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# FEDERAL ENERGY REGULATORY COMMISSION

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WASHINGTON, D.C. 20426

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## NEWS RELEASE

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### FOR IMMEDIATE RELEASE

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Docket No. RM05-32

## **COMMISSION FINALIZES RULES ON HOLDING COMPANY ACT REPEAL; REFORMS WILL BOLSTER ENERGY INFRASTRUCTURE INVESTMENT**

The Federal Energy Regulatory Commission today finalized rules to implement the Congressionally mandated repeal of the Public Utility Holding Company Act of 1935 and enactment of the Public Utility Holding Company Act of 2005, or PUHCA 2005.

The final rules implement the Holding Company Act provisions of the Energy Policy Act of 2005 by adding a new Part 366 to Title 18 of the Code of Federal Regulations and removing Part 365. Congress mandated that the Commission issue its final rules by December 8, 2005, for the rules to be in place prior to the February 8, 2006, date the 1935 law is repealed and the new PUHCA 2005 takes effect.

“This final rule is a significant milestone in carrying out the objectives of the Energy Policy Act and I am pleased the Commission met the deadline set by Congress. These regulatory reforms will open the electricity and natural gas sectors to new sources of investment in necessary energy infrastructure development,” Commission Chairman Joseph T. Kelliher observed.

The final rules approved today modify the scope of the proposed rule the Commission issued in September, to reduce regulatory burdens by limiting filing requirements to those needed to protect against inappropriate cross-subsidization, and providing exemptions and waivers for persons and transactions not relevant to jurisdictional rates.

The Energy Policy Act repealed the 70-year-old Holding Company Act, which established a regulatory regime overseen by the U.S. Securities and Exchange Commission, and replaced it with a new statute focused on increased access to holding company books and records to assist the Commission and state utility regulators in protecting customers of regulated utilities.

Section 1264 of PUHCA 2005 concerns Commission access to the books and records of holding companies and other companies in holding company systems. Section

1275 addresses the Commission's review and authorization of the allocation of costs for non-power goods and services requested by a holding company system or state commission. These two provisions supplement the Commission's present authority under the Federal Power Act and Natural Gas Act.

The Commission emphasized that its primary means of overseeing jurisdictional companies that are holding company affiliates continues to be the Federal Power Act and the Natural Gas Act. These statutes enable the Commission to detect and disallow from jurisdictional rates any imprudently incurred, unjust or unreasonable or unduly discriminatory or preferential costs from affiliate transactions between companies in the same holding company system. Separately, the Commission routinely places code of conduct restrictions on power sales at market-based rates between regulated and non-regulated affiliates.

Among the Commission's determinations in the final rule are:

- Unless otherwise exempted or granted a waiver under the new rules, all holding companies, including those previously exempted by the Securities and Exchange Commission under the 1935 law, will have until January 1, 2007, to comply with the Commission's record-retention requirements. Centralized service companies will have until January 1, 2007, to comply with the Commission's record-retention and accounting requirements.
- The Commission establishes procedures for exempt wholesale generator (EWG) and foreign utility company (FUCO) self-certification and permits declaratory order petitions for EWG and FUCO status.
- A FERC Form No. 60, an annual report for centralized service companies, will replace and streamline the SEC Form U-13-60.

The Commission, in response to extensive comments on its notice of proposed rulemaking issued in September, adopted a streamlined process to exempt from the books and requirements of PUHCA 2005, or waive the Commission regulations for, the following persons and classes of transactions:

- Passive investors;
- Commission-jurisdictional utilities that have no captive customers, and are not affiliated with any jurisdictional utility that has captive customers;
- Certain holding companies and affiliate transactions that will not affect jurisdictional rates;
- Rural electric cooperatives;
- Single-state holding companies;
- Holding companies that own 100 megawatts or less of generation used fundamentally for their own load or affiliated end-users; and

- Investors in independent transmission-only companies.

Other exemptions and waivers will be considered on a case-by-case basis.

The Commission announced that it will hold a technical conference within one year from the effective date of PUHCA 2005 to assess whether additional action related to repeal of the 1935 Holding Company Act is necessary.

The Commission said it will initiate a separate rulemaking to address how the Commission's Uniform System of Accounts and record retention rules can be modified to adopt or integrate the relevant part of the SEC's Uniform System of Accounts and record retention rules. The Commission anticipates that a final rule will be issued in this rulemaking proceeding well in advance of January 1, 2007, so that all holding companies and service companies will be able to transition to the Commission's accounting and record-retention rules by the January deadline.

In a related action today, the Commission submitted a report to Congress, as required under the Energy Policy Act, recommending minor technical amendments to PUHCA 2005 that Congress may wish to consider.