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I. Introduction

The Federal Energy Regulatory Commission is adopting new regulations amending: (1) 18 CFR 375.302 to authorize the Secretary to toll the time for action on requests for rehearing and issue notices in compliance with section 206(b) of the Federal Power Act (FPA), as amended by the Regulatory Fairness Act of 1988 (RFA);¹ (2) 18 CFR 375.308 to authorize the Director of the Office of Electric Power Regulation (Director) to take appropriate action on uncontested interim electric rate motions that would result in lower rates, pending Commission action on settlement agreements; and (3) 18 CFR 385.309 to authorize the General Counsel to grant uncontested applications for exempt wholesale generator (EWG) status that do not present unusual or interpretation issues and to act on uncontested motions to withdraw EWG applications.² These amendments are necessary in the interest of administrative efficiency.

II. Discussion

In recent years, the Commission has experienced a significant increase in its electric program workload. In light of

the Commission's new responsibilities under the Energy Power Act of 1992 and significant competitive changes occurring in the electric utility industry, the Commission anticipates further increases in electric items such as rate filings, complaints, declaratory orders, corporate regulation cases, and EWG applications.³

The Commission is concerned about its ability to thoroughly and timely address the many significant technical, legal and policy issues that it will need to decide in the next few years⁴ while simultaneously avoiding a significant backlog of more routine items. The Commission believes that it can meet its increasing workload, but only by developing more efficient ways to process cases. To this end, the Commission is expanding delegations of authority to the Secretary, the Director, and the General Counsel (and their designees) to rule on routine, uncontested, non-policy matters. The delegations should reduce overall Commission time spent on more routine items and thus provide a greater opportunity to address the more significant issues and proceedings. Thus, the delegation regulations contained in subpart C of part 375 are amended by this rule as described below.

A. Delegations to the Secretary Under § 375.302

1. Rehearing for Purpose of Further Consideration

Under 18 CFR 385.713(f), the Commission has 30 days within which to act on a request for rehearing of a Commission order, or the request is deemed denied. While the Commission makes every effort to dispose of requests for rehearing within 30 days, the difficulty of the issues raised or the timing of the 30-day period in relation to the Commission's scheduled meetings sometimes makes this impossible. In these instances, the Commission issues an order granting rehearing for the purpose of further

consideration. The Secretary, or the Secretary's designee, will be authorized to toll the time for action on rehearings of Commission action under *all* of the Commission's statutes, not just the FPA. This authority will apply only to stand-alone rehearing requests. In other words, if a rehearing request is combined with any other request for Commission action, such as a request to intervene in a proceeding or for a stay of a proceeding, the Commission will continue to act on the rehearing request and the other requests contained in the filing, according to current procedures.

2. RFA Notices

When the Commission institutes an investigation under section 206 of the FPA, section 206(b) requires the Commission to provide its best estimate of when it will complete the proceeding.⁵ This is known as an RFA notice. Normally, the Commission, in its order instituting the investigation, directs the presiding judge to provide a report estimating when the judge will issue an initial decision. The Commission, based on the judge's report, then estimates when it believes it will be able to complete the case. The Commission's estimate is affected by when staff believes it will be able to present a final order to the Commission. RFA notices will now be delegated to the Secretary, or the Secretary's designee. The Secretary will estimate the expected date of a final order based on discussion with appropriate staff.

B. Delegation to the Director Under § 375.308

When parties reach a settlement in an electric rate case calling for reductions in the rates in effect subject to refund, the selling public utility often files with the Commission for permission to charge lower settlement rates during the period when the Commission is evaluating the settlement agreement. This is to avoid further refunds that would be required if the Commission accepts the settlement. Such motions are almost always granted by the Commission. However, this currently requires the preparation of an interim electric rate order. The ability to take appropriate action on such interim rate motions that are uncontested will now be delegated to the Director, or the Director's designee. To the extent that a motion to charge interim rates is contested or is combined with any other request for Commission action, the

³ For example, there were 874 ER filings in fiscal year 1992, 988 ER filings in fiscal year 1993, 1698 ER filings in fiscal year 1994, and 1865 ER filings in fiscal year 1995.

⁴ See Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Services by Public Utilities, and Recovery of Stranded Costs by Public Utilities and Transmitting Utilities, Notice of Proposed Rulemaking, 60 FR 17662 (Apr. 7, 1995), IV FERC Stats. and Regs. ¶ 32,514 (1995). Notice of Technical Conference and Request for Comments, Real-Time Information Networks, 60 FR 17726 (Apr. 7, 1995), IV FERC Stats. and Regs. ¶ 35,530; and Inquiry Concerning Alternative Power Pooling Institutions Under the Federal Power Act, Notice of Inquiry and Request for Comments, 59 FR 54851 (Nov. 2, 1994), IV Stats. and Regs. ¶ 35,529 (1994).

¹ 16 U.S.C. 824e(b) (1994).

² Applications for the determination of EWG status are filed pursuant to section 32 of the Public Utility Holding Company Act of 1935, as amended by the Energy Policy Act of 1992 (PUHCA). 15 U.S.C. 79z-5a (1994).

⁵ This requirement was added to section 206 by the Regulatory Fairness Act of 1988. See 16 U.S.C. 824e(b) (1994).