

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Electricity Market Transparency)	Docket No. RM10-12-000
Provisions of Section 220 of the)	
Federal Power Act)	

**MOTION FOR CLARIFICATION OF THE
AMERICAN PUBLIC POWER ASSOCIATION AND
LARGE PUBLIC POWER COUNCIL**

Pursuant to Rule 212 of the Commission's Rules of Practice and Procedure,¹ the American Public Power Association ("APPA") and Large Public Power Council ("LPPC") hereby move for clarification of Order No. 768.² APPA and LPPC appreciate the many aspects of the final rule that attempt to minimize the filing burdens of public power systems. In comments filed on June 28, 2011, APPA³ and LPPC⁴ indicated their support for measures designed to improve market transparency, and did not generally object to the proposal in the Notice of Proposed Rulemaking in this docket to extend the Commission's Electric Quarterly Reports ("EQR") filing requirements to entities otherwise exempt from Commission jurisdiction under Federal Power Act Section 201(f)⁵ (*i.e.*, non-public utilities). The parties supported a *de minimis* threshold for the

¹ 18 C.F.R. § 385.212.

² *Electricity Market Transparency Provisions of Section 220 of the Federal Power Act*, Order No. 768, 77 Fed. Reg. 61,896 (Oct. 11, 2012).

³ Comments of the American Public Power Association (June 28, 2011), eLibrary No. 20110628-5037, Docket No. RM10-12-000.

⁴ Comments of the Large Public Power Council (June 28, 2011), eLibrary No. 20110628-5174, Docket No. RM10-12-000.

⁵ 16 U.S.C. § 824(f).

application of the proposed new requirements, and specified exemptions crafted to exempt from the filing requirement information not relevant to reasonable oversight of the wholesale market. In Order No. 768, the Commission adopted certain of those restrictions. As a general rule, APPA and LPPC do not object to the new requirements.

As further discussed below, APPA and LPPC request the Commission to phase in the new reporting requirements for non-public utilities after it has implemented the new EQR software. APPA and LPPC also generally support concerns raised by Edison Electric Institute (“EEI”) and Electric Power Supply Association (“EPSA”) in their joint Motion for Partial Stay and Request for Rehearing and Clarification regarding the burden of reporting e-Tag identification (“ID”) data.

I.

MOTION FOR CLARIFICATION

A. The Commission Should Clarify that it Will Phase In Collecting and Reporting of EQR Data by Non-Public Utilities.

As noted in Order No. 768, “[t]he Commission has proposed to change the process for filing EQRs. Specifically, the Commission has proposed to replace the Visual FoxPro-based EQR software with two new filing options.”⁶ The Commission has stated that it is overhauling the EQR filing system to accommodate the “technological changes that will render the current filing process outmoded, ineffective, and unsustainable.”⁷

In light of the impending changes, the Commission should clarify that if it has not completed its software revisions by May 31, 2013, it will phase in the new reporting

⁶ Order No. 768 at n.5. *See Revisions to Electric Quarterly Report Filing Process*, Notice of Proposed Rulemaking, 77 Fed. Reg. 39,447 (July 3, 2012).

⁷ *Revisions to Electric Quarterly Report Filing Process*, Notice of Proposed Rulemaking, 77 Fed. Reg. 39,447 at P 1 (July 3, 2012).

requirements for non-public utilities *after* it has completed those revisions. The Commission acknowledges in Order No. 768 that “new filers will need the opportunity to learn about the filing” system and therefore establishes the third quarter of 2013 as the first EQR reporting period.⁸

The Commission has stated that it will convene a staff-led technical conference to assist non-public utilities in collecting and filing EQR data. APPA and LPPC and their members appreciate the Commission’s assistance in this area. However, the Commission should not expend its time and resources to provide instruction to new filers on the soon-to-be superseded system when it expects to roll out its new system in the near future. Rather, the more appropriate course of action would be to wait until the new software platform has been finalized and implemented, and to allow sufficient time for new filers to learn how to use the new software before requiring the first set of EQR data to be collected and filed. Accordingly, the Commission should begin collecting and reporting EQR data from non-public utilities after the implementation of the new software, if the Commission has not completed work on the new software by May 31, 2013.

APPA and LPPC also respectfully request that the Commission make any EQR technical conferences available via webcast for the benefit of those new filers that may not be able to attend the conference in person.

B. APPA and LPPC Remain Concerned About the Burden of Reporting e-Tag ID Data.

APPA and LPPC previously submitted joint comments with EEI and the National Rural Electric Cooperative Association to the Commission raising concerns regarding the

⁸ Order No. 768 at P 85.

burdens associated with the reporting of e-Tag ID data.⁹ As noted in the Joint Comments, the value, if any, that the Commission will gain from receipt of e-Tag ID data “is outweighed by the imposition of a very large burden.” Joint Comments at 2.

APPA and LPPC have reviewed EEI’s and EPSA’s joint Motion for Partial Stay and Request for Rehearing and Clarification being filed in the captioned docket today. APPA and LPPC share many of the concerns raised in the e-Tag ID data section, i.e., Section IV.A, of EEI’s and EPSA’s pleading. APPA and LPPC agree with EEI’s and EPSA’s suggestion that the Commission should hold a technical conference on this issue.

⁹ See Comments of the American Public Power Association, the Edison Electric Institute, the Large Public Power Council, and the National Rural Electric Cooperative Association (June 28, 2011), eLibrary No. 20110628-5179, Docket No. RM10-12-000 (“Joint Comments”).

II.

CONCLUSION

For the foregoing reasons, APPA and LPPC respectfully request that the Commission clarify that it will phase in the reporting requirement for non-public utilities after the implementation of the new EQR filing software. APPA and LPPC also request that the Commission consider at a technical conference the substantial burdens that would be imposed on EQR filers by the requirements to submit e-Tag-related data, and possible ways to minimize these burdens.

Respectfully submitted,

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