

156 FERC ¶ 61,066  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

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

Deepwater Wind Block Island, LLC

Docket No. ER16-1804-000

ORDER GRANTING MARKET-BASED RATE AUTHORIZATION AND REQUEST  
FOR WAIVERS

(Issued July 26, 2016)

1. In this order, we grant Deepwater Wind Block Island, LLC (Deepwater) authority to make wholesale sales of electric energy, capacity, and ancillary services at market-based rates, effective July 27, 2016, as requested. Also, as discussed below, we grant Deepwater's request for waivers commonly granted to market-based rate sellers.
2. Additionally, we find that Deepwater meets the criteria for a Category 1 seller in all regions and is so designated.<sup>1</sup>

**I. Background**

3. On May 27, 2016, pursuant to section 205 of the Federal Power Act (FPA),<sup>2</sup> Deepwater filed an application for market-based rate authority with an accompanying

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<sup>1</sup> See *Refinements to Policies and Procedures for Market-Based Rates for Wholesale Sales of Electric Energy, Capacity and Ancillary Services by Public Utilities*, Order No. 816, FERC Stats. & Regs. ¶ 31,374, at PP 320-322 (2015); *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).

tariff providing for the sale of electric energy, capacity, and ancillary services at market-based rates.<sup>3</sup>

4. Deepwater states that it is constructing a 30 megawatt (MW) offshore wind farm (Facility) located in the Block Island Sound approximately three miles southeast of Block Island, Rhode Island.<sup>4</sup> Deepwater states it anticipates that the Facility will achieve commercial operation during the fourth quarter of 2016 and that the entire output of the Facility will be sold to Narragansett Electric Company d/b/a National Grid (Narragansett) on a firm basis pursuant to a 20-year power purchase agreement. Deepwater also states that the Facility will be interconnected to a 34.5 kV substation on Block Island owned by Narragansett.<sup>5</sup> Deepwater further represents that the Block Island substation and undersea cable will be part of the transmission system administered by ISO-NE.

5. Deepwater states that it is a wholly-owned direct subsidiary of Deepwater Wind Rhode Island, LLC, which in turn is a wholly-owned direct subsidiary of Deepwater Wind Holdings, LLC. Deepwater asserts that within the ISO-NE market it is affiliated with Forbes Street Solar, LLC, which owns a three MW solar-powered electric generation facility, located in Providence County, Rhode Island, whose output is also fully committed to Narragansett under a long-term firm power purchase agreement.<sup>6</sup>

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<sup>2</sup> 16 U.S.C. § 824d (2012).

<sup>3</sup> Deepwater requests authorization to sell ancillary services in the markets administered by PJM Interconnection, L.L.C., New York Independent System Operator, Inc., ISO New England Inc. (ISO-NE), California Independent System Operator Corp., Midcontinent Independent System Operator, Inc., and Southwest Power Pool, Inc. Deepwater also requests authorization to engage in the sale of certain ancillary services as a third-party provider in other markets.

<sup>4</sup> Deepwater states that it has filed a notice of self-certification of exempt wholesale generator status concurrent with this petition for market-based rate authority in Docket No. EG16-108-000.

<sup>5</sup> Deepwater Filing at 2.

<sup>6</sup> *Id.* at 7 and n.9.

## II. Notice of Filings and Responsive Pleadings

6. Notice of Deepwater's filing was published in the *Federal Register*,<sup>7</sup> with interventions and protests due on or before June 17, 2016. Benjamin C. Riggs (Mr. Riggs) filed a motion to intervene and protest on June 21, 2016. On July 6, 2016, Deepwater filed an answer to Mr. Riggs, asserting, among other things, that Mr. Riggs' motion to intervene does not satisfy the Commission's requirements for an intervention filed out-of-time. Also on July 6, 2016, Mr. Riggs filed an answer responding to Deepwater, arguing that his motion to intervene filed on June 21, 2016 was not out of time because it "refers to the Commission's supplemental notice issued on [June 16, 2016], which set a deadline for response of [June 29, 2016,]" and asserting that that deadline applies to the entire docket.<sup>8</sup>

7. Notice of Deepwater's request for blanket authorization under Part 34 of the Commission's regulations was separately published in the *Federal Register*,<sup>9</sup> with interventions and protests due on or before June 29, 2016. None was filed.

## III. Protest and Answers

8. Mr. Riggs protests several aspects of Deepwater's petition and asserts that the Commission should deny its request for market-based rate authority. Mr. Riggs claims that Deepwater failed to mention the pending U.S. District Court lawsuit concerning the 20-year power purchase agreement between Deepwater and Narragansett.<sup>10</sup> Mr. Riggs also argues that Deepwater wrongfully asserts that the power purchase agreement is a fixed price contract when it is instead a "guaranteed take-or-pay escalating price contract."<sup>11</sup> In addition, Mr. Riggs argues that Deepwater is trying to circumvent

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<sup>7</sup> 81 Fed. Reg. 35,757 (2016).

<sup>8</sup> Mr. Riggs July 6, 2016 Answer at 1.

<sup>9</sup> 81 Fed. Reg. 39,261 (2016).

<sup>10</sup> Mr. Riggs June 21, 2016 Protest at 2. In *Riggs, et al. v. Rhode Island Public Utilities Commission, et al.*, No. 1:15-CV-00343-S-LDA (D. RI. filed Nov. 20, 2015), Mr. Riggs is challenging the Rhode Island Public Utilities Commission's approval of the power purchase agreement between Deepwater and Narragansett on constitutional grounds, among others.

<sup>11</sup> Mr. Riggs June 21, 2016 Protest at 2.

Commission authority through its use of a power purchase agreement that is not subject to Commission regulation.<sup>12</sup>

9. Lastly, Mr. Riggs asserts that Deepwater does not meet the criteria for market-based rate authority, and claims that Deepwater erroneously states it does not own facilities used exclusively for connection to the interstate grid. Mr. Riggs claims that 100 percent of the sales by Deepwater will be made to the interstate grid.

10. In its answer to Mr. Riggs, Deepwater explains that the power purchase agreement is a Commission-jurisdictional wholesale contract, and that Deepwater must obtain and maintain Commission authorization to sell energy and capacity at market-based rates. Deepwater also states that all sales under the power purchase agreement will be made pursuant to Deepwater's market-based rate authority and subject to the Commission's jurisdiction under the FPA.<sup>13</sup> In addition, Deepwater argues that, contrary to the arguments of Mr. Riggs, any terms or conditions under the power purchase agreement are irrelevant to a determination regarding Deepwater's horizontal and vertical market power, and thus should not affect the Commission's determination.<sup>14</sup>

11. Mr. Riggs responds to Deepwater by arguing that he did not receive notice from Deepwater of its application for market-based rate authority, despite the fact that Deepwater knew Mr. Riggs would be an interested party. Mr. Riggs also reiterates that Deepwater's application for market-based rate authority is directly connected to the power purchase agreement.

#### **IV. Discussion**

##### **A. Procedural Matters**

12. While Mr. Riggs filed his intervention four days late, pursuant to Rule 214(d) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214(d) (2015), the Commission will grant Mr. Riggs' late-filed motion to intervene given his interest in the proceeding, the early stage of the proceeding, and the absence of undue prejudice or delay.

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<sup>12</sup> *Id.* at 2-3.

<sup>13</sup> Deepwater Answer at 3.

<sup>14</sup> *Id.* at 5.

13. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2015), prohibits an answer to a protest and/or answer unless otherwise ordered by the decisional authority. We will accept the answers filed by Deepwater and Mr. Riggs because they have provided information that assisted us in our decision-making process.

**B. Substantive Matters**

14. As discussed below, we will grant Deepwater's request for authorization to make wholesale sales of electric energy, capacity, and ancillary services at market-based rates, and we will accept its market-based rate tariff, effective July 27, 2016, as requested.<sup>15</sup> We will also grant Deepwater's request for certain waivers. As discussed below, we find that the arguments set forth in Mr. Riggs' protest are not relevant to the merits of Deepwater's request for market based rate authority.

**1. Market-Based Rate Authorization**

15. The Commission allows power sales at market-based rates if the seller and its affiliates do not have, or have adequately mitigated, horizontal and vertical market power.<sup>16</sup>

**a. Horizontal Market Power**

16. The Commission has adopted two indicative screens for assessing horizontal market power: the pivotal supplier screen and the wholesale market share screen.<sup>17</sup> The Commission has stated that passage of both screens establishes a rebuttable presumption

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<sup>15</sup> We note that Deepwater is not being granted authority to make third-party sales of operating reserves to a public utility that is purchasing ancillary services to satisfy its own OATT requirements to offer ancillary services to its own customers. If Deepwater seeks such authority, it must make the required showing and receive Commission authorization prior to making such sales. *See Third-Party Provision of Ancillary Services; Accounting and Financial Reporting for New Electric Storage Technologies*, Order No. 784, FERC Stats. & Regs. ¶ 31,349, at PP 200-202 (2013), *order on clarification*, Order No. 784-A, 146 FERC ¶ 61,114 (2014).

<sup>16</sup> Order No. 697, FERC Stats. & Regs. ¶ 31,252 at PP 62, 399, 408, 440.

<sup>17</sup> *Id.* P 62.

that the applicant does not possess horizontal market power, while failure of either screen creates a rebuttable presumption that the applicant has horizontal market power.<sup>18</sup>

17. Deepwater represents that all of the generation from the Facility is fully committed under a long-term power purchase agreement.<sup>19</sup> Deepwater adds that neither it nor its affiliates own or control any uncommitted generation in the relevant market.<sup>20</sup> Based on these representations, we find that Deepwater satisfies the Commission's requirements for market-based rates regarding horizontal market power.

18. We find that the arguments set forth in Mr. Riggs' protest lack merit. First, as discussed above, one way to satisfy the Commission's requirements for market-based rates regarding horizontal market power is for Deepwater to show that it and its affiliates' generation capacity is fully committed under long term power purchase agreements. Deepwater has made this representation,<sup>21</sup> and, further, as discussed below, Deepwater is required to report any change in status that would reflect a departure from the characteristics the Commission relied upon in granting market-based rate authority, which would include changes to the power purchase agreement.<sup>22</sup> Next, Mr. Riggs incorrectly claims that Deepwater asserts its 20-year power purchase agreement is a fixed price contract. Nowhere in its application for market-based rate authority does Deepwater state that the power purchase agreement is a fixed price contract, nor does Mr. Riggs cite any such evidence. In any event, we find that Mr. Riggs' claims regarding the power purchase agreement do not amount to an allegation of horizontal market power by Deepwater, and therefore are not relevant to the merits of Deepwater's request for market-based rate authority. For this reason, we also find Mr. Riggs' claims regarding the power purchase agreement as an "unlawful scheme to circumvent the law and [Commission] authority"<sup>23</sup> to be without merit. Finally, we acknowledge that Mr. Riggs'

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<sup>18</sup> *Id.* PP 33, 62-63.

<sup>19</sup> Deepwater Filing at 10. In Order No. 816, the Commission clarified that in instances where all generation owned or controlled by a seller and its affiliates in the relevant balancing authority areas or markets, including first-tier balancing authority areas or markets, is fully committed, the seller will not be required to file indicative screens. Order No. 816, FERC Stats. & Regs. ¶ 31,374 at P 39.

<sup>20</sup> Deepwater Filing at 11.

<sup>21</sup> *Id.* at 10.

<sup>22</sup> *See infra* P 29.

<sup>23</sup> Mr. Riggs June 21, 2016 Protest at 3.

concerns with the power purchase agreement are currently under review in the U.S. District Court; we find that it is neither appropriate nor necessary to address them herein.

**b. Vertical Market Power**

19. In cases where a public utility, or any of its affiliates, own, operates, or controls transmission facilities, the Commission requires that there be a Commission-approved Open Access Transmission Tariff (OATT) on file, or that such entity has received waiver of the OATT requirement under 18 C.F.R. § 35.28(d)(1) or satisfies the requirements for blanket waiver under 18 C.F.R. § 35.28(d)(2).<sup>24</sup>

20. Deepwater represents that neither it nor its affiliates own or control transmission facilities, aside from certain limited and discrete facilities used solely to connect individual generation facilities to the transmission grid. Deepwater further states that it, its affiliates, Balko Wind Transmission, LLC, Red Horse Wind 2, LLC, 62SK 8 ME LLC, and certain other affiliates satisfy the Commission's requirements for the blanket OATT waiver under 18 C.F.R. § 35.28(d)(2).<sup>25</sup>

21. The Commission also considers a seller's ability to erect other barriers to entry as part of the vertical market power analysis.<sup>26</sup> The Commission requires a seller to provide a description of its ownership or control of, or affiliation with an entity that owns or controls, intrastate natural gas transportation, storage or distribution facilities, and physical coal supply sources and ownership of or control over who may access transportation of coal supplies (collectively, inputs to electric power production).<sup>27</sup> The

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<sup>24</sup> See *Open Access and Priority Rights on Interconnection Customer's Interconnection Facilities*, Order No. 807, FERC Stats. & Regs. ¶ 31,367, at P 57, *order on reh'g*, Order No. 807-A, 153 FERC ¶ 61,047 (2015) (waiving the OATT requirements of 18 C.F.R. § 35.28, the Open Access Same-Time Information System requirements of Part 37, and the Standards of Conduct requirements of Part 358, under certain conditions, for entities that own interconnection facilities). See also *Oildale Energy, LLC*, 153 FERC ¶ 61,013, at PP 12-14 (2015).

<sup>25</sup> Deepwater Filing at 8, 11, and n.11.

<sup>26</sup> Order No. 697, FERC Stats. & Regs. ¶ 31,252 at P 440.

<sup>27</sup> Order No. 697-A, FERC Stats. & Regs. ¶ 31,268 at P 176. See also Order No. 816, FERC Stats. & Regs. ¶ 31,374 at PP 207-212 (removing the requirement that sellers report the acquisition of control of a site or sites for new generation capacity development for which site control has been demonstrated).

Commission also requires sellers to make an affirmative statement that they have not erected barriers to entry into the relevant market and will not erect barriers to entry into the relevant market.<sup>28</sup> The Commission adopted a rebuttable presumption that the ownership or control of, or affiliation with any entity that owns or controls, inputs to electric power production does not allow a seller to raise entry barriers but will allow intervenors to demonstrate otherwise.<sup>29</sup>

22. Regarding other barriers to entry, Deepwater represents that neither it nor its affiliates own or control inputs to electric power production that raise vertical market power concerns in the United States. Deepwater states that it and its affiliates do not own or control intrastate natural gas transportation, intrastate natural gas storage or distribution facilities, or physical coal supply sources, and they do not have ownership or control over who may access transportation of coal supplies.<sup>30</sup>

23. Finally, consistent with Order No. 697, Deepwater affirmatively states that Deepwater and its affiliates have not erected barriers to entry in the relevant geographic market, and will not erect barriers to entry into the relevant market.

24. Based on Deepwater's representations, we find that Deepwater satisfies the Commission's requirements for market-based rates regarding vertical market power.

25. As to Mr. Riggs' claims that the Facility's energy will be sold into the interstate grid, we find that this assertion is irrelevant to whether Deepwater owns transmission facilities used exclusively for connection to the transmission grid. As discussed above, Deepwater represents that neither it nor its affiliates own or control transmission facilities, aside from certain limited and discrete facilities used solely to connect individual generation facilities to the transmission grid, which satisfies the Commission's requirements under 18 C.F.R. § 35.28(d)(2).<sup>31</sup>

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<sup>28</sup> Order No. 697, FERC Stats. & Regs. ¶ 31,252 at P 447. *See also* Order No. 816, FERC Stats. & Regs. ¶ 31,374 at PP 354, 356 (confirming that the affirmative statement regarding barriers to entry must be made with regard to a seller and its affiliates and amending 18 C.F.R. § 35.37(e)(3) to specify that "a Seller is required to make an affirmative statement that it and its affiliates have not erected barriers to entry into the relevant market and will not erect barriers to entry into the relevant market.").

<sup>29</sup> Order No. 697, FERC Stats. & Regs. ¶ 31,252 at P 446.

<sup>30</sup> Deepwater Filing at 11-12.

<sup>31</sup> *See supra* PP 19-20.

## 2. Waiver Requests

26. Deepwater requests the following waivers and authorizations: (1) waiver of the filing requirements of subparts B and C of Part 35 of the Commission's regulations, except sections 35.12(a), 35.13(b), 35.15, and 35.16; (2) waiver of the accounting and other requirements of Parts 41, 101 (with the exception of the provisions of Part 101 that apply to hydropower licensees with respect to licensed hydropower projects), and 141 of the Commission's regulations, except sections 141.14 and 141.15; and (3) blanket authorization under section 204 of the FPA<sup>32</sup> and Part 34 of the Commission's regulations for all future issuances of securities and assumptions of liability.

27. We will grant the requested waivers and authorizations consistent with those granted to other entities with market-based rate authorizations.<sup>33</sup> Notwithstanding the waiver of the accounting and reporting requirements, we expect Deepwater to keep its accounting records in accordance with generally accepted accounting principles.

## 3. Reporting Requirements

28. An entity with market-based rate authorization must file an Electric Quarterly Report (EQR) with the Commission, consistent with Order Nos. 2001<sup>34</sup> and 768,<sup>35</sup> to

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<sup>32</sup> 16 U.S.C. § 824c (2012).

<sup>33</sup> We note that the Commission has examined and approved the continued applicability of the waiver of its accounting and reporting requirements in Parts 41, 101, and 141 of the Commission's regulations, as well as the continued applicability of the blanket authorization for the issuance of securities and the assumption of liabilities in Part 34 of the Commission's regulations. *See* Order No. 697, FERC Stats. & Regs. ¶ 31,252 at PP 984-985 (regarding waiver of Parts 41, 101, and 141) and PP 999-1000 (regarding blanket approval under Part 34). However, waiver of the provisions of Part 101 that apply to hydropower licensees is not granted with respect to licensed hydropower projects.

<sup>34</sup> *Revised Public Utility Filing Requirements*, Order No. 2001, FERC Stats. & Regs. ¶ 31,127, *reh'g denied*, Order No. 2001-A, 100 FERC ¶ 61,074, *reh'g denied*, Order No. 2001-B, 100 FERC ¶ 61,342, *order directing filing*, Order No. 2001-C, 101 FERC ¶ 61,314 (2002), *order directing filing*, Order No. 2001-D, 102 FERC ¶ 61,334, *order refining filing requirements*, Order No. 2001-E, 105 FERC ¶ 61,352 (2003), *order on clarification*, Order No. 2001-F, 106 FERC ¶ 61,060 (2004), *order revising filing requirements*, Order No. 2001-G, 120 FERC ¶ 61,270, *order on reh'g and clarification*, Order No. 2001-H, 121 FERC ¶ 61,289 (2007), *order revising filing requirements*, Order No. 2001-I, FERC Stats. & Regs. ¶ 31,282 (2008). *See also Filing*

(continued ...)

fulfill its responsibility under FPA section 205(c)<sup>36</sup> to have rates on file in a convenient form and place.<sup>37</sup> Deepwater must file EQRs electronically with the Commission consistent with the procedures set forth in Order No. 770.<sup>38</sup> Failure to timely and accurately file an EQR is a violation of the Commission's regulations for which Deepwater may be subject to refund, civil penalties, and/or revocation of market-based rate authority.<sup>39</sup>

29. Additionally, Deepwater must timely report to the Commission any change in status that would reflect a departure from the characteristics the Commission relied upon in granting market-based rate authority.<sup>40</sup>

30. In Order No. 697, the Commission created two categories of sellers.<sup>41</sup> Category 1 sellers are not required to file regularly scheduled updated market power analyses.

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*Requirements for Electric Utility Service Agreements*, 155 FERC ¶ 61,280 (2016) (*order clarifying reporting requirements and updating data dictionary*).

<sup>35</sup> *Electricity Mkt. Transparency Provisions of Section 220 of the Fed. Power Act*, Order No. 768, FERC Stats. & Regs. ¶ 31,336 (2012), *order on reh'g*, Order No. 768-A, 143 FERC ¶ 61,054 (2013).

<sup>36</sup> 16 U.S.C. § 824d(c) (2012).

<sup>37</sup> *See Revisions to Electric Quarterly Report Filing Process*, Order No. 770, FERC Stats. & Regs. ¶ 31,338, at P 3 (2012) (citing Order No. 2001, FERC Stats. & Regs. ¶ 31,127 at P 31).

<sup>38</sup> Order No. 770, FERC Stats. & Regs. ¶ 31,338.

<sup>39</sup> The exact filing dates for these reports are prescribed in 18 C.F.R. § 35.10b (2015). Forfeiture of market-based rate authority may require a new application for market-based rate authority if the applicant wishes to resume making sales at market-based rates.

<sup>40</sup> *Reporting Requirement for Changes in Status for Public Utilities with Market-Based Rate Authority*, Order No. 652, FERC Stats. & Regs. ¶ 31,175, *order on reh'g*, 111 FERC ¶ 61,413 (2005); 18 C.F.R. § 35.42 (2015). This would include any legal action that affects the status of the 20 year power purchase agreement between Deepwater and Narragansett.

<sup>41</sup> Order No. 697, FERC Stats. & Regs. ¶ 31,252 at P 848.

Category 1 sellers are wholesale power marketers and wholesale power producers that own or control 500 MW or less of generation capacity in aggregate per region; that do not own, operate, or control transmission facilities other than limited equipment necessary to connect individual generation facilities to the transmission grid (or have been granted waiver of the requirements of Order No. 888); that are not affiliated with anyone that owns, operates, or controls transmission facilities in the same region as the seller's generation assets; that are not affiliated with a franchised public utility in the same region as the seller's generation assets; and that do not raise other vertical market power issues.<sup>42</sup> Sellers that do not fall into Category 1 are designated as Category 2 sellers and are required to file updated market power analyses.<sup>43</sup>

31. Deepwater requests Category 1 seller status in all regions. Deepwater represents that it qualifies as a Category 1 seller because it and its affiliates own or control 500 MW or less of generation in aggregate per region; do not own, operate or control transmission facilities other than limited equipment necessary to connect individual generating facilities to the transmission grid;<sup>44</sup> are not affiliated with a franchised public utility; and do not raise other vertical market power issues.<sup>45</sup>

32. Based on Deepwater's representations, we designate Deepwater as a Category 1 seller in all regions. The Commission reserves the right to require an updated market power analysis at any time for any region.<sup>46</sup>

The Commission orders:

(A) Deepwater's market-based rate tariff is hereby accepted for filing, effective July 27, 2016, as requested, as discussed in the body of this order.

(B) Waiver of the provisions of Subparts B and C of Part 35 of the Commission's regulations, with the exception of sections 35.12(a), 35.13(b), 35.15, and 35.16, is hereby granted.

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<sup>42</sup> 18 C.F.R. § 35.36(a) (2015).

<sup>43</sup> Order No. 697, FERC Stats. & Regs. ¶ 31,252 at P 850.

<sup>44</sup> Deepwater Filing at 11.

<sup>45</sup> *Id.* at 15.

<sup>46</sup> Order No. 697, FERC Stats. & Regs. ¶ 31,252 at P 853.

(C) Waiver of Part 101 of the Commission's regulations is hereby granted, with the exception that waiver of the provisions of Part 101 that apply to hydropower licensees is not granted with respect to licensed hydropower projects. Waiver of Parts 41 and 141 of the Commission's regulations is hereby granted, with the exception of sections 141.14 and 141.15.

(D) Blanket authorization under Part 34 of the Commission's regulations for all future issuances of securities and assumptions of liability is hereby granted. Deepwater is hereby authorized to issue securities and assume obligations or liabilities as guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issue or assumption is for some lawful object within the corporate purposes of Deepwater, compatible with the public interest, and reasonably necessary or appropriate for such purposes.

(E) The Commission reserves the right to modify this order to require a further showing that neither the public nor private interests will be adversely affected by continued Commission approval of Deepwater's issuance of securities or assumptions of liability.

(F) Deepwater is hereby required to file EQRs in compliance with Order Nos. 2001 and 768. If the effective date of Deepwater's market-based rate tariff falls within a quarter of the year that has already expired, Deepwater's EQRs for the expired quarter are due within 30 days of the date of this order.

By the Commission.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.