

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

McHenry Battery Storage, LLC) **Docket No. ER16-____-000**

**PETITION OF MCHENRY BATTERY STORAGE, LLC
FOR ACCEPTANCE OF MARKET-BASED RATE TARIFF, WAIVERS AND
BLANKET APPROVALS**

Pursuant to Section 205 of the Federal Power Act (“FPA”),¹ Part 35 of the regulations of the Federal Energy Regulatory Commission (“FERC” or “Commission”),² and the requirements of Order No. 697,³ and Order No. 816,⁴ McHenry Battery Storage, LLC (variously “McHenry,” “Applicant,” or “Seller”) hereby petitions for authorization to make market-based sales of energy, capacity, and certain ancillary services under a market-based rate tariff. McHenry respectfully requests acceptance of its market-based rate schedule, FERC Electric Tariff Original Volume No. 1 (“Tariff”), with an effective date of July 19, 2016, one day after filing. McHenry also requests waiver of certain Commission regulations and a grant of certain blanket approvals, which are customarily granted to sellers with market-based rate authorization.

¹ 16 U.S.C. § 824d) (2012).

² 18 C.F.R. Part 35 (2014).

³ *Market-Based Rates for Wholesale Sales of Electric Energy, Capacity and Ancillary Services by Public Utilities*, Order No. 697, FERC Stats. & Regs. ¶ 31,252 (“Order No. 697”), *clarified*, 121 FERC ¶ 61,260 (2007), *order on reh’g*, Order No. 697-A, FERC Stats. & Regs. ¶ 31,268 (“Order No. 697-A”), *clarified*, 124 FERC ¶ 61,055 (2008), *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).

⁴ *Refinements to Policies and Procedures for Market-Based Rates for Wholesale Sales of Electric Energy, Capacity and Ancillary Services by Public Utilities*, 153 FERC ¶ 61,065 (“Order No. 816”) (2015), *clarified on reh’g*, Order No. 816-A, 155 FERC ¶ 61,188 (2016).

I. COMMUNICATIONS

McHenry requests that all correspondence pleadings and other communication concerning this filing be served upon the following:

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II. DESCRIPTION OF APPLICANT AND RELEVANT AFFILIATES

As required by Order Nos. 697 and 697-A (Appendix B) and Order Nos. 816 and 816-A, the generation and transmission assets of Applicant and its affiliates are set forth in Attachment A.

A. McHenry Battery Storage, LLC

McHenry is a limited liability company organized under the laws of the State of Delaware with its principal place of business in McHenry, Illinois. It is indirectly wholly-owned by EDF Renewable Energy, Inc. (“EDF-RE”). McHenry owns and operates a 20 MW (nameplate) battery that is connected to the distribution system of Commonwealth Edison Company (“ComEd”). The battery is charged from the ComEd distribution system and McHenry has entered into a Wholesale Market Participant Agreement with PJM Interconnection L.L.C. (“PJM”) in order to engage in wholesale transactions within the PJM market.⁵ Therefore, the McHenry facility functions as the

⁵ *PJM Interconnection, L.L.C.*, Docket No. ER14-2736-000, filed August 28, 2014, accepted by unpublished letter order issued Oct. 10, 2014.

equivalent of generation. Since the ComEd transmission system is subject to the operational control of PJM and McHenry is a market participant in the PJM market the relevant market for the market power analysis is the PJM balancing authority area (“BAA”). All the electric energy and capacity from the facility will be sold into the PJM market. McHenry has filed a notice of self-certification as an exempt wholesale generator.⁶

B. Upstream Ownership

EDF-RE is a holding company that is wholly owned by EDF Energies Nouvelles S.A., a French société anonyme, a company organized under the laws of France, which in turn is wholly owned by Électricité de France, S.A. (“EDF S.A.”), which is owned by the French government (84.49%), with a small percentage of shares held by the current and former employees (approx. 1.72%) and the remaining shares owned by the public.

With the exception of the direct or indirect ownership interest discussed below, EDF S.A. does not otherwise: (a) directly or indirectly own or control any generation or transmission facilities in the United States; (b) engage in wholesale sales of electric energy, or any other Commission jurisdictional transactions in the United States; (c) hold electric transmission rights and natural gas transportation rights in the United States; or (d) directly or indirectly own or control a franchised utility. In addition, EDF S.A. does not directly or indirectly own any physical natural gas transportation facilities or own or control other physical inputs to electric generation or transmission in the United States.

⁶ Notice of Self-Certification of Exempt Wholesale Generator Status, *McHenry Battery Storage, LLC*, Docket No. EG16-126- 000 (filed July 8, 2016).

EDF-RE develops, builds, operates and manages renewable energy projects throughout North America. EDF-RE provides operation and maintenance services to wind turbines across the country through another subsidiary, but the turbine owners retain ultimate decision-making authority over turbine operations. The generation owned or controlled by EDF-RE in the PJM BAA is discussed below in Section II.D. EDF-RE is not, and does not own or control, a franchised utility in North America.

EDF-RE holds an equity interest in the Sagebrush Partnership (“Sagebrush”) through its ownership interests in Oasis Power Partners, LLC. Sagebrush owns and operates a 46-mile, 230 kV transmission line that extends from the Tehachapi region of California to Southern California Edison Company’s Vincent Substation. Sagebrush has a Commission-accepted Open Access Transmission Tariff (“OATT”).⁷ EDF-RE also has an indirect ownership interest in other generation-tie line interconnection facilities, some of which are the subject of filed common facilities agreements. All of these generation-tie line interconnection facilities are limited and discrete facilities that qualify for the blanket waivers in Section 35.28(d)(2) of the regulations as promulgated by Order No. 807. EDF-RE’s ownership interest in these generation-tie line facilities is through its indirect ownership interest in the entities that own, operate, or are developing the wind and solar generation facilities that use or will use those lines to interconnect to the interstate transmission grid. Other than its indirect interest in Sagebrush, and the generator interconnection lines discussed above, EDF-RE does not directly or indirectly

⁷ *Sagebrush, a California Partnership*, Docket No. ER10-1988-001, unpublished letter order (Feb. 28, 2011). See also *Sagebrush, a California Partnership*, 130 FERC ¶ 61,093 (2010).

own or control any transmission facilities in North America. Even with its interest in these facilities, EDF-RE only owns facilities as necessary for interconnection purposes.

EDF-RE owns two landfill gas production facilities and gas gathering lines in Pennsylvania and a biogas production facility in Colorado that produces pipeline-quality gas but does not own or control any physical natural gas transportation, storage or distribution facilities, or own or control other physical inputs to electric generation or transmission. EDF-RE holds, through its subsidiaries, only those natural gas and electric energy transportation rights necessary to enable the delivery of natural gas from its landfill gas production or electric energy generated by its subsidiaries to a customer's point of receipt under long-term purchase agreements.

C. Affiliates of EDF-RE (Applicant's Indirect Parent)

1. EDF Inc.

EDF Inc. (f/k/a/ EDF Development Inc.)⁸ is a Delaware corporation and an indirect wholly-owned subsidiary of EDF S.A. EDF Inc. has a 49.99 percent interest in the Constellation Energy Nuclear Group, LLC ("CENG"). CENG owns several entities with market-based rate authority (collectively, the "CENG Nuclear Entities")⁹ that, in turn, own five operating nuclear generator units: Calvert Cliffs Unit 1 (866 MW) and Calvert Cliffs Unit 2 (842 MW), both located in the PJM balancing authority area; Nine

⁸ EDF Inc. is the entity that resulted from an internal corporate reorganization and change of name whereby Électricité de France International North America Inc. (U.S.), a wholly-owned subsidiary of EDF Development Inc. ("EDFD"), merged into EDFD. That internal corporate reorganization became effective on December 31, 2009. On January 2, 2010, EDFD changed its name to EDF Inc. *See EDF Inc.*, Notice of Name Change and Succession, Docket No. ER10-702-000 (filed Feb. 1, 2010).

⁹ *See Calvert Cliffs Nuclear Power Plant, Inc.*, Docket No. ER00-2917-001 (unpublished letter order issued Oct. 18, 2000); *Nine Mile Point Nuclear Station, LLC*, 95 FERC ¶ 61,202 (2001); *R.E. Ginna Nuclear Power Plant, LLC*, Docket No. ER04-485-000 (unpublished letter order issued Mar. 24, 2004).

Mile Point Unit 1 (627 MW) and 82 percent of Nine Mile Point Unit 2 (1428.5 MW), both located in the New York Independent System Operator, Inc. (“NYISO”) balancing authority area; and R.E. Ginna (614 MW), also located in the NYISO balancing authority area.

2. EDF Trading North America, LLC

EDF Trading North America, LLC (“EDFT”) is a Texas limited liability company with its principal place of business in Houston, Texas. EDFT is a wholly-owned direct subsidiary of EDF Trading Holdings, LLC (f/k/a EDF Trading North America, Inc.), which itself is a wholly-owned indirect subsidiary of EDF S.A. EDFT is a power marketer authorized by the Commission to engage in the wholesale sale of electricity and related services at market-based rates.¹⁰

EDFT wholly-owns EDF Energy Services, LLC¹¹ and EDF Industrial Power Services (CA), LLC¹² both limited liability companies with market-based rate authority engaged in retail marketing activities. EDFT also holds 49 percent of the common membership interests and certain preferred interests in Anahau Energy, LLC (“Anahau”), a limited liability company with its principal place of business in El Segundo, California. By letter order issued January 3, 2013, the Commission granted Anahau market-based rate authority and designated it a Category 1 Seller in all regions.¹³ Anahau does not own,

¹⁰ See *Eagle Energy Partners, Inc.*, Docket No. ER03-774-000, 1-2 (unpublished letter order issued June 11, 2003); see also *EDF Trading North America, LLC*, Notice of Name Change and Succession; Notice of Change in Status, Docket No. ER10-92-000 (filed Oct. 22, 2009).

¹¹ See *EDF Energy Services, LLC*, Docket No. ER14-2672-000 (unpublished letter order issued Sept. 23, 2014).

¹² See *EDF Industrial Power Services (CA), LLC*, Docket Nos., ER12-1825-001 (unpublished letter order issued July 20, 2012).

¹³ *Anahau Energy, LLC*, Docket No ER13-415-000 (unpublished letter order issued Jan. 3, 2013).

operate, or control any electric generation, transmission, distribution facilities or inputs to generation, and it does not have a franchised service territory or captive ratepayers.

Except as described herein, none of EDFT or its subsidiaries directly or indirectly owns or controls any electric generation, transmission, distribution facilities, or inputs to electric power production and does not have a franchised service territory or captive ratepayers.

D. Affiliates in the PJM BAA

In addition to McHenry, in the PJM BAA, EDF-RE indirectly wholly-owns or controls three other generation facilities.

Chestnut Flats Lessee, LLC (“Chestnut Flats Lessee”) is a Delaware limited liability company created to manage and operate, pursuant to a sale leaseback arrangement, a 38 MW (nameplate) capacity wind-powered generation facility located in Blair and Cambria Counties, Pennsylvania. The Chestnut Flats Lessee-operated generation facility is interconnected to the transmission system owned by Pennsylvania Electric Company (“Penelec”), and operated by PJM. Chestnut Flats Lessee was granted authority to sell at market-based rates¹⁴ and its entire output is sold under a long-term power purchase agreement to Delmarva Power & Light Company. For purposes of the market power analysis below the capacity of this facility is assumed to be uncommitted.

Kelly Creek Wind, LLC (“Kelly Creek”) is a Delaware limited liability company that is developing and will own and operate an approximately 184 MW (nameplate)

¹⁴ *Chestnut Flats Lessee, LLC*, Docket No. ER13-1641-000, unpublished letter order issued July 16, 2013.

wind-powered electric generation facility and related generation interconnection facilities to be located in Ford and Kankakee Counties in Illinois. Kelly Creek has filed a notice of self-certification as an exempt wholesale generator.¹⁵ The generation is expected to produce test power in September 2016. It will be interconnected to the transmission system owned by ComEd and operated by PJM. All the electric energy and capacity will be sold into the PJM market.

Pilot Hill Wind, LLC (“Pilot Hill”) is a Delaware limited liability company that owns and operates a 176.9 MW nameplate capacity wind-powered electric generation facility located on land straddling the border between Kankakee and Iroquois Counties in Illinois. Pilot Hill is interconnected to the transmission system owned by ComEd and operated by PJM. Pilot Hill was granted authority to sell at market-based rates¹⁶ and all of the output of Pilot Hill is sold in the PJM market.

As noted above, McHenry is also affiliated with the two CENG-owned nuclear facilities located in the PJM BAA: Calvert Cliffs Unit 1 (866 MW) and Calvert Cliffs Unit 2 (861.80 MW).

Once the Kelly Creek facility is operational, McHenry and its affiliates will own or control approximately 2,147 MW of generation capacity in the PJM BAA.

¹⁵ See Notice of Self-Certification of Exempt Wholesale Generator Status, *Kelly Creek Wind, LLC*, Docket No. EG16-110-000 (filed June 6, 2016).

¹⁶ *Pilot Hill Wind, LLC*, Docket No. ER15-1045-000, unpublished letter order issued April 28, 2015.

III. MARKET POWER ANALYSIS

The Commission permits sales of energy and capacity at market-based rates if the seller and its affiliates lack both horizontal and vertical market power in the relevant geographic market.¹⁷ Applicants must also comply with the Commission's regulations regarding affiliate abuse restrictions.¹⁸ McHenry satisfies all requirements for Commission approval to sell at market-based rates.

A. Horizontal Market Power

McHenry lacks horizontal market power. For sellers in an Independent System Operator ("ISO") or Regional Transmission Organization ("RTO"), the Commission has defined the "relevant geographic market" as the market covered by the ISO or RTO.¹⁹ As noted above, McHenry is located in the BAA operated by PJM. Thus, the relevant geographic market is the PJM BAA. For purposes of this analysis, McHenry is affiliated with five generation facilities in the PJM BAA – Chestnut Flats, Kelly Creek, Pilot Hill, and Calvert Cliffs Units 1 and 2.

The Commission permits generation owners that are unlikely to possess market power to submit streamlined applications using simplifying assumptions in their screen analyses.²⁰ The Commission also permits an applicant to rely on an analysis previously accepted by the Commission for the same balancing authority area, if it reflects recent

¹⁷ See 18 C.F.R. § 35.37; Order No. 697 at PP 12-32.

¹⁸ 18 C.F.R. § 35.39; Order No 697 at P 467.

¹⁹ Order No. 697 at P 231.

²⁰ *Id.* at PP 308, 337.

data.²¹ For purposes of this market power analysis, the analysis assumes that the collective capacity of McHenry and its affiliates in the PJM BAA is approximately 2,147 MW and conservatively assumes that all of this capacity owned or controlled by McHenry and its affiliates is uncommitted. In preparing the indicative screens, McHenry relies on the market power analysis submitted in *Panda Liberty LLC*, Docket No. ER15-1841-000 (filed Jun. 2, 2015).²² The *Panda Liberty, LLC* analysis relied upon here was accepted by the Commission in *Panda Liberty LLC*, Docket No. ER15-1841-000 (July 16, 2015) (unpublished letter order). As discussed below, and demonstrated in the screens provided at Attachment B, McHenry passes both indicative screens.

Pivotal Supplier Screen. The Pivotal Supplier screen evaluates the potential of a seller to exercise market power based on uncommitted capacity at the time of the BAA's annual peak demand.²³ "Uncommitted capacity is determined by adding the total nameplate or seasonal capacity of generation owned or controlled through contract or firm purchases, less operating reserves, native load commitments and long-term sales."²⁴ The Pivotal Supplier screen focuses on the seller's ability to exercise market power unilaterally and examines whether the market demand can be met absent the seller during

²¹ *AEP Power Marketing, Inc.*, 108 FERC ¶ 61,026 at P 175 (2004); *see also La Paloma Generating Company, LLC*, Docket No. ER00-107-006 (Dec. 9, 2010) (unpublished letter order accepting La Paloma's market power analysis, which relied on data previously accepted for the balancing authority area).

²² The market power screens relied upon from the *Panda Liberty LLC* filing are provided in Attachment B to this petition.

²³ 18 C.F.R. § 35.37(c)(1).

²⁴ Order 697 at P 38 (footnote omitted). For purposes of the horizontal market power analysis, the Commission assigns control to the owner of a generating facility absent a contractual agreement transferring such control. *Id.* at P 183. As required by Paragraph 186 of Order No. 697, McHenry hereby affirms that it has not contractually obtained control of another entity's assets in the relevant BAA.

peak times.²⁵ A seller is pivotal if demand cannot be met without some contribution of supply by the seller or its affiliates.²⁶

McHenry passes the Pivotal Supplier screen. It is not a purchaser under any power purchase agreement pursuant to which it has obtained rights to uncommitted capacity from others' facilities. As is shown in Attachment B, the Net Uncommitted Supply in the PJM BAA is 47,979 MW, whereas the generating capacity of McHenry and its affiliates located in this area is approximately 2,147 MW, significantly less than that of the PJM Net Uncommitted Supply. Accordingly, McHenry passes the Pivotal Supplier screen.

Market Share Screen. The Market Share screen addresses on a seasonal basis “whether a seller has a dominant position in the market based on the number of megawatts of uncommitted capacity owned or controlled by the seller as compared to the uncommitted capacity of the entire relevant market.”²⁷ If the applicant has less than a 20% market share in all four seasons, it passes the Market Share screen.²⁸ As is shown in Attachment B, the PJM Total Seasonal Uncommitted Capacity ranges from 73,626 MW to 81,383 MW, and McHenry and its affiliates contribute at most about 2,147 MW, which results in McHenry and its affiliates owning or controlling 2.9% or less of the supply in

²⁵ See *AEP Power Marketing, Inc.*, at P 72.

²⁶ *Id.*

²⁷ Order No. 697 at P 43.

²⁸ *Id.* at PP 44, 89; see also *AEP Power Marketing* at P 13.

the PJM market in all seasons. Accordingly, McHenry is presumed to have no market power in the PJM BAA.

B. Vertical Market Power

McHenry and its relevant affiliates also lack vertical market power. To determine whether an applicant has vertical market power, the Commission considers the ownership, operation or control of transmission facilities.²⁹ If a seller or its affiliates own such facilities, they may demonstrate a lack of market power by having an OATT on file with the Commission.³⁰ Finally, an applicant must state that it will not erect barriers to entry in the relevant market.³¹

McHenry and its relevant affiliates only own, operate, or control limited transmission-related equipment necessary to connect their facilities to the transmission grid. McHenry affirms that these interconnection facilities are limited and discrete facilities that qualify for the blanket waivers provided in Section 35.28(d)(2), promulgated by Order No. 807, with one exception. As noted above, EDF-RE holds an equity interest in the Sagebrush Line through its ownership in Oasis Power Partners, LLC. The Sagebrush Line is a 46 mile, 230 kV transmission line that transmits the inputs of its partners to the point of interconnection with the interstate transmission grid under the terms of a Commission-accepted OATT.³² The Sagebrush Line is located in the

²⁹ 18 C.F.R. § 35.37(d).

³⁰ *Id.*

³¹ *Id.*

³² *Sagebrush, a California Partnership*, Docket No. ER10-1988-001, unpublished letter order (Feb. 28, 2011). *See also Sagebrush, a California Partnership*, 130 FERC ¶ 61,093 (2010).

CAISO BAA, in the Southwest region. Accordingly, McHenry and its affiliates do not possess transmission market power and satisfy the Commission's standards with respect to any vertical market power concerns.³³

Neither McHenry nor any of its affiliates own or control inputs to electric power production that raise vertical market power concerns.

Neither McHenry nor its affiliates own or control intrastate natural gas storage or distribution facilities, physical coal supply sources, or access to the transportation of coal supplies. As noted above, EDF-RE owns two landfill gas production facilities and gas gathering lines in Pennsylvania, a biogas production facility in Colorado that produces pipeline-quality gas, and is a shipper on interstate pipelines to move the gas it produces to a market center, but does not own or control any physical natural gas transportation, storage or distribution facilities or own or control other physical inputs to electric generation or transmission.

In accordance with the Commission's regulations, McHenry hereby states that neither it nor any of its affiliates have erected barriers to entry in the relevant geographic market, and will not erect such barriers to entry. This assurance, along with the facts discussed above, demonstrates that McHenry and its affiliates do not have vertical market power.

³³ See Order No. 697 at P 21; *see also* Order No. 816 at P 210.

C. Affiliate Restrictions

The regulations restrict transactions between companies who have received market-based rate authority and affiliated public utilities.³⁴ In Order No. 697, however, the Commission clarified that these regulations do not apply when captive customers are not present.³⁵ The term “captive customer” only refers to customers served under cost-based rate regulation,³⁶ and does not refer to customers who have the ability to select a retail supplier based on rates, terms and conditions.³⁷ The customers of McHenry do not and will not fit the Commission’s definition of “captive customer.” Further, McHenry is not affiliated with a franchised public utility. Thus, the affiliate restrictions do not apply to Applicant or its affiliates.

IV. ANCILLARY SERVICES

Applicant requests authorization to sell certain ancillary services in various markets as authorized for other companies permitted to sell at market-based rates, under the terms of Applicant’s tariff. Applicant’s tariff contains terms and conditions for the sale of certain ancillary services at market-based rates consistent with Commission precedent.³⁸

³⁴ 18 C.F.R. § 35.39.

³⁵ Order No. 697 at PP 552, 589.

³⁶ 18 C.F.R. § 35.36(a)(6).

³⁷ Order No. 697 at P 479; *see also* Order No. 697-A at PP 192, 198.

³⁸ Order No. 697-A, Appendix C; *Midwest Independent Transmission System Operator, Inc.*, 123 FERC ¶ 61,297, at P 46 (2008); *Southwest Power Pool, Inc.*, 144 FERC ¶ 61,224, at P 412 (2013); and *Third-Party Provision of Ancillary Services; Accounting and Financial Reporting for New Electric Storage Technologies*, 78 Fed. Reg. 46178 (July 30, 2013), at P 200 (“*Order No. 784*”). As required by Order No. 784, Applicant’s tariff states that it will not make third-party sales of operating reserves 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 unless it has made a future filing with the Commission seeking such

V. SELLER CATEGORY

The regulations define “Category 1 Sellers” as wholesale power producers that: (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 to connect 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.³⁹ Any seller not in Category 1 is a Category 2 Seller.⁴⁰

McHenry submits that it is a Category 2 Seller in the Northeast region. As noted above McHenry and its affiliates will own or control approximately 2,147 MW of generation capacity in the PJM BAA. Therefore, pursuant to the definition of Category 1 and Category 2 Sellers in the regulations, McHenry is a Category 2 seller in the Northeast region.

McHenry submits that it is a Category 1 Seller in all other regions, specifically the Southeast, Central, Northwest, Southwest, and Southwest Power Pool regions. It is a Category 1 Seller in those regions because (i) it is a power producer with generation only in the Northeast region so it does not own or control any generation located in those regions, (ii) it does not own or operate or control transmission facilities other than those necessary for the interconnection of generation to the interconnected transmission grid,

authorization by making the required showing and receiving Commission authorization prior to making such sales. *Id.* at PP 200-202.

³⁹ 18 C.F.R. § 35.36(a) (2).

⁴⁰ 18 C.F.R. § 35.36(a) (3).

(iii) it is not affiliated with any one who owns, operates, or controls transmission facilities in the region in which its generation is located and the transmission with which it is affiliated in the Southwest region is subject to an OATT; (iv) it is not affiliated with a franchised public utility, and (v) there are no vertical market power issues raised in any of those regions.

VI. REPORTING REQUIREMENTS

McHenry agrees to comply with all the reporting requirements normally imposed on sellers permitted to sell power at market-based rates, including filing Electric Quarterly Reports, updated market power analyses, and notices of material changes in status.⁴¹ McHenry also agrees to comply with the market behavior rules.⁴² McHenry does not intend to report transactions to publishers of electricity or natural gas price indices.

VII. REQUEST FOR WAIVERS AND AUTHORIZATIONS

McHenry requests the following waivers, blanket approvals, and authorizations traditionally granted to market-based rate sellers:

- (1) Waiver of reporting requirements in subparts B and C of Part 35 of the Commission's regulations, except as to Sections 35.12(a), 35.13(b), 35.15 and 35.16;
- (2) Waiver of accounting, reporting and other requirements of Parts 41, 101(except that waiver of the provisions of Part 101 that apply to hydropower licensees is not requested with respect to licensed hydropower

⁴¹ 18 C.F.R. §§ 35.10(b), 35.42.

⁴² 18 C.F.R. § 35.41.

projects), and 141 of the Commission's regulations, except Sections 141.14 and 141.15;

- (3) Blanket authorization to issue securities or assume liabilities, under Section 204 of the FPA and Part 34 of the Commission's regulations; and
- (4) Any other waiver or authorization that the Commission finds appropriate.

VIII. REQUESTED EFFECTIVE DATE AND NOTICE PERIOD WAIVER

McHenry requests an effective date for its market-based rate tariff of July 19, 2016, one day after the filing of this tariff, and waiver of the notice period.

Pursuant to Section 35.11 of the Commission's regulations, McHenry requests waiver of the 60 day prior notice requirement of Section 35.3(a) to permit its market-based tariff to become effective one day after filing. Due to confusion about the regulatory status of batteries, McHenry failed to file a market-based rate tariff prior to making sales of ancillary services in the PJM market. This oversight came to light at the end of June and McHenry has endeavored to gather the information necessary to make this filing as quickly as possible after its discovery. Therefore, waiver of the notice requirement is requested to obtain market-based rate authorization as of the earliest possible date after filing. As demonstrated in this petition, McHenry does not exercise market power and meets all Commission requirements for market-based rate authority. Further, no customers will be harmed by the requested effective date.

McHenry has calculated the amount of its refund obligation pursuant to Commission policy⁴³ as shown in Attachment D. McHenry commits to filing a refund

⁴³ *Prior Notice and Filing Requirements Under Part II of the Federal Power Act*, 64 FERC ¶ 61,139 at 61,980, clarified, 65 FERC ¶ 61,081 (1993) ("*Prior Notice*"); and *e.g.*, *Southern California Water Co.*, 106 FERC ¶ 61,305, PP 15-16, reh'g denied, 108 FERC ¶ 61,168 (2004).

report within 30 days after the Commission order accepting its market-based rate tariff for filing.

McHenry respectfully requests privileged and confidential treatment of the cost information that is in Attachment D and marked “Contains Privileged and Confidential Information Pursuant to 18 C.F.R. § 388.112 - Do Not Release.” This cost information is commercially sensitive and is not normally publicly available. The release of such information would likely cause substantial harm to the competitive position of McHenry. McHenry is submitting a public version of this Petition, with the confidential material omitted. A proposed protective order is included as Attachment E.

IX. LIST OF DOCUMENTS SUBMITTED WITH THIS FILING

The documents included in this filing consist of the following:

1. This Petition
2. Asset Appendix (Attachment A)
3. Market power screens and supporting materials (Attachment B)
4. Market-Based Rate Tariff (Attachment C)
5. Refund Calculation (Attachment D)
6. Proposed protective order (Attachment E)

X. CONCLUSION

For the foregoing reasons, McHenry respectfully requests the Commission to issue an order (1) granting its petition for market-based rate authorization; (2) granting the requested waivers and authorizations, and (3) accepting the tariff records to be effective on July 19, 2016.

Respectfully submitted,

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Dated: [July 18, 2016]

ATTACHMENT A

ASSET APPENDIX

[Provided in separate Excel file]

ATTACHMENT B

**MARKET POWER SCREENS
AND SUPPORTING MATERIAL**

[Market Power Screens provided in separate Excel file]

Attachment B Supporting Material from Docket No. ER15-1841-000

Part I -- Pivotal Supplier Analysis

		PJM	
Row	Generation	MW	Reference (December '13 - November '14)
	Seller and Affiliate Capacity		
A	Installed Capacity	783	Exhibit JRS-2
B	Long-Term Firm Purchases	-	
C	Long-Term Firm Sales	-	
D	Imported Power	-	No affiliated uncommitted capacity in first tier markets
	Non-Affiliate Capacity		
E	Installed Capacity	193,861	Wkp-PJM Generation Summary
F	Long-Term Firm Purchases	-	
G	Long-Term Firm Sales	-	
H	Imported Power	-	Conservatively assumed to be zero
I	Balancing Authority Area Reserve Requirement	(6,338)	Wkp-PJM Oper Reserves
J	Amount of Line I Attributable to Seller, if any	-	
K	Total Uncommitted Capacity	74,845	SUM (A,B,C,D,E,F,G,H,I,M)
	Load		
L	Balancing Authority Area Annual Peak Load	141,678	Wkp-PJM Load Summary
M	Average Daily Peak Native Load in Peak Month	(113,461)	Wkp-PJM Load Summary
N	Amount of Line M Attributable to Seller, if any	-	
O	Wholesale Load	28,217	(L+M)
P	Net Uncommitted Supply	46,628	(K-O)
Q	Seller's Uncommitted Capacity	783	SUM (A,B,C,D,J,N)
R	Result of Pivotal Supplier Screen	PASS	(Pass if (Q < P) ; (Fail if Q > P)

Part II -- Market Share Analysis

PJM

Row		Winter (MW)	Spring (MW)	Summer (MW)	Fall (MW)	Reference December '13 - November '14
	Seller and Affiliate Capacity					
A	Installed Capacity	868	868	783	868	Exhibit JRS-2
B	Long-Term Firm Purchases	-	-	-	-	
C	Long-Term Firm Sales	-	-	-	-	
D	Seasonal Average Planned Outages	-	-	-	-	
E	Imported Power	-	-	-	-	No affiliated uncommitted capacity in first tier markets
	Capacity Deductions					
F	Average Peak Native Load in the Season	(112,941)	(94,813)	(114,760)	(95,808)	Wkp-PJM Load Summary
G	Amount of Line F Attributable to Seller, if any	-	-	-	-	
H	Amount of Line F Attributable to Others, if any	(112,941)	(94,813)	(114,760)	(95,808)	
I	Balancing Authority Area Reserve Requirement, if any	(6,378)	(5,428)	(6,442)	(5,495)	Wkp-PJM Oper Reserves
J	Amount of Line I Attributable to Seller, if any	-	-	-	-	
K	Amount of Line I Attributable to Others, if any	(6,378)	(5,428)	(6,442)	(5,495)	
	Non-Affiliate Capacity					
L	Installed Capacity	202,506	202,057	193,861	202,010	Wkp-PJM Generation Summary
M	Long-Term Firm Purchases	-	-	-	-	
N	Long-Term Firm Sales	-	-	-	-	
O	Local Seasonal Average Planned Outages	(3,938)	(29,277)	(1,167)	(25,214)	Wkp-Outage Summary
P	Uncommitted Capacity Imports	-	-	-	-	Conservatively assumed to be zero
	Supply Calculation					
Q	Total Competing Supply	79,249	72,539	71,492	75,493	SUM (L,M,N,O,P,H,K)
R	Seller's Uncommitted Capacity	868	868	783	868	SUM (A,B,C,D,E,G,J)
S	Total Seasonal Uncommitted Capacity	80,117	73,407	72,275	76,360	SUM (Q,R)
T	Seller's Market Share	1.1%	1.2%	1.1%	1.1%	(R/S)
	Results	PASS	PASS	PASS	PASS	Pass if T < 20%; Fail if T > 20%

ATTACHMENT D

REFUND CALCULATION

McHenry has calculated the revenues it is required to make pursuant to the Commission's *Prior Notice* policy and related precedent as set forth below. First, the time value of the revenues collected was calculated pursuant to Section 35.19(a) of the regulations. Second, a calculation was made of the difference between the market-based rates received and a cost-justified rate to determine whether a refund might be required of the difference between the two. These calculations are described in more detail below. Note that the calculations shown below are through June 2015, the last full month prior to filing. Within 30 days after the Commission issues an order accepting this market-based rate tariff filing McHenry will file a refund report with updated data consistent with the calculations shown here.

**PRIVILEGED COST INFORMATION REMOVED
PURSUANT TO 18 C.F.R. § 388.112**

(2) The term “Notes of Protected Materials” means memoranda, handwritten notes, or any other form of information (including electronic form) which copies or discloses materials described in Paragraphs 3(b)(1) or 5. Notes of Protected Materials are subject to the same restrictions provided in this order for Protected Materials except as specifically provided in this order.

(3) Protected Materials shall not include (A) any information or document contained in the files of the Commission, or any other federal or state agency, or any federal or state court, unless the information or document has been determined to be protected by such agency or court, or (B) information that is public knowledge, or which becomes public knowledge, other than through disclosure in violation of this Protective Order, or (C) any information or document labeled as “Non-Internet Public” by a Participant, in accordance with Paragraph 30 of FERC Order No. 630, FERC Stats. & Regs. ¶ 31,140. Protected Materials do include any information or document contained in the files of the Commission that has been designated as Critical Energy Infrastructure Information.

(c) The term “Non-Disclosure Certificate” shall mean the certificate annexed hereto by which Participants who have been granted access to Protected Materials shall certify their understanding that such access to Protected Materials is provided pursuant to the terms and restrictions of this Protective Order, and that such Participants have read the Protective Order and agree to be bound by it. All Non-Disclosure Certificates shall be served on all parties on the official service list maintained by the Secretary in this proceeding.

(d) The term “Reviewing Representative” shall mean a person who has signed a Non-Disclosure Certificate and who is:

- (1) Commission Litigation Staff;
- (2) an attorney who has made an appearance in this proceeding for a Participant;
- (3) attorneys, paralegals, and other employees associated for purposes of this case with an attorney described in Paragraph (2);
- (4) an expert or an employee of an expert retained by a Participant for the purpose of advising, preparing for or testifying in this proceeding;
- (5) a person designated as a Reviewing Representative by order of the Presiding Judge or the Commission; or
- (6) employees or other representatives of Participants appearing in this proceeding with significant responsibility for this docket.

4. Protected Materials shall be made available under the terms of this Protective Order only to Participants and only through their Reviewing Representatives as provided in Paragraphs 7-9.

5. Protected Materials shall remain available to Participants until the later of the date that an order terminating this proceeding becomes no longer subject to judicial review, or the

date that any other Commission proceeding relating to the Protected Material is concluded and no longer subject to judicial review. If requested to do so in writing after that date, the Participants shall, within fifteen days of such request, return the Protected Materials (excluding Notes of Protected Materials) to the Participant that produced them, or shall destroy the materials, except that copies of filings, official transcripts and exhibits in this proceeding that contain Protected Materials, and Notes of Protected Material may be retained, if they are maintained in accordance with Paragraph 6, below. Within such time period each Participant, if requested to do so, shall also submit to the producing Participant an affidavit stating that, to the best of its knowledge, all Protected Materials and all Notes of Protected Materials have been returned or have been destroyed or will be maintained in accordance with Paragraph 6. To the extent Protected Materials are not returned or destroyed, they shall remain subject to the Protective Order.

6. All Protected Materials shall be maintained by the Participant in a secure place. Access to those materials shall be limited to those Reviewing Representatives specifically authorized pursuant to Paragraphs 8-9. The Secretary shall place any Protected Materials filed with the Commission in a non-public file. By placing such documents in a nonpublic file, the Commission is not making a determination of any claim of privilege. The Commission retains the right to make determinations regarding any claim of privilege and the discretion to release information necessary to carry out its jurisdictional responsibilities. For documents submitted to Commission Litigation Staff ("Staff"), Staff shall follow the notification procedures of 18 C.F.R. § 388.112 before making public any Protected Materials.

7. Protected Materials shall be treated as confidential by each Participant and by the Reviewing Representative in accordance with the certificate executed pursuant to Paragraph 9. Protected Materials shall not be used except as necessary for the conduct of this proceeding, nor shall they be disclosed in any manner to any person except a Reviewing Representative who is engaged in the conduct of this proceeding and who needs to know the information in order to carry out that person's responsibilities in this proceeding. Reviewing Representatives may make copies of Protected Materials, but such copies become Protected Materials. Reviewing Representatives may make notes of Protected Materials, which shall be treated as Notes of Protected Materials if they disclose the contents of Protected Materials.

8. (a) If a Reviewing Representative's scope of employment includes the marketing of energy, the direct supervision of any employee or employees whose duties include the marketing of energy, the provision of consulting services to any person whose duties include the marketing of energy, or the direct supervision of any employee or employees whose duties include the marketing of energy, such Reviewing Representative may not use information contained in any Protected Materials obtained through this proceeding to give any Participant or any competitor of any Participant a commercial advantage.

(b) In the event that a Participant wishes to designate as a Reviewing Representative a person not described in Paragraph 3 (d) above, the Participant shall seek agreement from the Participant providing the Protected Materials. If an agreement is reached that person shall be a Reviewing Representative pursuant to Paragraphs 3(d) above with respect to those materials. If no agreement is reached, the Participant shall submit the disputed designation to the Presiding Judge for resolution.

9. (a) A Reviewing Representative shall not be permitted to inspect, participate in discussions regarding, or otherwise be permitted access to Protected Materials pursuant to this Protective Order unless that Reviewing Representative has first executed a Non-Disclosure Certificate provided that if an attorney qualified as a Reviewing Representative has executed such a certificate, the paralegals, secretarial and clerical personnel under the attorney's instruction, supervision or control need not do so. A copy of each Non-Disclosure Certificate shall be provided to counsel for the Participant asserting confidentiality prior to disclosure of any Protected Material to that Reviewing Representative.

(b) Attorneys qualified as Reviewing Representatives are responsible for ensuring that persons under their supervision or control comply with this order.

10. Any Reviewing Representative may disclose Protected Materials to any other Reviewing Representative as long as the disclosing Reviewing Representative and the receiving Reviewing Representative both have executed a Non-Disclosure Certificate. In the event that any Reviewing Representative to whom the Protected Materials are disclosed ceases to be engaged in these proceedings, or is employed or retained for a position whose occupant is not qualified to be a Reviewing Representative under Paragraph 3(d), access to Protected Materials by that person shall be terminated. Even if no longer engaged in this proceeding, every person who has executed a Non-Disclosure Certificate shall continue to be bound by the provisions of this Protective Order and the certification.

11. Subject to Paragraph 18, the Presiding Administrative Law Judge shall resolve any disputes arising under this Protective Order. Prior to presenting any dispute under this Protective Order to the Presiding Administrative Law Judge, the parties to the dispute shall use their best efforts to resolve it. Any participant that contests the designation of materials as protected shall notify the party that provided the protected materials by specifying in writing the materials whose designation is contested. This Protective Order shall automatically cease to apply to such materials five (5) business days after the notification is made unless the designator, within said 5-day period, files a motion with the Presiding Administrative Law Judge, with supporting affidavits, demonstrating that the materials should continue to be protected. In any challenge to the designation of materials as protected, the burden of proof shall be on the participant seeking protection. If the Presiding Administrative Law Judge finds that the materials at issue are not entitled to protection, the procedures of Paragraph 17 shall apply. The procedures described above shall not apply to protected materials designated by a Participant as Critical Energy Infrastructure Information. Materials so designated shall remain protected and subject to the provisions of this Protective Order, unless a Participant requests and obtains a determination from the Commission's Critical Energy Infrastructure Information Coordinator that such materials need not remain protected.

12. All copies of all documents reflecting Protected Materials, including the portion of the hearing testimony, exhibits, transcripts, briefs and other documents which refer to Protected Materials, shall be filed and served in sealed envelopes or other appropriate containers endorsed to the effect that they are sealed pursuant to this Protective Order. Such documents shall be marked "PROTECTED MATERIALS" or "CONTAINS PRIVILEGED INFORMATION-DO NOT RELEASE" and shall be filed under seal and served under seal upon the Presiding Judge and all Reviewing Representatives who are on

the service list. Such documents containing Critical Energy Infrastructure Information shall be additionally marked "Contains Critical Energy Infrastructure Information - Do Not Release." For anything filed under seal, redacted versions or, where an entire document is protected, a letter indicating such, will also be filed with the Commission and served on all parties on the service list and the Presiding Judge. Counsel for the producing Participant shall provide to all Participants who request the same, a list of Reviewing Representatives who are entitled to receive such material. Counsel shall take all reasonable precautions necessary to assure that Protected Materials are not distributed to unauthorized persons.

13. If any Participant desires to include, utilize or refer to any Protected Materials or information derived therefrom in testimony or exhibits during the hearing in these proceedings in such a manner that might require disclosure of such material to persons other than reviewing representatives, such participant shall first notify both counsel for the disclosing participant and the Presiding Judge of such desire, identifying with particularity each of the Protected Materials. Thereafter, use of such Protected Material will be governed by procedures determined by the Presiding Judge.

14. Nothing in this Protective Order shall be construed as precluding any Participant from objecting to the use of Protected Materials on any legal grounds.

15. Nothing in this Protective Order shall preclude any Participant from requesting the Presiding Judge, the Commission, or any other body having appropriate authority, to find that this Protective Order should not apply to all or any materials previously designated as Protected Materials pursuant to this Protective Order. The Presiding Judge may alter or amend this Protective Order as circumstances warrant at any time during the course of this proceeding.

16. Each party governed by this Protective Order has the right to seek changes in it as appropriate from the Presiding Judge or the Commission.

17. All Protected Materials filed with the Commission, the Presiding Judge, or any other judicial or administrative body, in support of, or as a part of, a motion, other pleading, brief, or other document, shall be filed and served in sealed envelopes or other appropriate containers bearing prominent markings indicating that the contents include Protected Materials subject to this Protective Order. Such documents containing Critical Energy Infrastructure Information shall be additionally marked "Contains Critical Energy Infrastructure Information – Do Not Release."

18. If the Presiding Judge finds at any time in the course of this proceeding that all or part of the Protected Materials need not be protected, those materials shall, nevertheless, be subject to the protection afforded by this Protective Order for three (3) business days from the date of issuance of the Presiding Judge's decision, and if the Participant seeking protection files an interlocutory appeal or requests that the issue be certified to the Commission, for an additional seven (7) business days. None of the Participants waives its rights to seek additional administrative or judicial remedies after the Presiding Judge's decision respecting Protected Materials or Reviewing Representatives, or the Commission's denial of any appeal thereof. The provisions of 18 C.F.R. §§ 388.112 and 388.113 shall apply to any requests for Protected Materials in the files of the Commission under the Freedom of Information Act. (5 U.S.C. § 552).

19. Nothing in this Protective Order shall be deemed to preclude any Participant from independently seeking through discovery in any other administrative or judicial proceeding information or materials produced in this proceeding under this Protective Order.

20. None of the Participants waives the right to pursue any other legal or equitable remedies that may be available in the event of actual or anticipated disclosure of Protected Materials.

21. The contents of Protected Materials or any other form of information that copies or discloses Protected Materials shall not be disclosed to anyone other than in accordance with this Protective Order and shall be used only in connection with this (these) proceeding(s). Any violation of this Protective Order and of any Non-Disclosure Certificate executed hereunder shall constitute a violation of an order of the Commission.

ATTACHMENT C

MARKET-BASED RATE TARIFF

1. **Availability**: Seller makes electric energy, capacity and ancillary services available as a power marketer under this Rate Schedule for wholesale sales to any purchaser with whom Seller has contracted.
2. **Applicability**: This Rate Schedule is applicable to all sales of electric 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 the rates established between Seller and the purchaser.
4. **Other Terms and Conditions**: All other terms and conditions shall be established by agreement between Seller and the purchaser.
5. **Ancillary Services**: Seller will make available to any purchaser with whom it has contracted, the ancillary services listed in this Paragraph.
 - a. **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.
 - b. **New York**: Seller offers regulation and frequency response service, and operating reserve service (which include 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.
 - c. **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.
 - d. **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.
 - e. **MISO**: Seller offers regulation service and operating reserve service (which include 10-minute spinning reserve and 10-minute supplemental reserve) for sale to the Midcontinent Independent System Operator, Inc. (“MISO”) and to others that are self-supplying ancillary services to MISO.
 - f. **Southwest Power Pool**: Seller offers regulation service and operating reserve service (which include 10-minute spinning reserve and 10-minute supplemental reserve) for sale to the Southwest Power Pool, Inc. (“SPP”) and to others that are self-supplying ancillary services to SPP.

- g. Third-Party Ancillary Services:** Seller Offers Regulation and Frequency Response Service, Reactive Supply and Voltage Control Service, Energy and Generator Imbalance Service, Operating Reserve-Spinning, and Operating Reserve-Supplemental. 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; and (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. Sales of Operating Reserve-Spinning and Operating Reserve-Supplemental will not include 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, except where the Commission has granted authorization. Sales of Regulation and Frequency Response Service and Reactive Supply and Voltage Control Service will not include 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, except at rates not to exceed the buying public utility transmission provider's OATT rate for the same service or where the Commission has granted authorization.
6. **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.
7. **Seller Category:** Seller is a Category 2 seller in the Northeast region and a Category 1 Seller in the Southeast, Central, Southwest Power Pool, Southwest, and Northwest regions, as defined in 18 C.F.R. § 35.36(a).
8. **Limitations and Exemptions Regarding Market-Based Rate Authority:** Seller has received waiver of the following Commission regulations: (i) Subparts B and C of Part 35, except for 18 C.F.R. §§ 35.12(a), 35.13(b), 35.15 and 35.16; (ii) Part 41, and Part 141 with the exception of 18 C.F.R. §§ 141.14 and 141.15 of the Commission's accounting and periodic reporting requirements; and (iii) Part 101, except that waiver of the provisions that apply to hydropower licensees has not been granted with respect to licensed hydropower projects. Seller has also received blanket approval under 18 C.F.R. Part 34. (See *McHenry Battery Storage, LLC*, Docket No. ER16-____-000 (2016) (unpublished letter order).)
9. **Effective Date:** This Tariff is effective on the date specified by the Commission.

FERC rendition of the electronically filed tariff records in Docket No. ER16-02226-000

Filing Data:

CID: C005323

Filing Title: McHenry Battery Storage Initial Baseline MBR Application & Notice Waiver Request

Company Filing Identifier: 271

Type of Filing Code: 390

Associated Filing Identifier:

Tariff Title: Tariffs, Agreements, and Rate Schedules

Tariff ID: 110

Payment Confirmation:

Suspension Motion: N

Tariff Record Data:

Record Content Description, Tariff Record Title, Record Version Number, Option Code:

MBR Tariff, McHenry Battery Storage FERC Electric Tariff Original Vol. 1, 0.0.0, A

Record Narrative Name:

Tariff Record ID: 233

Tariff Record Collation Value: 1000 Tariff Record Parent Identifier: 0

Proposed Date: 2016-07-19

Priority Order: 500

Record Change Type: New

Record Content Type: 1

Associated Filing Identifier:

1. **Availability:** Seller makes electric energy, capacity and ancillary services available as a power marketer under this Rate Schedule for wholesale sales to any purchaser with whom Seller has contracted.
2. **Applicability:** This Rate Schedule is applicable to all sales of electric 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 the rates established between Seller and the purchaser.
4. **Other Terms and Conditions:** All other terms and conditions shall be established by agreement between Seller and the purchaser.
5. **Ancillary Services:** Seller will make available to any purchaser with whom it has contracted, the ancillary services listed in this Paragraph.
 - a. **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.
 - b. **New York:** Seller offers regulation and frequency response service, and operating reserve service (which include 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.

- c. **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.
 - d. **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.
 - e. **MISO:** Seller offers regulation service and operating reserve service (which include 10-minute spinning reserve and 10-minute supplemental reserve) for sale to the Midcontinent Independent System Operator, Inc. (“MISO”) and to others that are self-supplying ancillary services to MISO.
 - f. **Southwest Power Pool:** Seller offers regulation service and operating reserve service (which include 10-minute spinning reserve and 10-minute supplemental reserve) for sale to the Southwest Power Pool, Inc. (“SPP”) and to others that are self-supplying ancillary services to SPP.
 - g. **Third-Party Ancillary Services:** Seller Offers Regulation and Frequency Response Service, Reactive Supply and Voltage Control Service, Energy and Generator Imbalance Service, Operating Reserve-Spinning, and Operating Reserve-Supplemental. 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; and (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. Sales of Operating Reserve-Spinning and Operating Reserve-Supplemental will not include 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, except where the Commission has granted authorization. Sales of Regulation and Frequency Response Service and Reactive Supply and Voltage Control Service will not include 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, except at rates not to exceed the buying public utility transmission provider’s OATT rate for the same service or where the Commission has granted authorization.
6. **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.

7. **Seller Category:** Seller is a Category 2 seller in the Northeast region and a Category 1 Seller in the Southeast, Central, Southwest Power Pool, Southwest, and Northwest regions, as defined in 18 C.F.R. § 35.36(a).
8. **Limitations and Exemptions Regarding Market-Based Rate Authority:** Seller has received waiver of the following Commission regulations: (i) Subparts B and C of Part 35, except for 18 C.F.R. §§ 35.12(a), 35.13(b), 35.15 and 35.16; (ii) Part 41, and Part 141 with the exception of 18 C.F.R. §§ 141.14 and 141.15 of the Commission's accounting and periodic reporting requirements; and (iii) Part 101, except that waiver of the provisions that apply to hydropower licensees has not been granted with respect to licensed hydropower projects. Seller has also received blanket approval under 18 C.F.R. Part 34. (See *McHenry Battery Storage, LLC*, Docket No. ER16-____-000 (2016) (unpublished letter order).)
9. **Effective Date:** This Tariff is effective on the date specified by the Commission.

Part II – Market Share Analysis

Applicant-> **McHenry Battery Storage, LLC**
 Study Area -> **PJM**
 Data Year -> **Dec 2013-Nov 2014**

Row	As filed by the Applicant/Seller				Reference		
	Winter (MW)	Spring (MW)	Summer (MW)	Fall (MW)			
Seller and Affiliate Capacity (owned, controlled or under LT contract)							
A	2,147	2,147	2,147	2,147	approximate combined nameplate capacity of McHenry and conservatively assumed to be zero		
A1	0	0	0	0			
B	0	0	0	0			
B1	0	0	0	0			
C	0	0	0	0			
D	0	0	0	0			
E	0	0	0	0			
Capacity Deductions							
F	112,941	94,813	114,760	95,808	Wkp-PJM Load Summary, JRS-4, Market Share Analysis,		
G	0	0	0	0			
H	112,941	94,813	114,760	95,808	Wkp-PJM Oper ReserVs, JRS-4, Market Share Analysis, F JRS-4, Market Share Analysis, Panda Liberty LLC, Docket		
I	6,378	5,428	6,442	5,495			
J	0	0	0	0			
K	6,378	5,428	6,442	5,495			
Non-Affiliate Capacity (owned, controlled or under LT contract)							
L	202,506	202,057	193,861	202,010	Wkp-PJM, Generation Summary, JRS-4, Market Share Analysis,		
L1	0	0	0	0			
M	0	0	0	0			
M1	0	0	0	0			
N	0	0	0	0			
O	3,938	29,277	1,167	25,214	Wkp-Outage Summary, JRS-4, Market Share Analysis, Pa Conservatively assumed to be zero in JRS-4		
P	0	0	0	0			
Supply Calculation							
Q	79,249	72,539	71,492	75,493			
R	2,147	2,147	2,147	2,147			
S	81,396	74,686	73,639	77,640			
T	2.6%	2.9%	2.9%	2.8%			
Results (Pass if < 20% and Fail if ≥ 20%)				Pass			
U	0	0	0	0			
V	-	-	-	-			
Do Total Imports exceed SIL value? (is U<=V)							
				No	No	No	No
Seller's Market Share w/o Competing Imports							
				2.6%	2.9%	2.9%	2.8%
				Pass	Pass	Pass	Pass

* Transmission owners filing triennials should use the SIL values from their Submittal 1, Row 10 (see *Puget Sound Energy, Inc.*, 135 FERC ¶ 61,254 (2011)). Other sellers should use Commission-accepted SIL values, if they exist for the study area and study period. If these values do not exist, sellers should use SIL values that have been filed but not accepted.

its affiliates in PJM

Panda Liberty LLC, Docket No. ER15-1841-000 (filed Jun. 2. 2015)

Panda Liberty LLC, Docket No. ER15-1841-000 (filed Jun. 2. 2015)
: No. ER15-1841-000 (filed Jun. 2. 2015)

alysis, Panda Liberty LLC, Docket No. ER15-1841-000 (filed Jun. 2. 2015)

inda Liberty LLC, Docket No. ER15-1841-000 (filed Jun. 2. 2015)

Part I – Pivotal Supplier Analysis

Applicant-> **McHenry Battery Storage, LLC**
 Market -> **PJM**
 Data Year -> **Dec 2013-Nov 2014**

Row**Reference**

Generation		
Seller and Affiliate Capacity (owned or controlled)		
A	Installed Capacity (from inside the study area)	2,147
A1	Remote Capacity (from outside the study area)	0
B	Long-Term Firm Purchases (from inside the study area)	0
B1	Long-Term Firm Purchases (from outside the study area)	0
C	Long-Term Firm Sales (in and outside the study area)	-
D	Uncommitted Capacity Imports	0
Non-Affiliate Capacity (owned or controlled)		
E	Installed Capacity (from inside the study area)	193,861
E1	Remote Capacity (from outside the study area)	0
F	Long-Term Firm Purchases (from inside the study area)	0
F1	Long-Term Firm Purchases (from outside the study area)	-
G	Long-Term Firm Sales (in and outside the study area)	-
H	Uncommitted Capacity Imports	0
I	Study Area Reserve Requirement	6,338
J	Amount of Line I Attributable to Seller, if any	-
K	Total Uncommitted Supply (A+A1+B+B1+D+E+E1+F+F1+H-C-G-I-M)	76,209
Load		
L	Balancing Authority Area Annual Peak Load	141,678
M	Average Daily Peak Native Load in Peak Month	113,461
N	Amount of Line M Attributable to Seller, if any	0
O	Wholesale Load (L-M)	28,217
P	Net Uncommitted Supply (K-O)	47,992
Q	Seller's Uncommitted Capacity (A+A1+B+B1+D-C-J-N)	2,147
	Result of Pivotal Supplier Screen (Pass if Line Q < Line P) (Fail if Line Q > Line P)	Pass
	Result of Pivotal Supplier Screen w/o Competing Imports	Pass
	Total Imports (Sum D,H), as filed by Seller ->	-
	% of SIL for Seller's imported capacity ->	#DIV/0!
	% of SIL for Other's imported capacity ->	#DIV/0!
	SIL value* ->	-
	Do Total Imports exceed the SIL value? ->	No

* Transmission owners filing triennials should use the SIL values from their Submittal 1, Row 10 (see *Puget Sound Energy, Inc.*, 135 FERC ¶ 61,254 (2011)). Other sellers should use Commission-accepted SIL values, if they exist for the study area and study period. If these values do not exist, sellers should use SIL values that have been filed but not accepted.

tes in PJM BAA

, Panda Liberty LLC, Docket No. ER15-1841-000 (filed Jun. 2. 2015)

la Liberty LLC, Docket No. ER15-1841-000 (filed Jun. 2. 2015)

la Liberty LLC, Docket No. ER15-1841-000 (filed Jun. 2. 2015)
la Liberty LLC, Docket No. ER15-1841-000 (filed Jun. 2. 2015)

A	B	C	D	E
Filing Entity and its Energy Affiliates	Docket # where MBR authority was granted	Generation Name	Owned By	Controlled By
EDF Trading North America, LLC	ER03-774	N/A	EDF Trading Holdings LLC	EDF Trading Holdings LLC
EDF Industrial Power Services (CA), LLC	ER12-1825	N/A	EDF Trading North America, LLC	EDF Trading North America, LLC
EDF Energy Services, LLC	ER14-2672	N/A	EDF Trading North America LLC	EDF Trading North America LLC
Anahau Energy, LLC	ER13-415	N/A	N/A	N/A
Allendale Biomass, LLC	N/A	N/A	Allendale Biomass	Allendale Biomass
Bellevue Solar, LLC	ER11-4380-000	N/A	Bellevue Solar	Bellevue Solar
Catalina Solar Lessee, LLC	ER13-1562-000	N/A	Catalina Solar, LLC	N/A
Champepadan Wind Power Partners, LLC	QF02-3	N/A	Champepadan	Champepadan
Chestnut Flats Lessee, LLC	ER13-1641-000	N/A	Chestnut Flats Wind, LLC	N/A
DifWind Farms LTD VI	QF87-190	N/A	DifWind VI	DifWind VI
DifWind Farms LTD VII	QF06-167-000	N/A	DifWind VII	DifWind VII
DifWind Farms LTD VIII	QF84-140	N/A	DifWind VIII	DifWind VIII
DifWind Farms LTD IX	QF06-168	N/A	DifWind IX	DifWind IX
Dorchester Biomass, LLC	N/A	N/A	Dorchester Biomass	Dorchester Biomass
EDF Renewable Wind Farm V, Inc.	QF90-57	N/A	EDF Renewable Wind Farm V	EDF Renewable Wind Farm V
Fenton Power Partners I, LLC	ER07-357-000	N/A	Fenton Power Partners	Fenton Power Partners
Great Western Wind Energy, LLC	ER16-____	N/A	Great Western Wind Energy	Great Western Wind Energy

Hoosier Wind Project, LLC	ER09-1181-000	N/A	Hoosier Wind Project	Hoosier Wind Project
Kelly Creek Wind, LLC	ER16-____	N/A	Kelly Creek Wind	Kelly Creek Wind
McHenry Battery Storage, LLC	ER16-____	N/A	McHenry Battery Storage	McHenry Battery Storage
Milo Wind Project, LLC	ER15-2131-000	N/A	Milo Wind Project, LLC	Milo Wind Project, LLC
Moulton Wind Power Partners, LLC	QF04-7	N/A	Moulton Wind	Moulton Wind
Oasis Power Partners, LLC	ER05-41-000	N/A	Oasis Power	Oasis Power
Pacific Wind Lessee, LLC	ER12-1931-000	N/A	Pacific Wind, LLC	Pacific Wind Lessee, LLC
Patterson Pass Wind Farm LLC	QF87-505	N/A	Patterson Pass	Patterson Pass
Pilot Hill Wind, LLC	ER15-1045-000	N/A	Pilot Hill Wind, LLC	Pilot Hill Wind, LLC
Roosevelt Wind Project, LLC	ER15-2130-000	N/A	Roosevelt Wind Project, LLC	Roosevelt Wind Project, LLC
Sacramento Soleil, LLC	QF08-630	N/A	Sacramento Soleil	Sacramento Soleil
Shiloh Wind Project 2, LLC	ER08-1237-000	N/A	Shiloh 2	Shiloh 2
Shiloh III Lessee, LLC	ER12-610-009	N/A	Shiloh III Wind Project, LLC	Shiloh III Lessee
Shiloh IV Lessee, LLC	ER13-338-000	N/A	Shiloh IV Wind Project	Shiloh IV Lessee
Slate Creek Wind Project, LLC	ER15-2129-000	N/A	Slate Creek Wind Project, LLC	Slate Creek Wind Project, LLC
Spearville 3, LLC	ER12-2037-000	N/A	Spearville 3, LLC	Spearville 3, LLC
Spinning Spur Wind LLC	ER12-2314	N/A	Spinning Spur Wind LLC	Spinning Spur Wind LLC
Wapsipinicon Wind Project, LLC	ER08-1288-000	N/A	Wapsipinicon	Wapsipinicon
Yamhill Solar, LLC	ER11-4381-000	N/A	Yamhill Solar	Yamhill Solar
Calvert Cliffs Nuclear Power Plant LLC	ER00-2917-000	Calvert Cliffs Nuclear Power Plant (Unit 1)	Calvert Cliffs Nuclear Power Plant LLC	Calvert Cliffs Nuclear Power Plant LLC
Calvert Cliffs Nuclear Power Plant LLC	ER00-2917-000	Calvert Cliffs Nuclear Power Plant (Unit 2)	Calvert Cliffs Nuclear Power Plant LLC	Calvert Cliffs Nuclear Power Plant LLC
R.E. Ginna Unit 1 Nuclear Power Plant, LLC	ER04-485-000	Ginna	R.E. Ginna Unit 1 Nuclear Power Plant, LLC	R.E. Ginna Unit 1 Nuclear Power Plant, LLC

Nine Mile Point Nuclear Station, LLC	ER01-1654-000	Nine Mile Point (Unit 1)	Nine Mile Point Nuclear Station, LLC	Nine Mile Point Nuclear Station, LLC
Nine Mile Point Nuclear Station, LLC	ER01-1654-000	Nine Mile Point (Unit 2)	Nine Mile Point Nuclear Station, LLC	Nine Mile Point Nuclear Station, LLC

Asset Appendix: Generation Assets

F	G	H	I	J	K
Date Control Transferred	Location		In-service Date	Capacity rating: Nameplate (MW)	Capacity Rating: Used in Filing (MW)
	Market/Balancing Authority Area	Geographic Region			
10/31/2008	N/A	N/A	N/A	N/A	
N/A	N/A	N/A	N/A	N/A	
N/A	N/A	N/A	N/A	N/A	
N/A	N/A	N/A	N/A	N/A	
N/A	Santee Cooper	Southeast	10/1/2013	19.3	19.3
N/A	PGE	Northwest	10/26/2011	1.66	1.66
N/A	CAISO	Southwest	XX/2013	110	110
N/A	MISO	Central	12/19/2001	1.98	1.98
9/30/2013	PJM	Northeast	12/29/2011	38	38
N/A	CAISO	Southwest	12/31/1984	26.8	26.8
N/A	CAISO	Southwest	1/1/1985	23	23
N/A	CAISO	Southwest	12/31/1986	15	15
N/A	CAISO	Southwest	1/1/1985	15	15
N/A	Santee Cooper	Southeast	10/1/2013	19.3	19.3
N/A	CAISO	Southwest	1989	16.2	16.2
N/A	MISO	Central	11/13/2007	205.5	205.5
N/A	SPP	Central	Oct-16	225	225

N/A	MISO	Central	Nov-09	106	106
N/A	PJM	Northeast	Oct-16	184	184
N/A	PJM	Northeast	Dec-15	20	20
N/A	SPP	SPP	Dec-15	49.65	49.65
N/A	MISO	Central	12/19/2001	1.98	1.98
N/A	CAISO	Southwest	12/24/2004	60	60
N/A	CAISO	Southwest	8/16/2012	140	140
N/A	CAISO	Southwest	Mar-95	21.7	21.7
N/A	PJM	Northeast	Sep-15	176.9	176.9
N/A	SPP	SPP	12/14/2015	250	250
N/A	CAISO	Southwest	7/14/2008	1	1
N/A	CAISO	Southwest	1/30/2009	150	150
2/16/2012	CAISO	Southwest	12/22/2011	100	100
12/27/2012	CAISO	Southwest	12/21/2012	102.5	102.5
N/A	SPP	SPP	Dec-15	150	150
N/A	SPP	SPP	10/1/2012	100.8	100.8
N/A	SPP	SPP	12/20/2012	161	161
N/A	MISO	Central	2/20/2009	100.5	100.5
N/A	PGE	Northwest	10/26/2011	1.19	1.19
11/6/2009	PJM	Northeast	5/1/1975	918	866
11/6/2009	PJM	Northeast	4/1/1977	910.7	841.8
11/6/2009	NYISO	Northeast	7/1/1970	582	582

11/6/2009	NYISO	Northeast	12/1/1969	641.8	641.8
11/6/2009	NYISO	Northeast	8/1/1988	1287	1287

L	M
Capacity Rating: Methodology Used in [K]: (N)ameplate, (S)easonal, 5-yr (U)nit, 5-yr (E)IA, (A)lternative	End Note Number (Enter text in End Note Tab)
	1
N	
N	
N	
N	2
N	
N	2
N	2
N	2
N	2
N	2
N	
N	

N	
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Asset Appendix: Transmission Assets / Natura

A	B	C	D	E	F
Filing Entity and its Energy Affiliates	Cite to Order accepting OATT or order approving the transfer of transmission facilities to an RTO or ISO	Asset Name and Use	Owned By	Controlled By	Date Control Transferred
McHenry Battery Storage, LLC	N/A	N/A	McHenry Battery Storage	McHenry Battery Storage	N/A
Oasis Power Partners, LLC	<i>Sagebrush, a California Partnership</i> , Docket No. ER10-1988-001, unpublished letter order (Feb. 28, 2011)	Sagebrush Line – gen tie line	Sagebrush Partners	Sagebrush Partners	N/A

il Gas Assets

G	H		I	J
Location		Size		End Note Number
PJM	Northeast		N/A	N/A
CAISO	Southwest		46-mile, 230kV	

Asset Appendix: Long-Term Purchased Power Agreements (PPA)

A	B	C	D	E	F	G	H	I
Filing Entity and its Energy Affiliates	Docket # where MBR Authority was granted	Seller Name	Amount of PPA (MW)	Location		Start Date (mo/da/yr)	End Date (mo/da/yr)	End Note Number
				Market/Balancing Authority Area	Geographic Region			
McHenry Battery Storage, LLC	ER16-___	N/A	N/A	PJM	Northeast	N/A	N/A	N/A
EDF Trading North America, LLC	ER03-774-000	DTE Energy Trading	10	MISO	Central	6/1/2016	5/31/2017	3, 4
EDF Trading North America, LLC	ER03-774-000	DTE Energy Trading	50	MISO	Central	6/1/2016	5/31/2017	3, 4
EDF Trading North America, LLC	ER03-774-000	DTE Energy Trading	150	MISO	Central	6/1/2016	5/31/2017	3, 4
EDF Trading North America, LLC	ER03-774-000	Dynegy Marketing and Trade	10	MISO	Central	6/1/2016	5/31/2017	3, 4
EDF Trading North America, LLC	ER03-774-000	The Energy Authority	15	MISO	Central	6/1/2016	5/31/2017	3, 4
EDF Trading North America, LLC	ER03-774-000	CMS Energy Resource Management	35	MISO	Central	6/1/2016	5/31/2017	3, 4
EDF Trading North America, LLC	ER03-774-000	NextEra Energy Power Marketing	10	MISO	Central	6/1/2016	5/31/2017	3, 4
EDF Trading North America, LLC	ER03-774-000	CMS Energy Resource Management	100	MISO	Central	6/1/2016	5/31/2017	3, 4
EDF Trading North America, LLC	ER03-774-000	Great River Energy	35	MISO	Central	6/1/2016	5/31/2017	3, 4
EDF Energy Services, LLC	ER14-2672-000	Trigen-St Louis Energy Corp.	23.8	MISO	Central	6/1/2016	5/31/2017	3, 4
EDF Trading North America, LLC	ER03-774-000	LaPaloma Generating Company, LLC	36	CAISO	Southwest	1/1/2016	12/31/2016	4, 5, 6
EDF Trading North America, LLC	ER03-774-000	Shell Energy North America	10	CAISO	Southwest	1/1/2016	12/31/2016	4, 5
EDF Trading North America, LLC	ER03-774-000	Shell Energy North America	6	CAISO	Southwest	1/1/2016	12/31/2016	4, 5
EDF Trading North America, LLC	ER03-774-000	Shell Energy North America	9	CAISO	Southwest	1/1/2016	12/31/2016	4, 5
EDF Trading North America, LLC	ER03-774-000	Calpine Energy Services, L.P.	4	CAISO	Southwest	1/1/2016	12/31/2016	4, 5
EDF Trading North America, LLC	ER03-774-000	Calpine Energy Services, L.P.	1	CAISO	Southwest	1/1/2016	12/31/2016	4, 5
EDF Trading North America, LLC	ER03-774-000	City of Vernon	6	CAISO	Southwest	1/1/2016	12/31/2016	4, 5
EDF Trading North America, LLC	ER03-774-000	Inland Empire Energy Center LLC	11	CAISO	Southwest	1/1/2016	12/31/2016	4, 5
EDF Energy Services, LLC	ER14-2672-000	Harbor Cogen	2	CAISO	Southwest	1/1/2016	12/31/2016	4, 5

End Notes for Entries in the Generation, Long-term PPA and Transmission Lists

A End Note Number	B List (Generation, PPA, or Transmission)	C Explanatory Note
1	Generation, Transmission	Table excludes assets outside the continental U.S. and in ERCOT
2	Generation	Excluded from market-power analysis per Order. 861
3	PPA	This is a bilateral transaction for the purchase of Zonal Resource Credits as defined by the MISO tariff. This is a transaction for Zonal Resource Credits only and thus is not included in any indicative market power screens.
4	PPA	The product associated with this transaction may be sold to an affiliate purchaser under a separate transaction.
5	PPA	This is a bilateral transaction for the purchase of Resource Adequacy Capacity as defined by the CAISO tariff. This is a transaction for Resource Adequacy Capacity only and thus is not included in any indicative market power screens.
6	PPA	The amount of Resource Adequacy Capacity available for purchase will vary during the term of the contract. The maximum volume in any given month is provided in column D.

Document Content(s)

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