157 FERC ¶ 62,197

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Coram California Development, L.P. Docket No. EC17-17-000

ORDER AUTHORIZING DISPOSITION OF
JURISDICTIONAL FACILITIES

(Issued December 15, 2016)

On October 17, 2016, Coram California Development, L.P. (Coram or Applicant) filed an application pursuant to section 203(a)(1)(A) of the Federal Power Act (FPA)[1] requesting Commission authorization for the disposition of jurisdictional facilities that will result from the sale to CED Coram Wind Holdings, LLC (CED) by RET Holdings, LLC (RET Holdings) of 100 percent of the ownership interests in Coram Wind Holdings, LLC (Coram Holdings) (Proposed Transaction). The jurisdictional facilities associated with the Proposed Transaction consist of Coram's market-based rate tariff, related agreements, books and records, and interconnection facilities.

Applicant states that it owns an 102 megawatt (MW) wind-powered generating facility located in Kern County, California and interconnected to the California Independent System Operator Corporation (CAISO) transmission grid. Coram is an exempt wholesale generator that has been authorized to make wholesale sales of electric energy, capacity and ancillary services at market-based rates. All of the output from Coram's facility is sold to an unaffiliated entity, Pacific Gas and Electric Company, under a long term agreement.

According to Applicant, RET Tehachapi Wind Development LLC (RET Tehachapi Wind) is the limited partner and owner of 99.99 percent of the partnership interests in Coram. RET Coram Tehachapi Wind GP, LLC (RET Coram) is the general partner and owner of a 0.01 percent partnership interest in Coram. Both RET Tehachapi Wind and RET Coram are wholly owned, indirect subsidiaries of Coram Holdings which is a wholly owned, indirect subsidiary of Renewable Energy Trust Capital, Inc.

Applicant states that CED is a wholly owned subsidiary of Consolidated Edison Development, Inc., which is a wholly owned subsidiary of Consolidated Edison, Inc. (CEI), an investor owned utility. CEI owns Consolidated Edison

[1] 16 U.S.C. § 824b (2012).

Company of New York, Inc. and Orange and Rockland Utilities, Inc., which are franchised public utilities. CED is also affiliated with several entities that own or control generation facilities throughout the U.S.

Applicant states that pursuant to the terms of the Membership Interest Purchase Agreement, RET Holdings will transfer to CED 100 percent of the membership interest of Coram Holdings. Applicant states that following the consummation of the Proposed Transaction, CED will own 100 percent of the membership interests in Coram Holdings, and will indirectly own 100 percent of Coram and its jurisdictional facilities.

Applicant states that the Proposed Transaction is consistent with the public interest and will not adversely affect competition, rates or regulations. With respect to horizontal competition, Applicant states that the Proposed Transaction raises no concerns in the CAISO market. Applicant notes that, following the Proposed Transaction, Coram and its affiliates will own approximately 454 MW of generation capacity in CAISO, representing 0.83 percent of the total installed capacity in the CAISO market, which Applicant asserts is a *de minimis* amount. In addition, Applicant states that all of the output of Coram's facility is fully committed under a long-term power purchase agreement to an unaffiliated entity. Therefore, according to Applicant, the Proposed Transaction does not raise any horizontal market power issues.

Applicant also states that the Proposed Transaction raises no vertical market power concerns. Applicant states that other than the limited and discrete facilities necessary to interconnect the generation facilities to the CAISO transmission grid, none of Coram, CED or their affiliates owns or controls electric transmission facilities in the relevant market. Applicant further states that the Proposed Transaction does not involve any other essential inputs to electric generation. Therefore, Applicant asserts that the Proposed Transaction raises no vertical market power concerns.

Applicant states that the Proposed Transaction will have no adverse effect on the rates charged to wholesale ratepayers. Applicant notes that its sales of electric energy, capacity and ancillary services will continue to made pursuant to market-based rate authority. Therefore, according to Applicant, the Proposed Transaction will have no adverse effect on rates.

Applicant states that the Proposed Transaction will not have an adverse effect on regulation. Applicant notes that the Proposed Transaction will not affect the ability of the Commission to regulate Coram and that Coram will maintain its market-based rate tariff and will continue to operate under the tariff without change. Further, Coram does not and will not have retail customers. Applicant argues that nothing about the Proposed Transaction will adversely affect the authority or ability of state regulators to regulate the sale of power to retail customers. Applicant concludes that for these reasons, the

Proposed Transaction will not have an adverse effect on regulation.

According to Applicant, the Proposed Transaction falls within one of the "safe harbors" established by the Commission for which detailed explanation and evidentiary support to demonstrate a lack of cross-subsidization is not required. Specifically, Applicant states that the Proposed Transaction falls within the "safe harbor" for transactions that do not involve a franchised public utility with captive customers.

Applicant verifies 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 Proposed Transaction or in the future, any cross-subsidization of a non-utility associate company or pledge or encumbrance of utility assets for the benefit of an associate company, including: (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 18, 2016, with comments, protests, or interventions due on or before November 7, 2016. None were filed.

Information and/or systems connected to the bulk system involved in these transactions 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.[2] To the extent that a transaction authorized under FPA section 203 results in a change in status, sellers that have market-based rates are advised that they must comply with the requirements of Order No. 652.

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

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

(2) Applicant must inform the Commission of any material change in circumstances that departs from the facts or representations that the Commission relied upon in authorizing the Proposed Transaction within 30 days from the date of the material change in circumstances;

(3) 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;

(4) 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;

(5) If the Proposed Transaction results in changes in the status or upstream ownership of Applicant's affiliated qualifying facilities, an appropriate filing for recertification pursuant to 18 C.F.R. § 292.207 (2016) shall be made;

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

(7) Applicant shall make any appropriate filings under section 205 of the FPA, as necessary, to implement the Proposed Transaction; and

(8) Applicant shall notify the Commission within 10 days of the date that the

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[2] *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).

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 (2016). 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.

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