



MEDIA ALERT

FERC Reaffirms Capacity Release Rule

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RM08-1-001

The Federal Energy Regulatory Commission (FERC) today reaffirmed its final rule, Order No. 712, governing the release of firm capacity by shippers using interstate natural gas pipelines. In denying requests for rehearing, FERC said it continues to find that maintenance of the maximum rate ceilings for short-term pipeline transactions is necessary to protect against the potential exercise of market power.

Background and Order

Under Order No. 712, FERC lifted the maximum rate ceiling on secondary capacity releases of one year or less and facilitated asset management arrangements (AMAs) by exempting releases to them from a tying prohibition on bidding requirements. This rule enhances the efficiency and effectiveness of the secondary capacity release market while FERC continues its regulation of long term capacity releases of more than a year, pipeline rates and services.

FERC generally denied rehearing requests. "The removal of the rate ceiling for short-term capacity release transactions is designed to extend to capacity release transactions the pricing flexibility already available to pipelines through negotiated rates without compromising the fundamental protection provided by the availability of recourse rate service," the Commission said in Order No. 712-A.

FERC clarified several areas of the rule at the request of several parties. Among other things, Order 712-A clarifies that AMAs and retail unbundling releases are exempt from prohibition on extensions and rollovers for short-term releases. It also clarified that the delivery purchase obligation under an AMA to be five months for annual periods and five to 12 months for non-annual periods.

FERC also clarified that open-access liquefied natural gas (LNG) terminals can tie their connecting downstream pipeline with terminal capacity. Currently, open access LNG terminals are subject to bidding requirements. FERC declined to revise the rule for LNG terminals that are not open-access because it lacks knowledge on how such arrangements would be structured and therefore could not ensure transparency. The final rule is effective 30 days after publication in the *Federal Register*.

MA08-50

The FERC decision can be found at www.ferc.gov

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