

171 FERC ¶ 61,008
DEPARTMENT OF ENERGY
FEDERAL ENERGY REGULATORY COMMISSION

18 CFR Part 375

[Docket No. RM20-13-000; Order No. 870]

Delegation of Authority

(April 2, 2020)

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Commission is revising its regulations to delegate authority to the Director of the Office of Energy Policy and Innovation, or the Director's designee, to take appropriate action on motions for extension of time to file, or requests or petitions for waiver of the requirements of, FERC Form No. 552 (Annual Report of Natural Gas Transactions) and FERC-730 (Report of Transmission Investment Activity).

DATES: This rule will become effective [**Insert date of publication in the FEDERAL REGISTER**]

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

171 FERC ¶ 61,008
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Neil Chatterjee, Chairman;
Richard Glick and Bernard L. McNamee
and James P. Danly.

Delegation of Authority

Docket No. RM20-13-000

ORDER NO. 870

FINAL RULE

(Issued April 2, 2020)

1. By this instant final rule, the Commission is revising its regulations to delegate further authority to its staff to take action, as provided below, effective on the date of publication of this final rule in the Federal Register.

I. Background

2. On March 13, 2020, the President issued a proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID-19). Entities regulated by the Commission have had to take unprecedented actions in response to the emergency conditions, including directing staff to work remotely for an extended period, which may disrupt, complicate, or otherwise change their normal course of business operations. Regulated entities and the public have since filed motions and other requests for Commission action to relieve regulatory burdens so that they may focus on continuity of operations and ensuring reliable operations of their systems during this emergency period. This has prompted the Commission to review its procedural regulations to ensure that the Commission's work is performed in an efficient manner.

II. Discussion

3. On September 19, 2019, the Chairman of the Commission transferred certain functions performed by the Office of Enforcement's Division of Energy Market Oversight, including the administration of FERC Form No. 552 and FERC-730, to the Office of Energy Policy and Innovation. This final rule amends 18 CFR § 375.315 to delegate authority to the Director of the Office of Energy Policy and Innovation, or the Director's designee, to take appropriate action on motions for extension of time to file, or requests or petitions for waiver of the requirements of, FERC Form No. 552 (Annual Report of Natural Gas Transactions) and FERC-730 (Report of Transmission Investment Activity). This authority was previously delegated to the Director of the Office of Enforcement.¹ Given this change, the Commission concludes it is reasonable to now delegate this authority to the Director of the Office of Energy Policy and Innovation. Further, in light of the emergency conditions related to COVID-19, this delegation of authority will allow for more efficient processing of and action on motions for extension of time to file, or requests or petitions for waiver related to FERC Form No. 552 and FERC-730. These delegations apply to uncontested matters.

4. Correspondingly, this instant final rule removes the authority previously delegated to the Commission's Office of Enforcement to grant motions for extension of time or waiver of FERC Form No. 552 and FERC-730. Now that such authority is delegated to the Director of the Commission's Office of Energy Policy and Innovation, it is

¹ See 18 CFR 375.311(r) and (s).

appropriate to delete that authority from the authority delegated to the Director of the Office of Enforcement.

III. Information Collection Statement

5. OMB's regulations require approval of certain information collection requirements imposed by agency rules.² This final rule, however, results in no new, additional, or different public reporting burden. This final rule does not require public utilities or natural gas companies to file new, additional, or different information, and it does not change the frequency with which they must file information.

IV. Environmental Analysis

6. The Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any action that may have a significant adverse effect on the human environment.³ Issuance of this final rule does not represent a major federal action having a significant adverse effect on the human environment under the Commission's regulations implementing the National Environmental Policy Act of 1969. Part 380 of the Commission's regulations lists exemptions to the requirement to draft an Environmental Analysis or Environmental Impact Statement. Included is an exemption for rules that are clarifying, corrective, or procedural or that do not substantially change

² 5 CFR 1320.13.

³ *Regulations Implementing the National Environmental Policy Act*, Order No. 486, 52 FR 47897 (Dec. 17, 1987), FERC Stats. & Regs. Preambles 1986-1990 ¶ 30,783 (1987).

the effect of the regulations being amended.⁴ This final rule is exempt under that provision.

V. Regulatory Flexibility Act

7. The Regulatory Flexibility Act of 1980 (RFA)⁵ generally requires a description and analysis of final rules that will have significant economic impact on a substantial number of small entities. This final rule changes the Commission's delegations of authority to take certain actions and does not create any additional requirements for filers. The Commission thus certifies that it will not have a significant economic impact upon participants in Commission proceedings. An analysis under the RFA is therefore not required

VI. Document Availability

8. In addition to publishing the full text of this document in the Federal Register, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the Internet through the Commission's Home Page (<http://www.ferc.gov>). At this time, the Commission has suspended access to the Commission's Public Reference Room due to the proclamation declaring a National Emergency concerning COVID-19.

9. From the Commission's Home Page on the Internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and

⁴ 18 CFR 380.4(a)(2)(ii).

⁵ 5 U.S.C. 601-12.

Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

10. User assistance is available for eLibrary and the Commission's website during normal business hours from FERC Online Support at 202-502-6652 (toll free at 1-866-208-3676) or email at ferconlinesupport@ferc.gov, or the Public Reference Room at (202) 502-8371, TTY (202) 502-8659. E-mail the Public Reference Room at public.referenceroom@ferc.gov.

VII. Effective Date

11. The Commission is issuing this rule as an instant final rule without a period for public comment. Public notice of this action, otherwise required by 5 U.S.C. 553(b), is impracticable because of the immediate need to efficiently process and act on waiver and extension requests made in response to the emergency conditions created by COVID-19. The Commission's requirement to protect the public interest creates an immediate need for this action.

12. These regulations are effective [**Insert Date of publication in the Federal Register**].

List of subjects in 18 CFR Part 375

Authority delegations

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

In consideration of the foregoing, the Commission amends part 375, chapter I, title 18, *Code of Federal Regulations*, as follows:

PART 375 – THE COMMISSION

1. The authority citation for Part 375 continues to read as follows:

Authority: 5 U.S.C. 551-557; 15 U.S.C. 717-717w, 3301-3432; 16 U.S.C. 791-825r, 2601-2645; 42 U.S.C. 7101-7352

2. Section 375.315, paragraph (a), is amended to read as follows:

§ 375.307 Delegations to the Director of the Office of Energy Policy and Innovation

* * * * *

(a) Take appropriate action on:

(1) Any notice of intervention or motion to intervene, filed in an uncontested proceeding processed by the Office of Energy Policy and Innovation;

(2) Applications or motions for extensions of time to file required filings, reports, data and information and to perform other acts required at or within a specific time by any rule, regulation, license, permit, certificate, or order by the Commission, including applications or motions for extensions of time to file the Annual Report of Natural Gas Transactions (FERC Form No. 552) and the Report of Transmission Investment Activity (FERC-730); and

(3) Requests or petitions for waiver of the requirements of the Annual Report of Natural Gas Transactions (FERC Form No. 552) and the Report of Transmission Investment Activity (FERC-730).

(4) Notification to a party if a submitted Annual Report of Natural Gas Transactions (FERC Form No. 552) or Report of Transmission Investment Activity

(FERC-730) fails to comply with applicable statutory requirements, and with all applicable Commission rules, regulations, and orders for which a waiver has not been granted, or, when appropriate notify a party that a submission is acceptable.

3. Section 375.311, paragraphs (r) and (s), are amended to read as follows:

§ 375.311 Delegations to the Director of the Office of Enforcement

* * * * *

(r) Deny or grant, in whole or in part, motions for extension of time to file, or requests for waiver of the requirements of the following forms, data collections, and reports: Annual Reports (Form Nos. 1, 1-F, 2, 2-A, and 6); Quarterly Reports (Form Nos. 3-Q and 6-Q); Annual Report of Centralized Service Companies (Form No. 60); Narrative Description of Service Company Functions (FERC-61); and Electric Quarterly Reports, as well as, where required, the electronic filing of such information (§ 385.2011 of this chapter, Procedures for filing on electronic media, paragraphs (a)(6), (c), and (e)).

(s) Provide notification if a submitted Annual Report (Form Nos. 1, 1-F, 2, 2-A, and 6), Quarterly Report (Form Nos. 3-Q and 6-Q), Annual Report of Centralized Service Companies (Form No. 60), Narrative Description of Service Company Functions (FERC-61), or Electric Quarterly Report fails to comply with applicable statutory requirements, and with all applicable Commission rules, regulations, and orders for which a waiver has not been granted, or, when appropriate, notify a party that a submission is acceptable.