

153 FERC ¶ 61,047  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Norman C. Bay, Chairman;  
Philip D. Moeller, Cheryl A. LaFleur,  
Tony Clark, and Colette D. Honorable.

Open Access and Priority Rights on Interconnection      Docket No. RM14-11-001  
Customer's Interconnection Facilities

ORDER NO. 807-A

ORDER DENYING REHEARING AND GRANTING CLARIFICATION

(Issued October 15, 2015)

1. This order addresses two requests for rehearing and clarification of Order No. 807,<sup>1</sup> one from the National Rural Electric Cooperative Association (NRECA) and one jointly from the American Public Power Association and the Transmission Access Policy Study Group (APPA and TAPS). In Order No. 807, the Commission amended its previous regulations and policies regarding open access to and priority rights on Interconnection Customer's Interconnection Facilities (ICIF).<sup>2</sup> In this order, the Commission denies rehearing and grants clarification.

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<sup>1</sup> *Open Access and Priority Rights on Interconnection Customer's Interconnection Facilities*, Order No. 807, 80 Fed. Reg. 17,653 (Apr. 1, 2015), FERC Stats. & Regs. ¶ 31,367 (Final Rule).

<sup>2</sup> As noted in the Final Rule, the jurisdictional interconnection facilities for which the Final Rule granted a waiver have sometimes in the past been referred to informally as "generator tie lines," but, in the Notice of Proposed Rulemaking, the Commission used the term ICIF as defined in the *pro forma* documents issued with Order No. 2003. *Standardization of Generator Interconnection Agreements and Procedures*, Order No. 2003, 68 FR 49845 (Aug. 19, 2003), FERC Stats. & Regs. ¶ 31,146, at Appendix C, Appendix 6, Article 1 (2003), *order on reh'g*, Order No. 2003-A, 69 FR 15932 (Mar. 26, 2004), FERC Stats. & Regs. ¶ 31,160, *order on reh'g*, Order No. 2003-B, 70 FR 265 (Jan. 4, 2005), FERC Stats. & Regs. ¶ 31,171 (2004), *order on reh'g*, Order No. 2003-C, 70 FR 37661 (Jun. 30, 2005), FERC Stats. & Regs. ¶ 31,190 (2005), *aff'd sub nom. Nat'l Ass'n of Regulatory Util. Comm'rs v. FERC*, 475 F.3d 1277 (D.C. Cir. 2007),

(continued...)

## I. Background

2. On March 19, 2015, the Commission issued Order No. 807, which amended section 35.28(d) of the Commission's regulations to: (1) waive the Open Access Transmission Tariff (OATT), Open Access Same-Time Information System (OASIS), and Standards of Conduct requirements for entities that are subject to such requirements solely because they own, control, or operate ICIF; (2) provide that a third party seeking service on ICIF may follow the procedures of sections 210, 211, and 212 of the Federal Power Act (FPA);<sup>3</sup> and (3) establish that, for the first five years after the commercial operation date of the ICIF, the Commission will apply the rebuttable presumption that the ICIF owner has definitive plans to use its facilities, and thus it is in the public interest to grant it priority rights to use the ICIF capacity.<sup>4</sup>

3. The Commission adopted the blanket waiver because it served the purpose of reducing unnecessary burden and providing clarity and certainty to developers. The Commission stated such a waiver was justified because of the usually limited and discrete nature of ICIF and their dedicated interconnection purpose means that such facilities do not typically present the concerns about discriminatory conduct that the Commission's OATT, OASIS, and Standards of Conduct requirements were intended to address. Because third-party requests to use ICIF have been relatively rare, the Commission also stated that it is more efficient to address such situations as they arise on an individual basis.<sup>5</sup> Further, the Commission stated that the reforms will enable ICIF owners and third parties, where possible, to reach mutually agreeable and voluntary arrangements that provide ICIF access to third parties, while protecting a third party's right to request that the Commission order interconnection and transmission service over ICIF. The Commission found that this will provide contractual flexibility that may remove barriers to an ICIF owner's willingness to enter into such an agreement with a third party.<sup>6</sup>

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*cert denied*, 552 U.S. 1230 (2008). Although we continue to use the term "ICIF" throughout this order on rehearing, we intend the term to encompass a broader scope. See Final Rule, FERC Stats. & Regs. ¶ 31,367 at n.1, P 43.

<sup>3</sup> 16 U.S.C. §§ 824i, 824j, and 824k (2012).

<sup>4</sup> See 18 C.F.R. § 35.28(d)(2) (2015); Final Rule, FERC Stats. & Regs. ¶ 31,367 at P 1.

<sup>5</sup> *Id.* P 55.

<sup>6</sup> *Id.* P 3.

4. To reduce risks to ICIF owners eligible for the blanket waiver during the critical early years of their projects, the Commission also adopted a safe harbor period of five years during which there would be a rebuttable presumption that the eligible ICIF owner has definitive plans to use its capacity without having to make a demonstration through a specific plans and milestones showing with regard to its intended use. The Commission clarified that a third-party requester for service on ICIF during the safe harbor period could attempt to rebut these presumptions, but it would have the burden of proof to show that the owner and/or operator does not have definitive plans to use its capacity and the public interest under sections 210 and 211 is better served by granting access to the third party than by allowing the eligible ICIF owner to reserve its ICIF capacity for its own future use.<sup>7</sup>

5. The Commission recognized that ICIF owners at times construct ICIF to accommodate multiple generation project phases and intend for their subsequent generation projects to use what is initially excess capacity on the ICIF. Accordingly, the Commission found that the safe harbor period established by this Final Rule would enable these ICIF owners to focus in the early stages of development on building generation. Further, the Commission concluded that its previous policies requiring the ICIF owner to make excess capacity available to third parties unless it can justify through a petition for declaratory order its planned use of the line imposed risks and burdens on ICIF owners and created regulatory inefficiencies that are not necessary given the goals that the Commission seeks to achieve.<sup>8</sup>

6. As noted above, the Commission received two requests for rehearing and clarification: one from NRECA and one from APPA and TAPS.

## **II. Discussion**

### **A. Safe Harbor**

#### **1. Request for Rehearing**

7. NRECA seeks rehearing of the Commission's decision to apply the safe harbor presumption that an ICIF owner has plans to use its capacity when the third-party requesting transmission service is a load-serving entity (LSE) that would need access to the capacity on the ICIF to serve native load efficiently. NRECA states that the Commission failed to provide a rational explanation in support of its determination, as set

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<sup>7</sup> *Id.* P 133.

<sup>8</sup> *Id.* P 4.

forth in 18 C.F.R. § 35.28(d)(2)(ii)(B), and that the decision is contrary to section 217(b)(4) of the FPA.<sup>9</sup>

8. NRECA argues on rehearing that the Commission's ruling fails to address NRECA's actual position made in its comments on the issue and is otherwise wrong. NRECA argues that its comments were not limited to situations when an LSE would cause a counterflow on the facilities, and that rather, it asserted that the presumption should not apply to any instance in which a customer requesting service on ICIF needs it to serve load efficiently.<sup>10</sup>

9. NRECA states that renewable generating resources tend to be located in remote, low-population areas, and thus often require long ICIF to connect to the interstate grid. NRECA argues that it would be much more efficient for an LSE in such circumstances to contract with an ICIF owner to counterflow power over the ICIF than to build a redundant facility to serve its native load,<sup>11</sup> and that such counterflow could increase the capability of the ICIF.<sup>12</sup> Accordingly, NRECA argues that there is a high probability that its members would be in a position to use ICIF to serve load, and, therefore, that the Commission failed to meet the substantial evidence requirement because it had no factual basis to find that there is a "slim possibility" of load service through counterflow on ICIF.<sup>13</sup> Moreover, NRECA argues that, if the scenario it raises were unlikely, then, contrary to the Commission's reasoning, the exception that NRECA proposes would not compromise Order No. 807's policy significantly. Thus, NRECA argues that the Commission cannot logically come to the conclusion that the safe harbor presumption should apply to the circumstance presented by NRECA.<sup>14</sup>

10. NRECA also asserts that the Commission's finding disregards the dictates of section 217(b)(4) of the FPA. NRECA states that the Commission is obligated to exercise its authority under the FPA in a manner that facilitates the planning and expansion of transmission facilities to meet the reasonable needs of LSEs to satisfy their service obligations, in accordance with section 217(b)(4). NRECA contends that section 217(b)(4) requires that the Commission not positively disfavor access to ICIF for the purpose of serving load. NRECA argues that the safe harbor presumption of "definitive

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<sup>9</sup> NRECA Request for Rehearing at 2-3 (citing 16 U.S.C. § 824q (2012)).

<sup>10</sup> *Id.* at 6.

<sup>11</sup> *Id.*

<sup>12</sup> *Id.* at 8.

<sup>13</sup> *Id.* at 7.

<sup>14</sup> *Id.* at 7-8.

plans” in favor of generators and against LSEs runs directly count to section 217(b)(4) mandate.<sup>15</sup>

11. NRECA argues that, in a proceeding under sections 210 and 211 brought by an LSE that seeks service to serve its load efficiently, the burden of proof should be on the ICIF owner to demonstrate that it has specific plans to use the capacity and that such plans would prevent it from providing the access to an LSE that would enable it to meet its service obligations. NRECA argues that the Commission cannot reasonably require prospective customers to prove that the ICIF owner has no such plans when all the information resides with the ICIF owner.<sup>16</sup> Moreover, NRECA states that it is unclear how any arguments about the LSE’s own planned use of the facilities would be sufficient to meet the burden to overcome the safe harbor presumption, since an LSE would have to prove that the ICIF owner lacks definitive plans to use the ICIF capacity.<sup>17</sup> Furthermore, NRECA states that the Commission does not indicate what evidence might be strong enough to rebut the presumption that the ICIF owner has definitive plans to use the ICIF capacity.<sup>18</sup>

12. Accordingly, NRECA requests that the Commission grant rehearing and revise 18 C.F.R. § 35.28(d)(2)(ii)(B) to provide that the safe harbor presumption against access to ICIF will not apply when an LSE requesting service on the ICIF needs the capacity to serve load efficiently.<sup>19</sup>

## **2. Commission Determination**

13. We do not agree with NRECA that the five-year safe harbor period impinges upon the reasonable needs of LSEs, and thus maintain that the safe harbor period is not inconsistent with the Commission’s obligations under section 217(b)(4).<sup>20</sup> Giving an

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<sup>15</sup> *Id.* at 9.

<sup>16</sup> *Id.* at 10.

<sup>17</sup> *Id.* at 8.

<sup>18</sup> *Id.* at 10.

<sup>19</sup> *Id.* at 11.

<sup>20</sup> Section 217(b)(4) states:

The Commission shall exercise the authority of the Commission under this Act in a manner that facilitates the planning and expansion of transmission facilities to meet the reasonable needs of load-serving entities to satisfy the service obligations of the load-serving entities, and enables load-

(continued...)

ICIF owner a limited term rebuttable presumption that it has priority use rights to capacity it has built for its own purposes does not run afoul of the requirement of section 217(b)(4) that the Commission exercise its authority in a manner that facilitates the planning and expansion of transmission facilities to meet the reasonable needs of LSEs to satisfy their service obligations. Because of the case-specific nature of any request under sections 210 and 211 to use certain ICIF, we cannot, as NRECA requests, state exactly what evidence would be strong enough to overcome the rebuttable presumption during the safe harbor.

14. In *South Carolina Public Service Authority v. FERC*,<sup>21</sup> the Court of Appeals for the District of Columbia Circuit upheld the Commission's conclusion in Order No. 1000-A<sup>22</sup> that section 217(b)(4) does not create a general preference for LSEs in all contexts. The Court stated that "[t]his section would only be violated if the Commission exercised its authority in a manner that was at odds with the needs of load-serving entities."<sup>23</sup>

15. NRECA asks the Commission to create an exception to the policy expressed in the Final Rule based upon the premise that an LSE might be located sufficiently close to an ICIF that it would be efficient for the LSE to make use of the ICIF to serve load.<sup>24</sup> However, given the unique nature and purpose of ICIF and the fact that they radially connect generation to the integrated transmission system, NRECA has cited to nothing indicating that an LSE has ever sought transmission service over ICIF or has plans to do so. Accordingly, NRECA has failed to demonstrate that there are reasonable needs of LSEs that require carving out an exception to the policy that the Commission implemented in the Final Rule and we deny rehearing on this issue.

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serving entities to secure firm transmission rights (or equivalent tradable or financial rights) on a long-term basis for long-term power supply arrangements made, or planned, to meet such needs.

<sup>21</sup> 762 F.3d 41, 90-91 (D.C. Cir. 2014) (*South Carolina*).

<sup>22</sup> See *Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities*, Order No. 1000, FERC Stats. & Regs. ¶ 31,323 (2011), *order on reh'g*, Order No. 1000-A, 139 FERC ¶ 61,132, at P 171, *order on reh'g and clarification*, Order No. 1000-B, 141 FERC ¶ 61,044 (2012), *aff'd sub nom. S.C. Pub. Serv. Auth. v. FERC*, 762 F.3d 41 (D.C. Cir. 2014).

<sup>23</sup> *South Carolina*, 762 F.3d 41, 90.

<sup>24</sup> NRECA Request for Rehearing at 7.

16. We find that the balance struck by the Final Rule with respect to the rebuttable presumption during the five-year safe harbor period to be appropriate, including in the circumstance of LSEs serving load, by providing an ICIF owner the presumption that it plans to use the capacity of the ICIF it built. The Final Rule was revised from the NOPR to not shield the ICIF owner during the safe harbor period from the obligation to expand the facility in question when a potential customer requesting that expansion is willing to carry the burden associated with that expansion.<sup>25</sup> We continue to believe that this balance is reasonable and adequately facilitates the reasonable needs of all potential customers, including LSEs.

## **B. Open Access**

### **1. Request for Rehearing**

17. APPA and TAPS allege that the Final Rule, by erroneously moving away from open access, goes against the Commission's recognition that requiring generation competitors to build their own transmission is not the way to support competitive markets or just and reasonable rates.<sup>26</sup> APPA and TAPS state that the Final Rule grants ICIF owners vertical market power over access to their facilities, making it effectively impossible for subsequent competitive generation developers to interconnect with the ICIF owners' facilities for long periods of time, and in doing so violates the Commission's statutory obligation to eliminate undue discrimination in transmission service.<sup>27</sup>

18. APPA and TAPS further state that granting such exclusivity over ICIF promotes inefficient use and development of a dynamic grid that is being expanded to accommodate increasing reliance on renewable resources.<sup>28</sup> APPA and TAPS also argue

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<sup>25</sup> Final Rule, FERC Stats. & Regs. ¶ 31,367 at P 139.

<sup>26</sup> APPA and TAPS Request for Rehearing at 4 (citing *Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Services by Public Utilities; Recovery of Stranded Costs by Public Utilities and Transmitting Utilities*, Order No. 888, FERC Stats. & Regs. ¶ 31,036, at 31,635 and 31,652 (1996), *order on reh'g*, Order No. 888-A, FERC Stats. & Regs. ¶ 31,048, *order on reh'g*, Order No. 888-B, 81 FERC ¶ 61,248 (1997), *order on reh'g*, Order No. 888-C, 82 FERC ¶ 61,046 (1998), *aff'd in relevant part sub nom. Transmission Access Policy Study Group v. FERC*, 225 F.3d 667 (D.C. Cir. 2000), *aff'd sub nom. New York v. FERC*, 535 U.S. 1 (2002)).

<sup>27</sup> *Id.* at 3.

<sup>28</sup> *Id.*

that modifying open access requirements to allow ICIF owners to monopolize the use of such facilities encourages piecemeal development and goes against Order No. 1000's objectives of efficient and cost-effective expansion.<sup>29</sup>

19. APPA and TAPS assert that the Final Rule acknowledges that very few ICIF owners have ever been required to file OATTs, but, notwithstanding that fact, concludes that "additional risks and potential regulatory burdens" are nevertheless substantial because all ICIF owners face the possibility that the third party might request transmission service.<sup>30</sup> APPA and TAPS state that the Final Rule treats the same possibility inconsistently when it discounts the burden of the Final Rule on potential transmission customers, finding that, because there have been so few OATT filings by ICIF owners, the requirement that a third party pursue service under sections 210 and 211 "will not overly burden potential customers."<sup>31</sup>

20. APPA and TAPS also contend that the Final Rule goes against the Commission's finding in Order No. 888 that section 211 proceedings are inadequate to prevent undue discrimination. They claim that the Final Rule turns this determination on its head by asserting that costs to potential third party customers under sections 210 and 211 might be low (because the ICIF owner might voluntarily agree to provide service, obviating the need for a full proceeding under those sections) and that the costs of requesting service under an OATT might be high (due to contentious litigation).<sup>32</sup> APPA and TAPS argue that it is arbitrary and capricious for the Final Rule to find that an OATT is not necessary to prevent unjust or unreasonable rates or unduly discriminatory behavior with respect to ICIF, because, unlike the facilities at issue in Order No. 888, ICIF are not part of the integrated transmission network.<sup>33</sup> APPA and TAPS add that, while there may be few requests for service over ICIF if they are not integrated, that does not alter the ability and incentive of an ICIF owner to engage in unduly discriminative behavior with respect to the requests that it does receive.<sup>34</sup> APPA and TAPS request that the Commission modify the Final Rule on rehearing to be more consistent with open access principles.<sup>35</sup>

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<sup>29</sup> *Id.*

<sup>30</sup> *Id.* (citing Final Rule, FERC Stats. & Regs. ¶ 31,367 at P 38).

<sup>31</sup> *Id.* (citing Final Rule, FERC Stats. & Regs. ¶ 31,367 at P 113).

<sup>32</sup> *Id.* at 5.

<sup>33</sup> *Id.* (citing Final Rule, FERC Stats. & Regs. ¶ 31,367 at P 114).

<sup>34</sup> *Id.*

<sup>35</sup> *Id.* at 6.

## 2. Commission Determination

21. We deny APPA and TAPS' request for rehearing. The approach taken in the Final Rule does not foreclose access to ICIF, but rather provides a method of access that is more consistent with the nature and purpose of ICIF. In the Final Rule, the Commission recognized that, at times, an ICIF owner anticipates that it will use its excess ICIF capacity to support future phases of generation construction, and the Commission seeks to reduce unnecessary regulatory burdens. Therefore, we continue to believe that the balance struck in the Final Rule gives appropriate access to ICIF by third parties while taking into consideration that ICIF were planned and built to serve the purpose of connecting generation to the grid, sometimes in phases. Without such reasonable assurance, there would be little incentive for a developer to shoulder the extra expense of ICIF sized larger than the initial phase of the project.<sup>36</sup>

22. As the Commission stated in the Final Rule, this approach will relieve regulatory burdens and unnecessary risks from generation developers to encourage the development of new generation and efficient interconnection facilities and promote competition while still ensuring access to transmission on a not unduly discriminatory basis.<sup>37</sup> We appreciate that filing and maintaining an OATT can be burdensome to ICIF owners who do not seek to provide transmission service. Adding a potential OATT obligation to a generation project can introduce an additional element of risk for the developer and its lenders. As discussed in the Final Rule, we are aware of situations where the ICIF owners have received requests for service triggering the requirement that the owner file an OATT, but the requester then failed to pursue any further development.<sup>38</sup>

23. We also find that a number of sections of the *pro forma* OATT, such as the provisions regarding network service, ancillary services, and planning requirements, are arguably inapplicable to most or all ICIF owners. Moreover, interconnecting with ICIF often involves unique circumstances that would benefit from negotiations to tailor individual access agreements. However, the previous policy limited an ICIF owner's contractual flexibility and did not allow parties to use common facility agreements or have service governed outside of an OATT.<sup>39</sup>

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<sup>36</sup> Final Rule, FERC Stats. & Regs. ¶ 31,367 at PP 33-40, 114.

<sup>37</sup> *Id.* P 33.

<sup>38</sup> *Id.* P 34.

<sup>39</sup> *Id.* PP 35-36.

24. We note that our previous policy imposed costs on ICIF owners, despite the fact that it is unlikely that any third party would request OATT service on most ICIF. In fact, the record shows that the Commission has issued numerous individual orders granting waivers of OATT, OASIS, and Standards of Conduct to ICIF owners, but in only four instances did a third-party request access on ICIF such that the filing of an OATT was required.<sup>40</sup> ICIF are sole-use, limited and discrete, radial in nature, and not part of an integrated transmission network, and therefore third-party requests to use ICIF are infrequent.<sup>41</sup> Thus, while case-by-case determinations under sections 210 and 211 are not appropriate for the large number of transmission service requests on the integrated grid, they are appropriate for the few expected requests for service on ICIF, each of which would likely have different circumstances.<sup>42</sup> We continue to find that the procedures of sections 210 and 211 provide an efficient and sufficient means for third-party access to ICIF.

### C. Automatic Revocation of Blanket Waiver

#### 1. Request for Clarification

25. NRECA requests clarification that no Commission proceeding or action is necessary for a blanket waiver to be revoked if the public utility ceases to meet the qualifications, for example, if it acquires additional transmission facilities that are not ICIF. NRECA states that the Final Rule appears to contain conflicting language regarding the revocation of the blanket waiver.<sup>43</sup>

#### 2. Commission Determination

26. We clarify that the Commission intended that, if an ICIF owner no longer qualifies for the blanket waiver because it ceases to satisfy the qualifications stated in section 35.28(d)(2) of our regulations, the waiver would be automatically revoked with no Commission action being required. Indeed, this mirrors the Commission's approach in the Final Rule that no formal process or Commission action is necessary to authorize those ICIF owners that plan to use the blanket waiver in the first place. Once the blanket waiver is no longer applicable, the entity would be required to file an OATT within 60

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<sup>40</sup> *Id.* P 38.

<sup>41</sup> *Id.*

<sup>42</sup> *Id.* P 114.

<sup>43</sup> NRECA Request for Rehearing at 11. NRECA alleges a conflict between paragraphs 101, 102 and 103 of the Final Rule.

days, and comply with the Commission's OASIS<sup>44</sup> and Standards of Conduct<sup>45</sup> requirements or request waiver of these obligations.<sup>46</sup>

27. The blanket waiver would be automatically revoked in circumstances where the acquisition of the new transmission facilities resulted in the ICIF no longer qualifying for the blanket waiver, for example, if the acquired facilities resulted in the original ICIF becoming integrated into the transmission system.

28. We also clarify that there are situations where a determination that the waiver could be revoked could occur through Commission action, for example, in a situation where the Commission determines that it is in the public interest to revoke the waiver in a proceeding under sections 210 and 211 of the FPA. In a situation where Commission action would be necessary, the ICIF owner and stakeholders will have notice of the revocation and would be provided full due process rights to respond.<sup>47</sup>

#### **D. Safe Harbor to Non-Public Utility ICIF Owners**

##### **1. Request for Clarification**

29. NRECA requests clarification that non-public utility ICIF owners may also take advantage of the five-year safe harbor presumption.<sup>48</sup>

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<sup>44</sup> See 18 C.F.R. Pt. 37 (2015).

<sup>45</sup> See 18 C.F.R. Pt. 358 (2015).

<sup>46</sup> See, e.g., 18 C.F.R. § 35.28(d)(2)(i) (2015):

The waivers referenced in this paragraph (d)(2) shall be deemed to be revoked as of the date the public utility ceases to satisfy the qualifications of this paragraph (d)(2), and may be revoked by the Commission if the Commission determines that it is in the public interest to do so. After revocation of its waivers, the public utility must comply with the requirements that had been waived within 60 days of revocation.

<sup>47</sup> Regarding the language referenced by NRECA in P 103 of the Final Rule, that “[a]ny instance of revocation, however, would be the result of a Commission proceeding,” we clarify that this statement was referring to the immediately preceding sentence, which addressed instances of revocation involving circumstances other than ceasing to satisfy the qualifications for the blanket waiver. Thus, a Commission proceeding would be necessary to revoke a waiver in that situation.

<sup>48</sup> NRECA Request for Rehearing at 12.

30. APPA and TAPS note that the Final Rule finds that the blanket waiver also will be available to non-public utilities with a reciprocity obligation but is silent regarding APPA's and TAPS's request that any new safe harbor period also be made available to such entities.<sup>49</sup>

## 2. Commission Determination

31. We clarify that non-public utility ICIF owners may avail themselves of not only the blanket waiver, as the Final Rule stated, but also the safe harbor period. Although the determination in the Final Rule does not explicitly state that non-public utility ICIF owners may take advantage of the blanket waiver, this omission was unintentional. The intent of the Final Rule was to make the package of reforms equally available to non-public utility ICIF owners.

### The Commission orders:

Rehearing is hereby denied and clarification is hereby granted, as discussed in the body of this order.

By the Commission.

( S E A L )

Kimberly D. Bose,  
Secretary.

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<sup>49</sup> APPA and TAPS Request for Rehearing at 8 (citing Final Rule, FERC Stats. & Regs. ¶ 31,367 at P 82).