

140 FERC ¶ 61,238
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.

K Road Modesto Solar LLC

Docket Nos. ER12-1995-000
ER12-1995-001

ORDER GRANTING MARKET-BASED RATE AUTHORIZATION
AND GRANTING WAIVERS

(Issued September 24, 2012)

1. In this order, the Commission grants K Road Modesto Solar LLC (K Road) authority to make wholesale sales of electric energy, capacity, and ancillary services at market-based rates, effective June 13, 2012, as requested. Also, as discussed below, we grant K Road waiver of the obligation to file an Open Access Transmission Tariff (OATT) and to establish and maintain an Open Access Same-Time Information System (OASIS). We also grant K Road's request for other waivers commonly granted to market-based rate sellers. Additionally, we find that K Road meets the criteria for a Category 1 seller in all regions and is so designated.¹

¹ See *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 (2008), *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 sub nom. Public Citizen, Inc. v. FERC*, 2012 U.S. LEXIS 4820 (U.S. June 25, 2012).

I. Background

2. On June 12, 2012, pursuant to section 205 of the Federal Power Act (FPA),² K Road filed an application (Application) for market-based rate authority with an accompanying tariff providing for the sale of electric energy, capacity, and ancillary services at market-based rates.³ On July 26, 2012, K Road amended its Application to provide further information (Amendment).

3. In its Application, K Road states that it will own an approximately 25-megawatt (MW), photovoltaic, solar electric generation facility (Facility), located in Modesto, California, in the Sacramento Municipal Utility District (SMUD) balancing authority area (BAA).⁴ K Road further states that the Facility is on a 152-acre parcel of land in the Southwest region (Site) that K Road controls under a long-term lease. According to K Road, SunPower Corporation, Systems will operate the Facility, but K Road will maintain ultimate decision-making authority over the Facility, including how and when the Facility's power will be sold.

4. K Road states that the Facility will interconnect to the 69-kilovolt (kV) sub-transmission line owned by Modesto Irrigation, and that, under a 25-year power purchase agreement, Modesto Irrigation is contractually entitled to all of the Facility's output. K Road states that it intends to file, in the near future, for self-certification as a Qualifying Facility, pursuant to section 292.207 of the Commission's regulations,⁵ but notes that none of its sales meet the requirements for the exemption from section 205 of the FPA contained in section 292.601(c)(1) of the Commission's regulations.⁶

² 16 U.S.C. ¶ 824d (2006).

³ K Road 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., and California Independent System Operator Corporation. K Road also requests authorization to engage in the sale of certain ancillary services as a third-party in other markets.

⁴ As discussed below, in its intervention, the Modesto Irrigation District (Modesto Irrigation) points out that the Facility is located in the Balancing Authority of Northern California (BANC) BAA, not the SMUD BAA. *See infra* P 8.

⁵ 18 C.F.R. § 292.207 (2012). K Road subsequently filed its self-certification as a qualifying facility on June 27, 2012 in Docket No. QF12-434-000.

⁶ 18 C.F.R. § 292.601 (c)(1) (2012).

5. K Road states that it “owns or controls very limited interconnection facilities interconnecting the Facility on the high side of the Facility’s step-up transformer within the Facility substation located at the Site.”⁷ According to K Road, its affiliates do not own, operate, or control any jurisdictional transmission facilities other than limited transmission-related equipment necessary to interconnect to the grid.

6. K Road asks the Commission to waive the requirement, under Order Nos. 888⁸ and 890,⁹ to file an OATT, and the requirement, under Order No. 889,¹⁰ to establish an OASIS. In addition, K Road Modesto requests waivers commonly granted to similar applicants seeking market-based rate authority. K Road also asks the Commission to waive its prior notice requirement, set forth at section 35.3(a)(1) of the Commission’s regulations,¹¹ to permit the tariff sheets of the Application to be effective one day after filing, June 13, 2012, so that K Road can synchronize the Facility to the transmission grid and begin operational testing on schedule.

7. K Road states that is wholly-owned by K Road Modesto Holdings LLC (K Road Holdings), which is wholly-owned by K Road Power Holdings LLC (K Road Holdings), which, in turn, is owned, 64.5 percent by Northwharf Nominees Ltd. (Northwharf),

⁷ Application at 4.

⁸ *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).

⁹ *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 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 (2009), *order on reh’g*, Order No. 890-D, 129 FERC ¶ 61,126 (2009).

¹⁰ *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).

¹¹ 18 C.F.R. § 35.3(a)(1) (2012).

30.1 percent by W Holdings LLC (W Holdings), and 5.4 percent by KRPH Management LLC and various employees of K Road Holdings. According to K Road, Northwharf is the trustee for the assets of certain entities, including a 45 percent ownership interest in American Wind Capital Wind Company, LLC (American Wind) which, in turn, has ownership interests in three small wind electric energy generation facilities in Minnesota and California.¹² K Road states that W Holdings is wholly-owned by one individual. According to K Road, the individual owner has no ties to the energy industry, except through the stated ownership interests in K Road Holdings and W Holdings, and a one percent, non-controlling investment in a New York City power generation facility.¹³

8. In K Road's Amendment, K Road confirms Modesto Irrigation's statement that the Facility is located in the BANC BAA, and states that the market power analysis included in the Application remains valid notwithstanding the fact that the Facility now is located in the BANC BAA. K Road states that it and its affiliates do not have uncommitted capacity in any BAA. K Road concludes that it passes the pivotal supplier and market share screens in BANC just as it does in the former SMUD balancing authority area.¹⁴

II. Notices and Responsive Filing

9. Notice of K Road's June 12, 2012 request for market-based rate authority was published in the *Federal Register*, 77 Fed. Reg. 37,393 (2012), with interventions or protests due on or before July 3, 2012. Modesto Irrigation filed a motion to intervene and comments on July 3, 2012.

10. Notice of K Road's request for blanket authorization under Part 34 was separately published in the *Federal Register*, 77 Fed. Reg. 36,528 (2012), with interventions or protests due on or before July 5, 2012. None was filed.

¹² *Id.* at 7-8 (K Road states that, through Minnesota Wind Ventures, LLC, American Wind owns 26.71 percent of the Grant County Wind Project, a 20 MW facility in Hoffman, Minnesota, and, through ON Wind Energy LLC, American Wind owns the 4.2 MW ON Wind Facility and the 4.527 MW OCES Facility, both in Kern County, California).

¹³ Amendment at 2.

¹⁴ Amendment at 2-3.

11. Notice of the Amendment was published in the *Federal Register*, 77 Fed. Reg. 36,528 (2012), with interventions or protests due on or before August 16, 2012. None was filed.

III. Discussion

A. Procedural Matters

12. Pursuant to Rule 214(c) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 214(c) (2012), Modesto Irrigation's timely, unopposed motion to intervene serves to make it a party to this proceeding.

B. 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.¹⁵ As discussed below, we will grant K Road'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 June 13, 2012, as requested.¹⁶ We will also grant K Road's request for certain waivers.

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.¹⁷ 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.¹⁸

¹⁵ Order No. 697, FERC Stats. & Regs. ¶ 31,252 at PP 62, 399, 408, 440.

¹⁶ We find good cause to grant K Road's request to waive the 60-day prior notice requirement in this case so that K Road is authorized to have synchronized the Facility to the transmission grid and begun operational testing on schedule. *See Central Hudson Gas & Elec. Corp.*, 60 FERC ¶ 61,106 at 61,339, *reh'g denied*, 61 FERC ¶ 61,089 (1992).

¹⁷ *Id.* P 62.

¹⁸ *Id.* PP 33, 62-63.

15. K Road states that all of K Road and its affiliates' generation is committed under long-term contracts and neither K Road nor its affiliates has uncommitted capacity in any balancing authority area. K Road concludes that it passes the pivotal supplier and market share screens in BANC just as it does in the former SMUD BAA.¹⁹

16. Based on K Road's representations that it and its affiliates have no uncommitted capacity, we find that K Road satisfies the Commission's requirements for market-based rates regarding horizontal market power.

2. Vertical Market Power

17. 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.²⁰

18. In this case, as discussed more fully below, the Commission will grant K Road's request for waiver of the requirement to have an OATT on file for its transmission facilities.

19. The Commission also considers a seller's ability to erect other barriers to entry as part of the vertical market power analysis.²¹ 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).²² The Commission also requires sellers to make an affirmative statement that they have not erected barriers to entry into the relevant market

¹⁹ Amendment at 2-3. We note that K Road submitted horizontal market power screens for the SMUD BAA, but that these screens were not prepared consistent with the requirements of Order No. 697. Therefore, these screens did not factor into our determination that K Road satisfied the Commission's requirements regarding horizontal market power.

²⁰ Order No. 697, FERC Stats. & Regs. ¶ 31,252 at P 408.

²¹ *Id.* P 440.

²² Order No. 697-A, FERC Stats. & Regs. ¶ 31,268 at P 176.

and will not erect barriers to entry into the relevant market.²³ 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.²⁴

20. Regarding other barriers to entry, K Road states that neither it nor its affiliates owns or controls inputs to electrical power production that raise vertical market power concerns. In addition, K Road states that except for certain parcels of land disclosed in its Application, neither it nor its affiliates owns or controls sites within the SMUD BAA, or anywhere else in California that are used in the development of generation capacity.²⁵ K Road states that neither it nor its affiliates owns intrastate natural gas transportation or intrastate natural gas storage or distribution facilities. Further, K Road states that neither it nor its affiliates owns or controls physical coal supply sources or have ownership or control over who may access transportation of coal supplies.²⁶

21. Consistent with Order No. 697, K Road affirmatively states 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.

22. Based on K Road's representations, and our determinations discussed below, we find that K Road satisfies the Commission's requirements for market-based rates regarding vertical market power.

²³ Order No. 697, FERC Stats. & Regs. ¶ 31,252 at P 447.

²⁴ *Id.* P 446.

²⁵ 18 C.F.R. § 35.37(e) requires a seller to demonstrate a lack of vertical market power in wholesale energy markets through the affiliation, ownership or control of inputs to electric power production and specifically to provide information on sites for generation capacity development. We interpret K Road's statement to include all such sites throughout the country and note that its Application discloses sites outside California.

²⁶ Application at 15-16.

C. Waivers

1. OATT and OASIS

23. As noted above, K Road seeks waiver of the requirement to file an OATT as well as the requirement to establish and maintain an OASIS. In support of its requests for waiver, K Road maintains that it does not own, operate, or control any transmission-related equipment other than the limited and discrete facilities interconnecting the Facility to the transmission grid.²⁷

24. Order Nos. 888 and 890 and section 35.28 of the Commission's regulations require that utilities own, operate, or control facilities used for the transmission of energy in interstate commerce to file an OATT.²⁸ Order No. 889 and Part 37 of the Commission's regulations require public utilities to establish and maintain an OASIS.²⁹ In prior orders, the Commission has articulated the standards for exemption from some or all of the requirements of Order Nos. 888 and 889.³⁰ The criteria for waiver of these requirements are unchanged by Order No. 890.

25. The Commission may grant requests for waiver of the obligation to file an OATT 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.³¹

²⁷ *Id.* at 18-19; Amendment at 4 (“these limited and discrete facilities only include the Facility’s transformer and the equipment that interconnects the Facility to that transformer; they do not include a gen-tie line.”).

²⁸ 18 C.F.R. § 35.28 (2012).

²⁹ 18 C.F.R. Part 37 (2012).

³⁰ *See, e.g., Black Creek Hydro, Inc.*, 77 FERC ¶ 61,232, at 61,941 (1996) (*Black Creek Hydro*); *Entergy Mississippi, Inc.*, 112 FERC ¶ 61,228, at P 22 (2005) (*Entergy*).

³¹ *Black Creek Hydro*, 77 FERC ¶ 61,232 at 61,941.

26. The Commission has also determined that waiver of the requirement to establish an OASIS 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 other circumstances are present that indicate that a waiver would not be justified.³² The Commission has held that waiver of Order No. 889 will remain in effect until the Commission takes action in response to a complaint to the Commission that an entity evaluating its transmission needs could not get the information necessary to complete its evaluation.³³

27. Based on K Road's representations, we find that its transmission facilities qualify as limited and discrete. Accordingly, we will grant K Road waiver of the requirements of Order Nos. 888 and 890 and section 35.28 of the Commission's regulations to have an OATT on file. However, if K Road receives a request for transmission service, it must file with the Commission a *pro forma* OATT within 60 days of the date of the request.

28. The Commission will also grant K Road waiver of the requirements of Order No. 889 and Part 37 of the Commission's regulations with respect to an OASIS. We note that K Road's waiver of the requirement to establish an OASIS will remain in effect until the Commission takes action in response to a complaint to the Commission that an entity evaluating its transmission needs could not get the information necessary to complete its evaluation.³⁴

³² *Id.* Although the Commission originally precluded waiver of the requirements for an OASIS and the standards of conduct for a small public utility that is a member of a tight power pool, in *Black Hills Power, Inc.*, 135 FERC ¶ 61,058, at PP 2-3 (2011), the Commission explained that membership in a tight power pool is no longer a factor in the determination for waiver of standards of conduct. Additionally, size is not relevant to whether waivers are granted to public utilities that participate in a Commission-approved Independent System Operator or Regional Transmission Organization. See 18 C.F.R. § 385.1(c) (2012).

³³ *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)).

³⁴ *Id.*

29. Order Nos. 889, 2004,³⁵ and 717,³⁶ and Part 358 of the Commission's regulations³⁷ require public utilities to abide by certain standards of conduct. K Road did not request a waiver from the requirement to abide by the standards of conduct. Therefore, we note that, to the extent K Road is subject to the standards of conduct requirements of Part 358 of the Commission's regulations, it must comply with them, although this is without prejudice to K Road submitting a request for such a waiver in the future.

2. Other Waivers, Approvals, and Authorizations

30. K Road 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, 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 of the Commission's regulations, except sections 141.14 and 141.15; and (3) blanket authorization under section 204 of the FPA³⁸ and Part 34 of the Commission's regulations for all future issuances of securities and assumptions of liability.

³⁵ *Standards of Conduct for Transmission Providers*, Order No. 2004, FERC Stats. & Regs. ¶ 31,155 (2003), *order on reh'g*, Order No. 2004-A, FERC Stats. & Regs. ¶ 31,161, *order on reh'g*, Order No. 2004-B, FERC Stats. & Regs. ¶ 31,166, *order on reh'g*, Order No. 2004-C, FERC Stats. & Regs. ¶ 31,172 (2004), *order on reh'g*, Order No. 2004-D, 110 FERC ¶ 61,320 (2005), *vacated and remanded as it applies to natural gas pipelines sub nom. National Fuel Gas Supply Corp. v. FERC*, 468 F.3d 831 (D.C. Cir. 2006); *see Standards of Conduct for Transmission Providers*, Order No. 690, FERC Stats. & Regs. ¶ 31,237, *order on reh'g*, Order No. 690-A, FERC Stats. & Regs. ¶ 31,243 (2007).

³⁶ *Standards of Conduct for Transmission Providers*, Order No. 717, FERC Stats. & Regs. ¶ 31,280 (2008), *order on reh'g*, Order No. 717-A, FERC Stats. & Regs. ¶ 31,297, *order on reh'g*, Order No. 717-B, 129 FERC ¶ 61,123 (2009), *order on reh'g*, Order No. 717-C, 131 FERC ¶ 61,045 (2010), *order on reh'g*, Order No. 717-D, 135 FERC ¶ 61,017 (2011).

³⁷ 18 C.F.R. Part 358 (2012).

³⁸ 16 U.S.C. § 824c (2006).

31. The Commission will grant the requested waivers and authorizations consistent with those granted to other entities with market-based rate authority.³⁹ Notwithstanding the waiver of the accounting and reporting requirements, the Commission expects K Road to keep its accounting records in accordance with generally accepted accounting principles.

D. Reporting Requirements

32. 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.⁴⁰ Public utilities must file EQRs no later than 30 days after the end of the reporting quarter.⁴¹

³⁹ We note that the Commission has examined and approved the continued applicability of the waiver of its accounting and reporting requirements (18 C.F.R. Parts 41, 101, and 141), as well as the continued applicability of the blanket authorization for the issuance of securities and the assumption of liabilities (18 C.F.R. Part 34). *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).

⁴⁰ *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>.

⁴¹ 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

(continued...)

33. Additionally, K Road 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.⁴²

34. In Order No. 697, the Commission created two categories of sellers.⁴³ 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.⁴⁴ Sellers that do not fall into Category 1 are designated as Category 2 and are required to file updated market power analyses.⁴⁵

35. K Road asserts that the generation owned by K Road and its affiliates totals less than 500 MW in aggregate per region. K Road also states that neither K Road nor its affiliates own, operate, or control transmission facilities other than limited equipment necessary to connect individual generating facilities to the distribution and transmission grids. K Road states that it is not affiliated with a franchised public utility. Finally, K Road represents that its application for market-based rate authority does not raise any vertical market power issues. Based on K Road's representations and the Commission's decision herein to grant K Road waiver of the OATT requirement, we designate K Road as a Category 1 seller in the Northeast, Southeast, Central, Southwest Power Pool,

requiring filing of a new application for market-based rate authority if the applicant wishes to resume making sales at market-based rates.

⁴² *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).

⁴³ Order No. 697, FERC Stats. & Regs. ¶ 31,252 at P 848.

⁴⁴ 18 C.F.R. § 35.36(a) (2012).

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

Southwest, and Northwest regions. The Commission reserves the right to require an updated market power analysis at any time.⁴⁶

The Commission orders:

(A) K Road's market-based rate tariff is hereby accepted for filing, effective June 13, 2012, as requested, as discussed in the body of this order.

(B) Waiver to allow an effective date of June 13, 2011 for K Road's market-based rate tariff is hereby granted, as discussed in 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. K Road 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 K Road, 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 K Road's issuances of securities or assumptions of liabilities.

(G) K Road is hereby granted waiver of the requirements under Order Nos. 888 and 890 and section 35.28 of the Commission's regulations to file an OATT, and the requirements under Order No. 889 and Part 37 of the Commission's regulations to establish and maintain an OASIS, as discussed in the body of this order.

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

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