

Appendix D

Market-Based Rate Authorization

FEDERAL ENERGY REGULATORY COMMISSION
Washington, D.C. 20426

OFFICE OF ENERGY MARKET REGULATION

In Reply Refer To:
Neosho Ridge Wind, LLC
Docket No. ER20-2669-000

Issued: September 14, 2020

Elizabeth W. Whittle
Nixon Peabody LLP
799 Ninth Street, N.W.
Suite 500
Washington, D.C. 20001

Reference: Market-Based Rate Authorization

On August 14, 2020, you filed on behalf of Neosho Ridge Wind, LLC (Applicant) an application for market-based rate authority with an accompanying tariff. The proposed market-based rate tariff provides for the sale of energy, capacity, and ancillary services at market-based rates.¹ You request on behalf of Applicant waivers commonly granted to similar market-based rate applicants. Applicant's market-based rate tariff is accepted for filing, effective August 28, 2020, as requested.² Based on your representations, Applicant is a Category 2 seller in the Southwest Power Pool (SPP)

¹ Applicant requests authorization to sell ancillary services in all of the regional transmission organization or independent system operator markets for which the Commission has approved sales of specific ancillary services. Applicant also requests authorization to engage in the sale of certain ancillary services as a third-party provider in other markets.

² Neosho Ridge Wind, LLC, FERC FPA Electric Tariff, Tariffs, Rates Schedules, and Agreements, [Market-Based Rates, FERC Electric Tariff, 0.0.0](#). The next time Applicant makes a market-based rate filing with the Commission, it must include a revised tariff in compliance with Order Nos. 697 and 697-A to include appropriate citations. *See Market-Based Rates for Wholesale Sales of Elec. Energy, Capacity & Ancillary Servs. by Pub. Utils.*, Order No. 697, 119 FERC ¶ 61,295, at P 916 (2007), *order on reh'g*, Order No. 697-A, 123 FERC ¶ 61,055, at P 384 (2008). *See also Niagara Mohawk Power Corporation*, 121 FERC ¶ 61,275 (2007) at P 8.

region and meets the criteria for a Category 1 seller in the Northeast, Southeast, Central, Northwest, and Southwest regions and is so designated.³

Your filing was noticed on August 14, 2020, with comments, protests, or interventions due on or before September 4, 2020. None were filed.

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The Commission allows power sales at market-based rates if the seller and its affiliates do not have, or have adequately mitigated, horizontal and vertical market power.⁴

You represent that Applicant is owned by Neosho Ridge Holdings, LLC and owns, operates, or controls 301 megawatts of generation capacity in the SPP balancing authority area. You submit a market power analysis for the SPP balancing authority area, which you represent demonstrates that Applicant passes both the pivotal supplier and wholesale market share screens in those market(s).⁵ Based on your representations, Applicant satisfies the Commission's requirements for market-based rate authority regarding horizontal market power.⁶

³ See *Refinements to Policies and Procedures for Market-Based Rates for Wholesale Sales of Elec. Energy, Capacity & Ancillary Servs. by Pub. Utils.*, Order No. 816, 153 FERC ¶ 61,065, at P 320 (2015). Order No. 697, 119 FERC ¶ 61,295 at PP 848-850. Applicant must file an updated market power analysis for each region in which it is designated as a Category 2 seller in compliance with the regional reporting schedule. See Order No. 816, 153 FERC ¶ 61,065 at P 353.

⁴ Order No. 697, 119 FERC ¶ 61,295 at PP 62, 399, 408, 440.

⁵ Your study of the SPP balancing authority area relies on SPP's market power analysis, which has been accepted by the Commission. See *Southwest Power Pool, Inc.*, Docket No. AD10-2-012 (June 25, 2018) (delegated order).

⁶ We note that Applicant is not being granted authority to 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. If Applicant seeks such authority, it must make the required showing and receive Commission authorization prior to making such sales. See *Third-Party Provision of Ancillary Servs.; Accounting and Financial Reporting for New Elec. Storage Technologies*, Order No. 784, 144 FERC ¶ 61,056, at PP 200-202 (2013), *order on clarification*, Order No. 784-A, 146 FERC ¶ 61,114 (2014).

With respect to vertical market power, you represent that Applicant and its affiliates either do not own, operate, or control any transmission facilities; or own, operate, or control transmission facilities that: (a) have a Commission-approved Open Access Transmission Tariff (OATT) on file; (b) are under the operational control of a regional transmission organization or an independent system operator; (c) have received waiver of the OATT requirement under 18 C.F.R. § 35.28(d)(1); or (d) satisfy the requirements for a blanket waiver under 18 C.F.R. § 35.28(d)(2).⁷ Further, you affirmatively state that Applicant and its affiliates have not erected barriers to entry and will not erect barriers to entry into the relevant market. Based on your representations, Applicant satisfies the Commission's requirements for market-based rate authority regarding vertical market power.

Waivers, Authorizations, and Reporting Requirements

Applicant's request for waiver of Subparts B and C of Part 35 of the Commission's regulations requiring the filing of cost-of-service information, except for sections 35.12(a), 35.13(b), 35.15 and 35.16 is granted. Applicant's request for waiver of Part 41 and Part 141 of the Commission's regulations concerning accounting and reporting requirements is granted with the exception of 18 C.F.R. §§ 141.14 and 141.15.⁸ Applicant's request for waiver of Part 101 of the Commission's regulations is hereby granted, with the exception that waiver of the provisions of Part 101 that apply to hydropower licensees is not granted with respect to licensed hydropower projects.⁹ Notwithstanding the waiver of the accounting and reporting requirements here, Applicant

⁷ See *Open Access and Priority Rights on Interconnection Customer's Interconnection Facilities*, Order No. 807, 150 FERC ¶ 61,211, *order on reh'g*, Order No. 807-A, 153 FERC ¶ 61,047 (2015).

⁸ See Order No. 697, 119 FERC ¶ 61,295 at PP 984-985.

⁹ Hydropower licensees are required to comply with the requirements of the Uniform System of Accounts pursuant to 18 C.F.R. Part 101 to the extent necessary to carry out their responsibilities under Part I of the Federal Power Act (FPA). We further note that a licensee's status as a market-based rate seller under Part II of the FPA does not exempt it from its accounting responsibilities as a licensee under Part I of the FPA. See Order No. 816, 153 FERC ¶ 61,065 at PP 345-350; *Seneca Gen., LLC*, 145 FERC ¶ 61,096, at P 23, n.20 (2013) (citing *Trafalgar Power, Inc.*, 87 FERC ¶ 61,207, at 61,798 (1999) (noting that "all licensees are required to comply with the requirements of the Uniform System of Accounts to the extent necessary to carry out their responsibilities under [s]ections 4(b), 10(d) and 14 of the FPA")).

is expected to keep its accounting records in accordance with generally accepted accounting principles.

Applicant requests blanket authorization under Part 34 of the Commission's regulations for all future issuances of securities and assumptions of liability. A separate notice was published in the Federal Register establishing a period during which protests could be filed. None were filed. Applicant is authorized to issue securities and assume obligations or liabilities as guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issue or assumption is for some lawful object within the corporate purposes of Applicant, compatible with the public interest, and reasonably necessary or appropriate for such purposes.¹⁰

Applicant must file Electric Quarterly Reports (EQRs) with the Commission, consistent with Order Nos. 2001¹¹ and 768.¹² Applicant must file EQRs electronically with the Commission consistent with the procedures set forth in Order No. 770.¹³ Applicant further must timely report to the Commission any change in status that would reflect a departure from the characteristics the Commission relied upon in granting market-based rate authority.¹⁴

¹⁰ See Order No. 697, 119 FERC ¶ 61,295 at PP 999-1000.

¹¹ *Revised Pub. Util. Filing Requirements*, Order No. 2001, 99 FERC ¶ 61,107, *reh'g denied*, Order No. 2001-A, 100 FERC ¶ 61,074, *reh'g denied*, Order No. 2001-B, 100 FERC ¶ 61,342, *order directing filing*, Order No. 2001-C, 101 FERC ¶ 61,314 (2002), *order directing filing*, Order No. 2001-D, 102 FERC ¶ 61,334, *order refining filing requirements*, Order No. 2001-E, 105 FERC ¶ 61,352 (2003), *order on clarification*, Order No. 2001-F, 106 FERC ¶ 61,060 (2004), *order revising filing requirements*, Order No. 2001-G, 120 FERC ¶ 61,270, *order on reh'g and clarification*, Order No. 2001-H, 121 FERC ¶ 61,289 (2007), *order revising filing requirements*, Order No. 2001-I, 125 FERC ¶ 61,103 (2008).

¹² *Elec. Mkt. Transparency Provisions of Section 220 of the Fed. Power Act*, Order No. 768, 140 FERC ¶ 61,232 (2012), *order on reh'g*, Order No. 768-A, 143 FERC ¶ 61,054 (2013).

¹³ See *Revisions to Elec. Quarterly Report Filing Process*, Order No. 770, 141 FERC ¶ 61,120, at P 3 (2012) (citing Order No. 2001, 99 FERC ¶ 61,107 at P 31).

¹⁴ 18 C.F.R. § 35.42 (2019); see also *Reporting Requirement for Changes in Status for Pub. Utils. with Market-Based Rate Auth.*, Order No. 652, 110 FERC ¶ 61,097, *order on reh'g*, Order No. 652-A, 111 FERC ¶ 61,413 (2005).

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

This action is taken pursuant to the authority delegated to the Director, Division of Electric Power Regulation - West, under 18 C.F.R. § 375.307. This order constitutes final agency action. Requests for rehearing by the Commission may be filed within 30 days of the date of issuance of this order, pursuant to 18 C.F.R § 385.713.

Issued by: Steven T. Wellner, Director, Division of Electric Power Regulation - West

Document Content (s)

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