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UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

18 CFR Parts 33, 35, 154, 157, 300, 375, 376

Docket No. RM07-22-000; Order No. 701

Delegations to Office of Electric Reliability

(Issued October 19, 2007)

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final Rule

SUMMARY: This Final Rule revises the Commission's regulations to delegate authority to the newly established Office of Electric Reliability to allow that office to process routine, non-controversial matters efficiently. The rule also makes conforming changes to account for changes in office names.

EFFECTIVE DATE: This rule will become effective immediately upon publication in the

**FEDERAL REGISTER.**

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SUPPLEMENTARY INFORMATION:

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.

Delegations to Office of Electric Reliability

Docket No. RM07-22-000

FINAL RULE

ORDER NO. 701

(Issued October 19, 2007)

**I. Discussion**

1. On September 20, 2007, the Commission announced the creation of the Office of Electric Reliability (OER) to focus on the development and implementation of mandatory and enforceable reliability standards for the nation's bulk power system. OER was formerly a division of the Office of Energy Markets and Reliability, which will now be called the Office of Energy Market Regulation (OEMR). The organizational change will help implement the Commission's new regulatory authorities under section 215 of the Energy Policy Act of 2005.<sup>1</sup> To enable OER to carry out its functions as efficiently as possible, this Final Rule adds a new section to the Commission's regulations, 18 CFR

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<sup>1</sup> Pub. L. No. 109-58, § 1211, 119 Stat. 594, 941-46 (2005) (to be codified at 16 U.S.C. 824o).

375.314, to delegate to OER the authority necessary to process routine matters. These delegations are intended to apply to uncontested, non-controversial matters. This Final Rule also revises a number of regulations to update office names.

## **II. Information Collection Statement**

2. The Office of Management and Budget's (OMB) regulations require that OMB approve certain information collection requirements imposed by agency rule.<sup>2</sup> This Final Rule does not contain information reporting requirements and is not subject to OMB approval.

## **III. Environmental Analysis**

3. 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.<sup>3</sup> 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.

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<sup>2</sup> 5 CFR Part 1320.

<sup>3</sup> 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.<sup>4</sup>

This rulemaking is exempt under that provision.

**IV. Regulatory Flexibility Act**

4. The Regulatory Flexibility Act of 1980 (RFA)<sup>5</sup> 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**

5. 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, DC 20426.

6. 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

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<sup>4</sup> 18 CFR 380.4(1) and (5).

<sup>5</sup> 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.

7. User assistance is available for eLibrary and the Commission's website during normal business hours from FERC Online Support at 202-502-6652 (toll free at 1-866-208-3676) or email at [ferconlinesupport@ferc.gov](mailto:ferconlinesupport@ferc.gov), or the Public Reference Room at (202) 502-8371, TTY (202)502-8659. E-mail the Public Reference Room at [public.referenceroom@ferc.gov](mailto:public.referenceroom@ferc.gov).

#### **VI. Effective Date and Congressional Notification**

8. 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 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.

9. 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.

10. 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 internal agency procedure and will not significantly affect regulated entities or the general public.

List of subjects

18 CFR Part 33

Electric utilities, Reporting and recordkeeping requirements, Securities.

18 CFR Part 35

Electric power, Reporting and recordkeeping requirements.

18 CFR Part 154

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

18 CFR Part 157

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

18 CFR Part 300

Electric power, Reporting and recordkeeping requirements.

18 CFR Part 375

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

18 CFR Part 376

Civil defense, Organization and functions (Government agencies).

By the Commission.

( S E A L )

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

In consideration of the foregoing, the Commission amends Parts 33, 35, 154, 157, 300, 375 and 376, Chapter I, Title 18, Code of Federal Regulations, as follows.

**PART 33—APPLICATIONS UNDER FEDERAL POWER ACT SECTION 203**

1. 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.

2. Section 33.10 is amended by removing the phrase “Markets and Reliability” and adding in its place the phrase “Market Regulation.”

**PART 35—FILING OF RATE SCHEDULES AND TARIFFS**

3. 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.

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

5. Section 35.5 is amended by revising paragraph (b) to remove the phrase “Markets and Reliability” and add in its place the phrase “Market Regulation.”

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

**PART 154—RATE SCHEDULES AND TARIFFS**

7. 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.

8. Section 154.5 is amended by removing the phrase “Markets and Reliability” and adding in its place the phrase “Market Regulation.”

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

**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**

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

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

11. Section 157.8 is amended by revising paragraph (a) to remove the phrase “Markets and Reliability” and add in its place the phrase “Market Regulation,” and by revising paragraph (c) to remove the phrase “Markets and Reliability” and add in its place the phrase “Market Regulation.”

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

12. 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.

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

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

**PART 375—THE COMMISSION**

15. 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; / 42U.S.C. 16451-16463.

16. Section 375.307 is amended by revising the section title to remove the phrase “Markets and Reliability” and add in its place the phrase “Market Regulation,” by deleting paragraph (a)(2), by renumbering paragraphs (a)(3) through (a)(11) as paragraphs (a)(2) through (a)(10), and by revising paragraphs (b)(1)(i), (b)(2)(i), and (b)(3)(ii) to remove the phrase “Markets and Reliability” and add in its place the phrase “Market Regulation.”

17. Part 375 is amended by adding new section 375.314 as follows:

**§ 375.314 Delegations to the Director of the Office of Electric 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) Section 206 of the Public Utility Regulatory Policy Act of 1978 and corresponding Section 202(g) of the Federal Power Act.

(i) Accept for filing all uncontested contingency plans regarding shortages of electric energy or capacity, circumstances which may result in such shortages, and accommodations of any such shortages or circumstances, if said contingency plans 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 contingency plan regarding shortages of electric energy or capacity, 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) Sign and issue deficiency letters;

(iv) Act on any request or petition for waiver, consistent with Commission policy.

(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 Federal Power Act (16 U.S.C. § 824o) pursuant to §§ 39.2(d) and 39.11 and Part 40 of this chapter.

(b) 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 Electric 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 filing requirements for the appropriate statements and reports processed by the Office of Electric Reliability pursuant to §§ 141.51 and 141.300 of this chapter; and

(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) Upon request or otherwise, issue staff position papers to further the Electric Reliability Organization and Regional Entity reliability standard development process.

Any such staff position paper issued without Commission approval must contain the statement, "This position paper does not necessarily reflect the views of the Commission," in bold face type on the cover;

(iii) Issue and sign requests for additional information regarding applications, filings, reports and data processed by the Office of Electric Reliability.

(iv) 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.

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

18. 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.

19. Section 376.204 is amended by revising paragraph (b)(2) to read as follows:

**§ 376.204 Delegation of Commission’s authority during emergency conditions.**

\* \* \* \* \*

(b) \* \* \*

(2) The list referred to in paragraph (b)(1) of this section is:

- (i) The Executive Director;
- (ii) Director of the Office of Energy Market Regulation;
- (iii) Director of the Office of Energy Projects;
- (iv) Director of the Office of Electric Reliability;
- (v) General Counsel;
- (vi) Director of the Office of Enforcement;

- (vii) Deputy Directors, Office of Energy Market Regulation, in order of seniority;
- (viii) Deputy Directors, Office of Energy Projects, in order of seniority;
- (ix) Deputy Directors, Office of Electric Reliability, in order of seniority;
- (x) Deputy General Counsels, in order of seniority;
- (xi) Associate General Counsels and Solicitor, in order of seniority;
- (xii) Assistant Directors and Division heads, Office of Energy Market Regulation; Assistant Directors and Division heads, Office of Energy Projects; Assistant Directors and Division heads, Office of Electric Reliability; Deputy Associate General Counsels; and Assistant Directors and Division heads, Office of Enforcement; in order of seniority.

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