

**FEDERAL ENERGY REGULATORY COMMISSION
ENERGY POLICY ACT OF 2005 IMPLEMENTATION OVERVIEW**

MANDATORY WITHIN 60 DAYS AFTER DATE OF ENACTMENT

- Within 60 days after enactment, FERC shall promulgate regulations on the National Environmental Policy Act (NEPA) pre-filing process for liquefied natural gas (LNG) projects. (sec. 311)

MANDATORY WITHIN 90 DAYS AFTER DATE OF ENACTMENT

- Within 90 days after enactment, Departments of Interior, Commerce, and Agriculture, in consultation with FERC, shall establish by rule procedures for trial-type expedited proceedings for mandatory conditions and fishways. (sec. 241(a)-(b)).

MANDATORY WITHIN FOUR MONTHS AFTER DATE OF ENACTMENT

- Within four months after enactment, FERC shall issue rules to exempt from section 1275 (FERC review and authorization of costs of non-power goods or services provided by an associate company to a public utility in the same holding company system) any holding company whose public utility operations are confined to a single state and any other class of transactions the Commission finds not relevant to jurisdictional public utility rates.
- Within four months after enactment, FERC shall issue such rules as may be necessary to implement new Public Utility Holding Company Act (PUHCA) provisions. (sec. 1272)
- Within four months after enactment, FERC shall submit to Congress detailed recommendations and conforming amendments to federal law necessary to carry out the PUHCA subtitle. (sec. 1272)

MANDATORY BY DECEMBER 31, 2005

- FERC shall seek to conclude its investigation of unreasonable charges during the California electricity crisis, seek to ensure that refunds owed to California are paid, and submit to Congress by Dec. 31, 2005, a report describing actions taken and timetables for further action. (sec.1824)

MANDATORY WITHIN 180 DAYS AFTER ENACTMENT

- Within 180 days, FERC shall issue a final rule implementing the new reliability provisions. (sec. 1211)
- Within 180 days, FERC shall issue a rule revising its criteria for the useful thermal output of qualifying facilities (QFs) under the Public Utility Regulatory Policies Act (PURPA) (sec. 1253)
- Within 180 days, the FERC and the Commodity Futures Trading Commission (CFTC) shall conclude a Memorandum of Understanding (MOU) on information under both the electric and gas market transparency provisions. (sec. 316 and 1281)
- Within 180 days, and every 180 days thereafter, FERC shall submit to Congress a report on progress made in licensing and constructing the Alaska natural gas pipeline. (sec.1810)
- Within 180 days, the Department of Energy (DOE) and FERC shall issue a report to Congress on Transmission System Monitoring, i.e., the steps which must be taken to establish a system to make available to all transmission owners and regional transmission organizations (RTOs) in the Eastern and Western interconnections real-time information on the functional status of all transmission lines within the interconnections. (sec. 1839)

MANDATORY WITHIN NINE MONTHS AFTER ENACTMENT

- Within 90 days after the effective date of the PUHCA subtitle (which is 6 months after date of enactment), the Commission shall issue a final rule exempting from the new PUHCA federal books and records access requirements persons that are holding companies solely with respect to one or more exempt wholesale generators (EWGs), QFs or foreign utility companies. (sec. 1266)

MANDATORY WITHIN ONE YEAR OF ENACTMENT

- Within one year, by rule or order, FERC shall implement the subsection which requires FERC to exercise its authority under the FPA in a manner that facilitates planning and expansion of transmission facilities to meet the reasonable needs of load-serving entities (LSEs) to satisfy their native load obligations and enables LSEs to secure firm transmission rights on a long-term basis for long-term power supply to meet their service needs. (sec. 1233)
- Not later than one year, FERC shall establish rules for incentive-based rate treatments for transmission in interstate commerce by public utilities for the purpose of ensuring reliability, and reducing cost of delivered energy by reducing transmission congestion. (sec. 1241)

- Within one year, FERC shall convene regional joint boards under sec. 209 of the FPA to study security constrained dispatch in various market regions and submit to Congress a report on the recommendations of the joint boards. A member of the Commission will chair each board and participate. (sec. 1298)
- Not later than one year, FERC shall publish an annual report, by appropriate region, that assesses demand response resources. (sec. 1252)
- Within one year, a five-member inter-agency task force (the “Electric Energy Market Competition Task Force”), which will include one employee from FERC appointed by the Chairman, shall submit to Congress a final report on competition within wholesale and retail markets for electric energy in the U.S. (sec. 1815)
- Not later than one year, DOE will conduct not less than three LNG forums in cooperation and consultation with other agencies including FERC. (sec. 317)
- Not later than one year, DOE and heads of all federal agencies with authority to issue federal authorizations for electric transmission facilities shall enter into an MOU to ensure timely and coordinated review and permitting of electric transmission facilities. (sec. 1221)

MANDATORY WITHIN 18 MONTHS AFTER ENACTMENT

- Not later than 18 months after enactment, DOE, in consultation with FERC, shall complete a study on the benefits of cogeneration and small power production and submit a report to the President and the Congress. (sec. 1817)

MANDATORY WITHIN TWO YEARS AFTER ENACTMENT

- Not later than two years after enactment, Departments of Agriculture, Commerce, Defense, Energy and Interior, in consultation with FERC, States, tribal or local units of government as appropriate, affected utility industries, and other interested persons, shall consult with each other and shall jointly designate corridors for oil, gas, and hydrogen pipelines and electricity transmission and distribution facilities on federal land in the eleven contiguous Western States, perform environmental reviews for such designations and incorporate the designated corridors into the relevant agency land use and resource management plans. (sec. 368(a))

MANDATORY WITHIN FOUR YEARS AFTER ENACTMENT

- Not later than four years after enactment, Departments of Agriculture, Commerce, Defense, Energy and Interior, in consultation with FERC, affected utility industries, and other interested persons, shall jointly identify corridors for oil, gas, and hydrogen pipelines and electricity transmission and distribution facilities on federal land in States other than the eleven contiguous

Western States, schedule prompt action to identify, designate, and incorporate the corridors into the applicable land use plans. (sec. 368(b))

MANDATORY ACTIONS WITH NO DEADLINE

- Departments of Agriculture, Commerce, Defense, Energy and Interior, in consultation with FERC, affected utility industries, and other interested persons, shall establish procedures to ensure that additional corridors for oil, gas, and hydrogen pipelines and electricity transmission facilities and distribution facilities on federal land are promptly identified and designated as necessary; and expedite applications to construct or modify such pipelines and facilities within such corridors. (sec.368(c))
- FERC shall issue rules for applications for national transmission corridor permits. (sec. 1221(a))
- FERC shall adopt rules providing expedited procedures for processing section 203 applications within 180 days (with 180-day extensions for good cause). (sec. 1289)
- FERC must complete an MOU with the Secretary of Defense to ensure coordination of LNG facilities that may affect an active military installation. (sec. 311)
- FERC shall carefully consider the New England States' objections to the locational installed capacity mechanism currently pending before the Commission.
- FERC shall extend the preliminary permit for the Flint Creek Hydro Project for a period of 3 years beginning on the date the preliminary permit expires, or if it has already expired before enactment of the energy act, reinstate the preliminary permit for an additional 3 years beginning on the date of enactment (sec. 245)
- FERC to certify, for tax credit purposes, the extent to which qualified hydropower production is increased by efficiency improvements, as compared to historic baseline hydropower production. (sec. 1301(c))
- Section 15 of the NGA is amended to provide that the Commission shall act as the lead agency for coordinating all applicable Federal authorizations related to jurisdictional natural gas facilities, and for purposes of complying with NEPA. The Commission is authorized to establish a schedule for all Federal authorizations. The applicant may pursue remedies in Federal court if an agency does not complete a proceeding in accordance with the Commission's. (sec. 313) **New**

OTHER RULEMAKINGS/ACTIONS

- FERC may by rule or order require comparable open access to be provided by non-regulated (FPA sec. 201(f)) transmission utilities. (sec. 1231)

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- FERC “shall issue and enforce such regulations as are necessary” to permit recovery of prudently incurred costs of QF contracts. (sec. 1253)
- FERC may issue rules to increase transparency in electric and gas markets. (sec. 316 and 1281)
- FERC “may prescribe such rules as it determines necessary and appropriate” under the electric and gas market manipulation provisions which make unlawful any manipulative device or contrivance (as those terms are used in the Securities Exchange Act of 1934. (sec. 315 and 1283)

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