

143 FERC ¶ 61,263
FEDERAL ENERGY REGULATORY COMMISSION
Washington, DC 20426

June 24, 2013

In Reply Refer To:
PPL Colstrip I, LLC
PPL Colstrip II, LLC
PPL Montana, LLC
Docket No. AC13-35-000

Bracewell & Giuliani LLP
Attn: Sandra E. Rizzo, Esq.
Attorney for PPL Colstrip I, LLC, PPL Colstrip II, LLC,
and PPL Montana, LLC
2000 K Street, NW
Suite 500
Washington, DC 20006

Dear Ms. Rizzo:

1. On December 21, 2012, PPL Colstrip I, LLC, PPL Colstrip II, LLC, and PPL Montana, LLC (collectively, the PPL Companies) filed requests for waiver of the accounting and reporting requirements found in Parts 41,¹ 101,² and 141³ of the Commission's regulations, except for sections 141.14⁴ and 141.15.⁵ The requests for waiver are granted, effective September 1, 2005, for PPL Colstrip I, and January 1, 2000, for PPL Colstrip II and PPL Montana.

¹ 18 C.F.R. Part 41.

² 18 C.F.R. Part 101.

³ 18 C.F.R. Part 141.

⁴ 18 C.F.R. Part 141.14.

⁵ 18 C.F.R. Part 141.15.

2. PPL Colstrip I, LLC (PPL Colstrip I), PPL Colstrip II, LLC (PPL Colstrip II), and PPL Montana, LLC (PPL Montana) are each Exempt Wholesale Generators (EWG) with market-based rate authority.⁶ The PPL Companies state that PPL Colstrip and PPL Colstrip II never actually made sales under their market-based rate authority. PPL Montana has made market-based sales,⁷ but has not made cost-based sales.

3. The PPL Companies state that they obtained market-based rate authority in contemplation of planned acquisitions of certain generation and transmission facilities. Also, in anticipation of transmission facility acquisitions and pursuant to Commission requirements, PPL Montana and PPL Colstrip II filed an open access transmission tariff (OATT), which was accepted by the Commission.⁸ As a result of these planned acquisitions, the Commission did not waive Parts 41, 101, and 141 of the Commission's regulations, as would have been the case with most market-based rate authority holders.⁹ However, PPL Montana and PPL Colstrip did not acquire transmission facilities, and PPL Montana and PPL Colstrip II filed to terminate the OATT, which was accepted for filing by unpublished delegated order, effective November 7, 2012.

4. PPL Colstrip I now requests that the waivers described above be made effective as of the effective date of its tariff on September 1, 2005.¹⁰ PPL Colstrip II and PPL Montana request waiver of these requirements as of January 2000, when their previously granted waivers expired.

5. PPL Companies state that these waivers are requested in order to avoid the need for these entities to file FERC Form No. 1, FERC Form No. 3-Q and meet other regulatory and accounting requirements for past years. PPL Companies state that

⁶ *Illinova Power Marketing, Inc.*, 88 FERC ¶ 61,189 (1999).

⁷ PPL Montana owns and operates thermal and hydroelectric generating facilities, including hydroelectric facilities that operate pursuant to Commission-issued licenses. *See, e.g., Montana Power Co. and PP&L Montana, LLC*, 88 FERC ¶ 62,018 (1999).

⁸ *PP&L Montana*, 89 FERC ¶ 61,337 (1999).

⁹ *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 984, *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), *cert. denied sub nom. Pub. Citizen, Inc. v. FERC*, 133 S.Ct. 26 (2012).

¹⁰ *PPL Montana, LLC, et al.*, 112 FERC ¶ 61,237, at P 49 (2005) (conditionally accepting PPL Colstrip I's revised market-based rate tariff, effective September 1, 2005).

PPL Colstrip I and II have never made any jurisdictional sales. PPL Montana has made jurisdictional sales only pursuant to its market-based rate tariff. PPL Montana and PPL Colstrip II state that they have not made any sales at cost-based rates pursuant to the OATT that they had on file, which now has been terminated.¹¹

6. Notice of the filing was published in the Federal Register, 78 Fed. Reg. 8509 (2013), with protests, motions to intervene, or notices of intervention due on or before February 28, 2013. None was filed.

7. Generally, entities with market-based rate authority receive waivers of Parts 41, 101, and 141 of the Commission's regulations, except for sections 141.14 and 141.15, when granted their market-based rate authority; Parts 41, 101, and 141 set forth accounting and reporting requirements that focus on the assets that a utility owns. Waiver of these requirements is appropriate where the utility "will not own any such assets, its jurisdictional facilities will be only corporate and documentary, its costs will be determined by utilities that sell power to it, and its earnings will not be defined and regulated in terms of an authorized return on invested capital."¹² The Commission originally did not waive these regulations for the PPL companies because they intended to acquire certain jurisdictional transmission facilities and provide service under an OATT. However, the acquisition did not occur and the PPL Companies relinquished their OATT. Therefore, the PPL Companies own no jurisdictional facilities subject to the accounting and reporting requirements of Parts 41, 101, and 141.

8. Given the specific facts presented here, PPL Companies requests for waiver are granted. The Commission also recognizes the cost and burden that would be imposed if PPL Companies were required to make these filings for past years.

By direction of the Commission.

Kimberly D. Bose,
Secretary.

¹¹ *PPL Montana, LLC and PPL Colstrip II, LLC*, Docket No. ER12-2597-000 (Nov. 5, 2012) (delegated letter order).

¹² *Citizens Power & Light Corp.*, 48 FERC ¶ 61,210, at 61,780 (1989).