

SUBCHAPTER T [RESERVED]
**SUBCHAPTER U—REGULATIONS UNDER THE PUBLIC UTILITY
HOLDING COMPANY ACT OF 2005**

**PART 366—PUBLIC UTILITY
HOLDING COMPANY ACT OF 2005**

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**Subpart A—PUHCA 2005
Definitions and Provisions**

§ 366.1 Definitions.

For purposes of this part:

Affiliate. The term “affiliate” of a company means any company, 5 percent or more of the outstanding voting securities of which are owned, controlled, or held with power to vote, directly or indirectly, by such company.

Associate company. The term “associate company” of a company means any company in the same holding company system with such company.

Commission. The term “Commission” means the Federal Energy Regulatory Commission.

Company. The term “company” means a corporation, partnership, association, joint stock company, business trust, or any organized group of persons, whether incorporated or not, or a receiver, trustee, or other liquidating agent of any of the foregoing.

Construction. The term “construction” means any construction, extension, improvement, maintenance, or repair of the facilities or any part thereof of a company, which is performed for a charge.

Electric utility company. The term “electric utility company” means any company that owns or operates facilities used for the generation, transmission, or distribution of electric energy for sale. For the purposes of this subchapter, “electric utility company” shall not include entities that engage only in marketing of electric energy or “exempt wholesale generators.”

Exempt wholesale generator. The term “exempt wholesale generator” means any person engaged directly, or indirectly through one or more affiliates as defined in this subchapter, and exclusively in the business of owning or operating, or both owning and operating, all or part of one or more eligible facilities and selling electric energy at wholesale. For purposes of establishing or determining whether an entity qualifies for exempt wholesale generator status, sections 32(a)(2) through (4), and sections 32(b) through (d) of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79z-5a(a)(2)-(4), 79z-5b(b)-(d)) shall apply. An exempt wholesale generator shall not be considered an electric utility company under this subchapter.

Foreign utility company. (1) The term “foreign utility company” means any company that owns or operates facilities that are not located in any state and that are used for the generation, transmission, or distribution of electric energy for sale or the distribution

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at retail of natural or manufactured gas for heat, light, or power, if such company:

(i) Derives no part of its income, directly or indirectly, from the generation, transmission, or distribution of electric energy for sale or the distribution at retail of natural or manufactured gas for heat, light, or power, within the United States; and

(ii) Neither the company nor any of its subsidiary companies is a public utility company operating in the United States.

(2) A foreign utility company shall not be subject to any requirements of this subchapter other than § 366.2.

Gas utility company. The term “gas utility company” means any company that owns or operates facilities used for distribution at retail (other than the distribution only in enclosed portable containers or distribution to tenants or employees of the company operating such facilities for their own use and not for resale) of natural or manufactured gas for heat, light, or power. For the purposes of this subchapter, “gas utility company” shall not include entities that engage only in marketing of natural and manufactured gas.

Goods. The term “goods” means any goods, equipment (including machinery), materials, supplies, appliances, or similar property (including coal, oil, or steam, but not including electric energy, natural or manufactured gas, or utility assets) which is sold, leased, or furnished, for a charge.

Holding company.

(1) *In general.* The term “holding company” means—

(i) Any company that directly or indirectly owns, controls, or holds, with power to vote, 10 percent or more of the outstanding voting securities of a public-utility company or of a holding company of any public-utility company; and

(ii) Any person, determined by the Commission, after notice and opportunity for hearing, to exercise directly or indirectly (either alone or pursuant to an arrangement or understanding with one or more persons) such a controlling influence over the management or policies of any public-utility company or holding company as to

make it necessary or appropriate for the rate protection of utility customers with respect to rates that such person be subject to the obligations, duties, and liabilities imposed by this subtitle upon holding companies.

(2) *Exclusions.* The term “holding company” shall not include—

(i) A bank, savings association, or trust company, or their operating subsidiaries that own, control, or hold, with the power to vote, public utility or public utility holding company securities so long as the securities are—

(A) Held as collateral for a loan;

(B) Held in the ordinary course of business as a fiduciary; or

(C) Acquired solely for purposes of liquidation and in connection with a loan previously contracted for and owned beneficially for a period of not more than two years; or

(ii) A broker or dealer that owns, controls, or holds with the power to vote public utility or public utility holding company securities so long as the securities are—

(A) Not beneficially owned by the broker or dealer and are subject to any voting instructions which may be given by customers or their assigns; or

(B) Acquired in the ordinary course of business as a broker, dealer, or underwriter with the bona fide intention of effecting distribution within 12 months of the specific securities so acquired.

Holding company system. The term “holding company system” means a holding company, together with its subsidiary companies.

Jurisdictional rates. The term “jurisdictional rates” means rates accepted, established or permitted by the Commission for the transmission of electric energy in interstate commerce, the sale of electric energy at wholesale in interstate commerce, the transportation of natural gas in interstate commerce, and the sale in interstate commerce of natural gas for resale for ultimate public consumption for domestic, commercial, industrial, or any other use.

Natural gas company. The term “natural gas company” means a person engaged in the transportation of natural gas in interstate commerce or the sale

of such gas in interstate commerce for resale.

Person. The term “person” means an individual or company.

Public utility. The term “public utility” means any person who owns or operates facilities used for transmission of electric energy in interstate commerce or sales of electric energy at wholesale in interstate commerce.

Public-utility company. The term “public-utility company” means an electric utility company or a gas utility company. For the purposes of this subchapter, the owner-lessors and owner participants in lease financing transactions involving utility assets shall not be treated as “public-utility companies.”

Service. The term “service” means any managerial, financial, legal, engineering, purchasing, marketing, auditing, statistical, advertising, publicity, tax, research, or any other service (including supervision or negotiation of construction or of sales), information or data, which is sold or furnished for a charge.

Service company. The term “service company” means any associate company within a holding company system organized specifically for the purpose of providing non-power goods or services or the sale of goods or construction work to any public utility in the same holding company system.

Single-state holding company system. The term “single-state holding company system” means a holding company system whose public utility operations are confined substantially to a single state.

State commission. The term “state commission” means any commission, board, agency, or officer, by whatever name designated, of a state, municipality, or other political subdivision of a state that, under the laws of such state, has jurisdiction to regulate public utility companies.

Subsidiary company. The term “subsidiary company” of a holding company means—

(1) Any company, 10 percent or more of the outstanding voting securities of which are directly or indirectly owned, controlled, or held with power to vote, by such holding company; and

(2) Any person, the management or policies of which the Commission, after notice and opportunity for hearing, determines to be subject to a controlling influence, directly or indirectly, by such holding company (either alone or pursuant to an arrangement or understanding with one or more other persons) so as to make it necessary for the rate protection of utility customers with respect to rates that such person be subject to the obligations, duties, and liabilities imposed by this subtitle upon subsidiary companies of holding companies.

Voting security. The term “voting security” means any security presently entitling the owner or holder thereof to vote in the direction or management of the affairs of a company. For the purposes of this subchapter, the term “voting security” shall not include member interests in electric power cooperatives.

§ 366.2 Commission access to books and records.

(a) *In general.* Unless otherwise exempted by Commission rule or order, each holding company and each associate company thereof shall maintain, and shall make available to the Commission, such books, accounts, memoranda, and other records as the Commission determines are relevant to costs incurred by a public utility or natural gas company that is an associate company of such holding company and necessary or appropriate for the protection of utility customers with respect to jurisdictional rates. However, for purposes of this subchapter, no provision in the subchapter shall apply to or be deemed to include:

- (1) the United States;
- (2) A state or political subdivision of a state;
- (3) Any foreign governmental authority not operating in the United States;
- (4) Any agency, authority, or instrumentality of any entity referred to in paragraphs (a)(1), (2), or (3) of this section; or
- (5) Any officer, agent, or employee of any entity referred to in paragraphs (a)(1), (2), (3), or (4) of this section as such in the course of his or her official duty.

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(b) *Affiliate companies.* Unless otherwise exempted by Commission rule or order, each affiliate of a holding company or of any subsidiary company of a holding company shall maintain, and shall make available to the Commission, such books, accounts, memoranda, and other records with respect to any transaction with another affiliate, as the Commission determines are relevant to costs incurred by a public utility or natural gas company that is an associate company of such holding company and necessary or appropriate for the protection of utility customers with respect to jurisdictional rates.

(c) *Holding company systems.* The Commission may examine the books, accounts, memoranda, and other records of any company in a holding company system, or any affiliate thereof, as the Commission determines are relevant to costs incurred by a public utility or natural gas company within such holding company system and necessary or appropriate for the protection of utility customers with respect to jurisdictional rates.

(d) *Confidentiality.* No member, officer, or employee of the Commission shall divulge any fact or information that may come to his or her knowledge during the course of examination of books, accounts, memoranda, or other records as provided in this section, except as may be directed by the Commission or by a court of competent jurisdiction.

§ 366.3 Exemption from Commission access to books and records; waivers of accounting, record-retention, and reporting requirements.

(a) *Exempt classes of entities.* Any person that is a holding company, solely with respect to one or more of the following, is exempt from the requirements of § 366.2 and any accounting, record-retention, or reporting requirements in this subchapter:

(1) Qualifying facilities under the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2601 *et seq.*);

(2) Exempt wholesale generators; or

(3) Foreign utility companies.

(b) *Exemptions of additional persons and classes of transactions.* The Commission has determined that the following persons and classes of transactions sat-

isfy the requirements of paragraph (d) of this section and may file to obtain an exemption from the requirements this subchapter pursuant to the notification procedure contained in § 366.4(b)(1):

(1) Passive investors, so long as the ownership remains passive, including:

(i) Mutual funds,

(ii) Collective investment vehicles whose assets are managed by banks, savings and loan associations and their operating subsidiaries, or brokers/dealers; and

(iii) Persons that directly, or indirectly through their subsidiaries or affiliates, buy and sell the securities of public utilities in the ordinary course of business as a broker/dealer, underwriter or fiduciary, and not exercising operational control over the utility;

(2) Commission-jurisdictional utilities that have no captive customers and that are not affiliated with any jurisdictional utility that has captive customers, and holding companies that own or control only such utilities;

(3) Transactions where the holding company affirmatively certifies on behalf of itself and its subsidiaries, as applicable, that it will not charge, bill or allocate to the public utility or natural gas company in its holding company system any costs or expenses in connection with goods and services transactions, and will not engage in financing transactions with any such public utility or natural gas company, except as authorized by a state commission or the Commission;

(4) Transactions between or among affiliates that are independent of and do not include a public utility or natural gas company;

(5) Electric power cooperatives;

(6) Local distribution companies that are not regulated as “natural gas companies” pursuant to sections 1(b) or 1(c) of the Natural Gas Act, 15 U.S.C. 717(b), (c)).

(c) *Waivers.* The following persons may file to obtain a waiver of the accounting, record-retention, and filing requirements of § 366.21, 366.22, and 366.23 pursuant to the notification procedures contained in § 366.4(c)(1):

(1) Single-state holding company systems as defined in § 366.1;

(2) Holding companies that own generating facilities that total 100 MW or less in size and are used fundamentally for their own load or for sales to affiliated end-users; or

(3) Investors in independent transmission-only companies.

(d) *Commission authority to exempt additional persons and classes of transactions.* The Commission shall exempt a person or classes of transaction from the requirements of §366.2 if, upon individual application as described in paragraph (e) of this section or upon the motion of the Commission—

(1) The Commission finds that the books, accounts, memoranda, and other records of any person are not relevant to the jurisdictional rates of a public utility or natural gas company; or

(2) The Commission finds that any class of transactions is not relevant to the jurisdictional rates of a public utility or natural gas company.

(e) *Other requests for exemptions and waivers.* Any person seeking an exemption or waiver that is not covered by paragraphs (b) or (c) of this section, shall file a petition for declaratory order pursuant to §385.207(a) of this chapter justifying its request for exemption. Any person seeking such an exemption or waiver shall bear the burden of demonstrating that such an exemption is warranted.

§366.4 FERC-65, notification of holding company status, FERC-65A, exemption notification, and FERC-65B, waiver notification.

(a) *Notification of holding company status.* Companies that meet the definition of a holding company as provided by §366.1 as of February 8, 2006, shall notify the Commission of their status as a holding company no later than March 10, 2006. Holding companies formed after February 8, 2006, shall notify the Commission of their status as a holding company, no later than 30 days after their formation. Notifications shall be made by submitting FERC-65 (notification of holding company status), which contains the following: The identity of the holding company and of the public utilities and natural gas companies in the holding company system; the identity of serv-

ice companies or special-purpose subsidiaries providing non-power goods and services; the identity of all affiliates and subsidiaries; and their corporate relationship to each other. This filing will be for informational purposes and will not be noticed in the FEDERAL REGISTER, but will be available on the Commission's Web site.

(b) *FERC-65A (exemption notification) and petitions for exemption.* (1) Persons or companies seeking exemption from the requirements of PUHCA 2005 and the Commission's regulations thereunder under §366.3(a), or one of the class exemptions adopted under §366.3(b), may do so by filing FERC-65A (exemption notification). These filings will be noticed in the FEDERAL REGISTER; persons or companies that file FERC-65A must include a form of notice suitable for publication in the FEDERAL REGISTER in accordance with the specifications in §385.203(d). Persons or companies that file FERC-65A in good faith shall be deemed to have a temporary exemption upon filing. If the Commission has taken no action within 60 days after the date of filing FERC-65A, the exemption shall be deemed to have been granted. The Commission may toll the 60-day period to request additional information or for further consideration of the request; in such case, the claim for exemption will remain temporary until such time as the Commission has determined whether to grant or deny the exemption. Authority to toll the 60-day period is delegated to the Secretary or the Secretary's designee, and authority to act on uncontested FERC-65A filings is delegated to the Director of the Office of Markets, Tariffs and Rates or to the Director of the Office of Markets, Tariffs and Rates' designee.

(2) Persons or companies that do not qualify for exemption pursuant to §366.3(a) or §366.3(b) may seek an individual exemption from this subchapter. They may not do so by means of filing FERC-65A and instead must file a petition for declaratory order as required under §366.3(e). Such petitions will be noticed in the FEDERAL REGISTER; persons or companies that file a petition must include a form of notice suitable

for publication in the FEDERAL REGISTER in accordance with the specifications in §385.203(d). No temporary exemption will attach upon filing and the requested exemption will be effective only if approved by the Commission. Persons or companies may also seek exemptions for classes of transactions by filing a petition for declaratory order.

(c) *FERC-65B (waiver notification) and petitions for waiver.* (1) Persons or companies seeking a waiver of the Commission's regulations under PUHCA 2005 pursuant to §366.3(c) may do so by filing FERC-65B (waiver notification). FERC-65B will be noticed in the FEDERAL REGISTER; persons or companies that file FERC-65B must include a form of notice suitable for publication in the FEDERAL REGISTER in accordance with the specifications in §385.203(d). Companies that file FERC-65B in good faith shall be deemed to have a temporary exemption upon filing. If the Commission has taken no action within 60 days after the date of filing of FERC-65B, the waiver shall be deemed to have been granted. The Commission may toll the 60-day period to request additional information or for further consideration of the request; in such case, the waiver will remain temporary until such time as the Commission has determined whether to grant or deny the waiver. Authority to toll the 60-day period is delegated to the Secretary or the Secretary's designee, and authority to act on uncontested FERC-65B filings is delegated to the Director of the Office of Markets, Tariffs and Rates or the Director of the Office of Markets, Tariffs and Rates' designee.

(2) Persons or companies that do not qualify for waiver pursuant to §366.3(c) may seek an individual waiver from this subchapter. They may not do so by means of filing FERC-65B and instead must file a petition for declaratory order pursuant as required under §366.3(e). Such petitions will be noticed in the FEDERAL REGISTER; persons or companies that file a petition must include a form of notice suitable for publication in the FEDERAL REGISTER in accordance with the specifications in §385.203(d) of this chapter. No temporary waiver will attach upon filing

and the requested exemption will be effective only if approved by the Commission. Persons or companies may also seek waivers for classes of transactions by filing a petition for declaratory order.

(d) *Revocation of exemption or waiver.* (1) If a person or company that has been granted an exemption or waiver under paragraphs (b) or (c) of this section fails to conform with any material facts or representations presented in its submittals to the Commission, such company or company may no longer rely upon FERC-65A, FERC-65B, or a Commission determination granting the exemption or waiver.

(2) The Commission may, on its own motion or on the motion of any person, revoke the exemption or waiver granted under paragraphs (b) or (c) of this section, if the person or company fails to conform to any of the Commission's criteria under this part for obtaining the exemption or waiver.

§366.5 Allocation of costs for non-power goods and services.

(a) *Commission review.* In the case of non-power goods or administrative or management services provided by an associate company organized specifically for the purpose of providing such goods or services to any public utility in the same holding company system, at the election of the system (the public utility holding company, together with its subsidiary companies) or a state commission having jurisdiction over the public utility, the Commission shall review and authorize the allocation of the costs for such goods or services to the extent relevant to that associate company. Such election to have the Commission review and authorize cost allocations shall remain in effect until further Commission order.

(b) *Exemptions.* Any holding company system whose public utility operations are confined substantially to a single state is exempt from the requirements of paragraph (a) of this section. A holding company system's public utility operations will be deemed confined substantially to a single state if the holding company system does not derive more than 13 percent of its public-utility revenues from outside a single state. A holding company system or

state commission may, pursuant to this subsection, seek a Commission determination that a holding company's public utility operations are confined substantially to a single state by filing a petition for declaratory order pursuant to Rule 207(a) of the Commission's Rules of Practice and Procedure (§385.207(a) of this chapter). Any holding company system or state commission seeking such a determination shall bear the burden of demonstrating that such determination is warranted.

(c) *Other classes of transactions.* Either upon petition for declaratory order or upon its own motion, the Commission may exclude from the scope of Commission review and authorization under paragraph (a) of this section any class of transactions that the Commission finds is not relevant to the jurisdictional rates of a public utility. Any holding company system or state commission seeking to obtain such a determination under this subsection shall file a petition for declaratory order pursuant to Rule 207(a) of the Commission's Rules of Practice and Procedure justifying its request for exemption (§385.207(a) of this chapter). Any holding company system or state commission seeking such an exemption shall bear the burden of demonstrating that such determination is warranted.

(d) Nothing in paragraphs (a) through (c) of this section shall affect the authority of the Commission under the Federal Power Act (16 U.S.C. 791 *et seq.*), the Natural Gas Act (15 U.S.C. 717 *et seq.*), or other applicable law, including the authority of the Commission with respect to rates, charges, classifications, rules, regulations, practices, contracts, facilities, and services.

§ 366.6 Previously authorized activities.

(a) *General.* Unless otherwise provided by Commission rule or order, a person may continue to engage in activities or transactions authorized under the Public Utility Holding Company Act of 1935 prior to the effective date of the Public Utility Holding Company Act of 2005, February 8, 2006, until the later of the date such authorization expires or December 31, 2007, so long as that person continues to comply with the terms of such authoriza-

tion. If any such activities or transactions are challenged in a formal Commission proceeding, the person claiming prior authorization shall be required to provide at that time the full text of any such authorization (whether by rule, order, or letter) and the application(s) or pleading(s) underlying such authorization (whether by rule, order, or letter).

(b) *Financing authorizations.* Holding companies that intend to rely on financing authorization orders or letters issued by the Securities and Exchange Commission must file these orders or letters with the Commission within 30 days after the effective date of the Public Utility Holding Company Act of 2005, February 8, 2006; any reports or other submissions that, pursuant to such financing authorizations, previously were filed with the Securities and Exchange Commission must instead be filed with the Commission, effective February 8, 2006. For the purposes of this section, compliance with the terms of such financing authorizations includes the requirement to notify the Commission of any financing transactions that a holding company engages in pursuant to such financing authorization.

§ 366.7 Procedures for obtaining exempt wholesale generator and foreign utility company status.

(a) *Self-certification notice procedure.* An exempt wholesale generator or a foreign utility company, or their representative, may file with the Commission a notice of self-certification demonstrating that it satisfies the definition of exempt wholesale generator or foreign utility company. In the case of exempt wholesale generators, the person filing a notice of self-certification under this section must also file a copy of the notice with the state regulatory authority of the state in which the facility is located. Notices of self-certification will be published in the FEDERAL REGISTER. Persons that file such notices must include a form of notice suitable for publication in the FEDERAL REGISTER in accordance with the specifications in §385.203(d) of this chapter. A person filing a notice of self-certification in good faith will be deemed to

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have temporary exempt wholesale generator or foreign utility company status. If the Commission takes no action within 60 days from the date of filing of the notice of self-certification, the self-certification shall be deemed to have been granted. The Commission may toll the 60-day period to request additional information, or for further consideration of the request; in such cases, the person's exempt wholesale generator or foreign utility company status will remain temporary until such time as the Commission has determined whether to grant or deny exempt wholesale generator or foreign utility company status. Authority to toll the 60-day period is delegated to the Secretary or the Secretary's designee, and authority to act on uncontested notices of self-certification is delegated to the General Counsel or the General Counsel's designee.

(b) *Optional procedure for Commission determination of exempt wholesale generator status or foreign utility company status.* A person may file for a Commission determination of exempt wholesale generator status or foreign utility company status under § 366.1 by filing a petition for declaratory order pursuant to Rule 207(a) of the Commission's Rules of Practice and Procedure (§ 385.207(a) of this chapter), justifying its request for exemption. Persons that file petitions must include a form of notice suitable for publication in the FEDERAL REGISTER in accordance with the specifications in § 385.203(d) of this chapter. Authority to act on uncontested notices of self-certification is delegated to the General Counsel or the General Counsel's designee.

(c) *Revocation of status.* (1) If an exempt wholesale generating facility or a foreign utility company fails to conform with any material facts or representations presented by the applicant in its submittals to the Commission, the notice of self-certification of the status of the facility or Commission order certifying the status of the facility may no longer be relied upon.

(2) The Commission may, on its own motion or on the application of any person, revoke the status of a facility or company, if the facility or company

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fails to conform to any of the Commission's criteria under this part.

Subpart B—PUHCA 2005 Accounting and Recordkeeping

§ 366.21 Accounts and records for holding companies.

(a) *General.* Unless otherwise exempted or granted a waiver by Commission rule or order, every holding company shall maintain and make available to the Commission books, accounts, memoranda, and other records of all of its transactions in sufficient detail to permit examination, audit and verification, as necessary and appropriate for the protection of utility customers with respect to jurisdictional rates, of the financial statements, schedules and reports required to be filed with the Commission or issued to stockholders.

(b) Unless otherwise exempted or granted a waiver by Commission rule or order, beginning January 1, 2007, all holding companies must comply with the Commission's record-retention requirements for public utilities and licensees or for natural gas companies, as appropriate (parts 125 and 225 of this chapter). Until December 31, 2006, holding companies registered under the Public Utility Holding Company Act of 1935 (16 U.S.C. 79a *et seq.*) may follow either the Commission's record-retention rules for public utilities and licensees or for natural gas companies, as appropriate (parts 125 and 225 of this chapter), or the Security and Exchange Commission's record-retention rules in 17 CFR part 257.

(c) Nothing in this section shall relieve any company subject thereto from compliance with the requirements as to recordkeeping and record-retention that may be prescribed by any other regulatory agency.

§ 366.22 Accounts and records of service companies.

(a) *Record-retention requirements—(1) General.* Unless otherwise exempted or granted a waiver by Commission rule or order, beginning January 1, 2007, every service company shall maintain and make available to the Commission such books, accounts, memoranda, and

other records in such manner and preserve them for such periods, as the Commission prescribes in parts 125 and 225 of this chapter in sufficient detail to permit examination, audit, and verification, as necessary and appropriate for the protection of utility customers with respect to jurisdictional rates.

(2) *Transition period.* Until December 31, 2006, service companies in holding company systems registered under the Public Utility Holding Company Act of 1935 (16 U.S.C. 79a *et seq.* (2000)) may follow either the Commission's record-retention requirements in parts 125 and 225 of this chapter or the Securities and Exchange Commission's record-retention rules in 17 CFR part 257.

(3) Nothing in this section shall relieve any service company subject thereto from compliance with requirements as to record-retention that may be prescribed by any other regulatory agency.

(b) *Accounting requirements*—(1) *General.* Unless otherwise exempted or granted a waiver by Commission rule or order, beginning January 1, 2007, every service company that is not a special-purpose company (*e.g.*, a fuel supply company or a construction company) shall maintain and make available to the Commission such books, accounts, memoranda, and other records as the Commission prescribes in parts 101 and 201 of this chapter, in sufficient detail to permit examination, audit, and verification, as necessary and appropriate for the protection of utility customers with respect to jurisdictional rates. Every such service company shall maintain and make available such books, accounts, memoranda, and other records in such manner as are prescribed in parts 101 and 201 of this chapter, and shall keep no other records with respect to the same subject matter except:

- (i) Records other than accounts;
- (ii) Records required by federal or state law;
- (iii) Subaccounts or supporting accounts which are not inconsistent with the accounts required either by the Uniform System of Accounts in parts 101 and 201 of this chapter; and
- (iv) Such other accounts as may be authorized by the Commission.

(2) *Transition period.* Until December 31, 2006, service companies in holding company systems registered under the Public Utility Holding Company Act of 1935 (16 U.S.C. 79a *et seq.*), as described in paragraph (b)(1) of this section, may follow either the Commission's Uniform System of Accounts in parts 101 and 201 of this chapter or the Securities and Exchange Commission's Uniform System of Accounts in 17 CFR part 256.

(3) Nothing in this section shall relieve any service company subject thereto from compliance with requirements as to accounting that may be prescribed by any other regulatory agency.

§ 366.23 FERC Form No. 60, annual reports by service companies.

(a) *General.* Unless otherwise exempted or granted a waiver by Commission rule or order, every service company in a holding company system that is not a special-purpose company (*e.g.*, a fuel supply company or a construction company) that provides non-power goods or services to a Commission-jurisdictional public utility or natural gas company shall file with the Commission by May 1, 2006 and by May 1 each year thereafter, a report, FERC Form No. 60, for the prior calendar year. Every such report shall be submitted on the FERC Form No. 60 then in effect and shall be prepared in accordance with the instructions incorporated in such form. For good cause shown, the Commission may extend the time within which any such report is to be filed or waive the requirements applicable to any such report. The authority to act on motions for extensions of time to file any such reports or to waive the requirements applicable to any such reports, including granting or denying such motions, in whole or in part, is delegated to the Chief Accountant or the Chief Accountant's designee.

(b) *Transition period.* Service companies in holding company systems exempted from the requirements of the Public Utility Holding Company Act of 1935 (16 U.S.C. 79a *et seq.*) need not file an annual report, FERC Form No. 60, for calendar years 2005 and 2006.