

142 FERC ¶ 61,213  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;  
Philip D. Moeller, John R. Norris,  
Cheryl A. LaFleur, and Tony Clark.

Allocation of Capacity on New Merchant Transmission Projects and New Cost-Based, Participant Funded Transmission Projects	)	Docket No. AD12-9-001
	)	
Priority Rights to New Participant-Funded Transmission	)	Docket No. AD11-11-001
	)	

ORDER DISMISSING REQUEST FOR CLARIFICATION AND  
RECONSIDERATION

(Issued March 21, 2013)

1. On January 17, 2013, the Commission issued a Final Policy Statement addressing the allocation of capacity on new merchant transmission projects and new cost-based, participant-funded transmission projects.<sup>1</sup> On February 19, 2013, National Rural Electric Cooperative Association (NRECA) filed a request for clarification and reconsideration of the Final Policy Statement challenging various aspects of the Final Policy Statement.<sup>2</sup>

2. The Commission dismisses the request for clarification and reconsideration, finding that NRECA's filing is in fact a request for rehearing of the Final Policy Statement. Rule 713(a) of the Commission's regulations addresses the applicability of a request for rehearing of a Commission determination, and provides that "[t]his section applies to any request for rehearing of a final

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<sup>1</sup> 142 FERC ¶ 61,038 (2013).

<sup>2</sup> NRECA was the only entity to submit a pleading in response to the Final Policy Statement.

Commission decision or other final order, if rehearing is provided for by statute, rule or order.”<sup>3</sup> As the U.S. Court of Appeals for the District of Columbia Circuit has held, a statement of policy “is not finally determinative of the issues or rights to which it is addressed”; rather it only “announces the agency’s tentative intentions for the future.”<sup>4</sup> Consistent with this precedent, the Final Policy Statement does not constitute a final Commission determination. Thus, NRECA is not aggrieved by the Final Policy Statement, and its request for rehearing is not appropriate. The Commission will apply the Final Policy Statement on a prospective basis in the context of specific proposals, and interested parties will have ample opportunity to address concerns with the Commission’s application of the Final Policy Statement at such time. The Commission accordingly dismisses NRECA’s request for clarification and reconsideration.

By the Commission.

( S E A L )

Kimberly D. Bose,  
Secretary.

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<sup>3</sup> 18 C.F.R. § 385.713 (2012).

<sup>4</sup> *Pacific Gas & Electric Co. v. FPC*, 506 F.2d 33, 38 (D.C. Cir. 1974).