

152 FERC ¶ 61,150  
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.

AV Solar Ranch 1, LLC	Docket Nos.	ER15-1985-000
Baltimore Gas and Electric Company		ER15-1986-000
Beebe Renewable Energy, LLC		ER15-1987-000
Calvert Cliffs Nuclear Power Plant, LLC		ER15-1988-000
CER Generation, LLC		ER15-1989-000
Commonwealth Edison Company		ER15-1990-000
Constellation Mystic Power, LLC		ER15-1991-000
Constellation Power Source Generation, LLC		ER15-1992-000
Cow Branch Wind Power, LLC		ER15-1993-000
CR Clearing, LLC		ER15-1994-000
Criterion Power Partners, LLC		ER15-1995-000
Exelon Framingham, LLC		ER15-1996-000
Exelon New Boston, LLC		ER15-2029-000
Exelon West Medway, LLC		ER15-2030-000
Exelon Wind 4, LLC		ER15-2031-000
Exelon Wyman, LLC		ER15-1997-000
Handsome Lake Energy, LLC		ER15-2032-000
Harvest II Windfarm, LLC		ER15-1998-000
Harvest Windfarm, LLC		ER15-1999-000
Michigan Wind 1, LLC		ER15-2000-000
Michigan Wind 2, LLC		ER15-2001-000
Nine Mile Point Nuclear Station, LLC		ER15-2002-000
PECO Energy Company		ER15-2003-000
R.E. Ginna Nuclear Power Plant, LLC		ER15-2007-000
Shooting Star Wind Project, LLC		ER15-2004-000
Wildcat Wind, LLC		ER15-2005-000
Wind Capital Holdings, LLC		ER15-2006-000

ORDER ACCEPTING MARKET-BASED RATE TARIFF REVISIONS AND  
REQUEST FOR CATEGORY 1 STATUS

(Issued August 25, 2015)

1. In this order, the Commission accepts proposed category seller designations and other market-based rate tariff revisions filed by the above-captioned affiliates of Exelon Corporation (collectively, Sellers),<sup>1</sup> effective June 29, 2015, as requested.
2. As discussed below, we determine that Baltimore Gas and Electric Company, Commonwealth Edison Company, and PECO Energy Company (collectively, Exelon Northeast Transmission Owners) fall within the category of sellers that are exempt from the requirement to regularly submit updated market power analyses (Category 1 sellers) in the regions where they do not own transmission facilities, and are so designated.<sup>2</sup> We also find that the remaining Sellers meet the criteria for Category 1 sellers in certain regions and are so designated.

### **I. Background**

3. On June 26, 2015, as amended on July 17, 2015, pursuant to section 205 of the Federal Power Act (FPA),<sup>3</sup> Sellers filed proposed tariff revisions to their respective market-based rate tariffs. Sellers state that the proposed revisions include the following: changes with respect to their Category 1 seller designations; updated ancillary services

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<sup>1</sup> For purposes of this proceeding, Sellers include: AV Solar Ranch 1, LLC; Baltimore Gas and Electric Company; Beebe Renewable Energy, LLC; Calvert Cliffs Nuclear Power Plant, LLC; CER Generation, LLC; Commonwealth Edison Company; Constellation Mystic Power, LLC; Constellation Power Source Generation, LLC; Cow Branch Wind Power, LLC; CR Clearing, LLC; Criterion Power Partners, LLC; Exelon Framingham, LLC; Exelon New Boston, LLC; Exelon West Medway, LLC; Exelon Wind 4, LLC; Exelon Wyman, LLC; Handsome Lake Energy, LLC; Harvest II Windfarm, LLC; Harvest Windfarm, LLC; Michigan Wind 1, LLC; Michigan Wind 2, LLC; Nine Mile Point Nuclear Station, LLC; PECO Energy Company; R.E. Ginna Nuclear Power Plant, LLC; Shooting Star Wind Project, LLC; Wildcat Wind, LLC; and Wind Capital Holdings, LLC.

<sup>2</sup> 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. Mont. Consumer Counsel v. FERC*, 659 F.3d 910 (9th Cir. 2011), *cert. denied*, 133 S. Ct. 26 (2012).

<sup>3</sup> 16 U.S.C. § 824d (2012).

language to match the Commission-approved standard ancillary services language; updated language regarding compliance with Commission regulations to match Commission-approved standard compliance language; and removal of the legal name of the market-based rate seller, which is now reflected in the Company Identifier number.<sup>4</sup> Additionally, Exelon Framingham, LLC, Exelon New Boston, LLC, Exelon West Medway, LLC, and Exelon Wyman, LLC (collectively, Exelon Consolidating Entities) request waiver of section 35.9 of the Commission's regulations in order to use the entire document formatting option for their market-based rate tariffs.<sup>5</sup>

## **II. Notice of Filings**

4. Notice of Sellers' filings was published in the *Federal Register*,<sup>6</sup> with interventions and comments due on or before July 31, 2015. None were filed.

## **III. Discussion**

5. The Commission accepts Sellers' revised market-based rate tariffs, effective June 29, 2015, as requested. Specifically, the Commission accepts the tariff revisions with respect to Category 1 seller designations, updated ancillary services language,<sup>7</sup> updated language regarding compliance with Commission regulations, and the removal of the legal name of the market-based rate seller, which is now reflected in the Company Identifier number.

6. Additionally, Exelon Consolidating Entities' request for waiver of section 35.9 of the Commission's regulations is granted and we will allow them to use the entire

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<sup>4</sup> June 26 Filing at 6; *see also 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).

<sup>5</sup> 18 C.F.R. § 35.9 (2015).

<sup>6</sup> 80 Fed. Reg. 38,195; 80 Fed. Reg. 38,443; 80 Fed. Reg. 44,950 (2015).

<sup>7</sup> We note that, in this order, we are not granting Sellers 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 they seek such authority, they must make the required showing and receive Commission authorization prior to making such sales. *See* Order No. 784, FERC Stats. & Regs. ¶ 31,349 at PP 200-202.

document formatting option for their market-based rate tariffs.<sup>8</sup> Section 35.9 of the Commission's regulations provides, in part, that tariffs may be filed either by dividing the tariff into individual sections or as an entire document.<sup>9</sup> Order No. 714 provides that a company that has previously broken its tariff into sections will not be able to recompile those sections and use the entire document option unless the company files a request for waiver.<sup>10</sup>

7. As discussed below, we also will grant Sellers' requests for Category 1 seller designation. In Order No. 697, the Commission created two categories of sellers.<sup>11</sup> Category 1 sellers include sellers that own or control 500 megawatts (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);<sup>12</sup> 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.<sup>13</sup> Market-based rate

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<sup>8</sup> Sellers state that Exelon Consolidating Entities will make additional eTariff filings to cancel out extraneous tariff records that are no longer needed after the consolidation of each of the tariffs.

<sup>9</sup> 18 C.F.R. § 35.9 (2015).

<sup>10</sup> *Electronic Tariff Filings*, Order No. 714, FERC Stats. & Regs. ¶ 31,276, at P 35 (2008).

<sup>11</sup> Order No. 697, FERC Stats. & Regs. ¶ 31,252 at P 848.

<sup>12</sup> *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).

<sup>13</sup> 18 C.F.R. § 35.36(a)(2) (2015).

sellers that do not fall into Category 1 are designated as Category 2 sellers and are required to file updated market power analyses.<sup>14</sup>

8. Sellers maintain that, with the exception of Exelon Northeast Transmission Owners, each of them qualifies for Category 1 seller status in the region(s) where it has requested Category 1 seller status because it: (1) either owns no generation or together with its affiliates owns less than 500 MW of generation in the specified region(s); (2) does not own, operate, or control transmission facilities, other than limited equipment necessary to interconnect individual generation facilities to the transmission grid, in the specified region(s); (3) is either not affiliated with transmission facilities or franchised public utilities in the specified region(s), or does not own generation in the specified region(s); and (4) does not present any other vertical market power concerns in the specified region(s).

9. With regard to Exelon Northeast Transmission Owners, Sellers seek a determination that each of the Exelon Northeast Transmission Owners is a Category 1 seller in the Central, Northwest, Southeast, Southwest, and SPP regions because they do not own, operate or control generation or transmission facilities in these regions and are not affiliated with transmission facilities or a franchised public utility in these regions. In addition, they state that Exelon Northeast Transmission Owners do not raise other vertical market power issues. Sellers acknowledge that each of the Exelon Northeast Transmission Owners is a Category 2 seller in the Northeast region, where their transmission assets are located.

10. We accept Exelon Northeast Transmission Owners' revised tariffs identifying them as Category 2 sellers in the Northeast region and Category 1 sellers in the other regions. Sellers represent that Exelon Northeast Transmission Owners own transmission facilities in the Northeast region but do not own or control any generation facilities in any region. Accordingly, we find that they are Category 2 sellers in the Northeast region, where they own transmission facilities, and are required to submit an updated market power analysis for that region. For the regions where they do not own transmission facilities and do not own or control any generation facilities, they qualify for Category 1 seller status and do not need to submit regularly scheduled updated market power analyses.

11. Based on Sellers' representations, we find that they meet the criteria for Category 1 seller status in certain regions and we accept the tariff revisions reflecting changes to their Category 1 and Category 2 seller status. Specifically, we find that: Harvest Windfarm, LLC and Michigan Wind 1, LLC meet the criteria for Category 1 sellers in

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<sup>14</sup> Order No. 697, FERC Stats. & Regs. ¶ 31,252 at PP 849-850.

the Northeast, Northwest, Southeast, Southwest and Southwest Power Pool regions, and Category 2 sellers in the Central region, and are so designated; Constellation Mystic Power, LLC, Exelon Framingham, LLC, Exelon New Boston, LLC, Exelon West Medway, LLC, Exelon Wyman, LLC, Constellation Power Source Generation, LLC, and Handsome Lake Energy, LLC meet the criteria for Category 1 sellers in the Central, Northwest, Southeast, Southwest, and Southwest Power Pool regions, and Category 2 sellers in the Northeast region, and are so designated; Cow Branch Wind Power, LLC, CR Clearing, LLC, Wind Capital Holdings, LLC, and CER Generation, LLC meet the criteria for Category 1 sellers in the Central, Northeast, Northwest, Southwest and Southwest Power Pool regions, and Category 2 sellers in the Southeast region, and are so designated; AV Solar Ranch 1, LLC meets the criteria for a Category 1 seller in the Central, Northeast, Northwest, Southeast, Southwest, and Southwest Power Pool regions, and is so designated; Exelon Wind 4, LLC meets the criteria for a Category 1 seller in the Central, Northeast, Northwest, Southeast, and Southwest regions, and a Category 2 seller in the Southwest Power Pool region, and is so designated; and Exelon Northeast Transmission Owners meet the criteria for Category 1 sellers in the Central, Northwest, Southeast, Southwest, and Southwest Power Pool regions, and Category 2 sellers in the Northeast region, and are so designated.<sup>15</sup> Sellers each must file an updated market power analysis for the region(s) where it is designated as a Category 2 seller. The Commission reserves the right to require an updated market power analysis at any time for any region.<sup>16</sup>

The Commission orders:

Sellers' revised market-based rate tariffs are hereby accepted for filing, effective June 29, 2015, as requested, as discussed in the body of this order.

By the Commission.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.

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<sup>15</sup> We note that some of the Sellers were already Category 1 sellers in some of these regions. *See* June 26 Filing at 2-5 nn.2-5, nn.7-8.

<sup>16</sup> Order No. 697, FERC Stats. & Regs. ¶ 31,252 at P 853.