
FEDERAL ENERGY REGULATORY COMMISSION



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NEWS RELEASE

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COMMISSION STRENGTHENS STANDARDS OF CONDUCT FOR NATURAL GAS AND ELECTRIC INDUSTRIES

In response to changes in the structure of the energy industry, the Federal Energy Regulatory Commission today adopted a final rule that will establish standards of conduct that will apply uniformly to natural gas pipelines and transmitting public utilities. The standards of conduct govern the relationship between transmission providers and their energy affiliates.

The final rule revises and conforms the current gas and electric standards by broadening the definition of an energy affiliate covered by the standards of conduct and applying them uniformly to natural gas pipelines and public utility transmission providers.

Further, the final rule will ensure that transmission providers cannot extend their market power over transmission to other energy markets by giving their energy affiliates unduly preferential treatment. The standards also help ensure transmission providers offer service to all customers on a non-discriminatory basis.

In the final rule, the Commission retains the exemption of Order No. 889, which permits a public utility transmission provider to use the same employees for its interstate transmission business and its bundled retail sales business. The Commission clarifies that if a retail sales function employee engages in any wholesale sales, such as selling excess generation off system, the exemption will not apply.

Many commenters expressed concern that the Commission's implementation of the information disclosure prohibitions might limit the information a director, officer or senior manager could receive, which could restrict his or her ability to engage in the corporate governance functions under the Sarbanes-Oxley Act of 2002, which requires chief executive officers and chief financial officers to personally vouch for the timeliness and fairness of their companies' public disclosures. In the final rule, the Commission adopted the "no-conduit rule" which allows shared employees to receive certain

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information as long as the shared employee does not actively share the information with a marketing or energy affiliate.

Unprecedented changes have occurred since the standards of conduct were adopted in both the gas and electric industries, the Commission noted. The markets have expanded to include both physical and financial transactions by marketing and non-marketing gas pipeline affiliates. The electric industry has experienced significant increases in power providers, in the market for available transmission capacity and in the number of power transactions.

Transmission providers continue to have economic incentives to give undue preferences to their energy affiliates, the Commission said. The final rule is intended to give transmission providers specific guidance on how to eliminate undue discrimination and undue preferences in providing interstate transmission services, consistent with the provisions of the Natural Gas Act and the Federal Power Act.

The revised rules require transmission providers' employees who are engaged in transmission system operations to function independently from the transmission providers' sales or marketing employees and from any employees of their energy affiliates. In addition, the transmission provider must treat all transmission customers, affiliated and non-affiliated, on a non-discriminatory basis and cannot operate its transmission system to benefit preferentially an energy affiliate or marketing affiliate.

The Commission believes that the revised standards of conduct will ensure that transmission providers function independent of all of their energy affiliates. Such separation is vital if the Commission is to ensure that transmission providers do not use their access to information about transmission to unfairly benefit their own or their affiliates' sales to the detriment of customers, the Commission said.

The final rule is effective 60 days after publication in the Federal Register. On that date, each transmission provider is required to submit an informational filing describing the measures it will take to bring itself into compliance with the standards of conduct by June 1, 2004.