by the CAAI Designee, the approval must include the Designee's authorized signature.

(k) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) Israeli Airworthiness Directive ISR–I–24–2018–09–7, dated October 1, 2018, for related information. This MCAI may be found in the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–1006.

(2) For more information about this AD, contact Tom Rodriguez, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3226.

(l) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless this AD specifies otherwise.

(i) Gulfstream Service Bulletin 150–24–193, dated March 30, 2018.

(ii) [Reserved]

(3) For service information identified in this AD, contact Gulfstream Aerospace Corporation, P.O. Box 2206, Mail Station D–25, Savannah, GA 31402–2206; telephone 800–810–4853; fax 912–965–3520; email *pubs@gulfstream.com;* internet *http://www.gulfstream.com/product_support/technical_pubs/pubs/index.htm.*

(4) You may view this service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

(5) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Des Moines, Washington, on February 14, 2019.

Michael Kaszycki,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2019–03406 Filed 3–1–19; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2018–0256; Airspace Docket No. 18–AEA–11]

RIN 2120–AA66

Amendment of Class D Airspace and Class E Airspace; Schenectady, NY, Ithaca, NY, and Albany, NY

Correction

In rule document 2019–02687, appearing on pages 4991 through 4993, in the issue of Wednesday, February 20, 2019, make the following correction:

§ 71.1 [Corrected]

■ On page 4992, in the second column, under the heading ''AEA NY E2 Ithaca, NY [Amended]'', in the third line, the entry that reads ''(Lat. 42°29′29″ N, long. 76°27′3″ W)'' should read ''(Lat. 42°29′29″ N, long. 76°27′31″ W)''.

[FR Doc. C1–2019–02687 Filed 3–1–19; 8:45 am]

BILLING CODE 1301–00–D

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 45 and 46

[Docket No. RM18–15–000; Order No. 856]

Interlocking Officers and Directors; Requirements for Applicants and Holders

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: In this final rule, the Federal Energy Regulatory Commission (Commission) amends its regulations related to interlocking officers and directors to clarify and update the requirements for both applicants and holders.

DATES: This rule will become effective May 3, 2019.

FOR FURTHER INFORMATION CONTACT:

Lindsay Orphanides (Technical Information), Office of Energy Market Regulation, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, (202) 502–8372, *lindsay.orphanides@ferc.gov.*

Mary Ellen Stefanou (Legal Information), Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, (202) 502–8989, *mary.stefanou@ferc.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

1. On July 19, 2018, the Commission issued a Notice of Proposed Rulemaking (NOPR),[1] proposing to revise parts 45 and 46 of the Commission's regulations related to interlocking officers and directors to clarify and update the requirements for both applicants and holders. The Commission proposed to: (1) Update its regulations to reflect statutory changes to the circumstances in which an applicant who would otherwise require Commission authorization to hold an interlocking position need not do so; (2) revise its regulations to clarify its position on late-filed applications and informational reports; (3) revise its regulations to clarify that an interlock holder is not required to file a notice of change when merely changing positions within a holding company; (4) revise its regulations to state that applicants do not need to list in their applications public utilities that do not have officers or directors; (5) revise its regulations with regard to public utilities owned by a natural person; and (6) update its regulations to remove § 46.2(b), which contains definitions and phrases now rendered obsolete.

2. Comments were filed by Edison Electric Institute (EEI), NRG Power Marketing LLC (NRG), Just Energy (U.S.) Corp. (Just Energy), Electric Power Supply Association (EPSA), National Rural Electric Cooperative Association (NRECA), National Grid USA (National Grid), and Golden Spread Electric Cooperative, Inc. (Golden Spread). All comments were generally supportive of the proposed changes. Some commenters requested clarification on certain proposed changes, while others proposed additional changes. We address these issues below.

II. Discussion

A. No Need for Commission Approval of Interlocking Director and Officer Positions in Certain Circumstances

1. Proposal

3. Section 45.2 of the Commission's regulations describes the types of interlocking positions that require Commission authorization, including those between a public utility and entities authorized by law to underwrite or participate in the marketing of public utility securities.[2] However, in 1999, Congress amended Federal Power Act

[1] *Revisions to Parts 45 and 46 of the Commission's Regulations,* Notice of Proposed Rulemaking, 83 FR 37450 (Aug. 1, 2018), 164 FERC ¶ 61,032 (2018) (NOPR).

[2] 18 CFR 45.2(b)(2).

(FPA) section 305(b)(2) to provide that an applicant for certain interlocking positions is no longer required to obtain Commission authorization to hold such positions.[3] In the NOPR, the Commission proposed to revise § 45.2 of its regulations to add that an applicant for an interlocking position between a public utility and a ''bank, trust company, banking association, or firm that is authorized by law to underwrite or participate in the marketing of public utility securities,'' [4] does not need Commission authorization when:

- The person does not participate in any deliberations or decisions of the public utility regarding the selection of the bank, trust company, banking association, or firm to underwrite or participate in the marketing of securities of the public utility, if the person serves as an officer or director of a bank, trust company, banking association, or firm that is under consideration in the deliberation process;
- the bank, trust company, banking association, or firm of which the person is an officer or director does not engage in the underwriting of, or participate in the marketing of, securities of the public utility of which the person holds the position of officer or director;
- the public utility for which he/she serves or proposes to serve as an officer or director selects underwriters by competitive procedures; or
- the issuance of securities of the public utility for which the person serves or proposes to serve as an officer or director has been approved by all Federal and State regulatory agencies having jurisdiction over the issuance.[5]

2. Comments

4. EEI, Golden Spread, Just Energy, and NRECA all support the Commission's proposed revision to § 45.2 of its regulations.

5. Golden Spread states in its comments that it is unclear from the NOPR if the Commission will require continued reporting of interlocking positions between a public utility and a bank, trust company, banking association, or firm that is authorized by law to underwrite or participate in the marketing of public utility securities in Form No. 561. If not, Golden Spread states that the Commission may wish to cross reference to § 45.2 or clarify § 46.5 of its regulations.[6]

3. Commission Determination

6. We will revise the language in § 45.2 as proposed in the NOPR, which brings the Commission's regulations into conformance with the changes made by Congress to FPA section 305(b)(2) in 1999.

7. In response to Golden Spread's comments, we clarify that the Commission will continue to require the reporting of interlocking positions between a public utility and a bank, trust company, banking association, or firm that is authorized by law to underwrite or participate in the marketing of public utility securities in Form No. 561 under § 46.5 of the Commission's regulations as the statutory directive to report such information has not changed.[7]

B. Flexibility To Consider Late-Filed Applications and Informational Reports

1. Proposal

8. The Commission proposed in the NOPR to revise § 45.3(a) of its regulations, which currently states that ''late-filed applications will be denied'' and § 45.9(b), which currently states that ''[f]ailure to timely file the informational report will constitute a failure to satisfy this condition and will constitute automatic denial.'' The Commission stated that it expects its regulations to be followed but recognizes that good faith errors and oversights may occasionally result in the inadvertent violation of the timing of FPA section 305(b)'s filing requirements. In addition, the Commission stated that it expects applicants to be attentive to their obligation to timely file for the required authorizations and make every effort to ensure they act in accordance with the statutory directives in FPA section 305(b). Further, the Commission stated that, if an error or oversight occurs, it expects that those errors and oversights will be expeditiously identified and rectified, and applications to hold interlocking director positions be promptly filed. Therefore, the Commission proposed to delete the above-quoted language, and replace it with language providing for consideration of late-filed applications for interlocking positions on a case-by-case basis.[8]

2. Comments

9. EEI, Golden Spread, Just Energy, National Grid, NRECA, and NRG all support the Commission's proposed changes to §§ 45.3(a) and 45.9(b). EEI takes issue with the Commission's statement in the NOPR preamble that, ''[i]n cases where occasional errors and oversights occur, the Commission expects that those errors and oversights will be expeditiously identified and rectified, and applications to hold interlocking director positions promptly filed.'' [9] To avoid ''misinterpretation,'' EEI encourages the Commission to restate the quoted provision to say: ''When errors and oversights are discovered, the Commission expects that those errors and oversights will be expeditiously rectified, and if required applications will be promptly filed.'' [10]

3. Commission Determination

10. We adopt the changes to §§ 45.3(a) and 45.9(b) of the Commission's regulations proposed in the NOPR that will allow for consideration of late-filed applications for interlocking positions on a case-by-case basis.[11] We do not think that it is in the public interest to deny otherwise-qualified applicants' late-filed applications and informational filings made under these regulations when the late filing is due solely to good faith errors and oversights, and the error or oversight is promptly identified and expeditiously rectified.

11. We decline to amend our statement in the NOPR preamble to state that the Commission's expectation is that errors and oversights be expeditiously rectified ''when errors and oversights are discovered,'' as suggested by EEI. We expect that errors and oversights be both promptly identified and expeditiously rectified, and we reiterate our expectation—grounded in the statute [12]—that applicants be attentive to their obligation to timely file for the required authorizations and thus make every effort to ensure that they act in accordance with the statutory directives in FPA section 305(b). The Commission would look unfavorably on FPA section 305(b) applications where an applicant has not been properly attentive to his/her obligation to file for the required authorization.

[3] *See* Public Law 106–102, sec. 737, 113 Stat. 1338, 1479 (1999).

[4] 18 CFR 45.2(b)(2).

[5] NOPR, 164 FERC ¶ 61,032 at P 6. *See also* 16 U.S.C. 825d(b)(2).

[6] Golden Spread Comments at 3.

[7] *See* 16 U.S.C. 825d(c)(1), (2)(a).

[8] NOPR, 164 FERC ¶ 61,032 at PP 7–9.

[9] EEI Comments at 4 (quoting NOPR, 164 FERC ¶ 61,032 at P 9).

[10] *Id.*

[11] We note that the public utilities whose officers and directors are subject to the statutory directive in section 305(b) to file, as regulated entities themselves subject to the requirements of the FPA, and should make every effort to ensure that their officers and directors, in turn, act in accordance with the statutory directives in FPA section 305(b).

[12] 16 U.S.C. 825d(b)(1).

C. Supplemental Applications or Notices of Change for Positions Pre-Authorized Under § 45.9

1. Proposal

12. The Commission proposed in the NOPR to revise §§ 45.4 and 45.5 of its regulations to clarify that supplemental applications and notices of change need not be filed in the case of a person already authorized to hold interlocks identified in § 45.9(a) who may assume new or different positions that are still among those identified by § 45.9(a). The Commission stated that such changes in positions among related public utilities are already reported in the annual Form No. 561s, and separate filings under § 45.4 or § 45.5 are unnecessary. The NOPR specifically stated that the holder of interlocking officer and director positions must file a notice of change when he/she no longer holds any interlocking positions within the scope of the statute and regulations because no longer holding any interlocking positions would constitute a ''material or substantial change.'' [13]

2. Comments

13. EEI, Golden Spread, Just Energy, National Grid, NRECA, and NRG all support the Commission's proposed revisions to §§ 45.4 and 45.5.

14. EEI asks the Commission to add two points to its proposal to revise §§ 45.4 and 45.5. First, EEI asks for clarification that the Commission ''means a notice is required only when the officer or director resigns or withdraws from all pre-authorized interlocking officer and director positions, not just from one such position, as that would comport with the logic of the changes the Commission is adopting as to subsection 45.5(b).'' [14] EEI asserts that ''the Commission should specify that public utility officers and directors who are pre-approved under the holding company provisions at subsection 45.9(a) do not need to file 'notice of change' reports when they resign, but rather can rely on updates to their annual filings by removing the companies from which they have resigned during the previous year.'' [15]

15. Second, EEI also asks the Commission to specify that § 45.9(c) does not require an additional informational report in the case of new or different interlocking positions within a holding company system for an individual that has already filed a § 45.9 informational report.[16] EEI asserts that existing public utility officers and directors pre-approved under § 45.9(a) are not applicants as that term is used in § 45.5; therefore, they are not required to file applications at the Commission, only informational reports.[17]

16. Golden Spread asks the Commission to consider making an additional edit to § 45.5(b) to change the requirement for filing a notice of change (*e.g.,* for a withdrawal, or failure of reelection or appointment) from a ''within 30 days'' requirement to a ''within 60 days'' requirement, stating that even when good faith efforts are made to learn of changes from affected officers and directors, it can take beyond a full month to learn of changes.[18]

17. Just Energy recommends the Commission adopt a number of clarifying edits to §§ 45.4(c) and 45.9(a)(3) and (b). In § 45.4(c), Just Energy proposes that the Commission describe interlocking positions that ''qualify for automatic authorization pursuant'' to § 45.9(a), as opposed to positions that ''are identified'' in § 45.9(a). Just Energy suggests that, in § 45.9(a)(3), the Commission authorize interlocking positions of an officer or director of more than one public utility where such officer or director is already authorized under this part to hold positions as officer or director of those ''or any other public utilities'' where the interlock involves affiliated public utilities. Just Energy's proposed amendment to § 45.9(b) would create a new paragraph (b)(2) that states that a person is ''exempt from filing an informational report pursuant to [section] 45.4.''

18. Just Energy also states that it supports the proposal that officers and directors do not need to file a notice of change when they leave some but not other positions within a corporate family, and instead report interlock changes among affiliates in the applicable Form No. 561. Just Energy accordingly recommends additional amendments to amended § 45.5(b) to state that a notice of change under this section would not be required if the only change to be reported is ''a resignation or withdrawal from fewer than all positions held between or among affiliated public utilities, a reelection or reappointment to a position that was previously authorized,'' or holding a different or additional interlocking position ''that would qualify for automatic authorization pursuant to'' § 45.9(a). Just Energy states that its proposed amendments address the Commission's clarification regarding partial resignations and harmonize § 45.5 with the proposed amendments regarding appointments with affiliated entities.[19]

3. Commission Determination

19. We adopt the NOPR's proposed revisions to §§ 45.4 and 45.5 of the Commission's regulations to state that supplemental applications and notices of change need not be filed in the case of a person already authorized to hold interlocks identified in § 45.9(a) who may assume new or different positions that are still among those identified by § 45.9(a), with certain clarifications and amendments discussed below.

20. In response to EEI, we clarify that the change to § 45.5(b) adopted in this final rule means that, in the case of interlocking positions that are identified in § 45.9(a), a notice of change now need only be filed when the officer or director resigns or withdraws as an officer or director from *all* previously held interlocking officer and director positions. When he/she resigns from only one position out of several interlocking positions for which he/she received authorization pursuant to § 45.9, he/she need only include this information in the annual Form No. 561.

21. We also clarify in response to EEI that § 45.9(c) does not require an additional informational report when an officer or director has a new or different interlocking position within a holding company system compared to what was reported when he/she originally filed an informational report under § 45.9. Instead, he/she need only include the new or different interlocking position(s) in the annual Form No. 561.

22. We agree with Golden Spread's proposal to alter the timing of the notice of change filing requirement from 30 days to within 60 days of the triggering event. We think this change is reasonable because 30 days may be too short a period to comply with the regulation, and allowing for 60 days may result in more accurate filings. We therefore amend § 45.5(b) to state that the filing of a notice of change shall be made within 60 days.

23. We adopt Just Energy's proposed amendments to §§ 45.4(c), 45.9(a)(3) and (b), and 45.5(b). We find that the amendments proposed by Just Energy more clearly state the revisions adopted by this final rule.

[13] NOPR, 164 FERC ¶ 61,032 at P 10.

[14] EEI Comments at 7.

[15] *Id.* at 9–10.

[16] *Id.* at 7.

[17] *Id.* at 10.

[18] Golden Spread Comments at 4.

[19] Just Energy Comments at 6–7.

D. Public Utilities Within a Holding Company That Do Not Have Directors and Officers

1. Proposal

24. In the NOPR, the Commission recognized the growing complexity of corporate structures. Thus, the Commission proposed to revise § 45.8(c)(1) of its regulations to state that applicants under part 45 do not need to list in their applications those public utilities that do not have officers or directors.[20]

2. Comments

25. EEI, Golden Spread, and NRG support the Commission's proposed revision to § 45.8(c)(1). Golden Spread ''agrees that if such structures exist and do not have officers and directors, such information would be extraneous.'' [21] NRECA states that it has no position on the Commission's proposal; it acknowledges the growing complexity of corporate structures ''but does not appreciate why that trend warrants reducing the information in these applications.'' [22] NRECA requests that the Commission explain in more detail the regulatory burden that will be relieved and the information that will be lost by the proposed change.[23]

3. Commission Determination

26. We adopt the NOPR's proposed revisions to § 45.8(c)(1) of the Commission's regulations to state that applicants under part 45 do not need to list in their applications those public utilities that do not have officers or directors. While we are not aware of any applications that have been filed where a company does not have any officers or any directors, we understand from EEI that such companies do exist.[24]

27. In response to Golden Spread and NRECA, we are not aware that any material information would be lost by making this change. We expect the universe of companies that do not have any officers or directors to be small, as it is still atypical for a company to have neither officers nor directors. We also note that, under § 45.2(a), the obligation to make the appropriate filings extends to any person elected or appointed to perform executive duties or functions similar to those ordinarily performed by presidents, vice presidents, directors and others.[25] This pre-existing requirement, which the Commission has not proposed to change, should ensure that the change adopted above will not materially affect the Commission's oversight of jurisdictional interlocking positions.

E. Corporate Relationships Within the Scope of Automatic Authorizations

1. Proposal

28. In the NOPR, the Commission proposed to revise § 45.9 of its regulations to add the word ''person'' when defining the corporate relationships within the scope of the automatic authorizations addressed in § 45.9. The Commission recognized that public utilities can be owned not just by a corporate entity but by a natural person, and that the regulations should reflect this possibility.[26]

2. Comments

29. EEI, Golden Spread, and NRECA support the Commission's proposed revision to § 45.9. Golden Spread adds that it thinks this proposed change does not apply to cooperative governance structures.

3. Commission Determination

30. We adopt the proposed revision to § 45.9 of the Commission's regulations to add the word ''person'' when defining the corporate relationships within the scope of the automatic authorizations addressed in § 45.9. Given that some public utilities can be and are now owned by natural persons, a change in the regulations to reflect this development is warranted.[27]

F. Removal of § 46.2(b)

1. Proposal

31. The Commission proposed in the NOPR to update its regulations in part 46 to remove § 46.2(b), because the definitions were rendered obsolete as a result of the enactment of the Energy Policy Act of 2005 and the concurrent repeal of the Public Utility Holding Company Act of 1935 (PUHCA 1935).[28] The Commission noted in the NOPR that § 46.2(b) currently references the definition of ''holding company system'' and ''registered holding company system'' in PUHCA 1935.[29] However, the Energy Policy Act of 2005 repealed PUHCA 1935.[30] Thus, the Commission proposed to remove § 46.2(b). The Commission also proposed to update part 46 to change ''Rural Electrification Administration'' to ''Rural Utilities Service'' to reflect the name change of that organization.[31]

2. Comments

32. EEI, Golden Spread, and NRECA all support the removal of § 46.2(b) and the update of part 46 to change ''Rural Electrification Administration'' to ''Rural Utilities Service.''

3. Commission Determination

33. We adopt the proposed removal of § 46.2(b) from the Commission's regulations, as it is now outdated, and we update part 46 of the Commission's regulations to change ''Rural Electrification Administration'' to ''Rural Utilities Service'' to reflect the change in name of that organization.

G. Additional Issues Raised by Commenters

1. Amending § 45.1(a)(3)

a. Comments

34. EEI requests that the Commission amend § 45.1(a)(3) of its regulations by changing the closing phrase ''a public utility'' to ''such public utility,'' as stated in the opening sentence of FPA section 305(b)(1). EEI asserts that this change to the regulations would align the regulations with the statute, and it would recognize that Congress intended to require approval for interlocking director and officer positions between a utility and an electrical supplier only when the supplier supplies equipment to the utility involved, not just to other utilities. EEI also states that this change also would conform the part 45 regulations with one another.[32]

b. Commission Determination

35. We adopt EEI's suggested amendment to § 45.1(a)(3) of the Commission's regulations by changing the closing phrase ''a public utility'' to ''such public utility.'' We agree with EEI that this change will better align the regulations with the statute, and recognize that Congress intended to require approval for interlocking director and officer positions between a utility and an electrical supplier only when the supplier supplies electrical equipment to the utility involved, and not just to any utility.

[20] NOPR, 164 FERC ¶ 61,032 at P 11.

[21] Golden Spread Comments at 4.

[22] NRECA Comments at 2.

[23] *Id.*

[24] *See* Edison Electric Institute Comments, Docket No. AD12–6–002 (Nov. 28, 2016).

[25] 18 CFR 45.2(a).

[26] NOPR, 164 FERC ¶ 61,032 at P 12.

[27] In response to Golden Spread, we do not envision a cooperative governance structure where a rural electric cooperative is owned by its customers/ratepayers to fall within the scope of this rule. *See generally Wolverine Power Supply Cooperative, Inc.,* 93 FERC ¶ 61,328, at 62,119 (2000), *reh'g denied,* 94 FERC ¶ 61,178, at 61,616 (2001).

[28] *See* Public Law 109–58, sec. 1261–77, 119 Stat. 594, 972–78 (2005).

[29] 16 U.S.C. 79a *et seq.*

[30] Public Law 109–58, sec.1263, 119 Stat. 594, 974 (2005).

[31] NOPR, 164 FERC ¶ 61,032 at P 13.

[32] EEI Comments at 9.

2. Definition of Electrical Equipment

a. Comments

36. EEI asks the Commission to modify its current definition of ''electrical equipment.'' EEI asserts that the definition of electrical equipment has been inappropriately construed too broadly in some cases. EEI requests that the Commission delete from the current § 46.2(f) definition the footnoted cross-reference to the Uniform System of Accounts and clarify that the definition applies to both parts 45 and 46 of the Commission's regulations. EEI asserts that the current definition found in § 46.2(f) is straightforward,[33] and that the cross-reference to the Uniform System of Accounts has resulted in the term electrical equipment being defined to include common business equipment such as computers, calculators, and sprinklers.[34]

b. Commission Determination

37. We decline to delete from the current § 46.2(f) definition of electrical equipment the footnoted cross-reference to the Uniform System of Accounts. We disagree that the cross-reference to the Uniform System of Accounts results in a definition of electrical equipment that is too broad. In this regard, we note that, in establishing the definition of electrical equipment in § 46.2(f), the Commission stated that the footnoted reference to the Commission's Uniform System of Accounts was ''a guide only,'' acknowledging that certain items found in the accounts listed are clearly not ''electrical equipment'' within the scope of § 46.2(f).[35] We find that the footnoted reference to the Uniform System of Accounts continues to provide useful guidance to aid the industry as well as the Commission in determining what does and does not constitute electrical equipment under part 46, and thus should be retained.

38. We do clarify that, as necessary, the Commission, in evaluating applications and reporting under part 45, will continue to look to § 46.2(f) and the footnoted reference to the Uniform System of Accounts for guidance in determining what constitutes electrical equipment under part 45.[36]

3. Blanket Authorizations for Companies Without Captive Customers

a. Comments

39. EEI, EPSA, Just Energy, and NRG ask the Commission to create a blanket authorization for interlock holders at companies within holding company systems without captive customers.

i. EEI

40. EEI requests that the Commission revisit the need for interlocking directorate applications and reporting to cover officers and directors who hold positions involving, within a holding company system, multiple companies that do not have captive customers, such as exempt wholesale generators and qualifying facilities, or positions involving such companies and their securities underwriters [37] or their electrical equipment suppliers.[38]

ii. EPSA

41. EPSA requests that the Commission consider granting a blanket authorization to public utilities without any captive customers, to allow individuals to concurrently hold positions as an officer or director of more than one public utility within the corporate holding company, or positions of officer or director of a public utility and a company supplying electrical equipment to a public utility within the corporate holding company.[39]

42. EPSA argues that this category of public utility, which includes independent power producers that are structured as merchant sellers of power only, are incapable of and do not pose a danger of imposing excessive charges or allocating unreasonable costs to customers, flouting state regulation in any way, or harming customers through a general lack of economy of management, operation, inefficiency, or inadequacy of services. EPSA asserts that, with independent entities, any mismanagement or uneconomic transactions are not passed on to customers, but are borne exclusively by shareholders. EPSA proposes that blanket authorizations be granted solely to those utilities on an intra-holding company basis.[40]

43. EPSA suggests that, to provide oversight to companies eligible for its proposed blanket authorization, ''an entity with market-based rate authority and previously granted a blanket authorization for interlocking positions within its holding company could declare in its triennial market-based rate authorization filings that its holding company structure remains fully independent, and therefore that entity continues to pose no threat of harm to captive customers as a result of affiliate abuse concerns and, as such, does not pose a threat to pass on rate increases driven by affiliate contracts or contracts between independent companies with a common set of officers or directors.'' [41] EPSA also compares its requested blanket authorization to blanket authorizations under FPA section 203.[42]

44. EPSA asserts that granting blanket authorization to intra-holding company independent power producers and marketers without captive customers is a logical outgrowth of the NOPR and is consistent with the NOPR's intent, and would serve to reduce regulatory burdens and modernize these regulations to better reflect the modern state of the electricity generation and sales landscape.[43] EPSA also suggests that the Commission could issue a supplemental notice in order to broaden the scope of the NOPR to implement EPSA's proposed changes in the final rule.[44]

iii. Just Energy

45. Just Energy requests that the Commission grant blanket authorizations to public utilities that are not franchised utilities and are not affiliated with a franchised utility. Under Just Energy's proposal, officers and directors of such public utilities and their affiliates would not be required to seek prior authorization, but would disclose all appointments and changes on their annual Form No. 561.[45]

iv. NRG

46. NRG asks the Commission to issue a ''narrow and discrete'' blanket authorization for individuals holding officer positions in affiliated entities all under the same holding company structure without any captive customers, regardless of whether those positions are with public utilities, electrical equipment supply companies, or fuel supply companies.[46] Under this proposal, the individual would be able to hold positions in such entities

[33] *Id.* at 11 (citing 18 CFR 46.2(f)).

[34] *Id.*

[35] *Public Utility Filing Requirement and Requirements for Persons Holding Interlocking Positions; Order Issuing Final Regulations,* 45 FR 23413, at 23415–16 (Apr. 7, 1980), FERC Stats. & Regs. ¶ 30,140, at 30,984 (1980).

[36] *See, e.g., Barry Lawson Williams,* 134 FERC ¶ 61,183, at P 10 (2011).

[37] *But see* 16 U.S.C. 825d(b)(2).

[38] EEI Comments at 10.

[39] EPSA Comments at 2.

[40] *Id.* at 3.

[41] *Id.* at 4.

[42] *Id.* at 4–5 (citing *Transactions Subject to FPA Section 203,* Order No. 669, 113 FERC ¶ 61,315, at P 57 (2005), *order on reh'g,* Order No. 669–A, 115 FERC ¶ 61,097, *order on reh'g,* Order No. 669–B, 116 FERC ¶ 61,076 (2006)).

[43] *Id.* at 8–9.

[44] *Id.* at 9.

[45] Just Energy Comments at 5–6.

[46] We note that an interlock involving the latter, *i.e.,* fuel supply companies, would not be a jurisdictional interlock under FPA section 305(b) requiring a filing.

without any filing requirements (either a prior-notice filing or the annual Form No. 561).[47]

47. Like EPSA, NRG compares its requested blanket authorization to section 203 blanket authorizations.[48] NRG states that allowing blanket waivers in the interlock context would still allow the Commission to rigorously police for the conduct that concerned Congress in 1935 (that companies under common control were entering into above market contracts and passing through those costs to retail customers), meet the plain language of the statute, and reduce the paperwork burden and regulatory burdens on regulated entities.[49]

48. Although NRG asserts that the Commission could provide for a blanket authorization as requested with no further notice because it is a ''logical outgrowth'' of the NOPR, NRG suggests that the Commission could also issue, out of an abundance of caution, a supplemental notice describing the blanket authorization.[50]

b. Commission Determination

49. We decline to create a blanket authorization for persons holding interlocking positions between affiliated companies without any captive customers. The current requirements impose minimal burdens, and the commenters have not made a sufficient case for granting their requested relief of a blanket authorization.

50. The burden that would be avoided by a blanket authorization for individuals serving as officers or directors at multiple companies in a holding company system is minimal. Currently, in such scenarios, each individual must file only once—and then only a relatively minor submittal—for authorization (under § 45.9 of the Commission's regulations), and then each individual needs to file only an annual report pursuant to FPA section 305(c) each April 30 thereafter,[51] which describes any changes in his/her positions among the companies in the holding company system.

51. In response to EPSA and NRG's comparison of an interlock blanket authorization to blanket authorizations in the FPA section 203 context, we note that, although the Commission implemented blanket authorizations in the section 203 context, it was done in response to the Energy Policy Act of 2005, which revised FPA section 203 by adding FPA section 203(a)(5), which required the Commission to adopt procedures for the expeditious consideration of applications under that section.[52] No similar circumstances exist here.

4. Online Submission Process/Database for Interlock Filings

a. Comments

52. Golden Spread and NRECA filed comments requesting the creation of an online submission process/database for interlock filings. Golden Spread requests that the Commission consider moving the interlocking directorate application, updating/supplementing, termination process, and annual Form No. 561 to an online submission process. Golden Spread argues that the current system is paper intensive and an online system could streamline compliance associated with parts 45 and 46 and would create an opportunity for more robust relational databases wherein the Commission would be better able to track compliance with its interlocking directorate program.[53] Golden Spread and NRECA state that an online submission process/database would reduce regulatory burdens.[54]

b. Commission Determination

53. We support modernizing our systems and processes. However, we will not propose a new submission process or database in this proceeding, but may consider the creation of an online process/database in the future.

5. Temporary Appointments

a. Comments

54. Just Energy states that it is not uncommon for market participants to have to appoint, remove, or reappoint personnel to officer positions to accommodate routine business needs that are not always foreseeable or permanent. For example, Just Energy states that a company may need to make a person an officer in order to have signature authority for a transaction, or when someone is on medical leave. Just Energy requests that these administrative, ministerial, or temporary appointments not require any Commission approval or reporting, arguing that they do not pose the kinds of threats contemplated by Congress when it adopted section FPA 305(b), and are burdensome to both the Commission and to public utilities.[55]

b. Commission Determination

55. We acknowledge that an exemption from the filing requirements for certain temporary appointments to interlocking positions reflects the reality of the world, where a position may be unexpectedly left vacant due to death, illness, etc. and a company must quickly appoint someone to temporarily fill the now-vacant position on an ''acting'' basis. We therefore find that a person seeking to hold an interlocking position covered by § 45.2 that would otherwise require an automatic authorization filing under § 45.9 may be appointed to fill the vacant position temporarily, for 90 days or less, without the necessity of seeking Commission approval or of reporting in, for example, Form No. 561. To implement this change, we add a new paragraph (c) to § 45.1, as well as additional language to § 45.9(b) that exempts a person holding a temporary interlocking position pursuant to the new § 45.1(c) from the requirement to submit an informational report.

56. We note that this temporary appointment exemption would, in practice, apply only in a narrow set of circumstances—where a person *who has never held any interlock before* is temporarily appointed to a position at an affiliate company. For example, a person serving as an officer of Utility A could be temporarily appointed as an officer of affiliated Utility B, which is part of the same holding company as Utility A, without the necessity of Commission approval or a reporting requirement such as the annual Form No. 561. In this example, if this person had previously been authorized to hold a non-temporary interlock between two or more affiliated utilities, this exemption for temporary positions would not be necessary; the person would already have been required to have made an initial automatic authorization filing under § 45.9, and would only need to include this new appointment in his/her annual Form No. 561.

57. Finally, we note that a person cannot be re-appointed for multiple 90-day periods to the same interlocking position and still consider it a temporary position that continues to be exempt from the automatic authorization requirements. Under such circumstances, the individual who seeks to hold a position for more than 90 days

[47] NRG Comments at 5–6.

[48] *Id.* at 6 (citing *Blanket Authorization Under FPA Section 203,* Order No. 708, 122 FERC ¶ 61,156 (2008)).

[49] *Id.*

[50] *Id.* at 6–7.

[51] Even if we were to grant the requested relief under FPA section 305(b), that would not relieve the persons holding such interlocks from the separate requirement to make an annual filing, the Form No. 561, under FPA section 305(c).

[52] Public Law 109–58, sec. 1289, 119 Stat. 594, 982 (2005); Order No. 669, 113 FERC ¶ 61,315 at PP 55–57.

[53] Golden Spread Comments at 5.

[54] *Id.*; NRECA Comments at 3.

[55] Just Energy Comments at 6.

must seek the necessary authorization pursuant to the Commission's regulations.

6. Cost Estimates for Informational Filings and Notices of Change

a. Comments

58. Just Energy, in asserting that it is costly and burdensome for individuals, and in many cases their employers, to comply with the rules as written, states that the Commission's estimates that informational filings cost $632.00 each, and that notices of change cost $19.25, are too low. In support, Just Energy asserts that: (1) Each filing must be customized to the individual; (2) the officer or director must verify the reportable positions; (3) a notary may be required for the attestation; (4) a corporate secretary may have to pull information on positions held to verify the submission; (5) corporate structure information may need to be pulled to verify that the ownership chain qualifies for an informational filing; (6) someone reviews the materials; (7) someone makes revisions to the filing; (8) someone collects signatures; and (9) someone makes the filing.[56]

b. Commission Determination

59. We disagree that we have underestimated the costs of informational filings and notices of change. We note that the cost estimates stated in the NOPR and in this final rule are estimates of average costs. While the costs of some informational filings and notices of change will be higher than the stated averages, some will also be less than the stated averages.

III. Information Collection Statement

60. The collection of information contained in this final rule is subject to review by the Office of Management and Budget (OMB) under section 3507(d) of the Paperwork Reduction Act (PRA).[57] The PRA requires each federal agency to seek and obtain OMB approval before undertaking a collection of information directed to 10 or more persons or contained in a rule of general applicability. OMB's regulations[58] require approval of certain information collection requirements imposed by agency rules. Upon approval of a collection of information, OMB will assign an OMB control number and an expiration date. Respondents subject to the filing requirements of an agency rule will not be penalized for failing to respond to the collection of information unless the collection of information displays a valid OMB control number.

61. The revisions enacted by this final rule would clarify and update the requirements[59] for those seeking and holding interlocking positions. The Commission anticipates that the revisions, once effective, would reduce regulatory burdens. The Commission will submit the reporting requirements to OMB for its review and approval under section 3507(d) of the Paperwork Reduction Act.[60]

62. While the Commission expects that the regulatory revisions herein will reduce the burdens on affected entities, the Commission nonetheless solicits public comments regarding the accuracy of the burden and cost estimates below.

63. *Burden Estimate:*[61] The estimated burden and cost for the requirements contained in this final rule follow.

FERC FORM NO. 520

[Application for authority to hold interlocking directorate positions]

	Number of respondents	Annual number of responses per respondent	Total number of responses	Average burden & cost per response[62]	Total annual burden hours (total annual cost)	Cost per respondent ($)
	(1)	(2)	(1) * (2) = (3)	(4)	(3) * (4) = (5)	(5) ÷ (1)
Full	16	1	16	50 hrs.; $3,950	800 hrs.; $63,200	3,950
Informational	500	1	500	8 hrs.; $632	4,000 hrs.; $316,000	632
Notice of Change	100	1	100	0.25 hrs.; $19.75	25 hrs.; $1,975	19.75
Total					4,825 hrs.; $381,175	

Title: FERC–520 (Application for Authority to Hold Interlocking Directorate Positions).

OMB Control No.: 1902–0083.

Abstract: The FPA, as amended, mandates federal oversight and approval of certain electric corporate activities to ensure that neither public nor private interests are adversely affected. Accordingly, the Commission's regulations prescribe related information filing requirements to achieve this goal. Such filing requirements are found in 18 CFR parts 45 and 46.

Overview of the Data Collection. FERC–520 provides information related to complex electric corporate activities, in particular, the holding of interlocking positions, and thereby serves to safeguard public and private interests, as the FPA requires.

FERC–520 is divided into two types of applications: full and informational. The full application, as specified in 18 CFR 45.8, implements the FPA requirement under section 305(b) that it is unlawful for any person to concurrently hold the positions of officer or director of more than one public utility; or a public utility and a financial institution that is authorized to underwrite or participate in the marketing of public utility securities; or a public utility and an electrical equipment supplier to such public utility, unless authorized by the Commission. In order to obtain authorization, an applicant must demonstrate that neither public nor private interests will be adversely affected by the holding of the positions. The full application provides the Commission with information about any interlocking position for which the applicant seeks authorization including, but not limited to, a description of

[56] *Id.* at 3, n.4.

[57] 44 U.S.C. 3507(d).

[58] 5 CFR part 1320.

[59] 18 CFR parts 45, 46.

[60] 44 U.S.C. 3507(d).

[61] ''Burden'' is the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. For further explanation of what is included in the information collection burden, refer to 5 CFR 1320.3.

[62] The Commission staff thinks that the average respondent for this collection is similarly situated to the Commission, in terms of salary plus benefits. Based upon FERC's 2018 annual average (for salary plus benefits) of $164,820, the average hourly cost is $79/hour.

duties and the estimated time devoted to the position.

An informational (abbreviated) application, as specified in 18 CFR 45.9, allows an applicant to receive automatic authorization for an interlocked position upon receipt of the filing by the Commission. The informational application applies only to those individuals who seek authorization as: (1) An officer or director of two or more public utilities where the same holding company owns, directly or indirectly, that percentage of each utility's stock (of whatever class or classes) which is required by each utility's by-laws to elect directors; (2) an officer or director of two public utilities, if one utility is owned, wholly or in part, by the other and, as its primary business, owns or operates transmission or generation facilities to provide transmission service or electric power for sale to its owners; or (3) an officer or director of more than one public utility, if such person is already authorized under part 45 to hold different positions as officer or director of those utilities where the interlock involves affiliated public utilities.

FERC–520 also includes the requirement to file a notice of change if there are new positions or changes to the positions held. The Commission is revising its requirements and, among other things, will no longer require a notice of change when a person is merely changing positions within a holding company system. This change is expected to reduce the number of filed notices of change by 50 percent annually (from 200 filings to 100 filings) and to reduce the corresponding total burden.

Type of Respondents: Individuals who plan to concurrently become or concurrently are officers or directors of public utilities and of certain other entities must request authorization to hold such interlocking positions by submitting a FERC–520.

Internal Review: The Commission has reviewed the information collection requirements and has determined that certain changes are needed and that the remaining requirements are necessary. These requirements conform to the Commission's need for efficient information collection, communication, and management within the energy industry. The Commission has specific, objective support for the burden estimates associated with the information collection requirements. Interested persons may obtain information on the reporting requirements by contacting the following: Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426 [Attention: Ellen Brown, Office of the Executive Director], email: *DataClearance@ferc.gov,* Phone: (202) 502–8663, fax: (202) 273–0873. Comments concerning the collection of information and the associated burden estimate(s) may also be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503 [Attention: Desk Officer for the Federal Energy Regulatory Commission]. Due to security concerns, comments should be sent electronically to the following email address: *oira_submission@omb.eop.gov.* Please refer to FERC–520, OMB Control No. 1902–0083 in your submission.

IV. Environmental Analysis

64. The Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any action that may have a significant adverse effect on the human environment.[63] We conclude that neither an Environmental Assessment nor an Environmental Impact Statement is required for this final rule under § 380.4(a) of the Commission's regulations, which provides a categorical exemption for actions under section 305 of the FPA relating to interlocking directorates.[64]

V. Regulatory Flexibility Act

65. The Regulatory Flexibility Act of 1980 (RFA)[65] generally requires a description and analysis of final rules that will have significant economic impact on a substantial number of small entities. The Small Business Administration's (SBA) Office of Size Standards develops the numerical definition of a small entity.[66] These standards are provided in the SBA regulations at 13 CFR 121.201.[67]

66. This final rule will apply to those individuals seeking to hold and those currently holding interlocking positions. In order to obtain authorization, an applicant must demonstrate that neither public nor private interests will be adversely affected by the holding of the interlocking positions.

67. There are an estimated 16 respondents who could file full applications over the course of a year, who would provide one response annually with an estimated time commitment of 50 hours per response, and a resulting estimated cost of $3,950.00 per respondent. There are an estimated 500 respondents who could file informational applications over the course of a year, who would provide one response annually with an estimated time commitment of 8 hours per response, and a resulting estimated cost of $632.00 per respondent. In addition, there are an estimated 100 respondents who could file a notice of change annually with an estimated time commitment of 0.25 hours, and a resulting cost of $19.75 per respondent. Therefore the average annual cost for each of the 616 respondents is $618.79. That cost is not significant. More importantly, this final rule reduces industry cost by eliminating the need for the filing of some notices of change.

68. The Commission certifies that this final rule will not have a significant economic impact on a substantial number of small entities.

VI. Document Availability

69. In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*) and in the Commission's Public Reference Room during normal business hours (8:30 a.m. to 5:00 p.m. Eastern time) at 888 First Street NE, Room 2A, Washington, DC 20426.

70. From the Commission's Home Page on the internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

71. User assistance is available for eLibrary and the Commission's website during normal business hours from FERC Online Support at (202) 502–6652 (toll free at 1–866–208–3676) or email at *ferconlinesupport@ferc.gov,* or the Public Reference Room at (202) 502–8371, TTY (202) 502–8659. Email the Public Reference Room at *public.referenceroom@ferc.gov*.

VII. Effective Date and Congressional Notification

72. These regulations are effective May 3, 2019. The Commission has determined that this rule is not a ''major rule'' as defined in section 351 of the

[63] Regulations Implementing the National Environmental Policy Act of 1969, Order No. 486, 52 FR 47897 (Dec. 17, 1987), FERC Stats. & Regs. ¶ 30,783 (1987).

[64] 18 CFR 380.4(a)(16).

[65] 5 U.S.C. 601–612.

[66] 13 CFR 121.101.

[67] 13 CFR 121.201. *See also* U.S. Small Business Administration, *Table of Small Business Size Standards Matched to North American Industry Classification System Codes* (effective Feb. 26, 2016), *https://www.sba.gov/sites/default/files/files/Size_Standards_Table.pdf.*

Small Business Regulatory Enforcement Fairness Act of 1996.

List of Subjects

18 CFR Part 45

Electric utilities, Reporting and recordkeeping requirements.

18 CFR Part 46

Antitrust, Electric utilities, Holding companies, Reporting and recordkeeping requirements.

By the Commission.

Issued: February 21, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

In consideration of the foregoing, the Commission amends parts 45 and 46, chapter I, title 18, *Code of Federal Regulations,* as follows:

PART 45—APPLICATION FOR AUTHORITY TO HOLD INTERLOCKING POSITIONS

■ 1. The authority citation for part 45 continues to read as follows:

Authority: 16 U.S.C. 791a–825r, 2601–2645; 31 U.S.C. 9701; 42 U.S.C. 7101–7352; 3 CFR 142.

■ 2. Amend § 45.1 by revising paragraph (a)(3) and adding paragraph (c) to read as follows:

§ 45.1 Applicability; who must file.

(a) * * *

(3) Officer or director of a public utility and of any company supplying electrical equipment to such public utility.

* * * * *

(c) Notwithstanding paragraphs (a) and (b) of this section, any person may temporarily hold an interlocking position described in § 45.2 for no more than 90 days within a twelve-month period without applying for Commission authorization under § 45.8 and without complying with the requirements for authorization under § 45.9.

■ 3. Amend § 45.2 by adding paragraph (d) to read as follows:

§ 45.2 Positions requiring authorization.

* * * * *

(d) A person that holds or proposes to hold an interlocking position as officer or director of a public utility and of a corporation described by paragraph (b)(2) of this section shall not require authorization to hold such positions in the following circumstances—

(1) The person does not participate in any deliberations or decisions of the public utility regarding the selection of the bank, trust company, banking association, or firm to underwrite or participate in the marketing of securities of the public utility, if the person serves as an officer or director of a bank, trust company, banking association, or firm that is under consideration in the deliberation process;

(2) The bank, trust company, banking association, or firm of which the person is an officer or director does not engage in the underwriting of, or participate in the marketing of, securities of the public utility of which the person holds the position of officer or director;

(3) The public utility for which the person serves or proposes to serve as an officer or director selects underwriters by competitive procedures; or

(4) The issuance of securities of the public utility for which the person serves or proposes to serve as an officer or director has been approved by all Federal and State regulatory agencies having jurisdiction over the issuance.

■ 4. Revise § 45.3(a) to read as follows:

§ 45.3 Timing of filing application.

(a) The holding of positions within the purview of section 305(b) of the Act shall be unlawful unless the holding shall have been authorized by order of the Commission. Nothing in this part shall be construed as authorizing the holding of positions within the purview of section 305(b) of the Act prior to order of the Commission on application therefor. Applications must be filed and authorization must be granted prior to holding any interlocking positions within the purview of section 305(b) of the Act; the Commission will consider late-filed applications on a case-by-case basis. The term ''holding,'' as used in this part, shall mean acting as, serving as, voting as, or otherwise performing or assuming the duties and responsibilities of officer or director within the purview of section 305(b) of the Act.

* * * * *

■ 5. Amend § 45.4 by adding paragraph (c) to read as follows:

§ 45.4 Supplemental applications.

* * * * *

(c) *Changes in interlocking positions within the scope of § 45.9.* Notwithstanding paragraphs (a) and (b) of this section, in the case of interlocking positions that qualify for automatic authorization pursuant to § 45.9(a), a filing under this section will not be required if the only changes to be reported are holding different or additional interlocking positions that would qualify for automatic authorization pursuant to § 45.9(a).

■ 6. Revise § 45.5(b) to read as follows:

§ 45.5 Supplemental information.

* * * * *

(b) *Notice of changes.* In the event of the applicant's resignation, withdrawal, or failure of reelection or appointment in respect to any of the positions for which authorization has been granted by the Commission, or in the event of any other material or substantial change therein, the applicant shall, within 60 days after any such change occurs, give notice thereof to the Commission setting forth the position, corporation, and date of termination therewith, or other material or substantial change. In the case of interlocking positions that qualify for automatic authorization pursuant to § 45.9(a), a notice of change under this section will not be required if the only change to be reported is a resignation or withdrawal from fewer than all positions held between or among affiliated public utilities, a reelection or reappointment to a position that was previously authorized, or holding a different or additional interlocking position that would qualify for automatic authorization pursuant to § 45.9(a).

* * * * *

■ 7. Revise § 45.8(c)(1) to read as follows:

§ 45.8 Contents of application.

* * * * *

(c) * * *

(1) Name of utility, unless said utility does not have officers or directors.

* * * * *

■ 8. Revise § 45.9(a)(1) and (3) and (b) to read as follows:

§ 45.9 Automatic authorization of certain interlocking positions.

(a) * * *

(1) Officer or director of one or more other public utilities if the same holding company or person owns, directly or indirectly, that percentage of each utility's stock (of whatever class or classes) which is required by each utility's by-laws to elect directors;

* * * * *

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

(b) *Conditions of authorization.* (1) As a condition of authorization, any person eligible to seek authorization 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:

(i) Is already authorized to hold interlocking positions of the type governed by this section;

(ii) Is exempt from filing an informational report pursuant to § 45.4; or

(iii) Will hold a temporary interlocking position pursuant to § 45.1(c).

(2) The Commission will consider failures to timely file the informational report on a case-by-case basis.

* * * * *

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

■ 9. The authority citation for part 46 continues to read as follows:

Authority: 16 U.S.C. 792–828c; 16 U.S.C. 2601–2645; 42 U.S.C. 7101–7352; E.O. 12009, 3 CFR 142.

■ 10. Amend § 46.2 by revising paragraph (a), removing and reserving paragraph (b), and revising paragraphs (c) and (e) to read as follows:

§ 46.2 Definitions.

* * * * *

(a) *Public utility* has the same meaning as in section 201(e) of the Federal Power Act. Such term does not include any rural electric cooperative which is regulated by the Rural Utilities Service of the Department of Agriculture or any other entities covered in section 201(f) of the Federal Power Act.

* * * * *

(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 Utilities Service of the Department of Agriculture.

* * * * *

(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 Utilities Service of the Department of Agriculture.

* * * * *

[FR Doc. 2019–03419 Filed 3–1–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9850]

RIN 1545–BM28

Utility Allowance Submetering

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations and removal of temporary regulations.

SUMMARY: This document contains final regulations that amend the utility allowance regulations concerning the low-income housing credit under section 42 of the Internal Revenue Code (Code). These final regulations extend the principles of the current submetering rules. The current rules address situations in which a building owner purchases a utility from a utility company and then separately charges the tenants for the utility. In those situations, if the utility costs paid by a tenant are based on actual consumption in the tenant's submetered, rent-restricted unit and if certain other requirements are satisfied, then the charges for the utility are treated as paid by the tenant directly to the utility company, even though the payment passes through the building owner. The final regulations extend these principles and apply to situations in which a building owner sells to tenants energy that is produced from a renewable source and that the owner did not purchase from or through a local utility company. The final regulations affect owners of low-income housing projects that claim the credit, the tenants in those low-income housing projects, and the State and local housing credit agencies that administer the credit.

DATES:

Effective date: These final regulations are effective on March 4, 2019.

Applicability date: For dates of applicability, see § 1.42–12(a)(5).

FOR FURTHER INFORMATION CONTACT: Dillon Taylor, (202) 317–4137 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

On March 3, 2016, the Department of the Treasury (Treasury Department) and the IRS published in the **Federal Register** (81 FR 11104) final and temporary regulations (TD 9755) that amended § 1.42–10 of the Income Tax Regulations. The final regulations in TD 9755 clarified the circumstances in which utility costs paid by a tenant based on actual consumption in a submetered, rent-restricted unit are treated as paid by the tenant directly to the utility company and not to the building owner. In such a case, for purposes of section 42, the tenant's payments to the owner for the utilities are not treated as payments of gross rent, and the rent that the owner might otherwise have collected for the unit is reduced by an amount that is called a ''utility allowance.'' The temporary regulations extended the principles of those final regulations to situations in which a building owner sold to tenants energy that was produced from a renewable source and that the owner had not purchased from or through a local utility company.

In the same issue of the **Federal Register** (81 FR 11160), the Treasury Department and the IRS published a notice of proposed rulemaking (REG–123867–14) (the proposed regulations). The text of the proposed regulations incorporated by cross-reference the text of the temporary regulations. The Treasury Department and the IRS received written and electronic comments responding to the proposed regulations. No requests for a public hearing were made, and no public hearing was held.

After consideration of all the comments, the proposed regulations are adopted as amended by this Treasury Decision.

Summary of Comments and Explanation of Provisions

The temporary regulations in TD 9755 applied the submetering principles to energy that the building owner sold to tenants if the energy was ''produced from a renewable source'' and if the owner had acquired it from the renewable source without the intervention of a local utility company. Qualification for this submetering treatment, however, depended on the charges to the tenants for this energy being comparable to local utility rates. That is, under the temporary regulations, to the extent that tenants consumed this energy, the rate charged by the building owner could not exceed the rate at which the local utility company would have charged the tenants if they had instead acquired the energy from that company.

A commenter requested that the final regulations clarify how a building