

152 FERC 61,077
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

North Star Solar, LLC

Docket Nos. ER15-1475-000
ER15-1475-001

ORDER GRANTING MARKET-BASED RATE AUTHORIZATION AND
REQUEST FOR WAIVERS

(Issued July 28, 2015)

1. In this order, we grant North Star Solar, LLC (North Star Solar) authority to make wholesale sales of electric energy, capacity, and ancillary services at market-based rates, effective April 9, 2015, as requested. Also, as discussed below, we grant North Star Solar's request for waiver of the Commission's requirements to file an Open Access Transmission Tariff (OATT), to establish and maintain an Open Access Same-Time Information System (OASIS), and to comply with the Commission's Standards of Conduct.¹ We also grant North Star Solar's request for other waivers commonly granted to market-based rate sellers, except as noted herein.

2. Additionally, we find that North Star Solar meets the criteria for a Category 1 seller in the Northwest, Northeast, Southwest Power Pool (SPP), Southeast, and Central regions and a Category 2 seller in the Southwest region, and is so designated. North Star Solar must file updated market power analyses for the Southwest region in compliance with the regional reporting schedule adopted in Order No. 697.²

¹ We note that in Order No. 807 (effective June 30, 2015), the Commission amended its regulations to waive the OATT requirements of 18 C.F.R. § 35.28, the OASIS requirements of Part 37, and the Standards of Conduct requirements of Part 358, under certain conditions, for entities that own interconnection facilities. *See Open Access and Priority Rights on Interconnection Customer's Interconnection Facilities*, Order No. 807, FERC Stats. & Regs. ¶ 31,367 (2015).

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

(continued ...)

I. Background

3. On April 8, 2015, as amended May 1, 2015, and June 1, 2015, pursuant to section 205 of the Federal Power Act (FPA),³ North Star Solar 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
4. North Star Solar states that it will own a 60 megawatt (MW) alternating current solar photovoltaic generation facility located in Fresno County, California (the Project), in the California Independent System Operator Corporation (CAISO) market.
5. North Star Solar states that it will also own limited interconnection facilities which will consist of a 2-mile long, 115 kilovolt (kV) radial generator tie line and related facilities (Interconnection Facilities) that are necessary to interconnect the Project to the Pacific Gas and Electric Company (PG&E) transmission system operated by CAISO.
6. North Star Solar states that it will utilize the interconnection facilities solely to interconnect the Project to PG&E's transmission system. North Star Solar states that the interconnection facilities do not comprise an integrated transmission system and are limited and discrete. North Star Solar requests that the Commission grant it waiver of Order Nos. 888,⁵ 889,⁶ 890,⁷ and section 35.28,⁸ and Parts 37⁹ and 358¹⁰ of the Commission's regulations with respect to the Interconnection Facilities.

PP 848-850, *clarified*, 121 FERC ¶ 61,260 (2007) (Clarification Order), *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).

³ 16 U.S.C. § 824d (2012).

⁴ North Star Solar requests authorization to sell ancillary services in the market administered by California Independent System Operator Corp.

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*

(continued ...)

7. North Star Solar states that it is a wholly owned indirect subsidiary of Southern Power Company. North Star Solar represents that it is affiliated with approximately 532 MW of generation capacity in the Southwest region, all of which is fully committed under long-term power purchase agreements.

II. Notice of Filings

8. Notices of North Star Solar's filings were published in the *Federal Register*,¹¹ with interventions and protests due on or before June 22, 2015. None was filed.

9. Notice of North Star Solar's request for blanket authorization under Part 34 of the Commission's regulations was separately published in the *Federal Register*,¹² with interventions or protests due on or before May 5, 2015. 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).

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).

⁷ *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).

⁸ 18 C.F.R. § 35.28 (2014).

⁹ 18 C.F.R. pt. 37 (2014).

¹⁰ 18 C.F.R. pt. 358 (2014).

¹¹ 80 Fed. Reg. 19,981 (2015), 80 Fed. Reg. 26,921 (2015), 80 Fed. Reg. 32,553 (2015).

¹² 80 Fed. Reg. 22,175 (2015).

III. Discussion

10. As discussed below, we will grant North Star Solar'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 April 9, 2015, as requested.¹³ We will also grant North Star Solar's request for certain waivers.

A. Market-Based Rate Authorization

11. 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.¹⁴

1. Horizontal Market Power

12. The Commission has adopted two indicative screens for assessing horizontal market power: the pivotal supplier screen and the wholesale market share screen.¹⁵ 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.¹⁶

13. North Star Solar represents that its generation capacity in the CAISO market is fully committed under a long-term power purchase agreement. Further, North Star Solar states that it is not affiliated with any other uncommitted generation capacity located in the CAISO market or in any markets first-tier to the CAISO market. Accordingly, we

¹³ We note that North Star Solar 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 North Star Solar 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).

¹⁴ Order No. 697, FERC Stats. & Regs. ¶ 31,252 at PP 62, 399, 408, 440.

¹⁵ *Id.* P 62.

¹⁶ *Id.* PP 33, 62-63.

find that North Star Solar satisfies the Commission's requirements for market-based rates regarding horizontal market power.

2. Vertical Market Power

14. 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.¹⁷

15. North Star Solar states that neither it nor any of its affiliates owns transmission facilities in the Southwest region other than those limited and discrete facilities that are necessary to interconnect generation facilities to the grid. As discussed more fully below, the Commission will grant North Star Solar's request for waiver of the requirement to have an OATT on file for the Interconnection Facilities. In addition, North Star Solar states that its affiliates own transmission facilities in the Southeast region, which they operate pursuant to a Commission-approved OATT.¹⁸

16. 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, intrastate natural gas storage or distribution facilities; sites for new 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 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

¹⁷ *Id.* P 408.

¹⁸ North Star Solar May 1, 2015 filing at 14 (citing Alabama Power Co. Open Access Transmission Tariff (Tariff Volume No. 5)).

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.

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

not allow a seller to raise entry barriers but will allow intervenors to demonstrate otherwise.²²

17. Regarding other barriers to entry, North Star Solar represents neither it nor any of its affiliates owns or controls intrastate natural gas transportation, storage or distribution. North Star Solar represents that it is affiliated with certain entities that own or control coal supply facilities. North Star Solar also represents that it and its affiliates have demonstrated control over certain sites for generation capacity development. North Star Solar states that such control does not raise a concern about North Star Solar raising barriers to entry. Furthermore, North Star Solar commits to file any necessary quarterly site control reports with the Commission in accordance with Commission rules applicable to entities with market based rate authority.

18. Finally, consistent with Order No. 697, North Star Solar affirmatively states that it and its affiliates have not erected, and will not erect, barriers to entry in the relevant market.

19. Based on North Star Solar's representations, we find that North Star Solar satisfies the Commission's requirements for market-based rates regarding vertical market power.

B. Waiver Requests

1. OATT, OASIS, and Standards of Conduct

20. North Star Solar seeks waiver of the requirements to file an OATT, establish and maintain an OASIS, and abide by the Standards of Conduct with respect to the Interconnection Facilities. In support, North Star Solar states that the Interconnection Facilities will be limited and discrete transmission facilities that do not form an integrated transmission grid. North Star Solar further states that it will use the facilities solely to interconnect the Project to the transmission grid. Additionally, North Star Solar represents that it does not own or control transmission facilities other than the Interconnection Facilities.

21. Order Nos. 888 and 890 and section 35.28 of the Commission's regulations 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.

²² *Id.* P 446.

Order Nos. 889, 2004,²³ and 717²⁴ and Part 358 of the Commission's regulations require public utilities to abide by certain Standards of Conduct.²⁵ In prior orders, the Commission has enunciated the standards for exemption from some or all of the requirements of Order Nos. 888, 889, and 890.²⁶ The Commission has stated that the criteria for waiver of the requirements of Order No. 890 and Order No. 2004 are unchanged from those used to evaluate requests for waiver under Order Nos. 888 and 889.²⁷ Order No. 717 did not change those criteria.²⁸

22. 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.

²³ *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).

²⁴ *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).

²⁵ 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.

²⁶ *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*).

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

²⁸ *See* Order No. 717, FERC Stats. & Regs. ¶ 31,280 at PP 31-33.

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

23. 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.³⁰ Based on the statements in North Star Solar's application, we find that the Interconnection Facilities qualify as limited and discrete. Accordingly, we will grant North Star Solar 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 with respect to the Interconnection Facilities and 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 for the period April 9, 2015 through June 30, 2015.³¹

24. We note that the Commission recently explained how market-based rate applicants and sellers may demonstrate a lack of vertical market power once the blanket waiver provided for in 18 C.F.R. § 35.28(d)(2) takes effect.³² The Commission explained in *Kingfisher Wind* that, in Order No. 807, the Commission modified its policy to provide an additional method for obtaining waiver of the OATT requirements. In Order No. 807, the Commission stated that a market-based rate seller or any of its affiliates that owns, operates, or controls transmission facilities may satisfy the vertical market power

²⁹ *Black Creek*, 77 FERC at 61,941.

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) (*Black Hills*), the Commission explained that membership in a tight power pool is no longer a factor in the determination for waiver of Standards of Conduct. Moreover, *Black Hills* did not affect waivers based on a public utility disposing of no more than 4 million megawatt-hours annually.

³¹ If North Star Solar does not believe it qualifies for the blanket waiver under Order No. 807, it should notify the Commission.

³² *Kingfisher Wind, LLC*, 151 FERC ¶ 61,276 (2015).

requirements in 18 C.F.R. § 35.37(d) by one of the following: (1) have a Commission-approved OATT on file; (2) receive waiver of the OATT requirement under 18 C.F.R. § 35.28(d)(1); or (3) satisfy the requirements for a blanket waiver under 18 C.F.R. § 35.28(d)(2).³³

25. An applicant that qualifies for the blanket OATT waiver under 18 C.F.R. § 35.28(d)(2) should affirm in its market-based rate application that it qualifies for the blanket OATT waiver. As the Commission stated in Order No. 807, “[s]uch a waiver is justified because the usually limited and discrete nature of [interconnection facilities’] dedicated interconnection purpose means that such facilities do not typically present the concerns about discriminatory conduct that the Commission’s OATT, OASIS, and Standards of Conduct requirements were intended to address.”³⁴ In accordance with Order No. 807, the waivers referenced in 18 C.F.R. § 35.28(d)(2) shall be deemed in effect unless revoked as of the date the public utility ceases to satisfy the qualifications of 18 C.F.R. § 35.28(d)(2), and also may be revoked by the Commission if the Commission determines that it is in the public interest to do so.³⁵

26. We note that the Commission stated in Order No. 807 that an entity that has already been issued a waiver of the OATT, OASIS, and Standards of Conduct requirements and that is eligible for the blanket waiver under Order No. 807 will be deemed to be operating under the blanket waiver without further filings necessary with respect to the previously-issued waiver.³⁶

2. Other Waivers and Authorizations

27. North Star Solar also requests the following waivers and authorizations: (1) waiver of the filing requirements of subparts B and C of Part 35 of the Commission’s

³³ Order No. 807, FERC Stats. & Regs. ¶ 31,367 at P 57.

³⁴ *Id.* P 55.

³⁵ *Id.* P 101. After revocation of its waivers, the public utility must comply with the requirements that had been waived within 60 days of revocation. 18 C.F.R. § 35.28(d)(2)(i).

³⁶ Order No. 807, FERC Stats. & Regs. ¶ 31,367 at P 176 (referencing P 89, which states, in part, that “if an entity has previously received a specific waiver of the OATT and related obligations pursuant to the Commission’s ‘limited and discrete’ or ‘small entity’ standards, the blanket waiver will supersede the existing waiver”); *see also* 18 C.F.R. § 35.28.

regulations, 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 of the Commission's regulations, except sections 141.14 and 141.15; and (3) blanket authorization under section 204 of the FPA³⁷ and Part 34 of the Commission's regulations 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 North Star Solar to keep its accounting records in accordance with generally accepted accounting principles.

C. Reporting Requirements

29. An entity with market-based rate authorization must file an Electric Quarterly Report (EQR) with the Commission, consistent with Order Nos. 2001³⁹ and 768,⁴⁰ to

³⁷ 16 U.S.C. § 824c (2012).

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 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"))).

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,

(continued ...)

fulfill its responsibility under FPA section 205(c)⁴¹ to have rates on file in a convenient form and place.⁴² North Star Solar must file EQRs electronically with the Commission consistent with the procedures set forth in Order No. 770.⁴³ Failure to timely and accurately file an EQR is a violation of the Commission's regulations for which North Star Solar may be subject to refund, civil penalties, and/or revocation of market-based rate authority.⁴⁴

30. Additionally, North Star Solar 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.⁴⁵

31. In Order No. 697, the Commission created two categories of sellers.⁴⁶ Category 1 sellers are not required to file regularly scheduled updated market power analyses.

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).

⁴⁰ *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).

⁴¹ 16 U.S.C. § 824d(c) (2012).

⁴² *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).

⁴³ Order No. 770, FERC Stats. & Regs. ¶ 31,338.

⁴⁴ 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.

⁴⁵ *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).

⁴⁶ Order No. 697, FERC Stats. & Regs. ¶ 31,252 at P 848.

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.⁴⁷ Sellers that do not fall into Category 1 are designated as Category 2 sellers and are required to file updated market power analyses.⁴⁸

32. North Star Solar requests Category 1 seller status in the Northwest, Northeast, SPP, Southeast, and Central regions, and Category 2 seller status in the Southwest region. North Star Solar states that it is located in the Southwest region, where it and its affiliates own or control more than 500 MW of generation capacity. North Star Solar represents that it does not own or control generation in any region other than the Southwest. North Star Solar also represents that it is not affiliated with any entity that owns, operates or controls transmission facilities in the same region as its generation assets, and is not affiliated with a franchised public utility in the same region as its generation assets. Finally, North Star Solar represents that neither it nor its affiliates raise other vertical market power concerns.

33. Based on North Star Solar's representations, we designate North Star Solar as a Category 1 seller in the Northwest, Northeast, SPP, Southeast and Central regions and Category 2 seller status in the Southwest region. North Star Solar must file an updated market power analysis for the Southwest region in compliance with the regional reporting schedule adopted in Order No. 697.⁴⁹ The Commission also reserves the right to require such an analysis at any time for any region.⁵⁰

The Commission orders:

(A) North Star Solar's market-based rate tariff is hereby accepted for filing, effective April 9, 2015, as requested, as discussed in the body of this order.

⁴⁷ 18 C.F.R. § 35.36(a) (2014).

⁴⁸ Order No. 697, FERC Stats. & Regs. ¶ 31,252 at P 850.

⁴⁹ *Id.*

⁵⁰ *Id.* P 853.

(B) North Star Solar's request for waiver of the requirements to file an OATT, to establish and maintain an OASIS, and to comply with the Standards of Conduct is hereby granted, 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 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 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.

(E) Blanket authorization under Part 34 of the Commission's regulations for all future issuances of securities and assumptions of liability is hereby granted. North Star Solar 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 North Star Solar, 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 North Star Solar's issuance of securities or assumptions of liability.

(G) North Star Solar is hereby required to file EQRs in compliance with Order Nos. 2001 and 768. If the effective date of North Star Solar's market-based rate tariff falls within a quarter of the year that has already expired, North Star Solar'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.