

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;
Nora Mead Brownell, Joseph T. Kelliher,
and Suedeen G. Kelly.

Quarterly Financial Reporting and
Revisions to the Annual Reports

Docket No. RM03-8-002

ORDER DELAYING IMPLEMENTATION OF THE CORPORATE OFFICER'S
CERTIFICATION STATEMENT FOR FERC ANNUAL REPORT FORMS

(Issued March 23, 2005)

1. On March 3, 2005, Edison Electric Institute (EEI) filed a request for an extension of time for companies to adopt the revised corporate officer's certification statement that Order No. 646 requires for FERC Form 1, and proposed modifications to the corporate officer's certification for FERC Form 1 to conform with changes to a similar certification recently implemented by the Securities and Exchange Commission (SEC). The Interstate Natural Gas Association (INGAA) filed a similar request on March 11, 2005 with respect to FERC Form 2. For the reasons discussed below, the Commission is granting an extension of time, until further notice, for companies to implement the corporate officer's certification statement for FERC Annual Report Forms 1, 1-F, 2, 2-A, and 6. In the meantime, the Commission will further consider EEI's and INGAA's proposed revisions to the corporate officer's certification statement. This order benefits customers by providing FERC-jurisdictional entities additional time to put in place the internal controls necessary to make the corporate officer's certification required for the FERC Annual Reports.

Background

2. On February 11, 2004, the Commission issued Order No. 646 amending its financial reporting regulations.¹ Among other things, Order No. 646 updated the

¹ Order No. 646, 69 Fed. Reg. 9,030 (Feb. 26, 2004), FERC Stats. & Regs. ¶ 31,158 (2004), *order on reh'g*, 69 Fed. Reg. 32,440 (June 10, 2004), FERC Stats. & Regs. ¶ 31,163 (2004).

corporate officer's certification statement for the FERC Annual Reports. The Commission directed FERC-jurisdictional entities to file the revised FERC Annual Reports, including the new corporate officer's certification statement, beginning with the 2004 reporting year. Those FERC Annual Reports will be filed beginning in April 2005.

EEI's and INGAA's Motions

3. In their filings, EEI and INGAA request an extension of time to implement the corporate officer's certification statement for FERC Form 1 and Form 2. EEI and INGAA point out that, while the former certification statement focused only on the accuracy of the financial information presented in the Annual Reports, the scope of the new corporate officer's certification statement is expanded to include certifications that: (1) the company has designed internal accounting controls to ensure that material information related to the company is made known to the certifying officer, (2) the certifying officer has disclosed to the company's auditors any significant weaknesses in the design or operation of the company's internal accounting controls, and (3) the certifying officer has identified any significant changes in the company's internal accounting controls in its FERC Annual Report Form.

4. EEI and INGAA note that the corporate officer certification statement required in Order No. 646 is patterned after an early version of the SEC's Form 10-K certification statement. But, according to EEI and INGAA, Order No. 646's corporate officer's certification statement differs in several ways from the certification ultimately adopted by the SEC for Form 10-K. EEI and INGAA, therefore, propose a number of changes to the corporate officer's certification statement for FERC Form 1 and Form 2 that will bring the certification statement in line with the new SEC Form 10-K certification.² In addition to these changes, EEI and INGAA also recommend that changes in a reporting company's internal accounting controls that are disclosed in FERC Form 1 and Form 2 be submitted as part of the "Important Changes during the Year" section of the form.

5. EEI and INGAA argue that the FERC Form 1 and Form 2 corporate officer certification statement requires companies to adopt changes to their accounting and auditing systems and to their internal controls two years before those companies are required to implement those changes for SEC Form 10-K reporting purposes. According to EEI and INGAA, companies filing FERC Form 1 and Form 2 are still in the process of adopting the changes needed to make the certification for SEC Form 10-K reporting. EEI and INGAA state that the corporate officer certification statement requires companies filing FERC Form 1 and Form 2 to make assertions that many can make only after their

² See EEI's Motion, Attachment A; see also INGAA's Motion, Attachment A.

mechanisms for compliance with the SEC's reporting requirements are in place, which will be at the end of 2006.

6. EEI and INGAA, therefore, request the Commission to (1) delay adoption of the corporate officer's certification statement for the revised FERC Form 1 and Form 2 for two years, from April 25, 2005 to April 18, 2007, which would put the certification on the same track as the certification requirement for SEC's Form 10-K, and (2) during the two-year delay, to modify the corporate officer's certification statement for FERC Form 1 and Form 2 to conform it to the certification statement for SEC Form 10-K. In addition, EEI and INGAA request the Commission to reconsider the need for companies that do not have registered securities and are not publicly traded to make the corporate officer's certification for FERC Form 1 and Form 2. Instead, EEI and INGAA request the Commission to allow such companies to use the former FERC Annual Report Form certification, which is still used for the FERC Form 3-Q quarterly financial reports.

Discussion

7. The Commission is granting EEI's and INGAA's motion for an extension of time until further notice to implement the corporate officer's certification statement currently required for FERC Form 1 and Form 2. This extension of time will apply not only to FERC Form 1 and Form 2 but also to FERC Forms 1-F, 2-A and 6 since the same corporate officer's certification statement is used for those forms as well. FERC-jurisdictional entities filing the FERC Annual Report Forms noted above will use the former FERC Annual Report Form certification statement in the interim.

8. In the meantime, the Commission will consider revisions proposed by EEI and INGAA to the corporate officer's certification statement in the FERC Annual Report Forms. During this time, the Commission strongly encourages all jurisdictional entities to work diligently so they can make the required internal accounting control certifications for the Commission's Annual Report Forms.

The Commission orders:

EEI's and INGAA's motions for an extension of time to implement the corporate officer's certification statement in the FERC Annual Report Forms are granted, as discussed in the body of this order.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.