

FEDERAL ENERGY REGULATORY COMMISSION  
Washington, D.C. 20426

OFFICE OF ENERGY MARKET REGULATION

In Reply Refer To:  
Great Western Wind Energy, LLC  
Docket No. ER16-2360-000

September 15, 2016

Ms. Andrea Wolfman  
Attorney for Great Western Wind Energy, LLC  
Alston & Bird LLP  
950 F Street, N.W.  
Washington, D.C. 20004

Reference: Market-Based Rate Authorization

Dear Ms. Wolfman:

On July 25, 2016, as amended on September 6, 2016, you filed on behalf of Great Western Wind Energy, LLC (Great Western Wind) an application for market-based rate authority with an accompanying tariff. The proposed market-based rate tariff provides for the sale of energy, capacity, and ancillary services at market-based rates.<sup>1</sup> Great Western Wind requests waivers commonly granted to similar market-based rate applicants.

Your filings were noticed on August 2, 2016, and September 7, 2016, with comments, protests or interventions due on or before August 23, 2016, and September 20, 2016, respectively. None was filed.

Pursuant to the authority delegated to the Director, Division of Electric Power Regulation - West, under 18 C.F.R. § 375.307, your submittals filed in the referenced docket are accepted for filing, effective October 1, 2016, as requested. Based on your representations, Great Western Wind is a Category 2 seller in the SPP region and meets

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<sup>1</sup> Great Western Wind requests authorization to sell ancillary services in the markets administered by PJM Interconnection, L.L.C., New York Independent System Operator, Inc., ISO New England Inc., California Independent System Operator Corp., Midcontinent Independent System Operator, Inc., and Southwest Power Pool, Inc. (SPP). Great Western Wind also requests authorization to engage in the sale of certain ancillary services as a third-party provider in other markets.

the criteria for a Category 1 seller in the Southeast, Central, Southwest, Northwest, and Northeast regions and is so designated.<sup>2</sup>

You state that Great Western Wind will own and operate a 225 megawatt (MW) generation facility located in Ellis and Woodard Counties, Oklahoma, within the SPP market. You add that Great Western Wind is wholly owned by EDF Renewable Energy, Inc., and is affiliated with several entities that own generation facilities in the SPP market. Great Western Wind's affiliate Sagebrush, a California Partnership (Sagebrush) has an open access transmission tariff (OATT) on file with the Commission.<sup>3</sup> You state that Great Western Wind and its affiliates' transmission facilities, with the exception of Sagebrush, qualify for the blanket OATT waiver under 18 C.F.R. § 35.28(d)(2).<sup>4</sup> Therefore, Great Western Wind and its affiliates have mitigated any transmission market power. Further, you affirmatively state that Great Western Wind and its affiliates have not erected barriers to entry and will not erect barriers to entry into the relevant market.

You represent that Great Western Wind qualifies as a Category 1 seller in the Southeast, Central, Southwest, Northwest, and Northeast regions because it does not own

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<sup>2</sup> See *Refinements to Policies and Procedures for Market-Based Rates for Wholesale Sales of Electric Energy, Capacity and Ancillary Services by Public Utilities*, Order No. 816, FERC Stats. & Regs. ¶ 31,374, at P 320 (2015), *order on reh'g*, Order No. 816-A, 155 FERC ¶ 61,188 (2016); *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), *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). Great Western Wind must file an updated market power analysis for each region in which it is designated as a Category 2 seller in compliance with the regional reporting schedule. See Order No. 816, FERC Stats. & Regs. ¶ 31,374 at P 353.

<sup>3</sup> *Sagebrush, a California Partnership*, Docket No. ER10-1988-001 (February 28, 2011) (delegated letter order).

<sup>4</sup> See *Open Access and Priority Rights on Interconnection Customer's Interconnection Facilities*, Order No. 807, FERC Stats. & Regs. ¶ 31,367, at P 57, *order on reh'g*, Order No. 807-A, 153 FERC ¶ 61,047 (2015) (waiving the OATT requirements of 18 C.F.R. § 35.28, the Open Access Same-Time Information System requirements of Part 37, and the Standards of Conduct requirements of Part 358, under certain conditions, for entities that own interconnection facilities). See also *Oildale Energy, LLC*, 153 FERC ¶ 61,013 at P 14 (2015).

generation capacity in these regions, it does not own, operate or control transmission facilities in these regions, is not affiliated with a franchised public utility, and does not raise any other vertical market power issues.

### **Market-Based Rate Authorization**

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>5</sup>

You state that Great Western Wind relies on Roswell Solar, LLC's market power analysis, which has been accepted by the Commission,<sup>6</sup> to demonstrate that Great Western Wind passes both the pivotal supplier and the wholesale market share screens for the SPP market. Accordingly, Great Western Wind's submittals satisfy<sup>7</sup> the Commission's requirements for market-based rate authority regarding horizontal market power.

Based on your representations, Great Western Wind's submittals also satisfy the Commission's requirements for market-based rates regarding vertical market power.

Great Western Wind's request for waiver of Subparts B and C of Part 35 of the Commission's regulations requiring the filing of cost-of-service information, except for sections 35.12(a), 35.13(b), 35.15 and 35.16 is granted. Great Western Wind's request for waiver of Part 41 and Part 141 of the Commission's regulations concerning accounting and reporting requirements is granted with the exception of 18 C.F.R. §§ 141.14 and 141.15.<sup>8</sup> Great Western Wind's request for 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.<sup>9</sup> Notwithstanding the waiver of the accounting and

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<sup>5</sup> Order No. 697, FERC Stats. & Regs. ¶ 31,252 at PP 62, 399, 408, 440.

<sup>6</sup> *Roswell Solar, LLC*, Docket No. ER16-1440-001 (July 16, 2016) (delegated letter order).

<sup>7</sup> The next time Great Western Wind makes a market-based rate filing with the Commission, it must include a revised tariff in compliance with Appendix C – Limitations and Exemptions Regarding Market-Based Rate Authority to include appropriate citations. *Niagara Mohawk Power Corporation*, 121 FERC ¶ 61,275 (2007) at P 8. *See also*, Order No. 697-A, FERC Stats. & Regs. ¶ 31,268 at P 384.

<sup>8</sup> *See* Order No. 697, FERC Stats. & Regs. ¶ 31,252 at PP 984-985.

<sup>9</sup> Hydropower licensees are required to comply with the requirements of the

reporting requirements here, Great Western Wind is expected to keep its accounting records in accordance with generally accepted accounting principles.

Great Western Wind requests blanket authorization under Part 34 of the Commission's regulations for all future issuances of securities and assumptions of liability. A separate notice was published in the Federal Register establishing a period during which protests could be filed. None was filed. Great Western Wind is 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 Solar Star California, compatible with the public interest, and reasonably necessary or appropriate for such purposes.<sup>10</sup>

Great Western Wind must file an Electric Quarterly Report (EQR) with the Commission, consistent with Order Nos. 2001<sup>11</sup> and 768.<sup>12</sup> Great Western Wind must file EQRs electronically with the Commission consistent with the procedures set forth in

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Uniform System of Accounts pursuant to 18 CFR Part 101 to the extent necessary to carry out their responsibilities under Part I of the Federal Power Act (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* Order No. 816, FERC Stats. & Regs. ¶ 31,374 at PP 345-350; *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>10</sup> *See* Order No. 697, FERC Stats. & Regs. ¶ 31,252 at PP 999-1000.

<sup>11</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).

<sup>12</sup> *Elec. Mkt. Transparency Provisions of Section 220 of the Fed. Power Act*, Order No. 768, FERC Stats. & Regs. ¶ 31,336 (2012), *order on reh'g*, Order No. 768-A, 143 FERC ¶ 61,054 (2013).

Order No. 770.<sup>13</sup> Great Western Wind further 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>14</sup>

This action does not constitute approval of any service, rate, charge, classification, or any rule, regulation, or practice affecting such rate or service provided for in the filed documents; nor shall such action be deemed as recognition of any claimed contractual right or obligation affecting or relating to such service or rate; and such acceptance is without prejudice to any findings or orders which have been or may hereafter be made by the Commission in any proceeding now pending or hereafter instituted by or against the applicant.

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.

Questions regarding the above order should be directed to:

Federal Energy Regulatory Commission  
Attn: Melissa Lozano  
Phone: (202) 502-6267  
Office of Energy Market Regulation  
888 First Street, N.E.  
Washington, D.C. 20426

Sincerely,

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

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<sup>13</sup> See *Revisions to Electric Quarterly Report Filing Process*, Order No. 770, FERC Stats. & Regs. ¶ 31,338, at P 3 (2012) (citing Order No. 2001, FERC Stats. & Regs. ¶ 31,127 at P 31).

<sup>14</sup> 18 C.F.R. § 35.42 (2016); see also *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).

Document Content(s)

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