

148 FERC ¶ 61,099  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Cheryl A. LaFleur, Chairman;  
Philip D. Moeller, John R. Norris,  
Tony Clark, and Norman C. Bay.

Beebe 1B Renewable Energy, LLC

Docket No. ER14-2144-000

ORDER GRANTING MARKET-BASED RATE AUTHORIZATION AND REQUESTS  
FOR WAIVERS

(Issued August 5, 2014)

1. In this order, we grant Beebe 1B Renewable Energy, LLC (Beebe) authority to make wholesale sales of electric energy, capacity, and ancillary services at market-based rates, effective August 7, 2014, as requested. Also, as discussed below, we grant Beebe waiver of the requirements to file an Open Access Transmission Tariff (OATT), to establish an Open Access Same-Time Information System (OASIS), and to comply with the Standards of Conduct. We also grant Beebe's request for other waivers commonly granted to market-based rate sellers, except as noted herein.

2. Additionally, we find that Beebe meets the criteria for a Category 1 seller in the Northeast, Northwest, Southeast, Southwest, and Southwest Power Pool regions and is so designated. Further, we find that Beebe meets the criteria for a Category 2 seller in the Central region and is so designated. Beebe must file updated market power analyses for the Central region in compliance with the regional reporting schedule adopted in Order No. 697.<sup>1</sup>

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<sup>1</sup> 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) (Clarification Order), *order on reh'g*, Order No. 697-A, FERC Stats. & Regs. ¶ 31,268, *clarified*, 124 FERC ¶ 61,055, *order on reh'g*, Order No. 697-B, FERC Stats. & Regs. ¶ 31,285 (2008), *order on reh'g*, Order No. 697-C, FERC Stats. & Regs. ¶ 31,291 (2009), *order on reh'g*, Order No. 697-D, FERC Stats. & Regs. ¶ 31,305 (2010), *aff'd sub nom. Mont. Consumer Counsel v. FERC*, 659 F.3d 910 (9th Cir. 2011), *cert. denied*, 133 S. Ct. 26 (2012).

## I. Background

3. On June 6, 2014, pursuant to section 205 of the Federal Power Act (FPA),<sup>2</sup> Beebe filed an 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.<sup>3</sup> Beebe states that it is developing and will own and operate an approximately 50.4 megawatt (MW) (nameplate) wind-powered generation facility (Facility) located in Gratiot County, Michigan. According to Beebe, it is currently anticipated that the sale of test power from the Facility will begin on September 1, 2014, and that the Facility's commercial operation is expected to begin in the fall of 2014. Beebe represents the entire output of the Facility will be sold under separate long-term contracts to the Lansing Board of Water and Light and the Michigan Public Power Agency. Beebe states that, on June 3, 2014, Beebe filed in Docket No. EG14-60-000 a notice of self-certification of exempt wholesale generator status.

4. Beebe states that the Facility will be interconnected via wind power collection systems, a 34.5 kilovolt (kV) to 345 kV generation step-up substation, and a 4.8 mile, 345 kV generator tie line (Interconnection Customer Interconnection Facilities) to the point of interconnection with the transmission system owned by Michigan Electric Transmission Company, LLC and operated by MISO. Beebe further states that, except for the transmission facilities owned by Commonwealth Edison Company (ComEd), PECO Energy Company (PECO), and Baltimore Gas and Electric Company (BGE), neither it nor its affiliates own, operate, or control any transmission facilities in the United States. Beebe further states that the Facility will share an undivided interest in certain Interconnection Customer Interconnection Facilities with its affiliate, Beebe Renewable Energy, LLC. Beebe represents that its transmission facilities are limited and discrete and requests that the Commission waive the requirements under Order Nos. 888<sup>4</sup>

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<sup>2</sup> 16 U.S.C. § 824d (2012).

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

<sup>4</sup> *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*

and 890<sup>5</sup> and section 35.28 of the Commission's regulations<sup>6</sup> to file an OATT<sup>7</sup>, the requirement under Order No. 889<sup>8</sup> and Part 358<sup>9</sup> to establish an OASIS, and the requirement to comply with certain standards of conduct.

5. Beebe states that it is a wholly-owned subsidiary of Exelon Wind, LLC. (Exelon Wind), which is an indirect wholly-owned subsidiary of Exelon Generating Company, LLC (ExGen). ExGen is an indirect wholly-owned subsidiary of Exelon Corporation (Exelon). Exelon is a holding company within the meaning of the Public Utility Holding Company Act of 2005.<sup>10</sup>

6. Furthermore, Beebe represents that ExGen and its subsidiaries own and control approximately 46,000 MW of capacity nationwide. Beebe states that ExGen serves as a supplier of energy to, among others, utilities and municipalities to meet their native load obligations. Beebe adds that, through various subsidiaries, ExGen is also a retail

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*v. FERC*, 225 F.3d 667 (D.C. Cir. 2000), *aff'd sub nom. New York v. FERC*, 535 U.S. 1 (2002).

<sup>5</sup> *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, *order on clarification*, Order No. 890-D, 129 FERC ¶ 61,126 (2009).

<sup>6</sup> 18 C.F.R. § 35.28 (2013).

<sup>7</sup> Beebe represents in its Asset Appendix that there are several pending requests for waiver of the Commission's open access requirements in regards to limited equipment necessary to connect individual generating facilities to the transmission grid.

<sup>8</sup> *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).

<sup>9</sup> 18 C.F.R. pt. 358 (2013).

<sup>10</sup> Public Utility Holding Company Act of 2005, 42 U.S.C. §§ 16451-16463 (2012).

competitive energy provider. Beebe states that the Commission granted ExGen market-based rate authority.<sup>11</sup>

7. Beebe represents that it and its affiliates own or control 2,394 MW of electric generation capacity in the MISO market. In addition, Beebe represents it is affiliated with additional generation in several balancing authority areas (BAA) and markets that are first-tier to the MISO market. Specifically, Beebe's affiliates own or control approximately 19 MW of generation in the Western Area Power Administration – Upper Great Plains East BAA, approximately 1,119 MW of generation in the SPP market, approximately 162 MW of generation in the Associated Electric Cooperative, Inc. BAA, approximately 3,156 MW of generation in the Southern Company Services, Inc. BAA, and approximately 26,460 MW of generation in the PJM market.

8. Beebe represents that Exelon's indirect wholly-owned subsidiaries, ComEd, PECO, and BGE, are franchised public utilities that own electric distribution systems through which they deliver electricity to approximately 6.6 million customers in Illinois, Pennsylvania, and Maryland. Beebe states that ComEd, PECO, and BGE do not own any electric generation facilities and serve as default service providers for those electric customers that do not choose competitive suppliers or whose competitive supplier failed to deliver electric supply. Beebe states that ComEd, PECO, and BGE have each been granted market-based rate authority by the Commission.<sup>12</sup> Beebe further states that ComEd, PECO, and BGE own transmission facilities, but have transferred operational control over such facilities to PJM.<sup>13</sup> In addition, Beebe reports that PECO and BGE distribute natural gas to customers in the Pennsylvania counties surrounding the City of Philadelphia and central Maryland, respectively, and operate liquefied natural gas facilities and propane-air facilities associated with their respective distribution activities that do not offer services to third parties.

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<sup>11</sup> *Exelon Generation Co., L.L.C.*, 93 FERC ¶ 61,140 (2000), *reh'g denied*, 95 FERC ¶ 61,309 (2001).

<sup>12</sup> *Exelon Cos.*, 94 FERC ¶ 61,259 (2001); *Green Power Partners I LLC*, 88 FERC ¶ 61,005 (1999); *Commonwealth Edison Co.*, 82 FERC ¶ 61,317 (1998).

<sup>13</sup> Commonwealth Edison Company of Indiana, Inc., a wholly-owned subsidiary of ComEd, owns a small amount of electric transmission property in Indiana. As with ComEd, the transmission facilities owned by Commonwealth Edison Company of Indiana, Inc. are under the operational control of PJM.

## II. Notice of Filing

9. Notice of Beebe's June 6, 2014 filing was published in the *Federal Register*, 79 Fed. Reg. 33,916 (2014), with interventions and comments due on or before June 27, 2014. None was filed.

10. Notice of Beebe's request for blanket authorization under Part 34 was separately published in the *Federal Register*, 79 Fed. Reg. 36,509 (2014), with interventions or protests due on or before July 10, 2014. None was filed.

## III. Determination

11. As discussed below, we will grant Beebe'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 August 7, 2014, as requested.<sup>14</sup> We will also grant Beebe's request for certain waivers.

### A. Market-Based Rate Authorization

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

#### 1. Horizontal Market Power

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

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<sup>14</sup> We note that Beebe is not being granted authority to make third-party sales of operating reserves to a public utility that is purchasing ancillary services to satisfy its own open access transmission tariff requirements to offer ancillary services to its own customers. If Beebe seeks such authority, it must make the required showing and receive Commission authorization prior to making such sales. *See Third-Party Provision of Ancillary Services; Accounting and Financial Reporting for New Electric Storage Technologies*, Order No. 784, FERC Stats. & Regs. ¶ 31,349, at PP 200-202 (2013), *order on clarification*, Order No. 784-A, 146 FERC ¶ 61,114 (2014).

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

<sup>16</sup> *Id.* P 62.

that the applicant does not possess horizontal market power, while failure of either screen creates a rebuttable presumption that the applicant has horizontal market power.<sup>17</sup>

14. Beebe states that, to perform its pivotal supplier and market share screens, it relies on MISO's data that analyzes the December 2011 – November 2012 study period and was recently accepted in Docket No. ER14-360-001.<sup>18</sup> Beebe adds that, for the MISO Simultaneous Transmission Import Limit values, it relies on the analysis prepared by MISO based on the MISO footprint as of summer 2011 and accepted by the Commission in Docket No. ER10-2819-001.<sup>19</sup>

15. Beebe demonstrates that it passes the pivotal supplier and market share screens for the MISO BAA. Accordingly, we find that Beebe satisfies the Commission's requirements for market-based rate authority regarding horizontal market power.

## 2. Vertical Market Power

16. 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.<sup>20</sup>

17. In this case, as discussed more fully below, the Commission will grant Beebe's request for waiver of the requirement to have an OATT on file for its interconnection facilities.<sup>21</sup> Beebe states that, except for the transmission facilities owned by ComEd, PECO, and BGE and operated by PJM under PJM's OATT, neither it nor its affiliates

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<sup>17</sup> *Id.* PP 33, 62-63.

<sup>18</sup> *See AlphaGen Power, LLC*, Docket No. ER14-630-000 (Feb. 26, 2014) (delegated letter order).

<sup>19</sup> *See ALLETE, Inc.*, 139 FERC ¶ 61,147, at P 14 (2012).

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

<sup>21</sup> A generator lead line is a transmission facility. *See* 16 U.S.C. §§ 796(23), 824(a)-(b) (2012). Beebe 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 the fact that the facilities merely tie a generator to the grid 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, at P 15 n.18 (2011).

own, operate, or control any transmission facilities in the United States, other than limited equipment necessary to connect individual generating facilities to the grid.<sup>22</sup>

18. The Commission also considers a seller's ability to erect other barriers to entry as part of the vertical market power analysis.<sup>23</sup> The Commission requires a seller to provide a description of its ownership or control of, or affiliation with an entity that owns or controls, intrastate natural gas transportation, storage or distribution facilities; 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).<sup>24</sup> 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.<sup>25</sup> The Commission adopted a rebuttable presumption that the ownership or control of, or affiliation with any entity that owns or controls, inputs to electric power production does not allow a seller to raise entry barriers but will allow intervenors to demonstrate otherwise.<sup>26</sup>

19. Regarding other barriers to entry, Beebe states that its affiliation with certain sites for new generation capacity development reported to the Commission and the natural gas distribution facilities owned by PECO and BGE do not raise any vertical market power concerns, because the Commission has adopted a rebuttable presumption that ownership or control of such inputs to electric power production does not allow an entity selling electricity at market-based rates to erect barriers to entry. Beebe states that, except for the sites and natural gas distribution facilities owned by PECO and BGE, neither it nor any of its affiliates own or control any other inputs to electric power production including intrastate natural gas transportation, intrastate natural gas storage or distribution facilities, sites for generation capacity development, physical coal supply sources, and ownership of or control over who may access transportation of coal supplies.

20. Finally, consistent with Order No. 697, Beebe affirmatively states that it and its affiliates have not erected barriers to entry, and will not erect barriers to entry, into the relevant market.

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<sup>22</sup> Beebe requests waiver of the Commission's open access requirements with respect to the Interconnection Customer Interconnection Facilities.

<sup>23</sup> Order No. 697, FERC Stats. & Regs. ¶ 31,252 at P 440.

<sup>24</sup> Order No. 697-A, FERC Stats. & Regs. ¶ 31,268 at P 176.

<sup>25</sup> Order No. 697, FERC Stats. & Regs. ¶ 31,252 at P 447.

<sup>26</sup> *Id.* P 446.

21. Based on Beebe's representations, we find that Beebe 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**

22. As explained above, Beebe seeks waiver of the requirements to file an OATT, establish and maintain an OASIS, and abide by the Standards of Conduct. In support of its request for waiver, Beebe states that the Interconnection Customer Interconnection Facilities constitute limited and discrete radial interconnection facilities used to interconnect the Facility to the MISO-controlled transmission grid.

23. Order Nos. 888 and 890 and section 35.28 of the Commission's regulations 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 and Part 37 of the Commission's regulations require public utilities to establish and maintain an OASIS. Order Nos. 889, 2004,<sup>27</sup> and 717<sup>28</sup> and Part 358 of the Commission's regulations require public utilities to abide by certain standards of conduct.<sup>29</sup> In prior orders, the Commission has enunciated the standards for exemption from some or all of the

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<sup>27</sup> *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); *see also Standards of Conduct for Transmission Providers*, Notice of Proposed Rulemaking, FERC Stats. & Regs. ¶ 32,611 (2007); Notice of Proposed Rulemaking, FERC Stats. & Regs. ¶ 32,630 (2008).

<sup>28</sup> *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).

<sup>29</sup> Order No. 889, FERC Stats. & Regs. ¶ 31,035 at 31,590; Order No. 2004, FERC Stats. & Regs. ¶ 31,155 at P 16; Order No. 717, FERC Stats. & Regs. ¶ 31,280 at P 313.

requirements of Order Nos. 888 and 889.<sup>30</sup> The Commission has stated that the criteria for waiver of the requirements of Order No. 890 and Order No. 2004 are unchanged from those used to evaluate requests for waiver under Order Nos. 888 and 889.<sup>31</sup> Order No. 717 did not change those criteria.<sup>32</sup>

24. 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.<sup>33</sup>

25. The Commission has also determined that waiver of the requirement to establish an OASIS and abide by the Standards of Conduct 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.<sup>34</sup> 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 (for OASIS waivers) or an entity complains that the public utility has unfairly

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

<sup>31</sup> See *Alcoa Power Generating Inc.*, 120 FERC ¶ 61,035, at P 3 (2007); *Alcoa Power Generating Inc.*, 108 FERC ¶ 61,243, at P 27 (2004).

<sup>32</sup> See Order No. 717, FERC Stats. & Regs. ¶ 31,280 at PP 31-33.

<sup>33</sup> *Black Creek*, 77 FERC ¶ 61,232 at 61,941.

<sup>34</sup> *Id.* Although the Commission originally precluded waiver of the requirements for 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. Moreover, *Black Hills* did not affect waivers based on a public utility disposing of no more than 4 million MWh annually.

used its access to information about transmission to benefit the utility or its affiliate (for Standards of Conduct waivers).<sup>35</sup>

26. Based on the statements in Beebe's application that it owns with its affiliate, Beebe Renewable Energy, LLC, only a 4.8 mile, 345 kV generator tie line that ties the Facility to the point of interconnection with the transmission system owned and operated by Michigan Electric Transmission Company, LLC and operated by MISO, we find that its transmission facilities qualify as limited and discrete. Accordingly, we will grant Beebe 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 Beebe 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.<sup>36</sup>

27. The Commission will also grant Beebe waiver of the requirements of Order No. 889 and Part 37 of the Commission's regulations with respect to OASIS and Order Nos. 889, 2004, and 717 and Part 358 with respect to the Standards of Conduct. We note that Beebe'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.<sup>37</sup> Likewise, Beebe's waiver of the Standards of Conduct will remain in effect unless and until the Commission takes action on a complaint by an entity that Beebe has unfairly used its access to information to unfairly benefit itself or its affiliate.<sup>38</sup>

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<sup>35</sup> *Entergy*, 112 FERC ¶ 61,228 at P 23 (citing *Cent. Minn. Mun. Power Agency*, 79 FERC ¶ 61,260, at 62,127 (1997); *Easton Utils. Comm'n*, 83 FERC ¶ 61,334, at 62,343 (1998)).

<sup>36</sup> *Black Creek*, 77 FERC ¶ 61,232 at 61,941.

<sup>37</sup> *Entergy*, 112 FERC ¶ 61,228 at P 23 (citing *Cent. Minn. Mun. Power Agency*, 79 FERC ¶ 61,260, at 62,127 (1997); *Easton Utils. Comm'n*, 83 FERC ¶ 61,334, at 62,343 (1998)).

<sup>38</sup> *Entergy*, 112 FERC ¶ 61,228 at P 23 (citing *Cent. Minn. Mun. Power Agency*, 79 FERC ¶ 61,260, at 62,127 (1997); *Easton Utils. Comm'n*, 83 FERC ¶ 61,334, at 62,343 (1998)). Beebe 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. *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).

## 2. Other Waivers, Approvals, and Authorizations

28. Beebe 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 section 204 of the FPA<sup>39</sup> and Part 34 for all future issuances of securities and assumptions of liability.

29. The Commission will grant the requested waivers and authorizations consistent with those granted other entities with market-based rate authorizations.<sup>40</sup> Notwithstanding the waiver of the accounting and reporting requirements, the Commission expects Beebe to keep its accounting records in accordance with generally accepted accounting principles.

30. We direct Beebe to submit a compliance filing containing revisions to the limitations and exemptions section of its market-based rate tariff to include a citation to this order.<sup>41</sup>

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<sup>39</sup> 16 U.S.C. § 824c (2012).

<sup>40</sup> We note that the Commission has examined and approved the continued applicability of the waiver of its accounting and reporting requirements in Parts 41, 101, and 141 of the Commission's regulations, as well as the continued applicability of the blanket authorization for the issuance of securities and the assumption of liabilities. *See* Order No. 697, FERC Stats. & Regs. ¶ 31,252 at PP 984-985 (regarding waiver of Parts 41, 101, and 141), 999-1000 (regarding blanket approval under Part 34). However, waiver of the provisions of Part 101 that apply to hydropower licensees is not granted with respect to licensed hydropower projects. Hydropower licensees are required to comply with the requirements of the Uniform System of Accounts pursuant to 18 C.F.R. Part 101 to the extent necessary to carry out their responsibilities under Part I of the FPA. We further note that a licensee's status as a market-based rate seller under Part II of the FPA does not exempt it from its accounting responsibilities as a licensee under Part I of the FPA. *See Seneca Gen., LLC*, 145 FERC ¶ 61,096, at P 23 n.20 (2013) (citing *Trafalgar Power, Inc.*, 87 FERC ¶ 61,207, at 61,798 (1999) (noting that "all licensees are required to comply with the requirements of the Uniform System of Accounts to the extent necessary to carry out their responsibilities under [s]ections 4(b), 10(d) and 14 of the FPA")).

<sup>41</sup> *See* Order No. 697, FERC Stats. & Regs. ¶ 31,252 at App. C, *order on reh'g*, 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 Beebe makes a market-based rate filing with the Commission.

### 3. 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.<sup>42</sup> Public utilities must file EQRs no later than 30 days after the end of the reporting quarter.<sup>43</sup>

32. Additionally, Beebe must timely report to the Commission any change in status that would reflect a departure from the characteristics the Commission relied upon in granting market-based rate authority.<sup>44</sup>

33. In Order No. 697, the Commission created two categories of sellers.<sup>45</sup> Category 1 sellers are not required to file regularly scheduled updated market power analyses.

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<sup>42</sup> *Revised Public Utility Filing Requirements*, Order No. 2001, FERC Stats. & Regs. ¶ 31,127, *reh'g denied*, Order No. 2001-A, 100 FERC ¶ 61,074, *reh'g denied*, Order No. 2001-B, 100 FERC ¶ 61,342, *order directing filing*, Order No. 2001-C, 101 FERC ¶ 61,314 (2002), *order directing filing*, Order No. 2001-D, 102 FERC ¶ 61,334, *order refining filing requirements*, Order No. 2001-E, 105 FERC ¶ 61,352 (2003), *order on clarification*, Order No. 2001-F, 106 FERC ¶ 61,060 (2004), *order revising filing requirements*, Order No. 2001-G, 120 FERC ¶ 61,270, *order on reh'g and clarification*, Order No. 2001-H, 121 FERC ¶ 61,289 (2007), *order revising filing requirements*, Order No. 2001-I, FERC Stats. & Regs. ¶ 31,282 (2008). 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>.

<sup>43</sup> The exact filing dates for these reports are prescribed in 18 C.F.R. § 35.10b (2013). 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.

<sup>44</sup> *Reporting Requirement for Changes in Status for Public Utilities with Market-Based Rate Authority*, Order No. 652, FERC Stats. & Regs. ¶ 31,175, *order on reh'g*, 111 FERC ¶ 61,413 (2005); 18 C.F.R. § 35.42 (2013).

<sup>45</sup> Order No. 697, FERC Stats. & Regs. ¶ 31,252 at P 848.

Category 1 sellers are wholesale power marketers and wholesale power producers that own or control 500 MW or less of generation in aggregate per region; that do not own, operate, or control transmission facilities other than limited equipment necessary to connect individual generation facilities to the transmission grid (or have been granted waiver of the requirements of Order No. 888); that are not affiliated with anyone that owns, operates, or controls transmission facilities in the same region as the seller's generation assets; that are not affiliated with a franchised public utility in the same region as the seller's generation assets; and that do not raise other vertical market power issues.<sup>46</sup> Sellers that do not fall into Category 1 are designated as Category 2 sellers and are required to file updated market power analyses.<sup>47</sup>

34. Beebe represents that it and its affiliates own or control more than 500 MW of generation in the Central region and is, therefore, a Category 2 seller in the Central region. Beebe further states that outside of the Central region, it does not own or control any generation. Beebe further represents that it does not own, operate, or control transmission facilities other than the limited equipment necessary to connect individual generating facilities to the transmission grid. Beebe also states that it is not affiliated with a franchised public utility in the same region in which generation assets are owned or controlled by Beebe. Finally, Beebe states that it does not raise other vertical market power issues.

35. Based on Beebe's representations, we grant Beebe Category 1 seller status in the Northeast, Northwest, Southeast, Southwest, and Southwest Power Pool regions. Beebe states that because it and its affiliates control more than 500 MW of generation in the Central region, Beebe is a Category 2 Seller in the Central region. Based on Beebe's representations, we find that Beebe meets the criteria for a Category 2 seller in the Central region. Beebe must file an updated market power analysis for the Central region in compliance with the regional reporting schedule adopted in Order No. 697.<sup>48</sup> The Commission also reserves the right to require an updated market power analysis at any time for any region.<sup>49</sup>

The Commission orders:

(A) Beebe's market-based rate tariff is hereby accepted for filing, effective August 7, 2014, as requested, as discussed in the body of this order.

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<sup>46</sup> 18 C.F.R. § 35.36(a) (2013).

<sup>47</sup> Order No. 697, FERC Stats. & Regs. ¶ 31,252 at P 850.

<sup>48</sup> *Id.*

<sup>49</sup> *Id.* P 853.

(B) Beebe is hereby directed to revise the limitations and exemptions section of its market-based rate tariff, as discussed in the body of this 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 Part 101 of the Commission's regulations is hereby granted, with the exception that waiver of the provisions of Part 101 that apply to hydropower licensees is not granted with respect to licensed hydropower projects. Waiver of Parts 41 and 141 of the Commission's regulations is hereby granted, with the exception of sections 141.14 and 141.15.

(E) Blanket authorization under Part 34 of the Commission's regulations for all future issuances of securities and assumptions of liability is hereby granted. Beebe 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 Beebe, 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 Beebe's issuance of securities or assumptions of liability.

(G) Beebe's request for waiver of the Commission's OATT, OASIS, and Standards of Conduct requirements is hereby granted, as discussed in the body of this order.

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