141 FERC ¶ 61,002
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.

Lucky Corridor, LLC | Docket No. ER12-1832-000

ORDER CONDITIONALLY AUTHORIZING PROPOSAL
AND GRANTING WAIVERS

(Issued October 1, 2012)

1. On May 22, 2012, as supplemented on June 28, 2012, pursuant to section 205 of the Federal Power Act (FPA)[1] and section 35 of the Commission's regulations,[2] Lucky Corridor, LLC (Lucky Corridor) filed a request for authorization to charge negotiated rates for the sale of transmission rights and service in connection with its proposed transmission facility upgrade project (Project) and for waiver of certain Commission regulations.[3] In this order, the Commission conditionally authorizes Lucky Corridor to charge negotiated rates for transmission rights and service on its Project, and grants Lucky Corridor's request for waivers.

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[1] 16 U.S.C. § 824d (2006).

[2] 18 C.F.R. Part 35 (2012).

[3] Commission precedent distinguishes merchant transmission projects from traditional public utilities in that the developers of merchant projects assume all of the market risk of the project and have no captive customers from which to recover the cost of the project. *See, e.g., Chinook Power Transmission, LLC*, 126 FERC ¶ 61,134 (2009) (*Chinook*).

I. Background

A. The Applicant

2. Lucky Corridor is a limited liability company organized under the laws of the state of Colorado.[4] Lucky Corridor is an independent transmission company, as defined by the Commission's regulations,[5] and does not own or control any electric transmission, distribution, or generation facilities, or any natural gas or oil pipeline facilities, independently or through an affiliate. Lucky Corridor was formed to develop, acquire, construct, and operate electric transmission infrastructure in northern New Mexico. The Project will be Lucky Corridor's first transmission asset.[6]

B. Description of the Project

3. The Project is a 93-mile transmission facility upgrade of an existing Tri-State Generation and Transmission Association, Inc. (Tri-State) 115-kV line to a double-circuit 230-kV transmission line capable of delivering approximately 1,100 MW from a point of interconnection at Tri-State's existing 230-kV Gladstone substation to a point of delivery at Tri-State's existing 345-kV Taos substation.[7] Generators interconnecting to the Project will need to request service from Public Service Company of New Mexico (PNM) for delivery from the Project point of delivery to the Four Corners trading hub and western markets.[8] Lucky Corridor states that Tri-State will continue to own the right-of-way and physical assets of the Project. Tri-State will continue to own capacity on the Project equivalent to the capacity it currently owns on its existing 115-kV transmission line, approximately 200 MW. Lucky Corridor will own the transmission capacity created by the upgrade, above the capacity owned by Tri-State.[9] The capacity

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[4] Application at 2.

[5] *See* 18 C.F.R. 35.35(b)(1) (2012).

[6] Application at 2. *See also* Lucky Corridor Supplemental Information at 1.

[7] Application at 3 (maintaining that Lucky Corridor is evaluating the potential for constructing the Project as a 345-kV transmission line that would be approximately the same length, but would increase the capacity to 2,000 MW). *See also* Padilla Testimony at 3-4; Clements Testimony at 6-7.

[8] *Id.* at 3.

[9] Lucky Corridor Supplemental Information at 1-2 (indicating that Lucky Corridor anticipates entering into a joint ownership agreement with Tri-State and commits to filing that agreement with the Commission).

owned by Tri-State will be sold under Tri-State's open access transmission tariff (OATT). The capacity owned by Lucky Corridor will be sold under Lucky Corridor's to-be-filed OATT. The Project costs will be financed by Lucky Corridor and will not be included in the rates under the Tri-State OATT.[10] The Project is expected to cost $350 million and be in service in 2016.[11]

4. Lucky Corridor states that the Project will facilitate the transmission of approximately 850 MW of renewable and gas-fired generation while simultaneously serving approximately 200 MW of existing and future Tri-State load.[12] Lucky Corridor also states that the Project will enhance reliability and reduce congestion by facilitating the delivery of power from renewable and gas-fired generation to be located in the northern and eastern areas of New Mexico.[13]

5. Lucky Corridor has entered into agreements with Tri-State and PNM to participate in a non-tariff transmission system impact study. Subsequent to the assessment, Lucky Corridor intends to follow Western Electric Coordinating Council (WECC) system planning and rating procedures. Lucky Corridor has entered into memorandums of understanding with Western Area Power Administration and with New Mexico Renewable Energy Transmission Authority (RETA) to explore joint development and financing of the Project.[14] The memorandum of understanding with RETA makes the Project eligible to use RETA's eminent domain authority and long-term bond financing authority.[15] In order to be eligible for funding from RETA, the memorandum of understanding with RETA requires that Lucky Corridor ensure that at least 30 percent of the electric energy transmitted by the Project originates from renewable energy sources.[16]

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[10] *Id.* at 1.

[11] Application at 3.

[12] *Id.* at 6.

[13] *Id.* at 6-7.

[14] The New Mexico Legislature formalized the creation of RETA to support the development of transmission, including financing and land acquisition authority.

[15] *See* RETA and Lucky Corridor Memorandum of Understanding accessible at: http://www.luckycorridor.com/pub/NMRETAMOU.pdf.

[16] Application at 16 (citing the *Project Selection Policy*, RETA, accessible at: http://nmreta.com/images/stories/pdfs/reta_project_selection_policy_4_11_12.pdf) (Aug. 18, 2010).

C. Application

6. Lucky Corridor requests that the Commission grant it authorization to charge negotiated rates on the capacity it will own as a result of the Project. Lucky Corridor also requests that the Commission approve the proposed capacity allocation process, including the pre-subscription of up to 70 percent of the Project's capacity to anchor customers through the anchor customer selection process. Finally, Lucky Corridor requests that the Commission grant waiver of the requirements of Subparts B and C of Part 35 of the regulations, except for sections 35.12(a), 35.13(b), 35.15 and 35.16 and waiver of Form No. 1 Annual Report of Major Electric Utilities, Licenses and Others filing requirements.[17]

II. Notice of Filing and Responsive Pleadings

7. Notice of Lucky Corridor's Filing was published in the *Federal Register*, 77 Fed. Reg. 33,208 (2012), with interventions or protests due on or before June 12, 2012. Tri-State and PNM submitted timely motions to intervene.

III. Discussion

A. Procedural Matters

8. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2012), the timely, unopposed motions to intervene serve to make Tri-State and PNM parties to this proceeding.

B. Negotiated Rate Authority

9. The Commission's analysis for evaluating negotiated rate applications focuses on four areas of concern: (1) the justness and reasonableness of rates; (2) the potential for undue discrimination; (3) the potential for undue preference, including affiliate preference; and (4) regional reliability and operational efficiency requirements.[18] The Commission requires that applicants satisfy all four areas in order to charge negotiated rates. This approach simultaneously acknowledges the financing realities faced by merchant transmission developers and mandates of the FPA and the Commission's open access requirements. Moreover, this approach allows the Commission to use a consistent framework to evaluate requests for negotiated rate authority from a wide range of merchant projects that can differ substantially from one project to the next.

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[17] Application at 18.

[18] *Chinook*, 126 FERC ¶ 61,134 at P 37.

1. Four-factor Analysis

a. Just and Reasonable Rates

10. To approve negotiated rates for a transmission project, the Commission must find that the rates are just and reasonable.[19] To do so, the Commission must determine that the merchant transmission owner has assumed the full market risk for the cost of constructing its proposed transmission project. Additionally, the Commission must determine whether the project is being built within the footprint of the merchant transmission owner's (or an affiliate's) traditionally regulated transmission system; if so, the Commission must determine that there are no captive customers who would be required to pay the costs of the project. The Commission also considers whether the merchant transmission owner or an affiliate already owns transmission facilities in the region where the project is to be located, what alternatives customers have, whether the merchant transmission owner is capable of erecting any barriers to entry among competitors, and whether the merchant transmission owner would have any incentive to withhold capacity.

i. Lucky Corridor's Proposal

11. Lucky Corridor states that it assumes the full market risk of the Project and has no captive customers. Further, Lucky Corridor states that it is a new entrant to the transmission market and does not own any transmission facilities within northern New Mexico or elsewhere and is not affiliated with any entity that does. Lucky Corridor also asserts that it does not, either directly, or through an affiliate, own or control any other electric transmission, distribution, or generation, or natural gas or oil pipeline facilities, and cannot erect barriers to entry by any competitor and will have no incentive to withhold capacity.[20]

12. Lucky Corridor adds that the Project will interconnect with Tri-State's transmission system. Tri-State has adopted a reciprocity OATT, which meets the

[19] *Champlain Hudson Power Express, Inc.*, 132 FERC ¶ 61,006, at P 17 (2010) (*Champlain Hudson*).

[20] Application at 9.

Commission's comparability standards.[21] Under Tri-State's OATT, it is required to expand its transmission system upon request at cost-based rates.[22] Consequently, Lucky Corridor states that no transmission customer will purchase transmission services from Lucky Corridor unless doing so is cost-effective.[23] Lucky Corridor further asserts that the Commission recognizes that negotiated rates for service over merchant transmission projects are effectively capped at the differential in power prices in the markets at either end of the project, which will ultimately help ensure that Lucky Corridor's rates remain just and reasonable.[24] Lucky Corridor states that it anticipates entering into a joint ownership agreement with Tri-State and will file that agreement with the Commission.[25]

ii. Commission Determination

13. The Commission concludes that Lucky Corridor's request for authority to charge negotiated rates for service on the Project's capacity owned by Lucky Corridor satisfies the first factor of the four-factor test, and is just and reasonable. Lucky Corridor meets the definition of a merchant transmission owner because it assumes the full market risk associated with the Project and has no captive customers that would be required to pay the cost of the Project. Moreover, no customer is required to purchase transmission service over the capacity owned by Lucky Corridor in this Project. As noted above, Tri-State has a reciprocity OATT with an obligation to expand at cost-based rates. Cost-based rates can serve to put downward pressure on the negotiated rates that Lucky Corridor is approved to charge pursuant to this order. Additionally, because Lucky Corridor does not own any transmission facilities within Northern New Mexico or elsewhere, Lucky Corridor is not able to erect barriers to entry or exercise market power in the relevant market.

14. Consistent with Lucky Corridor's commitment, we will require Lucky Corridor to file with the Commission its joint ownership agreement with Tri-State within 15 days of execution of the agreement. Approval of negotiated rate authority is contingent on

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[21] *See Tri-State Generation & Transmission Assoc., Inc.*, 96 FERC ¶ 61,268, at 62,022-23 (2001).

[22] PNM OATT Vol. No. 6, sections 15.4, and 27. *See also* Tri-State OATT Vol. No. sections 15.4 and 27.

[23] Application at 10.

[24] *Id*.

[25] Lucky Corridor Supplemental Information at 1-2.

Commission approval of Lucky Corridor's Filing of the joint ownership agreement. This compliance filing must, among other things, set forth: (1) all of the parties to the Agreement, (2) all of the financial terms of the Agreement including the ownership rights of each party, (3) the capacity rights awarded to each party, and (4) the operating and other miscellaneous responsibilities of each party to the agreement.

b. Undue Discrimination

15. The Commission primarily looks at two factors to ensure that applicants cannot exercise undue discrimination when approving negotiated rate authority: (1) the terms and conditions of a merchant developer's open season; and (2) its OATT commitments (or in the RTO/ ISO context, its commitment to turn operational control over to the RTO or ISO).[26] The Commission requires merchant transmission owners to file reports on the open season results shortly after the close of the open season. Such reports provide transparency to the allocation of initial transmission rights, as well as the basis for an entity to file a complaint if it believes it was treated in an unduly discriminatory manner during the open season process.[27]

i. Lucky Corridor's Proposal

16. Lucky Corridor requests authority to allocate up to 70 percent of the Project's transmission capacity through long-term bilateral agreements with anchor customers. Lucky Corridor commits to holding an open season for any transmission capacity not allocated to anchor customers; at least 30 percent of the Project's capacity. Lucky Corridor states that the open season will be conducted by an independent administrator in a manner that is fair, transparent and non-discriminatory. Lucky Corridor commits to offering the same rates, terms, and conditions given to anchor customers to any open-season participant willing to purchase transmission capacity for the same term. Lucky Corridor states that it will submit a report to the Commission detailing the results of its open season shortly after the open season closes that will include the terms of the open season, the identity of the parties that purchased capacity and the amounts, terms, and prices of that capacity.[28]

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[26] *Chinook*, 126 FERC ¶ 61,134 at P 40.

[27] *See Montana Alberta Tie, Ltd.*, 116 FERC ¶ 61,071, at P 37 (2006) (holding that the Commission's concern in evaluating the open season process is to provide transparency in the bidding process and to enable unsuccessful bidders to determine if they were treated in a fair manner).

[28] Application at 14.

17. Lucky Corridor states that, in order to be eligible for the funding from RETA, at least 30 percent of the Project's capacity, as estimated by RETA, must originate from renewable resources.[29] Lucky Corridor states that RETA determines whether the Project satisfies this requirement at the time Lucky Corridor seeks financial participation by RETA.[30] Therefore, Lucky Corridor states that permitting it to allocate up to 70 percent of the Project's capacity to anchor customers will allow Lucky Corridor to develop a diverse customer base, including the required amount of renewable resources and gas-fired generation.[31]

18. Additionally, Lucky Corridor states the anchor customer arrangement will assure its investors that the Project is viable, helping Lucky Corridor obtain financing necessary for the Project. Therefore, approval of the anchor customer arrangement is vital to getting the Project built.[32] Moreover, Lucky Corridor states that approving the anchor customer arrangement will benefit customers in the open season process by reducing the necessity for open season customers to enter into long-term contracts to make the Project financially viable. Lucky Corridor states that this can encourage more participants to join the open season and allow more flexibility in the open season process.[33]

19. Lucky Corridor states that its anchor customer allocation does not present any concerns of undue discrimination and affiliate preference. Lucky Corridor states that it has no affiliates, and if it later acquires an affiliate, it will not enter into any transactions with that affiliate during the presubscription process absent Commission approval.[34]

20. The Project will not be built in an area that is in the footprint of an RTO or ISO, and will not participate in an RTO or ISO. Accordingly, Lucky Corridor commits to filing an OATT for the Project, consistent with or superior to the Commission's *pro forma* OATT.[35]

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[29] *Id.* at 16 (referencing the memorandum of understanding executed between RETA and Lucky Corridor).

[30] *Id.* at 16.

[31] *Id.*

[32] *Id.* at 15-16.

[33] *Id.* at 17-18.

[34] *Champlain Hudson*, 132 FERC ¶ 61,006 at P 44.

[35] Application at 12.

ii. **Commission Determination**

21. The Commission looks specifically at the merchant transmission owner's open season and OATT commitments in determining whether negotiated rate authority could lead to undue discrimination on a particular merchant transmission project. As we explained in *Chinook*, we evaluate, on a case-by-case basis, proposals to allocate all or a portion of initial capacity outside of an open season.[36]

22. In addition to requesting authority to allocate up to 70 percent of the Project's transmission capacity through long-term bilateral agreements with anchor customers, Lucky Corridor states that it must be able to pre-subscribe a substantial portion of its capacity to renewable and gas-fired generation to ensure that it is able to meet the requirements of the financing agreement with RETA.[37] While we conditionally accept Lucky Corridor's proposal to pre-subscribe up to 70 percent of the transmission capacity on the Project to anchor customers,[38] we do not authorize any preference based on the type of generating resources.[39]

23. Lucky Corridor commits to submitting a report to the Commission detailing the results of the anchor tenant process that describes the terms of the agreements and the relevant facts and circumstances leading to the agreements. Consistent with its commitment, we will condition acceptance of Lucky Corridor's request on Lucky Corridor making an informational filing with the Commission for any anchor customer transaction describing the terms of the agreement and the relevant facts and circumstances leading to the agreement, no later than 30 days following the conclusion of its anchor customer negotiations.

24. We approve Lucky Corridor's request to sell the remaining 30 percent of the Project's capacity using an open season auction, subject to the submission of

[36] *Chinook*, 126 FERC ¶ 61,134 at P 42.

[37] Padilla Testimony at 13.

[38] *See, e.g., Chinook*, 126 FERC ¶ 61,134 at PP 60-63 (approving Chinook's presubscription of up to 50 percent of the projects capacity to anchor customers); *Champlain Hudson*, 132 FERC ¶ 61,006 at P 47 (approving Champlain Hudson's proposal to seek up to 75 percent presubscription to anchor customers); *Southern Cross Transmission LLC*, 137 FERC ¶ 61,207, at P 28 (2011) (approving Southern Cross's presubscription of up to 75 percent of the project capacity to anchor customers).

[39] *See Rock Island Clean Line LLC,* 139 FERC ¶ 61,142, at P 31 (2012).

informational reports. As stated in *Chinook*, open seasons must be fair, transparent, and non-discriminatory, and we will continue to require open season reports to be filed with the Commission shortly after the close of the open season.[40] The reports must include the terms of the open season (including notice of the open season and method for evaluating bids), the identity of parties that purchased capacity, and the amount, term, and price of that capacity. This open season reporting requirement and the process by which parties are afforded an opportunity to file complaints will continue to be primary tools by which the Commission ensures that merchant transmission developers do not unduly discriminate.[41] The informational report on the open season must be filed within 30 days of the open season.

25. The Project is not located in a region with an RTO or ISO. Therefore, Lucky Corridor commits to file an OATT. Consistent with this commitment, Lucky Corridor must file with the Commission an OATT no later than one year prior to the commencement of service. Lucky Corridor must support any deviations from the *pro forma* OATT and the Commission will evaluate any proposed deviations to ensure that Lucky Corridor will provide open and non-discriminatory service on the Project.

c. Undue Preference and Affiliate Concerns

26. In the context of merchant transmission, our concerns regarding the potential for affiliate abuse arise when the merchant transmission owner is affiliated with either the anchor customer, participants in the open season, and/or customers that subsequently take service on the merchant transmission line.

i. Lucky Corridor's Proposal

27. Lucky Corridor asserts that it is not affiliated with any entity and, therefore, no affiliate of Lucky Corridor will participate in the open season. Lucky Corridor commits that, in the event that Lucky Corridor becomes affiliated with an entity that owns electric generation, distribution, or transmission facilities, it will not allocate any capacity to that entity through the anchor customer or open season process without obtaining prior authorization from the Commission. Additionally, Lucky Corridor states that, in the event that it becomes affiliated with an entity and that entity participates in the open season, Lucky Corridor will employ safeguards eliminating any potential for affiliate abuse. These safeguards will include filing a post-open season report with the Commission using an independent consultant to evaluate open season bids. Lucky

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[40] *Chinook*, 126 FERC ¶ 61,134 at P 41.

[41] *Id.*

Corridor also commits that it will maintain separate books of account and records in accordance with the Commission's regulations, file electric quarterly reports as required for other transmission providers, and comply with any applicable affiliate rules or seek any appropriate waivers thereof.[42]

ii. Commission Determination

28. Lucky Corridor maintains that it has no affiliates and commits to employing safeguards and posting open-season reports if it becomes affiliated with an entity and that entity participates in the open season.[43] In light of the commitments Lucky Corridor has made in its application and its commitments to: (1) not allocate capacity to affiliates without prior Commission authorization; (2) keep separate books of accounts and records, as required by the Commission's regulations; (3) file quarterly reports; and (4) comply with all applicable affiliate rules, we find that Lucky Corridor adequately addresses any potential affiliate concerns present at this early stage of the Project.

d. Regional Reliability and Operational Efficiency

29. Merchant transmission projects, like cost-based transmission projects, are subject to mandatory reliability requirements.[44] Merchant transmission developers are required to comport with all applicable requirements of the North American Electric Reliability Corporation (NERC) and any regional reliability council in which they are located.

i. Lucky Corridor's Proposal

30. Lucky Corridor asserts that it will comply with applicable NERC and regional reliability council requirements, and participate in the Order Nos. 890[45] and 1000[46]

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[42] Application at 12-13.

[43] We note that should Lucky Corridor and Tri-State become affiliated, Lucky Corridor must employ the same safeguards.

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

[45] *See supra* note 27.

[46] *Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities*, Order No. 1000, 76 Fed. Reg. ¶ 49,842 (Aug. 11, 2011),

(continued…)

planning processes.[47] Lucky Corridor has entered into agreements with Tri-State and PNM to participate in a non-tariff transmission system impact study. Subsequent to the assessment, Lucky Corridor intends to follow WECC system planning and rating procedures.

31. Lucky Corridor also states that the Project will enhance regional reliability and eliminate overloads following some N-1 outages in the regional transmission system, significantly improve the voltage profile of northern New Mexico, increase transfer capability in the area, thus enabling additional generation to be interconnected, and reduce congestion and loop flows in the region.[48]

ii. Commission Determination

32. Lucky Corridor commits to comply with applicable NERC and regional entity/regional reliability council requirements, and participate in the Order Nos. 890 and 1000 planning processes. In light of these commitments, we find that Lucky Corridor has met the regional reliability and operational efficiency requirement subject to Lucky Corridor's continued participation in the necessary regional planning processes.

2. Requests for Waivers

33. Lucky Corridor requests that the Commission grant waiver of the full reporting requirements of Subparts B and C of Part 35 of the regulations, except for sections 35.12(a), 35.13(b), 35.15, and 35.16, noting that the Commission has found that, where transmission rights are to be sold at negotiated rates, the regulations requiring the filing of cost-based data do not apply.[49] Moreover, Lucky Corridor requests waiver of the Form No. 1 Annual Report of Major Electric Utilities, Licensees and Others filing

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FERC Stats. & Regs. ¶ 31,323 (2011), *order on reh'g and clarification*, Order No. 1000-A, 139 FERC ¶ 61,132 (2012)).

[47] Application at 13.

[48] *Id.* at 13-14; Clements Testimony at 11-21.

[49] Application at 18 (citing *Chinook*, 126 FERC ¶ 61,134 at PP 68-69; *Wyoming Colorado Intertie, LLC,* 127 FERC ¶ 61,125, at P 62 (2009) (*Wyoming Colorado Intertie)*; *Champlain Hudson*, 132 FERC ¶ 61,006 at P 59; *Hudson Transmission Partners, LLC*, 135 FERC ¶ 61,104 (2011) (*Hudson Transmission*) at P 42).

requirement, stating that the Commission routinely grants this request to other merchant lines where the public utility has negotiated rate authority and no captive customers.[50]

Commission Determination

34. Because Lucky Corridor is proposing to charge negotiated rates, the regulations requiring the filing of cost-based data are not applicable. Therefore, for good cause shown and consistent with our findings for other merchant transmission proposals, we will waive the filing requirements of Subparts B and C of Part 35 of the Commission's regulations, except for the requirements of sections 35.12(a), 35.13(b), 35.15, and 35.16.[51]

35. The Commission will also grant Lucky Corridor's request for waiver of the Form No. 1 filing requirement. In analyzing a merchant transmission owner's request for waiver, the Commission weighs the need for the Commission and the public to have access to the information contained in Form No. 1, and the goal of developing policies that will promote competition.[52] For public utilities with cost-based rates, the information provided in Form No. 1 is necessary to ensure that rates are just and reasonable. We note that Lucky Corridor's rates will be negotiated rather than cost-based and, as discussed above, Lucky Corridor will not have captive customers. Therefore, the Commission believes that, on balance, it is appropriate to grant Lucky Corridor's request for waiver of the Form No. 1 filing requirement.[53] However, we note that Lucky Corridor must continue to maintain its books and records in accordance with the Commission's accounting and record retention requirements.[54]

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[50] *Id.* at 18 (citing *Chinook*, 126 FERC ¶ 61,134 at P 69; *Wyoming Colorado Intertie*, 127 FERC ¶ 61,125 at P 65; *Champlain Hudson*, 132 FERC ¶ 61,006 at P 59; *Hudson Transmission*, 135 FERC ¶ 61,104 at P 43).

[51] *Hudson Transmission*, 135 FERC ¶ 61,104 at P 42; *Tres Amigas LLC*, 130 FERC ¶ 61,207 at P 103 (2010); *Wyoming Colorado Intertie*, 127 FERC ¶ 61,125 at P 62; *Linden VFT, LLC*, 119 FERC ¶ 61,066, at P 42 (2007) (*Linden)*.

[52] *See Chinook*, 126 FERC ¶ 61,134 at P 69; *Montana Alberta Tie, Ltd.*, 116 FERC ¶ 61,071 at P 66.

[53] *Wyoming Colorado Intertie*, 127 FERC 61,125 at P 65; *Linden*, 119 FERC ¶ 61,066 at P 44; *Montana Alberta Tie, Ltd.*, 116 FERC ¶ 61,071 at P 66.

[54] *See*, 18 C.F.R. Parts 101 and 125 (2012).

<u>The Commission orders</u>:

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

(B) Lucky Corridor is hereby directed to file with the Commission a report describing the terms of the anchor tenant agreements and the results of any open season within 30 days after the end of the open season, as discussed in the body of this order.

(C) Lucky Corridor is hereby directed to file with the Commission its Joint Ownership Agreement within 15 days of execution.

(D) Lucky Corridor's request for 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, and waiver of the Form No. 1 Annual Report of Major Electric Utilities, Licensee and Others filing requirement is hereby granted, as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.