

139 FERC ¶ 61,019
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

California Ridge Wind Energy LLC

Docket No. ER12-645-002

ORDER GRANTING MARKET-BASED RATE AUTHORIZATION AND REQUESTS
FOR WAIVERS

(Issued April 6, 2012)

1. In this order, the Commission grants California Ridge Wind Energy LLC (California Ridge) authority to make wholesale sales of electric energy, capacity, and ancillary services at market-based rates, effective February 20, 2012, as requested. Also, as discussed below, we grant California Ridge waiver of the obligation to file an Open Access Transmission Tariff (OATT), to comply with the Commission's Standards of Conduct, and to establish and maintain an Open Access Same-Time Information System (OASIS). We also grant California Ridge's request for other waivers commonly granted to market-based rate sellers.
2. Additionally, we find that California Ridge meets the criteria for a Category 1 seller in the Northeast, Northwest, Southeast, Southwest, and Southwest Power Pool regions and is so designated.¹ We designate California Ridge as a Category 2 seller in the Central region. Accordingly, California Ridge must file updated market power analyses for the region in which it is designated as a Category 2 seller in compliance with the regional reporting schedule adopted in Order No. 697.

¹ 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 PP 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 December 21, 2011, as amended on December 22, 2011 and February 10, 2012, pursuant to section 205 of the Federal Power Act (FPA),² California Ridge 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.³ California Ridge states that it will own a 214 megawatt (MW) wind-powered electric generation facility in Illinois (Facility) in the MISO market.

4. California Ridge states that the Facility will interconnect with the transmission system owned by Ameren Illinois Company d/b/a Ameren Illinois (Ameren Illinois), which is under the operational control of MISO, through a nine-mile 138 kilovolt (kV) generator tie-line.⁴ Further, California Ridge states that it will also own 34.5 kV collection lines and related facilities, a collection line substation and related transformers, and other facilities that will connect its facility to the transmission system owned by Ameren Illinois.

5. California Ridge states that its interconnection facilities are limited and discrete. It requests that the Commission waive the requirements under Order Nos. 888⁵

² 16 U.S.C. § 824d (2006).

³ California Ridge requests 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., and Midwest Independent Transmission System Operator, Inc. (MISO), as well as authorization to engage in the sale of certain ancillary services as a third-party provider in other markets.

⁴ California Ridge states that the Facility could begin generating test power that will be delivered to the transmission grid in June of 2012.

⁵ *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).

and 890⁶ and section 35.28 of the Commission's regulations⁷ to file an OATT, the requirements under Order No. 889⁸ and Part 37 of the Commission's regulations⁹ to establish an OASIS, and the requirements under Order Nos. 889, 2004,¹⁰ 717,¹¹ and Part 358 of the Commission's regulations¹² to comply with the Standards of Conduct.

6. California Ridge states that it may in the future enter into an agreement with an affiliate to provide shared access and/or ownership to certain interconnection facilities that will initially be owned by California Ridge (Shared Facilities Agreement). The

⁶ *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).

⁷ 18 C.F.R. § 35.28 (2011).

⁸ *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).

⁹ 18 C.F.R. Part 37 (2011).

¹⁰ *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).

¹¹ *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).

¹² 18 C.F.R. Part 358 (2011).

affiliate is in the planning stages of potentially constructing, owning, and operating up to 50 MW of wind generation facilities that will be located in the vicinity of California Ridge's Facility. If built, it is expected that the affiliate's facility will interconnect to the Ameren Illinois transmission system via facilities that California Ridge will initially own (e.g., the nine mile generation tie-line, the substation and possibly other related facilities). California Ridge states that, if the Shared Facilities Agreement is executed by California Ridge and the affiliate, California Ridge will file the Shared Facilities Agreement with the Commission. The Shared Facilities Agreement will govern their proposed joint ownership and use of shared interconnection facilities.

7. California Ridge is an indirect, wholly-owned subsidiary of Invenergy Investment Company LLC (Invenergy). Invenergy is a wholly-owned subsidiary of Polsky Energy Investments LLC, which is indirectly owned and controlled by an individual.

8. California Ridge represents that, through its relationship with Invenergy, it is affiliated with various companies that own and operate generation and transmission facilities in the United States. California Ridge represents that the following affiliates have been granted waivers of the Commission's open access transmission requirements with respect to their ownership interests in interconnection facilities: Bishop Hill Energy LLC, Bishop Hill Energy II LLC, and Bishop Hill Energy III LLC (collectively, Bishop Hill Companies); Gratiot County Wind LLC and Gratiot County Wind II LLC (collectively, Gratiot Companies); Invenergy Wind Development Michigan LLC (Invenergy Wind Development); Grand Ridge Energy LLC, Grand Ridge Energy II LLC, Grand Ridge Energy III LLC, Grand Ridge Energy IV LLC, Grand Ridge Energy V LLC (collectively, Grand Ridge Companies); Hardee Power Partners Limited (Hardee Power); and Wolverine Creek Energy LLC and Wolverine Creek Goshen Interconnection LLC (collectively, Wolverine).¹³

¹³ See *Bishop Hill Energy LLC*, 137 FERC ¶ 61,211 (2011); *The Detroit Edison Co.*, 136 FERC ¶ 61,210 (2011); *Invenergy Wind Development Michigan LLC*, 136 FERC ¶ 61,209 (2011); *Grand Ridge Energy*, 128 FERC ¶ 61,134 (2009); *Hardee Power Partners Limited*, 125 FERC ¶ 61,036 (2008); *Wolverine Creek Goshen Interconnection, LLC*, Docket No. ER06-267-000 (Jan. 13, 2006) (delegated letter order).

II. Notice of Filing

9. Notice of California Ridge's December 21, 2011, December 22, 2011, and February 10, 2012 filings were published in the *Federal Register*,¹⁴ with interventions and comments due on or before March 2, 2012. None was filed.

10. Notice of California Ridge's request for blanket authorization under Part 34 was separately published in the *Federal Register*, 77 Fed. Reg. 106 (2012), with interventions or protests due on or before January 11, 2012. None was filed.

III. Determination

11. As discussed below, we will grant California Ridge's request for authorization to make wholesale sales of electric energy, capacity, and ancillary services at market-based rates and we will accept its market-based rate tariff, effective February 20, 2012, as requested. We will also grant California Ridge's request for certain waivers.

A. Market-Based Rate Authorization

12. 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.¹⁵

1. Horizontal Market Power

13. 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

14. California Ridge relies on data submitted by Ashtabula Wind III, LLC to demonstrate that it passes both the pivotal supplier and the wholesale market share

¹⁴ 76 Fed. Reg. 82,294 (2011); 77 Fed. Reg. 106 (2012); 77 Fed. Reg. 10,488 (2012).

¹⁵ Order No. 697, FERC Stats. & Regs. ¶ 31,252 at PP 62, 399, 408, 440.

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

¹⁷ *Id.* PP 33, 62-63.

screens for the MISO market.¹⁸ The Commission has reviewed California Ridge's pivotal supplier and wholesale market share screens and has determined that it passes the screens in the MISO market. California Ridge's pivotal supplier screen indicates that its uncommitted capacity is less than the net uncommitted supply in the MISO market. With respect to the wholesale market share screen, California Ridge passes in all seasons with market shares that range between 4.4 percent and 5.0 percent. Accordingly, we find that California Ridge satisfies the Commission's requirements for market-based rates regarding horizontal market power.

2. Vertical Market Power

15. 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.¹⁹

16. In this case, as discussed more fully below, the Commission will grant California Ridge's request for waiver of the requirement to have an OATT on file for its transmission facilities.²⁰

17. The Commission also considers a seller's ability to erect other barriers to entry as part of the vertical market power analysis.²¹ 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

¹⁸ See California Ridge's February 10, 2012 Filing at 2 & n.5 (citing *Ashtabula Wind III, LLC*, Docket No. ER11-26-000 (Nov. 18, 2010) (delegated letter order)).

¹⁹ Order No. 697, FERC Stats. & Regs. ¶ 31,252 at P 408.

²⁰ A generator lead line is a transmission facility. See 16 U.S.C. §§ 796(23), 824(a)-(b) (2006). California Ridge 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, at P 15 n.18 (2011).

²¹ Order No. 697, FERC Stats. & Regs. ¶ 31,252 at P 440.

control over who may access transportation of coal supplies (collectively, inputs to electric power production).²² 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.²³ 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.²⁴

18. Regarding other barriers to entry, California Ridge represents that neither it nor any of its affiliates own or control any intrastate natural gas transportation, storage, or distribution facilities, or coal resources or transportation facilities or companies that own such things. California Ridge states that neither it nor its affiliates own or control sites located within the MISO market that can be used to impose barriers to entry. California Ridge states that it owns or has rights to land upon which it is building its generation facility, and other affiliates of Invenenergy own, or may acquire in the future, certain property rights in land for the potential development of generation in places within the United States including in the MISO market. California Ridge commits to file any necessary quarterly or annual site control reports with the Commission in accordance with Commission rules applicable to entities with market-based rate authority.²⁵

19. Finally, consistent with Order No. 697, California Ridge affirmatively states that California Ridge and its affiliates have not erected barriers to entry, and will not erect barriers, in the relevant geographic market.

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

²² Order No. 697-A, FERC Stats. & Regs. ¶ 31,268 at P 176.

²³ Order No. 697, FERC Stats. & Regs. ¶ 31,252 at P 447.

²⁴ *Id.* P 446.

²⁵ California Ridge's December 21, 2011 Filing at 30-31 and n.107

B. Waiver Requests**1. OATT, OASIS, and Standards of Conduct**

21. As explained above, California Ridge seeks waiver of the requirements to file an OATT, establish and maintain an OASIS, and abide by the Standards of Conduct with respect to its generator tie-line. In support of its request for waiver, California Ridge states that the interconnection facilities that will be built and owned by California Ridge for use by the Facility initially (and some of which may be shared with the affiliate, as described above, in the future for the affiliate's facility) constitute limited, discrete facilities. California Ridge also states that the interconnection facilities were constructed for the purpose of delivering the output of the Facility, and possibly the affiliate's facility, to the MISO-controlled transmission system. California Ridge states that the facilities do not form an integrated transmission grid. It represents that the facilities will be discrete, radial interconnection facilities used and owned by the owners of the generation projects for which such interconnection facilities are being developed to accommodate connection to the transmission grid.²⁶

22. Order Nos. 888 and 890 and section 35.28 of the Commission's regulations²⁷ 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 regulations²⁸ 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.²⁹ In prior orders, the Commission has enunciated the standards for exemption from some or all of the

²⁶ California Ridge's December 21, 2011 Filing at 35.

²⁷ 18 C.F.R. § 35.28 (2011).

²⁸ 18 C.F.R. Part 37 (2011).

²⁹ 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.

requirements of Order Nos. 888 and 889.³⁰ The criteria for waiver of these requirements are unchanged by Order Nos. 890, 2004, and 717.³¹

23. 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.³²

24. 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 other circumstances are present that indicate that a waiver would not be justified.³³ 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

³⁰ 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*).

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

³² *Black Creek*, 77 FERC at 61,941.

³³ *Id.* Although the Commission originally precluded waiver of the requirements for OASIS and the Standards of Conduct for a small public utility that is a member of a tight power pool, in *Black Hills Power, Inc.*, 135 FERC ¶ 61,058, at PP 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.

used its access to information about transmission to benefit the utility or its affiliate (for Standards of Conduct waivers).³⁴

25. Based on the statements in California Ridge's application, we find that its transmission facilities qualify as limited and discrete. Accordingly, we will grant California Ridge 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 California Ridge 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.

26. The Commission will also grant California Ridge 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. We note that California Ridge'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.³⁵ Likewise, California Ridge'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 California Ridge has unfairly used its access to information to unfairly benefit itself or its affiliate.³⁶

2. Other Waivers, Approvals, and Authorizations

27. California Ridge 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

³⁴ *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)).

³⁵ *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)).

³⁶ *Id.* California Ridge 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).

41, 101, and 141, except sections 141.14 and 141.15; and (3) blanket authorization under section 204 of the FPA³⁷ and Part 34 for all future issuances of securities and assumptions of liability.

28. The Commission will grant the requested waivers and authorizations consistent with those granted to other entities with market-based rate authorizations.³⁸ Notwithstanding the waiver of the accounting and reporting requirements, the Commission expects California Ridge to keep its accounting records in accordance with generally accepted accounting principles.

C. Reporting Requirements

29. 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.³⁹

³⁷ 16 U.S.C. § 824c (2006).

³⁸ 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 PP 984-985 (regarding waiver of Parts 41, 101, and 141) and PP 999-1000 (regarding blanket approval under Part 34).

³⁹ *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>.

Public utilities must file EQRs no later than 30 days after the end of the reporting quarter.⁴⁰

30. Additionally, California Ridge 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.⁴¹

31. In Order No. 697, the Commission created two categories of sellers.⁴² 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.⁴³ Sellers that do not fall into Category 1 are designated as Category 2 sellers and are required to file updated market power analyses.⁴⁴

32. California Ridge represents that it only owns generation in the Central region, and that it is affiliated with more than 500 MW of generation in that region. California Ridge further states that neither it nor any of its affiliates own, operate, or control transmission facilities other than the limited facilities that are necessary to interconnect their generation facilities to the grid. California Ridge further states that it is not affiliated

⁴⁰ 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.

⁴¹ *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).

⁴² Order No. 697, FERC Stats. & Regs. ¶ 31,252 at P 848.

⁴³ 18 C.F.R. § 35.36(a) (2011).

⁴⁴ Order No. 697, FERC Stats. & Regs. ¶ 31,252 at P 850.

with a franchised public utility, and that it does not raise any other vertical market power issues. Based on California Ridge's representations, we designate California Ridge as a Category 1 seller in the Northeast, Northwest, Southeast, Southwest, and Southwest Power Pool regions and as a Category 2 seller in the Central region. California Ridge must file updated market power analyses for the region in which it is designated as a Category 2 seller in compliance with the regional reporting schedule adopted in Order No. 697. The Commission reserves the right to require an updated market power analysis at any time for any region.⁴⁵

The Commission orders:

(A) California Ridge's market-based rate tariff is hereby accepted for filing, effective February 20, 2012, as requested, as discussed in the body of this order.

(B) 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.

(C) 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.

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

(E) 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 California Ridge's issuance of securities or assumptions of liability.

(F) California Ridge 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, the requirements under Order No. 889 and Part 37 of the Commission's regulations to establish and maintain an OASIS, and the requirements under Order Nos. 889, 2004, and

⁴⁵ See Order No. 697, FERC Stats. & Regs. ¶ 31,252 at P 853.

717, and Part 358 to comply with the Standards of Conduct, as discussed in the body of this order.

(G) California Ridge is required to file EQRs in compliance with Order No. 2001. If the effective date of California Ridge's market-based rate tariff falls within a quarter of the year that has already expired, California Ridge'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.