

compliance with the Commission's Order No. 888¹⁸⁵ is also available for this Final Rule.

The Regulatory Flexibility Act of 1980 (RFA)¹⁸⁶ generally requires a description and analysis of the effect of proposed or Final Rules that will have significant economic impact on a substantial number of small entities or a certification that the rule will not have such an economic effect. In this Final Rule, the Commission is requiring public utilities that own, control, or operate facilities used for transmitting electric energy in interstate commerce to modify their OATTs, first established under Order No. 888, to include a standard LGIP and standard LGIA. In Order Numbers 888 and 889, the Commission certified that its rules would not impose a significant economic impact on a substantial number of small entities.¹⁸⁷ In Order No. 888, the Commission found that just over one-tenth of the total number of public utilities constitute small entities.¹⁸⁸ And of that number, several had already filed OATTs, reducing this number even further. As the Commission noted in Order No. 888 and reemphasizes here, waiver provisions are applicable here.¹⁸⁹ This waiver policy follows the provisions of the Small Business Act (SBA) by acknowledging the definition of a small electric utility. The Small Business Size Standards component of the North American Industry Classification System defines a small electric utility as one that, including its affiliates, is primarily engaged in the generation, transmission, and/or distribution of electric energy for sale and whose total electric output for the preceding fiscal year did not exceed 4 million MWh.¹⁹⁰ Continuing to make the waiver process available should address the concerns of those entities that ask the Commission to extend the "small utility" exception.¹⁹¹ This Final Rule will promote consistent reporting practices for all reporting companies. It will not be a significant burden to industry, since several Transmission Providers

have already filed interconnection procedures as part of their OATTs and much of the information is already being supplied under interconnection agreements throughout the industry. Accordingly, the Commission certifies that this Final Rule will not have a significant economic impact on a substantial number of small entities.

VI. Document Availability

925. In addition to publishing the full text of this document in the **Federal Register**, the Commission also 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 p.m. Eastern time) at 888 First Street, NE., Room 2A, Washington, DC 20426.

926. From the Commission's Home Page on the Internet, this information is available in the Federal Energy Regulatory Records Information System (FERRIS). The full text of this document is available on FERRIS in PDF and WordPerfect format for viewing, printing, and/or downloading. To access this document in FERRIS, type the docket number excluding the last three digits of this document in the docket number field.

927. User assistance is available for FERRIS and the Commission's Website during normal business hours from FERC Online Support (by phone at 1-866-208-3676 (toll free) or 202-502-6652, or by e-mail at FERCOnlineSupport@ferc.gov) or the Public Reference Room at (202) 502-8371, for TTY (202) 502-8659. E-Mail the Public Reference Room at public.referenceroom@ferc.gov.

VII. Effective Date and Congressional Notification

928. This Final Rule will take effect on October 20, 2003. The Commission has determined, with the concurrence of the Administrator of the Office of Information and Regulatory Affairs of the Office of Management and Budget, that this rule is not a "major rule" within the meaning of Section 251 of the Small Business Regulatory Enforcement Fairness Act of 1996.¹⁹² The Commission will submit the Final Rule to both houses of Congress and the General Accounting Office.¹⁹³

List of Subjects in 18 CFR Part 35

Electric power rates, Electric utilities, Reporting and recordkeeping requirements.

By the Commission.

Magalie R. Salas,
Secretary.

■ In consideration of the foregoing, the Commission amends part 35, Chapter I, Title 18 of the Code of Federal Regulations, as follows.

PART 35—FILING OF RATE SCHEDULES AND TARIFFS

■ 1. The authority citation for part 35 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.

■ 2. In § 35.28, the last sentence in the paragraph (d) introductory text is revised, and paragraph (f) is added to read as follows:

§ 35.28 Non-discriminatory open access transmission tariff.

* * * * *

(d) *Waivers.* * * * Except as provided in paragraph (f) of this section, an application for waiver must be filed either:

* * * * *

(f) *Standard generator interconnection procedures and agreement.* (1) Every public utility that is required to have on file a non-discriminatory open access transmission tariff under this section must amend such tariff by adding the standard interconnection procedures and agreement contained in Order No. 2003, FERC Stats. & Regs. ¶ 31,146 (Final Rule on Generator Interconnection) or such other interconnection procedures and agreement as may be approved by the Commission consistent with Order No. 2003, FERC Stats. & Regs. ¶ 31,146 (Final Rule on Generator Interconnection).

(i) The amendment required by paragraph (f)(1) of this section must be filed no later than October 20, 2003.

(ii) Any public utility that seeks a deviation from the standard interconnection procedures and agreement contained in Order No. 2003, FERC Stats. & Regs. ¶ 31,146 (Final Rule on Generator Interconnection), must demonstrate that the deviation is consistent with the principles of Order No. 2003, FERC Stats. & Regs. ¶ 31,146 (Final Rule on Generator Interconnection).

(2) The non-public utility procedures for tariff reciprocity compliance described in paragraph (e) of this section are applicable to the standard

¹⁸⁵ See 18 CFR 35.28(d) (2003).

¹⁸⁶ 5 U.S.C. 601–612 (2000).

¹⁸⁷ Order No. 888, FERC Stats. & Regs. ¶ 31,036, at 31,898.

¹⁸⁸ 5 U.S.C. 601(3) (2000), citing to Section 3 of the Small Business Act, 15 U.S.C. 632 (2000). Section 3 of the Small Business Act defines a "small-business concern" as a business which is independently owned and operated and which is not dominate in its field of operation.

¹⁸⁹ See 18 CFR 35.28(d) (2003).

¹⁹⁰ 13 CFR 121.61 (Sector 22, Utilities, North American Industry Classification System, NAICS) (2003).

¹⁹¹ Maine PSC, Southwest Transmission, and SoCal Water District.

¹⁹² 5 U.S.C. 804(2) (2000).

¹⁹³ 5 U.S.C. 801(a)(1)(A) (2000).