

18, *Code of Federal Regulations*, to add a new Part 37, as set forth below.

## **PART 37—REAL-TIME INFORMATION NETWORKS AND STANDARDS OF CONDUCT FOR PUBLIC UTILITIES**

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Authority: 16 U.S.C. 791–825r, 2601–2645; 31 U.S.C. 9701; 42 U.S.C. 7101–7352.

### **§ 37.1 Applicability.**

This part applies to any public utility that owns and/or controls facilities used for the transmission of electric energy in interstate commerce.

### **§ 37.2 Purpose.**

The purpose of this part is to ensure that potential customers of transmission service receive access to information that will enable them to obtain open access transmission service on a non-discriminatory basis from public utilities that own and/or control facilities used for the transmission of wholesale electric energy in interstate commerce. These rules require public utilities (or their agents) to create and operate a real-time information network (RIN) that gives competitors and other users of the transmission system access to the same information available to the public utility personnel who trade (sell or purchase) power in the wholesale market, and at the same time, so that potential customers may obtain open access transmission service that is comparable to that provided by transmission owning public utilities to themselves.

### **§ 37.3 Definitions.**

(a) *Transmission Provider* means any public utility that owns and/or controls facilities used for the transmission of electric energy in interstate commerce.

(b) *Transmission Customer* means any eligible customer (or its designated

agent) that executes a service agreement and/or receives transmission service.

(c) *Responsible Party* means the Transmission Provider or a third party to whom the Transmission Provider has delegated the responsibility of meeting the requirements of this Part.

(d) *Resellers* means Transmission Customers who offer to sell transmission capability they have purchased to other Transmission Customers.

(e) *Wholesale Merchant Function* means the sale for resale or purchase of electric energy in interstate commerce.

(f) *Affiliate* means:

(1) for any non-exempt wholesale generator public utility, another person which controls, is controlled by, or is under common control with such person;

(2) for any public utility that is an exempt wholesale generator, as defined in section 2(a)(11) of the Public Utility Holding Company Act of 1935, as amended.

### **§ 37.4 Standardization of data sets and communication protocols.**

(a) A public utility subject to this Part must provide access on a RIN to standardized information relevant to the availability of transmission capability, prices, and other information (as described elsewhere in this Part) pertaining to its transmission system; it must also provide the ability to display, download and upload the standardized information in compliance with standardized procedures and protocols.

(b) The standardized information, procedures and protocols are found in “Standardized Data Sets and Communication Protocols,” which can be obtained from the Office of Public Information, Federal Energy Regulatory Commission, 888 North Capitol Street NE, Washington, DC 20426.

### **§ 37.5 Obligations of Transmission Providers.**

Each Transmission Provider is required to provide for the operation of a RIN, either individually or jointly with other Transmission Providers, in accordance with the requirements of this Part.

### **§ 37.6 Standards of conduct.**

A public utility subject to this Part must conduct its business to conform with the following standards:

(a) The employees of the public utility that are engaged in wholesale merchant functions (*i.e.*, wholesale purchases and sales for resale of electric energy in interstate commerce) are prohibited from also conducting transmission system operations and/or reliability

functions. The employees of the public utility that are engaged in merchant functions also are prohibited from having preferential access to the system control center and other facilities of the public utility that differs from the access available to other wholesale transmission customers or potential wholesale transmission customers. To the maximum extent practicable, the employees of the public utility engaged in transmission system operations must function independently of the employees engaged in wholesale merchant functions and of the employees of any affiliate of the public utility. Employees are not precluded from transferring between departments as long as they do not conduct both transmission system operations functions and wholesale merchant functions or functions on behalf of any affiliate, and as long as these standards of conduct are observed. Notices of any employee transfers to or from transmission system operations must be posted on the RIN.

(b) When buying or selling power, employees of the public utility that are engaged in wholesale merchant functions and employees of any affiliate of the public utility must rely upon the same information relied upon by the public utility's wholesale transmission customers (*i.e.*, the information posted on the RIN), and must not have preferential access to any information about the public utility's transmission system that is not available to all users of the RIN.

(c) Employees of the public utility that are engaged in wholesale merchant functions and employees of any affiliate of the public utility are prohibited from obtaining information about the public utility's transmission system (including information about available transmission capability, price, curtailments, ancillary services, etc.) through communications conducted off the RIN or through access to information not posted on the RIN.

(d) Employees of the public utility that are engaged in transmission system operations or reliability functions may not disclose to employees engaged in the wholesale merchant function or to employees of any affiliate of the public utility any information concerning the public utility's transmission system (including information received from non-affiliates or information about available transmission capability, price, curtailments, ancillary services, etc.) through communications conducted off the RIN or through access to information not posted on the RIN.

(e) If a public utility employee that is engaged in transmission system