

129 FERC ¶ 61,042
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;
Sudeen G. Kelly, Marc Spitzer,
and Philip D. Moeller.

Hoosier Wind Project, LLC

Docket No. ER09-1181-001

ORDER GRANTING CLARIFICATION

(Issued October 15, 2009)

1. In this order, we grant the request for clarification of Hoosier Wind Project, LLC (Hoosier Wind) of the letter order issued on July 21, 2009.¹

I. Background

2. On May 22, 2009, Hoosier Wind filed an initial application for market-based rate authority with an accompanying rate schedule. On June 16, 2009, Hoosier Wind submitted a supplemental asset appendix to reflect its affiliation with Oasis Power Partners, LLC, which has an indirect equity interest in the Sagebrush Partnership (Sagebrush). Hoosier Wind stated that Sagebrush owns a 46-mile, 230 kV transmission line in southern California for renewable energy. Hoosier Wind explained that it was submitting the supplemental asset appendix in response to the Commission's determination that the Sagebrush line is a jurisdictional facility, and therefore relevant to evaluating vertical market power.

3. The July 21 Letter Order accepted Hoosier Wind's application for market-based rate authorization and conditioned Hoosier Wind's market-based rate authorization on the requirement that Sagebrush file an open access transmission tariff (OATT) if any third party customer requests transmission service on the Sagebrush line, within 60 days of receiving such a request, consistent with the Commission's determination in *EDFD Handsome Lake* (Sagebrush condition).²

¹ *Hoosier Wind Project, LLC*, Docket No. ER09-1181-000 (July 21, 2009) (unpublished letter order) (July 21 Letter Order).

² *Id.* (citing *EDFD Handsome Lake*, 127 FERC ¶ 61,243 (2009)). See also *Aero Energy, LLC*, 115 FERC ¶ 61,128, at P 21 (2006).

II. Discussion

A. Request for Clarification

4. Hoosier Wind asserts that a literal reading of the Sagebrush condition could result in an automatic revocation of Hoosier Wind's market-based rate authority in the event that Sagebrush fails to comply with the OATT requirement. Hoosier Wind requests clarification that the condition imposed upon its market-based rate authorization will not result in an automatic revocation of Hoosier Wind's market-based rate authority based on the actions or inactions of Sagebrush with respect to filing an OATT, or complying with any requirements in such tariff. Hoosier Wind requests confirmation that it will be given an opportunity to demonstrate that any action, or inaction, by Sagebrush with respect to any OATT requirements applicable to the Sagebrush line should not affect Hoosier Wind's market-based rate authority. In the alternative, if the Commission does not grant this clarification, then Hoosier Wind requests rehearing on the grounds that the Sagebrush condition is an inappropriate condition to place on Hoosier Wind's market-based rate authority.

B. Commission Determination

5. We grant the clarification requested by Hoosier Wind. In the event that Sagebrush fails to file the required OATT within 60 days of receiving a third party request for transmission service, Hoosier Wind's market-based rate authority would not be automatically revoked. Instead, Hoosier Wind would be given the opportunity to demonstrate that its market-based rate authority should not be revoked.

The Commission orders:

The Commission hereby grants clarification, as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.