

(3) Officer or director of more than one public utility, if such officer or director is already authorized under this part to hold different positions as officer or director of those utilities where the interlock involves affiliated public utilities.

(b) *Conditions of authorization.* As a condition of authorization, any person authorized to hold interlocking positions under this section must submit, prior to performing or assuming the duties and responsibilities of the position, an informational report in accordance with paragraph (c) of this section, unless that person is already authorized to hold interlocking positions of the type governed by this section. Failure to timely file the informational report will constitute a failure to satisfy this condition, and will constitute automatic denial.

(c) *Informational report.* An informational report required under paragraph (b) of this section must state:

(1) The full name and business address of the person required to submit this report;

(2) The names of all public utilities with which the person holds or will hold the positions of officer or director and a description of those positions;

(3) The names of any entity, other than those listed in paragraph (c)(2) of this section, of which the person is an officer or director and a description of those positions; and

(4) An explanation of the corporate relationship between or among the public utilities listed in paragraph (c)(2) of this section which qualifies the person for automatic authorization under this section.

(5) A statement or an affirmation that the applicant has not yet performed or assumed the duties or responsibilities of the position which necessitated the filing of this informational report.

[Order 446, 51 FR 4905, Feb. 10, 1986, as amended by Order 664, 70 FR 55723, Sept. 23, 2005]

PART 46—PUBLIC UTILITY FILING REQUIREMENTS AND FILING REQUIREMENTS FOR PERSONS HOLDING INTERLOCKING POSITIONS

Sec.

- 46.1 Purpose.
- 46.2 Definitions.
- 46.3 Purchaser list.
- 46.4 General rule.
- 46.5 Covered entities.
- 46.6 Contents of the written statement and procedures for filing.

AUTHORITY: Federal Power Act, as amended, (16 U.S.C. 792-828c); Public Utility Regulatory Policies Act of 1978, 16 U.S.C. 2601-2645; Department of Energy Organization Act, (42 U.S.C. 7101-7352); E.O. 12009, 3 CFR 142 (1978).

SOURCE: 45 FR 23418, Apr. 7, 1980, unless otherwise noted.

§ 46.1 Purpose.

The purpose of this part is to implement section 305(c) of the Federal Power Act, as amended by section 211 of the Public Utility Regulatory Policies Act of 1978.

[Order 67, 45 FR 3569, Jan. 18, 1980]

§ 46.2 Definitions.

For the purpose of this part:

(a) *Public utility* has the same meaning as in section 201(e) of the Federal Power Act and further includes any company which is part of a holding company system which includes a registered holding company unless no company in such system is an electric utility within the meaning of section 3 of the Federal Power Act. Such term does not include any rural electric cooperative which is regulated by the Rural Electrification Administration of the Department of Agriculture or any other entities covered in section 201(f) of the Federal Power Act.

(b) The following terms have the same meaning as in the Public Utility Holding Company Act of 1935:

- (1) Holding company system; and
- (2) Registered holding company.

(c) *Purchaser* means any individual or corporation within the meaning of section 3 of the Federal Power Act who purchases electric energy from a public utility. Such term does not include the

United States or any agency or instrumentality of the United States or any rural electric cooperative which is regulated by the Rural Electrification Administration of the Department of Agriculture.

(d) *Control* and *controlled* mean the possession, directly or indirectly, of the power to direct the management or policies of an entity whether such power is exercised through one or more intermediary companies or pursuant to an agreement, written or oral, and whether such power is established through ownership or voting of securities, or common directors, officers, or stockholders, or voting trusts, holding trusts, or debt holdings, or contract, or any other direct or indirect means. A rebuttable presumption that control exists arises from the ownership or the power to vote, directly or indirectly, ten percent (10%) or more of the voting securities of such entity.

(e) *Entity* means any firm, company, or organization including any corporation, joint-stock company, partnership, association, business trust, organized group of persons, whether incorporated or not, or a receiver or receivers, trustee or trustees of any of the foregoing. Such term does not include *municipality* as defined in section 3 of the Federal Power Act and does not include any Federal, State, or local government agencies or any rural electric cooperative which is regulated by the Rural Electrification Administration of the Department of Agriculture.

(f) *Electrical equipment* means any apparatus, device, integral component, or integral part used in an activity which is electrically, electronically, mechanically, or by legal prescription necessary to the process of generation, transmission, or distribution of electric energy.¹

¹Guidance in applying the definition of *electrical equipment* may be obtained by examining the items within the following accounts described in part 101, title 18 of the Code of Federal Regulations: Boiler/Reactor plant equipment (Accounts 312 and 322); Engines and engine driven generators (313); Turbogenerator units (314 and 323); Accessory electrical equipment (315, 324, 334 and 345); Miscellaneous power plant equipment (316, 325, 335 and 346); Water wheels, turbines and generators (333); Fuel holders, producers,

(g) *Produces or supplies* means any transaction including a sale, lease, sale-leaseback, consignment, or any other transaction in which an entity provides electrical equipment, coal, natural gas, oil, nuclear fuel, or other fuel to any public utility either directly or through an entity controlled by such entity.

(h) *Appointee* means any person appointed on a temporary or permanent basis to perform any duties or functions described in § 46.4(a).

(i) *Representative* means any person empowered, through oral or written agreement, to transact business on behalf of an entity and any person who serves as an advisor regarding policy or management decisions of the entity. The term does not include attorneys, accountants, architects, or any other persons who render a professional service on a fee basis.

§ 46.3 Purchaser list.

(a) *Compilation and filing list.* On or before January 31 of each year, each public utility shall compile a list of the purchasers described in paragraph (b) of this section and shall identify each purchaser by name and principal business address. An original and two (2) copies of such list shall be filed with the Commission by the public utility and the list shall be made publicly available through its principal business office.

(b) *Largest purchasers.* The list required under paragraph (a) of this section shall include each purchaser who, during any of the three (3) preceding calendar years, purchased (for purposes other than resale) from a public utility one of the twenty (20) largest amounts of electric energy measured in kilowatt

and accessories (342); Prime movers (343); Generators (344); Station equipment (353 and 362); Poles, towers and fixtures (354, 355 and 364); Overhead conductors and devices (356 and 365); Underground conduit (357 and 366); Underground conductors and devices (358 and 367); Storage battery equipment (363); Line transformers (368); Services (369); Meters (370); Installation on customers' premises (371); Street lighting and signal systems (373); Leased property on customers' premises (372); and Communication equipment (397). Excepted from these accounts, are vehicles, structures, foundations, settings, and services.