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UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

18 CFR Part 375

(Docket No. RM04-13-000)

Delegations of Authority

(Issued November 1, 2004)

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final Rule.

SUMMARY: The Federal Energy Regulatory Commission is amending its regulations governing delegations of authority to reflect a recent internal reorganization. The change is necessary to transfer certain authority to the official now responsible for the affected functions.

EFFECTIVE DATE: The rule will become effective immediately upon issuance.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Delegations of Authority

Docket No. RM04-13-000

ORDER NO. 650

FINAL RULE

(Issued November 1, 2004)

1. This Final Rule revises the Federal Energy Regulatory Commission's (Commission) regulations governing delegations of authority to reflect a recent internal reorganization. The changes will become effective immediately.
2. The Commission's Division of Regulatory Audits has been moved from the Office of the Executive Director (OED) to the Office of Market Oversight and Investigations (OMOI). It has been renamed the Division of Financial Audits (DFA). Among DFA's duties are financial audits, in which it reviews the accounting records and financial statements of jurisdictional companies to determine if they are complying with requirements of the Uniform Systems of Accounts and related Regulations of the Commission. DFA also performs other types of audits, in which it reviews the performance of a program, activity, or function in order to provide information to

improve public accountability and facilitate decision-making by parties with responsibility to oversee or initiate corrective action.

3. The transfer of DFA to OMOI requires several revisions to the delegations made by the Commission to the Director of OMOI, which are found at 18 CFR § 375.314. The changes are as follows:

- The phrase “non-financial” has been deleted from references to “non-financial audits” or “non-financial auditing” in subsections (i) and (k).
- Subsection (j) is being revised to include the authority to pass upon actual legitimate original cost and depreciation thereon, and net investment in jurisdictional companies under the conditions contained in that provision.
- New subsection (l) is being added to allow the Director of OMOI approve corrective measures with regard to billing errors, where the company agrees.

Parallel revisions are being made to delete these authorities from the Executive Director’s delegations, contained in 18 CFR § 375.312.

4. In addition, the Commission’s Division of Regulatory Accounting Policy has been moved from OED to the Office of Markets, Tariffs and Rates. Accounting Policy currently is headed by the Commission’s Chief Accountant. The Commission’s regulations, at 18 C.F.R. § 375.303, already contain several delegations made directly to the Chief Accountant; these delegations remain unchanged, although they are being renumbered in this rule. The following delegations are being added to § 375.303 to reflect the move from OED:

- The ability to sign correspondence relating to financial matters is added in new subsection (a).
- New subsection (b) is being added to include the authority to pass upon actual legitimate original cost and depreciation thereon, and net investment in jurisdictional companies under the conditions contained in that provision.
- New subsection (h) is being added to include the authority to pass upon requests for waiver under parts 352 and 356, except in matters that are controversial or involve unusually large transactions.

As with the changes related to OMOI, parallel changes are being made to delete these authorities from the Executive Director's delegations.

Information Collection Statement

5. The Office of Management and Budget's (OMB) regulations require that OMB approve certain information collection requirements imposed by agency rule. 5 C.F.R. Part 1320. This Final Rule contains no information reporting requirements and thus is not subject to OMB approval.

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.¹ The Commission has categorically excluded certain actions from this requirement as not having a significant effect on the human environment.

¹ Order No. 486, 52 FR 47897 (Dec. 17, 1987), FERC Stats. & Regs., Regulations Preambles 1986-1990, ¶ 30,783 (Dec. 10, 1987) (*codified at* 18 CFR Part 380).

Included is an exemption for procedural, ministerial or internal administrative actions.²

This rulemaking is exempt under that provision.

Regulatory Flexibility Act Certification

7. The Regulatory Flexibility Act of 1980 (RFA)³ 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 concerns a matter of internal agency procedure and the Commission therefore certifies that it will not have such an impact. An analysis under the RFA is not required.

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 FERC's Home Page (<http://www.ferc.gov>) and in FERC'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 D.C. 20426

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

² 18 C.F.R. § 380.4(1) and (5).

³ 5 U.S.C. 601-612

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

Effective Date And Congressional Notification

11. In accordance with 5 U.S.C. § 553(d)(3), the Commission finds that good cause exists to make this Final Rule effective immediately upon issuance. This Rule affects only matters of internal organization. It will have no impact upon the rights of outside parties. The Commission further finds that a period for public comment on this Rule is unnecessary. 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 internal agency procedure and will not significantly affect regulated entities or the general public.

12. The provisions of 5 U.S.C. § 801 regarding Congressional review of Final Rules do not apply to this Final Rule, because the rule concerns agency procedure and practice and will not substantially affect the rights of non-agency parties.

List of subjects in 18 CFR Part 375

Authority delegations (Government agencies)

Seals and insignia

Sunshine Act

By the Commission.

(S E A L)

Linda Mitry,
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 375.303 is amended by redesignating paragraphs (a) through (e) as paragraphs (c) through (g), and by adding paragraphs (a), (b), and (h) as follows:

§ 375.303 Delegations to the Chief Accountant.

The Commission authorizes the Chief Accountant or the Chief Accountant's designee to:

(a) Sign all correspondence with respect to financial accounting and reporting matters on behalf of the Commission.

(b) Pass upon actual legitimate original cost and depreciation thereon and the net investment in jurisdictional companies and revisions thereof.

* * * * *

(h) Deny or grant, in whole or in part, requests for waiver of the requirements of parts 352 and 356 of this chapter, except if the matters involve unusually large transactions or unique or controversial features, the Chief Accountant must present the matters to the Commission for consideration.

3. Section 375.312 is amended by deleting paragraphs (a) through (e), and by redesignating paragraphs (f) through (n) as paragraphs (a) through (i).

4. Section 375.314 is amended by removing the phrase “non-financial” from paragraphs (i) and (k), and by revising paragraph (j) and adding new paragraph (l) to read as follows:

§ 375.314 Delegations to the Director of the Office of Market Oversight and Investigations.

* * * * *

(j) Pass upon actual legitimate original cost and depreciation thereon and the net investment in jurisdictional companies and revisions thereof, and sign audit reports involving jurisdictional companies,

(1) If the company agrees with the audit report, or

(2) If the company does not agree with the audit report, provided that any notification of the opportunity for a hearing required under Section 301(a) of the Federal Power Act or Section 8(a) of the Natural Gas Act accompanies the audit report.

* * * * *

(1) With regard to billing errors noted as a result of the Commission staff's examination of automatic adjustment tariffs approved by the Commission, approve corrective measures, including recomputation of billings and refunds, to the extent the company agrees.