

140 FERC ¶ 61,186
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;
Philip D. Moeller, John R. Norris,
Cheryl A. LaFleur, and Tony T. Clark.

Berry Petroleum Company

Docket No. ER12-2233-000

ORDER GRANTING MARKET-BASED RATE AUTHORIZATION AND DENYING
WAIVER OF PRIOR NOTICE REQUIREMENT

(Issued September 7, 2012)

1. In this order, the Commission grants market-based rate authorization to Berry Petroleum Company (Berry Petroleum), effective September 10, 2012. Berry Petroleum's request for waiver of the prior notice requirement is denied. The Commission grants Berry Petroleum's request for other waivers commonly granted to market-based rate sellers.

2. Additionally, we find that Berry Petroleum meets the criteria for a Category 1 seller in all regions and is so designated.¹

I. Background

3. On July 11, 2012, pursuant to section 205 of the Federal Power Act (FPA),² Berry Petroleum filed an initial application for market-based rate authority with an

¹ *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. Montana Consumer Counsel v. FERC*, 659 F.3d 910 (9th Cir. 2011), *cert. denied sub nom. Public Citizen, Inc. v. FERC*, 2012 U.S. LEXIS 4820 (U.S. June 25, 2012).

² 16 U.S.C. § 824d (2006).

accompanying tariff. The proposed tariff provides for the sale of energy, capacity, and ancillary services at market-based rates.³

4. Berry Petroleum asserts that it is a Delaware corporation with its principal place of business in Denver, Colorado. Berry Petroleum states that it is an independent energy company engaged in the production, development, acquisition, exploitation, and exploration of crude oil and natural gas.

5. Berry Petroleum states that it owns and operates three cogeneration facilities (Generation Facilities) with a combined generating capacity of 98 megawatts (MW). Berry Petroleum asserts that the Generation Facilities are certified Qualifying Facilities (QF) under the Public Utility Regulatory Policies Act of 1978 (PURPA).⁴ According to Berry Petroleum, the Generation Facilities consist of: (1) a 42 MW combined heat and power facility in Newhall, California; (2) a 38 MW combined heat and power facility in Kern County, California; and (3) an 18 MW combined heat and power facility in Kern County, California.⁵ Berry Petroleum states that the Generation Facilities support its oil and natural gas operations, though it began selling excess energy and capacity from the Generation Facilities on April 1, 2012 under long-term contracts with Southern California Edison Company (SoCal Edison) and Pacific Gas & Electric Company (PG&E).⁶

6. Berry Petroleum requests waivers commonly granted to similar applicants seeking market-based rate authorization as well as waiver of the prior notice requirement to make such authorization effective as of April 1, 2012.⁷

³ Berry Petroleum requests authorization to sell ancillary services in the market administered by California Independent System Operator Corp.

⁴ 16 U.S.C. § 824a-3 (2006).

⁵ Berry Petroleum Filing at 2.

⁶ *Id.* at 4. Berry Petroleum states that it entered into these contracts effective April 1, 2012 in order to replace long-term contracts under which it sold excess power from the Generation Facilities as a QF prior to enactment of the Energy Policy Act of 2005, Pub. L. No. 109-58 (2005), and the Commission's adoption of *Revised Regulations Governing Small Power Production and Cogeneration Facilities*, Order No. 671, FERC Stats. & Regs. ¶ 31,203, *clarified*, 114 FERC ¶ 61,128, *order on reh'g*, Order No. 671-A, FERC Stats. & Regs. ¶ 31,219 (2006). Berry Petroleum Filing at 4 n.6.

⁷ *Id.* at 9-12 (citing 18 C.F.R. § 35.11 (2012)).

II. Notice of Filing and Responsive Pleadings

7. Notice of Berry Petroleum's request for market-based rate authority was published in the *Federal Register*, 77 Fed. Reg. 42,717 (2012), with interventions or protests due on or before August 1, 2012. None was filed.

8. Notice of Berry Petroleum's request for blanket authorization under Part 34 of the Commission's regulations was separately published in the *Federal Register*, 77 Fed. Reg. 42,722 (2012), with interventions or protests due on or before August 6, 2012. None was filed.

III. Discussion

9. As discussed below, we will grant Berry Petroleum's request for authorization to make wholesale sales of electric energy, capacity, and ancillary services at market-based rates and we will accept Berry Petroleum's market-based rate tariff, effective September 10, 2012. We deny Berry Petroleum's request for waiver of the Commission's prior notice policy, and grant Berry Petroleum's requests for certain other waivers.

A. Market-Based Rate Authorization

10. 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.⁸

1. Horizontal Market Power

11. The Commission has adopted two indicative screens for assessing horizontal market power: the pivotal supplier screen and the wholesale market share screen.⁹

12. Berry Petroleum represents that all energy and capacity from the Generation Facilities in excess of that which is consumed by Berry Petroleum in the course of its oil production activities is fully committed under long-term contracts with SoCal Edison and PG&E. Further, Berry Petroleum states that it does not have any affiliates that own or control generation.

⁸ Order No. 697, FERC Stats. & Regs. ¶ 31,252 at PP 62, 399, 408, 440.

⁹ *Id.* P 62.

13. Based on Berry Petroleum's representations, we find that Berry Petroleum satisfies the Commission's requirements for market-based rates regarding horizontal market power.

2. Vertical Market Power

14. 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 Open Access Transmission Tariff (OATT) on file or that the seller has received waiver of the OATT requirement before granting a seller market-based rate authorization.¹⁰

15. The Commission also considers a seller's ability to erect other barriers to entry as part of the vertical market power analysis.¹¹ 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 control over who may access transportation of coal supplies (collectively, inputs to electric power production).¹² 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.¹³ 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 interveners to demonstrate otherwise.¹⁴

16. Berry Petroleum states that neither it nor its affiliates own or control any electric transmission facilities other than those facilities necessary to connect their generation facilities to the transmission grid. Berry Petroleum asserts that it is a partial owner of joint ventures that own four short, intrastate pipelines used to provide natural gas to two

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

¹¹ *Id.* P 440.

¹² *Id.* P 447. In Order No. 697-A, the Commission revised the definition of inputs to electric power production to include "physical coal supply sources and ownership of or control over who may access transportation of coal supplies." Order No. 697-A, FERC Stats. & Regs. ¶ 31,268 at P 176.

¹³ Order No. 697, FERC Stats. & Regs. ¶ 31,252 at P 447.

¹⁴ *Id.* P 446.

of the Generation Facilities.¹⁵ Berry Petroleum also asserts that it does not own or control, nor is it affiliated with any entity that owns or controls, any other assets relevant to the Commission's vertical market power analysis. Berry Petroleum affirmatively states that it has not erected any barriers to entry into the relevant market and will not erect barriers to entry into the relevant market.¹⁶

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

B. Waiver Requests

18. Berry Petroleum also 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 requiring the filing of cost-of-service information, except as to 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 of the Commission's accounting and periodic reporting requirements except sections 141.14 and 141.15; and (3) blanket authorization under section 204 of the FPA¹⁷ and Part 34 of the Commission's regulations for all future issuances of securities and assumptions of liability.

19. The Commission will grant these requested waivers and authorizations consistent with those granted to other entities with market-based rate authorizations.¹⁸ Notwithstanding the waiver of the accounting and reporting requirements, the Commission expects Berry Petroleum to keep its accounting records in accordance with generally accepted accounting principles.

¹⁵ Berry Petroleum Filing at 5-6.

¹⁶ We interpret this statement to apply to Berry Petroleum and its affiliates. *See* Order No. 697, FERC Stats. & Regs. ¶ 31,252 at P 447.

¹⁷ 16 U.S.C. § 824c (2006).

¹⁸ 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 PP 984-985 (regarding waiver of Parts 41, 101, and 141); *id.* PP 999-1000 (regarding blanket approval under Part 34).

20. We will direct Berry Petroleum to submit a compliance filing containing revisions to the limitations and exemptions sections of its market-based rate tariff to include a citation to this order.¹⁹

C. Waiver of the Prior Notice Requirement

21. Berry Petroleum requests waiver of the Commission's prior notice requirement and requests an effective date of April 1, 2012. Berry Petroleum states that the Generation Facilities were self-certified many years ago when sales of excess power from those facilities were exempted from Commission rate regulation under FPA section 205 and under contracts approved by the California Public Utilities Commission (California Commission) as part of its implementation of PURPA²⁰ Berry Petroleum further states that it entered into new contracts with SoCal Edison and PG&E on April 1, 2012 as a part of a settlement agreement (Settlement) that terminated the historical PURPA contracts. Berry Petroleum states that the Settlement was approved by the California Commission.²¹ Berry Petroleum asserts that it only recently learned that it no longer meets the requirements for exemption from the Commission's rate regulation and thus regulatory approval for those sales was not timely obtained.²²

22. Berry Petroleum argues that waiver of the Commission's prior notice requirement is consistent with the public interest.²³ Berry Petroleum suggests that no party would be

¹⁹ See *id.* at App. C; Order No. 697-A, FERC Stats. & Regs. ¶ 31,268 at P 384; see also *Niagara Mohawk Power Corp.*, 121 FERC ¶ 61,275, at P 8 (2007). This tariff revision may be filed no later than the next time Berry Petroleum makes a market-based rate filing with the Commission.

²⁰ Berry Petroleum Filing at 10-11, n.17 (noting that after the general exemption from regulation of QFs was lifted, the exemption was continued for existing contracts and for new contracts entered into pursuant to a state's regulatory responsibilities under PURPA).

²¹ Berry Petroleum Filing at 4 n.6.

²² Berry Petroleum is reminded that it must submit required filings on a timely basis, or face possible sanctions by the Commission.

²³ *Id.* at 11. Berry Petroleum also argues that “[c]hanges to rate schedules have been accepted [as much as] five and ten years out of time . . . when that seller failed to comprehend the regulatory implications” of changes mandated by the California Commission. *Id.* (citing *Colmac Energy, Inc.*, Docket No. ER11-2523-000 (Feb. 10, 2011) (delegated letter order)).

harmful or prejudiced should the Commission decide to grant the requested waiver.²⁴ In comparison, Berry Petroleum contends that it would be harmed if the Commission rejected the requested waiver.²⁵

23. Section 205 of the FPA explicitly requires that rates be timely filed with the Commission.²⁶ In this regard, the Commission has explained that it cannot “ignore its statutory duty to determine whether rates are just and reasonable by permitting utilities to submit filings whenever convenient,” and that it “must have the opportunity to examine proposed rates, terms, and conditions of jurisdictional service before that service commences.”²⁷ Thus, a regulated entity must timely file its rates to allow the Commission to fulfill its statutory mandate, namely, timely determining whether the rates being charged are just and reasonable. The Commission has further made clear that, for market-based rates in particular, it “does not allow market-based rates to go into effect before a filing has been tendered with the Commission.”²⁸ In *Central Maine Power Co.*,²⁹ *Central Hudson Gas and Electric Co.*,³⁰ and *Prior Notice and Filing Requirements Under Part II of the Federal Power Act*,³¹ the Commission explained that it would grant

²⁴ *Id.* at 10. Berry Petroleum specifically contends that SoCal Edison and PG&E are aware of the price and terms governing the Settlement and that such terms have been publicly available. *Id.*

²⁵ *Id.* at 10.

²⁶ *See El Paso Elec. Co.*, 105 FERC ¶ 61,131, at PP 9-11 (2003).

²⁷ *Id.* P 14.

²⁸ *El Segundo Power, LLC*, 84 FERC ¶ 61,011, at 61,060, *order on reh’g*, 85 FERC ¶ 61,123 (1998), *order on reh’g*, 87 FERC ¶ 61,208 (1999), *order on reh’g*, 90 FERC ¶ 61,036 (2000); *see also FC Landfill Energy, LLC*, 133 FERC ¶ 61,041 (2010) (citing *El Segundo Power, LLC*, 84 FERC ¶ 61,011); *BC Landfill Energy, LLC*, 127 FERC ¶ 61,113 (2009) (citing *El Segundo Power, LLC*, 84 FERC ¶ 61,011).

²⁹ *Central Maine Power Co.*, 56 FERC ¶ 61,200, *order on reh’g*, 57 FERC ¶ 61,083 (1991).

³⁰ *Central Hudson Gas and Electric Company*, 60 FERC ¶ 61,106, *reh’g denied*, 61 FERC ¶ 61,089 (1992).

³¹ *Prior Notice and Filing Requirements Under Part II of the Federal Power Act*, 64 FERC ¶ 61,139, at 61,984, *clarified*, 65 FERC ¶ 61,081 (1993); 18 C.F.R. § 35.19a (2012).

waiver of the prior notice requirement for proposals to charge market-based rates only in extreme or extraordinary circumstances.

24. Based on the information presented by Berry Petroleum, Berry Petroleum has failed to demonstrate extraordinary circumstances warranting waiver of the prior notice requirement. The Commission has previously stated that an applicant's lack of awareness does not constitute extraordinary circumstances.³² Accordingly, we deny Berry Petroleum's request for waiver of the prior notice requirement and an effective date of April 1, 2012. We grant Berry Petroleum's request for market-based rate authority to be effective September 10, 2012, 61 days after filing.

D. Refunds

25. The Commission has noted that if a utility files a market-based rate tariff less than 60 days prior to the proposed effective date of new service, and waiver is denied, the Commission will require the utility to refund to its customers the time-value of the gross revenues collected, calculated pursuant to section 35.19a of the Commission's regulations,³³ for the entire period that the rate was collected without Commission authorization.³⁴ In addition to returning the time-value of revenues collected for the period the rate was charged without Commission authorization, when dealing with market-based rates that are not timely filed, the Commission has stated that:

[T]he utility will be required to refund all revenues resulting from the difference, if any, between the market-based rate and a cost-justified rate. . . . In other words, the late-filing utility will receive the equivalent of a cost-based rate, less the time value remedy applicable to the unauthorized late filing of cost-based rates, until the date of Commission authorization.³⁵

³² *Trigen-St. Louis Energy Corp.*, 120 FERC ¶ 61,044 (2007). *See also OREG 1, Inc. et al*, 135 FERC ¶ 61,150 (2011), *order denying rehearing*, 138 FERC ¶61,110 (2012)

³³ 18 C.F.R. § 35.19a.

³⁴ *Prior Notice*, 64 FERC at 61,980.

³⁵ *Id.*; *see* 16 U.S.C. § 825h (2006); *see Southern California Water Co.*, 106 FERC ¶ 61,305, at PP 15-16, *reh'g denied*, 108 FERC ¶ 61,168 (2004); *see also Carolina Power & Light Co.*, 87 FERC ¶ 61,083, at 61,356 (1999); *Public Service Co. of Colorado*, 85 FERC ¶ 61,146, at 61,588 (1998).

26. For a QF like Berry Petroleum, the difference between the market-based rate and the cost-justified rate would be the difference between the market-based rate it actually charged and its avoided cost rate (or, if it has no such avoided cost rate, a reasonable proxy for such a rate).³⁶ Berry Petroleum should identify its avoided cost rate in its refund report ordered below (or, if it has no such avoided cost rate, explain why it cannot be calculated and articulate a reasonable proxy for such rate).³⁷ Whether or not an individual customer actually suffered any harm, we add, is irrelevant to our inquiry here. The injury to be remedied by refunds for late filings is not merely to redress injury to an individual customer, but particularly to address “the Commission’s ability to enforce FPA section 205’s requirement that there be prior notice and that the rates charged be just and reasonable at the time they are being charged.”³⁸ Therefore, we conclude that refunds, plus interest, are due.

E. Reporting Requirements

27. 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.³⁹

³⁶ 18 C.F.R. § 292.304(a) (2012); *Mendota Hills*, 110 FERC ¶ 61,222, at P 26 (2005).

³⁷ *Mendota Hills*, 110 FERC ¶ 61,110 at P 26.

³⁸ *El Paso Electric Company*, 105 FERC ¶ 61,131, at P 21 (2003) (footnote omitted) (citing *Carolina Power*, 87 FERC at 61,356).

³⁹ *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). 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>.

Public utilities must file EQRs no later than 30 days after the end of the reporting quarter.⁴⁰

28. Additionally, Berry Petroleum 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.⁴¹

29. In Order No. 697, the Commission created two categories of sellers.⁴² 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. 888⁴³); 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

⁴⁰ The exact filing dates for these reports are prescribed in 18 C.F.R. § 35.10b (2012). 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.

⁴¹ *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 (2012).

⁴² Order No. 697, FERC Stats. & Regs. ¶ 31,252 at P 848.

⁴³ *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).

issues.⁴⁴ Sellers that do not fall into Category 1 are designated as Category 2 and are required to file updated market power analyses.⁴⁵

30. Berry Petroleum states that it owns generation totaling 98 MW in the Southwest region. Berry Petroleum asserts that it does not own, operate or control any generation in any other region. Berry Petroleum further represents that it does not own, operate or control, nor is it affiliated with any entity that owns, operates or controls, transmission facilities other than those facilities used to connect its generation facilities to the transmission grid. Additionally, Berry Petroleum states that it is not affiliated with a franchised public utility in any region and does not raise any other vertical market power issues. Based on Berry Petroleum's representations, we designate Berry Petroleum as a Category 1 seller in all regions. The Commission reserves the right to require an updated market power analysis at any time.⁴⁶

The Commission orders:

(A) Berry Petroleum's market-based rate tariff is hereby accepted for filing, effective September 10, 2012, as discussed in the body of this order.

(B) Berry Petroleum is hereby directed to revise the limitations and exemptions section of its tariff to include a citation to this order, as discussed in the body of this order.

(C) Waiver of Subparts B and C of Part 35 of the Commission's regulations requiring the filing of cost-of-service information, 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 section 204 of the FPA and Part 34 of the Commission's regulations for all future issuances of securities and assumptions of liability is granted. Berry Petroleum 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

⁴⁴ 18 C.F.R. § 35.36(a) (2012).

⁴⁵ Order No. 697, FERC Stats. & Regs. ¶ 31,252 at P 850.

⁴⁶ *Id.* P 853.

object within the corporate purposes of Berry Petroleum, 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 Berry Petroleum's issuances of securities or assumptions of liabilities.

(G) Berry Petroleum's request for waiver of the prior notice requirement is denied, as discussed in the body of this order.

(H) Berry Petroleum is hereby ordered to make refunds, with interest, within 30 days of the date of this order, as discussed in the body of this order. Such refunds shall include: (a) the time value of gross revenues for market-based rate sales made without Commission authorization between April 1, 2012 until September 10, 2012, calculated in accordance with 18 C.F.R. § 35.19a (2012); and (b) the difference between the gross revenues for market-based rate sales made without Commission authorization and the cost-justified rate (or alternatives as discussed herein). Berry Petroleum is hereby directed to submit a refund report within 15 days thereafter, regarding the basis for and calculations of the refunds paid.

(I) Berry Petroleum is required to file EQRs in compliance with Order No. 2001. If the effective date of Berry Petroleum's market-based rate tariff falls within a quarter of the year that has already expired, Berry Petroleum'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.