

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;  
Nora Mead Brownell, Joseph T. Kelliher,  
and Suedeem G. Kelly.

Reliant Energy Aurora, LP,	Docket Nos.	ER01-687-003
Liberty Electric Power, LLC		ER01-2398-007
Reliant Energy Bighorn, LLC		ER01-2398-008
Reliant Energy Choctaw County, LLC		ER03-745-002
Reliant Energy Electric Solutions, LLC		ER03-618-002
Reliant Energy Hunterstown, LLC		ER03-382-002
Reliant Energy Indian River, LLC		ER01-3036-004
Reliant Energy Maryland Holdings, LLC		ER99-3143-001
Reliant Energy Mid-Atlantic Power Holdings, LLC		ER00-1749-001
Reliant Energy New Jersey Holdings, LLC		
Reliant Energy Osceola, LLC		
Reliant Energy Services, Inc.		ER00-22-001
		ER99-1801-005
Reliant Energy Seward, LLC		ER99-1801-006
Reliant Energy Shelby County, LP		ER01-3035-004
Reliant Energy Solutions East, LLC		ER00-1717-001
Twelvepole Creek, LLC		ER02-1762-002
		ER01-852-003
Reliant Energy Coolwater, Inc.		
		ER99-2082-002
Reliant Energy Ellwood, Inc.		ER02-2453-001
		ER99-2081-002
Reliant Energy Etiwanda, Inc.		ER02-2451-001
		ER99-2083-002
Reliant Energy Mandalay, Inc.		ER02-2450-001
		ER99-2080-002
Reliant Energy Ormond Beach, Inc.		ER02-2452-001
		ER99-2079-002
		ER02-2449-001
Reliant Energy Aurora, LP,		
Reliant Energy Shelby County, LP		ER05-772-000
Reliant Energy Florida, LLC		ER05-773-000
		ER05-143-001
		(Not Consolidated)

## ORDER ACCEPTING UPDATED MARKET POWER ANALYSES

(Issued May 5, 2005)

1. In this order we accept updated market power analyses filed by Reliant Energy Coolwater, Inc., Reliant Energy Ellwood, Inc., Reliant Energy Etiwanda, Inc., Reliant Energy Mandalay, Inc., Reliant Energy Ormond Beach, Inc. (collectively, Reliant Energy California Companies), and Reliant Energy Hunterstown, LLC, Reliant Energy Aurora, LP, Reliant Energy Maryland Holdings, LLC, Reliant Energy Mid-Atlantic Power Holdings, LLC, Reliant Energy New Jersey Holdings, LLC, Liberty Electric Power, LLC, Reliant Energy Seward, LLC, (collectively, Reliant Energy PJM Companies), Reliant Energy Bighorn, LLC, Reliant Energy Choctaw County, LLC, Reliant Energy Electric Solutions, LLC, Reliant Energy Osceola, LLC, Reliant Energy Services, Inc., Reliant Energy Shelby County, LP, Reliant Energy Solutions East, LLC, and Twelvepole Creek, LLC (collectively, Reliant Energy Other Companies), and Reliant Energy Indian River, LLC (currently named Reliant Energy Florida L.L.C.) (all four groups are collectively referred to as Applicants).<sup>1</sup> As discussed below, we conclude that Applicants satisfy the Commission's standards for market-based rate authority. We also accept revisions to the market-based rate tariffs of Reliant Energy California Companies, Reliant Energy Services, Inc., Reliant Energy Maryland Holdings, L.L.C., Reliant Energy New Jersey Holdings, L.L.C., Reliant Energy Shelby County, LP, Reliant Energy Osceola, L.L.C., Reliant Energy Indian River, L.L.C., Reliant Energy Aurora, LP, and Reliant Energy Mid-Atlantic Power Holdings, LLC. to include the Commission's market behavior rules.<sup>2</sup> This order benefits customers by reviewing the conditions under which market-based rate authority is granted, thus ensuring that the prices charged for jurisdictional sales are just and reasonable. Applicants' next updated market power analysis is due three years from the date of this order.

---

<sup>1</sup> See *Reliant Energy Bighorn, L.L.C., Reliant Energy Choctaw County, L.L.C., Reliant Energy Osceola, L.L.C., and Reliant Energy Florida L.L.C.*, Docket Nos. ER05-137-000, ER05-139-000, ER05-140-000, and ER05-143-000 (December 22, 2004) (unpublished letter order). In this unpublished letter order, the Commission accepted notices of cancellation by Reliant Energy Bighorn, L.L.C., Reliant Energy Choctaw County, L.L.C., and Reliant Energy Osceola, L.L.C., and the name change from Reliant Energy Indian River, L.L.C. to Reliant Energy Florida L.L.C. (Reliant Energy Florida).

<sup>2</sup> *Investigation of Terms and Conditions of Public Utility Market-Based Rate Authorizations*, 105 FERC ¶ 61,218 (2003), *order on reh'g*, 107 FERC ¶ 61,175 (2004) (Market Behavior Rules Order).

2. In this order, we also accept a notice of change in status with respect to the change in the upstream ownership of Liberty Electric Power, LLC's (Liberty) jurisdictional facilities filed by Liberty on January 19, 2005,<sup>3</sup> notices of cancellation by Reliant Energy Aurora, LP and Reliant Energy Shelby County, LP along with the proposed designations, effective on April 1, 2005, as requested.<sup>4</sup>

3. Also, in this order, we reject as outside the scope of the compliance filings of Applicants certain proposed tariff revisions that they included with their updated market power analyses.

### **Background**

4. On June 15, 2001, Reliant Energy California Companies filed an updated market power analysis pursuant to the Commission's orders granting them authority to sell electric energy and capacity at market-based rates. On November 9, 2004, Reliant Energy California Companies filed an updated market power analysis pursuant to the Commission's order issued on May 13, 2004.<sup>5</sup> The May 13 Order addressed the procedures for implementing the generation market power analysis announced on April 14, 2004, and clarified on July 8, 2004.<sup>6</sup>

5. On August 9, 2004, Reliant Energy PJM Companies, Reliant Energy Florida, and Reliant Energy Other Companies filed an updated market power analysis pursuant to the Commission's order issued on May 13, 2004.<sup>7</sup> In addition, Reliant Energy California Companies, Reliant Energy Services, Inc., Reliant Energy Maryland Holdings, L.L.C.,

---

<sup>3</sup> The Commission approved the disposition of jurisdictional facilities on February 17, 2005. *See Liberty Electric Power, LLC*, 110 FERC ¶ 62,152 (2005).

<sup>4</sup> Reliant Energy Shelby County, LP, FERC Electric Tariff, Original Vol. No. 1, Second Revised Sheet No. 1 (cancels FERC Electric Tariff, Original Vol. No. 1), and Reliant Energy Aurora, LP FERC Electric Tariff, Original Vol. No. 1, Third Revised Sheet No. 1 (cancels FERC Electric Rate Schedule No. 1). Waiver of section 35.3 of the Commission's regulations, 18 C.F.R. § 35.3 (2004), is granted to allow for the effective date noted above.

<sup>5</sup> *Acadia Power Partners, LLC*, 107 FERC ¶ 61,168 (2004) (May 13 Order).

<sup>6</sup> *AEP Power Marketing, Inc.*, 107 FERC ¶ 61,018 (April 14 Order), *order on reh'g*, 108 FERC ¶ 61,026 (2004) (July 8 Order).

<sup>7</sup> *Id.*

Reliant Energy New Jersey Holdings, L.L.C., Reliant Energy Shelby County, LP, Reliant Energy Osceola, L.L.C., Reliant Energy Indian River, L.L.C., Reliant Energy Aurora, LP, and Reliant Energy Mid-Atlantic Power Holdings, LLC. also submitted revisions to their market based rate tariffs to include the market behavior rules.

6. On April 1, 2005, Reliant Energy Aurora, LP and Reliant Energy Shelby County, LP filed notices of cancellation of their market-based rate tariffs. On January 19, 2005, Liberty filed a notice of change in status with respect to the change in the upstream ownership of Liberty's jurisdictional facilities. On April 20, 2005, Reliant Energy Florida filed a notice of change in status that reflects the fact that the total uncommitted capacity of Reliant Energy Florida has increased from 109 MW to 309 MW in the Florida Municipal Power Pool (FMPP) control area.

7. Reliant Energy California Companies state that they own and operate generation facilities located in the California Independent System Operator Corporation (CAISO) market. Reliant Energy California Companies are indirect wholly-owned subsidiaries of Reliant Energy, Inc., and state that they own approximately 3,637 MW of electric generation in CAISO and that each is an exempt wholesale generator.

8. Reliant Energy PJM Companies, Reliant Energy Other Companies, and Reliant Energy Florida state that they own and operate generation facilities and market electricity and other energy products in a number of different control areas. Reliant Energy PJM Companies state that in the PJM Interconnection, L.L.C. (PJM) market, Reliant Energy Hunterstown, Reliant Energy Seward, Liberty Electric, Reliant Energy Maryland, Reliant Energy New Jersey, and REMA together own 5,984 MW of electric generation. In the FMPP control area, the Reliant Energy Indian River facility, the only Reliant Energy affiliated generating asset in Florida, owns 609 MW of electric generation. Reliant Energy Other Companies state that their generation in the control areas of Commonwealth Edison, Ameren, Florida Power Company (FPC), American Electric Power (AEP), and Tennessee Valley Authority (TVA) were built after July 9, 1996.

### **Notice and Responsive Pleadings**

9. Notice of Reliant Energy California Companies' June 15, 2001 Filing was published in the *Federal Register*, 66 Fed. Reg. 34,440 (2001), with interventions or protests due on or before July 6, 2001. Motions to intervene and protest were filed by the People of the State of California *ex. rel.* Bill Lockyer. The California Public Utilities Commission (CPUC) filed a notice of intervention, protest and comments. Motions to intervene out-of-time and protests were filed by CAISO, Southern California Edison Company (Edison), the City and County of San Francisco (San Francisco), Pacific Gas & Electric Company (PG&E), the California Electricity Oversight Board (Board).

10. CAISO, Edison, and San Francisco protest Reliant Energy California Companies' market-based rate authority. On June 7, 2001, CAISO filed an Emergency Motion for Termination of Market-Based Rate Authority in what it believed were the appropriate Reliant dockets<sup>8</sup> requesting that Reliant Energy California Companies' market-based rate authority be removed pending Commission imposed mitigation. Edison states that, at a minimum, the Commission must require the Reliant Energy California Companies to file amended market-based rate tariffs that include a provision prohibiting their exercise of market power. Edison, San Francisco, PG&E, CPUC, and the Board assert that the hub-and-spoke analysis is not adequate to measure market power and, therefore, the Commission should order the Reliant Energy California Companies to file a market power update that does not rely on the hub-and-spoke analysis. They state that, while the results of the market analysis demonstrate that Reliant Energy California Companies lack the ability to exercise market power in California, there is substantial evidence that the Reliant Energy California Companies both have the ability to exercise market power and have done so successfully. PG&E requests that the Commission require the CAISO submit to the Commission monthly reports on hourly market clearing prices, which will be monitored carefully to check the markets for signs of abuse.

11. Notice of Reliant Energy PJM Companies, Reliant Energy Other Companies, and Reliant Energy Florida's August 9, 2004, Filing was published in the *Federal Register*, 69 Fed. Reg. 51, 658 (2004), with interventions or protests due on or before August 30, 2004. Notice of Liberty's January 19, 2005 Filing was published in the *Federal Register*, 70 Fed. Reg. 4115 (2005), with interventions or protests due on or before February 3, 2005. An errata notice, to correct the subdocket number, was issued on January 26, 2005. Notice of Reliant Energy Florida's April 20, 2005 Filing was published in the *Federal Register*, 70 Fed. Reg. 22,859 (2005), with interventions or protests due on or before May 3, 2005. None was filed.

12. Notice of Reliant Energy California Companies' November 9, 2004 Filing was published in the *Federal Register*, 69 Fed. Reg. 68,895 (2004), with interventions or protests due on or before November 26, 2004. CAISO and the Board filed a motion to intervene and comments and Edison filed a motion to intervene out-of-time. The Board states that it does not specifically protest Reliant Energy California Companies' updated triennial generation market power analysis as satisfying the Commission's interim screens adopted in the April 14 Order. However, the Board does not necessarily agree that the interim screen methodology established by the Commission is appropriate to adequately assess the potential for sellers, including the Reliant Energy California

---

<sup>8</sup> The dockets were Docket Nos. ER98-931, ER98-928, ER98-927, ER98-2878, and ER98-930, which have been overtaken by the current dockets in this order.

Companies, to exercise market power in California's energy markets, particularly given locational market power concerns within the CAISO control area.

## **Discussion**

### **Procedural Matters**

13. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedures, 18 C.F.R. § 385.214 (2004), the notices of intervention and timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding. We will grant CAISO, Edison, San Francisco, PG&E, and Board's motions to intervene out-of-time, since we find that doing so will not unduly disrupt the proceeding or place an undue burden on the parties.

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

14. The Commission allows power sales at market-based rates if the seller and its affiliates do not have, or have adequately mitigated market power in generation and transmission and cannot erect other barriers to entry. The Commission also considers whether there is evidence of affiliate abuse or reciprocal dealing.<sup>9</sup>

15. As discussed below, the Commission concludes that Applicants satisfy the Commission's standards for market-based rate authority. With regard to the protests filed in response to Reliant Energy California Companies' June 15, 2001 market power analysis, we note that the Commission has now abandoned the hub and spoke analysis, as discussed in the April 14, May 13, and July 8 Orders. As a result, we believe that the protest asserting that the hub and spoke analysis is inadequate has been adequately addressed.

### **Generation Market Power**

16. In the April 14 Order, the Commission adopted two indicative screens for assessing generation market power: the pivotal supplier screen and the wholesale market share screen.<sup>10</sup> Also, section 35.27(a) of the Commission's regulations provides that applicants shall not be required to demonstrate any lack of market power in generation

---

<sup>9</sup> See, e.g., *Progress Power Marketing, Inc.*, 76 FERC ¶ 61,155, at 61,919 (1996); *Northwest Power Marketing Co., L.L.C.*, 75 FERC ¶ 61,281, at 61,899 (1996); accord *Heartland Energy Services, Inc.*, 68 FERC ¶ 61,223, at 62,062-63 (1994).

<sup>10</sup> April 14 Order, 107 FERC ¶ 61,018 (2004).

with respect to sales from capacity constructed after July 9, 1996.<sup>11</sup> If an applicant sites generation in an area where it or its affiliates own or control other generation assets, the applicant must study whether its new capacity, when added to existing capacity, raises generation market power concerns.<sup>12</sup>

17. In their November 9, 2004 updated market analysis, Reliant Energy California Companies prepared indicative screens for the CAISO market. Reliant Energy California Companies state that they pass the indicative screens in the CAISO market.<sup>13</sup> Based on these representations, the Commission finds that Reliant Energy California Companies satisfy the Commission's generation market power standard for the grant of market-based rate authority.

18. In their August 9, 2004 updated market analysis, Reliant Energy PJM Companies and Reliant Energy Florida performed generation market power analyses using the PJM market and FMPP control area. Reliant Energy PJM Companies and Reliant Energy Florida state that they pass both indicative screens in these markets. The Commission has reviewed the generation market power screens for the PJM market and FMPP control area, including an additional 200 MW of uncommitted capacity as reported in the change in status filing, and has determined that they pass the pivotal supplier and wholesale market share screens in those markets. Accordingly, the Commission finds that Reliant Energy PJM Companies and Reliant Energy Florida satisfy the Commission's generation market power standard for the grant of market-based rate authority.

19. Reliant Energy Other Companies state that their generation in the control areas of Commonwealth Edison, Ameren, FPC, AEP and TVA was built after July 9, 1996 and these are the only affiliated assets in these control areas. Therefore, as provided in section 35.27(a) of the Commission's regulations, no interim generation market power analysis is required. Based on these representations, the Commission finds that Reliant

---

<sup>11</sup> 18 C.F.R. § 35.27(a) (2004).

<sup>12</sup> April 14 Order, 107 FERC ¶ 61,018 at P 69.

<sup>13</sup> Reliant Energy California Companies include an estimate of the simultaneous transmission import limit for their pivotal supplier and wholesale market share screens in the CAISO market. We have reviewed Reliant Energy California Companies' generation market power screens for the CAISO market, and find that they pass the generation market power screens without considering imports.

Energy Other Companies satisfy the Commission's generation market power standard for the grant of market-based rate authority.

20. With regard to the protests filed in response to Reliant Energy California Companies' June 15, 2001 market power analysis, we note that the Commission has now abandoned the hub and spoke analysis, as discussed in the April 14, May 13, and July 8 Orders. In addition, we have reviewed Reliant Energy California Companies' potential to exercise market power in generation under the two new indicative screens, the pivotal supplier screen and the wholesale market share screen, and as discussed below, the Commission finds that Reliant Energy California Companies satisfy the Commission's generation market power standard for market-based rate authority. As noted above, Edison states that the Commission must require the Reliant Energy California Companies to file amended market-based rate tariffs that include a provision prohibiting their exercise of market power. In light of the fact that Applicants have submitted the market behavior rules pursuant to the Market Behavior Rules Order and given the existence of the CAISO, which is a Commission-approved ISO, with Commission-approved mitigation and monitoring, we believe that Edison's concerns have been addressed. Regarding PG&E's request that the Commission require that the CAISO submit to the Commission monthly reports on hourly market clearing prices, the CAISO has mitigation and monitors the California markets on an on-going basis, and currently provides the hourly average prices and net volumes in its monthly Market Analysis Report publicly available on its website.<sup>14</sup> In the April 14 Order, the Commission noted that structured markets with market monitoring and mitigation generally result in a market where prices are transparent and attempts to exercise market power are sufficiently mitigated.<sup>15</sup> The Commission noted in the April 14 Order that markets with Commission-approved market monitoring and mitigation "undertake daily and hourly oversight of seller's pricing behavior to ensure, consistent with clearly established Commission approved rules, that prices do not exceed competitive levels."<sup>16</sup>

21. In addition, the Commission requires all entities with market-based rates and cost-based rates to file electronically with the Commission an Electric Quarterly Report containing: (1) a summary of the contractual terms and conditions in every effective service agreement for market-based power sales; and (2) transaction information for effective short-term (less than one year) and long-term (one year or greater) market-based

---

<sup>14</sup> See [www.caiso.com](http://www.caiso.com)

<sup>15</sup> April 14 Order, 107 FERC ¶ 61,018 at P 189.

<sup>16</sup> *Id* at P 190.



power sales during the most recent calendar quarter.<sup>17</sup> Therefore, we believe that Edison's concerns have been adequately addressed.

22. In its November 9, 2004 protest, the Board states that it does not necessarily agree that the interim screen methodology established by the Commission is appropriate to adequately assess the potential for sellers, including Reliant Energy California Companies, to exercise market power in California's energy markets, particularly given locational market power concerns within the CAISO control area. While we appreciate the concerns raised by the Board, the Commission intends to review the indicative generation market power screens in the rulemaking proceeding in Docket No. RM04-7-000.

### **Transmission Market Power**

23. Applicants state that neither they nor any of their affiliates owns, controls or operates any transmission facilities except generator leads and generator step-ups necessary to interconnect their generating facilities with the transmission grid and deliver power to the grid. Further, no intervenor has raised transmission market power concerns. Based on Applicants' representations, the Commission finds that Applicants satisfy the Commission's transmission market power standard for the grant of market-based rate authority.

### **Other Barriers to Entry**

24. Applicants state that neither they nor any of their affiliates owns or controls interstate or intrastate natural gas transmission or distribution facilities or other essential resources that could be used to restrict market entry by competing power suppliers in the relevant markets. Reliant Energy California Companies further state that their affiliates control, by long-term contract, no more than seventeen percent of the total pipeline capacity on any natural gas pipeline. Reliant Energy PJM Companies, Reliant Energy Other Companies, and Reliant Energy Florida also state that their affiliates control, by long-term contract, no more than fifteen percent of the total pipeline capacity on any natural gas pipeline. Applicants state that the amount of transportation capacity owned

---

<sup>17</sup> *Revised Public Utility Filing Requirements*, Order No. 2001, 67 Fed. Reg. 31,043 (May 8, 2002), FERC Stats. & Regs. ¶ 31,127 (2002). Required data sets for contractual and transaction information are described in Attachments B and C of Order No. 2001. The Electric Quarterly Report must be submitted to the Commission using the EQR Submission System Software, which may be downloaded from the Commission's website at <http://www.ferc.gov/docs-filing/eqr.asp>.

by them and their affiliates is not sufficient to create a barrier to entry. In addition, no intervenor has raised barrier to entry concerns. Based on these representations, the Commission is satisfied that Applicants cannot erect barriers to entry.

25. However, should Applicants or any of their affiliates deny, delay or require unreasonable terms, conditions, or rates for natural gas service to a potential electric competitor in bulk power markets, then that electric competitor may file a complaint with the Commission that could result in the suspension of Applicants' authority to sell power at market-based rates.<sup>18</sup>

### **Affiliate Abuse**

26. Applicants state that neither they nor any of their affiliates has a franchised service area for the sale of electricity. In addition, no intervenor has raised affiliate abuse concerns. As part of their updated market analyses, Applicants filed a change to their market-based rate tariffs to reflect the fact that Applicants are no longer affiliated with Reliant Energy Houston Light & Power, nor any other transmission provider, and eliminate the codes of conduct and affiliate sale provisions. As the Commission recently stated in *AES Huntington Beach, LLC, and FirstEnergy Operating Companies*,<sup>19</sup> compliance filings (such as an updated market power analysis) must be limited to the specific directives ordered by the Commission and market-based rate tariff revisions that are beyond the scope of a Commission directed compliance filing will be deemed automatically rejected at the time of filing. As a result, the tariff revisions filed to reflect that Applicants are no longer affiliated with a utility with a franchised service territory were automatically rejected. Therefore, we direct Applicants, within 30 days of the date of issuance of this order, to make a compliance filing to revise their tariffs to reflect that they are no longer affiliated with a utility with a franchised service territory. Based on Applicants' representations, and subject to the tariff revision direct herein, the Commission finds that Applicants satisfy the Commission's concerns with regard to affiliate abuse.

### **Market Behavior Rules**

27. In the Market Behavior Rules Order, the Commission directed market-based rate sellers to include as an amendment to their market-based rate tariff the market behavior

---

<sup>18</sup> See, e.g., *Louisville Gas & Electric Company*, 62 FERC ¶ 61,016 (1993).

<sup>19</sup> *AES Huntington Beach, LLC*, 111 FERC ¶ 61,079 (2005) and *FirstEnergy Operating Companies*, 111 FERC ¶ 61,032 (2005).

rules at such time as they seek continued authorization to sell at market-based rates. In their August 9 and November 9 Filing, Applicants submitted revised tariff sheets to amend their tariffs to include the market behavior rules set forth in Appendix A to the Market Behavior Rules Order. The Commission accepts the revised tariff sheets for filing.

### **Reporting Requirements**

28. Consistent with the procedures the Commission adopted in Order No. 2001, an entity with market-based rates must file electronically with the Commission an Electric Quarterly Report containing: (1) a summary of the contractual terms and conditions in every effective service agreement for market-based power sales; and (2) transaction information for effective short-term (less than one year) and long-term (one year or greater) market-based power sales during the most recent calendar quarter.<sup>20</sup> Electric Quarterly Reports must be filed quarterly no later than 30 days after the end of the reporting quarter.<sup>21</sup>

29. Applicants must timely report to the Commission any change in status that would reflect a departure from the characteristics the Commission relied upon in granting market-based rate authority.<sup>22</sup> Order No. 652 requires that the change in status reporting requirement be incorporated in the market-based rate tariff of each entity authorized to make sales at market-based rates. Accordingly, Applicants are directed, within 30 days of the date of issuance of this order, to revise their market-based rate tariffs to incorporate the following provision:

---

<sup>20</sup> *Revised Public Utility Filing Requirements*, Order No. 2001, 67 Fed. Reg. 31,043 (May 8, 2002), FERC Stats. & Regs. ¶ 31,127 (2002). Required data sets for contractual and transaction information are described in Attachments B and C of Order No. 2001. The Electric Quarterly Report must be submitted to the Commission using the EQR Submission System Software, which may be downloaded from the Commission's website at <http://www.ferc.gov/docs-filing/eqr.asp>.

<sup>21</sup> The exact dates for these reports are prescribed in 18 C.F.R. § 35.10b (2004). Failure to file an Electric Quarterly Report (without an appropriate request for extension), or failure to report an agreement in an Electric Quarterly Report, may result in forfeiture of market-based rate authority, requiring filing of a new application for market-based rate authority if the applicant wishes to resume making sales at market-based rates.

<sup>22</sup> *Reporting Requirement for Changes in Status for Public Utilities with Market-Based Rate Authority*, Order No. 652, 70 Fed. Reg. 8,253 (Feb. 18, 2005), FERC Stats. & Regs. ¶ 31,175 (2005).

[Insert market-based rate seller name] 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. A change in status includes, but is not limited to, each of the following: (i) ownership or control of generation or transmission facilities or inputs to electric power production other than fuel supplies, or (ii) affiliation with any entity not disclosed in the application for market-based rate authority that owns or controls generation or transmission facilities or inputs to electric power production, or affiliation with any entity that has a franchised service area. Any change in status must be filed no later than 30 days after the change in status occurs.

30. Applicants are directed to file an updated market analysis within three years of the date of this order, and every three years thereafter. The Commission also reserves the right to require such an analysis at any intervening time.

The Commission orders:

(A) Applicants' updated generation market power analyses are hereby accepted for filing as discussed in the body of this order.

(B) Applicants' notices of cancellation are hereby accepted for filing.

(C) Applicants' next updated market power analyses are due within three years of the date of this order as discussed in the body of this order.

(D) Applicants are directed, within 30 days of the date of issuance of this order, to revise their market-based rate tariffs to include the change in status reporting requirement adopted in Order No. 652 and to reflect that Applicants are no longer affiliated with a utility with a franchised service territory.

(E) Applicants' revised tariff sheets incorporating the market behavior rules are hereby accepted for filing effective December 17, 2003.

(F) Applicants' revised tariff sheets, with the exception of those discussed in Ordering Paragraph (E) above, are rejected, as discussed in the body of this order.

By the Commission.

( S E A L )

Linda Mitry,  
Deputy Secretary.