

155 FERC ¶ 61,123  
FEDERAL ENERGY REGULATORY COMMISSION  
WASHINGTON, DC 20426

May 2, 2016

In Reply Refer To:

East Ridge Transmission, LLC

Docket Nos. ER16-1068-000

ER16-1069-000

ER16-1070-000

ER16-1071-000

ER16-1072-000

ER16-1073-000

ER16-1074-000

ER16-1075-000

King and Spalding LLP  
1700 Pennsylvania Ave., NW  
Washington, DC 20006

Attention: David Tewksbury

Dear Mr. Tewksbury:

1. On March 3, 2016, you filed, on behalf of East Ridge Transmission, LLC (East Ridge), eight separate Transmission and Interconnection Agreements (collectively, Agreements), between East Ridge and each of Bendwind, LLC (Bendwind), DeGreeff DP, LLC (DeGreeff), DeGreeffpa, LLC (DeGreeffpa), Groen Wind, LLC (Groen), Hillcrest Wind, LLC (Hillcrest), Larswind, LLC (Larswind), Sierra Wind, LLC (Sierra), and TAIR Windfarm, LLC (TAIR) (collectively, the Project Companies).<sup>1</sup> The

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<sup>1</sup> East Ridge states that each of the Project Companies is an exempt wholesale generator that owns and operates a 1.25 MW (nameplate rating) wind facility in Murray County, Minnesota (collectively, the East Ridge Projects). East Ridge filed each of the Agreements for Bendwind, DeGreeff, DeGreeffpa, Groen, Hillcrest, Larswind, Sierra, and TAIR in Docket Nos. ER16-1068-000, ER16-1069-000, ER16-1070-000, ER16-1071-000, ER16-1072-000, ER16-1073-000, ER16-1074-000, and ER16-1075-000, respectively. The Agreements are “substantively identical” to the others. *See, e.g.,*

(continued...)

Agreements pertain to facilities used to interconnect the East Ridge Projects with the transmission grid (Shared Facilities) operated by Midcontinent Independent System Operator, Inc. (MISO).

2. According to East Ridge, Mission Minnesota Wind, LLC (Mission Minnesota) directly owns 99 percent of the membership interests in each of the Project Companies; different private individuals own the remaining one percent. East Ridge asserts that Northern States Power Company purchases the output of the East Ridge Projects pursuant to long-term power purchase agreements with each of the Project Companies.<sup>2</sup>

3. East Ridge states that the Project Companies collectively own 99 percent of East Ridge on a *pro rata* basis; Mission Minnesota owns the remaining one percent. East Ridge explains that the Shared Facilities are interconnected with the transmission grid pursuant to an interconnection and operating agreement (Interconnection Agreement) between itself, MISO, and Great River Energy. East Ridge states that it owns and operates the Shared Facilities, which consist of: (1) transmission lines from the East Ridge Projects' sites to the point of interconnection (East Ridge Feeder); (2) interconnection facilities at the point of interconnection (East Ridge Interconnection Facilities); and (3) an electrical substation to transform the energy to 69 kV (East Ridge Substation).<sup>3</sup>

4. According to East Ridge, the Agreements have a term commencing on March 31, 2005, and ending on December 31, 2032.<sup>4</sup> East Ridge asserts that article III of the Agreements requires each of the Project Companies to reimburse East Ridge for its *pro rata* share of the costs of constructing, operating, and maintaining the Shared Facilities and the study and interconnections costs for which East Ridge is responsible. East Ridge states that each of the Project Companies is responsible for: (1) 12.5 percent of the cost of constructing the East Ridge Substation and the cost for which East Ridge was responsible under the Interconnection Agreement; and (2) 12.5 percent of the costs

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East Ridge Trans., LLC Filing, Docket No. ER16-1068-000, at 5 (filed Mar. 3, 2016) (Application). The transmittal for each of the Agreements is identical to the Application.

<sup>2</sup> Application at 4.

<sup>3</sup> *Id.*

<sup>4</sup> It appears that contrary to the requirements of section 35.3 of the Commission's regulations (18 C.F.R. § 35.3 (2015)), East Ridge failed to file the Agreements in a timely manner. East Ridge is reminded that it must submit required filings on a timely basis or face possible sanctions by the Commission.

of operating and maintaining the East Ridge Substation and the East Ridge Interconnection Facilities. East Ridge further states that the Agreements allocate the costs of constructing, operating, and maintaining the East Ridge Feeder as follows: 9.68 percent to Bendwind, 10.71 percent to DeGreeff, 9.57 percent to DeGreeffpa, 11.08 percent to Groen, 14.97 percent to Hillcrest, 12.79 percent to Larswind, 13.02 percent to Sierra, and 18.18 percent to TAIR.<sup>5</sup>

5. East Ridge asks the Commission to accept the Agreements, effective as of May 3, 2016, and does not request waiver of the prior notice filing requirements. East Ridge acknowledges that these filings are untimely and requests waiver of the Commission's policy requiring that a utility refund the time value of revenues collected without Commission authorization where a cost-based rate schedule is filed after service has commenced. In support of this request, East Ridge first argues that such refunds would be inconsistent with the Commission's policy of limiting such refunds "so as not to cause the [utility] to suffer a loss."<sup>6</sup> Second, it argues that the Commission has previously recognized that the purpose of time value refunds is to encourage "compliance . . . and [compensate] customers that have been deprived of the use of their monies for the period that the rates had not been filed."<sup>7</sup> East Ridge states that such refunds would be inappropriate here because it was only providing service to its majority owners, the Project Companies, and the Commission has waived such refunds where "the customer is the same entity as the owner."<sup>8</sup>

6. Additionally, East Ridge requests waiver of sections 41.10 through 41.12, Part 101, and Part 141 of the Commission's regulations, except for sections 141.14 and 141.15. East Ridge states that such waivers are consistent with those granted to other interconnection-only entities, and that, like such entities, East Ridge owns only limited and discrete transmission facilities used to deliver energy from generation facilities owned by its upstream owners to the transmission grid. East Ridge also asks for blanket approval under Part 34 of the Commission's regulations for the issuances of securities and assumptions of liabilities. East Ridge states that such approval is likewise consistent

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<sup>5</sup> Application at 5.

<sup>6</sup> *Id.* at 7 (citing *Minwind I, LLC*, 149 FERC ¶ 61,109, at P 24 (2014)).

<sup>7</sup> *Id.* (citing *WC Landfill Energy, LLC*, 127 FERC ¶ 61,114, at P 40 (2009) (*WC Landfill*)).

<sup>8</sup> *Id.* (citing *WC Landfill*, 127 FERC ¶ 61,114 at P 40).

with Commission precedent granting this blanket approval to entities that are “interconnection-only entities that serve only their own affiliates.”<sup>9</sup>

7. Notice of East Ridge’s filings was published in the *Federal Register*, 81 Fed. Reg. 12,727 (2016), with interventions and protests due on or before March 24, 2016. None was filed.

8. The Agreements appear to be just and reasonable and have not been shown to be unjust, unreasonable, unduly discriminatory or preferential or otherwise unlawful. Accordingly, we accept the Agreements for filing, to become effective May 3, 2016, as requested. As discussed below, we also will grant East Ridge’s requested waivers.

9. Imposition of time value refunds is the Commission’s method of encouraging compliance by public utilities with the requirements of section 205 of the Federal Power Act (FPA),<sup>10</sup> and compensating customers that have been deprived of the use of their monies for the period that the rates were not on file.<sup>11</sup> For this reason, the time value refund is paid, not to the Commission, but to the customer who paid the rates. In *WC Landfill*, the Commission opted not to order time value refunds in a situation where the customer was also one of the owners of the utility paying the refunds.<sup>12</sup> There, the Commission reasoned that “where the customer is the same entity as the owner, the objective of requiring the time value of refunds would not be served.”<sup>13</sup> We note that, in the matter at hand, the Project Companies, East Ridge’s only customers, own 99 percent of the membership interests in East Ridge. The remaining one percent is owned by Mission Minnesota, which, in turn, owns 99 percent of the Project Companies. Additionally, East Ridge argues that payments under the Agreements are solely to reimburse East Ridge for the cost of the Shared Facilities and the study and interconnection costs incurred under the Interconnection Agreement and that paying refunds would “necessarily result in it having provided service to the Project Companies

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<sup>9</sup> *Id.* at 9 (citing *Dominion Solar Gen-Tie, LLC*, 152 FERC ¶ 61,014, at P 9 (2015) (*Dominion Solar*)).

<sup>10</sup> 16 U.S.C. § 824d (2012).

<sup>11</sup> *WC Landfill*, 127 FERC ¶ 61,114 at P 40.

<sup>12</sup> *Id.* P 39.

<sup>13</sup> *Id.* P 40; *see also Tucson Elec. Power Co.*, 155 FERC ¶ 61,070, at P 19 (2016).

at a loss.”<sup>14</sup> Therefore, based on East Ridge’s representations, we will grant waiver of time value refunds.

10. We grant East Ridge’s request for waiver of Part 141 of the Commission’s regulations<sup>15</sup> (except for, as requested, sections 141.14 and 141.15), including the Form No. 1 filing requirement. We find this waiver appropriate because the Shared Facilities constitute limited, discrete transmission facilities constructed for the purpose of delivering energy from affiliated generation facilities (the East Ridge Projects) to the MISO transmission system.<sup>16</sup> Because the Project Companies have market-based rate authority, it appears they have no captive, non-affiliate customers and do not sell at cost-based rates.<sup>17</sup> Additionally, we grant waiver of sections 41.10 through 41.12,<sup>18</sup> because those sections pertain to the Form No. 1 filing requirements in Part 141.<sup>19</sup>

11. We also grant East Ridge’s request for waiver of Part 101 of the Commission’s regulations.<sup>20</sup> The Commission has granted waiver of Part 101 in cases where a transmission owner’s facilities are limited and discrete and only serve a merchant generation affiliate.<sup>21</sup> However, notwithstanding the waiver of the accounting requirements of Part 101, we expect East Ridge to keep its accounting records in accordance with generally accepted accounting principles.

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<sup>14</sup> Application at 8.

<sup>15</sup> 18 C.F.R. pt. 141 (2015).

<sup>16</sup> See *Evergreen Gen Lead, LLC*, 149 FERC ¶ 61,237, at P 18 (2014) (*Evergreen Gen Lead*); *Spring Canyon Energy LLC, et al.*, 149 FERC ¶ 61,106, at P 26 (2014); *Maine GenLead, LLC*, 146 FERC ¶ 61,223, at P 17 (2014), *order on reh’g*, 152 FERC ¶ 61,015 (2015) (*Maine GenLead*).

<sup>17</sup> See *Evergreen Gen Lead*, 149 FERC ¶ 61,237 at P 18.

<sup>18</sup> 18 C.F.R §§ 41.10-41.12 (2015).

<sup>19</sup> See *Maine GenLead*, 146 FERC ¶ 61,223 at P 18.

<sup>20</sup> 18 C.F.R. pt. 101 (2015).

<sup>21</sup> See *Maine GenLead*, 146 FERC ¶ 61,223 at P 18.

12. Finally, we grant blanket approval of Part 34 of the Commission's regulations.<sup>22</sup> As the Commission previously has noted, section 204 of the FPA serves to ensure that public utilities do not, by issuing securities or assuming obligations or liabilities, put at risk their ability to provide service to customers that depend on that service.<sup>23</sup> Applying the foregoing principles here, we find that it is appropriate to grant East Ridge's request for blanket authorization for issuance of securities and assumptions of liability under Part 34 because East Ridge is an interconnection-only entity that serves only the Project Companies, its own affiliates.<sup>24</sup> However, East Ridge must notify the Commission if the circumstances providing the basis for the blanket authorization change.<sup>25</sup>

By direction of the Commission.

Nathaniel J. Davis, Sr.,  
Deputy Secretary.

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<sup>22</sup> 18 C.F.R. pt. 34 (2015).

<sup>23</sup> *Dominion Solar*, 152 FERC ¶ 61,014 at P 10 (citing *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 P 999, *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>24</sup> *See Maine GenLead*, 152 FERC ¶ 61,015 at P 8.

<sup>25</sup> We further note that if the Commission subsequently grants a request by a non-affiliated entity to use the Shared Facilities, East Ridge would no longer qualify for blanket authorization and the Commission may revoke the blanket authorization at that time.