

136 FERC ¶ 61,019
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;
Marc Spitzer, Philip D. Moeller,
John R. Norris, and Cheryl A. LaFleur.

Bayonne Energy Center, LLC

Docket Nos. ER11-3460-000
ER11-3460-001

ORDER GRANTING MARKET-BASED RATE AUTHORIZATION AND
GRANTING REQUESTS FOR WAIVERS

(Issued July 7, 2011)

1. In this order, the Commission grants Bayonne Energy Center, LLC (Bayonne Energy Center) authority to make wholesale sales of electric energy, capacity, and ancillary services at market-based rates in the New York City submarket, effective as of the date of this order, as requested. The Commission also accepts Simultaneous Transmission Import Limit (SIL) values for the December 2008-November 2009 study period for the New York City submarket. Also, as discussed below, we grant Bayonne Energy Center's request for waiver of certain requirements of Order Nos. 888,¹ 889,² and 890,³ as well as other waivers commonly granted to market-based rate sellers.

¹ *Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Services by Public Utilities; Recovery of Stranded Costs by Public Utilities and Transmitting Utilities*, Order No. 888, FERC Stats. & Regs. ¶ 31,036 (1996), *order on reh'g*, Order No. 888-A, FERC Stats. & Regs. ¶ 31,048, *order on reh'g*, Order No. 888-B, 81 FERC ¶ 61,248 (1997), *order on reh'g*, Order No. 888-C, 82 FERC ¶ 61,046 (1998), *aff'd in relevant part sub nom. Transmission Access Policy Study Group v. FERC*, 225 F.3d 667 (D.C. Cir. 2000), *aff'd sub nom. New York v. FERC*, 535 U.S. 1 (2002).

² *Open Access Same-Time Information System and Standards of Conduct*, Order No. 889, FERC Stats. & Regs. ¶ 31,035 (1996), *order on reh'g*, Order No. 889-A, FERC Stats & Regs. ¶ 31,049, *reh'g denied*, Order No. 889-B, 81 FERC ¶ 61,253 (1997).

³ *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, FERC Stats. & Regs. ¶ 31,241, *order on reh'g*, Order No. 890-A, FERC

(continued...)

2. Additionally, we designate Bayonne Energy Center as a Category 2 seller in the Northeast region and, therefore, Bayonne Energy Center must file updated market power analyses for the Northeast region in compliance with the regional reporting schedule adopted in Order No. 697.⁴

I. Background

3. On April 28, 2011, as amended on June 17, 2011, pursuant to section 205 of the Federal Power Act (FPA),⁵ Bayonne Energy Center filed an application for market-based rate authority with an accompanying market-based rate tariff providing for the sale of electric energy, capacity, and ancillary services at market-based rates in the New York City submarket. Bayonne Energy Center requests waiver of certain requirements of Order Nos. 888, 889, and 890 as well as other waivers commonly granted to similar market-based rate applicants.

4. Bayonne Energy Center states it is a limited liability company owned by PER-D Bayonne I, Inc. and PER-D Bayonne II, LLC (each an affiliate of ArcLight Energy Partners Fund III, L.P.) and Hess Bayonne, LLC (a wholly owned subsidiary of Hess Corporation).

5. ArcLight Fund III, as well as ArcLight Energy Partners Fund I, L.P., ArcLight Energy Partners Fund II, L.P., ArcLight Energy Partners Fund IV, L.P., ArcLight Energy Partners Fund V, L.P., and ArcLight Liquid Energy Opportunities Fund, L.P. (collectively, the ArcLight Funds), are private equity investment funds with a focus on the independent power sector. The ArcLight Funds are affiliated with ArcLight Energy

Stats. & Regs. ¶ 31,261 (2007), *order on reh'g*, Order No. 890-B, 123 FERC ¶ 61,299 (2008) *order on reh'g*, Order No. 890-C, 126 FERC ¶ 61,228, *order on reh'g*, Order No. 890-D, 129 FERC ¶ 61,126 (2009).

⁴ *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 848-50, *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).

⁵ 16 U.S.C. § 824d (2006).

Marketing, LLC, a marketer of electric power and natural gas.⁶ The ArcLight Funds are affiliated with Terra-Gen Dixie Valley, LLC (Dixie Valley), the owner of a 212-mile, 230 kilovolt (kV) generator lead line located in the Southwest region. Bayonne Energy Center states that on, June 13, 2011, Dixie Valley filed an Open Access Transmission Tariff (OATT) with the Commission for its 212-mile, 230 kV radial generator lead line located in the Southwest region.⁷

6. The ArcLight Funds are also affiliated with the Alta Wind Energy Center, located in the Southwest region, which will include three generator lead lines necessary to interconnect the capacity of the planned generating projects to the integrated transmission grid.⁸ Bayonne Energy Center states that the Commission has granted certain waivers, including waiver of the OATT requirements, until such time as a request is received for transmission service for the Alta Wind Energy Center generator lead lines.⁹

7. Bayonne Energy Center states that it is constructing and plans to own and operate the 512 megawatt (MW) Bayonne Energy Center Facility located in Bayonne, New Jersey in the PJM Interconnection, L.L.C. (PJM) market. Bayonne Energy Center further explains that all of the capacity and energy from this facility will be sold into the New York City submarket, which is a submarket in the New York Independent System Operator, Inc. (NYISO) market. Bayonne Energy Center states that the facility will be directly interconnected only to the New York City submarket.

8. Bayonne Energy Center explains that it is constructing a 345 kV alternating current submarine electric transmission cable routed from Bayonne, New Jersey to Brooklyn, New York. Bayonne Energy Center explains that the cable will extend under

⁶ ArcLight Energy Marketing, LLC is authorized to sell energy, capacity, and ancillary services at market-based rates. *See ArcLight Energy Marketing, LLC*, Docket No. ER07-1106-000 (July 25, 2007) (delegated letter order).

⁷ Bayonne Energy Center's June 17, 2011 filing at 1-2 (citing Terra-Gen Dixie Valley, LLC filing in Docket No. ER11-2127-004).

⁸ *See* Bayonne Energy Center's April 28, 2011 filing at 6-7 and June 17, 2011 filing at 2. Alta Wind I, LLC, Alta Wind II, LLC, Alta Wind III, LLC, Alta Wind IV, LLC, and Alta Wind V, LLC are authorized to sell energy, capacity, and ancillary services at market-based rates. *Alta Wind I, LLC*, Docket No. ER10-2086-000 (Oct. 22, 2010) (delegated letter order).

⁹ Bayonne Energy Center's June 17, 2011 filing at 2 (citing *Alta Wind, I*, 134 FERC ¶ 61,109 (2011)).

New York waters and will provide a 6.75 mile generator lead between the Bayonne Energy Center Facility and the Consolidated Edison Company of New York, Inc.'s Gowanus Substation in Brooklyn. Bayonne Energy Center states that these generator lead lines, when built, will be limited and discrete transmission facilities necessary to connect the facility to the grid and that Bayonne Energy Center will be the sole user of these transmission facilities. To the extent necessary, Bayonne Energy Center requests waiver of compliance with certain requirements of Order Nos. 888, 889, and 890, including waiver from the requirement to file an OATT, until such time as Bayonne Energy Center receives a valid third-party request for transmission service, and until such time as the Commission takes action in response to a complaint from an entity unable to get the necessary information from Bayonne Energy Center to evaluate the entity's transmission needs.

II. Notice of Filing

9. Notice of Bayonne Energy Center's April 28, 2011 filing was published in the *Federal Register*, 76 Fed. Reg. 27,043 (2011), with interventions and comments due on or before May 19, 2011. None was filed.

10. Notice of Bayonne Energy Center's request for blanket authorization under Part 34 was separately published in the *Federal Register*, 76 Fed. Reg. 26,283 (2011), with interventions or protests due on or before May 23, 2011. None was filed.

11. Notice of Bayonne Energy Center's June 17, 2011 filing was published in the *Federal Register*, 76 Fed. Reg. 36,912 (2011), with interventions and comments due on or before June 27, 2011. None was filed.

III. Discussion

12. As discussed below, we will grant Bayonne Energy Center's request for authorization to make wholesale sales of electric energy, capacity, and ancillary services at market-based rates in the New York City submarket. Additionally, as discussed below, the Commission also will grant Bayonne Energy Center's request for certain waivers.

A. Market-Based Rate Authorization

13. 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.¹⁰ As discussed below, we find that Bayonne Energy Center satisfies the

¹⁰ Order No. 697, FERC Stats. & Regs. ¶ 31,252 at P 62, 399, 408, 440.

Commission's standards for market-based rate authority in the New York City submarket.

1. Horizontal Market Power

14. The Commission has adopted two indicative screens for assessing horizontal market power: the pivotal supplier screen and the wholesale market share screen.¹¹ The Commission has stated that passage of both screens establishes a rebuttable presumption 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.¹²

15. The market share screen analysis included in Bayonne Energy Center's application indicates that its market share in the New York City submarket ranges from 7.5 to 9.2 percent. Bayonne Energy Center's pivotal supplier screen analysis indicates that the net uncommitted supply in the New York City submarket exceeds Bayonne Energy Center's uncommitted capacity.

16. The Commission has reviewed Bayonne Energy Center's pivotal supplier and wholesale market share screens and has determined that Bayonne Energy Center passes both screens in the New York City submarket. Accordingly, we find that Bayonne Energy Center satisfies the Commission's requirements for market-based rates regarding horizontal market power.

17. Additionally, we note that Bayonne Energy Center's analysis of the New York City submarket relies on SIL values prepared by NYISO.¹³ To determine SIL values for this submarket, NYISO approximated the transfer capability into the New York City submarket by calculating the transfer capability of the controlled ties into that submarket. We find that the use of this data is acceptable for the purpose of setting SIL values for the New York City submarket and we will accept these SIL values for this submarket.¹⁴

¹¹ *Id.* P 62.

¹² *Id.* P 33, 62-63.

¹³ *See* NYISO's March 3, 2011 filing in Docket No. AD10-2-001.

¹⁴ The seasonal values in the accepted SIL study for the New York City submarket are: Winter 5030 MW; Spring 4780 MW; Summer 4780 MW; and Fall 4780 MW. We note that, in *Atlantic Renewables Projects II*, 135 FERC ¶ 61,227 (2011), the Commission issued an order accepting SIL values for other markets in the Northeast region.

Future filers submitting screens for the New York City submarket for the December 2008 – November 2009 study period are encouraged to use these Commission-accepted SIL values.

2. Vertical Market Power

18. In cases where a public utility, or any of its affiliates, owns, operates, or controls transmission facilities, the Commission requires that there be a Commission-approved OATT on file or that the seller has received waiver of the OATT requirement before granting a seller market-based rate authorization.¹⁵

19. In this case, as discussed more fully below, the Commission will grant Bayonne Energy Center's request for waiver of the requirement to have an OATT on file for its transmission facilities.¹⁶ Also, as explained above, we note that on June 13, 2011 Dixie Valley filed an OATT with the Commission for its 212-mile, 230 kV radial generator lead line located in the Southwest region,¹⁷ and the Commission has granted waiver of the OATT requirements for the Alta Wind Energy Center generator lead lines.¹⁸

20. The Commission also considers a seller's ability to erect other barriers to entry as part of the vertical market power analysis.¹⁹ 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; sites for generation capacity development; and physical coal supply sources and ownership of or

¹⁵ Order No. 697, FERC Stats. & Regs. ¶ 31,252 at P 408.

¹⁶ A generator lead line, such as the 6.75 mile generator lead, is a transmission facility. See 16 U.S.C. §§ 796(23), 824(a)-(b) (2006). Bayonne Energy Center is subject to the requirement under Order Nos. 888 and 890 to file an OATT or seek a waiver of the requirement to file an OATT, unless and until it receives a request for transmission service. See *Milford Wind Corridor, LLC*, 129 FERC ¶ 61,149, at P 24 (2009) (noting that designation as a "generator lead line" does not render a line exempt from the Commission's regulation of transmission facilities). See also *Evergreen Wind Power III, LLC*, 135 FERC ¶ 61,030 (2011).

¹⁷ Bayonne Energy Center's June 17, 2011 filing at 1-2 (citing Terra-Gen Dixie Valley, LLC filing in Docket No. ER11-2127-004).

¹⁸ *Id.* at 2 (citing *Alta Wind, I*, 134 FERC ¶ 61,109).

¹⁹ Order No. 697, FERC Stats. & Regs. ¶ 31,252 at P 440.

control over who may access transportation of coal supplies (collectively, inputs to electric power production).²⁰ The 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.²¹

21. Regarding other barriers to entry, Bayonne Energy Center represents that neither Bayonne Energy Center, nor any of its affiliates own, control, or operate intrastate natural gas transportation, intrastate natural gas transportation, storage, or distribution facilities in the relevant market. Bayonne Energy Center also explains that neither it nor its affiliates own or control any sites for generation capacity development in the Northeast region other than the sites on which their existing or retired generation facilities are located. Additionally, Bayonne Energy Center states that neither Bayonne Energy Center nor any of its affiliates own or control sources of physical coal supplies or the transportation of coal supplies in the relevant market.

22. Finally, consistent with Order No. 697, Bayonne Energy Center affirmatively states that neither it nor any of its affiliates have erected barriers to entry in the relevant market, and will not erect barriers to entry into the relevant market.

23. Based on Bayonne Energy Center's representations, and our determinations discussed below, we find that Bayonne Energy Center satisfies the Commission's requirements for market-based rates regarding vertical market power.

B. Waiver Requests

1. Waiver of Order Nos. 888, 889, and 890

24. As explained above, Bayonne Energy Center seeks waiver of certain requirements under Order Nos. 888, 889, and 890. In support of its request for waiver, Bayonne Energy Center states that it does not own, operate, or control any transmission-related equipment other than the discrete facilities interconnecting the Bayonne Energy Center facility to the transmission grid. The Bayonne Energy Center facility (located in New Jersey) will connect to the Gowanus substation in Brooklyn, New York, via a new 6.75 mile, 345 kV submarine cable that will cross the New York Harbor. Bayonne Energy Center represents that it is the sole user of this submarine cable.

²⁰ Order No. 697-A, FERC Stats. & Regs. ¶ 31,268 at P 176.

²¹ Order No. 697, FERC Stats. & Regs. ¶ 31,252 at P 447.

25. Order Nos. 888 and 890 require public utilities that own, operate, or control facilities used for the transmission of electric energy in interstate commerce to file an OATT. Order No. 889 requires public utilities to establish an Open Access Same-Time Information System (OASIS). In prior orders, the Commission has enunciated the standards for exemption from some or all of the requirements of Order Nos. 888 and 889.²² The Commission has stated that the criteria for waiver of the requirements of Order No. 890 are unchanged from those used to evaluate requests for waiver under Order Nos. 888.²³

26. The Commission may grant requests for waiver of Order Nos. 888 and 890 to public utilities that can show that they own, operate, or control only limited and discrete transmission facilities (facilities that do not form an integrated transmission grid), until such time as the public utility receives a request for transmission service. Should the public utility receive such a request, the Commission has determined that the public utility must file with the Commission a *pro forma* tariff within 60 days of the date of the request, and must comply with any additional requirements that are effective on the date of the request.²⁴

27. The Commission has also determined that waiver of Order No. 889 would be appropriate for a public utility if the applicant: (1) owns, operates, or controls only limited and discrete transmission facilities (rather than an integrated transmission grid); or (2) is a small public utility that owns, operates, or controls an integrated transmission grid, unless it is a member of a tight power pool, or other circumstances are present that indicate that a waiver would not be justified.²⁵ Moreover, the Commission has held that a waiver of Order No. 889 will remain in effect until the Commission takes action in

²² See, e.g., *Black Creek Hydro, Inc.*, 77 FERC ¶ 61,232, at 61,941 (1996) (*Black Creek*); *Entergy Mississippi, Inc.*, 112 FERC ¶ 61,228, at P 22 (2005) (*Entergy*).

²³ See *Alcoa Power Generating Inc.*, 120 FERC ¶ 61,035, at P 3 (2007).

²⁴ *Black Creek*, 77 FERC at 61,941.

²⁵ *Id.*

response to a complaint to the Commission that an entity evaluating its transmission needs could not get the information necessary to complete its evaluation.²⁶

28. Based on the statements in Bayonne Energy Center's application, we find that Bayonne Energy Center's facilities qualify as limited and discrete. The facilities will be used solely by Bayonne Energy to interconnect its facility to the transmission grid. Accordingly, we will grant Bayonne Energy Center waiver of the requirements of Order Nos. 888 and 890 to have an OATT on file.²⁷ Similarly, the Commission will grant Bayonne Energy Center waiver from the OASIS requirements of Order No. 889.²⁸

2. Other Waivers, Approvals, and Authorizations

29. Bayonne Energy Center also requests the following waivers and authorizations: (1) waiver of the filing requirements of subparts B and C of Part 35, 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, and 141, except sections 141.14 and 141.15; and (3) blanket authorization under Part 34 for all future issuances of securities and assumptions of liability.

²⁶ *Entergy*, 112 FERC ¶ 61,228 at P 23 (citing *Central Minnesota Municipal Power Agency*, 79 FERC ¶ 61,260, at 62,127 (1997); *Easton Utilities Commission*, 83 FERC ¶ 61,334, at 62,343 (1998)).

²⁷ Consistent with *Black Creek*, Bayonne Energy Center must file a *pro forma* OATT in compliance with Order Nos. 888 and 890 within 60 days of receiving a request for transmission service.

²⁸ A waiver of the requirement to establish and maintain an information system remains effective until the Commission takes action in response to a complaint by any entity alleging that, in evaluating its transmission needs, the entity could not obtain from Bayonne Energy Center information necessary to complete its evaluation. In addition, Bayonne Energy Center must notify the Commission if there is a material change in facts that affect its waiver, within 30 days of the date of such change. *See Material Changes in Facts Underlying Waiver of Order No. 889 and Part 358 of the Commission's Regulations*, 127 FERC ¶ 61,141, at P 5 (2009).

30. The Commission will grant the requested waivers and authorizations consistent with those granted other entities with market-based rate authorizations.²⁹ Notwithstanding the waiver of the accounting and reporting requirements, the Commission expects Bayonne Energy Center to keep its accounting records in accordance with generally accepted accounting principles.

C. Reporting Requirements

31. Consistent with the procedures the Commission adopted in Order No. 2001, an entity with market-based rate authorization must electronically file an Electric Quarterly Report (EQR) with the Commission containing: (1) a summary of the contractual terms and conditions in every effective service agreement for market-based power sales; and (2) transaction information for effective short-term (less than one year) and long-term (one year or longer) market-based power sales during the most recent calendar quarter.³⁰ Public utilities must file EQRs no later than 30 days after the end of the reporting quarter.³¹

²⁹ 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. *See* Order No. 697, FERC Stats. & Regs. ¶ 31,252 at P 984-85 (regarding waiver of Parts 41, 101, and 141), 999-1000 (regarding blanket approval under Part 34).

³⁰ *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 (2003). Attachments B and C of Order No. 2001 describe the required data sets for contractual and transaction information. Public utilities must submit EQRs to the Commission using the EQR Submission System Software, which may be downloaded from the Commission's website at <http://www.ferc.gov/docs-filing/eqr.asp>.

³¹ The exact filing dates for these reports are prescribed in 18 C.F.R. § 35.10b (2011). Failure to file an EQR (without an appropriate request for extension), or failure to report an agreement in an EQR, may result in forfeiture of market-based rate authority requiring filing of a new application for market-based rate authority if the applicant wishes to resume making sales at market-based rates.

32. Additionally, Bayonne Energy Center 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.³²

33. In Order No. 697, the Commission created two categories of sellers.³³ Category 1 sellers are not required to file regularly scheduled updated market power analyses. Category 1 sellers are wholesale power marketers and wholesale power producers that own or control 500 MW or less of generation in aggregate per region; that do not own, operate, or control transmission facilities other than limited equipment necessary to connect individual generation facilities to the transmission grid (or have been granted waiver of the requirements of Order No. 888); 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.³⁴ Sellers that do not fall into Category 1 are designated as Category 2 sellers and are required to file updated market power analyses.³⁵

34. Based on Bayonne Energy Center's representations, we designate Bayonne Energy Center as a Category 2 seller in the Northeast region; thus, Bayonne Energy Center must file updated market power analyses for the Northeast region in compliance with the regional reporting schedule adopted in Order No. 697.³⁶ The Commission reserves the right to require an updated market power analysis at any time.³⁷

35. We note that Bayonne Energy Center's market-based rate tariff states that it is a Category 1 seller in the Southwest, Northwest, Central, Southwest Power Pool and Southeast regions. However, Bayonne Energy Center's application only sought market-based rate authorization for the New York City submarket, and thus market-based rate

³² *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 (2011).

³³ Order No. 697, FERC Stats. & Regs. ¶ 31,252 at P 848.

³⁴ 18 C.F.R. § 35.36(a) (2011).

³⁵ Order No. 697, FERC Stats. & Regs. ¶ 31,252 at P 850.

³⁶ *Id.* P 882.

³⁷ *Id.* P 853.

authorization is hereby only granted for the New York City submarket. Therefore, we direct Bayonne Energy Center to submit a compliance filing, within 30 days of the date of this order, revising its tariff to remove the references to Category 1 status in the regions where it does not have market-based rate authority.

The Commission orders:

(A) Bayonne Energy Center's market-based rate tariff is hereby accepted for filing, effective as of the date of this order, as discussed in the body of this order.

(B) Bayonne Energy Center is hereby directed to submit a compliance filing, within 30 days of the date of this order, as discussed in the body of the order.

(C) 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.

(D) Waiver of Parts 41, 101, and 141 of the Commission's regulations is hereby granted, with the exception of sections 141.14 and 141.15.

(E) Blanket authorization under Part 34 of the Commission's regulations for all future issuances of securities and assumptions of liability is hereby granted. Bayonne Energy Center 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 Bayonne Energy Center, compatible with the public interest, and reasonably necessary or appropriate for such purposes.

(F) 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 Bayonne Energy Center's issuance of securities or assumptions of liability.

(G) Bayonne Energy Center's request for waiver of certain requirements of Order Nos. 888, 889, and 890 is hereby granted, as discussed in the body of this order.

(H) The SIL values identified in this order for the New York City submarket are hereby accepted, as discussed in the body of this order.

(I) Bayonne Energy Center is required to file EQRs in compliance with Order No. 2001. If the effective date of Bayonne Energy Center's market-based rate tariff falls within a quarter of the year that has already expired, Bayonne Energy Center's EQRs for the expired quarter are due within 30 days of the date of this order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.