

107 FERC ¶ 61, 231

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

18 CFR Parts 141, 260 and 357

(Docket No. RM03-8-001; Order No. 646-A)

Quarterly Financial Reporting and Revisions to the Annual Reports

(Issued June 2, 2004)

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final Rule; Order on Rehearing.

SUMMARY: The Federal Energy Regulatory Commission (Commission) reaffirms its determinations in Order No. 646 and clarifies certain provisions in this order on rehearing. Order No. 646 establishes quarterly financial reporting requirements for respondents that file FERC Annual Reports and modifies certain filing requirements contained in the FERC Annual Report Form Nos. 1, 1-F, 2, 2-A and 6.

EFFECTIVE DATE: The revisions made in this order on rehearing are effective [insert date 30 days after publication in the **FEDERAL REGISTER**].

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UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

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

Quarterly Financial Reporting and  
Revisions to the Annual Reports

Docket No. RM03-8-001

ORDER NO. 646-A

ORDER ON REHEARING

(Issued June 2, 2004)

**I. INTRODUCTION**

1. On February 11, 2004, the Commission issued a Final Rule (Order No. 646)<sup>1</sup> amending its financial reporting regulations by establishing new quarterly financial reporting for respondents that file FERC Annual Reports. Order No. 646 requires all FERC jurisdictional entities filing a FERC Annual Report Form No. 1, 1-F, 2, 2-A or 6 to file supplemental quarterly financial reports. These quarterly financial reports are the FERC Form No. 3-Q, Quarterly Financial Report of Electric Companies, Licensees, and Natural Gas Companies, and the FERC Form No. 6-Q, Quarterly Financial Report of Oil Pipeline Companies. Additionally, Order No. 646 made certain changes to the FERC Annual Reports including adding new reporting schedules for monthly transmission peak load data and ancillary services, updating the corporate officer's certification requirements, and accelerating the filing dates for the FERC Annual Reports.

2. Financial accounting and reporting provides needed information concerning a company's past performance and its future prospects. Without reliable financial information prepared in accordance with the Commission's Uniform Systems of Accounts and related regulations, the Commission would be unable to accurately

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<sup>1</sup> Quarterly Financial Reporting and Revisions to the Annual Reports, Order No. 646, 69 FR 9030 (Feb. 26, 2004), III FERC Stats. & Regs. ¶ 31,158 (Feb. 11, 2004).

determine the costs that relate to a particular time period, service, or line of business.<sup>2</sup> Additionally, it would be difficult to determine whether a FERC jurisdictional entity has previously been given the opportunity to recover its costs through rates, or to compare how the financial performance and results of operations of one regulated entity relates to that of another.

3. The Commission concluded in Order No. 646 that there is a pressing need for reporting more timely, relevant and reliable financial information to the Commission. Adoption of quarterly financial reporting and the other modifications to the FERC Annual Reports will provide more transparent financial information for this Commission and other users of the data. The information contained in these financial reports filed with the Commission identifies the economic effects of significant transactions and events, allows staff to evaluate the adequacy of existing cost-based rates, and aids in the development of needed changes to existing regulatory initiatives. Additionally, instituting quarterly financial reporting strengthens the Commission's ongoing activities by identifying emerging trends, identifying changes in existing accounting standards, and identifying the impacts of new accounting standards on a more frequent basis.

4. In summary, we reaffirm here the legal and policy conclusions on which Order No. 646 is based. Therefore, the Commission denies the requests for rehearing or blanket exemptions from certain filing requirements contained in Order No. 646. However, we will provide clarifications and corrections on certain matters raised as discussed below.

## **II. DISCUSSION**

### **A. Ancillary Services Schedule**

5. Order No. 646 adds a new Ancillary Services Schedule in the FERC Annual Report Form Nos. 1 and 1-F that details the amount of ancillary services purchased and sold during the year. The new Ancillary Services Schedule also collects information concerning the amount of services internally used by the respondent. The new schedule is included in the FERC Annual Reports to be filed with the Commission beginning with the calendar year ending December 31, 2004.

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<sup>2</sup> Part 101 Uniform System of Accounts Prescribed for Public Utilities Subject to the Provisions of the Federal Power Act. See 18 CFR Part 101 (2003). Part 201 Uniform System of Accounts Prescribed for Natural Gas Companies Subject to the Provisions of the Natural Gas Act. See 18 CFR Part 201 (2003). Part 352 Uniform System of Accounts Prescribed for Oil Pipeline Companies Subject to the Provisions of the Interstate Commerce Act. See 18 CFR Part 352 (2003).

6. Arizona Public Service Company (APS) seeks clarification, or in the alternative, rehearing regarding the reporting of purchases and sales of ancillary services when the respondent is a vertically integrated utility that has separate divisions or units providing merchant or transmission functions. APS claims it is possible for the same megawatt hour of ancillary service to be reported more than once. It questions how a respondent should report ancillary service activity between units or divisions within a reporting entity and between a wholesale merchant unit and a third-party supplier. Additionally, APS seeks clarification regarding the reporting of transactions outside APS's service territory that do not use APS's generation or transmission facilities. Further, APS asks how the Commission would use such data for ratemaking purposes. Finally, APS requests that the Commission clarify Instruction No. 1 of the Ancillary Services Schedule to specify that companies report the amount of scheduling, system control and dispatch services.

### **Commission Conclusion**

7. The Commission clarifies that the activity reported in this schedule should be reported from the respondent's point of view as a whole, without regard to interdepartmental activity. All purchases and sales of ancillary services by the utility associated with the provision of transmission service should be reported, including service to native load. Therefore, in addition to reporting purchases and sales of ancillary services, the respondent should report on this schedule the volumes for ancillary services that it self-provides from its own facilities together with the related dollar values imputed as if the respondent took these services under its own tariff. The primary purpose of this data is to reflect the ancillary services related to the use of the respondent's generation or transmission facilities. Therefore, on this schedule, APS should not report transactions with entities located on third-party systems that do not involve use of APS's generation or transmission facilities.

8. Finally, the Commission agrees with APS that Instruction No. 1 to the Ancillary Services Schedule should specify that companies report the amount of scheduling, system control and dispatch services and is making conforming changes as needed to the Ancillary Services Schedule.

### **B. Monthly Transmission Peak Load Schedule**

9. Order No. 646 adds a new Monthly Transmission Peak Load Schedule to the FERC Annual Report Form Nos. 1 and 1-F, and also requires this information to be reported in the quarterly financial reports. This new schedule collects information concerning the respondent's transmission system including the respondent's own use of its transmission system. The Commission noted in Order No. 646 that the peak load is

the monthly transmission peak as defined in the pro forma Open Access Transmission Tariff (OATT) and respondents may use estimates to complete the schedule as long as that fact is noted on the schedule and the respondent fully describes the estimation method in a footnote.

10. Southern California Edison Company (SCE) seeks an exemption, clarification, or in the alternative, rehearing concerning the reporting requirements contained in the Monthly Transmission Peak Load Schedule. Specifically, SCE states that, with the restructuring of the energy market in California and SCE's transfer of operational control of its transmission system to the California Independent System Operator Corporation, SCE no longer operates under its own pro forma OATT. SCE states it does not have access to the type of transmission system information sought in the new schedule. SCE, therefore requests an exemption from the Monthly Transmission System Peak Load Schedule or clarification as to how utilities in California, such as SCE, are to comply with this reporting requirement.

### **Commission Conclusion**

11. We are not persuaded that SCE is unable to obtain the information to be reported in the Monthly Transmission Peak Load Schedule. The monthly peak load data is useful in analyzing SCE's usage of transmission facilities under the control of the California ISO, and in analyzing the transmission revenues SCE reports in the annual and quarterly financial reports. Pursuant to section 17, Records and Information Sharing of the California ISO Transmission Control Agreement, the California ISO shall keep records relevant to the efficient operation of the ISO controlled grid and make appropriate records available to a participating transmission owner upon request. Therefore, if SCE does not have direct access to the required information, it should obtain the data from the California ISO. In the event SCE and the California ISO working together are unsuccessful in obtaining the information required by the new schedule, SCE may file a request for a waiver of the requirement to report information required on the Monthly Transmission Peak Load Schedule with the Commission providing full details and particulars as to why it is unable to obtain and report the data.

### **C. Changes to the FERC Annual Report Form No. 2**

12. The Industry Coalition requests rehearing on its proposed changes to the FERC Annual Report Form No. 2. The Industry Coalition requested that the Annual Report Form No. 2 be modified to obtain additional detailed cost-of-service rate information. For example the Industry Coalition requests that natural gas pipelines provide information concerning its rate base, its earned return on equity investment based on a predetermined formula rate of return calculation, its revenues and expenses associated with at-risk facilities, its revenues associated with negotiated rate contracts, and other

details for various other items included in cost-of-service accounts. The Industry Coalition requests that its changes, at a minimum, be incorporated into the Commission's Information Assessment Team's current, on-going review of information necessary to understand and oversee energy markets. In the alternative, the Industry Coalition requests the Commission establish a new rulemaking proceeding to address its proposed changes to the FERC Annual Report Form No. 2.

### **Commission Conclusion**

13. As stated in Order No. 646, the changes proposed by the Industry Coalition to the FERC Annual Report Form No. 2 are outside the scope of this rulemaking. The Commission finds that the Industry Coalition has not provided any new additional arguments to reverse our decision on these changes in the context of this quarterly financial reporting rulemaking. The changes proposed by the Industry Coalition would require additional input and comment before the changes may be implemented. While the Commission declines to consider Industry Coalition's request for additional changes to the FERC Annual Report Form No. 2 at this time, the Industry Coalition, as well as all other interested parties, will be given the opportunity to provide input and comment on improvements to the quarterly and annual financial reporting requirements after a full reporting cycle as provided in Order No. 646.<sup>3</sup>

#### **D. Blanket Reporting Exemption for Electric Cooperatives**

14. The National Rural Electric Cooperative Association (NRECA) requests rehearing of the Commission's decision in Order No. 646 not to provide a blanket exemption or waiver for electric distribution cooperatives that are classified as "small utilities" from the reporting requirements of Order No. 646.<sup>4</sup> NRECA also requests that the Commission clarify what an entity seeking a waiver may request a waiver of, and what it must show in order to satisfy the waiver requirement.

15. NRECA argues that the reporting requirements in Order No. 646 will pose a hardship on small electric cooperatives. NRECA notes that, as it explained in its comments to the NOPR, thirty-four of the forty FERC-jurisdictional electric cooperatives are capitalized without publicly traded securities and are not subject to the Securities and Exchange Commission's periodic reporting requirements. NRECA argues that, since these cooperatives do not prepare and submit filings to the SEC, the Commission's

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<sup>3</sup> See Order No. 646, III FERC Stats. & Regs. ¶ 31,158 at P 105.

<sup>4</sup> A small utility as defined by the Small Business Association is one "that disposes of 4 million MWh or less per year."

imposition of such a periodic reporting requirement will add a new compliance burden on these cooperatives. According to the NRECA, the Commission did not address why the quarterly financial reporting requirements needed for electric cooperatives which are different from large publicly traded, investor-owned utility companies.

### **Commission Conclusion**

16. As NRECA points out, there are nearly forty rural electric cooperatives that are public utilities subject to the Commission's ratemaking and accounting jurisdiction because they sell power at wholesale and/or provide transmission service. It is, therefore, important for the Commission to obtain timely and relevant financial information from these jurisdictional entities in order to make informed ratemaking and accounting decisions affecting these entities. However, as provided in Order No. 646, if the reporting requirements of this order represent an undue burden, individual electric cooperatives may seek a waiver from the Commission. Each respondent requesting a waiver from the reporting requirements must establish undue burden based on its individual fact situation. Any Commission decision to grant a waiver from all or part of the reporting requirements contained in Order No. 646 will depend on the particular facts and circumstances affecting a respondent's operations. Since the particular facts and circumstances may be unique to each electric cooperative, the Commission declines to provide a predetermined set of conditions that must be met to obtain a waiver.

### **E. Miscellaneous**

17. Order No. 646 provides for a phase-in period for respondents to file their FERC quarterly financial reports. The phase-in filing dates for the 2005 quarterly financial reports, however, were not included in the regulatory text in §§141.400, 260.300 and 357.4 of the Commission's regulations. Therefore, the Commission will make the necessary conforming changes to its quarterly financial reporting filing regulations to include the phase-in periods contained in Order No. 646 for quarterly financial report filings made during 2005.

### **III. REGULATORY FLEXIBILITY ACT CERTIFICATION**

18. The Regulatory Flexibility Act (RFA) requires rulemakings to contain either (1) a description and analysis of the effect that the proposed or Final Rule will have on small entities or (2) a certification that the rule will not have a significant economic effect on a substantial number of small entities.<sup>5</sup> In Order No. 646, the Commission certified that the Final Rule would not have a significant economic effect on a substantial number of small entities.

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<sup>5</sup> See 5 U.S.C. 601-612 (2000).



### **Rehearing Request**

19. NRECA challenges this certification. According to NRECA, there are nearly forty rural electric cooperatives that are public utilities subject to the Commission's ratemaking and accounting jurisdiction because they sell power at wholesale and/or provide transmission service. NRECA argues that, approximately thirty of the jurisdictional electric cooperatives are distribution cooperatives with very limited Federal Power Act (FPA) regulation. NRECA argues, further, that all but about six of these electric cooperatives meet the definition of a "small utility" set out by the Small Business Administration. To avoid undue burden, NRECA recommends that the Commission provide a blanket waiver of quarterly financial reporting to all electric cooperatives that are "small" public utilities.

### **Commission Conclusion**

20. We disagree with NRECA. The question is whether Order No. 646 has a significant economic effect on a substantial number of small entities. The Commission correctly determined in Order No. 646 that the number of such entities is not substantial. The thirty-four electric cooperatives are only a small subset of the entities considered in determining a significant impact on a substantial number of small entities. Additionally, these electric cooperatives already maintain the necessary accounting records under the Commission's Uniform System of Accounts and report this financial information on an annual basis through the filing of a FERC Annual Report. Therefore, quarterly financial reporting from accounting records that already exist should not as a whole pose an undue burden or have a significant economic effect on the electric cooperatives. However, as stated in Order No. 646 and earlier in the order, any respondents, including an electric cooperative, may file a request for a waiver of all or part of the reporting requirements based upon individual facts and circumstances.

## **IV. DOCUMENT AVAILABILITY**

21. In addition to publishing the full text of this document in the Federal Register, the Commission provides all interested persons an opportunity to obtain this document from the Public Reference Room during normal business hours (8:30 a.m. to 5:00 p.m. Eastern Time) at 888 First Street, N.E., Room 2A, Washington, D.C. 20426. The full text of this document is also available electronically from the Commission's eLibrary system in PDF and Microsoft Word format for viewing, printing, and downloading. ELibrary may be accessed through the Commission's webpage at <http://www.ferc.gov>. To access this document in eLibrary, type "RM03-8-001" in the docket number field and specify a date range that includes this document's issuance date. User assistance is available by contacting FERC Online Support at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or toll-free at (866)208-3676 or for TTY 202-502-8659.

**VI. EFFECTIVE DATE**

22. Revisions to Order No. 646 made in this order on rehearing will become effective on [insert date 30 days after publication in the **FEDERAL REGISTER**].

List of Subjects

18 CFR Part 141

Electric power, Reporting and recordkeeping requirements.

18 CFR Part 260

Natural gas, Reporting and recordkeeping requirements.

18 CFR Part 357

Pipelines, Reporting and recordkeeping requirements.

By the Commission.

( S E A L )

Linda Mitry,  
Acting Secretary.

In consideration of the foregoing, the Commission amends parts 141, 260, and 357, Chapter I, Title 18, Code of Federal Regulations, as follows:

**PART 141-STATEMENTS AND REPORTS (SCHEDULES)**

1. The authority citation for part 141 continues to read as follows:

AUTHORITY: 15 U.S.C. 79; 16 U.S.C. 791a-828c, 2601-2645; 31 U.S.C. 9701; 42 U.S.C. 7101-7352.

2. In § 141.400, paragraph (b)(2)(iv) is redesignated as paragraph (b)(2)(vii) and new paragraphs (b)(2)(iv), (b)(2)(v), (b)(2)(vi) are added to read as follows:

**§ 141.400 FERC Form No. 3-Q, Quarterly financial report of electric utilities, licensees, and natural gas companies.**

\* \* \* \* \*

(b)\* \* \*

(2)\* \* \*

(iv) The quarterly financial report for the period January 1 through March 31, 2005, must be filed on or before May 31, 2005.

(v) The quarterly financial report for the period April 1 through June 30, 2005, must be filed on or before August 29, 2005.

(vi) The quarterly financial report for the period July 1 through September 30, 2005 must be filed on or before November 29, 2005.

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3. In § 141.400, paragraph (b)(3)(iv) is redesignated as paragraph (b)(3)(vii) and new paragraphs (b)(3)(iv), (b)(3)(v), (b)(3)(vi) are added to read as follows:

**§ 141.400 FERC Form No. 3-Q, Quarterly financial report of electric utilities, licensees, and natural gas companies.**

\* \* \* \* \*

(b) \* \* \*

(3) \* \* \*

(iv) The quarterly financial report for the period January 1 through March 31, 2005, must be filed on or before June 13, 2005.

(v) The quarterly financial report for the period April 1 through June 30, 2005, must be filed on or before September 12, 2005.

(vi) The quarterly financial report for the period July 1 through September 30, 2005 must be filed on or before December 13, 2005.

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**PART 260-STATEMENTS AND REPORTS (SCHEDULES)**

4. The authority citation for part 260 continues to read as follows:

AUTHORITY: 15 U.S.C. 717-717w, 3301-3432; 42 U.S.C. 7101-7352.

5. In § 260.300, paragraph (b)(2)(iv) is redesignated as paragraph (b)(2)(vii) and new paragraphs (b)(2)(iv), (b)(2)(v), (b)(2)(vi) are added to read as follows:

**§ 260.300 FERC Form No. 3-Q, Quarterly financial report of electric utilities, licensees, and natural gas companies.**

\* \* \* \* \*

(b) \* \* \*

(2) \* \* \*

(iv) The quarterly financial report for the period January 1 through March 31, 2005, must be filed on or before May 31, 2005.

(v) The quarterly financial report for the period April 1 through June 30, 2005, must be filed on or before August 29, 2005.

(vi) The quarterly financial report for the period July 1 through September 30, 2005 must be filed on or before November 29, 2005.

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6. In § 260.300, paragraph (b)(3)(iv) is redesignated as paragraph (b)(3)(vii) and new paragraphs (b)(3)(iv), (b)(3)(v), (b)(3)(vi) are added to read as follows:

**§ 260.300 FERC Form No. 3-Q, Quarterly financial report of electric utilities, licensees, and natural gas companies.**

\* \* \* \* \*

(b) \* \* \*

(3) \* \* \*

(iv) The quarterly financial report for the period January 1 through March 31, 2005, must be filed on or before June 13, 2005.

(v) The quarterly financial report for the period April 1 through June 30, 2005, must be filed on or before September 12, 2005.

(vi) The quarterly financial report for the period July 1 through September 30, 2005 must be filed on or before December 13, 2005.

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**PART 357—ANNUAL SPECIAL OR PERIODIC REPORTS: CARRIERS SUBJECT TO PART I OF THE INTERSTATE COMMERCE ACT**

7. The authority citation for part 357 continues to read as follows:

AUTHORITY: 42 U.S.C. 7101-7352; 49 U.S.C. 60502; 49 App. U.S.C. 1-85 (1988).

8. In § 357.4, paragraph (b)(2)(iv) is redesignated as paragraph (b)(2)(vii) and new paragraphs (b)(2)(iv), (b)(2)(v), (b)(2)(vi) are added to read as follows:

\* \* \* \* \*

(b) \* \* \*

(2) \* \* \*

(iv) The quarterly financial report for the period January 1 through March 31, 2005, must be filed on or before June 13, 2005.

(v) The quarterly financial report for the period April 1 through June 30, 2005, must be filed on or before September 12, 2005.

(vi) The quarterly financial report for the period July 1 through September 30, 2005 must be filed on or before December 13, 2005.

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