

145 FERC ¶ 61,127
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

ORNI 47 LLC

Docket No. ER13-2103-001

ORDER GRANTING MARKET-BASED RATE AUTHORIZATION AND REQUESTS
FOR WAIVERS

(Issued November 15, 2013)

1. In this order, the Commission grants ORNI 47 LLC (ORNI 47) authority to make wholesale sales of electric energy, capacity, and ancillary services at market-based rates, effective October 1, 2013, as requested. Also, as discussed below, we grant ORNI 47 waiver of the requirements to file an Open Access Transmission Tariff (OATT), to establish an Open Access Same-Time Information System (OASIS), and the requirements to comply with the Standards of Conduct. We also grant ORNI 47's request for other waivers commonly granted to market-based rate sellers.

2. Additionally, we find that ORNI 47 meets the criteria for a Category 1 seller in all regions and is so designated.¹

I. Background

3. On August 2, 2013, as amended on September 17, 2013, pursuant to section 205 of the Federal Power Act (FPA),² ORNI 47 filed an application for market-based rate

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

² 16 U.S.C. § 824d (2012).

authority with an accompanying tariff providing for the sale of electric energy, capacity, and ancillary services at market-based rates.³ ORNI 47 states that it will own, construct, and operate the Wild Rose Geothermal Project (Wild Rose) near Gabbs, Nevada. ORNI 47 states that Wild Rose will operate as a variable energy resource and possess a nameplate capacity of 25 megawatts (MW). ORNI 47 further states that Wild Rose is scheduled to be placed into service in October 2013 and is located within the Sierra Pacific Power Company (Sierra Pacific) balancing authority area.

4. ORNI 47 states that Wild Rose will interconnect to the transmission facilities owned and operated by Sierra Pacific. ORNI 47 further states that, other than the facilities that will interconnect Wild Rose to the Sierra Pacific transmission system – a 20.5 mile, 120 kilovolt tie line – ORNI 47 and its affiliates do not own, operate, or control any transmission facilities in the United States. ORNI 47 represents that its transmission facilities are limited and discrete and requests that the Commission waive the requirements under Order Nos. 888⁴ and 890⁵ to file an OATT, the requirement under

³ ORNI 47 requests authorization to sell ancillary services in the markets administered by PJM Interconnection, L.L.C., New York Independent System Operator, Inc., ISO New England Inc., California Independent System Operator Corp. (CAISO), and Midcontinent Independent System Operator, Inc. (MISO). ORNI 47 also requests authorization to engage in the sale of certain ancillary services as a third-party provider in other markets.

⁴ *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).

⁵ *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).

Order No. 889⁶ to establish an OASIS, and the requirement to comply with certain standards of conduct.

5. ORNI 47 states that it is a wholly-owned, indirect subsidiary of Ormat Technologies, Inc. (Ormat), a publicly-traded, vertically-integrated company primarily engaged in the geothermal and recovered energy power business. ORNI 47 explains that Ormat designs, develops, manufactures, constructs, owns, and operates geothermal and recovered energy-based power plants around the world.

6. ORNI 47 represents that it is affiliated with 20 entities that are either wholly-owned or majority-owned indirect subsidiaries of Ormat, which together own or control generation resources with a total nameplate rating of approximately 315.5 MW within the Sierra Pacific balancing authority area. ORNI 47 states that it also is affiliated with 4.5 MW in the Western Area Power Administration - Colorado-Missouri (WACM) balancing authority area (Northwest region), 392.30 MW in the CAISO market (Southwest region), and 67.5 MW in the Western Area Power Administration - Upper Great Plains East (WAUE) balancing authority area (Central region), for a total of 464.3 MW within markets first-tier to the Sierra Pacific balancing authority area. Additionally, ORNI 47 states that none of its affiliates holds a franchise or service territory for the transmission, distribution, or sale of electric power in the United States, nor are any affiliated with any entity that does. Finally, ORNI 47 represents that none of its affiliates has the ability to erect other barriers to entry.

II. Notice of Filing

7. Notice of ORNI 47's August 2, 2013 filing was published in the *Federal Register*, 78 Fed. Reg. 49,504 (2013), with interventions and comments due on or before August 23, 2013. None was filed. Notice of ORNI 47's September 17, 2013 filing was published in the *Federal Register*, 78 Fed. Reg. 58,532 (2013), with interventions and comments due on or before October 8, 2013. None was filed.

8. Notice of ORNI 47's request for blanket authorization under Part 34 was separately published in the *Federal Register*, 78 Fed. Reg. 49,507 (2013), with interventions or protests due on or before August 27, 2013. None was filed.

III. Determination

9. As discussed below, we will grant ORNI 47's request for authorization to make wholesale sales of electric energy, capacity, and ancillary services at market-based rates

⁶ *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).

and we will accept its market-based rate tariff effective October 1, 2013, as requested. We will also grant ORNI 47's request for certain waivers.

A. Market-Based Rate Authorization

10. 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.⁷

1. Horizontal Market Power

11. The Commission has adopted two indicative screens for assessing horizontal market power: the pivotal supplier screen and the wholesale market share screen.⁸ 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.⁹

12. ORNI 47 represents that all of the output from the generation capacity that is owned or controlled by ORNI 47 and its affiliates within the Sierra Pacific balancing authority area is fully committed under long-term sales agreements to non-affiliated third-party purchasers. ORNI 47 also represents that all generation capacity that is owned or controlled by ORNI 47 and its affiliates in balancing authority areas that are directly connected to the Sierra Pacific balancing authority area (i.e., first-tier markets) is also fully committed under long-term sales agreements to unaffiliated third-party purchasers. Accordingly, we find that ORNI 47's application satisfies the Commission's requirements for market-based rate authority regarding horizontal market power.

2. Vertical Market Power

13. 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.¹⁰

14. The Commission also considers a seller's ability to erect other barriers to entry as part of the vertical market power analysis.¹¹ The Commission requires a seller to provide

⁷ Order No. 697, FERC Stats. & Regs. ¶ 31,252 at PP 62, 399, 408, 440.

⁸ *Id.* P 62.

⁹ *Id.* PP 33, 62-63.

¹⁰ *Id.* P 408.

¹¹ *Id.* P 440.

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).¹² 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.¹³ 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.¹⁴

15. Regarding other barriers to entry, ORNI 47 represents that neither it nor its affiliates own, operate, or control electric transmission facilities in the United States, other than interconnection facilities that are used to connect electric generation resources to the transmission grid.¹⁵ Additionally, neither it nor any of its affiliates own, operate, or control any intrastate natural gas transportation, storage or distribution facilities in the United States. ORNI 47 represents that several affiliates own or control certain sites for generation capacity development.¹⁶ It further represents that neither it nor any of its affiliates own, operate, or control sources of coal supplies or facilities used in the transportation of coal supplies.

16. Finally, consistent with Order No. 697, ORNI 47 affirmatively states that it and its affiliates have not erected barriers to entry, and will not erect barriers to entry, into the relevant market.

17. Based on ORNI 47's representations, we find that ORNI 47 satisfies the Commission's requirements for market-based rates regarding vertical market power.

¹² Order No. 697-A, FERC Stats. & Regs. ¶ 31,268 at P 176.

¹³ Order No. 697, FERC Stats. & Regs. ¶ 31,252 at P 447.

¹⁴ *Id.* P 446.

¹⁵ The Commission granted an affiliate of ORNI 47—ORNI 39 LLC—waiver of the requirement to have an OATT on file for certain generation tie-line facilities. *See ORNI 39 LLC*, 136 FERC ¶ 61,142, at P 18 (2011).

¹⁶ ORNI 47 August 2 Application at 8, and App. D (identifying six sites in the southwest and nine sites in the northwest).

B. Waiver Requests

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

18. As explained above, ORNI 47 seeks waiver of certain requirements under Order Nos. 888, 889, and 890. In support of its request for waiver, ORNI 47 states that its generator tie line constitutes a limited and discrete transmission facility designed to be used solely to interconnect Wild Rose to the transmission grid. ORNI 47 states that the tie line will not be networked and will not form an integrated transmission system.

19. Order Nos. 888 and 890 and section 35.28 of the Commission's regulations¹⁷ 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, 2004,¹⁸ and 717¹⁹ and Part 358²⁰ of the Commission's regulations require public utilities to abide by certain standards of conduct.²¹ In prior orders, the Commission has enunciated the standards for exemption from some or all of the

¹⁷ 18 C.F.R. § 35.28 (2013).

¹⁸ *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).

¹⁹ *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).

²⁰ 18 C.F.R. pt. 358 (2013).

²¹ 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 889.²² The criteria for waiver of these requirements are unchanged by Order Nos. 890, 2004, and 717.²³

20. 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.²⁴

21. 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.²⁵ 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

²² 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*).

²³ 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.

²⁴ *Black Creek*, 77 FERC at 61,941.

²⁵ *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. See 18 C.F.R. § 358.1(c) (2013).

used its access to information about transmission to benefit the utility or its affiliate (for Standards of Conduct waivers).²⁶

22. Based on the statements in ORNI 47's application that it owns only a 20.5 mile, 120 kilovolt tie line that connects Wild Rose to the Sierra Pacific transmission system, we find that its transmission facilities qualify as limited and discrete. Accordingly, we will grant ORNI 47 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 ORNI 47 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.

23. The Commission will also grant ORNI 47 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 ORNI 47'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.²⁷ Likewise, ORNI 47'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 ORNI 47 has unfairly used its access to information to unfairly benefit itself or its affiliate.²⁸

2. Other Waivers, Approvals, and Authorizations

24. ORNI 47 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

²⁶ *Entergy*, 112 FERC ¶ 61,228 at P 23 (citing *Central Minnesota Mun. Power Agency*, 79 FERC ¶ 61,260, at 62,127 (1997); *Easton Utilities Comm'n*, 83 FERC ¶ 61,334, at 62,343 (1998)).

²⁷ *Entergy*, 112 FERC ¶ 61,228 at P 23 (citing *Central Minnesota Mun. Power Agency*, 79 FERC ¶ 61,260, at 62,127 (1997); *Easton Utilities Comm'n*, 83 FERC ¶ 61,334, at 62,343 (1998)).

²⁸ *Entergy*, 112 FERC ¶ 61,228 at P 23 (citing *Central Minnesota. Mun. Power Agency*, 79 FERC ¶ 61,260, at 62,127 (1997); *Easton Utilities Comm'n*, 83 FERC ¶ 61,334, at 62,343 (1998)). ORNI 47 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).

section 204 of the FPA²⁹ and Part 34 for all future issuances of securities and assumptions of liability.

25. The Commission will grant the requested waivers and authorizations consistent with those granted other entities with market-based rate authorizations.³⁰

Notwithstanding the waiver of the accounting and reporting requirements, the Commission expects ORNI 47 to keep its accounting records in accordance with generally accepted accounting principles.

26. We direct ORNI 47 to submit a compliance filing containing revisions to the limitations and exemptions section of its market-based rate tariff to include a citation to this order.³¹ We further direct ORNI 47 to revise the ancillary services section of its market-based rate tariff to reflect MISO's correct name, "Midcontinent Independent System Operator, Inc."³² We direct them to file these tariff revisions the next time ORNI 47 makes a market-based rate filing with the Commission.

3. Reporting Requirements

27. 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.³³

²⁹ 16 U.S.C. § 824c (2012).

³⁰ 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), 999-1000 (regarding blanket approval under Part 34).

³¹ *See* Order No. 697, FERC Stats. & Regs. ¶ 31,252 at App. C, *order on reh'g*, Order No. 697-A, FERC Stats. & Regs. ¶ 31,268 at P 384. *See also* *Niagara Mohawk Power Corp.*, 121 FERC ¶ 61,275, at P 8 (2007).

³² *See* *Midcontinent Independent System Operator, Inc.*, 144 FERC ¶ 61,129 (2013). ORNI 47's tariff incorrectly reflects MISO's name as "Midcontinent Independent Transmission System Operator, Inc."

³³ *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, (continued...)

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

28. Additionally, ORNI 47 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.³⁵

29. In Order No. 697, the Commission created two categories of sellers.³⁶ 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

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>.

³⁴ The exact filing dates for these reports are prescribed in 18 C.F.R. § 35.10b (2013). 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 *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 (2013).

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

issues.³⁷ Sellers that do not fall into Category 1 are designated as Category 2 sellers and are required to file updated market power analyses.³⁸

30. ORNI 47 represents that it and its affiliates own or control less than 500 MW of generation in aggregate in each region. It further represents that neither it nor any of its affiliates owns, operates, or controls transmission facilities other than the limited equipment necessary to connect individual generating facilities to the transmission grid. ORNI 47 also states that it is not affiliated with a franchised public utility in the same region in which generation assets are owned or controlled by ORNI 47 or its affiliates. Finally, ORNI 47 states that it and its affiliates do not raise other vertical market power issues.

31. Based on ORNI 47's representations, we find that it meets the criteria for a Category 1 seller in all regions. The Commission also reserves the right to require an updated market power analysis at any time for any region.³⁹

The Commission orders:

(A) ORNI 47's market-based rate tariff is hereby accepted for filing, effective October 1, 2013, as discussed in the body of this order.

(B) ORNI 47 is hereby directed to revise the limitations and exemptions and ancillary services sections of its market-based rate tariff, 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. ORNI 47 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

³⁷ 18 C.F.R. § 35.36(a) (2013).

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

³⁹ *Id.* P 853.

ORNI 47, compatible with the public interest, and reasonably necessary or appropriate for such purposes.

(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 ORNI 47's issuance of securities or assumptions of liability.

(G) ORNI 47's request for waiver of the Commission's OATT, OASIS, and Standards of Conduct requirements is hereby granted, as discussed in the body of this order.

(H) ORNI 47 is required to file EQRs in compliance with Order No. 2001. If the effective date of ORNI 47's market-based rate tariff falls within a quarter of the year that has already expired, ORNI 47'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.