

149 FERC ¶ 61,270
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Cheryl A. LaFleur, Chairman;
Philip D. Moeller, Tony Clark,
and Norman C. Bay.

Imperial Valley Solar Company (IVSC) 2, LLC

Docket Nos. ER14-2939-000
ER14-2939-001

ORDER GRANTING MARKET-BASED RATE AUTHORIZATION AND REQUEST
FOR WAIVERS

(Issued December 23, 2014)

1. In this order, we grant Imperial Valley Solar Company (IVSC) 2, LLC (Imperial Valley Solar 2) authority to make wholesale sales of electric energy, capacity, and ancillary services at market-based rates, effective November 24, 2014, as requested. Also, as discussed below, we grant Imperial Valley Solar 2's request for waiver of the Commission requirement to file an Open Access Transmission Tariff (OATT) and to establish and maintain an Open Access Same-Time Information System (OASIS).¹ We also grant Imperial Valley Solar 2's request for other waivers commonly granted to market-based rate sellers, except as noted herein.
2. Additionally, we find that Imperial Valley Solar 2 meets the criteria for a Category 1 seller in all regions and is so designated.²

¹ We note that Imperial Valley Solar 2 has not requested waiver of the Commission's Standards of Conduct and we therefore do not grant that waiver.

² 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. &

(continued...)

I. Background

3. On September 25, 2014, as amended on October 24, 2014, pursuant to section 205 of the Federal Power Act (FPA),³ Imperial Valley Solar 2 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.⁴ Imperial Valley Solar 2 states that it will own and operate a 21 megawatt (MW) photovoltaic solar electric generation facility (Facility) in Niland, California, within the Imperial Irrigation District balancing authority area.⁵ Imperial Valley Solar 2 also states that Imperial Irrigation District is contractually entitled to all of the Facility's output under a 30-year power purchase agreement.

4. Imperial Valley Solar 2 states that the Facility will interconnect to the Imperial Irrigation District balancing authority area at Imperial Irrigation District's Niland Switching Station. Imperial Valley Solar 2 further states that it owns a one-half-mile 92 kilovolt transmission line that will connect the Facility to the Niland Switching Station. Imperial Valley Solar 2 represents that its transmission line constitutes limited and discrete transmission facilities and requests that the Commission waive the requirements of Order Nos. 888,⁶ 889⁷ and 890.⁸

Regs. ¶ 31,305 (2010), *aff'd sub nom. Mont. Consumer Counsel v. FERC*, 659 F.3d 910 (9th Cir. 2011), *cert. denied*, 133 S. Ct. 26 (2012).

³ 16 U.S.C. § 824d (2012).

⁴ Imperial Valley Solar 2 requests authorization to sell ancillary services at market-based rates in the markets administered by PJM Interconnection, L.L.C., New York Independent System Operator, Inc., ISO New England Inc., and California Independent System Operator Corp. Imperial Valley Solar 2 also requests authorization to engage in the sale of certain ancillary services at market-based rates as a third-party provider in other markets.

⁵ Imperial Valley Solar 2 states that it anticipates that the Facility will begin commercial operations on or about March 1, 2015.

⁶ *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*

(continued...)

5. Imperial Valley Solar 2 is owned by SunPeak Solar, LLC. SunPeak Solar, LLC is owned by Rennie Capital Corporation and Desert Projects, Inc. Rennie Capital Corporation is wholly owned by an individual, and Desert Projects, Inc. is wholly owned by a trust with an individual as trustee.⁹

II. Notice of Filing

6. Notice of Imperial Valley Solar 2's September 25, 2014 and October 24, 2014 filings were published in the *Federal Register*,¹⁰ with interventions or protests due on or before November 14, 2014. None was filed.

7. Notice of Imperial Valley Solar 2's request for blanket authorization under Part 34 was separately published in the *Federal Register*,¹¹ with interventions or protests due on or before October 16, 2014. None was filed.

v. *FERC*, 225 F.3d 667 (D.C. Cir. 2000), *aff'd sub nom. New York v. FERC*, 535 U.S. 1 (2002).

⁷ *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).

⁸ *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 (2009), *order on clarification*, Order No. 890-D, 129 FERC ¶ 61,126 (2009).

⁹ Imperial Valley Solar 2 states that, except through its ownership of the SunPeak Solar, LLC subsidiaries described in its application, none of the SunPeak Solar, LLC owners has any involvement through affiliation with businesses in the energy industry that are subject to the Commission's jurisdiction. Imperial Valley Solar 2 October 24 filing at 2-3.

¹⁰ 79 Fed. Reg. 59,483 (2014); 79 Fed. Reg. 64,760 (2014).

¹¹ 79 Fed. Reg. 59,487 (2014).

III. Discussion

8. As discussed below, we will grant Imperial Valley Solar 2's request for authorization to make wholesale sales of electric energy, capacity, and ancillary services at market-based rates¹² and we will accept its market-based rate tariff, effective November 24, 2014, as requested. We will also grant Imperial Valley Solar 2's request for certain waivers.

A. Market-Based Rate Authorization

9. 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.¹³

1. Horizontal Market Power

10. The Commission has adopted two indicative screens for assessing horizontal market power: the pivotal supplier screen and the wholesale market share screen.¹⁴ 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.¹⁵

11. Imperial Valley Solar 2 represents that its generation capacity in the Imperial Irrigation District balancing authority area is fully committed under a 30-year power purchase agreement. In addition, the only other generation affiliated with Imperial

¹² We note that Imperial Valley Solar 2 is not being granted authority to make third-party sales of operating reserves to a public utility that is purchasing ancillary services to satisfy its own open access transmission tariff requirements to offer ancillary services to its own customers. If Imperial Valley Solar 2 seeks such authority, it must make the required showing and receive Commission authorization prior to making such sales. *See Third-Party Provision of Ancillary Services; Accounting and Financial Reporting for New Electric Storage Technologies*, Order No. 784, FERC Stats. & Regs. ¶ 31,349, at PP 200-202 (2013), *order on clarification*, Order No. 784-A, 146 FERC ¶ 61,114 (2014).

¹³ Order No. 697, FERC Stats. & Regs. ¶ 31,252 at PP 62, 399, 408, 440.

¹⁴ *Id.* P 62.

¹⁵ *Id.* PP 33, 62-63.

Valley Solar 2 is a 23 MW facility in the Imperial Irrigation District balancing authority area, which is also fully committed under a long-term power sales contract. Accordingly, we find that Imperial Valley Solar 2 satisfies the Commission's requirements for market-based rates regarding horizontal market power.

2. Vertical Market Power

12. 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.¹⁶

13. In this case, as discussed more fully below, the Commission will grant Imperial Valley Solar 2's request for waiver of the requirement to have an OATT on file for its transmission facilities.¹⁷ In addition, we note that the Commission previously granted Imperial Valley Solar 2's affiliate Imperial Valley Solar 1, LLC waiver of the requirement to have an OATT on file.¹⁸

14. The Commission also considers a seller's ability to erect other barriers to entry as part of the vertical market power analysis.¹⁹ 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).²⁰ The Commission also requires sellers to make an

¹⁶ *Id.* P 408.

¹⁷ *See* 16 U.S.C. §§ 796(23), 824(a)-(b) (2012). Imperial Valley Solar 2 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).

¹⁸ *See Imperial Valley Solar 1, LLC*, 143 FERC ¶ 61,195 (2013).

¹⁹ Order No. 697, FERC Stats. & Regs. ¶ 31,252 at P 440.

²⁰ Order No. 697-A, FERC Stats. & Regs. ¶ 31,268 at P 176.

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.²¹ 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.²²

15. Regarding other barriers to entry, Imperial Valley Solar 2 represents that neither it nor any of its affiliates owns or controls any intrastate natural gas transportation, storage, or distribution facilities. It further represents that neither it nor any of its affiliates owns or controls physical coal supply sources or has ownership or control over who may access transportation of coal supplies. Imperial Valley Solar 2 represents that it and its affiliates do not own sites for generation capacity other than the sites where the Facility and Imperial Valley Solar 1, LLC's facility are located.

16. Finally, consistent with Order No. 697, Imperial Valley Solar 2 affirmatively states that Imperial Valley Solar 2 and its affiliates have not erected barriers to entry, and will not erect barriers, in the relevant geographic market.

17. Based on Imperial Valley Solar 2's representations, and our determinations discussed below, we find that Imperial Valley Solar 2 satisfies the Commission's requirements for market-based rates regarding vertical market power.

B. Waiver Requests

1. OATT and OASIS

18. As explained above, Imperial Valley Solar 2 seeks waiver of the requirements to file an OATT and establish and maintain an OASIS with respect to its transmission line.²³ In support of its request for waiver, Imperial Valley Solar 2 states that its transmission

²¹ Order No. 697, FERC Stats. & Regs. ¶ 31,252 at P 447.

²² *Id.* P 446.

²³ Imperial Valley Solar 2 did not request a waiver from the requirement to abide by the Standards of Conduct. Therefore, we note that, to the extent Imperial Valley Solar 2 is subject to the Standards of Conduct requirements of Part 358, it must comply with them, although this is without prejudice to Imperial Valley Solar 2 submitting a request for such a waiver in the future.

line constitutes limited and discrete transmission facilities necessary to connect the Facility to the grid.²⁴

19. Order Nos. 888 and 890 and section 35.28 of the Commission's regulations²⁵ 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 regulations²⁶ 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 889.²⁷ The Commission has stated that the criteria for waiver of the requirements of Order No. 890 have not changed from those used to evaluate requests for waiver under Order Nos. 888 and 889.²⁸

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.²⁹

21. 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

²⁴ Imperial Valley Solar 2 September 25 Filing at n.19.

²⁵ 18 C.F.R. § 35.28 (2014).

²⁶ 18 C.F.R. pt. 37 (2014).

²⁷ 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*).

²⁸ See *Alcoa Power Generating Inc.*, 120 FERC ¶ 61,035, at P 3 (2007); *Alcoa Power Generating Inc.*, 108 FERC ¶ 61,243, at P 27 (2004).

²⁹ *Black Creek*, 77 FERC ¶ 61,232 at 61,941.

waiver would not be justified.³⁰ 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.³¹

22. Based on the statements in Imperial Valley Solar 2's application, we find that its transmission facilities qualify as limited and discrete. Imperial Valley Solar 2 will use the facilities solely to interconnect the Facility to the transmission grid. Accordingly, we will grant Imperial Valley Solar 2 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 Imperial Valley Solar 2 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.³²

23. The Commission will also grant Imperial Valley Solar 2 waiver of the requirements of Order No. 889 and Part 37 of the Commission's regulations with respect to OASIS. We note that Imperial Valley Solar 2'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.³³

³⁰ *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) (2014).

³¹ *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)).

³² *Black Creek*, 77 FERC ¶ 61,232 at 61,941.

³³ See *Entergy*, 112 FERC ¶ 61,228 at P 23 (citing *Central Minnesota Municipal Power Agency*, 79 FERC ¶ 61,260, at 62,127; *Easton*, 83 FERC ¶ 61,334, at 62,343).

2. Other Waivers, Approvals, and Authorizations

24. Imperial Valley Solar 2 also requests the following waivers and authorizations: (1) waiver of the filing requirements of subparts B and C of Part 35, except sections 35.12(a), 35.13(b), 35.15, and 35.16; (2) waiver of the accounting and other requirements of Parts 41, 101, and 141, except sections 141.14 and 141.15; and (3) blanket authorization under section 204 of the FPA³⁴ 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 to other entities with market-based rate authorizations.³⁵ Notwithstanding the waiver of the accounting and reporting requirements, the Commission expects Imperial Valley Solar 2 to keep its accounting records in accordance with generally accepted accounting principles.

C. Reporting Requirements

26. An entity with market-based rate authorization must file an Electric Quarterly Report (EQR) with the Commission, consistent with Order Nos. 2001³⁶ and 768,³⁷ to

³⁴ 16 U.S.C. § 824c (2012).

³⁵ 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 in Part 34 of the Commission's regulations. *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). However, waiver of the provisions of Part 101 that apply to hydropower licensees is not granted with respect to licensed hydropower projects. Hydropower licensees are required to comply with the requirements of the Uniform System of Accounts pursuant to 18 C.F.R. Part 101 to the extent necessary to carry out their responsibilities under Part I of the FPA. We further note that a licensee's status as a market-based rate seller under Part II of the FPA does not exempt it from its accounting responsibilities as a licensee under Part I of the FPA. *See Seneca Gen., LLC*, 145 FERC ¶ 61,096, at P 23 n.20 (2013) (citing *Trafalgar Power, Inc.*, 87 FERC ¶ 61,207, at 61,798 (1999) (noting that "all licensees are required to comply with the requirements of the Uniform System of Accounts to the extent necessary to carry out their responsibilities under [s]ections 4(b), 10(d) and 14 of the FPA")).

³⁶ *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*,

(continued...)

fulfill its responsibility under FPA section 205(c)³⁸ to have rates on file in a convenient form and place.³⁹ Imperial Valley Solar 2 must file EQRs electronically with the Commission consistent with the procedures set forth in Order No. 770.⁴⁰ Failure to timely and accurately file an EQR is a violation of the Commission's regulations for which Grand Ridge may be subject to refund, civil penalties, and/or revocation of market-based rate authority.⁴¹

27. Additionally, Imperial Valley Solar 2 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.⁴²

28. In Order No. 697, the Commission created two categories of sellers.⁴³ Category 1 sellers are not required to file regularly scheduled updated market power analyses.

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).

³⁷ *Electricity Mkt. Transparency Provisions of Section 220 of the Fed. Power Act*, Order No. 768, FERC Stats. & Regs. ¶ 31,336 (2012), *order on reh'g*, Order No. 768-A, 143 FERC ¶ 61,054 (2013).

³⁸ 16 U.S.C. § 824d(c) (2012).

³⁹ *See Revisions to Electric Quarterly Report Filing Process*, Order No. 770, FERC Stats. & Regs. ¶ 31,338, at P 3 (2012) (citing Order No. 2001, FERC Stats. & Regs. ¶ 31,127 at P 31).

⁴⁰ Order No. 770, FERC Stats. & Regs. ¶ 31,338.

⁴¹ The exact filing dates for these reports are prescribed in 18 C.F.R. § 35.10b (2014). Forfeiture of market-based rate authority may require a new application for market-based rate authority if the applicant wishes to resume making sales at market-based rates.

⁴² *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 (2014).

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.⁴⁴ Sellers that do not fall into Category 1 are designated as Category 2 sellers and are required to file updated market power analyses.⁴⁵

29. Imperial Valley Solar 2 represents that it and its affiliates own less than 500 MW of generation in all regions. Imperial Valley Solar 2 further states that neither it nor any of its affiliates owns, operates, or controls transmission facilities other than the limited facilities that are necessary to interconnect their generation facilities to the grid. Imperial Valley Solar 2 further states that it is not affiliated with a franchised public utility, and that it does not raise any other vertical market power issues. Based on Imperial Valley Solar 2's representations, and the Commission's decision herein to grant waiver of the OATT requirement, we designate Imperial Valley Solar 2 as a Category 1 seller in all regions. The Commission reserves the right to require an updated market power analysis at any time for any region.⁴⁶

The Commission orders:

(A) Imperial Valley Solar 2's market-based rate tariff is hereby accepted for filing, effective November 24, 2014, 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 Part 101 of the Commission's regulations is hereby granted, with the exception that waiver of the provisions of Part 101 that apply to hydropower licensees

⁴³ Order No. 697, FERC Stats. & Regs. ¶ 31,252 at P 848.

⁴⁴ 18 C.F.R. § 35.36(a) (2014).

⁴⁵ Order No. 697, FERC Stats. & Regs. ¶ 31,252 at P 850.

⁴⁶ See Order No. 697, FERC Stats. & Regs. ¶ 31,252 at P 853.

is not granted with respect to licensed hydropower projects. Waiver of Parts 41 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. Imperial Valley Solar 2 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 Imperial Valley Solar 2, 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 Imperial Valley Solar 2's issuance of securities or assumptions of liability.

(F) Imperial Valley Solar 2's request for waiver of the requirements to file an OATT and to establish and maintain an OASIS is hereby granted, as discussed in the body of this order.

(G) Imperial Valley Solar 2 is required to file EQRs in compliance with Order No. 2001. If the effective date of Imperial Valley Solar 2's market-based rate tariff falls within a quarter of the year that has already expired, Imperial Valley Solar 2'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.