

156 FERC ¶ 61,002
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Maine Power Express, LLC

Docket No. ER16-1619-000

ORDER GRANTING APPLICATION FOR AUTHORIZATION TO CHARGE
NEGOTIATED RATES, SUBJECT TO CONDITION, AND GRANTING WAIVERS

(Issued July 1, 2016)

1. In this order, the Commission authorizes Maine Power Express, LLC (MPX) to charge negotiated rates for transmission rights on a proposed high-voltage direct current (HVDC) merchant transmission project (Project) subject to condition and grants MPX's request for waivers of certain Commission requirements.¹

I. Background

A. Applicant

2. MPX states that it is a limited liability corporation organized and existing pursuant to the laws of the State of New York with a principal place of business in Greenwich, Connecticut.² MPX states that its primary owners include Loring Holdings, LLC;

¹ Under the Commission's precedent, merchant transmission projects differ from those of traditional public utilities in that the developers of merchant projects assume all of the market risk of a project and have no captive customers from which to recover the cost of the project. Thus, on a case-by-case basis, the Commission has allowed merchant projects to be priced based on negotiated rates and has granted certain waivers. *See, e.g., Hudson Transmission Partners, LLC*, 135 FERC ¶ 61,104 (2011) (*Hudson Transmission*); *Champlain Hudson Power Express, Inc.*, 132 FERC ¶ 61,006 (2010) (*Champlain Hudson*); *Chinook Power Transmission, LLC*, 126 FERC ¶ 61,134 (2009) (*Chinook*).

² MPX Filing at 2.

National Resources Energy, LLC; and Transmission Developers, Inc. Loring Holdings, LLC is a Maine limited liability corporation with a principal place of business in Limestone, Maine, and owns a 50 percent interest in the project. National Resources Energy, LLC is a Delaware limited liability corporation with a principal place of business in Greenwich, Connecticut, and owns a 45 percent interest in the project. MPX states that neither Loring Holdings, LLC nor National Resources Energy, LLC owns any existing electric generation, transmission or distribution facilities. Transmission Developers, Inc. is a company organized and existing according to the laws of Delaware with a principal place of business in Albany, New York, and owns a 5 percent non-voting interest in the project. MPX states that Transmission Developers, Inc. does not currently own any existing electric generation, transmission, or distribution facilities, but has proposed two unconstructed transmission projects in the region; the New England Clean Power Link, which would serve the New England Independent System Operator, ISO New England Inc. (ISO-NE), and the Champlain-Hudson Power Express (CHPE), which would serve the New York Independent System Operator, Inc. (NYISO).³

B. Description of the Project

3. MPX describes the Project as a 315-mile HVDC transmission line that will be capable of delivering up to 1,000 MW of power from proposed resources in northern Maine directly to Boston, Massachusetts. MPX states that the HVDC transmission line will consist of two five-inch, solid state HVDC electric cables which will be buried underground and underwater entirely within the United States. MPX asserts that the Project offers the opportunity for wind projects to deliver to the proposed origination point in Haynesville, Maine over existing rights-of-way and could facilitate potential imports from Canada over the existing Maine Electric Power Company line to serve load in Boston, Massachusetts. The Project will originate at a new AC/DC converter station in Haynesville, Maine and terminate at a new AC/DC converter station in Boston, Massachusetts, which in turn will connect with the Eversource Energy transmission system in Boston, Massachusetts. MPX states that the final route is subject to an ongoing analysis.⁴

4. MPX estimates that the Project will cost approximately \$2.4 billion and expects to place the Project into service in 2021.⁵ MPX notes that it has completed an engineering pre-feasibility study, filed an interconnection application with ISO-NE, commenced a

³ *Id.* 3 & n.2.

⁴ *Id.* at 4.

⁵ *Id.* at 1 and 5.

System Impact Study for the Project, and retained engineering and environmental consultants to assist in obtaining necessary permits.⁶ Further, MPX states that it has undertaken outreach efforts with resources agencies, non-governmental organizations, and interested stakeholders to facilitate the design, siting, and permitting of the Project, and that these efforts will continue throughout the permitting process. MPX states that, upon completion of the Project, MPX will turn over operational control of the Project to ISO-NE, which will operate the line pursuant to its Open Access Transmission Tariff (Tariff).⁷

C. Application

5. On May 2, 2016, MPX filed a request for (1) authorization to sell transmission rights on the Project at negotiated rates and (2) waiver of certain Commission regulations and reporting requirements discussed below. MPX contends that its application meets the four-factor analysis for authorizing negotiated rates as outlined in *Chinook*. MPX further contends that its proposal complies with the Commission's Policy Statement addressing the allocation of capacity for new merchant transmission projects and participant-funded transmission projects.⁸ Accordingly, MPX requests Commission approval of its proposed open solicitation and capacity allocation process, subject to its commitment to demonstrate in one or more post-open solicitation compliance filings that its selection of customers is consistent with the Commission-approved process. MPX also proposes to allocate up to 100 percent of the Project's initial capacity to one or more transmission customers through the open solicitation and capacity allocation process.

6. MPX requests that the Commission grant its application by July 1, 2016, to enable MPX to meet its schedule for permitting and for the open solicitation process for the Project.⁹

⁶ *Id.* at 5.

⁷ *Id.* at 1, 5, 9, 10, 13, and 14.

⁸ *Id.* at 5 (citing *Lake Erie CleanPower Connector*, 144 FERC ¶ 61,203, at P 6 (2013) (*LECC*) (citing *Chinook*, 126 FERC ¶ 61,134 at P 37)); *id.* at 6 (citing *Allocation of Capacity on New Merchant Transmission Projects and New Cost-Based, Participant-Funded Transmission Projects*, 142 FERC ¶ 61,038 (2013) (Policy Statement)).

⁹ *Id.* at 2.

II. Notice, Intervention, and Responsive Pleadings

7. Notice of MPX's filing was published in the *Federal Register*, 81 Fed. Reg. 30,299 (2016), with interventions and protests due on or before May 23, 2016. National Grid filed a timely motion to intervene.

III. Discussion

A. Procedural Matters

8. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2015), the timely, unopposed motion to intervene serves to make the entity that filed it a party to this proceeding.

B. Negotiated Rate Authority

9. In evaluating negotiated rate applications, the Commission's analysis has focused on four areas of concern: (1) the justness and reasonableness of the rates; (2) the potential for undue discrimination; (3) the potential for undue preference, including affiliate preference; and (4) regional reliability and operational efficiency requirements.¹⁰ This approach simultaneously acknowledges the financing realities faced by merchant transmission developers and mandates of the Federal Power Act (FPA) and the Commission's open access requirements. Moreover, this approach allows the Commission to use a consistent framework to evaluate requests for negotiated rate authority from a wide range of merchant transmission projects that can differ substantially from one project to the next.

1. Factor One: Just and Reasonable Rates

10. To approve negotiated rates for a transmission project, the Commission must find that the rates are just and reasonable.¹¹ In determining whether negotiated rates will be just and reasonable, the Commission looks to whether the merchant transmission owner has assumed the full market risk for the cost of constructing its proposed project and is not building within the footprint of the merchant transmission owner's (or an affiliate's) traditionally regulated system. In such a case, there are no captive customers who would be required to pay the costs of the project. The Commission will also consider whether the merchant transmission owner or an affiliate already owns transmission facilities in the

¹⁰ *Chinook*, 126 FERC ¶ 61,134 at P 37.

¹¹ *Id.*; *Champlain Hudson*, 132 FERC ¶ 61,006 at P 17 (same).

region where the project is to be located, what alternatives customers have, whether the merchant transmission owner is capable of erecting any barriers to entry among competitors, and whether the merchant transmission owner would have any incentive to withhold capacity.¹²

a. MPX's Proposal

11. MPX states that it will assume all market risk for the Project and that there will be no captive customers.¹³ MPX asserts that it is a new market entrant in ISO-NE, and that no affiliate currently owns or controls facilities in the same area served by the Project. MPX notes that, although MPX is owned in part by Transmission Developers, Inc. and is therefore affiliated with the New England Clean Power Link and Champlain-Hudson Power Express, the MPX Project will not be able to create barriers to entry or exercise market power in their respective markets since all parties have agreed to turn operational control over to their respective Independent System Operators (ISO).¹⁴ MPX also states that, when the transmission line is completed, it will turn over operational control of the line to ISO-NE, which will operate the line under its Commission-approved Tariff.

12. MPX asserts that potential customers can pursue alternative transmission service from incumbent transmission owners operating where the Project will be built, who are obligated to provide service at cost-of-service rates (capped at the incumbent utility's cost of expansion). MPX also asserts that, since it has no captive customers, customers will purchase transmission service from MPX only to the extent that it is cost-effective for it to do so when compared to the incumbent transmission owner's cost of expanding capacity. Additionally, MPX states that the Commission has found that the negotiated rates that merchant transmission customers are willing to pay are effectively capped by the difference in the market price for power at either end of the line, in this case the markets operated in the Northern Maine Independent System Administrator (Northern Maine ISA) and New Brunswick System Operator (New Brunswick) markets and that of ISO-NE.¹⁵

¹² *Chinook*, 126 FERC ¶ 61,134 at P 38.

¹³ MPX Filing at 8-9.

¹⁴ *Id.* at 9 n.20.

¹⁵ *Id.* at 9 (citing *LECC*, 144 FERC ¶ 61,203 at P 13).

b. Commission Determination

13. Based upon the information provided in the application, we conclude that, if executed as explained in MPX's filing, MPX's request for authority to charge negotiated rates for service on the Project has met the first of the *Chinook* factors. MPX assumes full market risk for the Project, has no captive customers, and neither MPX nor any affiliate owns or operates transmission facilities in the same area served by the Project. Additionally, no entity is required to purchase transmission service from MPX, and customers have the alternative of purchasing transmission from incumbent owners in the area. Further, MPX and its affiliates do not own or control any barriers to market entry or have any incentive to withhold capacity on the Project. MPX will turn over operational control of the line to ISO-NE after the Project is completed. Accordingly, we find that that MPX's Project, if executed as explained in MPX's filing, satisfies the first criterion above.

2. Factor Two: Undue Discrimination

14. As explained in *Chinook*, in order to prevent undue discrimination when granting merchant transmission owners negotiated rate authority, the Commission has considered: (1) the terms and conditions of a merchant developer's open season; and (2) its tariff commitments (or in the regional transmission operator (RTO)/ ISO) context, its commitment to turn operational control over to the RTO or ISO).¹⁶ The Policy Statement, however, provides an alternative to conducting a formal open season. Under this alternative, a developer may demonstrate no undue discrimination or preference by conducting an open solicitation that complies with the requirements of the Policy Statement.¹⁷ Specifically, the developer must: (1) broadly solicit interest in the project from potential customers; and (2) after the solicitation process, demonstrate to the Commission that it has satisfied the solicitation, selection, and negotiation process criteria set forth in the Policy Statement.¹⁸

15. In the Policy Statement, the Commission stated that applicants must issue broad notice of the project in a manner that ensures that all potential and interested customers are informed of the proposed project, such as by placing notice in trade magazines or regional energy publications.¹⁹ Such notice should include developer points of contact,

¹⁶ *Chinook*, 126 FERC ¶ 61,134 at P 40.

¹⁷ Policy Statement, 142 FERC ¶ 61,038 at PP 15, 23.

¹⁸ *Id.* P 16.

¹⁹ *Id.* P 23.

pertinent project dates, and sufficient technical specifications and contract information to inform interested customers of the nature of the project, including the following: (1) project size/capacity; (2) end points of the line; (3) projected construction and/or in-service dates; (4) type of line; (5) precedent agreement (if developed); and (6) other capacity allocation arrangements (including how the developer will address potential oversubscription of capacity).²⁰ The developer should also specify in the notice the criteria it plans to use to select transmission customers. In addition, the developer may also adopt a specific set of objective criteria it will use to rank prospective customers, provided it can justify why such criteria are appropriate. Finally, the Commission expects the developer to update its notice if there are any material changes to the nature of the project or the status of the capacity allocation process, in particular to ensure that interested entities are informed of any remaining available capacity.²¹

16. Additionally, in the Policy Statement, the Commission stated that merchant developers must disclose the results of their capacity allocation process, though this disclosure would be part of the Commission's approval of the capacity allocation process and thus noticed and acted upon under section 205 of the FPA.²² Developers must demonstrate that the processes that led to the identification of transmission customers and the execution of the relevant contractual arrangements are consistent with the Policy Statement and the Commission's open access principles. Specifically, the developer should describe the criteria that were used to select customers, any price terms, and any risk-sharing terms and conditions that served as the basis for identifying transmission customers selected versus those that were not, as well as provide certain information listed in the Policy Statement in order to provide transparency to the Commission and interested parties.²³

17. The Commission emphasized in the Policy Statement that the information in the post-selection demonstration is an essential part of a merchant developer's request for approval of a capacity allocation process, and that the developer will have the burden to demonstrate that its process was in fact not unduly discriminatory or preferential, and resulted in rates, terms, and conditions that are just and reasonable.²⁴ The Commission

²⁰ *Id.* P 20.

²¹ *Id.* PP 24-27.

²² 16 U.S.C. § 824d (2012).

²³ Policy Statement, 142 FERC ¶ 61,038 at P 30.

²⁴ *Id.* P 32.

allows developers discretion in the timing of requests for approval of capacity allocation processes. For example, a developer can seek approval of its capacity allocation approach after having completed the process of selecting customers in accordance with Commission policies. Alternatively, a developer can first seek approval of its capacity allocation approach, and then can demonstrate in a compliance filing filed in response to the Commission's order approving that approach that the developer's selection of customers was consistent with the approved selection process.

a. MPX's Proposal

18. MPX commits to conduct an open solicitation process consistent with the requirements of the Policy Statement.²⁵ MPX states that it will retain a third-party independent adviser, experienced in overseeing open seasons for merchant transmission capacity, to facilitate broad notice of the Project and the selection and ranking of prospective customers. MPX states that, to initiate the open solicitation process, MPX anticipates developing an exclusive website devoted specifically to an open solicitation process and issuing a press release that will be circulated, at minimum, to energy trade publications, news outlets within the ISO-NE, Northern Maine ISA and New Brunswick regions, and a list of potential transmission customers developed by MPX and its independent adviser. MPX explains that the website and press release will identify the project dates for significant development and construction, the Project's capacity, the interconnection points, a statement regarding allocation of capacity, characteristics of the line, and the criteria MPX will use to assess potential customers.²⁶ MPX further states that the press release will identify the website address for MPX's open solicitation process and the website will contain more detailed information about the Project. MPX states the website information will include activities completed to date, a confidentiality agreement, selection and ranking criteria, a form of precedent agreement (when available), and information about dates and locations of public meetings where MPX will address inquiries from potential customers.²⁷ MPX states that any material changes to the project status or open solicitation process will be posted to MPX's website and distributed through an email list-serv.

19. MPX commits to the following: (1) make a filing with the Commission upon completion of the open solicitation process; (2) disclose the results of the capacity allocation process; and (3) demonstrate that the process was consistent with the Policy

²⁵ MPX Filing at 10.

²⁶ *Id.* at 11.

²⁷ *Id.* at 11.

Statement and the Commission's open access policies.²⁸ MPX asserts that once customer agreements have been executed, it will post on its website the winning bidder(s), quantity, and the expiration date of the transmission rights awarded along with the bidders' contact information for potential resale of the transmission rights.²⁹ MPX states that it will file with the Commission (pursuant to FPA section 205) the results of the capacity allocation process, and will demonstrate that its open solicitation process and execution of contractual agreements were conducted in a manner consistent with the policies described in the Commission's open access policies and its Policy Statement.³⁰

20. In the compliance filing, MPX states that it will provide, at a minimum: (1) a description of the actions MPX took to provide a broad notice, including information about the Project and the customer evaluation criteria; (2) the identity of the parties who expressed interest in the Project, placed bids and/or purchased capacity (and the capacity amounts, terms, and prices involved in that interest, bid or purchase); (3) the basis for MPX's rationale for capacity proration, if any, if the Project is oversubscribed; (4) the basis for MPX's rationale not to increase capacity of the Project if it is oversubscribed; (5) MPX's rationale for offering more affordable rates, terms, and conditions to certain customers, such as "first movers"³¹ or those willing to take on greater project risk-sharing; (6) the criteria used by MPX for distinguishing customers and the method used for evaluating bids; and (7) MPX's rationale for selecting or rejecting customers, including any rates, terms, or conditions.³²

21. MPX states that it will: (1) ensure that books and records for the Project will comply with the Uniform System of Accounts (USofA) in Part 101 of the Commission's regulations³³ and will be subject to examination pursuant to Part 41 of the CFR;³⁴ (2) file

²⁸ *Id.* at 14.

²⁹ *Id.* at 12.

³⁰ *Id.* at 12.

³¹ "First movers" refers to those customers who respond early and take on greater project risk. *See Allocation of Capacity on New Merch. Transmission Projects and New Cost-Based, Participant-Funded Transmission Projects Priority Rights to New Participant-Funded Transmission*, 140 FERC ¶ 61,061, at P 16 (2012).

³² MPX Filing at 15.

³³ *Id.* at 12 (citing 18 C.F.R. pt. 101).

³⁴ *Id.* at 12 (citing 18 C.F.R. pt. 41).

financial statements and reports in accordance with Part 141.14 and 141.15 of the Commission's regulations;³⁵ and, (3) employ an independent auditor to audit its books and records.³⁶

b. Commission Determination

22. We acknowledge MPX's commitment to conduct an open solicitation and capacity allocation process consistent with the requirements of the Policy Statement and will reserve judgment on whether that open solicitation and capacity allocation process was unduly discriminatory pending MPX making a compliance filing with the Commission within 30 days of the close of the open solicitation process disclosing the results of its capacity allocation process and demonstrating that its capacity allocation was consistent with the Policy Statement and the Commission's open access policies.³⁷ MPX commits to allocate up to 100 percent of the Project's initial capacity through a transparent open solicitation process consistent with the requirements of the Policy Statement. MPX also commits to retain a third-party independent adviser, experienced in overseeing open seasons for merchant transmission capacity, to facilitate broad notice of the Project and the selection and ranking of prospective customers.

23. Once customer agreements are executed, MPX commits to submit a subsequent compliance filing with the results of its capacity allocation process and to seek an approval of the process by demonstrating that its open solicitation process and execution of contractual agreements were compliant with the Commission's open access policies and its Policy Statement. MPX also commits to turn over operational control of the Project to ISO-NE.

24. We also acknowledge MPX's commitment that, consistent with *Chinook*, once the Project has commenced operation, MPX will: (1) ensure that the books and records for the Project will comply with the USofA found in Part 101 of the Commission's regulations³⁸ and will be subject to examination as required in Part 41 of the CFR;³⁹

³⁵ *Id.* at 12 (citing 18 C.F.R. pt. 141).

³⁶ *Id.* at 12.

³⁷ The Policy Statement indicates how the Commission will treat that compliance filing. Policy Statement, 142 FERC ¶ 61,038 at P 31.

³⁸ MPX Filing at 12 (citing 18 C.F.R. pt. 101).

³⁹ *Id.* at 12 (citing 18 C.F.R. pt. 41).

(2) file financial statements and reports in accordance with Part 141.14 and 141.15 of the Commission's regulations;⁴⁰ and (3) employ an independent auditor to audit its books and records.⁴¹ These commitments will assist the Commission in carrying out its oversight role.

3. **Factor Three: Undue Preference and Affiliate Concerns**

25. In the context of merchant transmission, the Commission's concerns regarding the potential for affiliate abuse arise when the merchant transmission owner is affiliated with either the anchor customer, participants in the open season or solicitation, or customers that subsequently take service on the merchant transmission line. The Commission expects an affirmative showing that the affiliate is not afforded an undue preference, and the developer bears a high burden to demonstrate that the assignment of capacity to its affiliate and the corresponding treatment of nonaffiliated potential customers is just, reasonable, and not unduly discriminatory or preferential.⁴²

a. **MPX's Proposal**

26. MPX asserts that its proposal to charge negotiated rates for transmission service rights does not raise any undue preference or affiliate concerns. MPX states that none of its affiliates currently own any existing electric generation, transmission or distribution facilities in ISO-NE, Northern Maine ISA or New Brunswick, and the Project will not interconnect with any existing facilities owned by an affiliate of MPX.⁴³ MPX further asserts that it does not anticipate that any transmission customer initially allocated transmission rights through the open solicitation process will be affiliated with MPX. To the extent that an affiliate is allocated capacity, MPX states that it will document the facts and circumstances surrounding this allocation of capacity in its post-allocation compliance filing.⁴⁴ MPX further states that it will turn over operational control of the project to ISO-NE, which will operate the line pursuant to its Tariff.⁴⁵ MPX also commits to file electric quarterly reports of its transactions as required of transmission

⁴⁰ *Id.* at 12 (citing 18 C.F.R. pt. 141).

⁴¹ *Id.* at 12.

⁴² Policy Statement, 142 FERC ¶ 61,038 at P 34.

⁴³ MPX Filing at 13.

⁴⁴ *Id.* at 13.

⁴⁵ *Id.* at 1.

providers, to comply with any applicable affiliate rules, and to abide by the Commission's Standards of Conduct⁴⁶ to the extent any affiliate takes transmission service on the Project.

b. Commission Determination

27. We acknowledge MPX's commitment to engage in an open solicitation process and to make a compliance filing with the Commission disclosing the results of the capacity allocation process and describing the process in sufficient detail to demonstrate that no affiliate has been afforded undue preference. We note that MPX states none of its affiliates owns or operates electric facilities in ISO-NE and the Project will not interconnect with any existing facilities owned by an affiliate of MPX. In addition, we acknowledge MPX's commitment to turn over operational control of its facilities to ISO-NE, file electric quarterly reports of their transactions, comply with all other affiliate rules, and abide by the Commission's Standards of Conduct to the extent any affiliate takes transmission service on the Project. Moreover, the commitments made by MPX regarding the open solicitation process and reporting requirements will ensure that all transactions are transparent. We accept these commitments as addressing our affiliate preference concerns, subject to the Commission's approval of MPX's compliance filing demonstrating that the assignment of capacity to any affiliate and the corresponding treatment of nonaffiliated potential customers is just, reasonable, and not unduly discriminatory or preferential.

4. Factor Four: Regional Reliability and Operational Efficiency

28. In order to ensure regional reliability and operational efficiency, the Commission expects that any merchant transmission projects connected to an RTO or an ISO turn over operational control to the RTO/ISO. Merchant transmission projects, like cost-based transmission projects, are subject to mandatory reliability requirements.⁴⁷ Merchant transmission developers are required to comport with all applicable requirements of the North American Electric Reliability Corporation and any regional reliability council in which they are located.

⁴⁶ 18 C.F.R. pt. 358 (2016).

⁴⁷ See, e.g., *Rules Concerning Certification of the Electric Reliability Organization; and Procedures for the Establishment, Approval, and Enforcement of Electric Reliability Standards*, Order No. 672, FERC Stats. & Regs. ¶ 31,204, *order on reh'g*, Order No. 672-A, FERC Stats. & Regs. ¶ 31,212 (2006).

a. **MPX's Proposal**

29. As noted above, MPX commits to turn over operational control of the Project to ISO-NE and comply with all applicable reliability requirements.⁴⁸ Additionally, MPX commits to provide ISO-NE all required information necessary to inform its regional planning process, consistent with the requirements of Order No. 1000.⁴⁹

b. **Commission Determination**

30. We acknowledge MPX's commitment to turn over operational control of the Project to ISO-NE, comply with all applicable reliability requirements, and provide ISO-NE with all required information necessary for its regional transmission process pursuant to Order No. 1000. We also acknowledge and rely on MPX's assertion that it is conducting a System Impact Study with ISO-NE.⁵⁰ Accordingly, we find that, if executed as explained in MPX's filing, MPX's proposal meets the regional reliability and operational efficiency requirements, subject to MPX's continuing participation in the necessary regional planning processes.⁵¹

⁴⁸ MPX Filing at 14.

⁴⁹ *Id.* at 13-14 (citing *Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities*, Order No. 1000, FERC Stats. & Regs. ¶ 31,323 (2011), *order on reh'g*, Order No. 1000-A, 139 FERC ¶ 61,132, *order on reh'g and clarification*, Order No. 1000-B, 141 FERC ¶ 61,044 (2012), *aff'd sub nom. S.C. Pub. Serv. Auth. v. FERC*, 762 F.3d 41 (D.C. Cir. 2014)).

⁵⁰ *Id.* at 5.

⁵¹ Order No. 1000 requires merchant transmission developers to provide "adequate information and data to allow public utility transmission providers in the transmission planning region to assess the potential reliability and operational impacts of the merchant transmission developer's proposed transmission facilities on other systems in the region." Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 164; *see also ISO New England Inc.*, 143 FERC ¶ 61,150, at P 70 (2013).

C. Waiver Requests

1. MPX's Proposal

31. MPX requests that the Commission grant waiver of certain filing and reporting regulatory requirements that will become effective when MPX becomes a public utility.⁵² MPX states that the Commission has granted similar waiver requests to other merchant transmission owners seeking negotiated rate authority.⁵³ Specifically, MPX requests waiver of the following: (1) the full reporting requirements of Subparts B and C of Part 35 of the Commission's regulations, except for sections 35.12(a), 35.13(b), 35.15, and 35.16 and (2) Part 141 relating to forms and reports, except sections 141.14 and 141.15.⁵⁴ MPX also requests waiver of any other part of the Commission's regulations as necessary to grant the authorizations requested herein.

2. Commission Determination

32. For good cause shown and consistent with our findings for other merchant transmission proposals, we will grant waiver of the full reporting requirements of Subparts B and C of Part 35 of the Commission's regulations, except for the requirements of sections 35.12(a), 35.13(b), 35.15, and 35.16, as requested by MPX.⁵⁵

⁵² MPX explains that, because it is not currently filing with this application a proposed tariff or rate schedule and does not yet provide transmission service, Commission action on the present filing will not, *per se*, make MPX a public utility under *Multitrade*. MPX Filing at 16 (citing *Multitrade Limited Partnership*, 63 FERC ¶ 61,252, at 62,692 (1993)).

⁵³ MPX Filing at 16 (citing *Rock Island Clean Line, LLC*, 139 FERC ¶ 61,142, at PP 43-47 (2012); *Neptune Regional Transmission System, LLC*, 139 FERC ¶ 61,110, at P 12 (2012); *LECC*, 144 FERC ¶ 61,203; *Chinook*, 126 FERC ¶ 61,134 at PP 68, 69).

⁵⁴ MPX Filing at 16.

⁵⁵ See, e.g., *Tres Amigas, LLC*, 153 FERC ¶ 61,287, at P 48 (2015); *Lucky Corridor, LLC*, 151 FERC ¶ 61,072, at P 47 (2015).

33. We will also grant MPX's request for waiver of Part 141, except sections 141.14 and 141.15. The Commission has previously granted waiver of these requirements to other merchant transmission owners.⁵⁶

The Commission orders:

(A) MPX is hereby granted authority to sell transmission rights on its proposed merchant transmission project at negotiated rates, subject to condition, as discussed in the body of this order.

(B) MPX is hereby directed to file with the Commission a compliance filing within 30 days after the close of the open solicitation process, as discussed in the body of this order.

(C) As discussed in the body of this order, MPX is hereby granted waiver of (1) the provisions of Subparts B and C of Part 35 of the Commission's regulations, except for the requirements of sections 35.12(a), 35.13(b), 35.15, and 35.16 and (2) Part 141, with the exception of sections 141.14 and 141.15.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.

⁵⁶ See, e.g., *Plains and Eastern Clean Line LLC*, 148 FERC ¶ 61,122, P 35 (2014); *LECC*, 144 ¶ 61,203 at P 31.