

111 FERC ¶ 61,286
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

18 C.F.R. Part 294

(Docket No. RM05-19-000; Order No. 659)

Electronic Reporting of Shortages and Anticipated Shortages
of Electric Energy and Capacity

(Issued May 27, 2005)

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final Rule

SUMMARY: The Federal Energy Regulatory Commission is revising its regulations to provide that the means by which public utilities must report shortages and anticipated shortages of electric energy and capacity is by submitting an electronic filing via the Division of Reliability's pager system at emergency@ferc.gov, instead of filing with the Secretary of the Commission.

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

FOR FURTHER INFORMATION CONTACT: Jonathan E. First, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, (202) 502-8529.

SUPPLEMENTARY INFORMATION:

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FEDERAL ENERGY REGULATORY COMMISSION

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

Electronic Reporting of Shortages and Anticipated
Shortages of Electric Energy and Capacity

Docket No. RM05-19-000

ORDER NO. 659

FINAL RULE

(Issued May 27, 2005)

1. This Final Rule revises Part 294 of the Federal Energy Regulatory Commission's (Commission's) regulations, 18 C.F.R. Part 294 (2004), to provide that the means by which public utilities must comply with the requirement to report shortages and anticipated shortages of electric energy and capacity is by submitting a single electronic filing to the Commission via the Division of Reliability's pager system at emergency@ferc.gov, in lieu of the current requirement to file an original and two copies with the Secretary of the Commission.

2. Section 202(g) of the Federal Power Act, 16 U.S.C. § 824a(g) (2000), which implements section 206 of the Public Utility Regulatory Policies Act of 1978 (Continuance of Service), directs the Commission to promulgate a rule requiring that each public utility report "promptly" to the Commission and appropriate state regulatory

authorities any anticipated shortage of electric energy or capacity which would affect the public utility's ability to serve its wholesale customers.

3. In conformance with this statutory provision, Part 294 of the Commission's regulations defines "anticipated shortage of electric energy or capacity" and sets forth reporting requirements for public utilities. Among other things, a report filed pursuant to Part 294 must include the nature and projected duration of the anticipated shortage, a list of firm wholesale customers likely to be affected by the shortage, procedures for accommodating the shortage and a contact person at the public utility.¹ Section 294.101(e) of the Commission's regulations, 18 C.F.R. § 294.101(e) (2004), provides that a public utility that submits a report pursuant to Part 294 must file an original and at least two copies to the Commission as well as one copy to relevant state regulators and firm power wholesale customers, "unless otherwise required by the Commission."

4. Generally, documents filed with the Commission must be submitted to the Secretary of the Commission, 18 C.F.R. § 375.105(c) (2004). However, time may be of the essence when a public utility is experiencing a shortage or anticipated shortage of electric energy or capacity. The Commission must receive information in as close to real time as possible for it to monitor meaningfully and, if appropriate, react to the situation. Accordingly, the Commission is revising section 294.101(e) of its regulations to provide

¹ 18 C.F.R. § 294.101(c) (2004). Alternatively, 18 C.F.R. § 294.101(f) (2004) states that a public utility that provides in its rate schedule that it will notify appropriate states regulators and its firm power wholesale customers of anticipated shortages need only report to the Commission the nature and projected duration of the anticipated shortage and supply a list of firm power wholesale customers affected or likely to be affected.

that the means by which public utilities must comply with the requirement to report shortages and anticipated shortages of electric energy and capacity is by promptly submitting a single electronic report to the Commission via the Division of Reliability's electronic pager system at emergency@ferc.gov.

Information Collection Statement

5. The Office of Management and Budget's (OMB) regulations require that OMB approve certain information collection requirements imposed by the agency. 5 C.F.R. Part 1320. This Final Rule, which requires a single electronic submission under Part 294 of the Commission's regulations and eliminates the filing of copies, 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.² The Commission has categorically excluded certain actions from this requirement as not having a significant effect on the human environment. Included are exemptions for procedural or ministerial actions and for information gathering.³ This rulemaking is exempt under those provisions.

² Order No. 486, *Regulations Implementing the National Environmental Policy Act*, 52 FR 47897 (Dec. 17, 1987), FERC Stats. & Regs. Preambles 1986-1990 ¶ 30,783 (1987).

³ 18 C.F.R. §§ 380.4(a)(1) and (5) (2004).

Regulatory Flexibility Act Certification

7. The Regulatory Flexibility Act of 1980⁴ 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 does not create any new substantive obligations and eliminates the filing of copies under Part 294 of the Commission's regulations. This change will have no significant economic impact on a substantial number of small entities. Accordingly, no regulatory flexibility analysis is 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 Federal Energy Regulatory Records Information System (FERRIS). The full text of this document is available on FERRIS in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in FERRIS, type the docket number excluding the last three digits of this document in the docket number field.

⁴ 5 U.S.C. §§ 601-612 (2000).

10. User assistance is available for FERRIS and the FERC's website during normal business hours from our Help line at (202)502-8222 or the Public Reference Room at (202) 502-8371 Press 0, TTY (202)502-8659. E-Mail the Public Reference Room 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 the manner of filing under Part 294 of the Commission's regulations and eliminates the filing of copies with the Commission. The Commission further finds that a period of 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 procedures and practice, or where the agency finds that notice and comment is unnecessary. This rule concerns only the manner of filing under Part 294 of the Commission's regulations and eliminates the filing of copies with the Commission. It 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 does 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.

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List of subjects in 18 CFR Part 194

Filing requirements.

By the Commission.

(S E A L)

Linda Mitry
Deputy Secretary

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In consideration of the foregoing, the Commission amends Part 294, Chapter I, Title 18, Code of Federal Regulations, as follows.

294.101(e) *Reporting Procedure*. Any public utility that reports under this part must provide an electronic filing to this Commission at emergency@ferc.gov and one copy to any state regulatory authority and firm power wholesale customers, unless otherwise required by the Commission.