

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

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| Lyon Rural Electric Cooperative | ER05-1381-000 |
| McDonough Power Cooperative | ER05-1382-000 |
| Sun River Electric Cooperative, Inc. | ER05-1383-000 |
| Sussex Rural Electric Cooperative | ER05-1400-000 |
| Sulphur Springs Valley Electric Cooperative | ER05-1405-000 |
| First Electric Cooperative Corporation | ER05-1411-000 |
| Kandiyohi Power Cooperative | ER05-1412-000 |
| White River Electric Association, Inc. | ER05-1413-000 |
| Valley Electric Association, Inc. | ER05-1430-000 |
| Salmon River Electric Cooperative, Inc. | ER05-1447-000 |
| Wells Rural Electric Company | ER05-1448-000 |
| North West Rural Electric Cooperative | ER05-1449-000 |
| Mitchell Electric Membership Corporation | ER05-1460-000 |
| Alfalfa Electric Cooperative, Inc. | ER05-1461-000 |
| Connexus Energy | ER05-1471-000 |
| Access Energy Cooperative | ER05-1477-000 |
| North Central Missouri Electric Cooperative, Inc. | ER05-1478-000 |
| Florida Keys Electric Cooperative Association, Inc. | ER05-1479-000 |
| Idaho County Light & Power Cooperative Association, Inc. | ER05-1480-000 |
| Smarr EMC | ER05-1483-000 |
| Graham County Electric Cooperative, Inc. | ER05-1486-000 |
| Fall River Rural Electric Cooperative, Inc. | ER05-1487-000 |
| Platte-Clay Electric Cooperative, Inc. | ER05-1494-000 |

ORDER ON JURISDICTIONAL STATUS

(Issued October 14, 2005)

1. On or after August 18, 2005, Sun River Electric Cooperative, Inc., Sussex Rural Electric Cooperative, Access Energy Cooperative, North Central Missouri Electric Cooperative, Inc., Florida Keys Electric Cooperative Association, Inc., Idaho County Light & Power Cooperative Association, Inc., Lyon Rural Electric Cooperative,

McDonough Power Cooperative, Sulphur Springs Valley Electric Cooperative, First Electric Cooperative Corporation, Kandiyohi Power Cooperative, White River Electric Association, Inc., North West Rural Electric Cooperative, Valley Electric Association, Inc., Salmon River Electric Cooperative, Inc., Wells Rural Electric Company, Mitchell Electric Membership Corporation, Alfalfa Electric Cooperative, Inc., Connexus Energy, Smarr EMC, Graham County Electric Cooperative, Inc. (Graham County), Fall River Rural Electric Cooperative, Inc., and Platte-Clay Electric Cooperative, Inc. filed with the Commission Notices of Cancellation or pleadings asserting that the above captioned utilities are not subject to Commission jurisdiction under the amended section 201(f) of the Federal Power Act effective August 8, 2005.¹ The Commission accepts the Notices of Cancellation and acknowledges that the above captioned entities are not subject to the Commission's jurisdiction as "public utilities" under Part II and Part III of the Federal Power Act (FPA).

2. On August 8, 2005, the Energy Policy Act of 2005 became law. Included in this legislation is language amending section 201(f) of the FPA to exempt from Part II and Part III of the FPA, absent specific reference otherwise, "an electric cooperative that receives financing under the Rural Electrification Act of 1936 ... or that sells less than 4,000,000 megawatt hours of electricity per year."²

3. All of the above captioned entities have stated that they are electric cooperatives that fall below the threshold of total sales of less than 4,000,000 megawatt hours of electricity, and therefore, as of August 8, 2005, are no longer considered "public utilities" as a result of section 201 of the FPA. As a result, all of the above captioned entities have filed with the Commission notices of cancellation of their rate schedules and tariffs.

4. Based on the above captioned entities' filings and the amended language in section 201(f) of the Federal Power Act, the Commission determines that the above captioned entities are no longer subject to the Commission's jurisdiction as "public utilities" under Part II and Part III of the FPA. Therefore, the Commission notifies the

¹ Energy Policy Act of 2005, Pub. L. No. 109-58, § 1291 (c), 119 Stat. 594, 1217 (2005).

² *Id.* Section 201(f) provides that no provision of Part II of the FPA shall apply to certain entities unless such provision makes specific reference thereto. Thus, although an entity may be exempt from jurisdiction as a public utility under Part II and Part III, it nevertheless may be subject to certain Part II provisions, for example, as a result of its status as an electric utility or transmitting utility under sections 210 and 211 of the FPA.

above captioned entities that their rate schedules and tariffs are no longer on file with the Commission under section 205 of the Federal Power Act, effective August 8, 2005.

5. Graham County and others request that the Commission provide guidance on the requirements for filing FERC Form Nos. 3-Q and 1. The Commission plans to address this issue in another order to be issued in the near future in Docket No. AC04-105-000, *et al.*

The Commission orders:

The Commission hereby acknowledges that the above-captioned entities are not subject to Commission jurisdiction as “public utilities” under Part II and Part III of the Federal Power Act and notifies these entities that their FERC rate schedules and tariffs are no longer on file with the Commission under section 205 of the Federal Power Act, effective August 8, 2005.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.