

**§ 35.42**

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and commit or otherwise bid supply in a manner that complies with the Commission-approved rules and regulations of the applicable market. A Seller is not required to bid or supply electric energy or other electricity products unless such requirement is a part of a separate Commission-approved tariff or is a requirement applicable to Seller through Seller's participation in a Commission-approved organized market.

(b) *Communications.* A Seller must provide accurate and factual information and not submit false or misleading information, or omit material information, in any communication with the Commission, Commission-approved market monitors, Commission-approved regional transmission organizations, Commission-approved independent system operators, or jurisdictional transmission providers, unless Seller exercises due diligence to prevent such occurrences.

(c) *Price reporting.* To the extent a Seller engages in reporting of transactions to publishers of electric or natural gas price indices, Seller must provide accurate and factual information, and not knowingly submit false or misleading information or omit material information to any such publisher, by reporting its transactions in a manner consistent with the procedures set forth in the Policy Statement issued by the Commission in Docket No. PL03-3-000 and any clarifications thereto. Unless Seller has previously provided the Commission with a notification of its price reporting status, Seller must notify the Commission within 15 days of the effective date of this regulation or within 15 days of the date it begins making wholesale sales, whichever is earlier, whether it engages in such reporting of its transactions. Seller must update the notification within 15 days of any subsequent change in its transaction reporting status. In addition, Seller must adhere to such other standards and requirements for price reporting as the Commission may order.

(d) *Records retention.* A Seller must retain, for a period of five years, all data and information upon which it billed the prices it charged for the electric energy or electric energy products

it sold pursuant to Seller's market-based rate tariff, and the prices it reported for use in price indices.

**§ 35.42 Change in status reporting requirement.**

(a) As a condition of obtaining and retaining market-based rate authority, a Seller must timely report to the Commission any change in status that would reflect a departure from the characteristics the Commission relied upon in granting market-based rate authority. A change in status includes, but is not limited to, the following:

(1) Ownership or control of generation capacity that results in net increases of 100 MW or more, or of inputs to electric power production, or ownership, operation or control of transmission facilities, or

(2) Affiliation with any entity not disclosed in the application for market-based rate authority that owns or controls generation facilities or inputs to electric power production, affiliation with any entity not disclosed in the application for market-based rate authority that owns, operates or controls transmission facilities, or affiliation with any entity that has a franchised service area.

(b) Any change in status subject to paragraph (a) of this section, other than a change in status submitted to report the acquisition of control of a site or sites for new generation capacity development, must be filed no later than 30 days after the change in status occurs. Power sales contracts with future delivery are reportable 30 days after the physical delivery has begun. Failure to timely file a change in status report constitutes a tariff violation.

(c) When submitting a change in status notification regarding a change that impacts the pertinent assets held by a Seller or its affiliates with market-based rate authorization, a Seller must include an appendix of assets in the form provided in Appendix B of this subpart.

(d) A Seller must report on a quarterly basis the acquisition of control of a site or sites for new generation capacity development for which site control has been demonstrated in the interconnection process and for which

the potential number of megawatts that are reasonably commercially feasible on the site or sites for new generation capacity development is equal to 100 megawatts or more. If a Seller elects to make a monetary deposit so that it may demonstrate site control at a later time in the interconnection process, the monetary deposit will trigger the quarterly reporting requirement instead of the demonstration of site control. A notification of change in status that is submitted to report the acquisition of control of a site or sites for new generation capacity development must include:

- (1) The number of sites acquired;
- (2) The relevant geographic market in which the sites are located; and
- (3) The maximum potential number of megawatts (MW) that are reasonably commercially feasible on the sites reported.

(e) A Seller must report to the Commission any land it has acquired, taken a leasehold interest in, obtained an option to purchase or lease, or entered into an exclusivity or other arrangement to acquire for new generation capacity development and for which site control has not yet been demonstrated during the prior three years (triggering event), and for which the potential number of megawatts that are reasonably commercially feasible on the land for new generation capacity development is equal to 100 megawatts or more. A Seller must report each such triggering event in a single report by January 1 of the year following the calendar year in which the triggering event occurred. The information that must be provided and the aggregation of the maximum potential number of megawatts by relevant geographic market is the same as required in the quarterly reports, as described in paragraph (d) of this section.

(f) For the purposes of paragraph (d) of this section, “control” shall mean “site control” as it is defined in the Standard Large Generator Interconnection Procedures (LGIP).

[Order 697–C, 74 FR 30934, June 29, 2009]

EFFECTIVE DATE NOTE: At 75 FR 14351, Mar. 25, 2010, §35.42 was revised, effective Apr. 26, 2010. For the convenience of the user, the revised text is set forth as follows:

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- (1) Ownership or control of generation capacity that results in net increases of 100 MW or more, or of inputs to electric power production, or ownership, operation or control of transmission facilities, or
- (2) Affiliation with any entity not disclosed in the application for market-based rate authority that owns or controls generation facilities or inputs to electric power production, affiliation with any entity not disclosed in the application for market-based rate authority that owns, operates or controls transmission facilities, or affiliation with any entity that has a franchised service area.

(b) Any change in status subject to paragraph (a) of this section, other than a change in status submitted to report the acquisition of control of a site or sites for new generation capacity development, must be filed no later than 30 days after the change in status occurs. Power sales contracts with future delivery are reportable 30 days after the physical delivery has begun. Failure to timely file a change in status report constitutes a tariff violation.

(c) When submitting a change in status notification regarding a change that impacts the pertinent assets held by a Seller or its affiliates with market-based rate authorization, a Seller must include an appendix of assets in the form provided in Appendix B of this subpart.

(d) A Seller must report on a quarterly basis the acquisition of control of a site or sites for new generation capacity development for which site control has been demonstrated in the interconnection process and for which the potential number of megawatts that are reasonably commercially feasible on the site or sites for new generation capacity development is equal to 100 megawatts or more. If a Seller elects to make a monetary deposit so that it may demonstrate site control at a later time in the interconnection process, the monetary deposit will trigger the quarterly reporting requirement instead of the demonstration of site control. A notification of change in status that is submitted to report the acquisition of control of a site or sites for new generation capacity development must include:

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(3) The maximum potential number of megawatts (MW) that are reasonably commercially feasible on the sites reported.

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(e) For the purposes of paragraph (d) of this section, “control” shall mean “site con-

APPENDIX A TO SUBPART H OF PART 35

APPENDIX A

*Standard Screen Format*

(Data provided for Illustrative Purposes only)

PART I—PIVOTAL SUPPLIER ANALYSIS

Row	Generation	MW	Reference
<b>Seller and Affiliate Capacity</b>			
A .....	Installed Capacity .....	19,500	Workpaper.
B .....	Long-Term Firm Purchases .....	500	Workpaper.
C .....	Long-Term Firm Sales .....	- 1,000	Workpaper.
D .....	Imported Power .....	0	Workpaper.
<b>Non-Affiliate Capacity</b>			
E .....	Installed Capacity .....	8,000	Workpaper.
F .....	Long-Term Firm Purchases .....	500	Workpaper.
G .....	Long-Term Firm Sales .....	-2,500	Workpaper.
H .....	Imported Power .....	3,500	Workpaper.
I .....	Balancing Authority Area Reserve Requirement .....	-2,160	Workpaper.
J .....	Amount of Line I Attributable to Seller, if any .....	-2,160	Workpaper.
K .....	Total Uncommitted Supply (SUM A,B,C,D,E,F,G,H,I,M) .....	9,840	
<b>Load</b>			
L .....	Balancing Authority Area Annual Peak Load .....	18,000	Workpaper.
M .....	Average Daily Peak Native Load in Peak Month .....	- 16,500	Workpaper.
N .....	Amount of Line M Attributable to Seller, if any .....	- 16,500	Workpaper.
O .....	Wholesale Load (SUM L,M) .....	1,500	
P .....	Net Uncommitted Supply (K-O) .....	8,340	
Q .....	Seller's Uncommitted Capacity (SUM A,B,C,D,J,N) .....	340	
	Result of Pivotal Supplier Screen (Pass if Line Q < Line P), (Fail if Line Q > Line P).		PASS.

[Order 697, 72 FR 40038, July 20, 2007, as amended by Order 697-A, 73 FR 25913, May 7, 2008]