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UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

18 CFR Parts 141 and 385

(Docket No. RM07-14-000; Order No. 695)

Electronic Filing of FERC Form No. 714

(Issued April 19, 2007)

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final Rule.

SUMMARY: In this Final Rule, the Federal Energy Regulatory Commission (Commission) is amending its regulations to provide for electronic filing of the FERC Form No. 714, Annual Electric Control and Planning Area Report. Paper filings will no longer be accepted. No substantive changes are being made to the information reported in the FERC Form No. 714; however, the Commission has made minor formatting changes to the form to facilitate the development of the form submission software. Finally, as an administrative revision, the term “Control Area” will be changed to “Balancing Authority Area,” in line with current industry practice. In a separate notice, a forty-five day extension, to July 16, 2007, will be granted this first year under the new system to allow additional time to file.

EFFECTIVE DATE: The Final Rule will become effective [insert date that is 30 days after 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.

Electronic Filing of FERC Form No. 714

Docket No. RM07-14-000

ORDER NO. 695

FINAL RULE

(Issued April 19, 2007)

1. The Federal Energy Regulatory Commission is amending its regulations to provide for electronic filing of the FERC Form No. 714, Annual Electric Control and Planning Area Report (Form 714).¹ Paper filings will no longer be accepted. No substantive changes are being made to the information reported in the Form 714; however, the Commission has made minor formatting changes to the form to facilitate the development of form submission software. Finally, as an administrative revision, the term “Control Area” will be changed to “Balancing Authority Area,” in line with current industry practice. In a separate notice, a forty-five day extension, to July 16, 2007, will be granted this first year under the new system to allow additional time to file.

¹ See 18 CFR 141.51.

Background

2. Form 714 gathers utility operating and planning information, primarily on a control area basis,² for the purpose of evaluating utility operations with regard to mergers and dispositions, jurisdictional services, jurisdictional rates, energy market oversight, and wholesale market changes in light of evolving competitive forces.

3. Form 714 is submitted annually by approximately 173 utilities who operate balancing authority areas and planning areas. Currently, Form 714 is submitted in a paper format.

Discussion

4. The Commission's regulations provide for electronic filing, using web-enabled software technology, of numerous reports currently submitted by entities subject to Commission jurisdiction, some of which are: FERC Form No. 1, Annual Report of Major Electric Utilities, Licensees and Others; FERC Form No. 516, Electric Quarterly Report; FERC Form No. 423, Monthly Report of Cost and Quality of Fuels for Electric Plants; FERC Form No. 3Q, Quarterly Financial Report of Electric Utilities, Licensees, and Natural Gas Companies; and FERC Form No. 60, Annual Report of Centralized Service Companies.³ The electronic filing of these reports yields significant benefits, including reduced cost of data entry and retrieval, overall reduction of reporting burden,

² In line with electric industry developments, "Control Area" will be changed to "Balancing Authority Area."

³ See, e.g., 18 CFR 385.2011.

faster and more precise data validation, more timely analysis and publication of data, and increased data analysis capability.⁴ And, in general, filers and users alike agree that electronic filing of these reports yields significant benefits in terms of process simplification and savings of time and expense.⁵

5. With respect to Form 714, the Commission seeks similar benefits. The Commission, therefore, will require utilities to file the Form 714 electronically, using the Commission's web-enabled software, beginning with the 2006 reporting year, to be filed this first year by an extended filing date of July 16, 2007.

6. In addition, the term "Control Area" will be changed to "Balancing Authority Area" in the title and throughout the form and instructions in keeping with this change in industry. By using either term, the Commission is referring to the area operator that is responsible for matching generation and load, that is responsible for maintaining scheduled interchange with other Balancing Authority Areas, and that is responsible for maintaining the frequency in real-time of the electric power system.

7. No substantive changes are being made to the information reported in Form 714. However, the Commission will make minor formatting changes to Form 714 to facilitate the development of the form submission software. These minor changes will include updating certain attachments so that the data is reported in a structured format, updating

⁴ See, e.g., Electronic Filing of FERC Form No. 1, Order No. 574, 60 FR 1716 (Jan. 5, 1995), FERC Stats. & Regs. ¶ 31,013 at 31,257 (1995).

⁵ Id. at 31,256-57.

the General Instructions to Form 714 to clarify that the respondents will no longer file paper copies of Form 714, but rather the respondents will be required to use the Commission's form submission software to file the information, and lastly allowing only utilities subject to the reporting requirements to submit a Form 714 via the software. Ergo, the Commission will not register the software to a regional transmission system organization operator who is not a Balancing Authority Area operator or Planning Area operator. Entities that are neither Balancing Authority Area operators nor Planning Area operators, but who are authorized by their members to compile Form 714 data on their behalf, are required to make the data available to their Balancing Authority Area operators or Planning Area operators in order that those area operators may file the data with the Commission.

8. In a separate notice, filers will be directed to the Commission's website where instructions will be provided concerning how a utility may register as a respondent and download the form submission software for use in filing Form 714.

Information Collection Statement

9. Office of Management and Budget (OMB) regulations require OMB to approve certain information collection requirements imposed by an agency.⁶ The Final Rule will not change the reporting requirements in Form 714. This rule, therefore, is not subject to OMB review. The Commission is submitting a copy of the Final Rule to OMB for

⁶ 5 CFR 1320.11.

information purposes only. When the collection is next up for OMB renewal (2009), the Commission will report a reduction in burden (1) due to a reduction in the number of filers from the previous 250 to the current 173, a result of the formation of regional transmission organizations (and other similar entities) encompassing numerous former Control Areas (Balancing Authority Areas) and (2) due to the switch from a paper and diskette filing to an all-electronic filing.

10. Interested persons may obtain information on these reporting requirements by contacting the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426 [Attn: Michael Miller, Information Services Division (202) 502-8415, fax: (202) 273-0873]. Comments on the requirements of this rule can be sent to the Office of Information and Regulatory Affairs of OMB [Attn: Desk Officer for the Federal Energy Regulatory Commission; phone, (202) 395-4650, fax: (202) 395-7285, e-mail: oira_submission@omb.eop.gov].

Environmental Analysis

11. Commission regulations require that an Environmental Assessment or an Environmental Impact Statement be prepared for any Commission action that may have a significant adverse effect on the human environment.⁷ The Commission has categorically excluded certain actions from this requirement as not having a significant effect on the

⁷ Regulations Implementing the National Environmental Policy Act, Order No. 486, 52 FR 47897 (Dec. 17, 1987), FERC Stats. & Regs. ¶ 30,783 (1987) (codified at 18 CFR Part 380).

human environment. No environmental consideration is necessary for the promulgation of a rule concerning information gathering, analysis or dissemination, or that is merely procedural.⁸ Because the electronic filing requirement for Form 714 adopted in this Final Rule concerns information gathering, and is procedural, no environmental consideration is necessary.

Regulatory Flexibility Act Certification

12. The Regulatory Flexibility Act of 1980 (RFA)⁹ generally requires either a description and analysis of a rule that will have a significant economic impact on a substantial number of small entities or a certification that the rule will not have a significant economic impact on a substantial number of small entities. Most utilities to which this Final Rule applies would not fall within the RFA's definition of small entity.¹⁰ Consequently, the Commission certifies that this Final Rule will not have a "significant economic impact on a substantial number of small entities."

⁸ 18 CFR 380.4(a)(2)(ii), (5).

⁹ 5 U.S.C. 601-12.

¹⁰ 5 U.S.C. 601(3), citing to section 3 of the Small Business Act, 15 U.S.C. 632. Section 3 of the Small Business Act defines a "small business concern" as a business that is independently owned and operated and that is not dominant in its field of operation. The Small Business Size Standards component of the North American Industry Classification System (NAICS) defines a small electric utility as one that, including its affiliates, is primarily engaged in the generation, transmission, and/or distribution of electric energy for sale and whose total electric output for the preceding fiscal year did not exceed four million MWh. 13 CFR 121.201.

Document Availability

13. 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 D.C. 20426.

14. From the Commission's Home Page on the Internet, this information is available in the Commission's document management system, 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 document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

15. User assistance is available for eLibrary and the Commission's website during normal business hours. For assistance, please contact FERC Online Support at 1-866-208-3676 (toll free) or 202-502-6652 (e-mail at FERCOn-lineSupport@ferc.gov) or the Public Reference Room at 202-502-8371, TTY 202-502-8659 (e-mail at public.referenceroom@ferc.gov).

Administrative Findings And Effective Date

16. The Administrative Procedure Act (APA)¹¹ requires rulemakings to be published in the Federal Register. The APA also mandates that an opportunity for comments be provided when an agency promulgates regulations. However, notice and comment are not required under the APA when the agency for good cause finds that notice and public procedure thereon are impracticable, unnecessary or contrary to the public interest.¹²

17. The Commission finds that notice and comment are unnecessary for this rulemaking. As explained above, this Final Rule is merely procedural in nature. The Commission is not substantively revising the information utilities file in the Form 714. The Commission is merely requiring electronic filing of the Form 714 using software analogous to software developed by the Commission for the collection of other information from the same utilities that currently file Form 714, e.g., Forms 1, 3Q and 516.

18. This Final Rule is effective [insert date that is 30 days after publication in the **FEDERAL REGISTER**].

¹¹ 5 U.S.C. 551-59.

¹² 5 U.S.C. 553(B); see, e.g., Mid-Tex Electric Cooperative, Inc. v. FERC, 822 F.2d 1123 (D.C. Cir. 1987).

Congressional Notification

19. The provisions of the Small Business Regulatory Enforcement Fairness Act of 1996¹³ regarding Congressional review of Final Rules do not apply to this Final Rule, because the rule concerns agency procedure and practice and will not substantially affect the substantive rights of non-agency parties.¹⁴

List of subjects

18 CFR Part 141

Electric power
Reporting and recordkeeping requirements

18 CFR Part 385

Administrative practice and procedure
Electric power
Penalties
Pipelines
Reporting and recordkeeping requirements

By the Commission.

(S E A L)

Philis J. Posey,
Deputy Secretary.

¹³ 5 U.S.C. 801.

¹⁴ 5 U.S.C. 804(3)(B).

In consideration of the foregoing, the Commission amends parts 141 and 385, Chapter I, Title 18, Code of Federal Regulations, as follows:

PART 141 – STATEMENTS AND REPORTS (SCHEDULES)

1. The authority citation for part 141 continues to read as follows:

Authority: 15 U.S.C. 79; 16 U.S.C. 791a-828c, 2601-2645; 31 U.S.C. 9701; 42 U.S.C. 7101-7352.

2. In § 141.51, the title, and paragraphs (a)(1) and (c) are revised to read as follows:

§ 141.51 FERC Form No. 714, Annual Electric Balancing Authority Area and Planning Area Report.

(a) Who must file. (1) Any electric utility, as defined by section 3(4) of the Public Utility Regulatory Policies Act, 16 U.S.C. 2602, operating a balancing authority area, and any group of electric utilities, which by way of contractual arrangements operates as a single balancing authority area, must complete and file the applicable schedules in FERC Form No. 714 with the Federal Energy Regulatory Commission.

* * * * *

(c) What to file. FERC Form No. 714, Annual Electric Balancing Authority Area and Planning Area Report, must be filed with the Federal Energy Regulatory Commission as prescribed in § 385.2011 of this chapter and as indicated in the General Instructions set out in this form.

PART 385 – RULES OF PRACTICE AND PROCEDURE

3. The authority citation for part 385 continues to read as follows:

Authority: 5 U.S.C. 551-557; 15 U.S.C. 717-717z, 3301-3432; 16 U.S.C.791a-825v, 2601-2645; 28 U.S.C. 2461; 31 U.S.C. 3701, 9701; 42 U.S.C. 7101-7352, 16441, 16451-16463; 49 U.S.C. 60502; 49 App. U.S.C. 1-85 (1988).

4. In § 385.2011, paragraph (a)(10) is added and paragraph (c)(3) is revised to read as follows:

§ 385.2011 Procedures for filing on electronic media (Rule 2011).

(a) * * *

(10) FERC Form No. 714, Annual Electric Balancing Authority Area and Planning Area Report.

* * * * *

(c) What to file. * * *

(3) With the exception of the FERC Form Nos. 1, 2, 2-A, 6, 60, and 714, the electronic media must be accompanied by the traditional prescribed number of paper copies.

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