
FEDERAL ENERGY REGULATORY COMMISSION



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NEWS RELEASE

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FERC SEEKS COMMENT ON STANDARDS OF CONDUCT REGULATIONS FOR ENERGY AFFILIATES FOR INTEGRATED RESOURCE PLANNING AND COMPETITIVE SOLICITATIONS

The Federal Energy Regulatory Commission today proposed to adopt permanent standards of conduct regulations that will govern the relationship between natural gas transmission providers and their energy affiliates.

The Notice of Proposed Rulemaking (NOPR) follows the Commission's issuance of an interim rule on January 9, 2007, in which the Commission made the standards of conduct inapplicable to the relationship between natural gas pipeline transmission providers and their energy affiliates, consistent with the decision of the U.S. Court of Appeals for the District of Columbia Circuit in *National Fuel Gas Supply Corporation v. FERC* (issued November 17, 2006).

Commission Chairman Joseph T. Kelliher said, "Today's action shows the Commission recognizes the significance of the court in *National Fuel*. We do not propose to maintain the expanded scope of the Standards of Conduct rule on natural gas pipelines. We also ask important questions as to whether we should maintain the expanded scope of the rule as it applies to electric utilities. I support application of the rule to marketing affiliates of both electric utilities and natural gas pipelines. The question is whether there should be a broader application on electric utilities. The reality is that the court found the Standards of Conduct rule was fatally flawed in its formation, and the Commission had no more basis to expand the scope of application on electric utilities than it did on natural gas pipelines. Since the rule rests on an infirm foundation, in my view we either have to find a new foundation for application of the expanded scope of the Standards of Conduct rule on electric utilities, or narrow the scope to conform to what we propose today for natural gas pipelines. We seek comment in this area, and will base our decision on the record."

Today's order proposes to make permanent interim regulations that were designed to prevent a regulatory gap with respect to standards of conduct for natural gas pipelines and their marketing affiliates until a final rule that is consistent with the court's decision can be promulgated. The Commission is also seeking comments on whether to make comparable changes with respect to applying the definition of energy affiliate to electric utility transmission providers.

In the NOPR, the Commission:

- * proposes to make permanent the interim rule provision that the standards of conduct do not apply to the relationship between natural gas pipeline transmission providers and their energy affiliates.
- * proposes to make permanent the changes to the definition of marketing, sales or brokering consistent with the court's decision and soliciting comments on whether to include asset managers in the definition of marketing.
- * seeks comment on whether the standards of conduct should apply to the relationship between electric utility transmission providers and their energy affiliates, an issue which was not appealed.

In addition, the Commission proposes changes to the standards of conduct to facilitate integrated resource planning and competitive solicitations. These proposed changes would improve the consideration of transmission in integrated resource planning and competitive solicitations by allowing planning employees and competitive solicitation employees to access non-public transmission information. The Commission believes that these proposed changes would improve coordination between transmission planning, generation planning and demand response programs, which are the main elements of integrated resource planning, and that the changes are necessary to improve the economics and reliability of the transmission grid.

Among other things, the Commission also seeks comment on the following:

- * whether to make permanent regulatory language regarding permissibly shared risk management employees for natural gas transmission providers and make comparable changes applicable to electric utility transmission providers;
- * whether to make permanent the requirements for natural gas transmission providers to post their discretionary acts and make comparable changes applicable to electric utility transmission providers;
- * requiring each transmission provider to post the name of its Chief Compliance Officer, deleting outdated references and requiring employees to certify that they have completed standards of conduct training.

Comments on the proposed rule must be filed within 45 days after the date of publication in the *Federal Register*. Reply comments are due 65 days after publication in the *Federal Register*. All comments must refer to Docket No. RM07-1-000 and may be submitted either electronically, following the procedures detailed under eFiling on the FERC website at www.ferc.gov, or by postal mail to FERC, Office of the Secretary, 888 First Street, NE; Washington, DC 20426.

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