

120 FERC ¶ 61,134
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

18 C.F.R. Parts 2, 3c, 4, 5, 6, 8, 11, 16, 33, 35, 131, 153, 154, 157, 292, 300, 366, 375,
376, 380, 385

[Docket No. RM07-7-000; Order No. 699]

Conforming Changes

(Issued August 6, 2007)

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final Rule

SUMMARY: The Commission is issuing this Final Rule to make minor changes to its regulations. This Final Rule revises a number of references that have become outdated for various reasons. It also updates several provisions to conform to recent legislation and revises the Commission's delegations of authority both to allow the Secretary to refer complaint proceedings to the Commission's Dispute Resolution Service, and to organize better and clarify other delegations.

EFFECTIVE DATE: The rule will become effective immediately upon publication in the FEDERAL REGISTER.

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UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Sudeen G. Kelly, Marc Spitzer,
Philip D. Moeller, and Jon Wellinghoff.

Conforming Changes

Docket No. RM07-7-000

FINAL RULE

ORDER NO. 699

I. Discussion

1. This Final Rule amends a number of sections of the Commission's regulations to revise outdated references to various Commission offices. An internal reorganization in 2003 resulted in functions previously carried out by the Offices of Pipeline Regulation and Electric Power Regulation being distributed between the Offices of Markets, Tariffs and Rates (OMTR) and Energy Projects (OEP). In addition, the functions of the Office of Hydropower Licensing were moved to OEP. Since then, OMTR has been renamed the Office of Energy Markets and Reliability (OEMR). The Commission's regulations currently contain references to the three former offices, as well as several references to OMTR. This rulemaking changes these references to OEMR or OEP, as appropriate.

2. This Final Rule also revises the delegations to the Director of OEMR¹ contained in 18 C.F.R. § 375.307. The majority of these revisions are intended to organize better and to clarify those delegations rather than modify them. The revisions delete redundant language; revise language concerning electric, gas and oil filings to better ensure consistency in the delegations of authority; and reorganize the language by program.

3. In a few instances, OEMR's delegated authority has been expanded. In such cases, these authorities are intended to assist the Commission in processing routine, noncontroversial matters in an efficient manner. New section 375.307(a)(2) includes delegated authority to assist OEMR in implementing certain reliability provisions of Federal Power Act section 215, which were enacted by the Energy Policy Act of 2005.² New sections 375.307(a)(4)(iii) and (a)(6) also delegate to the Director of OEMR authority to assist in implementing the provisions of the Energy Policy Act of 2005.³ New sections 375.307(a)(10)(iii) and (iv) add delegated authority to act in routine matters involving natural gas pipeline rates and charges under section 311 of the Natural Gas

¹ The Director's delegations were recently revised to reflect the transfer of some functions to the Office of Enforcement. Delegations of Authority, 118 FERC ¶ 61,060 (2007). This Final Rule makes additional revisions.

² Pub. L. No. 109-58, 1211, 119 Stat. 594, 982-83 (2005).

³ *Id.*, 1253, 1275(b).

Policy Act of 1978⁴ that is similar to the authority delegated to the Director of OEMR to act on natural gas pipeline rates and charges under section 4 of the Natural Gas Act. New section 375.307(b)(2)(i) delegates authority to act on waiver requests for various forms, while new section 375.307(b)(3)(ii) delegates to the Director of OEMR authority to request further information relating to matters processed by OEMR. Finally, because new section 375.307(a)(4) includes authority to act on uncontested FERC-65A and FERC-65B filings, overlapping authority is being deleted from section 366.4.

4. The rule updates one of the standards of conduct for Commission employees to include a reference to a relevant provision in the Energy Policy Act of 2005. Current 18 C.F.R. § 3c.2(a), which prohibits Commission employees from disclosing nonpublic information, contains references to relevant provisions of the Federal Power Act and Natural Gas Act. The revision adds a reference to a similar statutory provision, section 1264(d) of the new Public Utility Holding Company Act of 2005, added by the Energy Policy Act, Pub. L. No. 109-58, § 1264(d), 119 Stat. 594, 974 (2005).

5. This rule also makes two changes to the delegations to the Secretary of the Commission contained in 18 C.F.R. § 375.302. The first amends § 375.302 to add a new paragraph (y), which delegates to the Secretary the authority to refer complaint proceedings to the Commission's Dispute Resolution Service (DRS). Under the new

⁴ See 18 C.F.R. § 284.123.

provision, the Secretary is authorized to direct DRS staff to contact the parties in any complaint proceeding subject to the Commission's jurisdiction so that DRS can assist the parties in determining whether use of an alternative dispute resolution (ADR) process is appropriate to address matters raised in the complaint.⁵ The Secretary is also authorized to establish a date by which DRS must report to the Commission whether an ADR process will be pursued by the parties.

6. The second change to the Secretary's delegations, new paragraph (z), allows the Secretary to specify formatting requirements for documents submitted to the Commission on electronic media. Allowing the Secretary to do so, through instructions issued to the public and posted on the Commission's web site, is more efficient and thus preferable to specifying formats in a regulation. Technological needs and capabilities change frequently. This revision will allow Commission staff to update formats without delay.

7. A minor change is being made to the Commission's regulations on recreational opportunities and development at licensed hydroelectric projects. The provision governing filing of Form No. 80⁶ is being revised to require filing with the Commission

⁵ Under the Commission's existing regulations, complainants are required to state, among other things, whether DRS, the Enforcement Hotline, tariff-based dispute resolution mechanisms, or other informal dispute resolution procedures have been used prior to the filing of the complaint and whether the complainant believes that use of an ADR process could successfully resolve the complaint. See 18 C.F.R. § 385.206(b)(9).

⁶ 18 C.F.R. § 8.11.

rather than with a Regional Office. This will facilitate electronic filing of the form, which the Commission expects to implement in the near future. In addition, we are eliminating section 8.11(a)(3), which provides that the filer need only update a previously filed form rather than file a completely new form. This change similarly anticipates electronic filing, which will allow prior forms to be easily saved, stored and edited for resubmittal.

8. The delegation to the Director of External Affairs to take necessary actions in connection with requests under the Freedom of Information Act (FOIA)⁷ is being deleted. The delegation is unnecessary because the Commission's regulations implementing FOIA afford the Director the needed authority.⁸

9. A minor clarification is being made to allow the rejection of applications for certificates of public convenience and necessity within ten business days rather than ten calendar days.⁹ This parallels similar language in the provision regarding notice of acceptance of an application.¹⁰

⁷ 5 U.S.C. 552 (2006).

⁸ 18 C.F.R. § 388.108.

⁹ 18 C.F.R. § 157.8(a).

¹⁰ 18 C.F.R. § 157.9.

10. Finally, the Commission's regulations are being revised to correct erroneous or outdated references or language in the following sections: 2.9, 4.30, 4.32, 4.33, 4.41, 4.71, 4.81, 4.92, 4.107, 5.9, 5.18, 6.1, 11.10, 16.12, 16.16, 16.19, 16.22, 131.20, 157.14, 157.209, 375.308, and 388.2201.

II. Information Collection Statement

11. The Office of Management and Budget's (OMB) regulations require that OMB approve certain information collection requirements imposed by agency rule.¹¹ This Final Rule does not contain information reporting requirements and is not subject to OMB approval.

III. Environmental Analysis

12. 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 quality of the human environment.¹² Issuance of this Final Rule does not represent a major federal action having a significant adverse effect on the quality of the human environment under the Commission's regulations implementing the National Environmental Policy Act. Part 380 of the Commission's regulations lists exemptions to the requirement to draft an Environmental Analysis or Environmental Impact Statement.

¹¹ 5 C.F.R. Part 1320.

¹² Regulations Implementing the National Environmental Policy Act, Order No. 486, 52 FR 47897 (Dec. 17, 1987), FERC Stats. & Regs. ¶ 30,783 (1987).

Included is an exemption for procedural, ministerial or internal administrative actions.¹³

This rulemaking is exempt under that provision.

IV. Regulatory Flexibility Act

13. The Regulatory Flexibility Act of 1980 (RFA)¹⁴ 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 matters 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.

V. Document Availability

14. 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>) 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 D.C. 20426.

15. 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 Microsoft Word format for viewing, printing, and/or downloading. To access this

¹³ 18 C.F.R. § 380.4(1) and (5).

¹⁴ 5 U.S.C. 601-12.

document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

16. 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 Press 0, TTY (202) 502-8659. (e-mail at public.referenceroom@ferc.gov).

VI. Effective Date and Congressional Notification

17. These regulations are effective immediately upon publication in the FEDERAL REGISTER. In accordance with 5 U.S.C. 553(d)(3), the Commission finds that good cause exists to make this Final Rule effective immediately. It concerns only matters of internal operations or is ministerial in nature and will not affect the rights of persons appearing before the Commission. There is, therefore no reason to make this rule effective at a later time.

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

19. 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 Final Rule concerns only matters of agency procedure and will not significantly affect regulated entities or the general public.

List of subjects

18 C.F.R. Part 2

Administrative practice and procedure, Electric power, Natural gas, Pipelines, Reporting and recordkeeping requirements.

18 C.F.R. Part 3c

Government employees, Standards of conduct.

18 C.F.R. Part 4

Administrative practice and procedure, Electric power, Reporting and recordkeeping requirements.

18 C.F.R. Part 5

Administrative practice and procedure, Electric power, Reporting and recordkeeping requirements.

18 C.F.R. Part 6

Electric power.

18 C.F.R. Part 8

Electric power, Recreation and recreation areas, Reporting and recordkeeping requirements.

18 C.F.R. Part 11

Electric power, Reporting and recordkeeping requirements.

18 C.F.R. Part 16

Administrative practice and procedure, Electric power, Reporting and recordkeeping requirements.

18 C.F.R. Part 33

Electric utilities, Reporting and recordkeeping requirements, Securities.

18 C.F.R. Part 35

Electric power, Reporting and recordkeeping requirements.

18 C.F.R. Part 131

Electric power, Electric power plants, Electric utilities, Natural gas, Reporting and recordkeeping requirements.

18 C.F.R. Part 153

Exports, Imports, Natural gas, Reporting and recordkeeping requirements.

18 C.F.R. Part 154

Alaska, Natural gas, Natural gas companies, Pipelines, Rate schedules and tariffs, Reporting and recordkeeping requirements.

18 C.F.R. Part 157

Administrative practice and procedure, Natural gas, Reporting and recordkeeping requirements.

18 C.F.R. Part 292

Electric power, Reporting and recordkeeping requirements.

18 C.F.R. Part 300

Electric power, Reporting and recordkeeping requirements.

18 C.F.R. Part 366

Electric power, Natural gas, Reporting and recordkeeping requirements.

18 C.F.R. Part 375

Authority delegations (Government agencies), Seals and insignia, Sunshine Act.

18 C.F.R. Part 376

Civil defense, Organization and functions (Government agencies).

18 C.F.R. Part 380

Environmental impact statements, Reporting and recordkeeping requirements.

18 C.F.R. Part 385

Administrative practice and procedure, Electric utilities, Penalties, Pipelines, Reporting and recordkeeping requirements.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Acting Deputy Secretary.

In consideration of the foregoing, the Commission amends Parts 2, 3c, 4, 5, 6, 8, 11, 16, 33, 35, 131, 153, 154, 157, 292, 300, 366, 375, 376, 380 and 385, Chapter I, Title 18, Code of Federal Regulations, as follows.

PART 2—GENERAL POLICY AND INTERPRETATIONS

1. The authority citation for Part 2 continues to read as follows:

Authority: 5 U.S.C. 601; 15 U.S.C. 717-717w, 3301-3432; 16 U.S.C. 792-825y, 2601-2645; 42 U.S.C. 4321-4361, 7101-7352; Pub. L. No. 109-58, 119 Stat. 594.2.

2. Section 2.9 is amended by revising the list following paragraph (c) to read as follows:

§ 2.9 Conditions in preliminary permits and licenses--list of and citations to "P-" and "L-" forms.

* * * * *

(c) * * *

P-1: Preliminary Permit, 11 F.P.C. 699 (December 2, 1952), 16 F.P.C. 1303 (December 4, 1956), 54 F.P.C. 1797 (October 31, 1975).

L-1: Constructed Major Project Affecting Lands of the United States, 12 F.P.C. 1262 (September 25, 1953), 32 F.P.C. 71 (July 8, 1964), 54 F.P.C. 1799 (October 31, 1975).

L-2: Unconstructed Major Project Affecting Lands of the United States, 12 F.P.C. 1137 (August 7, 1953), 17 F.P.C. 62 (January 18, 1957), 31 F.P.C. 528 (March 10,

1964), 54 F.P.C. 1808 (October 31, 1975).

L-3: Constructed Major Project Affecting Navigable Waters of the United States, 12 F.P.C. 836 (February 6, 1953), 17 F.P.C. 385 (March 4, 1957), 30 F.P.C. 1658 (November 21, 1963), 32 F.P.C. 1114 (October 15, 1964), 36 F.P.C. 971 (December 6, 1966), 40 F.P.C. 1136 (October 29, 1968), 54 F.P.C. 1817 (October 31, 1975).

L-4: Unconstructed Major Project Affecting Navigable Waters of the United States, 16 F.P.C. 1284 (November 29, 1956), 32 F.P.C. 839 (September 21, 1964), 42 F.P.C. 280 (July 30, 1969), 54 F.P.C. 1824 (October 31, 1975).

L-5: Constructed Major Project Affecting Navigable Waters and Lands of the United States, 12 F.P.C. 1329 (October 23, 1953), 17 F.P.C. 110 (January 13, 1957), 38 F.P.C. 203 (July 26, 1967), 54 F.P.C. 1832 (October 31, 1975).

L-6: Unconstructed Major Project Affecting Navigable Waters and Lands of the United States, 12 F.P.C. 1271 (September 29, 1953), 16 F.P.C. 1127 (October 29, 1956), 31 F.P.C. 284 (February 5, 1964), 34 F.P.C. 1114 (October 7, 1965), 54 F.P.C. 1842 (October 31, 1975).

L-7 (retired): Minor Project Affecting Lands of the United States, 12 F.P.C. 911 (March 30, 1953), 17 F.P.C. 486 (April 2, 1957).

L-8 (retired): Minor-Part Project (Transmission Line), 12 F.P.C. 1017 (June 12, 1953), 41 F.P.C. 217 (March 5, 1969).

L-9: Constructed Minor Project Affecting Navigable Waters of the United States, 32 F.P.C. 577 (August 10, 1964), 54 F.P.C. 1852 (October 31, 1975).

L-10: Constructed Major Project Affecting the Interests of Interstate or Foreign Commerce, 37 F.P.C. 860 (May 9, 1967), 40 F.P.C. 1489 (December 20, 1968), 54 F.P.C. 1858 (October 31, 1975).

L-11: Unconstructed Major Project Affecting the Interests of Interstate or Foreign Commerce, 34 F.P.C. 602 (August 26, 1965), 36 F.P.C. 687 (September 26, 1966), 41 F.P.C. 719 (June 6, 1969), 54 F.P.C. 1864 (October 31, 1975).

L-12: Constructed Minor Project Affecting the Interests of Interstate or Foreign Commerce, 35 F.P.C. 875 (June 3, 1966), 40 F.P.C. 1447 (December 10, 1968), 54 F.P.C. 1871 (October 31, 1975).

L-13: (retired): Unconstructed Major Project Affecting the Interests of Interstate or Foreign Commerce and Affecting Lands of the United States, 42 F.P.C. 367 (August 6, 1969).

L-14: Unconstructed Minor Project Affecting Navigable Waters of the United States, 54 F.P.C. 1876 (October 31, 1975).

L-15: Unconstructed Minor Project Affecting the Interests of Interstate or Foreign Commerce, 54 F.P.C. 1883 (October 31, 1975).

L-16: Constructed Minor Project Affecting Lands of the United States, 54 F.P.C. 1888 (October 31, 1975).

L-17: Unconstructed Minor Project Affecting Lands of the United States, 54 F.P.C. 1896 (October 31, 1975).

L-18: Constructed Minor Project Affecting Navigable Waters and Lands of the United States, 54 F.P.C. 1903 (October 31, 1975).

L-19: Unconstructed Minor Project Affecting Navigable Waters and Lands of the United States, 54 F.P.C. 1911 (October 31, 1975).

L-20: Constructed Transmission Line Project, 54 F.P.C. 1919 (October 31, 1975).

L-21: Unconstructed Transmission Line Project, 54 F.P.C. 1923 (October 31, 1975).

PART 3c—STANDARDS OF CONDUCT

3. The authority citation for Part 3c is amended to read as follows:

Authority: 15 U.S.C. 717g; 16 U.S.C. 825(b); 42 U.S.C. 7171, 7172.

4. Section 3c.2 is amended by revising paragraph (a) to read as follows:

§ 3c.2 Nonpublic information.

(a) Section 1264(d) (42 U.S.C. 16452(d)) of the Public Utility Holding Company Act of 2005, section 301(b) (16 U.S.C. 825(b)) of the Federal Power Act, and section 8(b) (15 U.S.C. 717g) of the Natural Gas Act prohibit any employee, in the absence of Commission or court direction, from divulging any fact or information which may come to his or her knowledge during the course of examination of books or other accounts.

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PART 4—LICENSES, PERMITS, EXEMPTIONS AND DETERMINATION OF PROJECT COSTS

5. The authority citation for Part 4 continues to read as follows:

Authority: 16 U.S.C. 791a–825r, 2601–2645; 42 U.S.C. 7101–7352.

6. Section 4.30 is amended by revising paragraph (b)(6)(ii) to remove the phrase "April 20, 1977" and add in its place the phrase "July 22, 2005," and by revising paragraph (b)(28)(iii) to add the phrase "(40 MW in the case of a municipal water supply project)" before the semi-colon.

7. Section 4.32 is amended by revising paragraph (h) to remove the phrase "Hydropower, Environment and Engineering" and add in its place the phrase "Hydropower Licensing."

8. Section 4.33 is amended by revising paragraph (b)(2) to add the word "except" before the phrase "as provided."

9. Section 4.41 is amended by revising paragraph (f)(4)(vii) to remove the phrase "fourteen copies" and add in its place the phrase "eight copies," and by revising paragraph (f)(6)(v) to remove the phrase "measures of facilities" and add in its place the phrase "measures or facilities."

10. Section 4.71 is amended by revising paragraph (a)(6)(i) to remove the phrase "and distribution power" and add in its place the phrase "and distributing power."

11. Section 4.81 is amended by revising paragraph (d) to remove the phrase "Exhibit 4" and add in its place the phrase "Exhibit 3."
12. Section 4.92 is amended by revising the text following paragraph (b) to remove the phrase "paragraph (b)(26)(v)" and add in its place the phrase "paragraph (b)(28)(v)."
13. Section 4.96 is amended by revising paragraph (c) to remove the phrase "Hydropower Licensing" and add in its place the phrase "Energy Projects."
14. Section 4.104 is amended by revising paragraph (c) to remove the phrase "Hydropower Licensing" and add in its place the phrase "Energy Projects."
15. Section 4.107 is amended by revising paragraph (a) to remove the phrase "the fee prescribed in § 381.601 of this chapter."

PART 5—INTEGRATED LICENSE APPLICATION PROCESS

16. The authority citation for Part 5 continues to read as follows:
Authority: 16 U.S.C. 791a-825r, 2601-2645; 42 U.S.C. 7101-7352.
17. Section 5.9 is amended by revising paragraph (b)(3) to remove the phrase "is a not resource agency" and add in its place the phrase "is not a resource agency" and by revising paragraph (b)(6) to remove the word "filed" and add in its place the word "field."
18. Section 5.18 is amended by revising paragraph (a)(5)(i) to remove the phrase "Exhibits A, B, C, D, F, and G" and add in its place the phrase "Exhibits A, F, and G."

PART 6—SURRENDER OR TERMINATION OF LICENSE

19. The authority citation for Part 6 continues to read as follows:

Authority: Secs. 6, 10(i), 13, 41 Stat. 1067, 1068, 1071, as amended, sec. 309, 49 Stat. 858; 16 U.S.C. 799, 803(i), 806, 825h; Pub. L. 96-511, 94 Stat. 2812 (44 U.S.C. 3501 et seq.), unless otherwise noted.

20. Section 6.1 is amended by revising the cross references to remove the phrase "§§ 4.40 to 4.42" and add in its place the phrase "§§ 4.40-4.41," and to remove the last sentence.

PART 8—RECREATIONAL OPPORTUNITIES AND DEVELOPMENT AT LICENSED PROJECTS

21. The authority citation for Part 8 continues to read as follows:

Authority: 5 U.S.C. 551-557; 16 U.S.C. 791a-825r; 42 U.S.C. 7101-7352.

22. Section 8.11 is amended by revising paragraph (a)(1) to remove the phrase "a Commission Regional Office" and replace it with the phrase "the Commission"; by revising paragraph (a)(2) to remove the phrase "April 1, 1991" and replace it with the phrase "April 1, 2009," and to remove the phrase "December 31, 1990" and replace it with the phrase "December 31, 2008"; by deleting paragraph (a)(3); and by renumbering paragraph (a)(4) as new paragraph (a)(3).

PART 11—ANNUAL CHARGES UNDER PART 1 OF THE FEDERAL POWER ACT

23. The authority citation for Part 11 continues to read as follows:

Authority: 16 U.S.C. 791a–825r; 42 U.S.C. 7101–7352.

24. Section 11.10 is amended by revising paragraph (c)(5) to remove the phrase "the lesser or" and add in its place the phrase "the lesser of."

PART 16—PROCEDURES RELATING TO TAKEOVER AND RELICENSING OF LICENSED PROJECTS

25. The authority citation for Part 16 continues to read as follows:

Authority: 16 U.S.C. 791a–825r; 42 U.S.C. 7101–7352.

26. Section 16.12 is amended by revising paragraph (b) to remove the phrase "16.10(d), and 16.10(e)" and add in its place the phrase "and 16.10(d)."

27. Section 16.16 is amended by revising paragraph (a) to remove the phrase "§ 385.2010" and add in its place the phrase "§ 385.212."

28. Section 16.19 is amended by revising paragraph (c)(2) to remove the phrase "[insert the effective date of the rule]" and add in its place the phrase "July 3, 1989."

29. Section 16.22 is amended by revising paragraph (b) to remove the phrase "16.9(d), and 16.20(c)" and add in its place the phrase "and 16.9(d)."

PART 33—APPLICATIONS UNDER FEDERAL POWER ACT SECTION 203

30. The authority citation for Part 33 continues to read as follows:

Authority: 16 U.S.C. 791a–825r, 2601–2645; 31 U.S.C. 9701; 42 U.S.C. 7101–7352; Pub. L. No. 109-58, 119 Stat. 594.

31. Section 33.10 is amended by removing the phrase “Markets, Tariffs and Rates” and adding in its place the phrase “Energy Markets and Reliability.”

PART 35—FILING OF RATE SCHEDULES AND TARIFFS

32. The authority citation for Part 35 continues to read as follows:

Authority: 16 U.S.C. 791a–825r, 2601–2645; 31 U.S.C. 9701; 42 U.S.C. 7101–7352.

33. Section 35.2 is amended by revising paragraph (c) to remove the phrase “Electric Power Regulation” and add in its place the phrase “Energy Markets and Reliability.”

34. Section 35.5 is amended by revising paragraph (b) to remove the phrase “Markets, Tariffs and Rates” and add in its place the phrase “Energy Markets and Reliability” and to remove the phrase "§ 375.307(k)(3)" and add in its place the phrase "§ 375.307(a)(1)(ii)."

35. Section 35.13 is amended by revising paragraph (a)(3) to remove the phrase “Electric Power Regulation” and add in its place the phrase “Energy Markets and Reliability.”

PART 131—FORMS

36. The authority citation for Part 131 continues to read as follows:

Authority: 16 U.S.C. 791a–825r, 2601–2645; 31 U.S.C. 9701; 42 U.S.C. 7101–7352.

37. Section 131.20 is amended by revising the text at paragraph (5) to remove the phrase "section 9(b)" and add in its place the phrase "section 9(a)(2)."

PART 153—APPLICATIONS FOR AUTHORIZATION TO CONSTRUCT, OPERATE OR MODIFY FACILITIES USED FOR THE EXPORT OR IMPORT OF NATURAL GAS

38. The authority citation for Part 153 continues to read as follows:

Authority: 15 U.S.C. 717b, 717o; E.O. 10485, 3 CFR, 1949-1953 Comp., p. 970, as amended by E.O. 12038, 3 CFR, 1978 Comp., p. 136, DOE Delegation Order No. 0204-112, 49 FR 6684 (February 22, 1984).

39. Section 153.8 is amended by revising paragraphs (a)(5) and (a)(6) to remove the phrase "Pipeline Regulation" and add in its place the phrase "Energy Projects."

40. Section 153.21 is amended by revising paragraph (b) to remove the phrase "Pipeline Regulation" and add in its place the phrase "Energy Projects."

PART 154—RATE SCHEDULES AND TARIFFS

41. The authority citation for Part 154 continues to read as follows:

Authority: 15 U.S.C. 717-717w; 31 U.S.C. 9701; 42 U.S.C. 7102-7352.

42. Section 154.5 is amended by removing the phrase “Pipeline Regulation” and adding in its place the phrase “Energy Markets and Reliability” and by removing the phrase “§ 375.307(b)(2)” and adding in its place the phrase “§ 375.307(a)(8)(iii).”

43. Section 154.302 is amended by revising paragraph (b) to remove the phrase “Pipeline Regulation” and add in its place the phrase “Energy Markets and Reliability.”

PART 157—APPLICATIONS FOR CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY AND FOR ORDERS PERMITTING AND APPROVING ABANDONMENT UNDER SECTION 7 OF THE NATURAL GAS ACT

44. The authority citation for Part 157 continues to read as follows:

Authority: 15 U.S.C. 717-717w.

45. Section 157.8 is amended by revising paragraph (a) to remove the phrase “Pipeline Regulation may reject the application within 10 days” and add in its place the phrase “Energy Projects or the Director of the Office of Energy Markets and Reliability may reject the application within 10 business days,” and by revising paragraph (c) to remove the phrase “Pipeline Regulation” and add in its place the phrase “Energy Projects or the

Director of the Office of Energy Markets and Reliability.”

46. Section 157.14 is amended by revising paragraph (a) to remove the phrase "G-I, G-II, and H(iv)" and add in its place the phrase "G-I, and G-II."

47. Section 157.205 is amended by revising paragraphs (c), (f), and (g) to remove the phrase “Pipeline Regulation” and add in its place the phrase “Energy Projects.”

48. Section 157.206 is amended by revising paragraph (c) to remove the phrase “Pipeline Regulation” and add in its place the phrase “Energy Projects.”

49. Section 157.208 is amended by revising paragraphs (d) and (g) to remove the phrase “Pipeline Regulation” and add in its place the phrase “Energy Projects” and by revising paragraph (d) to remove the phrase "375.307(d)" and add in its place the phrase "375.308(x)(1)."

50. Section 157.209 is amended by revising paragraph (a) to remove the phrase "§ 158.208(d)" and add in its place the phrase "§ 157.208(d)."

51. Appendix II is amended by revising paragraph (1)(b) to remove the phrase “Pipeline Regulation” and add in its place the phrase “Energy Projects.”

PART 292—REGULATIONS UNDER SECTIONS 201 AND 210 OF THE PUBLIC UTILITY REGULATORY POLICIES ACT OF 1978 WITH REGARD TO SMALL POWER PRODUCTION AND COGENERATION

52. The authority citation for Part 292 continues to read as follows:

Authority: 16 U.S.C. 791a-825r, 2601-2645; 31 U.S.C. 9701; 42 U.S.C. 7101-

7352.

53. Section 292.210 is amended by revising paragraph (e)(3) to remove the phrase “Hydropower Licensing” and add in its place the phrase “Energy Projects.”

54. Section 292.211 is amended by revising paragraphs (f) and (g) to remove the phrase “Hydropower Licensing” and add in its place the phrase “Energy Projects.”

**PART 300—CONFIRMATION AND APPROVAL OF THE RATES OF
FEDERAL POWER MARKETING ADMINISTRATIONS**

55. The authority citation for Part 300 continues to read as follows:

Authority: 16 U.S.C. 825s, 832-832l, 838-838k, 839-839h; 42 U.S.C. 7101-7352; 43 U.S.C. 485-485k.

56. Section 300.10 is amended by revising paragraph (h)(2) to remove the phrase “Electric Power Regulation” and add in its place the phrase “Energy Markets and Reliability.”

57. Section 300.20 is amended by revising paragraph (b)(1)(i) to remove the phrase “Electric Power Regulation” and add in its place the phrase “Energy Markets and Reliability.”

PART 366—PUBLIC UTILITY HOLDING COMPANY ACT OF 2005

58. The authority citation for Part 366 is amended to read as follows:

Authority: 42 U.S.C. 16451-16463.

59. Section 366.4 is amended by revising paragraphs (b)(1) and (c)(1) to read as

follows:

§ 366.4 FERC–65, notification of holding company status, FERC–65A, exemption notification, and FERC–65B, waiver notification.

* * * * *

(b) FERC–65A (exemption notification) and petitions for exemption. (1)

Persons who, pursuant to § 366.3(b)(2), seek exemption from the requirements of § 366.2 and the accounting, record-retention, and reporting requirements of §§ 366.21, 366.22, and 366.23, may seek such exemption by filing FERC–65A (exemption notification); FERC–65A must be subscribed, consistent with § 385.2005(a) of this chapter, but need not be verified. These filings will be noticed in the Federal Register; persons who file FERC–65A must include a form of notice suitable for publication in the Federal Register in accordance with the specifications in § 385.203(d) of this chapter. Persons who file FERC–65A in good faith shall be deemed to have a temporary exemption upon filing. If the Commission has taken no action within 60 days after the date of filing FERC–65A, the exemption shall be deemed to have been granted. The Commission may toll the 60-day period to request additional information or for further consideration of the request; in such case, the temporary exemption will remain in effect until such time as the Commission has determined whether to grant or deny the exemption. Authority to toll the 60-day period is delegated to the Secretary or the Secretary's designee.

(2) * * *

(c) FERC-65B (waiver notification) and petitions for waiver. (1) Persons who, pursuant to § 366.3(c), seek waiver of the accounting, record-retention, and reporting requirements of §§ 366.21, 366.22, and 366.23, may seek such waiver by filing FERC-65B (waiver notification); FERC-65B must be subscribed, consistent with § 385.2005(a) of this chapter, but need not be verified. FERC-65B will be noticed in the Federal Register; persons who file FERC-65B must include a form of notice suitable for publication in the Federal Register in accordance with the specifications in § 385.203(d) of this chapter. Persons who file FERC-65B in good faith shall be deemed to have a temporary exemption upon filing. If the Commission has taken no action within 60 days after the date of filing of FERC-65B, the waiver shall be deemed to have been granted. The Commission may toll the 60-day period to request additional information or for further consideration of the request; in such case, the temporary waiver will remain in effect until such time as the Commission has determined whether to grant or deny the waiver. Authority to toll the 60-day period is delegated to the Secretary or the Secretary's designee.

(2) * * *

* * * * *

PART 375—THE COMMISSION

60. 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.

61. Section 375.302 is revised by adding paragraphs (y) and (z) as follows:

§ 375.302 Delegations to the Secretary.

* * * * *

(y) Direct the staff of the Dispute Resolution Service (DRS) to contact the parties in a complaint proceeding and establish a date by which DRS must report to the Commission whether a dispute resolution process to address the complaint will be pursued by the parties.

(z) Specify file format requirements for submissions on electronic media or via electronic means.

62. Section 375.307 is revised to read as follows:

§ 375.307 Delegations to the Director of the Office of Energy Markets and Reliability.

The Commission authorizes the Director or the Director's designee to:

(a) Program-Specific Delegated Authority: Take the following actions with respect to the following programs:

(1) Sections 205 and 206 of the Federal Power Act.

(i) Accept for filing all uncontested tariffs or rate schedules and uncontested tariff or rate schedule changes submitted by public utilities, including changes that would result in rate increases, if they comply with all applicable statutory requirements, and with all applicable Commission rules, regulations and orders for which waivers have not been granted, or if waivers have been granted by the Commission, if the filings comply with the terms of the waivers;

(ii) Reject a tariff or rate schedule filing, unless accompanied by a request for waiver in conformity with § 385.2001 of this chapter, if it fails patently to comply with applicable statutory requirements and with all applicable Commission rules, regulations and orders;

(iii) Take appropriate action on requests or petitions for waivers of notice as provided in section 205(d) of the Federal Power Act, provided the requests conform to the requirements of § 385.2001 of this chapter;

(iv) Refer to the Chief Administrative Law Judge (Chief ALJ) for action by the Chief ALJ, with the Chief ALJ's concurrence, uncontested motions that would result in lower interim settlement rates, pending Commission action on settlement agreements;

(v) Sign and issue deficiency letters; and

(vi) Act on requests for authorization for a designated representative to post and file rate schedules of public utilities which are parties to the same rate schedules.

(2) Section 215 of the Federal Power Act.

(i) Approve uncontested applications, including uncontested revisions to Electric Reliability Organization or Regional Entity rules or procedures;

(ii) Reject an application, unless accompanied by a request for waiver in conformity with § 385.2001 of this chapter, if it fails patently to comply with applicable statutory requirements or with all applicable Commission rules, regulations or orders;

(iii) Act on any request or petition for waiver, consistent with Commission policy;

(iv) Sign and issue deficiency letters; and

(v) Direct the Electric Reliability Organization, regional entities, or users, owners, and operators of the Bulk-Power system within the United States (not including Alaska and Hawaii) to provide such information as is necessary to implement section 215 of the FPA pursuant to §§ 39.2(d) and 39.11 of this chapter.

(3) Other sections of the Federal Power Act.

(i) Pass upon any uncontested application for authorization to issue securities or to assume obligations and liabilities filed by public utilities and licensees pursuant to Part 34 of this chapter;

(ii) Take appropriate action on uncontested applications for the sale or lease or other disposition of facilities, merger or consolidation of facilities, purchase or acquisition or taking of securities of a public utility, or purchase or lease or acquisition of an existing generation facility under section 203 of the Federal Power Act;

(iii) Take appropriate action on uncontested applications for interlocking positions under section 305(b) of the Federal Power Act; and

(iv) Sign and issue deficiency letters for filings under Federal Power Act sections 203, 204, and 305(b).

(4) Public Utility Holding Company Act of 2005. Take appropriate action on:

(i) Uncontested FERC-65A (exemption notification) filings;

(ii) Uncontested FERC-65B (waiver notification) filings; and

(iii) Uncontested applications under section 1275(b) of the Energy Policy Act of 2005 and/or the Federal Power Act to allocate service company costs to members of a holding company system.

(5) Federal Power Marketing Administration Filings. Approve uncontested rates and rate schedules filed by the Secretary of Energy or his designee, for power developed at projects owned and operated by the federal government and for services provided by federal power marketing agencies.

(6) Section 210(m) of the Public Utility Regulatory Policies Act of 1978.

(i) Approve uncontested applications;

(ii) Reject an application, unless accompanied by a request for waiver in conformity with § 385.2001 of this chapter, if it fails patently to comply with applicable statutory requirements or with all applicable Commission rules, regulations and orders;

(iii) Act on any request or petition for waiver, consistent with Commission policy; and

(iv) Sign and issue deficiency letters.

(7) Other sections of the Public Utility Regulatory Policies Act of 1978. Take appropriate action on:

(i) Filings related to uncontested nonexempt qualifying small power production facilities;

(ii) Uncontested applications for certification of qualifying status for small power production and cogeneration facilities under § 292.207 of this chapter;

(iii) Requests or petitions for waivers of the requirements of subpart C of Part 292 of this chapter governing cogeneration and small power production facilities made by any state regulatory authority or nonregulated electric utility pursuant to § 292.402 of this chapter;

(iv) Requests or petitions for waivers of the Commission's regulations under the Federal Power Act related to nonexempt qualifying small power production facilities

and related authorizations consistent with Massachusetts Refusetech, Inc., 31 FERC ¶ 61,048 (1985), and the orders cited therein without limitation as to whether qualifying status is by Commission certification or notice of qualifying status, provided that, in the case of a notice of qualifying status, any waiver is granted on condition that the filing party has correctly noticed the facility as a qualifying facility; and

(v) Requests or petitions for waivers of the technical requirements applicable to qualifying small power production facilities and qualifying cogeneration facilities.

(8) Section 4 and 5 of the Natural Gas Act.

(i) Accept for filing all uncontested tariffs or rate schedules and uncontested tariff or rate schedule changes, except major pipeline rate increases under section 4(e) of the Natural Gas Act and under subpart D of Part 154 of this chapter, if they comply with all applicable statutory requirements, and with all applicable Commission rules, regulations and orders for which waivers have not been granted, or if waivers have been granted by the Commission, if the filings comply with the terms of the waivers;

(ii) Accept for filing all uncontested tariff or rate schedules changes made in compliance with Commission orders;

(iii) Reject a tariff or rate schedule filing, unless accompanied by a request for waiver in conformity with § 385.2001 of this chapter, if it patently fails to comply with applicable statutory requirements and with all applicable Commission rules, regulations and orders;

(iv) Take appropriate action on requests or petitions for waiver of notice as provided in section 4(d) of the Natural Gas Act, provided the request conforms to the requirements of § 385.2001 of this chapter; and

(v) Refer to the Chief Administrative Law Judge (Chief ALJ) for action by the Chief ALJ, with the Chief ALJ's concurrence, uncontested motions that would result in lower interim settlement rates, pending Commission action on settlement agreements.

(9) Section 7 of the Natural Gas Act. Take appropriate action on the following types of uncontested applications for authorizations and uncontested amendments to applications and authorizations filed pursuant to section 7 of the Natural Gas Act and impose appropriate conditions:

(i) Applications by a pipeline for the deletion of delivery points but not facilities;

(ii) Applications to abandon pipeline services, but not facilities, involving a specific customer or customers, if such customer or customers have agreed to the abandonment;

(iii) Applications for temporary or permanent certificates (and for amendments thereto) for services, but not facilities, in connection with the transportation;

(iv) Blanket certificate applications by interstate pipelines and local distribution companies served by interstate pipelines filed pursuant to §§ 284.221 and 284.224 of this chapter;

- (v) Applications for temporary certificates involving transportation service or sales, but not facilities, pursuant to § 157.17 of this chapter;
- (vi) Dismiss any protest to prior notice filings involving existing service, made pursuant to § 157.205 of this chapter, that does not raise a substantive issue and fails to provide any specific detailed reason or rationale for the objection;
- (vii) Applications pertaining to approval of changes in customer names where there is no change in rate schedule, rate, or other incident of service;
- (viii) Applications for approval of customer rate schedule shifts;
- (ix) Applications filed under section 1(c) of the Natural Gas Act and Part 152 of this chapter, for declaration of exemption from the provisions of the Natural Gas Act and certificates held by the applicant;
- (x) Applications and amendments requesting authorizations filed pursuant to section 7(c) of the Natural Gas Act for new or additional service through existing facilities to right-of-way grantors either directly or through distributors, where partial consideration for the granting of the rights-of-way was the receipt of gas service pursuant to section 7(c) of the Natural Gas Act;
- (xi) An uncontested request from the holder of an authorization, granted pursuant to the Director's delegated authority, to vacate all or part of such authorization;
and
- (xii) Sign and issue deficiency letters.

(10) The Natural Gas Policy Act of 1978.

(i) Notify jurisdictional agencies within 45 days after the date on which the Commission receives notice of a determination pursuant to § 270.502(b) of this chapter that the notice is incomplete under § 270.204 of this chapter;

(ii) Issue preliminary findings under § 270.502(a)(1) of this chapter;

(iii) Accept any uncontested item that has been filed under § 284.123 of this chapter consistent with Commission regulations and policy;

(iv) Reject an application filed pursuant to § 284.123 of this chapter, unless accompanied by a request for waiver in conformity with § 385.2001 of this chapter, if it fails patently to comply with applicable statutory requirements or Commission rules, regulations and orders; and

(v) Take appropriate action on petitions to permit after an initial 60-day period one additional 60-day period of exemption pursuant to § 284.264(b) of this chapter where the application for extension arrives at the Commission no later than 45 days after the commencement of the initial period of exemption and where only services are involved.

(11) Section 8 of the Interstate Commerce Act.

(i) Accept any uncontested item that has been filed consistent with Commission regulations and policy;

(ii) Reject any filing, unless accompanied by a request for waiver in conformity with § 385.2001 of this chapter, that patently fails to comply with applicable statutory requirements and with all applicable Commission rules, regulations and orders; and

(iii) Prescribe for carriers the classes of property for which depreciation charges may be properly included under operating expenses, review the fully documented depreciation studies filed by the carriers, and authorize or revise the depreciation rates reflected in the depreciation study with respect to each of the designated classes of property.

(b) General, Non-Program-Specific Delegated Authority:

(1) Take appropriate action on:

(i) Any notice of intervention or motion to intervene, filed in an uncontested proceeding processed by the Office of Energy Markets and Reliability; and

(ii) Applications 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.

(2) Take appropriate action on requests or petitions for waivers of:

(i) Filing requirements for the appropriate statements and reports processed by the Office of Energy Markets and Reliability under Parts 46, 141, 260 and 357 of this chapter, §§ 284.13 and 284.126 of this chapter, and other relevant Commission orders; and

(ii) Fees prescribed in §§ 381.403 and 381.505 of this chapter in accordance with § 381.106(b) of this chapter.

(3) Undertake the following actions:

(i) Issue reports for public information purposes. Any report issued without Commission approval must:

(A) Be of a noncontroversial nature, and

(B) Contain the statement, "This report does not necessarily reflect the views of the Commission," in bold face type on the cover;

(ii) Issue and sign requests for additional information regarding applications, filings, reports and data processed by the Office of Energy Markets and Reliability; and

(iii) Accept for filing, data and reports required by Commission regulations, rules or orders, or presiding officers' initial decisions upon which the Commission has taken no further action, if such filings are in compliance with such regulations, rules, orders or decisions and, when appropriate, notify the filing party of such acceptance.

63. Section 375.308 is amended by revising paragraph (a) to add the phrase "in opposition" following the phrase "motion or notice of intervention."

64. Part 375 is amended by deleting section 375.311 and renumbering section 375.314 as new section 375.311.

**PART 376—ORGANIZATION, MISSION, AND FUNCTIONS; OPERATIONS
DURING EMERGENCY CONDITIONS**

65. The authority citation for Part 376 continues to read as follows:

Authority: 5 U.S.C. 553; 42 U.S.C. 7101-7352; E.O. 12009; 3 CFR 1978

Comp., p. 142.

66. Section 376.204 is amended by revising paragraph (b)(2)(x) to remove the phrase "Assistant General Counsels" and add in its place the phrase "Deputy Associate General Counsels."

67. Section 376.207 is amended by removing the phrase "Director of the Office of Finance, Accounting and Operations" and adding in its place the phrase "Executive Director."

**PART 380—REGULATIONS IMPLEMENTING THE NATIONAL
ENVIRONMENTAL POLICY ACT**

68. The authority citation for Part 380 continues to read as follows:

Authority: 42 U.S.C. 4321-4370a, 7101-7352; E.O. 12009, 3 CFR, 1978

Comp., p. 142.

69. Section 380.12 is amended by revising paragraph (a)(3) to remove the phrase "OPR" and add in its place the phrase "the Office of Energy Projects," by revising paragraphs (c)(3)(ii), (c)(3)(iii), and (f)(5) to remove the phrase "Pipeline Regulation"

and add in its place the phrase “Energy Projects,” and by revising paragraph (f) to remove the phrase “OPR's” and add in its place the phrase “Office of Energy Projects' (OEP).”

70. Section 380.13 is amended by revising paragraphs (b)(2)(iii), (b)(5)(iv), and (c) to remove the phrase “Pipeline Regulation” and add in its place the phrase “Energy Projects” and by revising paragraph (b)(5)(iv) to remove the phrase "OPR" and add in its place the phrase "OEP."

71. Section 380.14 is amended by revising paragraph (a)(3) to remove the phrase “Pipeline Regulation” and add in its place the phrase “Energy Projects.”

PART 385—RULES OF PRACTICE AND PROCEDURE

72. The authority citation for Part 385 continues to read as follows:

Authority: 5 U.S.C. 551–557; 15 U.S.C. 717–717z, 3301–3432; 16 U.S.C. 791a–825v, 2601–2645; 28 U.S.C. 2461; 31 U.S.C. 3701, 9701; 42 U.S.C. 7101–7352, 16441, 16451-16463; 49 U.S.C. 60502; 49 App. U.S.C. 1–85 (1988).

73. Section 385.2201 is amended by revising paragraph (h)(1) to remove the phrase "paragraph (f)(1)" and add in its place the phrase "paragraph (f)(2)."