

156 FERC ¶ 62,236

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Grand View PV Solar Two LLC

Docket No. EC16-175-000

ORDER AUTHORIZING ACQUISITION
OF JURISDICTIONAL FACILITIES

(Issued September 30, 2016)

On August 31, 2016, Grand View PV Solar Two LLC (Grand View) filed an application (Application) under section 203(a)(1)(A) of the Federal Power Act (FPA)¹ requesting authorization for a tax equity transaction wherein Citicorp North America, Inc. (Class A Equity Investor) would acquire non-controlling, passive, Class A membership interests in Grand View (Proposed Transaction). According to Grand View, the jurisdictional facilities affected by the Proposed Transaction consist of a market-based rate tariff for which Grand View has filed an application,² limited and discrete interconnection facilities, contracts, and associated books and records.

Grand View states that, although the Proposed Transaction may not require authorization under section 203(a)(1) of the FPA, it nevertheless asks the Commission to authorize the Proposed Transaction. This order authorizes the Proposed Transaction without making any determination of jurisdiction.³

Grand View explains that it owns an 80 megawatt (MW) ground-mounted photovoltaic solar energy generation facility (Facility) located 20 miles southwest of Mountain Home, Idaho. The Facility is scheduled to begin commercial operation on or about November 9, 2016. Grand View states that the Facility is interconnected to the transmission system owned by Idaho Power Company (Idaho Power). Grand View states that the Idaho Power balancing authority area (BAA) is the relevant market, and Grand

¹ 16 U.S.C. § 824b (2012).

² In the Application Grand View states that it will file for authorization to sell power at market-based rates. On August 31, 2016 Grand View filed such application in Docket No. ER16-2520-000. Authorization was granted by order issued September 29, 2016.

³ See *Ocean State Power*, 47 FERC ¶ 61,321 (1989).

View will sell the Facility's full output to Idaho Power under a long-term power purchase agreement. The Facility includes interconnection facilities necessary to interconnect to the grid, but does not provide transmission services for other parties.

Grand View states that it is wholly owned by CRE-Grandview Idaho (Class B Equity Investor). Centaurus Renewable Energy LLC (CRE) owns 100 percent of the Class A and Class C Units of the Class B Equity Investor, and Accordia Life and Annuity Company (Accordia) owns 100 percent of the Class B Units of the Class B Equity Investor. CRE is wholly owned by Centaurus Capital LP (Centaurus Capital). Centaurus Holdings, LLC (Centaurus Holdings), whose sole manager is a Texas-based individual, is the general partner of Centaurus Capital. The sole manager of Centaurus Holdings is a Texas-based individual, John Arnold. Accordia is an affiliate of Global Atlantic Financial Group Limited (GAFG), a privately held company with over 1,400 shareholders. Neither Accordia nor GAFG have authority to manage, direct, or control the day-to-day activities of Grand View or its jurisdictional facilities beyond its passive, non-voting interest in Grand View.

Grand View states that the Class A Equity Investor is a subsidiary of Citigroup Inc., a global financial services company that provides financial products and services to consumers. The Class A Equity Investor is not primarily engaged in energy-related business activities and does not directly control or own electric generating or transmission assets or generation output in the United States. Grand View states that Citigroup Inc. is a bank holding company, and, through various subsidiaries, Citigroup Inc. indirectly holds passive, non-controlling interests in exempt wholesale generators or qualifying facilities located in the United States.

Pursuant to the Proposed Transaction, Grand View states that all of the managing Class B membership interests in Grand View will be held by the Class B Equity Investor, and the Class A Equity Investor will make a capital contribution, in two installments, to Grand View. In exchange for the capital contribution, the Class A Equity Investor will receive non-controlling, passive, Class A membership interests in Grand View. Grand View will continue to own the Facility, giving the Class A Equity Investor an economic interest in the Facility. The Class A Equity Investor will receive certain tax benefits, cash distributions, and rights to cash, or other assets, upon liquidation. Grand View states that the Class A Equity Investor will have only limited rights with respect to the actions of Grand View, such as consent rights necessary for the Class A Equity Investor to protect its economic investment. The Class A Equity Investor will not, by virtue of the Proposed Transaction or its Class A membership interests, have the ability to manage Grand View or operate the Facility.

Grand View states that the Proposed Transaction is consistent with the public interest and will have no adverse effect on competition, rates, or regulation and will not raise any cross-subsidization concerns. With respect to horizontal competition, Grand

View states that the non-controlling, passive, Class A membership interests in Grand View will not cause the Class A Equity Investor to be an affiliate of Grand View nor will the Class A membership interests provide the Class A Equity Investor with control of Grand View or its generation. Also, Grand View's power output from the Facility is fully committed under a long-term power purchase agreement with Idaho Power. Therefore, according to Grand View, the Proposed Transaction will have no adverse effect on horizontal market power.

With respect to vertical competition, Grand View states that neither it nor the Class A Equity Investor or their affiliates own or control essential inputs to electric power generation such as intrastate natural gas transportation, distribution or storage facilities, or sources of physical coal supplies or the transportation of coal supplies, such as barges and rail cars, in the United States. Further, Grand View states that Proposed Transaction does not involve any transmission facilities, except for the limited and discrete facilities necessary to interconnect the Facility to Idaho Power's transmission system. Grand View adds that neither it nor the Class A Equity Investor, or their affiliates currently own or control any sites for generation capacity within the Idaho Power BAA. Therefore, according to Grand View, the Proposed Transaction will have no adverse effect on vertical market power.

With respect to rates, Grand View states that neither it nor the Class A Equity investor has wholesale requirement customers. Grand View adds that wholesale power sales from the Facility will be made pursuant to an existing long-term power purchase under its market-based rate authorization. In addition, Grand View states that the Proposed Transaction does not involve transmission rates or transmission service customers. Therefore, according to Grand View, the Proposed Transaction will have no adverse effect on wholesale customers or transmission customers.

With respect to regulation, Grand View states that, following consummation of the Proposed Transaction, the Commission will continue to have the same jurisdiction over Grand View as it has now. Grand View adds that no facilities will be removed from the Commission's jurisdiction as a result of the Proposed Transaction. Grand View states that the Proposed Transaction will have no adverse effect on state regulation because Grand View does not have retail customers. Therefore, according to Grand View, the Proposed Transaction will not impair either federal or state jurisdiction.

Grand View states that the Proposed Transaction will not result in any cross-subsidization of a non-utility associate company or pledge or encumbrance of utility assets for the benefit of an associate company. Grand View states that the Proposed Transaction qualifies for the safe harbor for transactions that do not involve a franchised public utility with captive customers. In addition, Grand View provides assurance and verifies that, based on known or reasonably foreseeable information, the Proposed Transaction will not result in, at the time of the Proposed Transaction or in the future: (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 contracts 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 services agreements subject to review under sections 205 and 206 of the FPA.

This filing was noticed on September 1, 2016, with comments, protests or interventions due on or before September 21, 2016. None were received.

Information and/or systems connected to the bulk power 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 databases, 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, NERC or the relevant regional entity may audit compliance with reliability and cybersecurity standards.

When a controlling interest in a public utility is acquired by another company, whether a domestic company or a foreign company, the Commission's ability to adequately protect public utility customers against inappropriate cross-subsidization may be impaired absent access to the parent company's books and records. Section 301 (c) of the FPA gives the Commission authority to examine the books and records of any person who controls, directly or indirectly, a jurisdictional public utility insofar as the books and records relate to transactions with or the business of such public utility. The approval of the Proposed Transaction is based on such examination ability.

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 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 hereby 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) Grand View 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 of 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 cost, 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 the upstream ownership of Grand View's affiliated qualifying facilities, if any, 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) Grand View shall make the appropriate filings under section 205 of the FPA, as necessary, to implement the Proposed Transaction; and

⁴ *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).

- (8) Grand View shall notify the Commission within 10 days of the date that the Proposed Transaction 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 (2016).

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

Document Content(s)

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