

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

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

Wabash Valley Power Association, Inc.
Peabody Electricity, LLC
Lively Grove Energy Partners, LLC

Docket No. EC16-62-000

ORDER AUTHORIZING DISPOSITION AND ACQUISITION
OF JURISDICTIONAL FACILITIES

(Issued April 6, 2016)

1. On January 27, 2016, pursuant to section 203(a) of the Federal Power Act (FPA)¹ and part 33 of the Commission's regulations,² Wabash Valley Power Association, Inc. (Wabash Valley), Peabody Electricity, LLC (Peabody Electricity), and Lively Grove Energy Partners, LLC (Lively Grove) (collectively, Applicants) submitted an application seeking all authorizations necessary for Peabody Electricity to sell and for Wabash Valley to purchase all membership interests in Lively Grove and then transfer to itself Lively Grove's interest in the Prairie State Energy Campus (Facility) (Proposed Transaction).³ The Commission has reviewed the Proposed Transaction under

¹ 16 U.S.C. § 824b(a) (2012).

² 18 C.F.R. pt. 33 (2015).

³ Joint Application for Authorization under Section 203 of the Federal Power Act, Docket No. EC16-62-000 (Jan. 27, 2016) (Application). Although Applicants do not state whether they are seeking authorization under FPA section 203(a)(1) or FPA section 203(a)(2), we are acting under FPA section 203(a)(1). We remind all applicants that when they submit an application under FPA section 203, they must specify the subsection or subsections under which they are seeking authorization.

the Commission's Merger Policy Statement.⁴ As discussed below, we authorize the Proposed Transaction as consistent with the public interest.

I. Background

A. Description of Applicants and Facility

2. Applicants state that Wabash Valley is a generation and transmission cooperative with its principal place of business in Indianapolis, Indiana, and is a non-profit corporation organized under the Indiana Nonprofit Corporation Act. According to Applicants, Wabash Valley was formed by its members for the purpose of providing wholesale power and transmission service to its members for resale to its members' retail customers. Applicants explain that Wabash Valley's native load consists of 25 members, 23 of which are not-for-profit cooperatives serving electric energy to their retail members and are located primarily in rural areas of Indiana, Illinois, and Missouri. The other two members are Wabash Valley Energy Marketing, Inc. (Wabash Energy Marketing), a subsidiary of Wabash Valley, and J. Aron & Company, Inc. (J. Aron), neither of which have retail load obligations. Applicants state that Wabash Energy Marketing, J. Aron, and Wabash Valley have market-based rate tariffs.⁵

3. Applicants also explain that among Wabash Valley's retail load-serving members, 20 are connected only to Midcontinent Independent System Operator, Inc. (MISO), one is connected only to PJM Interconnection, L.L.C. (PJM), and two are connected to both MISO and PJM. Applicants note that Wabash Valley is a transmission-owning member and transmission customer of MISO, a transmission customer of PJM, and a market

⁴ See *Inquiry Concerning the Commission's Merger Policy Under the Federal Power Act; Policy Statement*, Order No. 592, FERC Stats. & Regs. ¶ 31,044 (1996) (1996 Merger Policy Statement), *reconsideration denied*, Order No. 592-A, 79 FERC ¶ 61,321 (1997); see also *FPA Section 203 Supplemental Policy Statement*, FERC Stats. & Regs. ¶ 31,253 (2007) (Supplemental Policy Statement). See also *Revised Filing Requirements Under Part 33 of the Commission's Regulations*, Order No. 642, FERC Stats. & Regs. ¶ 31,111 (2000), *order on reh'g*, Order No. 642-A, 94 FERC ¶ 61,289 (2001). See also *Transactions Subject to FPA Section 203*, Order No. 669, FERC Stats. & Regs. ¶ 31,200 (2005), *order on reh'g*, Order No. 669-A, FERC Stats. & Regs. ¶ 31,214, *order on reh'g*, Order No. 669-B, FERC Stats. & Regs. ¶ 31,225 (2006).

⁵ Application at 3 (citing *Wabash Valley Power Ass'n, Inc.*, Docket No. ER04-805-000 (July 1, 2004) (delegated letter order); *J. Aron & Company*, Docket No. ER02-237-000 (Dec. 31, 2001) (delegated letter order); *Wabash Valley Energy Mktg. Inc.*, Docket No. ER07-146-000 (Jan. 8, 2007) (delegated letter order)).

participant in both MISO and PJM.⁶ For purposes of the Proposed Transaction, Applicants state that MISO is the relevant market.⁷

4. Applicants state that Wabash Valley is entirely controlled by its members, who purchase power sold by Wabash Valley. Wabash Valley is responsible for meeting all of the power requirements of the distribution cooperative members under long-term wholesale power contracts. Applicants explain that each distribution cooperative member is required to pay Wabash Valley for power furnished under its respective wholesale power contract in accordance with a Commission-approved formula rate, which allows Wabash Valley to recover its costs and expenses from ownership, operation, and maintenance of its generating plants, transmission system or related facilities, and associated costs and expenses, plus a small margin. Applicants state that Wabash Valley makes no sales to retail customers.⁸

5. Applicants explain that Peabody Electricity is a limited liability company organized under the laws of the state of Delaware. Peabody Electricity is wholly owned by Peabody Investments Corporation, which is, in turn, wholly owned by Peabody Energy Corporation, a publicly owned Delaware corporation. Lively Grove is a limited liability company organized under the laws of the state of Delaware and is a wholly owned subsidiary of Peabody Electricity.⁹ According to Applicants, Lively Grove was formed for the exclusive purpose of developing and owning an undivided interest in the Facility. Lively Grove currently owns an undivided 5.06 percent interest in the Facility and is one of nine owners of the Facility. The other owners include six public power agencies and two electric generation and transmission cooperatives. Applicants state that Lively Grove is authorized by the Commission to make wholesale sales of electricity at market-based rates, and also has a rate schedule for reactive power compensation pursuant to Schedule 2 of the MISO Open Access Transmission, Energy and Operating Reserve Markets Tariff.¹⁰

⁶ *Id.* at 3-4.

⁷ *Id.* at 7.

⁸ *Id.* at 4.

⁹ *Id.*

¹⁰ *Id.* at 4-5.

6. The Facility, located in Washington County, Illinois, includes two coal-fired electric generating units. Each of the units is nominally rated at approximately 800 megawatts (MW). Applicants represent that the Facility is interconnected with a transmission system owned by Ameren Illinois Company and is under the functional control of MISO.¹¹

B. Description of the Proposed Transaction

7. Applicants explain that the Proposed Transaction will be implemented pursuant to the terms of the Purchase and Sales Agreement (Agreement) between Peabody Electricity as seller and Wabash Valley as buyer. Under the Agreement, Wabash Valley will acquire all membership interest of Lively Grove from Peabody Electricity, using long-term debt financing to purchase this interest. Upon consummation of the Proposed Transaction, all of Lively Grove's membership interest will be directly owned by Wabash Valley. Applicants explain that, following consummation of the sale, it is the intention of Wabash Valley to transfer the 5.06 percent undivided interest in the Facility from Lively Grove to itself.¹² Applicants explain that Lively Grove will thereafter be dissolved, and Wabash Valley will file notices of cancellation for Lively Grove's current market-based rate and reactive power tariffs. Applicants request that the transfer of the undivided interest in the Facility from Lively Grove to Wabash Valley not be considered a second and subsequent transaction requiring an additional section 203 application.¹³ Applicants explain that the primary purpose of the transfer is to permit Wabash Valley to obtain low-cost secured financing under Wabash Valley's Mortgage and Indenture of Trust, as the lenders will require the undivided interest in the Facility as collateral for the lending obligation.

II. Notice of Filing and Responsive Pleadings

8. Notice of the Application was published in the *Federal Register*, 81 Fed. Reg. 5730 (2016), with interventions and protests due on or before February 17, 2016. The City of Martinsville, Virginia (Martinsville), filed comments on February 24, 2016.¹⁴

¹¹ *Id.* at 5.

¹² *Id.* at 5-6.

¹³ *Id.* at 6.

¹⁴ Martinsville is not a party to the proceeding because it did not file a motion to intervene. 18 C.F.R. § 385.211(a)(2) (2015) (“The filing of a protest does not make the protestant a party to the proceeding. The protestant must intervene under Rule 214 to become a party.”).

Virginia State Delegate Danny Marshall filed a letter containing comments on February 25, 2016, and February 29, 2016.¹⁵ Virginia State Senator William M. Stanley filed a letter containing comments on March 8, 2016.¹⁶

III. Discussion

A. Standard of Review under FPA Section 203

9. FPA section 203(a)(4) requires the Commission to approve proposed dispositions, consolidations, acquisitions, or changes in control if the Commission determines that the proposed transaction will be consistent with the public interest.¹⁷ The Commission's analysis of whether a proposed transaction is consistent with the public interest generally involves consideration of three factors: (1) the effect on competition; (2) the effect on rates; and (3) the effect on regulation.¹⁸ FPA section 203(a)(4) also requires the Commission to find that the proposed transaction "will not result in cross-subsidization of a non-utility associate company or the pledge or encumbrance of utility assets for the benefit of an associate company, unless the Commission determines that the cross-subsidization, pledge, or encumbrance will be consistent with the public interest."¹⁹ The Commission's regulations establish verification and informational requirements for entities that seek a determination that a proposed transaction will not result in inappropriate cross-subsidization or pledge or encumbrance of utility assets.²⁰

¹⁵ The content of the comments filed by Mr. Marshall on February 25 and February 29 is the same.

¹⁶ Mr. Marshall and Mr. Stanley are not parties to this proceeding because neither filed a motion to intervene. 18 C.F.R. § 385.211(a)(2).

¹⁷ 16 U.S.C. § 824b(a)(4). Approval of the Proposed Transaction is also required by the Indiana Utility Regulatory Commission (Indiana Commission) pursuant to its respective statutory authority before the Proposed Transaction may be consummated. *See* Application Section VI.I. Our findings under FPA section 203 do not affect that agency's evaluation of the Proposed Transaction pursuant to its respective statutory authority.

¹⁸ 1996 Merger Policy Statement, FERC Stats. & Regs. ¶ 31,044 at 30,111.

¹⁹ 16 U.S.C. § 824b(a)(4).

²⁰ 18 C.F.R. § 33.2(j).

B. Analysis of the Proposed Transaction**1. Effect on Horizontal Competition****a. Applicants' Analysis**

10. Applicants assert that the Proposed Transaction does not raise any horizontal competition concerns because it does not result in any material changes in market shares or concentrations in the MISO market. According to Applicants, the Proposed Transaction will result in an 83 MW net increase in Wabash Valley's current generation capacity of 1,104.7 MW, which is primarily located within the MISO market. Applicants state that the capacity associated with the Proposed Transaction constitutes 0.05 percent of the approximately 180,700 MW of installed capacity in MISO, which would have a *de minimis* impact on Wabash Valley's market share and overall market concentration. Accordingly, Applicants submit that the Proposed Transaction will have a *de minimis* impact on horizontal competition in the MISO market.²¹

b. Commission Determination

11. In analyzing whether a proposed transaction will adversely affect competition, the Commission examines the effects on concentration in the generation markets and whether the proposed transaction otherwise creates the incentive and ability to engage in behavior harmful to competition, such as withholding of generation.²²

12. Based on Applicants' representations that the Proposed Transaction will have a *de minimis* impact on Wabash Valley's market share and overall market concentration in MISO, we find that the Proposed Transaction will not have an adverse effect on horizontal competition.

2. Effect on Vertical Competition**a. Applicants' Analysis**

13. According to Applicants, the Proposed Transaction will not have an adverse impact with respect to vertical competition. Applicants state that the Proposed Transaction does not involve any electric transmission facilities, other than facilities used to interconnect the Facility with the transmission grid, or any other upstream inputs to

²¹ Application at 7-8.

²² *Nev. Power Corp.*, 149 FERC ¶ 61,079, at P 28 (2014).

electricity products, other than the coal reserves that will continue to be used to generate electricity at the Facility. Further, Applicants submit that the Proposed Transaction does not affect the availability of open access transmission service over jurisdictional transmission facilities owned by Applicants and their affiliates because the facilities used to interconnect the Facility will remain under operational control of MISO. Accordingly, Applicants state that the Proposed Transaction does not raise any vertical market power concerns.²³

b. Commission Determination

14. As the Commission has previously found, transactions that combine electric generation assets with inputs to generating power (such as natural gas, transmission, or fuel) can harm competition if the transaction increases an entity's ability or incentive to exercise vertical market power in wholesale electricity markets. For example, by denying rival entities access to inputs or by raising their input costs, an entity created by a transaction could impede entry of new competitors or inhibit existing competitors' ability to undercut an attempted price increase in the downstream wholesale electricity market.²⁴

15. Based on Applicants' representations, we find that the Proposed Transaction will not have an adverse effect on vertical competition. As Applicants point out, the Proposed Transaction does not involve any electric transmission facilities, other than facilities used to interconnect the Facility with the transmission grid, or any other upstream inputs to electricity products, other than the coal reserves that will continue to be used to generate electricity at the Facility. Further, the Proposed Transaction does not affect the availability of open access transmission service over jurisdictional transmission facilities owned by Applicants and their affiliates, which will remain under the operational control of MISO.

3. Effect on Rates

a. Applicants' Analysis

16. Applicants assert that the Proposed Transaction will not adversely affect transmission rates or rates for long-term wholesale requirements customers. Applicants explain that the Proposed Transaction does not involve any transmission facilities, other

²³ Application at 9 (citing *Sw. Power Pool, Inc.*, 110 FERC ¶ 61,046 (2005); *PSEG Waterford Energy, LLC*, 112 FERC ¶ 61,308, at P 32 (2005); *Exelon Corp.*, 112 FERC ¶ 61,011, at P 198 (2005)).

²⁴ *Exelon Corp.*, 138 FERC ¶ 61,167, at P 112 (2012).

than limited interconnection facilities. With respect to wholesale requirements rates, Applicants state that Lively Grove does not have any long-term commitments to sell power from the Facility and does not have any wholesale requirements customers. Applicants add that Lively Grove provides reactive power supply and voltage support at cost-based rates, but the rate schedule and tariff pursuant to which Lively Grove provides such services does not contain any mechanism that would allow for the pass-through of transaction-related costs.²⁵ Applicants state that, with respect to Wabash Valley's wholesale rates, the Commission has determined that a transaction will not adversely affect rates when the members/owners are also the ratepayers. Moreover, Applicants state that Wabash Valley serves its members using wholesale rates set pursuant to a formula rate tariff, so no adjustment to the rates will be required.²⁶ Applicants also state that Wabash Valley has 23 long-term full requirements contracts between Wabash Valley and each of its distribution cooperative members, which extend to 2050.

17. In addition, Applicants explain that Wabash Valley has determined the purchase of the undivided interest in the Facility, and the membership interest in Lively Grove, to be a cost-effective option for meeting Wabash Valley's power supply obligations. Applicants also state that the acquisition of additional capacity is expected to lower fixed and variable costs over the long run, as compared to purchases of capacity and energy in the wholesale market. Accordingly, Applicants submit that the Proposed Transaction will not have an adverse impact on the rates of any of Wabash Valley's member cooperatives.²⁷

b. Comments

18. Martinsville states that American Municipal Power, Inc., with a 23.26 percent interest in the Facility, is one of eight public power utilities which own shares of the Facility. Martinsville explains that it is one of 68 communities that have long-term power contracts with American Municipal Power, Inc. for power coming from the Facility. Martinsville states that Peabody Electricity's proposed sale of its 5.06 percent share of the Facility to Wabash Valley for \$57 million amounts to almost \$190 million less than Peabody Electricity's indicated initial investment of \$246 million. Martinsville expresses concern that this sale will impact the total asset value of the Facility and, subsequently, power costs. Martinsville requests that the Commission conduct an assessment of whether the Proposed Transaction will impact electric costs for

²⁵ Application at 9-10.

²⁶ *Id.* at 10.

²⁷ *Id.* at 9-11.

communities that have long-term power contracts through the eight public power utilities contracted for the purchase of power from the Facility.²⁸

19. Mr. Marshall states that the Proposed Transaction may adversely affect utility providers in his district and region of Virginia. Mr. Marshall requests that the Commission “conduct an assessment of whether the significantly reduced asset value of the [Facility] in the proposed sale will create a financial hardship on the 200 communities paying debt service.” Mr. Marshall states that “the asset is currently valued at about 80 [percent] less than the amount of the indebtedness for which the communities are liable under their respective power sales agreements.”²⁹ Similarly, Mr. Stanley states that municipal utility providers and their customers in his district of Virginia may be adversely affected by the Proposed Transaction, and he also requests that the Commission “conduct an inquiry.”³⁰ Mr. Stanley states “[i]f the value of the [Facility] in the proposed sale is indeed 80 [percent] less than the indebtedness for which the communities are liable under their respective power agreements, then it will create financial hardships on the 200 communities now paying the debt service.”³¹

c. Commission Determination

20. Based on Applicants’ representations, we find that the Proposed Transaction will not have an adverse effect on rates. We note that the Proposed Transaction does not involve the transfer of transmission facilities other than limited interconnection facilities. With regard to wholesale rates, Wabash Valley makes sales, using wholesale rates set pursuant to a formula rate tariff, to its member cooperatives that are also its owners. The Commission has previously determined that a transaction will not adversely affect rates when the members/owners are also the ratepayers, and here, any profits earned by Wabash Valley will inure to the benefit of its ratepayers.³²

21. We decline requests that the Commission direct an inquiry into the purchase price agreed to by Wabash Valley and Peabody Electricity for Lively Grove’s interest in the Facility. The concerns raised in the comments relate to the decreased value of the

²⁸ Martinsville Resolution at 1.

²⁹ Letter of Mr. Danny Marshall at 1.

³⁰ Letter of Mr. William M. Stanley at 1.

³¹ *Id.*

³² *See, e.g., Duke Energy Vermillion II, LLC*, 137 FERC ¶ 61,174, at P 9 (2011).

Facility itself, which is not a result of the ownership transfer contemplated by the Proposed Transaction. The Commission's analysis of the rate effects of a proposed transaction under section 203 is limited to whether the transaction itself will cause an increase in rates.³³ To that end, Applicants have demonstrated that the Proposed Transaction will not have an adverse impact on the rates of wholesale customers. Furthermore, while commenters raise concerns that the decreased value of the Facility might impact customers responsible for the Facility's debt service, they fail to explain if, and if so, how, those potential impacts might result in increased rates for wholesale customers. Accordingly, it is not clear, based on the record before us, that those concerns are properly raised here.

4. Effect on Regulation

a. Applicants' Analysis

22. Applicants argue that the Proposed Transaction will not have any adverse effect on federal or state regulation. Applicants submit that the Proposed Transaction will not change their regulatory status because the Proposed Transaction will not remove any facilities from Commission jurisdiction or create gaps in regulation. With respect to state jurisdiction, Applicants state that the Proposed Transaction will not affect the extent to which any state authority can regulate retail rates. Wabash Valley filed a petition with the Indiana Commission for a Certificate of Public Convenience and Necessity to purchase the membership interest in Lively Grove and undivided interest in the Facility. Applicants add that Wabash Valley is subject to the regulatory approval of the Indiana Commission for financing the purchase. Applicants also maintain that the Proposed Transaction will have no impact on regulation in Illinois, where the Facility is located. Accordingly, Applicants submit that the Proposed Transaction will not have an adverse impact on regulation.³⁴

b. Commission Determination

23. We find no evidence that either state or federal regulation will be impaired by the Proposed Transaction. The Commission's review of a transaction's effect on regulation focuses on ensuring that it does not result in a regulatory gap at the federal or state level.³⁵ As to regulation at the state level, the Commission explained in the Merger

³³ See, e.g., *Silver Merger Sub, Inc.*, 145 FERC ¶ 61,261, at PP 65-67 (2013).

³⁴ Application at 11.

³⁵ 1996 Merger Policy Statement, FERC Stats. & Regs. ¶ 31,044 at 30,124.

Policy Statement that it ordinarily will not set the issue of the effect of a proposed transaction on state regulatory authority for a trial-type hearing where a state has authority to act on the proposed transaction. However, if the state lacks this authority and raises concerns about the effect on regulation, the Commission may set the issue for hearing and it will address such circumstances on a case-by-case basis.³⁶ Based on Applicants' representations, we find no evidence that either state or federal regulation will be impaired by the Proposed Transaction. No state commission has requested that the Commission address the effect of the Proposed Transaction on state regulation.

5. Cross-Subsidization

a. Applicants' Analysis

24. According to Applicants, the Proposed Transaction falls within the safe harbor established by the Commission for transactions that do not involve a franchised public utility with captive customers, such that detailed explanation and evidentiary support to demonstrate a lack of cross-subsidization is not required.³⁷ Applicants assert that the Proposed Transaction does not involve any franchised public utility with captive customers and that where no captive customers are involved, the Commission has recognized that "there is no potential harm to customers" and "therefore, compliance with Exhibit M could be a showing that no franchised public utility with captive customers is involved in the transaction." As a result, Applicants request that the Commission find that Applicants have complied with Exhibit M requirements and that the Proposed Transaction does not raise cross-subsidization concerns under section 204(a)(4) of the FPA.³⁸

b. Commission Determination

25. Based on Applicants' representations, we find that the Proposed Transaction will not result in the cross-subsidization of a non-utility associate company by a utility company, or in a pledge or encumbrance of utility assets for the benefit of an associate company.

³⁶ *Id.*

³⁷ Application at 11-12.

³⁸ *Id.* at 12-13.

IV. Accounting Analysis

26. Attachment 1 of the Application includes a pro forma accounting entry showing the accounting for the Proposed Transaction on the books of Wabash Valley, the entity subject to the Commission's jurisdiction that is required to follow the Commission's Uniform System of Accounts. Wabash Valley proposes to record the Proposed Transaction by debiting Account 131, Cash, and crediting Account 102, Electric Plant Purchased or Sold. However, Wabash Valley's proposed accounting for the Proposed Transaction does not fully comply with the Commission's accounting requirements.

27. The Commission requires jurisdictional entities to use the equity method of accounting to account for and report their long-term investments in subsidiary companies as promulgated in Order No. 469.³⁹ Specifically, Wabash Valley should record its membership interest in Lively Grove in Account 123.1, Investment in Subsidiary Companies. Additionally, Wabash Valley should record the transfer of the Facility interest through Account 102 and record the original cost and related accumulated depreciation of the Facility on its books consistent with Electric Plant Instruction No. 5. Wabash Valley must submit final accounting entries for the asset transfer in accordance with Electric Plant Instruction No. 5 and Account 102 within six months of the date that the Proposed Transaction is consummated. Moreover, the accounting submissions must provide all the accounting entries (including those related to the acquisition of the membership interest and, if applicable, dissolving Lively Grove) and amounts related to the Proposed Transaction along with narrative explanations describing the basis for the entries.

V. Other Considerations

28. Information and/or systems connected to the bulk power system involved in this Proposed Transaction may be subject to reliability and cyber security standards approved by the Commission pursuant to FPA section 215.⁴⁰ Compliance with these standards is mandatory and enforceable regardless of the physical location of the affiliates or investors, information database, and operating systems. If affiliates, personnel, or investors are not authorized for access to such information and/or systems connected to the bulk power system, a public utility is obligated to take the appropriate measures to deny access to this information and/or the equipment/software connected to the bulk

³⁹ *Revisions in the Uniform System of Accounts and Annual Report Forms No. 1 and No. 2 to Adopt the Equity Method of Accounting for Long-Term Investments in Subsidiaries*, Order No. 469, 49 FPC 326 (1973).

⁴⁰ 16 U.S.C. § 824o (2012).

power system. The mechanisms that deny access to information, procedures, software, equipment, etc., must comply with all applicable reliability and cyber security standards. The Commission, the North Electric Reliability Corporation, or the relevant regional entity may audit compliance with reliability and cyber security standards.

29. Section 301(c) of the FPA gives the Commission authority to examine the books and records of any person who controls, directly or indirectly, a jurisdictional public utility insofar as the books and records relate to transactions with or the business of such public utility. The approval of a proposed transaction is based on such examination ability. In addition, applicants subject to the Public Utility Holding Company Act of 2005 (PUHCA 2005)⁴¹ are subject to the record-keeping and books and records requirements of PUHCA 2005.

30. Order No. 652 requires that sellers with market-based rate authority 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 To the extent that a transaction authorized under FPA section 203 results in a change in status, sellers that have market-based rates are advised that they must comply with the requirements of Order No. 652.

The Commission orders:

(A) The Proposed Transaction is hereby authorized, as discussed in the body of this order.

(B) Applicants must inform the Commission of any material change in circumstances that departs from the facts or representations that the Commission relied upon in authorizing the Proposed Transaction within 30 days from the date of the material change in circumstances.

⁴¹ Energy Policy Act of 2005, Pub. L. No. 109-58, § 1261 *et seq.*, 119 Stat. 594 (2005).

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). *See* 18 C.F.R. § 35.42 (2015).

(C) The foregoing authorization is without prejudice to the authority of the Commission or any other regulatory body with respect to rates, service, accounts, valuation, estimates or determinations of costs, or any other matter whatsoever not pending or may come before the Commission.

(D) Nothing in this order shall be construed to imply acquiescence in any estimate or determination of cost or any valuation of property claimed or asserted.

(E) The Commission retains authority under sections 203(b) and 309 of the FPA to issue supplemental orders as appropriate.

(F) Applicants shall make any appropriate filings under section 205 of the FPA, as necessary, to implement the Proposed Transaction.

(G) Applicants shall notify the Commission within 10 days of the date on which the Proposed Transaction is consummated.

(H) Wabash Valley shall comply with the accounting requirements, as discussed in the body of this order. Wabash Valley shall submit its proposed final accounting for the Proposed Transaction within six months of the date that the Proposed Transaction is consummated. The accounting submissions shall provide all the accounting entries made to the books and records of Wabash Valley related to the Proposed Transaction, including appropriate narrative explanations describing the basis for the entries.

By the Commission. Commissioner Clark is not participating.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.