
FEDERAL ENERGY REGULATORY COMMISSION



WASHINGTON, D.C. 20426

NEWS RELEASE

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FOR IMMEDIATE RELEASE

February 9, 2005
Docket No. RM04-14-000

FINAL RULE REQUIRING HOLDERS OF MARKET-BASED RATES TO REPORT CHANGES IN STATUS WILL ENHANCE MARKET OVERSIGHT

The Federal Energy Regulatory Commission today finalized new rules to standardize market-based rate sellers' reporting requirement for changes in status and provide guidance as to the events that would trigger this reporting requirement. The rule benefits customers by ensuring compliance with market-based rates.

The rule eliminates the option to delay reporting changes in status until the submission of a market-based rate seller's triennial market power analysis. In addition, the Commission requires that the reporting requirement be incorporated into the market-based rate tariffs of each entity that is currently authorized to make sales at market-based rates, as well as that of all future applicants.

While the Commission provides guidance with today's rule, it emphasized that it is the responsibility of the company that has the market-based rate authority to comply with FERC's regulations. "The electric industry is a dynamic industry and no bright-line standard is possible to encompass all relevant factors and possibilities that may occur," the Commission said. The Commission notes that it has adopted many of the recommendations suggested by commenters. At the same time, the Commission finds that some of the recommendations made by commenters are more appropriately addressed in the market-based rate rulemaking proceeding that the Commission has initiated in Docket No. RM04-7-000.

The Commission said that wholesale power markets have expanded and developed since market-based rates were first authorized. The number of sellers –public utilities, independent power producers, power marketers and others – has increased along with the complexity of the markets. In addition, market structure is rapidly changing due to restructuring, corporate realignments and other types of contractual arrangements. The Commission has concluded that, in today's electric industry, more timely reporting of changes in status is necessary.

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The key to determining when a filing is required is whether the change in status would have been reported in an initial application for market-based rates, using the Commission's four-part analysis for determining market power. This analysis examines whether the applicant for market-based rates or its affiliates have the potential to exercise market power by considering generation market power, transmission market power, other barriers to entry, and the potential for affiliate abuse or reciprocal dealing.

Under today's final rule, notices of such changes must be filed within 30 days after the change in status occurs. This filing is in addition to current requirements that market-based rate sellers file electric quarterly reports with the Commission and an updated market analysis every three years.

The Final rule, *Reporting Requirement for Changes in Status for Public Utilities with Market-Based Rate Authority*, becomes final 30 days after its publication in the Federal Register.

R-05-07

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