145 FERC ¶ 62,180
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

CPV Shore, LLC Docket No. EC14-17-000

ORDER AUTHORIZING DISPOSITION OF
JURISDICTIONAL FACILITIES

(Issued December 12, 2013)

On October 29, 2013, CPV Shore, LLC (CPV Shore) filed, and also supplemented, an application under section 203(a)(1)(A) of the Federal Power Act (FPA)[1] requesting Commission approval for the disposition of jurisdictional facilities. Specifically, Shore Co-Investment Holdings, LLC (Shore Co-Investment Holdings) will transfer certain indirect Class A membership interests, which are passive, in CPV Shore to John Hancock Life Insurance Company (U.S.A.) (John Hancock) or an affiliate thereof (Proposed Transaction). The affected jurisdictional facilities consist of a market-based rate schedule, related books and records, limited interconnection facilities and an associated interconnection agreement.

CPV Shore, an exempt wholesale generator with market-based rate authority, is developing and will construct, own, and operate a 725 megawatt (MW) combined-cycle generating facility (Facility) to be located within the control area of the PJM Interconnection, L.L.C. (PJM). Thus, according to CPV Shore, the PJM control area is the relevant market for the Facility.

CPV Shore is a direct subsidiary of CPV Shore Holdings, LLC (CPV Shore Holdings). CPV Shore Holdings is owned directly by CPV Shore Investment (18.75 percent), Toyota Tsusho Shore (TT Shore) (31.25 percent), and Shore-Co Investment Holdings (50 percent). CPV Shore Investment is a wholly-owned indirect subsidiary of Competitive Power Ventures Holdings, LLC (CPV). TT Shore is a wholly-owned indirect subsidiary of Toyota Tsusho Corporation (Toyota Tsusho). Shore Co-Investment Holdings is a wholly-owned indirect subsidiary of ArcLight Energy Partners Fund V,

[1] 16 U.S.C. § 824b (2006).

L.P. (ArcLight Fund V). CPV, a developer, owner, and manager of natural gas-fired and renewable generation facilities throughout North America, solely manages CPV Shore.[2]

Within the PJM control area, besides CPV Shore, each of CPV, Toyota Tsusho, and ArcLight Fund holds interests in other entities that own generation. CPV holds a 50 percent indirect ownership interest in CPV Maryland, LLC, which will construct, own, and operate a 725 MW combined-cycle generating facility to be located in Charles County, Maryland. Toyota Tsusho holds a 60 percent indirect interest in Crescent Ridge, LLC, owner and operator of an approximately 54 MW wind-powered generation facility in Bureau County, Illinois. ArcLight Fund V, along with five other private energy equity investment funds collectively referred to as the ArcLight Funds, is affiliated with the following: Panther Creek Power Operating, LLC, lessee and operator of a 94 MW generating facility located in Nesquehoning, Pennsylvania[3]; Scrubgrass Generating Company, L.P., owner of a 94.7 MW qualifying facility located in Kennerdell, Pennsylvania; and Westwood Generation, LLC (Westwood), owner of a 36 MW generating facility located in Tremont, Pennsylvania. Each of the entities described above has market-based rate authority, and in the case of Westwood, also a reactive power tariff. Lastly, within the PJM control area, affiliates of the ArcLight Funds own or control sites for new generation capacity development.

John Hancock is a wholly-owned indirect subsidiary of Manulife Financial Corporation, a Canadian-based financial services company. According to CPV Shore, neither John Hancock nor any of its affiliates is primarily engaged in any energy-related business activities, is a traditional franchised utility, or owns or operates energy facilities in the PJM control area. Affiliates of John Hancock own passive, non-managing interests in entities that are engaged directly or indirectly in electric generation, transmission, and other energy-related businesses.

Under the Proposed Transaction, Shore Co-Investment Holdings will transfer an 11.22 percent passive Class A membership interests in CPV Shore Holdings, the direct parent of CPV Shore, to John Hancock. As a result, John Hancock will own an 11.22 percent direct passive membership interest in CPV Shore. The passive membership

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[2] Warburg Pincus Private Equity IX, L.P. and Warburg Pincus Equity Partners Liquidating Trust have a collective ownership interest of 95.2 percent of the voting shares in CPV. Individuals own the remaining outstanding ownership interests in CPV, but none own 10 percent or more of the voting shares in CPV.

[3] CPV Shore also states that, in addition to its affiliation with Panther Creek , affiliates of the ArcLight Funds also indirectly hold certain beneficial owner participant interests in the 94 MW facility.

interests in CPV Shore owned by Shore Co-Investment Holdings will decrease to 38.78 percent. The interests held by CPV Shore Investment (18.75 percent) and TT Shore (31.25 percent) will remain unaffected. CPV Shore states that CPV will retain the day-to-day rights to manage CPV Shore's operations and wholesale power sales from the Facility. John Hancock will not acquire operational control with respect to any jurisdictional activities of CPV Shore or the Facility.

CPV Shore states that the Proposed Transaction is consistent with the public interest and will not have an adverse effect on competition, rates, or regulation. With respect to horizontal market power, CPV Shore states that the Proposed Transaction raises no concerns. CPV Shore states that neither John Hancock nor any of its affiliates owns any non-passive interests in or controls any electric generation facilities in the PJM control area. CPV Shore also states that CPV will retain full control over the operation of the Facility and any wholesale power sales from the Facility. With regard to vertical market power, CPV Shore states that the Proposed Transaction will not have an adverse effect. CPV Shore states that neither John Hancock nor any of its affiliates owns or controls any transmission or distribution facilities aside from limited interconnection facilities. Furthermore, CPV Shore states that John Hancock and its affiliates do not own or control any inputs to electric power production in the PJM control area.

With regard to rates, CPV Shore states that the Proposed Transaction will not have an adverse effect because CPV Shore will continue to sell power at market-based rates. In addition, CPV Shore states that the Proposed Transaction does not involve transmission rates or transaction customers. With regard to regulation, CPV Shore states that the Proposed Transaction will not have an adverse effect because the extent to which CPV Shore and its affiliates are subject to the jurisdiction of the Commission or any other regulatory agency or office will not change.

CPV Shore states that, based on facts and circumstances known to it or that are reasonably foreseeable, the Proposed Transaction will not result in, at the time of the closing or in the future, cross-subsidization of a non-utility associate company or the pledge or encumbrance of assets of a traditional public utility that has captive customers or that owns or provides transmission service over jurisdictional facilities for the benefit of an associate company. Specifically, CPV Shore states that the Proposed Transaction does not involve a franchised public utility with captive customers and will not result in: (1) any transfer of facilities between a traditional public utility associate company that has captive customers or that owns or provides transmission service over jurisdictional transmission facilities, and an associate company; (2) any new issuance of securities by a traditional public utility associate company that has captive customers or that owns or provides transmission service over jurisdictional transmission facilities, for the benefit of an associate company; (3) any new pledge or encumbrance of assets of a traditional public utility associate company that has captive customers or that owns or provides transmission service over jurisdictional transmission facilities, for the benefit of an associate company; or (4) any new affiliate contract between a non-utility associate company and a traditional public utility associate company that has captive customers or that owns or provides transmission service over jurisdictional transmission facilities, other than non-power goods and service agreements subject to review under sections 205 and 206 of the FPA.

The filing was noticed on October 29, 2013, with comments, protests, or interventions due on or before November 19, 2013. None were received. Notices of intervention and unopposed timely filed motions to intervene are granted pursuant to the operation of Rule 214 of the Commission's Rules of Practice and Procedure (18 C.F.R. § 385.214) (2013). Any opposed or untimely filed motion to intervene is governed by the provisions of Rule 214.

Information and/or systems connected to the bulk system involved in this transaction may be subject to reliability and cybersecurity standards approved by the Commission pursuant to FPA section 215. Compliance with these standards is mandatory and enforceable regardless of the physical location of the affiliates or investors, information database, and operating systems. If affiliates, personnel or investors are not authorized for access to such information and/or systems connected to the bulk power system, a public utility is obligated to take the appropriate measures to deny access to this information and/or the equipment/software connected to the bulk power system. The mechanisms that deny access to information, procedures, software, equipment, etc., must comply with all applicable reliability and cybersecurity standards. The Commission, North America Electric Reliability Corporation or the relevant regional entity may audit compliance with reliability and cybersecurity standards.

Order No. 652 requires that sellers with market-based rate authority 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.[4] The foregoing authorization may result in a change in status. Accordingly, CPV Shore is advised that it must comply with the requirements of Order No. 652. In addition, CPV Shore shall make any necessary filings under section 205 of the FPA to implement the Proposed Transaction.

After consideration, it is concluded that the Proposed Transaction is consistent with the public interest and is authorized, subject to the following conditions:

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[4] *Reporting Requirement for Changes in Status for Public Utilities with Market-Based Rate Authority,* Order No. 652, 70 Fed. Reg. 8,253 (Feb. 18, 2005), FERC Stats. & Regs. ¶ 31,175, *order on reh'g,* 111 FERC ¶ 61,413 (2005).

(1) The Proposed Transaction is authorized upon the terms and conditions and for the purposes set forth in the application;

(2) The foregoing authorization is without prejudice to the authority of the Commission or any other regulatory body with respect to rates, service, accounts, valuation, estimates or determinations of costs, or any other matter whatsoever now pending or which may come before the Commission;

(3) Nothing in this order shall be construed to imply acquiescence in any estimate or determination of cost or any valuation of property claimed or asserted;

(4) The Commission retains authority under sections 203(b) and 309 of the FPA to issue supplemental orders as appropriate;

(5) If the Proposed Transaction results in changes in the status or upstream ownership of CPV Shore's affiliated qualifying facilities, if any, an appropriate filing for recertification pursuant to 18 C.F.R. § 292.207 (2013) shall be made;

(6) CPV Shore shall make appropriate filings under section 205 of the FPA, as necessary, to implement the Proposed Transaction; and

(7) CPV Shore shall notify the Commission within 10 days of the date that the disposition of jurisdictional facilities has been consummated.

This action is taken pursuant to the authority delegated to the Director, Division of Electric Power Regulation - West, under 18 C.F.R. § 375.307 (2013). This order constitutes final agency action. Requests for rehearing by the Commission may be filed within 30 days of the date of issuance of this order, pursuant to 18 C.F.R. § 385.713 (2013).

Steve P. Rodgers
Director
Division of Electric Power Regulation - West