

file with the Commission a letter or report of the independent accountant certifying approval, together with or within 30 days after the filing of the Annual Report, Form No. 1, covering the subjects and in the form prescribed in the General Instructions of the Annual Report. For such utility or licensee operating on a non-calendar fiscal year, the letter or report of the independent accountant certifying approval must be filed within 150 days of the close of the company's fiscal year; the letter or report must also identify which, if any, of the examined schedules do not conform to the Commission's requirements and shall describe the discrepancies that exist. The Commission will not be bound by a certification of compliance made by an independent accountant pursuant to this paragraph.

[73 FR 58736, Oct. 7, 2008]

#### § 41.12 Qualifications of accountants.

The Commission will not recognize any certified public accountant or public accountant through December 31, 1975, who is not in fact independent. Beginning January 1, 1976, and each year thereafter, the Commission will recognize only independent certified public accountants, or independent licensed public accountants who were licensed on or before December 31, 1970, who are in fact independent. For example, an accountant will not be considered independent with respect to any person or any of its parents or subsidiaries in whom he has, or had during the period of report, any direct financial interest. The Commission will determine the fact of independence by considering all the relevant circumstances including evidence bearing on the relationships between the accountant and that person or any affiliate thereof.

[Order 462, 37 FR 26006, Dec. 7, 1972]

### PART 42—LONG-TERM FIRM TRANSMISSION RIGHTS IN ORGANIZED ELECTRICITY MARKETS

AUTHORITY: 16 U.S.C. 791a–825r and section 217 of the Federal Power Act, 16 U.S.C. 824q.

SOURCE: Order 681, 71 FR 43619, Aug. 1, 2006, unless otherwise noted.

#### § 42.1 Requirement that Transmission Organizations with Organized Electricity Markets Offer Long-Term Firm Transmission Rights.

(a) *Purpose.* This section requires a transmission organization with one or more organized electricity markets (administered either by it or by another entity) to make available long-term firm transmission rights, pursuant to section 217(b)(4) of the Federal Power Act, that satisfy each of the guidelines set forth in paragraph (d) of this section. This section does not require that a specific type of long-term firm transmission right be made available, and is intended to permit transmission organizations flexibility in satisfying the guidelines set forth in paragraph (d) of this section.

(b) *Definitions.* As used in this section:

(1) *Transmission Organization* means a Regional Transmission Organization, Independent System Operator, independent transmission provider, or other independent transmission organization finally approved by the Commission for the operation of transmission facilities.

(2) *Load serving entity* means a distribution utility or an electric utility that has a service obligation.

(3) *Service obligation* means a requirement applicable to, or the exercise of authority granted to, an electric utility under Federal, State, or local law or under long-term contracts to provide electric service to end-users or to a distribution utility.

(4) *Organized Electricity Market* means an auction-based day ahead and real time wholesale market where a single entity receives offers to sell and bids to buy electric energy and/or ancillary services from multiple sellers and buyers and determines which sales and purchases are completed and at what prices, based on formal rules contained in Commission-approved tariffs, and where the prices are used by a transmission organization for establishing transmission usage charges.

(c) *General rule.* (1) Every public utility that is a transmission organization and that owns, operates or controls facilities used for the transmission of electric energy in interstate commerce

and has one or more organized electricity markets (administered either by it or by another entity) must file with the Commission, no later than January 29, 2007, one of the following:

(i) Tariff sheets and rate schedules that make available long-term firm transmission rights that satisfy each of the guidelines set forth in paragraph (d) of this section; or

(ii) An explanation of how its current tariff and rate schedules already provide for long-term firm transmission rights that satisfy each of the guidelines set forth in paragraph (d) of this section.

(2) Any transmission organization approved by the Commission for operation after January 29, 2007 that has one or more organized electricity markets (administered either by it or by another entity) will be required to satisfy this general rule.

(3) Filings made in compliance with this paragraph (c) must explain how the transmission organization's transmission planning and expansion procedures will accommodate long-term firm transmission rights, including but not limited to how the transmission organization will ensure that allocated long-term firm transmission rights remain feasible over their entire term.

(4) Each transmission organization subject to this general rule must also make its transmission planning and expansion procedures and plans publicly available, including (but not limited to) both the actual plans and any underlying information used to develop the plans.

(d) *Guidelines for Design and Administration of Long-term Firm Transmission Rights.* Transmission organizations subject to paragraph (c) of this section must make available long-term firm transmission rights that satisfy the following guidelines:

(1) The long-term firm transmission right should specify a source (injection node or nodes) and sink (withdrawal node or nodes), and a quantity (MW).

(2) The long-term firm transmission right must provide a hedge against day-ahead locational marginal pricing congestion charges or other direct assignment of congestion costs for the period covered and quantity specified. Once allocated, the financial coverage

provided by a financial long-term right should not be modified during its term (the "full funding" requirement) except in the case of extraordinary circumstances or through voluntary agreement of both the holder of the right and the transmission organization.

(3) Long-term firm transmission rights made feasible by transmission upgrades or expansions must be available upon request to any party that pays for such upgrades or expansions in accordance with the transmission organization's prevailing cost allocation methods for upgrades or expansions.

(4) Long-term firm transmission rights must be made available with term lengths (and/or rights to renewal) that are sufficient to meet the needs of load serving entities to hedge long-term power supply arrangements made or planned to satisfy a service obligation. The length of term of renewals may be different from the original term. Transmission organizations may propose rules specifying the length of terms and use of renewal rights to provide long-term coverage, but must be able to offer firm coverage for at least a 10 year period.

(5) Load serving entities must have priority over non-load serving entities in the allocation of long-term firm transmission rights that are supported by existing capacity. The transmission organization may propose reasonable limits on the amount of existing capacity used to support long-term firm transmission rights.

(6) A long-term transmission right held by a load serving entity to support a service obligation should be re-assignable to another entity that acquires that service obligation.

(7) The initial allocation of the long-term firm transmission rights shall not require recipients to participate in an auction.

## PART 45—APPLICATION FOR AUTHORITY TO HOLD INTERLOCKING POSITIONS

Sec.

45.1 Applicability; who must file.

45.2 Positions requiring authorization.

45.3 Time of filing application.

45.4 Supplemental applications.