

138 FERC ¶ 61,070  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

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

Coram California Development, L.P.

Docket Nos. ER12-199-000  
ER12-199-001

ORDER GRANTING MARKET-BASED RATE AUTHORIZATION AND REQUESTS  
FOR WAIVERS

(Issued January 31, 2012)

1. In this order, the Commission grants Coram California Development, L.P., (Coram) authority to make wholesale sales of electric energy, capacity, and ancillary services at market-based rates, effective February 1, 2012, as requested. As discussed below, we grant Coram waiver of the obligation to file an Open Access Transmission Tariff (OATT) and to establish and maintain an Open Access Same-Time Information System (OASIS). We also grant Coram's request for other waivers commonly granted to market-based rate sellers.

2. Additionally, we find that Coram meets the criteria for a Category 1 seller in the Northeast, Northwest, Southeast, Southwest, Southwest Power Pool, and Central regions and is so designated.<sup>1</sup>

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<sup>1</sup> 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 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*, 659 F.3d 910 (9th Cir. 2011).

## I. Background

3. On October 26, 2011, as amended December 14, 2011, pursuant to section 205 of the Federal Power Act (FPA),<sup>2</sup> Coram filed an application for market-based rate authority with an accompanying tariff providing for the sale of electric energy, capacity, and ancillary services at market-based rates.<sup>3</sup>

4. Coram states that it will own an approximately 102 megawatt (MW) wind-powered electric generation facility (Facility) near Tehachapi, California, located in the CAISO market and interconnected to the CAISO-controlled grid via Southern California Edison Company's Windhub Substation west of Mojave in Kern County, California. The Facility is currently under construction and is expected to begin commercial operations on or about March 29, 2012.<sup>4</sup> Coram represents that Pacific Gas and Electric Company (PG&E) is contractually entitled to all of the Facility's output under a twenty-year power purchase agreement.

5. Coram states that it will own and operate limited and discrete transmission facilities necessary to interconnect the Facility to the transmission grid. Coram represents that this includes a limited 66 kV generation tie line of approximately 5.0 miles (divided between two line branches). With respect to its transmission facilities, Coram requests waiver of the obligation to comply with the requirements of Order Nos. 888<sup>5</sup> and 890<sup>6</sup> to file an OATT and the requirements of Order No. 889<sup>7</sup> regarding OASIS.

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<sup>2</sup> 16 U.S.C. § 824d (2006).

<sup>3</sup> The application includes a request for authorization to sell ancillary services in the markets administered by PJM Interconnection, L.L.C. (PJM), New York Independent System Operator, Inc., ISO New England Inc., California Independent System Operator Corp. (CAISO), as well as authorization to engage in the sale of certain ancillary services as a third-party provider in other markets.

<sup>4</sup> Operational testing is expected to begin in February, 2012.

<sup>5</sup> *Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Services by Public Utilities; Recovery of Stranded Costs by Public Utilities and Transmitting Utilities*, Order No. 888, FERC Stats. & Regs. ¶ 31,036 (1996), *order 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

(continued...)

6. Coram represents that CTV Service Corp. (CTV) will operate the Facility pursuant to an operation and management (O&M) agreement under which Coram will maintain ultimate decision-making authority over the Facility, including discretion as to how and when power sales generated by the Facility will be sold, and when to enter into power sales agreements. Under a separate O&M agreement, Brookfield Power U.S. Asset Management, LLC (Brookfield Power US) will manage the Facility's business affairs under the direction of Coram's directors. Brookfield Power US will have no authority over power sales or discretion to enter into power sales agreements.

7. Coram is 50 percent owned (through affiliated intermediaries) by an individual, and 50 percent owned (through affiliated intermediaries) by Brookfield Renewable Power Inc. (BRPI).<sup>8</sup>

8. BRPI, through its subsidiary, Brookfield Power U.S. Holding America Company (Brookfield Power), indirectly owns generating capacity in the CAISO market.<sup>9</sup> It also directly and indirectly owns, develops, constructs, operates, and manages utility companies throughout the United States outside of California. BRPI is wholly owned by the Great Lakes Holding Company, which, in turn is a wholly-owned subsidiary of Brookfield Asset Management, Inc. (BAM), a global asset management company.

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(2002).

<sup>6</sup> *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, FERC Stats. & Regs. ¶ 31,241, *order on reh'g*, Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 (2007), *order on reh'g*, Order No. 890-B, 123 FERC ¶ 61,299 (2008), *order on reh'g*, Order No. 890-C, 126 FERC ¶ 61,228, *order on clarification*, Order No. 890-D, 129 FERC ¶ 61,126 (2009).

<sup>7</sup> *Open Access Same-Time Information System and Standards of Conduct*, Order No. 889, FERC Stats. & Regs. ¶ 31,035 (1996), *order on reh'g*, Order No. 889-A, FERC Stats. & Regs. ¶ 31,049, *reh'g denied*, Order No. 889-B, 81 FERC ¶ 61,253 (1997).

<sup>8</sup> See Coram's December 14, 2011 Filing at 2.

<sup>9</sup> Brookfield Power owns a 50 percent interest in Malacha Hydro Limited Partnership, which owns and operates a 35 MW hydro-electric project in California. The entire output of the hydro-electric project is sold under a long-term power purchase agreement.

9. Coram states that BAM owns indirectly several companies regulated as public utilities under the FPA and companies owning qualifying facilities under the Public Utility Regulatory Policies Act of 1978,<sup>10</sup> and it has interests in a U.S. interstate natural gas pipeline. Additionally, BAM, through its affiliation with Prime Infrastructure Holdings Limited, holds an upstream ownership interest in CSC Operations, LLC (CSC), which has a consulting agreement with Trans Bay Cable LLC (Trans Bay Cable), the owner of a 53-mile, 400 MW high voltage direct current transmission line connecting PG&E's Pittsburg Substation and its Potrero Substation in the San Francisco Bay area. Coram represents that the consulting services agreement does not give CSC any decision-making authority or control over Trans Bay Cable's jurisdictional facilities. TBC Operations LLC (TBC), also an affiliate of BAM, has a five-year agreement to provide O&M services to Trans Bay Cable, under which service commenced on April 8, 2009. Coram states that under the O&M agreement, TBC has no control over the day-to-day operations of the Trans Bay Cable transmission line, and it provides O&M services merely as an agent of the owner, not as the jurisdictional operator. Coram represents that the agreements do not confer decision-making authority or control over the day-to-day operations of the Trans Bay Cable transmission line and, thus, neither CSC nor TBC controls, or is an operator of, jurisdictional transmission facilities.

## **II. Notice of Filing**

10. Notice of Coram's October 26, 2011 filing was published in the *Federal Register*, 76 Fed. Reg. 69,258 (2011) with interventions and comments due on or before November 16, 2011. None was filed.

11. Notice of Coram's request for blanket authorization under Part 34 was separately published in the *Federal Register*, 76 Fed. Reg. 67,722 with interventions or protests due on or before November 16, 2011. None was filed.

12. Notice of Coram's December 14, 2011 filing was published in the *Federal Register*, 76 Fed. Reg. 80,357 (2011) with interventions and comments due on or before January 4, 2012. None was filed.

## **III. Determination**

13. As discussed below, we will grant Coram's request for authorization to make wholesale sales of electric energy, capacity, and ancillary services at market-based rates and requests for certain waivers.

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<sup>10</sup> 16 U.S.C. § 824a-3 (2006).

## A. Market-Based Rate Authorization

14. 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>11</sup> As discussed below, we find that Coram satisfies the Commission's standards for market-based rate authority and we will accept its market-based rate tariff, effective February 1, 2012, as requested.<sup>12</sup>

### 1. Horizontal Market Power

15. The Commission has adopted two indicative screens for assessing horizontal market power: the pivotal supplier screen and the wholesale market share screen.<sup>13</sup> 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.<sup>14</sup>

16. As stated above, the Facility is located in the CAISO market. Coram states that it and its affiliates own or control generation in the CAISO market and that all of this generation is fully committed under long-term contracts.

17. Because Coram and its affiliates have no uncommitted capacity, we find that Coram satisfies the Commission's requirements for market-based rates regarding horizontal market power.

### 2. Vertical Market Power

18. 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

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<sup>11</sup> Order No. 697, FERC Stats. & Regs. ¶ 31,252 at P 62, 399, 408, 440.

<sup>12</sup> We note that, when Coram submitted a revised tariff on December 14, 2011 through the eTariff filing system, Coram did not properly target the tariff that it had previously filed. Therefore, the tariff filed on October 26, 2011 remained pending before the Commission despite the December 14, 2011 filing. Accordingly, we will reject the tariff filed on October 26, 2011 as moot and accept the tariff filed on December 14, 2011.

<sup>13</sup> Order No. 697, FERC Stats. & Regs. ¶ 31,252 at P 62.

<sup>14</sup> *Id.* P 33, 62-63.

OATT on file or that the seller has received waiver of the OATT requirement before granting a seller market-based rate authorization.<sup>15</sup>

19. In this case, as discussed more fully below, the Commission will grant Coram's request for waiver of the requirement to have an OATT on file for its transmission facilities.<sup>16</sup>

20. The Commission also considers a seller's ability to erect other barriers to entry as part of the vertical market power analysis.<sup>17</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 physical coal supply sources and ownership of or control over who may access transportation of coal supplies (collectively, inputs to electric power production).<sup>18</sup> 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.<sup>19</sup> 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>20</sup>

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<sup>15</sup> Order No. 697, FERC Stats. & Regs. ¶ 31,252 at P 408.

<sup>16</sup> We note that Coram "contends that its limited generator tie line does not require it to have an OATT." Coram's December 14, 2011 filing at 4 n.7. We disagree. A generator lead line is a transmission facility. *See* 16 U.S.C. §§ 796(23), 824(a)-(b) (2006). Therefore, Coram 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 designation as a "generator lead line" 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, at P 15 n.18 (2011).

<sup>17</sup> Order No. 697, FERC Stats. & Regs. ¶ 31,252 at P 440.

<sup>18</sup> Order No. 697-A, FERC Stats. & Regs. ¶ 31,268 at P 176.

<sup>19</sup> Order No. 697, FERC Stats. & Regs. ¶ 31,252 at P 447.

<sup>20</sup> *Id.* P 446.

21. Regarding other barriers to entry, Coram represents that it and its affiliates do not own or control inputs to electric power production that raise vertical market power concerns. It states that neither Coram nor its affiliates own or control sites used for the development of generation capacity. Also, Coram represents that it and its affiliates do not own or control intrastate natural gas transportation or intrastate natural gas storage or distribution facilities.<sup>21</sup> Further, Coram states that it and its affiliates do not own or control physical coal supply sources or have ownership or control over who may access transportation of coal supplies.

22. Finally, consistent with Order No. 697, Coram states that it and its affiliates have not erected barriers to entry in the relevant geographic market, and will not erect barriers to entry into the relevant market.

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

## **B. Waiver Requests**

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

24. As explained above, Coram seeks waiver of the requirements to file an OATT and establish and maintain an OASIS with respect to the interconnection facilities it owns. In support of the request for waiver, Coram represents that its generator lead lines are limited and discrete transmission facilities (facilities that do not form an integrated transmission grid), and are necessary to connect the Facility to the grid. Coram states that it is the only entity using these discrete facilities.

25. Order Nos. 888 and 890 and section 35.28 of the Commission's regulations<sup>22</sup> 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

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<sup>21</sup> As noted above, Coram represents that BAM has interests in an interstate natural gas pipeline. Coram's October 26, 2011 Filing at 5. With regard to the vertical market power analysis, Coram notes that interstate natural gas transportation falls into the category of inputs to electric power production for which the Commission does not require a description or affirmative statement. *Id.* at 11 (citing Order No. 697, FERC Stats. & Regs. ¶ 31,252 at P 441; Order No. 697-A, FERC Stats. & Regs. ¶ 31,268 at P 167).

<sup>22</sup> 18 C.F.R. § 35.28 (2011).

Commission's regulations<sup>23</sup> require public utilities to establish and maintain an OASIS. In prior orders, the Commission has enunciated the standards for exemption from some or all of the requirements of Order Nos. 888 and 889.<sup>24</sup> The criteria for waiver of these requirements are unchanged by Order No. 890.

26. 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 of the request, and must comply with any additional requirements that are effective on the date of the request.<sup>25</sup>

27. The Commission has also determined that waiver of the requirement to establish an OASIS 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 other circumstances are present that indicate that a waiver would not be justified. The Commission has held that waiver of the OASIS requirement 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<sup>26</sup>

28. Based on the statements in Coram's application, we find that its facilities qualify as limited and discrete. The facilities will be used solely by Coram to interconnect its facilities to the transmission grid. Accordingly, we will grant Coram 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 Coram receives a request for transmission service, it must file with the Commission a *pro forma* OATT within 60 days

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<sup>23</sup> 18 C.F.R. Part 37 (2011).

<sup>24</sup> 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*).

<sup>25</sup> *Black Creek*, 77 FERC at 61,941.

<sup>26</sup> *Entergy*, 112 FERC ¶ 61,228 at P 23 (citing *Central Minnesota Municipal Power Agency*, 79 FERC ¶ 61,260, at 62,127 (1997); *Easton Utilities Commission*, 83 FERC ¶ 61,334, at 62,343 (1998)).

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.

29. The Commission will also grant Coram waiver of the requirements of Order No. 889 and Part 37 of the Commission's regulations with respect to OASIS. We note that Coram'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.<sup>27</sup>

30. Order Nos. 889, 2004,<sup>28</sup> and 717<sup>29</sup> and Part 358 of the Commission's regulations<sup>30</sup> require public utilities to abide by certain standards of conduct. Coram did not request a waiver from the requirement to abide by the standards of conduct. Therefore, we note that to the extent Coram is subject to the standards of conduct requirements of Part 358, it must comply with them, although this is without prejudice to Coram submitting a request for such a waiver in the future.

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<sup>27</sup> *Id.*

<sup>28</sup> *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).

<sup>29</sup> *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).

<sup>30</sup> 18 C.F.R. Part 358 (2011).

## 2. Other Waivers, Approvals, and Authorizations

31. Coram 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 FPA<sup>31</sup> 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.<sup>32</sup>

Notwithstanding the waiver of the accounting and reporting requirements, the Commission expects Coram to keep its accounting records in accordance with generally accepted accounting principles.

## 3. Reporting Requirements

33. 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.<sup>33</sup>

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<sup>31</sup> 16 U.S.C. § 824c (2006).

<sup>32</sup> 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).

<sup>33</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, *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

(continued...)

Public utilities must file EQRs no later than 30 days after the end of the reporting quarter.<sup>34</sup>

34. Additionally, Coram 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>35</sup>

35. In Order No. 697, the Commission created two categories of sellers.<sup>36</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>37</sup> Sellers that do not fall into Category 1 are designated as Category 2 sellers and are required to file updated market power analyses.<sup>38</sup>

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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>.

<sup>34</sup> 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.

<sup>35</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 (2011).

<sup>36</sup> Order No. 697, FERC Stats. & Regs. ¶ 31,252 at P 848.

<sup>37</sup> 18 C.F.R. § 35.36(a) (2011).

<sup>38</sup> Order No. 697, FERC Stats. & Regs. ¶ 31,252 at P 850.

36. Coram submits that it is a Category 1 Seller in the Northeast, Southeast, Central, Southwest Power Pool, Southwest, and Northwest regions because: (1) it and its affiliates own or control 500 MW or less of generation in aggregate per region; (2) it and its affiliates do not own, operate or control transmission facilities other than limited equipment necessary to connect individual generating facilities to the transmission grid; (3) with the limited exception of interconnection facilities, Coram and its affiliates do not own or otherwise control transmission facilities; (4) it is not affiliated with a franchised public utility; and (5) its application for market-based rate authorization does not raise any other vertical market power issues.

37. Based on Coram's representations and the Commission's decision herein to grant waivers of the OATT requirement, we designate Coram as a Category 1 seller in the Northeast, Northwest, Southeast, Southwest, Southwest Power Pool, and Central regions; however, the Commission reserves the right to require an updated market power analysis at any time for any of these regions.<sup>39</sup>

The Commission orders:

(A) Coram's market-based rate tariff is hereby accepted for filing, effective February 1, 2012, as requested, as discussed in the body of this order.

(B) Coram's market-based rate tariff filed on October 26, 2011 is hereby rejected as moot, 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.

(D) 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.

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

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<sup>39</sup> See Order No. 697, FERC Stats. & Regs. ¶ 31,252 at P 853.

(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 Coram's issuance of securities or assumptions of liability.

(G) Coram 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 and the requirements under Order No. 889 and Part 37 of the Commission's regulations to establish and maintain an OASIS, as discussed in the body of this order.

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

By the Commission.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.