

150 FERC ¶ 61,011  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

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

NRG Power Marketing LLC	Docket Nos. ER10-1569-009
Agua Caliente Solar, LLC	ER12-21-014
Arthur Kill Power LLC	ER10-2783-008
Astoria Gas Turbine Power LLC	ER10-2784-008
Avenal Park LLC	ER11-2855-013
Bayou Cove Peaking Power, LLC	ER10-2791-009
Bendwind, LLC	ER10-2333-002
BETM Solutions LLC	ER14-1865-001
Big Cajun I Peaking Power LLC	ER10-2792-009
Boston Energy Trading and Marketing LLC	ER14-1818-001
Broken Bow Wind, LLC	ER12-1238-002
Cabrillo Power I LLC	ER10-1564-009
Cabrillo Power II LLC	ER10-1565-009
CL Power Sales Eight, L.L.C.	ER10-2337-003
Conemaugh Power LLC	ER10-2795-008
Connecticut Jet Power LLC	ER10-2798-008
Cottonwood Energy Company LP	ER10-1575-007
CP Power Sales Seventeen, L.L.C.	ER10-2339-003
CP Power Sales Nineteen, L.L.C.	ER10-2338-003
CP Power Sales Twenty, L.L.C.	ER10-2340-003
Crofton Bluffs Wind, LLC	ER12-1239-002
DeGreeff DP, LLC	ER10-2336-002
DeGreeffpa, LLC	ER10-2335-002
Devon Power LLC	ER10-2799-008
Dunkirk Power LLC	ER10-2801-008
Elkhorn Ridge Wind, LLC	ER10-2385-002
El Segundo Energy Center LLC	ER11-3727-009
El Segundo Power, LLC	ER10-1566-009
Energy Alternatives Wholesale, LLC	ER12-2413-007
Energy Plus Holdings LLC	ER11-2062-010
Forward WindPower LLC	ER10-2346-002
GenConn Devon LLC	ER10-2812-007
GenConn Energy LLC	ER10-1291-011
GenConn Middletown LLC	ER10-2843-006
GenOn Energy Management, LLC	ER11-2508-009

GenOn Mid-Atlantic, LLC	ER11-2683-001
Green Mountain Energy Company	ER11-4307-010
Groen Wind, LLC	ER10-2347-002
High Lonesome Mesa, LLC	ER10-2348-002
High Plains Ranch II, LLC	ER12-1711-009
Hillcrest Wind, LLC	ER10-2350-002
Huntley Power LLC	ER10-2846-008
Independence Energy Group LLC	ER12-261-009
Indian River Power LLC	ER10-2871-006
Jeffers Wind 20, LLC	ER10-2351-002
Keystone Power LLC	ER10-2875-008
Laredo Ridge Wind, LLC	ER10-2368-002
Larswind, LLC	ER10-2352-002
Long Beach Generation LLC	ER10-1568-009
Long Beach Peakers LLC	ER10-1581-011
Lookout WindPower LLC	ER10-2353-002
Louisiana Generating LLC	ER10-2876-009
Middletown Power LLC	ER10-2878-008
Midway-Sunset Cogeneration Company	ER10-2354-003
Midwest Generation LLC	ER10-2355-003
Montville Power LLC	ER10-2879-008
Mountain Wind Power, LLC	ER10-2384-003
Mountain Wind Power II LLC	ER10-2383-003
NEO Freehold-Gen LLC	ER10-2880-008
North Community Turbines LLC	ER11-2107-002
North Wind Turbines LLC	ER11-2108-002
Norwalk Power LLC	ER10-2888-010
NRG Bowline LLC	ER13-1745-003
NRG California South LP	ER13-1803-005
NRG Canal LLC	ER13-1788-003
NRG Chalk Point LLC	ER13-1789-003
NRG Delta LLC	ER13-1790-005
NRG Energy Center Dover LLC	ER10-2896-008
NRG Energy Center Paxton LLC	ER10-2913-008
NRG Florida LP	ER13-1791-003
NRG Marsh Landing LLC	ER13-1746-006
NRG New Jersey Energy Sales LLC	ER10-2914-010
NRG Potomac River LLC	ER13-1799-003
NRG Power Midwest LP	ER13-1801-003
NRG REMA LLC	ER13-1802-003
NRG Rockford LLC	ER10-2916-008
NRG Rockford II LLC	ER10-2915-008
NRG Solar Alpine LLC	ER12-1525-009

NRG Solar Avra Valley LLC	ER12-2019-008
NRG Solar Blythe LLC	ER10-1582-008
NRG Solar Borrego I LLC	ER12-2398-008
NRG Solar Roadrunner LLC	ER11-3459-008
NRG Sterlington Power LLC	ER10-2931-009
NRG Wholesale Generation LP	ER13-1965-004
Oswego Harbor Power LLC	ER10-2969-008
Pinnacle Wind, LLC	ER11-4351-003
Reliant Energy Northeast LLC	ER11-4308-010
RRI Energy Services, LLC	ER11-2805-009
Sabine Cogen, LP	ER10-3143-011
Saguaro Power Company, a Limited Partnership	ER10-1580-011
San Juan Mesa Wind Project, LLC	ER10-2382-002
Sand Drag LLC	ER11-2856-013
Sierra Wind, LLC	ER10-2356-002
Sleeping Bear, LLC	ER10-2357-002
Solar Partners I, LLC	ER13-2107-004
Solar Partners II, LLC	ER13-2020-004
Solar Partners VIII, LLC	ER13-2050-004
Storm Lake Power Partners I LLC	ER10-2358-002
Sun City Project LLC	ER11-2857-013
Sunrise Power Company, LLC	ER10-2359-002
TAIR Windfarm, LLC	ER10-2360-002
Taloga Wind, LLC	ER10-2369-002
Vienna Power LLC	ER10-2947-008
Walnut Creek Energy, LLC	ER10-2381-002
Watson Cogeneration Company	ER10-2575-002
Wildorado Wind, LLC	ER10-2361-002

## ORDER ACCEPTING NOTICE OF CHANGE IN STATUS

(Issued January 12, 2015)

1. In this order, the Commission accepts a notice of change in status filed by the above-captioned subsidiaries and affiliates of NRG Energy, Inc. (NRG) with market-based rate authority (collectively, NRG MBR Sellers) reporting a transaction in which NRG indirectly acquired substantially all of the assets of Edison Mission Energy (Edison

Mission).<sup>1</sup> As discussed below, the Commission concludes that NRG MBR Sellers continue to satisfy the Commission's standards for market-based rate authority.

## **I. Background**

2. On May 1, 2014, NRG MBR Sellers filed a notice of change in status pursuant to the reporting requirements of Order No. 652 and section 35.42 of the Commission's regulations adopted in Order No. 697.<sup>2</sup> NRG MBR Sellers explain that the notice of change in status reflects the consummation, on April 1, 2014, of a transaction whereby NRG indirectly acquired substantially all of the assets of Edison Mission, including its interests in various entities that own or control generation in the California Independent System Operator Corporation (CAISO), PJM Interconnection, L.L.C. (PJM), and Midcontinent Independent System Operator, Inc. (MISO) markets.<sup>3</sup> NRG MBR Sellers represent that NRG acquired through the transaction approximately 720 megawatts (MW) of uncommitted capacity in the CAISO market and approximately 4,897 MW of uncommitted capacity in the PJM market.<sup>4</sup> NRG MBR Sellers assert that this change in status raises no market power concerns and does not materially alter the facts that the Commission relied upon in granting them market-based rate authorization.<sup>5</sup>

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<sup>1</sup> The related order approving the transaction was authorized by the Commission in *NRG Energy Holdings, Inc.*, 146 FERC ¶ 61,196 (2014).

<sup>2</sup> *Reporting Requirement for Changes in Status for Public Utilities with Market-Based Rate Authority*, Order No. 652, FERC Stats. & Regs. ¶ 31,175, *order on reh'g*, 111 FERC ¶ 61,413 (2005); *Market-Based Rates for Wholesale Sales of Electric Energy, Capacity and Ancillary Services by Public Utilities*, Order No. 697, FERC Stats. & Regs. ¶ 31,252, *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. Mont. Consumer Counsel v. FERC*, 659 F.3d 910 (9th Cir. 2011), *cert. denied*, 133 S. Ct. 26 (2012).

<sup>3</sup> NRG MBR Sellers' Filing at 3 (citing *NRG Energy Holdings, Inc.*, 146 FERC ¶ 61,196 (2014) (approving transaction)).

<sup>4</sup> NRG MBR Sellers state that additional generation acquired through the transaction in the MISO market was accounted for in market power screens filed by their affiliates on April 7, 2014. See *Community Wind North 1 LLC*, Docket No. ER14-1668-000, *et al.*, (June 5, 2014) (delegated letter order).

<sup>5</sup> *Id.* at 4, 5.

## II. Notice of Filings

3. Notice of NRG MBR Sellers' May 1 Filing was published in the *Federal Register*, 79 Fed. Reg. 27,293 (2014), with motions to intervene and comments due on or before May 22, 2014. None was filed.

## III. Discussion

4. The Commission allows power sales at market-based rates if the seller and its affiliates do not have, or have adequately mitigated, horizontal and vertical market power.<sup>6</sup> As discussed below, the Commission concludes that NRG MBR Sellers continue to satisfy the Commission's standards for market-based rate authority.

### A. Horizontal Market Power

5. The Commission has adopted two indicative screens for assessing horizontal market power: the pivotal supplier screen and the wholesale market share screen.<sup>7</sup> The Commission has stated that passage of both screens establishes a rebuttable presumption that the applicant does not possess horizontal market power, while failure of either screen creates a rebuttable presumption that the applicant has horizontal market power.<sup>8</sup>

6. NRG MBR Sellers state that the relevant markets are those in which the combining entities (i.e., NRG and the former Edison Mission subsidiaries and affiliates in which NRG acquired interests through the transaction) both conducted business prior to the transaction: namely, the CAISO, PJM and MISO markets.

7. NRG MBR Sellers represent that they rely on NRG Power Marketing LLC's (NRG Power Marketing) recently accepted market power analysis<sup>9</sup> to complete the horizontal market power screens for the CAISO market. NRG MBR Sellers represent that they pass the pivotal supplier screen, but fail the wholesale market share screen with results ranging from 18.2 to 20.3 percent for the CAISO market when the uncommitted generating capacity owned or controlled by certain affiliates of Midway-Sunset

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<sup>6</sup> Order No. 697, FERC Stats. & Regs. ¶ 31,252 at PP 62, 399, 408, 440.

<sup>7</sup> *Id.* P 62.

<sup>8</sup> *Id.* PP 62-63.

<sup>9</sup> *NRG Power Marketing LLC*, Docket No. ER10-1569-007, *et al.*, (Apr. 22, 2014) (delegated letter order).

Cogeneration Company (Midway-Sunset)<sup>10</sup> is included in the market power analysis. NRG MBR Sellers represent that they rely on NRG Power Marketing's recently accepted market power analysis for the PJM market<sup>11</sup> to demonstrate that NRG MBR Sellers pass the pivotal supplier screen, but fail the wholesale market share screen for the PJM market with results ranging from 21.2 to 25.8 percent. Finally, NRG MBR Sellers represent that they rely on Community Wind North 1 LLC's recently accepted market power analysis<sup>12</sup> to demonstrate that NRG MBR Sellers pass both the pivotal supplier and the wholesale market share screen for the MISO market.

8. NRG MBR Sellers represent that any market power that NRG MBR Sellers could be regarded as possessing in the CAISO market is adequately mitigated by the CAISO's Commission-approved market power monitoring and mitigation regime. NRG MBR Sellers also state that any market power that the NRG MBR Sellers could be regarded as possessing in the PJM market is adequately mitigated by PJM's Commission-approved market power monitoring and mitigation regime.

9. The Commission stated in Order No. 697 that with respect to market concentration within regional transmission organization (RTO) or independent system operator (ISO) markets, it will consider any Commission-approved market monitoring and mitigation regime already in place within the RTO/ISO that provides for mitigation of the market.<sup>13</sup> In Order No. 697-A, the Commission adopted a rebuttable presumption that existing Commission-approved RTO/ISO market monitoring and mitigation is sufficient to address market power concerns.<sup>14</sup> We find that the PJM market monitoring and mitigation are sufficient to address market power concerns in the PJM market.<sup>15</sup> We

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<sup>10</sup> NRG MBR Sellers state that Midway-Sunset is deemed to be affiliated with additional entities that own or control uncommitted capacity in the CAISO market as a result of its partial ownership interests held by Shell Oil Corporation and ExxonMobil Corporation.

<sup>11</sup> *NRG Power Marketing LLC*, Docket No. ER10-1569-001, *et al.*, (Mar. 1, 2013) (delegated letter order).

<sup>12</sup> *Community Wind North 1 LLC*, Docket No. ER14-1668-000, *et al.*, (June 5, 2014) (delegated letter order).

<sup>13</sup> Order No. 697, FERC Stats. & Regs. ¶ 31,252 at PP 240-41, 290.

<sup>14</sup> Order No. 697-A, FERC Stats. & Regs. ¶ 31,268 at P 111.

<sup>15</sup> *See PSEG Energy Resources & Trade LLC*, 125 FERC ¶ 61,073, at P 35 (2008) (finding that the PJM market monitoring and mitigation are sufficient to address market power concerns in the PJM-East submarket).

further find that the CAISO market monitoring and mitigation are sufficient to address market power concerns in the CAISO market.

10. Based on NRG MBR Sellers' representations and the foregoing market monitoring and mitigation present in the CAISO and PJM markets, the Commission finds that NRG MBR Sellers continue to satisfy the Commission's requirements for market-based rates regarding horizontal market power.

**B. Vertical Market Power**

11. NRG MBR Sellers state that the transaction with Edison Mission has no impact on vertical market power in any market. NRG MBR Sellers assert that neither they nor any of their affiliates owns or controls any operational transmission facilities other than the equipment necessary to interconnect their generation to the grid. Furthermore, NRG MBR Sellers state that neither they nor their NRG affiliates own or control any intrastate natural gas transportation or intrastate natural gas storage or distribution facilities in the relevant markets, any sites for generation capacity development that can be used to erect barriers to entry, any sources of physical coal supplies, or who may access transportation of coal supplies. NRG MBR Sellers state that, consistent with section 35.42(d) of the Commission's regulations,<sup>16</sup> they report the acquisition of control of any sites for new generation capacity development for which site control has been demonstrated in the interconnection process on a quarterly basis. Finally, NRG MBR Sellers affirmatively state that they have not, and will not, erect barriers to entry into the relevant markets.<sup>17</sup>

12. Based on the above representations, we find that NRG MBR Sellers continue to satisfy the Commission's requirements for market-based rate authorization regarding vertical market power.

13. Based on NRG MBR Sellers' satisfaction of the Commission's requirements for market-based authorization regarding horizontal and vertical market power, we will accept NRG MBR Sellers' notice of change in status.

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<sup>16</sup> 18 C.F.R. § 35.42(d) (2014).

<sup>17</sup> We interpret this statement to apply to NRG MBR Sellers and their affiliates, and our authorizations herein are predicated on NRG MBR Sellers complying with this commitment. *See* Order No. 697, FERC Stats. & Regs. ¶ 31,252 at P 447.

The Commission orders:

NRG MBR Sellers' notice of change in status is hereby accepted for filing, as discussed in the body of this order.

By the Commission. Commissioner Honorable is not participating.

( S E A L )

Kimberly D. Bose,  
Secretary.