

107 FERC ¶ 61, 325  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

18 CFR Part 388

(Docket No. RM04-11-000; Order No. 648)

Revised Fees for Record Requests

(Issued June 28, 2004)

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final Rule.

SUMMARY: The Federal Energy Regulatory Commission is amending its regulations to provide for the posting of all fees for specialized handling in finding, duplicating, downloading and printing of records generally available to the public at no cost through the Internet. These fees are posted on the Commission's web site and are updated as required. This revision will eliminate the requirements for section 388.109(a)(4) through section 388.109(a)(6) of the regulations, which identify fees for the reproduction, printing and delivery of specific types of documents, information, media and related services. Eliminating specific fees from the regulations and identifying them on the Commission's web site will enable the Commission to offer the availability of new and improved technology and methods of delivery as they become available rather than waiting for the regulation review and approval process to be completed.

EFFECTIVE DATE: This final rule is effective immediately upon issuance.

FOR FURTHER INFORMATION CONTACT:

Katherina Quijada-Cusack  
Office of the Executive Director  
Federal Energy Regulatory Commission  
888 First Street, N.E.  
Washington, D.C. 20426  
(202) 502-8748  
[Katherina.Quijada-Cusack@ferc.gov](mailto:Katherina.Quijada-Cusack@ferc.gov)

SUPPLEMENTARY INFORMATION:

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

Revised Fees for Record Requests

Docket No. RM04-11-000

ORDER NO. 648

FINAL RULE

(Issued June 28, 2004)

**I. INTRODUCTION**

1. The Federal Energy Regulatory Commission is amending section 388.109(a) of its regulations to provide for the posting of all fees for specialized handling in finding, duplicating, downloading and printing records that are generally available to the public at no cost through the internet. These fees are posted on the Commission's web site.

**II. BACKGROUND**

2. The Commission makes public documents available for viewing, printing and downloading through the internet.<sup>1</sup> This is accomplished using a variety of electronic systems. Using the internet for accessing documents available to the public provides improved functionality, reliability and timeliness to members of the public seeking information about Commission proceedings and other matters.<sup>2</sup> The Commission also

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<sup>1</sup>18 CFR 388.106.

<sup>2</sup>See 67 FR 10910 (Mar. 11, 2002).

makes computer workstations available for use by the public in the Public Reference Room.

3. Documents available electronically are also available to the public in various other media. Since these documents are available to the public at no charge through the internet, the Commission recovers costs incurred for producing the documents in the various other media formats. These charges are delineated on the Commission's web site.

### **III. DISCUSSION**

4. Those wishing to access Commission documents available to the public are increasingly using the internet to gain access to this information. There has been a corresponding increase in the efforts expended by the Commission to make this information available through the Commission's web site. Much of the historical data contained in the Commission's archives has been converted to electronic images on the internet and new documents available to the public are being placed on the internet as they are received. Although all of this information is available to the public at no cost, the Commission wants to ensure that it does not limit access to those who may want or need this information in an alternative format or media. Therefore, the Commission is making these documents and information available at cost in a variety of media and formats. A table of these costs is maintained on the Commission's web site.

### **IV. REGULATORY FLEXIBILITY ACT CERTIFICATION**

5. The Regulatory Flexibility Act (RFA) requires agencies to prepare certain statements, descriptions, and analyses of proposed rules that will have a significant economic impact on a substantial number of small entities.<sup>3</sup> The Commission is not required to make such an analysis if a rule would not have such an effect.

6. The Commission does not believe that this rule would have such an impact on small entities. Charges for the specialized handling in finding, duplicating, downloading and printing of records generally available to the public at no cost through the internet remain modest and the Commission considers it very unlikely that any person or entity would require such a large volume of documents for these charges to have a significant impact.

## V. ENVIRONMENTAL STATEMENT

7. 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.<sup>4</sup> Part 380 of the Commission's regulations lists a number of exemptions where an Environmental Analysis or Environmental Impact Statement will not be done. Included are exemptions for

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<sup>3</sup>5 U.S.C. 601-612.

<sup>4</sup> Order No. 486, 52 FR 47897 (Dec. 17, 1987); FERC Stats. & Regs. [Regulations Preambles 1986-1990] **&**30,783 (Dec. 10, 1984) (codified at 18 CFR Part 380).

procedural, ministerial or internal administrative actions, and for information gathering, analysis and dissemination.<sup>5</sup> This rulemaking is exempt under those provisions.

## **VI. INFORMATION COLLECTION STATEMENT**

8. The Office of Management and Budget's (OMB) regulations require that OMB approve certain information collection requirements imposed by agency rule.<sup>6</sup> This Final Rule contains no information reporting requirements, and is not subject to OMB approval.

## **VII. DOCUMENT AVAILABILITY**

9. 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 web site and in the Commission's Public Reference Room during normal business hours (8:30 a.m. to 5:00 p.m. Eastern time) at 888 First Street, N.E., Room 2A, Washington, DC 20426, (202)502-8371. User assistance for the Commission's web site is available during normal business hours from FERC Online Support at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or toll free at (866)208-3676 or for TTY, contact (202)502-8659.

## **VIII. EFFECTIVE DATE AND CONGRESSIONAL NOTIFICATION**

10. This final rule will take effect immediately upon issuance. Pursuant to 5 U.S.C.

▪ 804(3)(A), agencies are not required to notify Congress of any final rule that is a rule of particular applicability, including a rule that approves or prescribes rates, services,

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<sup>5</sup>18 CFR 380.4(1) and (5).

<sup>6</sup>5 CFR Part 1320.

corporate or financial structures, reorganizations, or accounting practices. The Commission finds that this final rule is covered by the exception. The only impact of this rule is to provide for the posting of all fees for the specialized handling in finding, duplicating, downloading and printing of records generally available to the public at no cost through the internet. It is therefore a rule of particular applicability prescribing a rate, and the provisions of 5 U.S.C. § 801 regarding Congressional review of final rules do not apply.

11. The Commission is issuing this as a final rule without a period for public comment. Under 5 U.S.C. § 553(b), notice and comment procedures are unnecessary where a rulemaking concerns only agency procedure and practice, or where the agency finds that notice and comment is unnecessary. This rule concerns only matters of agency procedure and will not significantly affect regulated entities or the general public. Therefore, the Commission finds notice and comment procedures to be unnecessary.

12. In addition, because this final rule concerns a matter of agency procedure and is not a substantive rule, the effective date provisions in 5 U.S.C. § 553(d)(3) are not applicable, and this final rule therefore is effective immediately upon issuance.

### **List of Subjects in 18 CFR Part 388**

Confidential business information, Freedom of information.

By the Commission.

( S E A L )

Magalie R. Salas,  
Secretary.

In consideration of the foregoing, the Commission amends Part 388, Chapter I,  
Title 18, of the Code of Federal Regulations as follows:

**PART 388 INFORMATION AND REQUESTS**

1. The authority citation for part 388 continues to read as follows:

Authority: 5 U.S.C. 301-305, 551, 552 (as amended), 553-557; 42 U.S.C. 7101-7352.

2. In § 388.109, revise paragraph (a)(1) to read as follows:

**§ 388.109 Fees for record requests.**

*(a) Fees for records available through the Public Reference Room – (1) General Rule.*

The fee for finding and duplicating records available in the Commission's Public Reference Room will vary depending on the size and complexity of the request. A person can obtain a copy of the schedule of fees in person or by mail from the Public Reference Room. This schedule is also available on the Commission's web site. Copies of documents also may be made on self-service duplicating machines located in the Public Reference Room. In addition, copies of data extracted from the Commission's files through electronic media are available on a reimbursable basis, upon written request to the Public Reference Room.

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3. In § 388.109, remove paragraphs (a)(4)(i), (a)(4)(ii), (a)(5) and (a)(6).