

150 FERC ¶ 62,014
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Blue Sky East, LLC
Canandaigua Power Partners, LLC
Canandaigua Power Partners II, LLC
Erie Wind, LLC
Evergreen Gen Lead, LLC
Evergreen Wind Power, LLC
Evergreen Wind Power III, LLC
First Wind Energy Marketing, LLC
Longfellow Wind, LLC
Maine GenLead, LLC
Milford Wind Corridor Phase I, LLC
Milford Wind Corridor Phase II, LLC
Niagara Wind Power, LLC
Palouse Wind, LLC
Stetson Holdings, LLC
Stetson Wind II, LLC
Vermont Wind, LLC
TerraForm Power, LLC
SunEdison, Inc.

Docket No. EC15-44-000

ORDER AUTHORIZING DISPOSITION OF
JURISDICTIONAL FACILITIES

(Issued January 12, 2015)

On December 2, 2014, Blue Sky East, LLC (Blue Sky East), Canandaigua Power Partners, LLC (Canandaigua I), Canandaigua Power Partners II, LLC (Canandaigua II), Erie Wind, LLC (Erie), Evergreen Gen Lead, LLC (Evergreen Gen Lead), Evergreen Wind Power, LLC (Evergreen I), Evergreen Wind Power III, LLC (Evergreen III), Niagara Wind Power, LLC (Niagara), Stetson Holdings, LLC (Stetson Holdings), Stetson Wind II, LLC (Stetson II), Vermont Wind, LLC (Vermont Wind and collectively with Blue Sky East, Canandaigua I, Canandaigua II, Erie, Evergreen Gen Lead, Evergreen I, Evergreen III, Niagara, Stetson Holdings, and Stetson II, the JV Applicants), First Wind Energy Marketing, LLC (First Wind), Longfellow Wind, LLC (Longfellow), Maine GenLead, LLC (Maine GenLead), Milford Wind Corridor Phase I, LLC (Milford I), Milford Wind Corridor Phase II, LLC (Milford II) and Palouse Wind, LLC (Palouse and collectively with First Wind, Longfellow, Maine GenLead, Milford I, Milford II, and the JV Applicants, the First Wind Applicants), TerraForm Power, LLC

(TerraForm) and SunEdison, Inc. (SunEdison, and collectively with TerraForm, the Buyers and collectively with the First Wind Applicants, the Applicants, and each an Applicant) filed an application pursuant to section 203(a)(1) of the Federal Power Act (FPA)¹ requesting Commission authorization for the indirect dispositions of their jurisdictional facilities that will result from: (1) First Wind Holdings, LLC (First Wind Holdings), which currently indirectly owns 51 percent of the voting securities of the JV Applicants, acquiring the remaining 49 percent of the voting securities of the JV Applicants, which are currently indirectly owned by Emera Incorporated (the JV Buyout); and (2) wholly-owned subsidiaries of the Buyers acquiring all of the indirect voting securities of each of the First Wind Applicants that are owned by First Wind Holdings (the SunEdison Transaction, and with the JV Buyout, the Proposed Transactions). The jurisdictional facilities affected by the Proposed Transactions are the electric interconnection transmission facilities owned and operated by the Applicants, the Applicants' respective market-based rate tariffs, rate schedules, wholesale power sales agreements and related books and records.

According to Applicants, each of the First Wind Applicants is currently an indirect wholly-owned subsidiary of First Wind Holdings. First Wind Holdings is an independent North American renewable energy company focused on the development, ownership, and operation of renewable energy generating projects. D.E. Shaw MWP Acquisition Holdings, L.L.C. (D.E. Shaw) and Madison Dearborn Capital Partners IV, L.P. (Madison Dearborn) currently each own approximately 45.9 percent of the voting securities of First Wind Holdings. The remaining approximately 8.2 percent of the voting securities of First Wind Holdings are held, in the aggregate, by entities or individuals (the Remaining Sellers).

Each of the JV Applicants is a wholly-owned subsidiary of Northeast Wind Partners II, LLC (NE Wind II). With the exceptions of Evergreen Gen Lead and Maine GenLead, each of the First Wind Applicants possesses Commission-granted authority to sell electric energy, capacity, and ancillary services at wholesale at market based rates. With the exceptions of Evergreen Gen Lead, Maine GenLead, First Wind, and Longfellow, each of the First Wind Applicants is an exempt wholesale generator (EWG). Applicants state that First Wind Holdings indirectly owns 51 percent of the voting securities of NE Wind II and Emera Incorporated (Emera) owns the remaining 49 percent of the voting securities of NE Wind II. Emera is a publicly traded utility holding company headquartered in Halifax, Nova Scotia, Canada. In the JV Buyout, First Wind Holdings (or a wholly owned subsidiary thereof) will acquire all of Emera's voting securities in NE Wind II.

Blue Sky East owns and operates a 34.2 megawatt (MW) wind-powered generating facility located in Maine and interconnected with the transmission system of

¹ 16 U.S.C. § 824b (2012).

Emera Maine in the ISO New England, Inc. (ISO-NE) market. Blue Sky East sells its output to NSTAR Electric Company under a long-term power purchase agreement.

Canandaigua I owns and operates an 87.5 MW wind-powered generating facility located in New York, which is interconnected with the transmission system of New York State Electric and Gas Corporation (New York Gas) in the New York Independent System Operator, Inc. (NYISO) market. Canandaigua I owns a generator lead line that is used to transmit power from its generating facility to the NYISO grid (Canandaigua Lead Line). Canandaigua I and its affiliate, Canandaigua II, are parties to a shared facilities agreement under which Canandaigua II is permitted to use the Canandaigua Lead Line and two substations, all of which are owned by Canandaigua I.

Canandaigua II owns and operates a 37.5 MW wind-powered generating facility located in New York, which is interconnected with the transmission system of New York Gas in the NYISO market.

Erie owns and operates an approximately 15 MW wind-powered generating facility located in New York, which is interconnected with the transmission facilities owned by Niagara Mohawk Power Corporation (Niagara Mohawk) and operated by the NYISO. Erie and Niagara each own a 50 percent undivided interest in a substation that steps up the voltage of its respective generating project to 115 kV for delivery to the NYISO transmission system. A tenant-in-common agreement between Niagara and Erie governs their ownership of the substation. Niagara and Erie also share the use of certain poles that are owned by one of them, but used to carry lines owned by both of them, and other nonjurisdictional facilities, which use is governed by a shared facilities agreement. Pursuant to various leases, Erie and Niagara also permit various end users to receive power through the substation for their own use.

Evergreen Gen Lead owns and operates a 115 kV, 38-mile generator lead that begins at the Stetson Mountain substation in Maine and extends to the Keene Road Substation, allowing interconnection with ISO-NE (EGL Interconnection Line). Evergreen Gen Lead is owned by Evergreen III, Stetson Holdings, Stetson II and Champlain Wind, LLC (collectively, the EGL Members). Each of the EGL Members has capacity rights in the EGL Interconnection Line in proportion to its respective membership interests in Evergreen Gen Lead, which membership interest is based on the relative capacity of each Member's generation project.

Evergreen I owns and operates a 42 MW wind-powered generating facility located in Maine, which is interconnected with the transmission system of Emera Maine in the Northern Maine Independent System Administrator market, which is part of the New Brunswick System Operator (New Brunswick SO) balancing authority area (BAA). Evergreen I's generating facility is a qualifying facility (QF). Evergreen I sells its output to New Brunswick Power Generation Corporation (New Brunswick Power) under a long-

term power purchase agreement.

Evergreen III owns and operates a 60 MW wind-powered generating facility which is located in Maine and interconnected with the transmission system of Emera Maine in the ISO-NE market. Evergreen III's generating facility is a QF. Evergreen III sells 100 percent of the output of its QF to Emera Maine and Central Maine Power Company under long-term power purchase agreements.

Niagara owns and operates a 20 MW wind-powered, electric-generating facility located in New York and interconnected with the transmission facilities owned by Niagara Mohawk in the NYISO market. Niagara jointly owns a substation with Erie and shares transmission facilities with Erie. Niagara's generating facility is a QF.

Stetson Holdings owns and operates a 57 MW wind-powered generating facility located in Maine and interconnected with the transmission system of Emera Maine in the ISO-NE market. Stetson Holdings and Stetson II are parties to a Shared Facilities and Sublease Agreement that governs their ownership and use of generator interconnection facilities that allow their generating facilities to interconnect with the EGL Interconnection Line. This arrangement allows these generating facilities to interconnect with ISO-NE.

Stetson II owns and operates a 25.5 MW wind-powered generating facility located in Maine and interconnected with the transmission system of Emera Maine in the ISO-NE market. Stetson II shares common interconnection facilities with Stetson Holdings. Stetson II sells 50 percent of its output to the President and Fellows of Harvard College under a long-term power purchase agreement.

Vermont Wind is a Delaware limited liability company that owns and operates a 40 MW wind-powered electric generating facility located in Vermont and interconnected with the transmission system of Vermont Electric Power Company, Inc. in the ISO-NE market. Vermont Wind's generating facility is a QF. Vermont Wind sells the output of its generating facility to three purchasers, Burlington Electric Department, the Vermont Electric Cooperative, Inc. and the Washington Electric Cooperative, Inc. under long-term power purchase agreements.

Milford I owns and operates a 203.5 MW wind-powered generating facility (Milford I Facility) located in Utah, in the Los Angeles Department of Water and Power (LADWP) BAA. Milford I also owns 89.8 percent of the undivided interests in a 345 kV generator lead line that extends approximately 88 miles from the Milford I Facility to a substation that is part of Intermountain Power Agency's Intermountain Power Project in Delta, Utah (Milford Gen Lead). Milford I is party to two tenant-in-common agreements with its affiliate, Milford II, that govern their common ownership of the Milford Gen Lead, a substation and nonjurisdictional facilities. Milford I sells all of its output to

Southern California Public Power Authority (SoCal Authority) under a long-term power purchase agreement.

Milford Wind Corridor, LLC (Milford Wind Corridor) owns 100 percent of the voting securities of Milford I. First Wind Holdings indirectly owns 80 percent of the voting securities of Milford Wind Corridor and MTW Resources, LP (MTW Resources) directly owns the remaining 20 percent of the voting securities of Milford Wind Corridor. MTW Resources is a family investment vehicle that is owned by private individuals. Besides their interests in Milford Wind Corridor, neither MTW Resources nor any partner or member of MTW Resources (all of which are private individuals), own, operate or control any electric generation or transmission facilities in the United States, nor do they own, operate or control any intrastate natural gas transportation, storage or distribution facilities, sites for generation capacity development, physical coal sources and control over who may access transportation of coal supplies, such as barges and rail cars.

Milford II owns and operates a 102 MW wind-powered generating facility located in Utah in the LADWP BAA. In addition, Milford II owns 10.2 percent of the undivided interests in Milford Gen Lead and has been granted open access transmission tariff waivers. Milford II sells all of its output to SoCal Authority under a long-term power purchase agreement. Milford Wind Corridor owns 100 percent of the voting securities of Milford II.

Palouse owns and operates a 105.27 MW wind-powered generating facility located in Washington and interconnected to the transmission system of Avista Corporation (Avista) in the Avista BAA. Palouse sells 100 percent of its output to Avista under a long-term power purchase agreement. First Wind Holdings indirectly owns 100 percent of the voting securities of Palouse.

Pursuant to an application filed with the Commission under FPA section 203, Palouse is seeking Commission authorization for a transaction in which Corridor Energy, LLC (Corridor), a subsidiary of IIF US Holding 2 LP, an entity that is not affiliated with either the Buyers or First Wind Holdings, will acquire all of the indirect voting securities of Palouse. Corridor will then issue to First Wind Cyrus Portfolio, LLC, a wholly owned subsidiary of First Wind Holdings (or an affiliate), a 10 percent share of the equity in Corridor (Palouse-Corridor Transaction).

Maine GenLead is developing and will own and operate a 59-mile, 115 kV generator interconnection line (Maine GenLead Line) that will connect the wind-powered generation facility that is being constructed and will be owned by Evergreen Wind Power II, LLC (Evergreen II) to the Keene Road Substation, which is owned by Emera Maine and is under ISO-NE's operational control. Maine GenLead and Evergreen II are wholly owned subsidiaries of First Wind Holdings. Maine GenLead has a rate schedule on file

with the Commission that provides for Evergreen II's use of Maine GenLead Line.

Each of First Wind and Longfellow is a wholly owned, indirect subsidiary of First Wind Holdings, and each is a wholesale power marketer. Applicants state that neither company owns, controls, or operates any generating facilities.

Applicants state that none of the First Wind Applicants own or control, directly or indirectly, ten percent or more of the voting securities of any company that owns or controls inputs to electric generation, such as fuel supplies or fuel delivery systems. The First Wind Applicants note that current affiliates of the JV Applicants through Emera and affiliates of the First Wind Applicants through D.E. Shaw or Madison Dearborn might own or control electric generation, transmission assets or other inputs to electric generation, such as fuel supplies or fuel delivery systems. However, as a result of the Proposed Transactions, the Applicants no longer will be affiliated with Emera, D.E. Shaw or Madison Dearborn.

TerraForm, a Delaware limited liability company, owns a portfolio of behind-the-meter and utility scale solar projects throughout the United States, as well as Canada, the United Kingdom and Chile. TerraForm is managed by TerraForm Power, Inc. SunEdison, through its wholly-owned subsidiary, SunEdison Holdings Corporation, owns all of the Class B common stock of TerraForm Power, Inc., which confers an approximately 93.05 percent voting interest in TerraForm. TerraForm Power, Inc. is a publicly-traded company; other than SunEdison, no person or entity owns ten percent or more of the voting securities of TerraForm.

SunEdison is a publicly-traded company and a developer of solar energy projects and seller of photovoltaic energy solutions and a developer, manufacturer and seller of silicon wafers to the semiconductor industry.

Applicants state that, as relevant to this Application, Buyers own, operate or control approximately 70.8 MW of aggregated behind-the-meter solar generating capacity, but no other generating capacity, in ISO-NE. This 70.8 MW figure includes approximately 14.65 MW of behind-the-meter generation that TerraForm intends to acquire from Capital Dynamics U.S. Solar Energy Fund, L.P. in a transaction scheduled to close in early December 2014 (Capital Dynamics Transaction). It also includes approximately 13.75 MW that TerraForm intends to acquire in a series of lease transactions that are scheduled to close over during the next six months (Lease Transaction). Within the NYISO market, Buyers control 6 MW of aggregated behind-the-meter generating capacity, and, as a result of the Capital Dynamics Transaction and Lease Transaction, will control an additional 13.82 MW in distributed solar generation, but no other generating capacity in NYISO. As a result of the Capital Dynamics Transaction and the Lease Transaction, Buyers will control approximately 18.37 MW of behind-the-meter solar generation in the PJM Interconnection, L.L.C., which is first-tier

to NYISO. Applicants state that Buyers do not own or control any generating capacity in the LADWP BAA, but Buyers do own, operate or control approximately 645.5 MW in the California Independent System Operator Corporation market, which is first-tier to LADWP. Buyers do not own or control any generation in Avista or New Brunswick SO, which are the other relevant geographic markets for the Transactions

Applicants state that neither Buyers nor any of their affiliates own or control transmission facilities, other than transmission facilities used solely to interconnect generation to the transmission network, and neither Buyers nor their affiliates own or control inputs to electric power production, including intrastate natural gas transportation, intrastate natural gas storage or distribution facilities; physical coal supply sources or control over who may access transportation of coal supplies.

The JV Buyout will be effectuated pursuant to a Purchase Agreement (JV Buyout Agreement). Under the JV Buyout Agreement, First Wind Northeast Company, LLC, a wholly-owned subsidiary of First Wind Holdings and currently the indirect owner of 51 percent of the voting securities of NE Wind II (which indirectly owns 100 percent of the voting securities of the JV Applicants), will acquire the remaining 49 percent of the voting securities of NE Wind II from Northeast Wind Holdings, LLC, a wholly owned subsidiary of Emera. As a result of the JV Buyout, Emera will no longer own, directly or indirectly, any voting securities of NE Wind II or the JV Applicants; however, First Wind Holdings will increase its voting securities in NE Wind II (and thus, indirectly, the JV Applicants) from 51 percent to 100 percent.

The SunEdison Transaction will be effectuated pursuant to a purchase and sale agreement (SunEdison Agreement). Prior to closing on the SunEdison Transaction, First Wind Holdings will implement a multistep internal corporate reorganization. Currently, First Wind Portfolio, LLC (First Wind Portfolio), a wholly owned, indirect subsidiary of First Wind Holdings, indirectly owns each of the First Wind Applicants (except Maine GenLead, First Wind and Longfellow) through its indirect 100 percent ownership interest in First Wind Operating Company, LLC (First Wind Operating). After the internal reorganization, First Wind Portfolio will own each of the First Wind Applicants, except First Wind, Longfellow, Maine GenLead, Milford I, Milford II and Palouse, through its ownership interests in First Wind Operating, and will continue to own the other First Wind Applicants through different intermediate holding companies that it will wholly and indirectly own. Both before and after the internal corporate reorganization, First Wind Holding will own indirectly the same interests in each of the First Wind Applicants.

Applicants state that the SunEdison Transaction is conditioned on the JV Buyout closing. The SunEdison Transaction will include the following steps that affect the Applicants as follows:

1. First Wind Capital, LLC will sell all of its interests in First Wind Operating to TerraForm, and thereby all of First Wind Operating's direct or indirect interests in each of the First Wind Applicants, except First Wind, Longfellow, Maine GenLead, Palouse, Milford I and Milford II.
2. SunEdison will acquire the voting securities that D.E. Shaw, Madison Dearborn and the Remaining Sellers currently hold in First Wind Holdings, which, in the aggregate, equal 100 percent of the voting securities of First Wind Holdings, resulting in SunEdison indirectly holding ownership interests in the remaining First Wind Applicants, First Wind, Longfellow, Maine GenLead, Palouse, Milford I and Milford II.

Pursuant to the SunEdison Agreement, each of these steps will be deemed to have occurred simultaneously.

After the SunEdison Transaction is consummated, TerraForm will indirectly hold 100 percent of the voting securities of each First Wind Applicant (except Maine GenLead, Evergreen Gen Lead, First Wind, Longfellow, Palouse, Milford I and Milford II). In addition, First Wind Holdings will be a wholly owned subsidiary of SunEdison. Thus, SunEdison will indirectly own 100 percent of the voting securities of Maine GenLead, First Wind and Longfellow, and 80 percent of the voting securities of Milford I and Milford II. With respect to Evergreen Gen Lead, TerraForm will indirectly hold 76 percent of the voting securities of Evergreen Gen Lead, and SunEdison will indirectly own 24 percent of the voting securities of Evergreen Gen Lead. With respect to Palouse, after the Palouse-Corridor Transaction closes, SunEdison, through First Wind Holdings, will indirectly own 10 percent of the equity of Palouse.

Applicants state that the Proposed Transactions are consistent with the public interest and will not have an adverse effect on competition, rates, or regulation and will not result in cross-subsidization or the pledge or encumbrance of utility assets for the benefit of an associate company.

Applicants state that the Proposed Transactions raise no concerns with respect to horizontal market power in the relevant geographic markets for the JV Buyout, ISO-NE, NYISO and New Brunswick SO, where the JV Applicants' generation facilities are located, or in the relevant geographic markets for the SunEdison Transaction, the ISO-NE and NYISO markets, and the New Brunswick SO, LADWP, and Avista BAAs, where the First Wind Applicants' generation facilities are located.

Applicants state that there are no horizontal market power concerns associated with the JV Buyout because before the JV Buyout, First Wind Holdings indirectly owns 51 percent of the voting securities of the JV Applicants and after the JV Buyout, it will simply increase its interests and indirectly own 100 percent of the voting securities of the

JV Applicants.

Applicants state that the SunEdison Transaction will have a *de minimis* effect on horizontal competition in the ISO-NE, NYISO, LADWP, New Brunswick SO, and Avista BAAs, with the SunEdison Transaction resulting in a combined market shares of 1.1 percent or less in these markets.

Applicants state that the Proposed Transactions raise no concerns with regard to vertical market power. The JV Buyout does not involve transmission facilities (other than interconnection facilities), nor does the JV Buyout result in a combination of generation facilities with transmission facilities on other upstream relevant products. According to Applicants, the SunEdison Transaction does not involve transmission facilities (other than interconnection facilities). Nor does it result in a combination of generation facilities with transmission facilities or other upstream relevant products since neither the First Wind Applicants nor Buyers own, control or operate such facilities or products. The Applicants therefore submit that the Proposed Transactions raise no concerns with respect to vertical market power.

Applicants state that the Proposed Transactions will not have an adverse effect on the rates charged to either wholesale sales or transmission service customers. The Proposed Transactions will have no adverse effect on the wholesale rates the First Wind Applicants will charge their respective wholesale power sales customers. Both before and after the Proposed Transactions are consummated, all wholesale sales of electric energy, capacity and ancillary services by the First Wind Applicants are and will be made pursuant to their market-based rate authority. The JV Buyout involves only the increase in First Wind Holdings' voting securities in the JV Applicants from 51 percent to 100 percent, and the SunEdison Transaction involves a change in the upstream ownership of the First Wind Applicants. The changes resulting from the Proposed Transactions will not affect any such wholesale sales. Moreover, none of the First Wind Applicants has captive wholesale customers.

According to Applicants, certain of the First Wind Applicants have rate schedules, shared facilities agreements, facilities use agreements and tenant-in-common agreements on file with the Commission that govern the use of various interconnection facilities. These agreements provide for sharing of costs among joint owners or use of interconnection facilities either at no charge or under terms that provide for the recovery of actual operating costs. The JV Buyout involves the increase in First Wind Holdings' voting securities in the JV Applicants from 51 percent to 100 percent, and the SunEdison Transaction involves a change in the upstream ownership of the First Wind Applicants. Applicants state that these upstream changes in ownership will not affect the terms of these rate schedules and agreements, or have any effect on the interconnection facility operating costs that might be recovered under the terms of the applicable agreements. Therefore, Applicants submit that the Proposed Transactions will not adversely affect

rates

Applicants state that the Proposed Transactions will not have an adverse effect on regulation. After each of the Proposed Transactions is consummated, each of the First Wind Applicants will continue to be regulated by the Commission under the FPA to the same degree as before each Proposed Transaction. None of the First Wind Applicants make any retail sales subject to the ratemaking jurisdiction of a state commission. Accordingly, the Proposed Transactions will not impair the ability of any state authorities to regulate retail sales. Accordingly, Applicants maintain that neither the JV Buyout nor the SunEdison Transaction will affect or impair effective state regulation.

Applicants state both Proposed Transactions fall within the safe harbor for transactions that do not involve a franchised public utility because neither Proposed Transaction will be among entities that are franchised public utilities. Except for Evergreen Gen Lead and Maine GenLead, each First Wind Applicant sells power pursuant to its market-based rate authority. Evergreen Gen Lead provides and Maine GenLead will (once constructed) provide services over their respective transmission interconnection facilities to affiliates pursuant to rate schedules on file with the Commission, and each have open access transmission tariff waivers.

Nevertheless, Applicants state that, based on facts and circumstances known to them or that are reasonably foreseeable, the Proposed Transactions 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, Applicants state that the Proposed Transactions do 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 December 2, 2014, with comments, protests, or interventions due on or before December 23, 2014. 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) (2014).

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.² The foregoing authorization may result in a change in status. Accordingly, Applicants are advised that they must comply with the requirements of Order No. 652. In addition, Applicants shall make any necessary filings under section 205 of the FPA to implement the Proposed Transactions.

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

- (1) The Proposed Transactions are 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

² *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).

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 Transactions result in changes in the status or upstream ownership of Applicants' affiliated qualifying facilities, an appropriate filing for recertification pursuant to 18 C.F.R. § 292.207 (2014) shall be made;
- (6) Applicants must inform the Commission of any change in circumstances that would reflect a departure from the facts the Commission relied upon in authorizing the Proposed Transactions;
- (7) Applicants shall make appropriate filings under section 205 of the FPA, as necessary, to implement the Proposed Transactions; and
- (8) Applicants shall notify the Commission within 10 days of the date that the dispositions of jurisdictional facilities have 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 (2014). 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 (2014).

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

Document Content(s)

EC15-44-000.DOC.....1-12