

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.

Compliance with Financial Forms Filing Requirements	Docket No. IN07-7-000
Black Creek Hydro, Inc.	Docket No. IN07-08-000
Chugach Electric Association	Docket No. IN07-09-000
Dauphin Island Gathering Partners	Docket No. IN07-10-000
Eastern Shore Natural Gas Company	Docket No. IN07-11-000
Energy West Development	Docket No. IN07-12-000
Golden State Water Company	Docket No. IN07-13-000
Granite State Gas Transmission	Docket No. IN07-14-000
Jackson Prairie Underground Storage Project	Docket No. IN07-16-000
MarkWest New Mexico, L.P.	Docket No. IN07-17-000
Nornew Energy Supply	Docket No. IN07-18-000
Omya, Inc.	Docket No. IN07-19-000
Panther Interstate Pipeline Energy, LLC	Docket No. IN07-20-000
Steuben Gas Storage Company	Docket No. IN07-21-000
UGI Utilities, Inc.	Docket No. IN07-22-000

ORDER TO SHOW CAUSE

(Issued February 15, 2007)

1. The Commission orders the above-captioned companies to show cause, as detailed below, why they have failed to comply with the requirements to file certain financial forms. This order follows the review by staff in the Commission's Office of Enforcement (OE) of compliance by electric utilities, licensees, natural gas companies, and oil pipeline companies subject to the Commission's jurisdiction, with the Commission's financial reporting requirements.¹ Compliance with these requirements is

¹ Sections 4, 304 and 309 of the Federal Power Act, sections 10(a) and 16 of the Natural Gas Act, and section 20 of the Interstate Commerce Act grant authority to the Commission to prescribe periodic financial and non-financial reporting. *See* 16 U.S.C. §§797, 825c, and 825h (2000); 15 U.S.C. §§717i (a) and 717o (2000); and 49App. U.S.C. §§1-85 (1988), respectively.

important because the timely collection of current and accurate financial data ensures that the Commission has the information needed to carry out its regulatory responsibilities pertaining to the electric utility, natural gas, and oil pipeline industries and to set rates.

Summary of Compliance Review

2. OE initiated the compliance review in April 2006, when the office assumed responsibility for FERC Form Nos. 1, 1-F, 2, 2-A, 3-Q, 6 and 6-Q (financial forms). Staff first examined the relevant databases, eLibrary and company tariffs to compare potential filers with actual filers and to identify companies which had not filed the required forms. In this review process, staff looked for any discrepancies and made revisions to the list of non-filers. In this regard, staff also excluded any company with a pending request for extension of time to file its form(s). Staff next contacted all companies on the revised list of non-filers to advise them that we had no record of their financial form(s), as relevant, and gave them an opportunity to make the filings promptly or to send staff a record or some proof that the companies had indeed complied with the Commission's rules. For this purpose, staff used the telephone numbers of the companies' contact persons listed on previously filed forms. As a separate but related exercise, staff reviewed compliance with the requirement that companies filing Form Nos. 1, 1-F, 2, and 2-A must file a certification by an independent accountant (CPA certification), and followed a process similar to the one used for reviewing compliance with the financial forms requirements. Finally, to allocate resources efficiently, staff limited the scope of the review to calendar year 2005 and the first and second quarters of 2006.²

3. As indicated, the review undertaken here revealed that many of the companies required to file the forms and CPA certifications had done so; however, the companies listed in the caption to this order failed to meet one or more of the Commission's filing requirements. Staff reviewed a total of 144 companies, and found no instances where a company had failed to file the FERC Form No. 1, 2 or 6. The review found missing one FERC Form No. 2-A. Four companies were and continue to be delinquent in filing their quarterly reports, and 13 companies failed to file the independent CPA certification. During staff's review, several companies responded that they had filed the requisite CPA certification and offered to provide proof by faxing, emailing or refileing the auditor's letter of certification. The Commission will accept, in this one time, the certifications that were faxed or emailed to us and those companies will be considered to be in

² The review period was restricted to the timeframe in which OE assumed responsibility for the forms. The review effort will continue and parties should be on notice that the timely filing of all financial forms and CPA certifications will be monitored closely.

compliance with the Commission's reporting requirements. In the future, however, filers are reminded that CPA certifications must be filed with the Secretary's office in a timely manner.³

4. With respect to the remaining companies for which staff's review discovered that the filing requirements had not been met, the Commission is issuing this order to show cause why they are not in violation of the Commission's regulations.⁴ Attached to this order is an appendix which identifies the companies and the specific missing forms and reports.

Description of Financial Forms

5. FERC Form No. 1, "Annual Report of Major Electric Utilities, Licensees and Others" (Form 1), and FERC Form No. 1-F, "Annual Report for Nonmajor Public Utilities and Licensees" (Form 1-F),⁵ require information on an annual basis from electric utilities and certain hydroelectric production sources under the Commission's

³ Companies are encouraged to file electronically. To further that effort, a new selection, "CPA Certification," will be added to the dropdown "pick list" from which companies must choose when e-filing.

⁴ Part 141 of the Commission's regulations, 18 C.F.R. §§ Part 141.1, 141.2 and 141.400 (2006), requires electric utilities and licensees to file annual and quarterly financial reports. Part 260 of the Commission's regulations, 18 C.F.R. §§ 260.1, 260.2 and 260.300 (2006), requires natural gas companies to file annual and quarterly financial reports. Part 357 of the Commission's regulations, 18 C.F.R. §§ 357.2 and 357.4 (2006), requires oil pipeline companies to file annual and quarterly financial reports. In addition, Parts 41 and 158 of the Commission's regulations, 18 C.F.R. §§ 41.10-41.12, 158-10-158.12 (2006), require jurisdictional public utilities, licensees and natural gas companies subject to the Commission's reporting requirements to submit a letter or report of an independent certified public accountant certifying approval of the financial statements and related notes, unless the company was previously classified as Class C or Class D prior to January 1, 1984.

⁵ Part 101, 18 C.F.R. 101 (2006), of the Commission's regulations defines a major utility or licensee as one having, in each of the last three consecutive years, sales or transmission service that exceeded one or more of the following: "(a) One million megawatt-hours of total sales; (b) 100 megawatt-hours of sales for resale; (c) 500 megawatt-hours of power exchanges delivered; or (d) 500 megawatt-hours of wheeling for others (deliveries plus losses)." Utilities and licensees that are not classified as major and had total sales in each of the last three consecutive years of 10,000 megawatt-hours or more are defined as nonmajor.

jurisdiction. The forms primarily collect general corporate information; summary financial information; balance sheet and income statement supporting information; and electric plant, sales, operating and statistical data.

6. FERC Form No. 2, “Annual Report for Major Natural Gas Companies”(Form 2), and FERC Form No. 2-A, “Annual Report for Nonmajor Natural Gas Companies” (Form 2-A),⁶ collect information from natural gas companies subject to the Commission’s jurisdiction. Form 2 and Form 2-A collect financial and operational information for a calendar year. Form 2 contains, among other things, a comparative balance sheet; statement of income; statement of retained earnings; and statement of cash flows. Form 2-A collects the same information in an abbreviated form.

7. FERC Form No. 6, “Annual Report of Oil Pipeline Companies” (Form 6) collects financial and operational information from oil pipeline companies subject to the Commission’s jurisdiction.⁷

8. In 2004, the Commission updated its financial reporting requirements and added a new requirement that electric utilities, licensees, natural gas pipeline and oil pipeline companies file quarterly reports in addition to the annual filing.⁸ In the final rule adopting these changes, the Commission concluded that the financial information filed in the annual reports represents “the only source of financial data presented in a format and detail suitable for the Commission to exercise its duties and responsibilities under the Federal Power, Natural Gas, and Interstate Commerce Acts.”⁹ The quarterly report requirement was added to meet the increasing demand for timely financial information and to improve the transparency of the financial information for entities subject to the Commission’s jurisdiction.¹⁰

⁶ A major natural gas company is defined as one whose combined gas transported or stored for a fee exceeds 50 million Dth in each of the three previous calendar years. *See* 18 C.F.R. § 260.1. A nonmajor natural gas company is a company that does not meet the filing threshold for Form 2, but has total gas sales or volume transactions exceeding 200,000 Dth in each of the three previous calendar years. *See* 18 C.F.R. § 260.2.

⁷ Each oil pipeline carrier whose annual jurisdictional operating revenues has been \$500,000 or more for each of the three previous calendar years must file Form 6.

⁸ *See Quarterly Financial Reporting and Revisions to the Annual Reports*, Order No. 646, 69 Fed.Reg. 9,030, FERC Stats. & Regs. ¶ 31,158 (2004), as amended by Order No. 646-A, 69 Fed. Reg. 32,440, FERC Stats. & Regs. ¶ 31,163 (2004).

⁹ *Id.* Order 646 at P 16.

¹⁰ *Id.* at P 4.

Discussion

9. The financial information in the annual and quarterly financial forms is not only essential to the Commission's regulatory responsibilities, but is also relied upon by state commissions and utility and pipeline customers as the primary source of data needed to monitor electric utility, natural gas pipeline and oil pipeline rates, and to evaluate changes needed to existing requirements and regulations. In addition, the CPA certifications prepared by an independent CPA provide assurance that the financial statements and related notes are prepared in conformity with the Commission's prescribed accounting practices and that the statements are free of material misstatement. If any material discrepancies are found, the CPA's report must identify the schedules that do not conform to the Commission's requirements and describe the discrepancies that exist. The independent accountant, in consultation with the company, may seek advisory rulings by the Commission on these items.

10. All jurisdictional entities subject to the Commission's accounting regulations are required to keep their books and records in such a manner as to permit the preparation of financial and operating statements at the end of each accounting period. Companies that fail to report hamper the Commission's ability to carry out its jurisdictional responsibilities and prevent users of the data access to vital information. The companies listed in the caption of this order and in the attached appendix have apparently failed to file the required forms.

Conclusion

11. Accordingly, the Commission now requires that those entities show cause within 30 days of the issuance of this order why they should not be found in violation of the Commission's regulations. In the event that any of these entities has already filed the relevant form or forms or the required CPA certification, or has received a waiver of filing requirements from the Commission or is not subject to the Commission's regulation as a public utility under the FPA, a natural gas company under the NGA, or an oil pipeline company under the ICA, its inclusion herein is inadvertent.¹¹ Any such entity is directed, within 30 days of the date of this order, to make a filing with the Commission providing details about its prior filings that establish that it complied with the Commission's reporting requirements. Finally, the Commission is allowing delinquent filers to file within the next 30 days to avoid a penalty.¹²

¹¹ We note that as a result of EPAAct 2005 amendments to section 201(f) of the FPA, an electric power cooperative that is not financed by the Rural Utilities Service but that sells less than 4 million mWhs of electric power per year is no longer treated as a public utility under the FPA.

¹² The Commission may assess up to \$1 million per day per violation of its rules and regulations. *See* FPA § 316(a) (2005), 16 U.S.C. § 825o(a), and NGA § 22(a), 15 U.S.C. § 717t-1(a).

The Commission orders:

(A) Within 30 days of the date of issuance of this order, each public utility, natural gas company, and oil pipeline company listed in the caption of this order and in the attached appendix shall file with the Commission all delinquent forms and independent accountant reports.

(B) Within 30 days of the date of this order, entities who filed the required information previously shall show proof that they are in compliance with the Commission's financial reporting requirements.

(C) Within 30 days of the date of this order, all other entities must show cause why (1) the filing was not made; (2) why they are unable to make the required filings; or (3) why they believe they are not required to make the annual, quarterly and report of independent CPA certifications.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.

Appendix

Black Creek Hydro, Inc.

- 2005 CPA Certification for the FERC Form 1

Chugach Electric Association

- 2005 CPA Certification for the FERC Form 1

Dauphin Island Gathering Partners

- 2005 CPA Certification for the FERC Form 2

Eastern Shore Natural Gas Company

- 2005 CPA Certification for the FERC Form 2-A

Energy West Development

- 2005 CPA Certification for the FERC Form 2-A

Golden State Water Company

- 2005 CPA Certification for the FERC Form 1-F

Granite State Gas Transmission

- Q3-2005 FERC Form 3-Q for Non-Major Natural Gas Companies

Jackson Prairie Underground Storage Project

- 2005 CPA Certification for the FERC Form 2-A

MarkWest New Mexico, L.P.

- 2005 CPA Certification for the FERC Form 2

Nornew Energy Supply

- 2005 FERC Form 2-A
- 2005 CPA Certification for the FERC Form 2-A
- Q1-2005 FERC Form 3-Q for Non-Major Natural Gas Companies
- Q2-2005 FERC Form 3-Q for Non-Major Natural Gas Companies
- Q3-2005 FERC Form 3-Q for Non-Major Natural Gas Companies
- Q1-2006 FERC Form 3-Q for Non-Major Natural Gas Companies
- Q2-2006 FERC Form 3-Q for Non-Major Natural Gas Companies

Omya, Inc.

- 2005 CPA Certification for the FERC Form 1-F
- Q1-2006 FERC Form 3-Q for Non-Major Electric Companies
- Q2-2006 FERC Form 3-Q for Non-Major Electric Companies

Panther Interstate Pipeline Energy, LLC

- 2005 CPA Certification for the FERC Form 2-A
- Q1-2006 FERC Form 3-Q for Non-Major Natural Gas Companies
- Q2-2006 FERC Form 3-Q for Non-Major Natural Gas Companies

Steuben Gas Storage Company

- 2005 CPA Certification for the FERC Form 2-A

UGI Utilities, Inc.

- 2005 CPA Certification for the FERC Form 1-F