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C O U N S E L O R S A T L A W

SUBMITTED VIA ETARIFF

May 31, 2013

The Honorable Kimberly D. Bose
Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, DC 20426

RE: *Griffith Energy LLC*, Docket No. ER13-_____.

Clarification of Category 1 Status in Regions Outside the Southwest Region.

Dear Ms. Bose:

Pursuant to Section 205 of the Federal Power Act (“FPA”), 16, U.S.C. § 824d, and Part 35 of the Federal Energy Regulatory Commission (“Commission” or “FERC”) regulations, 18 C.F.R. Part 35, Griffith Energy LLC (“Griffith Energy”) hereby submits for filing revisions to its Market-Based Rate Tariff to request clarification of its status as a Category 1 Seller. Griffith Energy is a Category 2 Seller in the Southwest Region, but the category status of Griffith Energy in all other regions has not been specified within its Market-Based Rate Tariffs. Accordingly, the enclosed revisions clarify that Griffith Energy is a Category 1 Seller in regions outside of the Southwest Region.

I. BACKGROUND

Griffith Energy owns and operates a 570 MW natural gas-fired combined cycle electric generating facility (Griffith Project) located in Mohave County, Arizona. The Griffith Project resides in its own, generation-only BAA, which is interconnected with the Western Area Power Administration – Lower Colorado (“WALC”) BAA. Griffith Energy sells the capacity and energy output of the Griffith Project to an unaffiliated purchaser during the summer months

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under a long-term tolling agreement. Griffith Energy is authorized to sell power at market-based rates and is an EWG.¹

Griffith Energy is affiliated with Arlington Valley, LLC (“Arlington Valley”). Arlington Valley owns and operates a 577-megawatt (“MW”) natural gas-fired combined cycle electric generating facility (“Arlington Valley Project”) located in Maricopa County, Arizona. The Arlington Valley Project resides in its own, generation-only Balancing Authority Area (“BAA”), which is interconnected with the Salt River Project (“SRP”) BAA. Arlington Valley sells the capacity and energy output of the Arlington Valley Project to an unaffiliated purchaser during the summer months under a long-term tolling agreement. Arlington Valley is authorized to sell power at market-based rates and is an exempt wholesale generator (“EWG”).²

The most recent triennial market power analysis for Arlington Valley and Griffith Energy was filed on July 31, 2010. The market power of Arlington Valley and Griffith Energy was evaluated together with the market power of LS Power Marketing, LLC, Las Vegas Power Company, LLC, and certain generation owned by Calpine Corporation. On May 22, 2012, the Commission issued an order concluding that the LS Power companies demonstrated that they did not possess market power in the Southwest Region and continued to satisfy the Commission’s standards for the grant of market-based rate authority.³

At the time of the triennial update filing, Arlington Valley and Griffith Energy were wholly-owned subsidiaries of LS Power Group and also were deemed to be affiliated with Calpine Corporation, necessitating a market power analysis that considered the relevant generation resources owned by LS Power Group and Calpine Corporation. However, pursuant to a transaction authorized in Docket No. EC11-59-000, 100% of the ownership interests in Arlington Valley and Griffith Energy were acquired by Star West Generation LLC (“Star West”), which is majority owned indirectly and controlled by Highstar Capital GP IV, L.P. (“Highstar Capital”). As a result, Arlington Valley and Griffith Energy ceased to be affiliated with LS Power Group and Calpine Corporation.⁴

Subsequently, and as reported in a Notice of Change in Status report filed with the Commission, Arlington Valley and Griffith Energy became affiliated with GWF Energy LLC (“GWF Energy”).⁵ Specifically, pursuant to a transaction authorized in Docket No. EC13-12-000, Highstar Capital acquired indirect ownership of approximately 87.5% of GWF Energy Holdings LLC, which indirectly owns 100% of GWF Energy LLC.

¹ *Griffith Energy LLC*, Letter Order, Docket No. ER00-3696-000 (order granting market-based rate authority); *Griffith Energy LLC*, 93 FERC ¶ 62,058 (2000) (order granting EWG status).

² *Duke Energy Arlington Valley, LLC*, Letter Order, Docket No. ER02-443-000 (Jan. 28, 2002) (order granting market-based rate authority); *Duke Energy Arlington Valley, LLC*, 98 FERC ¶ 62,005 (2002) (order granting EWG status).

³ *LS Power Marketing, LLC, et al.*, 139 FERC ¶ 61,140 (2012).

⁴ *LS Power Equity Partners L.P., et al.*, 135 FERC ¶ 62,019 (2011).

⁵ *See GWF Energy LLC, et al.*, Letter Order, Docket Nos. ER10-3301-001, et al. (Feb. 26, 2013) (accepting notice of change in status).

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GWF Energy owns and operates three natural-gas fired electric generating facilities located in California: (1) the Tracy Project, a combined cycle generating facility with a nameplate generating capacity of 335 MW that recommenced operations on November 1, 2012, following conversion from a simple cycle peaker to a combined cycle facility; (2) the Hanford Project, a peaking generating facility with a nameplate generating capacity of 98 MW; and (3) the Henrietta Project, a peaking generating facility with a nameplate generating capacity of 98 MW. The three generating facilities are interconnected with the transmission system owned by Pacific Gas and Electric Company (“PG&E”) and operated by California Independent System Operator Corporation (“CAISO”), and each is located in the BAA operated by CAISO. PG&E has entered into two new agreements pursuant to which PG&E continues to dispatch and purchase the output of the Hanford Project and the Henrietta Project for ten year terms that commenced on January 1, 2013, and will terminate on December 31, 2022. PG&E also has entered into an agreement pursuant to which it will dispatch and purchase the output of the uprated Tracy Project for a period of ten years from its commercial operation date (which occurred on November 1, 2012). GWF Energy is authorized to sell power at market-based rates and is an EWG.⁶

II. REQUEST FOR CATEGORY 1 STATUS OUTSIDE OF THE SOUTHWEST REGION

The Commission’s regulations define Category 1 Sellers as wholesale power marketers and wholesale power producers that meet each of the following criteria: (1) own or control 500 MW or less of generation in aggregate per region; (2) do not own, operate or control transmission facilities other than limited equipment necessary to connect individual generating facilities to the transmission grid; (3) are not affiliated with anyone that owns, operates, or controls transmission facilities in the same region as the seller’s generation assets; (4) are not affiliated with a franchised public utility in the same region as the seller’s generation assets; and (5) do not raise other vertical market power issues.⁷ Market-based rate sellers that do not qualify as Category 1 Sellers are defined as Category 2 Sellers.⁸ Category 2 Sellers are required to submit updated market analyses every three years pursuant to the Commission’s regional schedule.

Griffith Energy submits this request for designation as a Category 1 Seller in the Northeast, Southeast, Central, and Northwest regions, because Griffith Energy meets each of the criteria for Category 1 Seller status in those regions. Specifically, Griffith Energy does not own or control generation in any region outside of the Southwest region and therefore it owns or controls less than 500 MW of generation in aggregate in each region outside of the Southwest region. Moreover, Griffith Energy’s only affiliates with ownership or control over generation

⁶ *GWF Energy LLC*, Letter Order, Docket No. ER01-2233-007 (Dec. 9, 2010) (order granting market-based rate authority); *GWF Energy LLC*, Letter Order, Docket No. ER12-2125-000 (order accepting notice of change in status regarding committed capacity to PG&E); *GWF Energy LLC*, 96 FERC ¶ 62,028 (2001) (order granting EWG status).

⁷ 18 C.F.R. § 35.36(a)(2) (2012).

⁸ 18 C.F.R. § 35.36(a)(3) (2012).

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facilities are GWF Energy, which is a Category 2 Seller in the Southwest Region, and Arlington Valley, which is also located in the Southwest Region.⁹ As specified in section 7 of GWF Energy's Market-Based Rate Tariff, GWF Energy is a Category 1 Seller in the Northwest, Central, Southwest Power Pool, and Southeast Regions.

In addition, Griffith Energy does not own, operate, or control transmission facilities other than limited facilities necessary to connect its individual generating facilities to the transmission grid, is not affiliated with anyone that owns, operates, or controls transmission facilities in the same region as its generation assets, and is not affiliated with a franchised public utility in the same region as its generation assets.¹⁰

Griffith Energy does not raise other vertical market power issues. Specifically, Griffith Energy does not own, operate, or control, and is not affiliated with an entity that owns, operates, or controls, intrastate natural gas facilities, sites for generation capacity development, or coal supply sources or transportation of coal supply sources.¹¹

In light of the foregoing, Griffith Energy respectfully submits the enclosed revisions clarifying its status as a Category 1 Seller, as defined in 18 C.F.R. § 35.36(a) of the Commission's regulations, in all regions outside of the Southwest Region. Griffith Energy remains a Category 2 Seller in the Southwest Region. To reflect this, the Market Based Rate Tariff of Griffith Energy has been revised as follows:

Seller is a Category 2 Seller in the Southwest Region, as defined in 18 C.F.R. § 35.36(a). Seller is a Category 1 Seller in the Central, Northeast, Northwest, Southwest Power Pool, and Southeast Regions, as defined in 18 C.F.R. § 35.36(a).

Griffith Energy notes that these revisions are consistent with tariff clarifications that the Commission has accepted for other market-based rate sellers.¹²

⁹ In a contemporaneous filing, Arlington Valley is filing revisions to its market-based rate tariff to clarify its status as a Category 2 Seller in the Southwest and as a Category 1 Seller in all other regions.

¹⁰ Arlington Valley and Griffith Energy own generator interconnection facilities that facilitate the interconnection of their generating facilities with the transmission system, but those generator interconnection facilities are not networked transmission facilities and those entities do not provide transmission service on their generator interconnection facilities.

¹¹ As noted in the Section 203 filing in Docket No. EC13-12-000, separate limited partnerships that are controlled by affiliates of Highstar Capital own a minority interest in Kinder Morgan, Inc., the general partner of Kinder Morgan Energy Partners, L.P., which owns interests in and operates natural gas pipelines in the United States. Such limited partnerships own their respective interests in Kinder Morgan, Inc., only for investment purposes and neither the limited partnerships nor any affiliates of Highstar Capital exercise control over the day-to-day operations of any Kinder Morgan pipeline.

¹² *E.g.*, *Blue Canyon Windpower LLC, et al.*, Letter Order, Docket Nos. ER13-631-000, et al. (Jan. 25, 2013); *Canandaigua Power Partners, LLC, et al.*, Letter Order, Docket Nos. ER12-2265-000, et al. (Sept. 6, 2012).

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Finally, Griffith Energy has enclosed revisions to its Market-Based Rate Tariff to clarify the scope of its waivers from Part 141 of the Commission's regulations.

III. REQUIREMENTS OF PART 35

A. List of Documents Submitted

This filing consists of the following documents:

- This transmittal letter;
- Revised versions of the Griffith Energy Market-Based Rate Tariff in E-Tariff format;
- Redlined versions of the Griffith Energy Market-Based Rate Tariff; and
- Updated Appendix of Affiliate and Generation Assets of Griffith Energy.

B. Other Requirements

To the extent necessary, Griffith Energy requests waiver of any of the other applicable requirements of section 35.13. Griffith Energy notes that the enclosed revisions are essentially administrative and do not include any changes to any existing rates.

V. EFFECTIVE DATE AND APPROVAL

Griffith Energy requests waiver of the prior notice requirements to permit an effective date for the revised Market Based Rate Tariff of June 1, 2013, consistent with waivers granted for similar filings.¹³

VI. COMMUNICATIONS

Griffith Energy requests that all communications and correspondence regarding this filing be provided to the following persons:

Tina Lee
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Star West Generation LLC
2929 Allen Parkway, Suite 2280
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¹³ E.g., *Blue Canyon Windpower LLC, et al.*, Letter Order, Docket Nos. ER13-631-000, et al. (Jan. 25, 2013) (granting waiver to permit an effective date of one day after filing).

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VII. CONCLUSION

Griffith Energy respectfully requests that the Commission accept the revised Market Based Rate Tariffs to become effective June 1, 2013, and grant any waivers or authorizations necessary to make the revised Tariffs effective on that date.

Respectfully Submitted,

/s/ Stephen M. Spina
Stephen M. Spina
Joseph W. Lowell
Morgan, Lewis & Bockius LLP
1111 Pennsylvania Ave, N.W.
Washington, D.C. 20004

Attorneys for Griffith Energy, LLC

Enclosures

GRIFFITH ENERGY LLC

Market-Based Rate Tariff

1. Availability: Griffith Energy LLC (“Seller”) will make wholesale electric energy, capacity, and ancillary services available under this Tariff, except as prohibited below:

RTO/ISO Specific

Midwest ISO: Seller offers regulation service and operating reserve service (which includes 10-minute spinning reserve and 10-minute supplemental reserve) for sale to the Midwest Independent Transmission System Operator, Inc. (“Midwest ISO”) and to others that are self-supplying ancillary services to Midwest ISO.

PJM: Seller offers regulation and frequency response service, energy imbalance service, and operating reserve service (which includes spinning, 10-minute, and 30-minute reserves) for sale into the market administered by PJM Interconnection, L.L.C. (“PJM”) and, where the PJM Open Access Transmission Tariff permits, the self-supply of these services to purchasers for a bilateral sale that is used to satisfy the ancillary services requirements of the PJM Office of Interconnection.

New York: Seller offers regulation and frequency response service, and operating reserve service (which includes 10-minute non-synchronous, 30-minute operating reserves, 10-minute spinning reserves, and 10-minute non-spinning reserves) for sale to purchasers in the market administered by the New York Independent System Operator, Inc.

New England: Seller offers regulation and frequency response service (automatic generator control), operating reserve service (which includes 10-minute spinning reserve, 10-minute non-spinning reserve, and 30-minute operating reserve service) to purchasers within the markets administered by the ISO New England, Inc.

California: Seller offers regulation service, spinning reserve service, and non-spinning reserve service to the California Independent System Operator Corporation (“CAISO”) and to others that are self-supplying ancillary services to the CAISO.

Third Party Provider

Third-party ancillary services include: Seller offers Regulation Service, Energy Imbalance Service, Spinning Reserves, and Supplemental Reserves. Sales will not include the following: (1) sales to an RTO or an ISO, *i.e.*, where that entity has no ability to self-supply ancillary services but instead depends on third parties; (2) sales to a traditional, franchised public utility affiliated with the third-party supplier, or sales where the underlying transmission service is on the system of the public utility affiliated with the third-party supplier; and (3) sales to a public utility that is purchasing ancillary services to satisfy its own open access transmission tariff requirements to offer ancillary services to its own customers.

2. Applicability: This schedule is applicable to all wholesale sales of energy, capacity, and ancillary services by Seller not otherwise subject to a particular rate schedule of Seller.
3. Rates: All sales shall be made at rates established by agreement between the purchaser and Seller.
4. Other Terms and Conditions: All other terms and conditions shall be established by agreement between the purchaser and Seller.
5. Compliance with Commission Regulations: Seller shall comply with the provisions of 18 CFR Part 35, Subpart H, as applicable, and with any conditions the Commission imposes in its orders concerning Seller's market-based rate authority, including orders in which the Commission authorizes Seller to engage in affiliate sales under this Tariff or otherwise restricts or limits the Seller's market-based rate authority. Failure to comply with the applicable provisions of 18 CFR Part 35, Subpart H, and with any orders of the Commission concerning Seller's market-based rate authority, will constitute a violation of this Tariff.
6. Limitations and Exemptions Regarding Market-Based Rate Authority: The Commission has granted Seller in *Griffith Energy, LLC*, Docket No. ER00-3696-000, at 1 (Oct. 25, 2000) (unpublished letter order), the following limitations and exemptions: (i) waivers of Parts 41, 101 and 141 of the Commission's accounting and periodic reporting requirements except for sections 141.14 and 141.15, (ii) waivers of Subparts B and C of Part 35 of the Commission's regulations requiring the filing of cost-of-service information, except as to sections 35.12(a), 35.13(b), 35.15, and 35.16, and (iii) blanket authorization for all future issuances of securities or assumptions of liabilities pursuant to Section 204 of the Federal Power Act, 16 U.S.C. § 824e, and Part 34 of the Commission's regulations.
7. Seller Category: Seller is a Category 2 seller in the Southwest Region, as indicated in 18 CFR 35.36(a). Seller is a Category 1 seller in the Central, Northeast, Northwest, Southwest Power Pool, and Southeast regions, as defined in 18 CFR 35.36(a).
8. Effective Date: This Tariff shall be effective on and after the date on which the Commission permits it to become effective.

GRIFFITH ENERGY LLC

Market-Based Rate Tariff

1. Availability: Griffith Energy LLC (“Seller”) will make wholesale electric energy, capacity, and ancillary services available under this Tariff, except as prohibited below:

RTO/ISO Specific

Midwest ISO: Seller offers regulation service and operating reserve service (which includes 10-minute spinning reserve and 10-minute supplemental reserve) for sale to the Midwest Independent Transmission System Operator, Inc. (“Midwest ISO”) and to others that are self-supplying ancillary services to Midwest ISO.

PJM: Seller offers regulation and frequency response service, energy imbalance service, and operating reserve service (which includes spinning, 10-minute, and 30-minute reserves) for sale into the market administered by PJM Interconnection, L.L.C. (“PJM”) and, where the PJM Open Access Transmission Tariff permits, the self-supply of these services to purchasers for a bilateral sale that is used to satisfy the ancillary services requirements of the PJM Office of Interconnection.

New York: Seller offers regulation and frequency response service, and operating reserve service (which includes 10-minute non-synchronous, 30-minute operating reserves, 10-minute spinning reserves, and 10-minute non-spinning reserves) for sale to purchasers in the market administered by the New York Independent System Operator, Inc.

New England: Seller offers regulation and frequency response service (automatic generator control), operating reserve service (which includes 10-minute spinning reserve, 10-minute non-spinning reserve, and 30-minute operating reserve service) to purchasers within the markets administered by the ISO New England, Inc.

California: Seller offers regulation service, spinning reserve service, and non-spinning reserve service to the California Independent System Operator Corporation (“CAISO”) and to others that are self-supplying ancillary services to the CAISO.

Third Party Provider

Third-party ancillary services include: Seller offers Regulation Service, Energy Imbalance Service, Spinning Reserves, and Supplemental Reserves. Sales will not include the following: (1) sales to an RTO or an ISO, *i.e.*, where that entity has no ability to self-supply ancillary services but instead depends on third parties; (2) sales to a traditional, franchised public utility affiliated with the third-party supplier, or sales where the underlying transmission service is on the system of the public utility affiliated with the third-party supplier; and (3) sales to a public utility that is purchasing ancillary services to satisfy its own open access transmission tariff requirements to offer ancillary services to its own customers.

2. Applicability: This schedule is applicable to all wholesale sales of energy, capacity, and ancillary services by Seller not otherwise subject to a particular rate schedule of Seller.
3. Rates: All sales shall be made at rates established by agreement between the purchaser and Seller.
4. Other Terms and Conditions: All other terms and conditions shall be established by agreement between the purchaser and Seller.
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Market-Based Rate Authority and Generation Assets of Griffith Energy LLC and its Affiliates

Filing Entity and its Energy Affiliates	Docket # where MBR authority was granted	Generation Name	Owned By	Controlled By	Date Control Transferred	Location		In-service Date	Nameplate and/or Seasonal Rate (MW)
						Balancing Authority Area	Geographic Region (per Appendix D)		
GWF Energy LLC	ER01-2233	Hanford	GWF Energy LLC	GWF Energy LLC	9/01/2001	CAISO	Southwest	9/01/2001	98
GWF Energy LLC	ER01-2233	Henrietta	GWF Energy LLC	GWF Energy LLC	7/01/2002	CAISO	Southwest	9/01/2001	98
GWF Energy LLC	ER01-2233	Tracy	GWF Energy LLC	GWF Energy LLC	6/01/2003	CAISO	Southwest	6/01/2003	335
Arlington Valley, LLC (“Arlington Valley”)	ER02-443	Arlington Valley Project	Arlington Valley	Arlington Valley	N/A	Arlington Valley ¹	Southwest	2002	577
Griffith Energy LLC (“Griffith Energy”)	ER00-3696	Griffith Project	Griffith Energy	Griffith Energy	N/A	Griffith ²	Southwest	2002	570

¹ The Arlington Valley Project is interconnected with the transmission grid owned by the Salt River Project, but resides in its own balancing authority area.

² The Griffith Project is interconnected with the transmission grid owned by the Western Area Power Administration – Lower Colorado, but resides in its own balancing authority area.

FERC rendition of the electronically filed tariff records in Docket No. ER13-01611-000
Filing Data:
CID: C000709
Filing Title: Clarification of Category 1 Status in Regions Outside the Southwest Region
Company Filing Identifier: 220
Type of Filing Code: 30
Associated Filing Identifier:
Tariff Title: FERC Electric Tariffs
Tariff ID: 1
Payment Confirmation:
Suspension Motion:

Tariff Record Data:
Record Content Description, Tariff Record Title, Record Version Number, Option Code:
Market-Based Rate Tariff, FERC Electric Tariff Volume No. 1, 1.0.0, A
Record Narrative Name:
Tariff Record ID: 1
Tariff Record Collation Value: 1 Tariff Record Parent Identifier: 0
Proposed Date: 2013-06-01
Priority Order: 500
Record Change Type: CHANGE
Record Content Type: 1
Associated Filing Identifier:

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141.15, (ii) waivers of Subparts B and C of Part 35 of the Commission's regulations requiring the filing of cost-of-service information, except as to sections 35.12(a), 35.13(b), 35.15, and 35.16, and (iii) blanket authorization for all future issuances of securities or assumptions of liabilities pursuant to Section 204 of the Federal Power Act, 16 U.S.C. § 824e, and Part 34 of the Commission's regulations.

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Document Content(s)

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220-40c7a700-435c-4d96-8781-108474099363.DOCX.....9-10

220-bfb07357-1b16-48d8-a752-bcfd015be67c.DOCX.....11-11

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