

been harvested and notifying vessel and dealer permit holders that no commercial quota is available for landing bluefish in that state.

§ 648.162 Minimum fish sizes.

If the Council determines through its annual review or framework adjustment process that minimum fish sizes are necessary to assure that the fishing mortality rate is not exceeded, or to attain other FMP objective, such measures will be enacted through the procedure specified in § 648.160(d) or 648.165.

§ 648.163 Gear restrictions.

If the Council determines through its annual review or framework adjustment process that gear restrictions are necessary to assure that the fishing mortality rate is not exceeded, or to attain other FMP objectives, such measures will be enacted through the procedure specified in §§ 648.160(d) or 648.165.

§ 648.164 Possession restrictions.

(a) No person shall possess more than 10 bluefish in, or harvested from, the EEZ unless that person is the owner or operator of a fishing vessel issued a bluefish commercial permit or is issued a bluefish dealer permit. Persons aboard a vessel that is not issued a bluefish commercial permit are subject to this possession limit. The owner, operator, and crew of a charter or party boat issued a bluefish commercial permit are not subject to the possession limit when not carrying passengers for hire and when the crew size does not exceed five for a party boat and three for a charter boat.

(b) Bluefish harvested by vessels subject to the possession limit with more than one person on board may be pooled in one or more containers. Compliance with the daily possession limit will be determined by dividing the number of bluefish on board by the number of persons on board, other than the captain and the crew. If there is a violation of the possession limit on board a vessel carrying more than one person, the violation shall be deemed to have been committed by the owner and operator.

§ 648.165 Framework specifications.

(a) *Within season management action.* The Council may, at any time, initiate action to add or adjust management measures if it finds that action is necessary to meet or be consistent with the goals and objectives of the Bluefish FMP.

(1) *Adjustment process.* After a management action has been initiated,

the Council shall develop and analyze appropriate management actions over the span of at least two Council meetings. The Council shall provide the public with advance notice of the availability of both the proposals and the analysis and the opportunity to comment on them prior to and at the second Council meeting. The Council's recommendation on adjustments or additions to management measures must come from one or more of the following categories: Minimum fish size, maximum fish size, gear restrictions, gear requirements or prohibitions, permitting restrictions, recreational possession limit, recreational season, closed areas, commercial season, description and identification of essential fish habitat (EFH), fishing gear management measures to protect EFH, designation of habitat areas of particular concern within EFH, and any other management measures currently included in the FMP.

(2) *Council recommendation.* After developing management actions and receiving public testimony, the Council shall make a recommendation to the Regional Administrator. The Council's recommendation must include supporting rationale and, if management measures are recommended, an analysis of impacts and a recommendation to the Regional Administrator on whether to issue the management measures as a final rule. If the Council recommends that the management measures should be issued as a final rule, the Council must consider at least the following factors and provide support and analysis for each factor considered:

(i) Whether the availability of data on which the recommended management measures are based allows for adequate time to publish a proposed rule, and whether regulations have to be in place for an entire harvest/fishing season;

(ii) Whether there has been adequate notice and opportunity for participation by the public and members of the affected industry in the development of the Council's recommended management measures;

(iii) Whether there is an immediate need to protect the resource; and

(iv) Whether there will be a continuing evaluation of management measures adopted following their implementation as a final rule.

(3) *Action by NMFS.* If the Council's recommendation includes adjustments or additions to management measures and, after reviewing the Council's recommendation and supporting information:

(i) If NMFS concurs with the Council's recommended management

measures and determines that the recommended management measures should be issued as a final rule based on the factors specified in paragraph (a)(2) of this section, the measures will be issued as a final rule in the **Federal Register**.

(ii) If NMFS concurs with the Council's recommendation and determines that the recommended management measures should be published first as a proposed rule, the measures will be published as a proposed rule in the **Federal Register**. After additional public comment, if NMFS concurs with the Council's recommendation, the measures will be issued as a final rule in the **Federal Register**.

(iii) If NMFS does not concur, the Council will be notified in writing of the reasons for the non-concurrence.

(b) *Emergency action.* Nothing in this section is meant to derogate from the authority of the Secretary to take emergency action under section 305(e) of the Magnuson-Stevens Act.

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 35

[Docket No. RM99-2-000]

Regional Transmission Organizations

Issued July 20, 2000.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of guidance for processing Order No. 2000 Filings.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is establishing and clarifying procedures regarding the filings related to the formation of Regional Transmission Organizations, as required by 18 CFR 35.34(c) and 35.34(h). These regulations were adopted in the Commission's Order No. 2000. (65 FR 809).

FOR FURTHER INFORMATION CONTACT: Brian R. Gish, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, (202) 208-0996.

SUPPLEMENTARY INFORMATION:

Notice of Guidance for Processing Order No. 2000 Filings

In Order No. 2000,¹ the Commission issued regulations requiring all transmission-owning public utilities to make certain filings.² This notice establishes and clarifies procedures related to those filings.

Timing of Filings

The regulations establish two deadlines for the required filings. Section 35.34(c) sets forth the general rule that filings are due by October 15, 2000, and section 35.34(h) establishes January 15, 2001 as the deadline for public utilities already participating in approved transmission entities.³ Attached as an Appendix to this Notice is a list of the public utilities that the Commission deems to be within section 35.34(h) with a January 15, 2001 filing deadline. All other transmission-owning public utilities are subject to the October 15, 2000 deadline. Of course, any public utility may file before its deadline. In addition, transmission-owning non-public utilities who wish to voluntarily establish RTOs or join other RTO proposals along with public utilities may also voluntarily make filings on or before these deadlines.

Docketing of Filings

Each filing made in compliance with Order No. 2000, whether it is a proposal to participate in an RTO or an alternative filing, will receive a new docket number designation. The Commission has established the new "RT" prefix for docket numbers that will be assigned to any filing made in compliance with Order No. 2000.

Filing Requirements

Unless specified differently in this paragraph, the Commission's Rules of Practice and Procedure at 18 C.F.R. Part 385 are applicable. An original and fourteen copies of each compliance filing must be filed with the Commission. For each public utility making a compliance filing, the filing must contain the identity of the utility and a designation of person to receive service (*see* 18 C.F.R. § 385.203(b)), and be signed by an appropriate person representing the utility (*see* 18 C.F.R.

§ 385.2005(a)). The filing must be served on the State commission or commissions that have jurisdiction over the utility filer, and any other State commission in a state that might be affected by the filing. In addition, service should be made on any person or entity likely to be significantly affected by the filing (*e.g.*, current transmission customers of the utilities comprising the proposed RTO). A certificate of service listing those served must be included (*see* 18 C.F.R. 385.2010).

In addition to filing paper copies, the Commission encourages the filing of RTO compliance filings electronically, either on computer diskette or via Internet E-Mail. Such filings may be filed in the following formats: WordPerfect 8.0 or lower version, MS Word Office 97 or lower version, or ASCII format.

For diskette filing, include the following information on the diskette label: Order No. 2000 compliance filing; the name of the filing entity; the software and version used to create the file; and the name and telephone number of a contact person.

For Internet E-Mail submittal, filings should be submitted to rto@ferc.fed.us in the following format. On the subject line, specify Order No. 2000 compliance filing. In the body of the E-Mail message, include the name of the filing entity; the software and version used to create the file, and the name and telephone number of the contact person. Attach the filing to the E-Mail in one of the formats specified above. The Commission will send an automatic acknowledgment to the sender's E-Mail address upon receipt. Questions on electronic filing should be directed to Brooks Carter at 202-501-8145, E-Mail address brooks.carter@ferc.fed.us.

Filers should take note that, until the Commission amends its rules and regulations, the paper copy of the filing remains the official copy of the document submitted. Therefore, any discrepancies between the paper filing and the electronic filing or the diskette will be resolved by reference to the paper filing.

Commenting on Filings

A public notice will be issued for all compliance filings. The notice will establish a comment period of approximately 30 days for all interested persons to comment on each filing.

Joint Filings

The Commission reminds public utilities that the regulations allow for compliance filings to be made individually or jointly with other

entities. Thus, where two or more public utilities are proposing to participate in the same RTO, the Commission encourages one joint filing. In the case of joint filings, it should be made clear which entities are participating in that filing. There must be separate representatives designated and separate authorizing signatures for any public utility for which a joint filing represents its required compliance filing. For approved transmission institutions, the transmission institution (*e.g.*, an approved ISO) may make the filing on behalf of the member transmission owners, but each public utility transmission owning member must provide separate authorizing signatures.

Filings Containing Milestones For Finalization

In Order No. 2000, the Commission recognized that some elements of an RTO proposal may be more difficult to fully implement than others. For example, with respect to function 7 (planning and expansion) and function 8 (interregional coordination), the regulations permit an extension beyond initial operation for full implementation of these functions. In these types of instances, where the Commission has adopted a period of implementation beyond the date of initial operation, we remind filers that they must provide an explanation of their plans for compliance, including dates of anticipated implementation.

Format For Filing

To make reviewing filings more efficient, we request that filings proposing an RTO contain an executive summary limited to no more than five pages. We also request that the filings address each of the required characteristics and functions in the order set forth in the regulations, followed by the support for any additional Federal Power Act sections 203 and 205 filings required to implement the RTO proposal. We recognize that there may be overlap in the discussions of the characteristics and functions, since proposals may have to support various elements in relation to how those elements allow the RTO to carry out others, *e.g.*, one measure of appropriate scope and configuration is how well the RTO can perform congestion management. Thus, to the extent it is necessary to discuss more than one characteristic or function together, we request that an identifying cross-reference be used so that the reader can easily find the discussion of a particular characteristic or function of interest.

¹ Regional Transmission Organizations, Order No. 2000, 65 FR 809 (January 6, 2000), FERC Stats. and Regs. ¶ 31,089 (1999), *order on reh'g*, Order No. 2000-A, 65 FR 12,088 (March 8, 2000), FERC Stats. and Regs. ¶ 31,092 (2000).

² 18 C.F.R. 35.34.

³ Because October 15, 2000 falls on a Sunday, and January 15, 2001 falls on a holiday, the filings are due by close of business on October 16, 2000, and January 16, 2001, respectively. *See* 18 C.F.R. § 385.2007(a)(2).

Filings by Small Entities

The Commission reminds public utilities that have limited transmission facilities and that have previously been granted waiver of some or all of the requirements of Order Nos. 888 or 889, that an abbreviated filing is acceptable.⁴ The Commission does not wish to burden these small entities with extensive filings, but will find it useful to know the status of all transmission-owning public utilities with respect to regional participation.

By direction of the Commission.

David P. Boergers,
Secretary.

Appendix—Public Utilities Required to File on or before January 15, 2001

California Independent System Operator (ISO)

Pacific Gas and Electric Company
San Diego Gas & Electric Company
Southern California Edison Company

ISO New England, Inc.

Bangor Hydro-Electric Company
Boston Edison Company
Cambridge Electric Light Company
Central Maine Power Company
Central Vermont Public Service Corporation
Commonwealth Electric Company
Fitchburg Gas & Electric Light Company
Green Mountain Power Corporation
Montaup Electric Company
New England Power Company
Connecticut Light & Power Company
Western Massachusetts Electric Company
Holyoke Water Power Company
Holyoke Power and Electric Company
Public Service Company of New Hampshire
North Atlantic Energy Corporation
United Illuminating Company
Vermont Electric Power Company

Midwest ISO

Central Illinois Public Service Company
Cincinnati Gas & Electric Company
Commonwealth Edison Company
Commonwealth Edison Company of Indiana
Illinois Power Company
Kentucky Utilities Company
Louisville Gas & Electric Company
PSI Energy, Inc.
Union Electric Company
Wisconsin Electric Power Company

New York ISO

Central Hudson Gas & Electric Corporation
Consolidated Edison Company of New York, Inc.
New York State Electric & Gas Corporation
Niagara Mohawk Power Corporation
Orange & Rockland Utilities, Inc.
Rochester Gas & Electric Corporation

PJM Interconnection, LLC

Atlantic City Electric Company
Baltimore Gas and Electric Company
Delmarva Power & Light Company

Jersey Central Power & Light Company
Metropolitan Edison Company
Pennsylvania Electric Company
Pennsylvania Power & Light Company
Potomac Electric Power Company
Public Service Electric & Gas Company

Alliance Companies

Appalachian Power Company
Columbus Southern Power Company
Indiana Michigan Power Company
Kanawha Valley Power Company
Kentucky Power Company
Kingsport Power Company
Ohio Power Company
Wheeling Power Company
Consumers Energy Company
Detroit Edison Company
Cleveland Electric Illuminating Company
Ohio Edison Company
Pennsylvania Power Company
Toledo Edison Company
Virginia Electric and Power Company
[FR Doc. 00-18874 Filed 7-25-00; 8:45 am]

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 157

[Docket No. RM00-5-000; Order No. 615]

Optional Certificate and Abandonment Procedures for Applications for New Service Under Section 7 of the Natural Gas Act

Issued July 14, 2000.

AGENCY: The Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: On September 15, 1999, the Commission issued a policy statement to provide the industry with guidance with respect to how the Commission will evaluate new proposals for pipeline construction projects to take account of changes in the natural gas industry in recent years (Policy Statement). In view of the new framework for analyzing pipeline certificate applications announced in the the Policy Statement, the Commission is removing the optional certificate regulations because it believes that a uniform regulatory scheme applicable to all certificate applications will best accomplish the Commission's goals, as set out in the Policy Statement, of assuring that all relevant interests and circumstances are considered and balanced in assessing the public convenience and necessity.

DATES: This rule is effective September 25, 2000.

FOR FURTHER INFORMATION CONTACT: William L. Zoller, Office of Energy Projects, Federal Energy Regulatory

Commission 888 First Street, N.E., Washington, D.C. 20426, (202) 208-1203.

Joseph B. O'Malley, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, D.C. 20426, (202) 208-0088.

SUPPLEMENTARY INFORMATION:

I. Introduction

The Federal Energy Regulatory Commission is amending its regulations to remove its optional certificate regulations in Subpart E of Part 157 of the Commission's regulations.¹ The policies embedded in these regulations have been overtaken by subsequent policy developments, most particularly the Commission's September 15, 1999 statement of policy on certifying new pipeline construction (Policy Statement).² The optional certificate regulations, promulgated in 1985, established procedures whereby an eligible applicant may obtain, for purposes of providing new service, a certificate authorizing: the transportation of natural gas; sales of natural gas; the construction and operation of natural gas facilities; the acquisition and operation of natural gas facilities; and conditional pre-granted abandonment of such activities and facilities. The Commission's September 15, 1999 Policy Statement provides the industry guidance with respect to how the Commission will evaluate new proposals for pipeline construction projects to take account of changes in the natural gas industry in recent years. The Policy Statement provides that pipelines may not rely on existing customers to subsidize new projects that will not benefit them and that construction projects will be approved only where the public benefits outweigh any adverse effects. The optional regulations do not provide for consideration and weighing of public interest factors, and are thus inconsistent with current Commission policy.

II. Background

Before a pipeline may construct any natural gas facilities subject to the Commission's Natural Gas Act (NGA) jurisdiction, it must obtain a certificate of public convenience and necessity authorizing such construction under section 7 of the NGA. In conjunction with the open access transportation

¹ 18 CFR 157.100 *et seq.*

² Certification of New Interstate Natural Gas Pipeline Facilities, 88 FERC ¶ 61,227 (1999) (Policy Statement), *order clarifying statement of policy*, 90 FERC ¶ 61,128 (2000).

⁴ See Order No. 2000-A, FERC Stats. & Regs. at 31,392-93.