2009) (noting that the fact that the facilities merely tie a generator to the grid does not render a line exempt from the Commission's regulation of transmission facilities). *See also Evergreen Wind Power III, LLC*, 135 FERC ¶ 61,030 (2011).

Interconnection LLC and Goshen Phase II, LLC have been granted waiver of the requirement to file an OATT in connection with their ownership interests in the transmission facilities described above.

21. The Commission also considers a seller's ability to erect other barriers to entry as part of the vertical market power analysis.²⁰ 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 physical coal supply sources and ownership of or control over who may access transportation of coal supplies (collectively, inputs to electric power production).²¹ The Commission also requires sellers to make an affirmative statement that they have not erected barriers to entry into the relevant market and will not erect barriers to entry into the relevant market.²² 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.²³

22. Regarding other barriers to entry, Rockland Wind represents that neither Rockland Wind nor any of its affiliates owns or controls any intrastate natural gas transportation, storage, or distribution facilities, or sources of coal supply or the transportation of coal supplies such as barges and rail cars. Rockland Wind's application includes information about its affiliation with entities that own, operate, or control potential sites for generation capacity development.

23. Finally, consistent with Order No. 697, Rockland Wind affirmatively states it and its affiliates have not and will not erect barriers to entry into the relevant market.

24. Based on Rockland Wind's representations, and our determinations discussed below, we find that Rockland Wind satisfies the Commission's requirements for market-based rates regarding vertical market power.

²⁰ Order No. 697, FERC Stats. & Regs. ¶ 31,252 at P 440.

²¹ Order No. 697-A, FERC Stats. & Regs. ¶ 31,268 at P 176.

²² Order No. 697, FERC Stats. & Regs. ¶ 31,252 at P 447.

²³ *Id.* P 446.

B. Waiver Requests

1. Waiver of Order Nos. 888, 889, and 890

25. As explained above, Rockland Wind seeks waiver of the requirements to file an OATT, establish and maintain an OASIS, and abide by the Standards of Conduct with respect to a portion of the generator tie-line that it owns. In support of its request for waiver, Rockland Wind states that it does not own, operate, or control any transmission-related equipment other than the limited facilities interconnecting the facility to the transmission grid. As noted above, Rockland Wind states that this tie-line is not a networked transmission facility, is not designed or constructed to serve as a transmission facility, and is not intended to serve as a transmission facility for third-party transmission customers.

26. Order Nos. 888 and 890 and section 35.28 of the Commission's regulations require public utilities that own, operate, or control facilities used for the transmission of electric energy in interstate commerce to file an OATT. Order No. 889 and Part 37 of the Commission's regulations require public utilities to establish and maintain an OASIS. Order Nos. 889, 2004, and 717 and Part 358 of the Commission's regulations require public utilities to abide by certain standards of conduct.²⁴ In prior orders, the Commission has enunciated the standards for exemption from some or all of the requirements of Order Nos. 888 and 889.²⁵ The criteria for waiver of these requirements are unchanged by Order Nos. 890, 2004, and 717.²⁶

27. 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. Should the public utility receive such a request, the Commission has determined that the public utility must file with the Commission a *pro forma* tariff within 60 days of the date

²⁴ 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.

²⁵ See, e.g., *Black Creek Hydro, Inc.*, 77 FERC ¶ 61,232, at 61,941 (1996) (*Black Creek*); *Entergy Mississippi, Inc.*, 112 FERC ¶ 61,228, at P 22 (2005) (*Entergy*).

²⁶ See *Alcoa Power Generating Inc.*, 120 FERC ¶ 61,035, at P 3 (2007); Order No. 717, FERC Stats. & Regs. ¶ 31,280 at P 31-33.

of the request, and must comply with any additional requirements that are effective on the date of the request.²⁷

28. 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.²⁸ 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).²⁹

29. Based on the statements in Rockland Wind's application, we find that Rockland Wind's facilities qualify as limited and discrete. The facilities will be used solely by Rockland Wind to interconnect its facility to the transmission grid. Accordingly, we will grant Rockland Wind waiver of the requirements of Order Nos. 888 and 890 and section 35.28 of the Commission's regulations to have an OATT on file. However, if Rockland Wind receives a request for transmission service, 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 that are effective on the date of the request in compliance with Order Nos. 888 and 890.

30. The Commission will also grant Rockland Wind waiver of the requirements of Order No. 889 and Part 37 of the Commission's regulations with respect to OASIS and Order Nos. 889, 2004, and 717 and Part 358 with respect to the Standards of Conduct.

²⁷ *Black Creek*, 77 FERC at 61,941.

²⁸ *Id.* In *Black Hills Power, Inc.*, 135 FERC ¶ 61,058, at P 2-3 (2011), the Commission explained that membership in a tight power pool is no longer a factor in the determination for waiver of Standards of Conduct. Additionally, 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.

²⁹ *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)).

We note that Rockland Wind'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.³⁰ Likewise, Rockland Wind'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 Rockland Wind has unfairly used its access to information to unfairly benefit itself or its affiliate.³¹

2. Other Waivers, Approvals, and Authorizations

31. Rockland Wind also requests the following waivers and authorizations: (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 other requirements of Parts 41, 101, and 141, except sections 141.14 and 141.15; and (3) blanket authorization under section 204 of the FPA³² and Part 34 for all future issuances of securities and assumptions of liability.

32. The Commission will grant the requested waivers and authorizations consistent with those granted other entities with market-based rate authorizations.³³ Notwithstanding the waiver of the accounting and reporting requirements, the Commission expects Rockland Wind to keep its accounting records in accordance with generally accepted accounting principles.

³⁰ *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)).

³¹ *Id.* Rockland Wind 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).

³² 16 U.S.C. § 824c (2006).

³³ We note that the Commission has 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).

33. We will direct Rockland Wind to submit a compliance filing containing revisions to the limitations and exemptions sections of its market-based rate tariff to include a citation to this order.³⁴

C. Reporting Requirements

34. Consistent with the procedures the Commission adopted in Order No. 2001, an entity with market-based rate authorization must electronically file an Electric Quarterly Report (EQR) with the Commission 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.³⁵ Public utilities must file EQRs no later than 30 days after the end of the reporting quarter.³⁶

³⁴ See Order No. 697, FERC Stats. & Regs. ¶ 31,252 at Appendix C; Order No. 697-A, FERC Stats. & Regs. ¶ 31,268 at P 384. These tariff revisions may be filed the next time Rockland Wind makes a market-based rate filing with the Commission.

³⁵ *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, *order refining filing requirements*, Order No. 2001-E, 105 FERC ¶ 61,352 (2003), *order on clarification*, Order No. 2001-F, 106 FERC ¶ 61,060 (2004), *order revising filing requirements*, Order No. 2001-G, 120 FERC ¶ 61,270, *order on reh'g and clarification*, Order No. 2001-H, 121 FERC ¶ 61,289 (2007), *order revising filing requirements*, Order No. 2001-I, FERC Stats. & Regs. ¶ 31,282 (2008). Attachments B and C of Order No. 2001 describe the required data sets for contractual and transaction information. Public utilities must submit EQRs 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>.

³⁶ The exact filing dates for these reports are prescribed in 18 C.F.R. § 35.10b (2011). Failure to file an EQR (without an appropriate request for extension), or failure to report an agreement in an EQR, 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.

35. Additionally, Rockland Wind 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.³⁷

36. In Order No. 697, the Commission created two categories of sellers.³⁸ 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.³⁹ Sellers that do not fall into Category 1 are designated as Category 2 sellers and are required to file updated market power analyses.⁴⁰

37. Rockland Wind represents that it meets the criteria for Category 1 seller status in all regions. It states that it does not own, operate, or control 500 MW or more of generation capacity in aggregate per region and is not affiliated with entities that own, operate, or control 500 MW or more of generation capacity in aggregate in the Northwest region. Rockland Wind further states that neither it nor any of its affiliates owns, operates, or controls transmission facilities, other than those limited and discrete facilities that are necessary to interconnect their generation facilities to the grid, that it is not affiliated with any franchised public utility, and that Rockland Wind does not raise any other vertical market power issues. Based on Rockland Wind's representations and the Commission's decision herein to grant waiver of the OATT requirement, we designate Rockland Wind as a Category 1 seller in the Northeast, Northwest, Southeast, Southwest,

³⁷ *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 (2011).

³⁸ Order No. 697, FERC Stats. & Regs. ¶ 31,252 at P 848.

³⁹ 18 C.F.R. § 35.36(a) (2011).

⁴⁰ Order No. 697, FERC Stats. & Regs. ¶ 31,252 at P 850.

Southwest Power Pool, and Central regions; however, the Commission reserves the right to require an updated market power analysis at any time for these regions.⁴¹

The Commission orders:

(A) Rockland Wind's market-based rate tariff filed October 11, 2011 is hereby accepted for filing, effective October 17, 2011, as requested, as discussed in the body of this order.

(B) Rockland Wind's October 4, 2011 and October 7, 2011 eTariff filings are hereby rejected as moot, as discussed in the body of this order.

(C) Rockland Wind is hereby directed to revise the limitations and exemptions section of its tariff to include a citation to this order, as discussed in the body of this order.

(D) 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.

(E) Waiver of Parts 41, 101, and 141 of the Commission's regulations is hereby granted, with the exception of sections 141.14 and 141.15.

(F) Blanket authorization under Part 34 of the Commission's regulations for all future issuances of securities and assumptions of liability is hereby granted. Rockland Wind 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 Rockland Wind, compatible with the public interest, and reasonably necessary or appropriate for such purposes.

(G) 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 Rockland Wind's issuance of securities or assumptions of liability.

(H) Rockland Wind is hereby granted waiver of the requirements under Order Nos. 888 and 890 and section 35.28 of the Commission's regulations to file an OATT,

⁴¹ See Order No. 697, FERC Stats. & Regs. ¶ 31,252 at P 853.

the requirements under Order No. 889 and Part 37 of the Commission's regulations to establish an OASIS, and the requirements under Order Nos. 889, 2004, and 717, and Part 358 to comply with the Standards of Conduct, as discussed in the body of this order.

(I) Rockland Wind is required to file EQRs in compliance with Order No. 2001. If the effective date of Rockland Wind's market-based rate tariff falls within a quarter of the year that has already expired, Rockland Wind's EQRs for the expired quarter are due within 30 days of the date of this order.

By the Commission. Commissioner Spitzer is not participating.

(S E A L)

Kimberly D. Bose,
Secretary.