

air carrier and presents himself or herself at the airport for the purpose of traveling on the flight for which the ticket has been purchased or obtained; and (2) Meets reasonable, nondiscriminatory contract of carriage requirements applicable to all passengers.

Required Method of Operation (RMOP)—An agreement between a carrier and DEFRA concerning the procedures the carrier will use to ensure the proper transport of animals into the U.K. under PETS. This document must be approved by DEFRA before the carrier can begin PETS participation.

SLA (Service Level Agreement)—An agreement between an ARC and a carrier that the ARC will verify the PETS compliance status of any animal arriving at the local airport over one of the carrier's approved routes.

Issued in Washington, DC, on February 20, 2007.

Samuel Podberesky,

Assistant General Counsel for Aviation, Enforcement and Proceedings.

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 365 and 366

[Docket No. RM05-32-003, Order No. 667-C]

Repeal of the Public Utility Holding Company Act of 1935 and Enactment of the Public Utility Holding Company Act of 2005

Issued February 20, 2007.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final order; order denying rehearing.

SUMMARY: By this order, the Federal Energy Regulatory Commission denies rehearing of Order No. 667-B. Order No. 667-B addressed requests for clarification and rehearing of prior orders that implemented repeal of the Public Utility Holding Company Act of 1935 and enactment of the Public Utility Holding Company Act of 2005.

DATES: *Effective Date:* This order is effective on March 28, 2007.

FOR FURTHER INFORMATION CONTACT:

Lawrence Greenfield (Legal Information), Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502-6415.

Laura Wilson (Legal Information), Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502-6128.

James Guest (Technical Information), Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502-6614.

SUPPLEMENTARY INFORMATION:

Before Commissioners: Joseph T. Kelliher, Chairman; Sudeen G. Kelly, Marc Spitzer, Philip D. Moeller, and Jon Wellenhoff.

Subtitle F of Title XII of the Energy Policy Act of 2005 (EPA Act 2005) repealed the Public Utility Holding Company Act of 1935 (PUHCA 1935) and enacted the Public Utility Holding Company Act of 2005 (PUHCA 2005).¹ In Order No. 667, the Federal Energy Regulatory Commission (Commission) issued regulations to implement Subtitle F.² In Order No. 667-A, the Commission denied rehearing in part and granted rehearing in part of Order No. 667.³ In Order No. 667-B, the Commission granted clarification in part, denied rehearing in part and granted rehearing in part of Order No. 667-A.⁴ In the present order, we deny rehearing of Order No. 667-B.

1. American Public Power Association together with National Rural Electric Cooperative Association (APPA/NRECA) and Florida Municipal Power Agency together with Seminole Electric Cooperative, Inc. (FMPA/Seminole) raise one issue on rehearing of Order No. 667-B: whether PUHCA 2005's accounting, record retention and reporting requirements should apply to a holding company system whose traditional utility operations are confined substantially to one state but that holds significant interests in out-of-state exempt wholesale generators (EWGs), foreign utility companies (FUCOs), and qualifying facilities (QFs). They assert that these requirements should apply because, they claim, regulators would not otherwise have

access to relevant accounts and records and therefore would be unable to prevent inappropriate cross-subsidization or other misallocations of costs within the holding company system. We deny rehearing as discussed below.

Background

2. Under the Commission's regulations under PUHCA 2005, a "single-state holding company system" is eligible for waiver of the Commission's PUHCA 2005 accounting, record retention and reporting requirements.⁵ In Order No. 667-A, the Commission defined "single-state holding company system" as a system that derives no more than 13 percent of its "public-utility company" revenues from outside a single state.⁶ In Order No. 667-B, the Commission clarified that revenues from EWGs, FUCOs or QFs do not constitute public-utility company revenues for purposes of determining status as a single-state holding company system.⁷ As a result, a single-state holding company system as defined in Order Nos. 667-A and 667-B may hold interests in EWGs, FUCOs and QFs without, by virtue of those interests, being subject to the Commission's PUHCA 2005 accounting, record retention and reporting requirements.

3. The Commission reasoned that this approach follows the approach taken under section 3(a) of PUHCA 1935, which exempted a holding company from plenary oversight under PUHCA 1935 if the holding company's traditional utility operations were largely confined to one state.⁸ The exemption in section 3(a) reflected Congress' assessment that other state and federal corporate and rate regulation was sufficient to protect against abuse in those circumstances. Further, the 13 percent standard adopted by the Commission in Order Nos. 667-A and B to determine who qualifies for the single state holding company waiver was the same standard applied by the SEC under PUHCA 1935, thus resulting in no more onerous regulatory requirements than those in place under PUHCA 1935. In Order No. 667-B, the Commission found that other state and federal regulation continues to be sufficient to protect against abuse, without subjecting a holding company system to the Commission's PUHCA 2005 accounting, record retention and

¹ Energy Policy Act of 2005, Pub. L. 109-58, 119 Stat. 594 (2005).

² *Repeal of the Public Utility Holding Company Act of 1935 and Enactment of the Public Utility Holding Company Act of 2005*, Order No. 667, 70 FR 75592 (Dec. 20, 2005), FERC Stats. & Regs. ¶ 31,197 (2005).

³ *Repeal of the Public Utility Holding Company Act of 1935 and Enactment of the Public Utility Holding Company Act of 2005*, Order No. 667-A, 71 FR 28446 (May 16, 2006), FERC Stats. & Regs. ¶ 31,213 (2006).

⁴ *Repeal of the Public Utility Holding Company Act of 1935 and Enactment of the Public Utility Holding Company Act of 2005*, Order No. 667-B, 71 FR 42750 (July 28, 2006), FERC Stats. & Regs. ¶ 31,224 (2006).

⁵ 18 CFR 366.3(c)(1).

⁶ Order No. 667-A, FERC Stats. & Regs. ¶ 31,213 at P 28.

⁷ Order No. 667-B, FERC Stats. & Regs. ¶ 31,224 at P 20.

⁸ U.S.C. 79c(a); see 15 U.S.C. 79z-5a and 79z-5b.

reporting requirements due to the holding company system's ownership of out-of-state EWGs, FUCOs and QFs.⁹

Requests for Rehearing

4. APPA/NRECA and FMPA/Seminole envision a holding company system whose traditional utility operations are confined to one state but that has EWGs, FUCOs and QFs in multiple jurisdictions. They assert that, if such a holding company system is not subject to the Commission's PUHCA 2005 accounting, record retention and reporting requirements, regulators will have insufficient access to the holding company system's accounts and records and therefore will be unable to protect against misallocations of costs and other potential abuses within the holding company system.

Decision

5. In adopting the SEC's 13 percent of revenue standard (and exclusion of EWGs, FUCOs and QFs from consideration in the 13 percent of revenue calculation) for purposes of determining who qualifies for the single state holding company waiver of the Commission's PUHCA 2005 accounting, record retention and reporting requirements, the Commission sought to be consistent with the general intent of Congress, in repealing PUHCA 1935, to remove unnecessary regulatory burdens and not to create new ones in PUHCA 2005. Furthermore, APPA/NRECA and FMPA/Seminole have presented no convincing argument that other state and federal regulation will be insufficient to protect against abuse in the circumstances envisioned by APPA/NRECA and FMPA/Seminole, without imposition of the Commission's PUHCA 2005 accounting, record retention and reporting requirements. The Commission will still have full access under the FPA to the accounts and records of the traditional public utility within the holding company system (*i.e.*, the utility with captive customers and traditional regulated rates) and of the holding company and any other company controlled by the holding company, insofar as they relate to transactions with or the business of the public utility.¹⁰ From those accounts and records, the Commission will be able to discern whether the public utility is attempting to recover, from its captive customers, costs that are

properly attributable to other businesses within the holding company system.

6. Moreover, with respect to state regulatory authority access to books and records of holding companies and their associate and affiliate companies, nothing in our waivers affects section 1265 of PUHCA 2005, which expressly provides for such access.¹¹ We add that no state regulatory authority has suggested that it has insufficient authority in the circumstances envisioned.

7. For these reasons, we deny rehearing.

The Commission Orders

APPA/NRECA's and FMPA/Seminole's requests for rehearing are hereby denied.

By the Commission.

Magalie R. Salas,
Secretary.

[FR Doc. E7-3234 Filed 2-23-07; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD01-07-016]

Drawbridge Operation Regulations; Housatonic River, Stratford, CT

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, First Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the Metro North Devon Bridge, across the Housatonic River, mile 3.9, at Stratford, Connecticut. Under this temporary deviation the draw may remain in the closed position from 8 a.m. through 11 p.m. on March 3, 2007. This deviation is necessary to facilitate scheduled bridge maintenance.

DATES: This deviation is effective from 8 a.m. through 11 p.m. on March 3, 2007.

ADDRESSES: Materials referred to in this document are available for inspection or copying at the First Coast Guard District, Bridge Branch Office, One South Street, New York, New York, 10004, between 7 a.m. and 3 p.m., Monday through Friday, except Federal

holidays. The telephone number is (212) 668-7165. The First Coast Guard District Bridge Branch Office maintains the public docket for this temporary deviation.

FOR FURTHER INFORMATION CONTACT: Judy Leung-Yee, Project Officer, First Coast Guard District, at (212) 668-7165.

SUPPLEMENTARY INFORMATION: The Metro North Devon Bridge across the Housatonic River, mile 3.9, at Stratford, Connecticut, has a vertical clearance in the closed position of 19 feet at mean high water and 25 feet at mean low water. The existing operating regulations are listed at 33 CFR 117.207(b).

The bridge owner, Metro North, requested a temporary deviation to allow the bridge to remain in the closed position to facilitate scheduled bridge maintenance. Under this temporary deviation the Metro North Devon Bridge may remain in the closed position from 8 a.m. through 11 p.m. on March 3, 2007.

In accordance with 33 CFR 117.35(c), this work will be performed with all due speed in order to return the bridge to normal operation as soon as possible.

This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: February 15, 2007.

Gary Kassof,

Bridge Program Manager, First Coast Guard District.

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD01-07-015]

Drawbridge Operation Regulations; Reynolds Channel, New York, NY

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, First Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the Long Island Railroad Bridge, across Reynolds Channel, mile 4.4, at New York City, New York. Under this temporary deviation the draw may remain in the closed position for 24-hours on both March 3, 2007 and March 10, 2007. This deviation is necessary to facilitate scheduled bridge maintenance.

⁹ Order No. 667-B, FERC Stats. & Regs. ¶ 31,224 at P 20-22.

¹⁰ 16 U.S.C. 824d-e, 825; Order No. 667, FERC Stats. & Regs. ¶ 31,197 at P 3-6; *accord* 15 U.S.C. 717c-d, 717g (identifying Commission authority with respect to natural gas companies).

¹¹ 42 U.S.C. 16453. The Federal Power Act, in particular section 201(g), 16 U.S.C. 824(g), also grants state regulatory authorities certain access to books and records.