

FERC-520, Form 561, & FERC-566
OMB Control Nos. 1902-0083, 1902-0099, & 1902-0114

SUPPORTING STATEMENT FOR
FERC-520, "Application for Authority to Hold Interlocking Directorate Positions,"
Form 561, "Annual Report of Interlocking Directorates," and
FERC-566, "Annual Report of Twenty Largest Purchasers"
(Three-Year Extension Requested)

The Federal Energy Regulatory Commission (FERC or the Commission) requests that the Office of Management and Budget (OMB) review and extend its approval for a three year period of the following data collections.

Information Collection Number	OMB Control Number	Information Collection Title
FERC-520	1902-0083	Application to Hold Interlocking Directorate Positions
Form 561	1902-0099	Annual Report of Interlocking Directorates
FERC-566	1902-0114	Annual Report of Twenty Largest Purchasers

To clarify the aim and better publicize the relationships among these information activities, FERC is combining its processes for renewing its OMB authority to conduct these information collections.

A. Justification

1. CIRCUMSTANCES THAT MAKE THE COLLECTION OF INFORMATION NECESSARY

The Federal Power Act (FPA) as amended by the Public Utility Regulatory Policies Act of 1978 (PURPA) (Attachment A) mandates Federal oversight and approval of certain electric corporate activities and puts in place related information filing requirements. The FERC-520, the Form 561 and the FERC-566 are the data collections currently helping ensure that FPA-mandated oversight can occur and that neither public nor private interests are adversely affected by the electric activities the FPA provisions cover. The implementing processes and regulatory requirements for the collections are

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codified in the Code of Federal Regulations (CFR), specifically in 18 CFR Parts 45, 46 and section 131.31 (Attachment B).¹

Most of the requirements for these activities are statutorily defined and the Commission cannot change them.

2. HOW, BY WHOM AND FOR WHAT PURPOSE IS THE INFORMATION TO BE USED AND THE CONSEQUENCES OF NOT COLLECTING THE INFORMATION

The FERC-520, "Application for Authority to Hold Interlocking Directorate Positions", originates in FPA Section 305(b) of the FPA. It is an application requesting FERC authorization for board members of regulated electric utilities who plan to simultaneously be holding positions on the corporate boards of related or similar businesses. This corporate activity is known as an "interlocked directorate." Under the FPA the holding of certain defined interlocking corporate positions is unlawful unless the Commission has authorized the interlocks to be held. Before assuming an interlocked board position, an applicant must demonstrate that neither public nor private interests will be adversely affected by the holding of the position. The FERC-520 identifies the applicant and provides FERC with a list and information about any interlocking position the applicant seeks authorization to hold. Moreover, the form collects information related to the applicant's financial interests, other officers and directors of the firms involved, and the nature of business relationships among the firms.

FERC allows two types of FERC-520 applications to implement the FPA requirements for holding interlocked positions. The first, in 18 CFR 45.8, is a "full" application. "Full" applications are made by (1) an officer or director of more than one public utility; (2) an officer or director of a public utility and of a public utility securities underwriter; or (3) an officer or director of a public utility and of an electrical equipment supplier to that utility. They provide detailed information about the position(s) for which authorization is sought, including a description of duties, estimated time devoted to the position, and the applicant's indebtedness to the public utility.

The second type of FERC-520 application, in 18 CFR 45.9, is an "informational" application for automatic authorization. These "informational applications" are made by

¹ Section 131.31 is the section of the regulations that actually includes the form. The form is not included in attachment B but is included in the submission to OMB, and is available at <http://frwebgate3.access.gpo.gov/cgi-bin/PDFgate.cgi?WAISdocID=mDwJc4/11/2/0&WAIAction=retrieve> .

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(1) an officer or director of two or more public utilities where the same holding company owns, directly or indirectly, wholly or in part, the other public utility; (2) an officer or director of two public utilities, if one utility is owned, wholly or in part, by the other; 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 where the interlock involves affiliated public utilities.

As part of the FERC-520 application process, the FERC requires notices of change if the applicant resigns or withdraws from a Commission-authorized interlocked position or if the applicant is not re-elected or re-appointed to the interlocked position.

The information the Commission collects with Form 561 "Annual Report of Interlocking Positions" responds to the FPA requirements for annual reporting of similar types of positions public utility officers and directors hold with financial institutions, insurance companies, utility equipment and fuel providers, and with any of an electric utility's twenty largest purchasers of electric energy. The FPA specifically defines most of the information elements in the Form 561, including the information that must be filed, the required filers, the directive to make the information available to the public, and the filing deadline. The Commission determined administrative aspects of the Form 561 such as the filing format and instructions for filling out the form. The information collected by the Commission through the Form 561 is used to implement the FPA requirement that those who are authorized to hold interlocked directorates annually disclose all the interlocked positions they held the prior year. The Form 561 data identifies persons holding interlocking positions between public utilities and other entities, allows the Commission to review these and permits identification of possible conflicts of interest.

Finally, the FERC-566, "Annual Report of a Utility's Twenty Largest Purchasers" implements FPA requirements that each public utility annually publish a list of the purchasers of the twenty largest annual amounts of electric energy sold by such public utility during any of the three previous calendar years. Similar to the statutory detail in the FPA for the Form 561, the FPA identifies who must file the FERC-566 report and sets the filing deadline. The FPA specifies that those entities required to report who have a holding company system can calculate their total volumes of energy sold by including the amounts sold by utilities within their holding company system. The FERC details in its regulations special rules about the information to be provided in the FERC-566 report. For example, FERC allows required filers to file estimates of volumes based on actual information available to them if actual volumes are not available by the statutory due date. However, the FERC also requires revisions of those filed estimates with final numbers by March 1st each year. The public disclosure of this information

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provides officers and directors with the information necessary to determine whether any of the entities with whom they are related are any of the largest twenty purchasers of the public utility with which they are affiliated.

Together, these data collections provide views into complex electric corporate activities. They serve to safeguard public and private interests, as the FPA requires, by disclosing business relationships to both the public and the Commission for analyses. The public can file a complaint with the Commission if disclosures made under these data collection provide evidence of corporate behavior that violates Commission policy.

The Commission can use its enforcement authority when violations and omissions of FPA requirements occur.

3. DESCRIBE ANY CONSIDERATION OF THE USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN AND TECHNICAL OR LEGAL OBSTACLES TO REDUCING BURDEN

Describing the various aspects of these data collections as they relate to one another during its combined renewal process presents more accurate views of the collected information and this clarity helps justify the burdens associated with providing FERC with the information. Further, connecting these data collections logically and from a single overarching policy perspective also increases the possibilities of using greater amounts of information technology to reduce burden and enhance the usefulness of the resulting data.

Under FERC regulations, respondents can file their FERC-520, Form 561 and FERC-566 in various formats, including electronically via the Commission's eFiling web page. About 90% of the FERC-520 filings arrive electronically. Approximately 99% of the Form 561 and 70% of FERC-566 filings arrive electronically.

The FERC has especially encouraged Form 561 respondents to file their forms via the FERC eFiling system and to use a Microsoft *Excel* version of the Form 561. The Microsoft *Excel* version of the Form 561 has been available since 1998. There have been many efforts since 1998 to use evolving and advanced features of the *Excel* software to make filling out the form easier. These same advances in the software have allowed FERC to compile the filed information more easily. The FERC has similarly made a preferred format in Microsoft *Excel* available for users by filers of the FERC-566. Some filers of this form, however, have been reluctant to use the preferred format and continue to file this form in hard copy.

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The following table shows the number of filings FERC has received for each of the three information collections.

**Number of Filings Related to Interlocked Positions and
 Reports of Twenty Largest Customers**
 2008-2010

Filing Name	2008	2009	2010
FERC-520 (Total)	689	600	594
o Full	24	36	26
o Informational	469	326	335
o Notice of Change	196	238	233
Form 561	2,441	2,420	2,432
Form 566	403	457	443

4. DESCRIBE EFFORTS TO IDENTIFY DUPLICATION AND SHOW SPECIFICALLY WHY ANY SIMILAR INFORMATION ALREADY AVAILABLE CANNOT BE USED OR MODIFIED FOR USE FOR THE PURPOSE(S) DESCRIBED IN INSTRUCTION NO. 2

The information in each of the three data collections is unique in that it describes specific corporate activities of individuals and businesses as covered in the FPA. There are no other sources for this data.

5. METHODS USED TO MINIMIZE THE BURDEN IN THE COLLECTION OF INFORMATION INVOLVING SMALL ENTITIES

The data collections impose the least possible burden on small entities while collecting the information necessary for the Commission to carry out its responsibilities.

6. CONSEQUENCE TO FEDERAL PROGRAM IF COLLECTION WERE CONDUCTED LESS FREQUENTLY

The FERC-520 information is collected when individuals seek Commission authority to hold interlocked directorates as well as when circumstances change with respect to a public utility's officer's or director's interlocking positions. There is no cyclical, re-filing of FERC-520 information. It is filed once, and as long as circumstances do not change, it is not filed again. Collecting the FERC-520 less frequently would mean

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not collecting the information and this is not possible because Commission oversight of the information is required by statute. Moreover, these data collections serve to safeguard public and private interests, as the FPA requires, by disclosing business relationships to both the public and the Commission for analyses. Without the data, neither the public nor the Commission would be able to monitor interlocked corporate behavior. As a result, there would be no transparency of the dynamics between corporations' board members and power sales to their largest customers.

PURPA Section 211 mandates annual submission of the data in the Form 561 and FERC-566 as well as the data in the FERC-520. The FERC cannot change Congressionally-set filing dates. If the Form 561 and FERC-566 were collected less frequently, the Commission would be unable to perform its mandated oversight and review responsibilities as effectively.

7. EXPLAIN ANY SPECIAL CIRCUMSTANCES RELATING TO THE INFORMATION COLLECTION

There are no special circumstances relating to the information collections.

8. DESCRIBE EFFORTS TO CONSULT OUTSIDE THE AGENCY: SUMMARIZE PUBLIC COMMENTS AND THE AGENCY'S RESPONSE TO THESE COMMENTS

In accordance with OMB regulations in 5 CFR 1320.8(d), the Commission's Notice to renew its OMB approval of FERC-520, Form 561 and FERC-566 information collections was published in the Federal Register on February 24, 2011. The Commission received one comment in response to this notice from the Edison Electric Institute (EEI). A summary of the comment and the Commission's response follows.

EEI Comment

EEI suggests the Commission modify section 45.9 of its regulations to expand the scope of automatic authorizations issued for FERC-520 applications. EEI believes the Commission should permit automatic authorization of (i) all interlocks between affiliated companies within a holding company system that includes a public utility under section 305(b) of the Federal Power Act; (ii) all interlocks between public utilities that do not have captive customers or own or operate transmission facilities and unaffiliated companies; and (iii) all interlocks between franchised public utilities and unaffiliated companies that agree to adopt the Commission's restrictions on non-power goods and

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services transactions.

In its comments, EEI refers to various sections of the preamble to Order No. 446 as support for its request that automatic authorizations of certain “informational” applications would not adversely affect the public interest. EEI believes automatic reauthorizations would reduce both the reporting burden of filers and the processing burden on FERC staff resources.

In its comments, EEI also points out a calculation error in FERC’s burden estimate. The FERC estimates the cost of preparing the FERC-566 as \$68 per respondent per year, based on an estimated 6 hours per response, 434 respondents filing once per year, and an average annual staff salary of \$142,372. However, using the stated information, the average cost per response would be \$411 (i.e., 6 hours per response / 2080 hours per year x \$142,372 average salary). Further, EEI states that one of its members has noted that it takes them 8 hours per response and not 6 hours. EEI indicates this would raise this average cost per response to \$548 (i.e. (8 hours / 6 hours) x \$411).

FERC Response

FERC notes EEI comments and shares its interest in identifying and implementing burden reductions to the benefit of form filers as well as FERC staff. In fact, burden reduction has been the primary reason FERC has undertaken specific efforts over the last several years to make greater use of IT and electronic filing. Nevertheless, EEI’s suggestions raise issues and implications that would require FERC to explore and address them more appropriately in a forum and process that is better suited to full public identification and deliberation of any possible proposed and planned changes to regulatory activities.

As a separate matter, FERC has made the arithmetic correction to the burden calculation in the March 2011 notice. However, FERC will not change the number of hours per response based on the information EEI provides. The EEI comment clearly states that it was only one of its members who has noted its filing time is 2 hours longer than the 6 hours FERC estimates it takes filers to comply with the requirements of FERC-566, on average. Because the estimate is an average, it is to be expected that some filers will have a higher reporting burden while others will have a lower one. Therefore, FERC does not see a reason to change the FERC-566 average completion time of 6 hours.

9. EXPLAIN ANY PAYMENT OR GIFTS TO RESPONDENTS

No payments or gifts have been made to respondents.

10. DESCRIBE ANY ASSURANCE OF CONFIDENTIALITY PROVIDED TO RESPONDENTS

The FERC-520, Form 561 and FERC-566 information submitted to the Commission is made publically available. Specific requests for confidential treatment to the extent permitted by law are considered pursuant to 18 CFR 388.112.

11. PROVIDE ADDITIONAL JUSTIFICATION FOR ANY QUESTIONS OF A SENSITIVE NATURE

The FERC-520, Form 561 and FERC 566 do not ask any questions that are of a sensitive nature.

12. ESTIMATED BURDEN OF THE COLLECTION OF INFORMATION

The estimated burdens of the collections of information are based on the Commission's previous experience with the data collections and are shown in the following table.

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Estimated Burden of FERC Collections Related to Interlocked Positions and Reports of Utilities' Twenty Largest Customers

Form Name	Number of Respondents Annually (Average) (1)	Number of Responses Per Respondent (2)	Average Burden Hours Per Response (3)	Total Annual Burden Hours (1)x(2)x(3)
FERC-520	(total) 406 ²			12,680
o Full	29	1	51.8	1,502
o Informational	377	1	29.5	11,122
o Notice of Change	222	1	.25	56
Form 561	2,431	1	.25	608
FERC-566	434	1	6	2,604
Total				15,892³

As the table below shows, there are noteworthy changes in the annual burden hours since the FERC renewed these data collections in 2008 that merit further analysis and explanation.

Changes in Burden of FERC Collections Related to Interlocked Positions And Reports of Utilities' Twenty Largest Customers

Form Name	Total Reporting Burden Hours in 2008 Clearance Package (a)	Total Reporting Burden Hours in this 2011 Clearance Package (b)	Percent Change in Burden Hours from 2008 to 2011 Clearance Package $\{[(b-a)/a]*100\}$
FERC-520	24,476	12,680	-48%
o Full	881	1,502	70%

² This number of unique respondents (406) corresponds to the number of full filers (29) plus the number of informational filers (377). During the year, some of the 406 unique respondents also file Notices of Change (estimated at 222 filings). Therefore, FERC receives an estimated total of 628 filings (responses) per year from 406 unique respondents.

³ This field incorrectly showed 15,873 as the "Total" in the 60-day notice. The correct "Total" is 15,892, as shown here. The totals for individual categories remain correct.

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o Informational	23,595	11,122	-53%
o Notice of Change	*	56	*
Form 561	499	608	22%
FERC-566	1,452	2,604	79%

*This category was not split out and estimated separately in previous renewal cycles.

The decrease in the number of FERC-520 applications (and therefore a decrease in the total burden) may be due to directors retaining their positions longer because of the slow economy. The increase in the total burden hours for the FERC-566 is because in December 2007 FERC sent out notices to those who were expected to file a FERC-566 but did not during previous reporting years.

13. ESTIMATE OF TOTAL ANNUAL COST OF BURDEN TO RESPONDENTS

The estimated total cost to FERC-520 respondents is \$867,922. [12,680 hours/2080 hours⁴ per year, times \$142,372⁵, equals \$867,922]. The estimated cost per FERC-520 respondent annually is \$2,138.

The estimated total cost to FERC-561 respondents is \$41,616. [608 hours/2080 hours per year, times \$142,372, equals \$41,616]. The estimated cost per FERC-561 respondent annually is \$17⁶.

The estimated total cost to FERC-566 respondents is \$178,239. [2,604 hours/2080 hours per year, times \$142,372⁷, equals \$178,239]. The estimated cost per FERC-566 respondent annually is \$411⁸.

The estimated total cost to respondents for these three information collections is

⁴ Number of hours an employee works each year.

⁵ Average annual salary per employee (including overhead).

⁶ This 60-day public notice incorrectly showed this figure as \$68 when it should have been \$17. The estimated total cost on respondents remains the same.

⁷ This 60-day public notice incorrectly showed \$178,239 where it should have corresponded to the average salary per employee (including overhead) as used in the other collections in this proceeding. The estimated total cost on respondents remains the same.

⁸ This 60-day public notice incorrectly showed this figure as \$68 when it should have been \$411. The estimated total cost on respondents remains the same.

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\$1,087,777. In 2008, the estimated total cost for these three collections was \$1,605,745.

14. ESTIMATED ANNUALIZED COST TO FEDERAL GOVERNMENT

The estimated annualized cost to the Federal government for each collection is:

<u>Operation</u>	<u>Total Cost</u>
a) Data clearance (FERC Fiscal Year 2011 estimate)	\$ 1,575
b) Analysis of data (1.0 FTE x \$142,372)	<u>\$142,372</u>
Total cost in one year of operation	\$143,947

The total estimated annual cost for all three collections is: **\$431,841** (3 x \$143,947).

The estimate of the cost to the Federal government is based on salaries, benefits, and overhead for professional and clerical support.

15. REASONS FOR CHANGES IN BURDEN INCLUDING THE NEED FOR ANY INCREASE

A concern developed in 2004 that FERC-520 applications for authorizations to hold interlocked positions were not being filed *before* individuals assumed the interlocked positions, as required. In response, the Commission issued its June 2004 interlocking directorate policy statement in PL04-10-000 and Order 664 in September 2005. The burden estimate for the FERC-520 in this request is based on recent Commission experience and the actual number of FERC-520 filings made between 2008 and 2010.

The number of informational applications has increased steadily from 87 in 2004 to 335 in 2010. The Commission began to separate the FERC-520 filings by types of application in its OMB clearance estimates in 2008 because the number of each type of application filed had been changing significantly. Breaking the data out by type of filing allows these changes to be easily seen. The last OMB clearance package divided the FERC-520 filings only into two categories: full and informational filings. The change in the number of full and informational applications has necessitated the separate tracking and reporting of three types of possible applications and the burden hours each imposes. Therefore, this OMB clearance package adds Notice of Change filings, further breaking down the categories of FERC-520 to capture, convey and begin to analyze all types of

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FERC-520s.

The decrease in the number of FERC-520 applications may be due to directors retaining their positions longer because of the slow economy. The total burden associated with the FERC-566 increased by 79% because in December 2007 FERC sent out notices to those who were expected to file a FERC-566 but did not during previous reporting years.

The increase in the estimated number of FERC-561 filers is due to the Commission using a more robust accounting method in determining the actual number of filers per year. Prior estimates had failed to account properly for the actual number of filers and thus had been consistently low. For example, one filer may submit one file to the Commission that contains the Form 561 for 50 unique entities. In the past this was only counted as one respondent.

There is a change in the annual cost estimates since the last submission in 2008 due mainly to a decrease in the number of FERC-520 filers. Further, the per-hour estimate for each collection has increased since 2008 because the Commission is using an updated salary estimate.

16. TIME SCHEDULE FOR INFORMATION COLLECTION AND PUBLICATION

These are not information collections for which results are published.

17. DISPLAY OF EXPIRATION DATE

The Form 561 displays the expiration date and a currently valid OMB control number in compliance with 5 CFR 1320.6, which provides that no person shall be subject to penalty for failure to display a current and valid OMB control number. The FERC-520 and the FERC-566 are not collected on pre-printed forms and therefore it is not possible to display the expiration date and OMB control number there. However, FERC does display the OMB control numbers and each data collection's expiration date on its web site.

18. EXCEPTIONS TO THE CERTIFICATION STATEMENT

The information collected for these reporting requirements are not used for statistical purposes. Therefore, the Commission does not use Item (i) "effective and

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efficient statistical survey methodology” as stated in the OMB certification form. The information collected is case specific to each respondent.

B. COLLECTION OF INFORMATION EMPLOYING STATISTICAL METHODS

This is not a collection of information employing statistical methods.

ATTACHMENT A

FPA, SEC. 305. OFFICIALS DEALING IN SECURITIES; INTERLOCKING DIRECTORATES

[5263-28]

[¶5305]

Officials Dealing in Securities; Interlocking Directorates

Sec. 305. (a) It shall be unlawful for any officer or director of any public utility to receive for his own benefit, directly or indirectly, any money or thing of value in respect of the negotiation, hypothecation, or sale by such public utility of any security issued or to be issued by such public utility, or to share in any of the proceeds thereof, or to participate in the making or paying of any dividends of such public utility from any funds properly included in capital account.

(b) Interlocking Directorates.--

(1) In General.--After 6 months from the date on which this Part takes effect, it shall be unlawful for any person to hold the position of officer or director of more than one public utility or to hold the position of officer or director of a public utility and the position of officer or director of any bank, trust company, banking association, or firm that is authorized by law to

[5263-29]

underwrite or participate in the marketing of securities of a public utility, or officer or director of any company supplying electrical equipment to such public utility, unless the holding of such positions shall have been authorized by order of the Commission, upon due showing in form and manner prescribed by the Commission, that neither public nor private interests will be adversely affected thereby. The Commission shall not grant any such authorization in respect of such positions held on the date on which this Part takes effect, unless application for such authorization is filed with the Commission within sixty days after that date.

(2) Applicability.--

(A) In General.- In the circumstances described in subparagraph (B), paragraph (1) shall

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not apply to a person that holds or proposes to hold the positions of--

(i) officer or director of a public utility; and

(ii) officer or director of a bank, trust company, banking association, or firm authorized by law to underwrite or participate in the marketing of securities of a public utility.

(B) Circumstances.--The circumstances described in this subparagraph are that--

(i) a person described in subparagraph (A) does not participate in any deliberations or decisions of the public utility regarding the selection of a 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;

(ii) 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;

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

(iv) 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.

(c)(1) On or before April 30 of each year, any person, who, during the calendar year preceding the filing date under this subsection, was an officer or director of a public utility and who held, during such calendar year, the position of officer, director, partner, appointee, or representative of any other entity listed in paragraph (2) shall file with the Commission, in such form and manner as the Commission shall by rule prescribe, a written statement concerning such positions held by such person. Such statement shall be available to the public.

[5263-30]

(2) The entities listed for purposes of paragraph (1) are as follows--

(A) any investment bank, bank holding company, foreign bank or subsidiary thereof

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doing business in the United States, insurance company, or any other organization primarily engaged in the business of providing financial services or credit, a mutual savings bank, or a savings and loan association;

(B) any company, firm, or organization which is authorized by law to underwrite or participate in the marketing of securities of a public utility;

(C) any company, firm, or organization which produces or supplies electrical equipment or coal, natural gas, oil, nuclear fuel, or other fuel, for the use of any public utility;

(D) any company, firm, or organization which during any one of the 3 calendar years immediately preceding the filing date was one of the 20 purchasers of electric energy which purchased (for purposes other than for resale) one of the 20 largest annual amounts of electric energy sold by such public utility (or by any public utility which is part of the same holding company system) during any one of such three calendar years;

(E) any entity referred to in subsection (b); and

(F) any company, firm, or organization which is controlled by any company, firm, or organization referred to in this paragraph.

On or before January 31 of each calendar year, each public utility shall publish a list, pursuant to rules prescribed by the Commission, of the purchasers to which subparagraph (D) applies, for purposes of any filing under paragraph (1) of such calendar year.

(3) For purposes of this subsection--

(A) The term “public utility” includes any company which is a part of a holding company system which includes a registered holding company, unless no company in such system is an electric utility.

(B) The terms “holding company”, “registered holding company”, and “holding company system” have the same meaning as when used in the Public Utility Holding Company Act of 1935.

01. Subsection (a)--Act of June 10, 1920; Subsection (b)--P.L. 106-102, November 12, 1999; Subsection (c)--P.L. 95-617, November 9, 1978.

Subsection (b), appearing in the Act of June 10, 1970, read as follows until its amendment

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in P.L. 106-102, November 12, 1999:

(b) After six months from the date on which this Part takes effect, it shall be unlawful for any person to hold the position of officer or director of more than one public utility or to hold the position of officer or director of a public utility and the position of officer or director of any bank, trust company, banking association, or firm that is authorized by law to underwrite or participate in the marketing of securities of a public utility, or officer or director of any company supplying electrical equipment to such public utility, unless the holding of such positions shall have been authorized by order of the Commission, upon due showing in form and manner prescribed by the Commission, that neither public nor private interests will be adversely affected thereby. The Commission shall not grant

[5263-31]

any such authorization in respect of such positions held on the date on which this Part takes effect, unless application for such authorization is filed with the Commission within sixty days after that date.

(c)(1) On or before April 30 of each year, any person, who, during the calendar year preceding the filing date under this subsection, was an officer or director of a public utility and who held, during such calendar year, the position of officer, director, partner, appointee, or representative of any other entity listed in paragraph (2) shall file with the Commission, in such form and manner as the Commission shall by rule prescribe, a written statement concerning such positions held by such person. Such statement shall be available to the public.

[5263-30]

(2) The entities listed for purposes of paragraph (1) are as follows--

(A) any investment bank, bank holding company, foreign bank or subsidiary thereof doing business in the United States, insurance company, or any other organization primarily engaged in the business of providing financial services or credit, a mutual savings bank, or a savings and loan association;

(B) any company, firm, or organization which is authorized by law to underwrite or participate in the marketing of securities of a public utility;

(C) any company, firm, or organization which produces or supplies electrical equipment

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or coal, natural gas, oil, nuclear fuel, or other fuel, for the use of any public utility;

(D) any company, firm, or organization which during any one of the 3 calendar years immediately preceding the filing date was one of the 20 purchasers of electric energy which purchased (for purposes other than for resale) one of the 20 largest annual amounts of electric energy sold by such public utility (or by any public utility which is part of the same holding company system) during any one of such three calendar years;

(E) any entity referred to in subsection (b); and

(F) any company, firm, or organization which is controlled by any company, firm, or organization referred to in this paragraph.

On or before January 31 of each calendar year, each public utility shall publish a list, pursuant to rules prescribed by the Commission, of the purchasers to which subparagraph (D) applies, for purposes of any filing under paragraph (1) of such calendar year.

(3) For purposes of this subsection--

(A) The term “public utility” includes any company which is a part of a holding company system which includes a registered holding company, unless no company in such system is an electric utility.

(B) The terms “holding company”, “registered holding company”, and “holding company system” have the same meaning as when used in the Public Utility Holding Company Act of 1935.

ATTACHMENT B

Title 18: Conservation of Power and Water Resources

PART 45—APPLICATION FOR AUTHORITY TO HOLD INTERLOCKING POSITIONS

Section Contents

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[§ 45.9 Automatic authorization of certain interlocking positions.](#)

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

Source: Order 141, 12 FR 8501, Dec. 19, 1947, unless otherwise noted. Cross

References:

For rules of practice and procedure, see part 385 of this chapter. For forms under rules of practice and regulations under the Federal Power Act, see part 131 of this chapter.

§ 45.1 Applicability; who must file.

(a) This part applies to any person seeking to hold the following interlocking positions:

(1) Officer or director of more than one public utility;

(2) Officer or director of a public utility and of any bank, trust company, banking association, or firm that is authorized by law to underwrite or participate in the marketing of securities of a public utility; or

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

(b) Any person seeking to hold any interlocking position described in §45.2 of this chapter must do the following:

(1) Apply for Commission authorization under §45.8 of this chapter; or

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(2) If qualified, comply with the requirements for automatic authorization under §45.9 of this chapter.

[Order 446, 51 FR 4904, Feb. 10, 1986]

§ 45.2 Positions requiring authorization.

(a) The positions subject to this part shall include those of any person elected or appointed to perform the duties or functions ordinarily performed by a president, vice president, secretary, treasurer, general manager, comptroller, chief purchasing agent, director or partner, or to perform any other similar executive duties or functions, in any corporation¹ within the purview of section 305(b) of the Act. With respect to positions not herein specifically mentioned which applicant holds and which are invested with executive authority, applicant shall state in the application the source of such executive authority, whether by bylaws, action of the board of directors, or otherwise.

¹ *Corporation* means 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. It shall not include *municipalities* as defined in the Federal Power Act (sec. 3, 49 Stat. 838; 16 U.S.C. 796).

(b) Corporations¹ within the purview of section 305(b) of the Act include:

(1) Any public utility under the Act, which means any person who owns or operates facilities for the transmission of electric energy in interstate commerce, or any person who owns or operates facilities for the sale at wholesale of electric energy in interstate commerce.

(2) Any bank, trust company, banking association, or firm that is authorized by law to underwrite or participate in the marketing of public utility securities; this includes any corporation when so authorized whether or not same may also be a public utility and/or a holding company. (See 12 U.S.C. 378)

(3) Any company that supplies electrical equipment to a public utility in which applicant seeks authorization to hold a position, whether the supplying company be a manufacturer, or dealer, or one supplying electrical equipment pursuant to a construction, service, agency, or other contract.

(c) Regardless of any action which may have been taken by the Commission upon a previous application under section 305(b) of the Act, an application for approval under such section is required with reference to any position or positions not previously authorized which are within the purview of said section.

§ 45.3 Timing of filing application.

(a) The holding of positions within the purview of section 305(b) of the Act shall be

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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; late-filed applications will be denied. 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.

(b) Absent Commission action within 60 days of a completed application to hold interlocking positions, an application will be deemed granted. Such authorization is subject to revocation by the Commission after due notice to applicant and opportunity for hearing. In any such proceeding, the burden of proof shall be upon the applicant to show that neither public nor private interests will be adversely affected by the holding of such positions.

[Order 664, 70 FR 55723, Sept. 23, 2005]

§ 45.4 Supplemental applications.

(a) *New positions.* In the event of a change or changes in the information set forth in an application, by the applicant's election or appointment to another position or other positions in corporations within the purview of section 305(b) of the Act, the application shall be supplemented by the applicant's setting forth all the data with respect to the new position or positions in accordance with the requirements of this part.

(b) *Old positions.* After applicant has been authorized to hold a particular position, further application in connection with each successive term so long as he continues in uninterrupted tenure of such position will not be required except as ordered by the Commission. If the term of office or the holding of any position for which authorization has been given shall be interrupted and the applicant shall subsequently be reelected or reappointed thereto, further authorization will be required.

§ 45.5 Supplemental information.

(a) *Required by Commission.* Applicants under this part shall upon request of the Commission and within such time as may be allowed, supplement any application or any supplemental application with any information required by the Commission.

(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 30 days after any such change occurs, give

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notice thereof to the Commission setting forth the position corporation, and date of termination therewith, or other material or substantial change.

(c) *Reports.* All persons holding positions by authorization of the Commission under section 305(b) of the Act may be required to file such periodic or special reports as the Commission may deem necessary.

§ 45.6 Termination of authorization.

(a) *By the Commission.* Orders of authorization under section 305(b) of the Act are subject to revocation by the Commission after due notice to applicant and opportunity for hearing. In any such proceeding the burden of proof shall be upon the applicant to show that neither public nor private interests will be adversely affected by the holding of such positions.

(b) *Without action of the Commission.* Whenever a person shall cease to hold a position theretofore authorized to be held by the Commission or such position shall cease to be within the purview of section 305(b) of the Federal Power Act, the Commission's authorization to hold such position shall terminate without further action by the Commission. If upon such termination of authorization as aforesaid, such person does not continue to hold at least two positions authorized and then requiring authorization pursuant to said section 305(b) of the Act, all authorization theretofore given by the Commission shall thereupon terminate.

§ 45.7 Form of application; number of copies.

An original and two copies of each application, supplemental application, statement of supplemental information, notice of change and report required to this part, together with one additional copy for each interested State commission, shall be filed with the Commission. Each original shall be dated, signed by the applicant and verified under oath in accordance with §131.60 of this chapter. Each copy shall bear the date and signature that appear on the original and shall be complete in itself, but the signature in the copies may be stamped or typed and the notarial seal may be omitted. The application shall conform to subpart T of part 385 of this chapter.

[Order 141, 12 FR 8501, Dec. 19, 1947, as amended by Order 225, 47 FR 19057, May 3, 1982]

§ 45.8 Contents of application; filing fee.

Each application shall be accompanied by the fee prescribed in part 381 of this chapter and shall state the following:

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- (a) *Identification of applicant.* (1) Full name, business address and state of residence.
 (2) Major business or professional activity.
 (3) If former application or applications under section 305(b) of the Act have been made by the applicant, give date and docket number of the last application filed.
 (b) *List of positions within the purview of section 305 (b) of the Act for which authorization is sought.* (Indicate by asterisk positions which were the subjects of previous authorizations.)

Position	Name of corporation	Classification: (1) Public utility, (2) authorized by law to underwrite, (3) supplying electrical equipment

(c) *Data as to positions with each public utility mentioned in paragraph (b) of this section.* (The format should be adapted to the information submitted, in keeping with completeness and conciseness. In the case of public utilities of the same holding company system, brevity will generally be promoted by submitting the information for all of the utilities involved under each subsection progressively in the order of the subsections, utilizing tables when feasible.)

- (1) Name of utility.
 (2) Date elected or appointed, or anticipated date of election or appointment, to each position not previously authorized.
 (3) Names of officers and directors; number of vacancies, if any, on Board of Directors.
 (4) Description of applicant's duties: Approximate amount of time devoted thereto; and, if applicant seeks authorization as a director, the percentage of directors meetings held during the past 12 months that were attended by the applicant.
 (5) All other professional, contractual, or business relationships of applicant with the public utility, either directly or through other corporations or firms.
 (6) Extent of applicant's direct or indirect ownership, control of, or beneficial interest in the public utility or the securities thereof. If ownership or interest is held in a name other than that of applicant, state name and address of the holder.
 (7) Extent of applicant's indebtedness to the public utility, how and when incurred, and consideration therefor.
 (8) All money or property received by applicant from the public utility or any affiliate (i) during the past 12 months, and expected during the ensuing 12 months, or (ii) during the public utility's most recently ended fiscal year, and expected during the public utility's

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current fiscal year, or (iii) during the past and current calendar years, whether for services, reimbursement for expenses, or otherwise. Specify in detail the amount thereof and the basis therefor. If applicant's compensation for services to the public utility is not paid directly by the public utility, give name of the corporation that does pay same, the amount allocated or allocable to the public utility or any affiliate, and the basis or reason for such allocation.

(9) Whether during the past 5 years the public utility or any affiliate thereof or any security holders of either have commenced any suit against the officers or directors thereof for alleged waste, mismanagement or violation of duty, to which suit applicant was a party defendant. If so, give date of commencement of suit, court in which commenced, and present status.

(d) *Data as to positions with each bank, trust company, banking association or firm, mentioned in paragraph (b) of this section, that is authorized by law to underwrite or participate in the marketing of securities of a public utility.* (The applicant shall use a separate sheet for each corporation.)

(1) Name of corporation and address of principal place of business.

(2) Positions which applicant holds or seeks authorization to hold therein and when and by whom elected or appointed to each position.

(3) Description of applicant's duties in each position and the approximate amount of time devoted thereto, and, if applicant seeks authorization as director, the percentage of directors meetings held during the past 12 months that were attended by the applicant.

(4) Extent of applicant's direct or indirect ownership, or control of, or beneficial interest in, the company or in the securities thereof, including common stock, preferred stock, bonds, or other securities. If such ownership or interest is held in a name other than that of applicant, state name and address of such holder.

(5) All money or property received by applicant from the company (i) during the past 12 months, and expected during the ensuing 12 months, or (ii) during the company's most recently ended fiscal year, and expected during the company's current fiscal year, or (iii) during the past and current calendar years, whether for services, reimbursement for expenses, or otherwise. Specify in detail the amount thereof and the basis therefor.

(6) Names and titles of directors, officers, or partners.

(7) Whether the corporation is now engaged in underwriting or participating in the marketing of the securities of a public utility; if so, to what extent.

(8) Whether the corporation, during applicant's connection therewith, has underwritten or participated in the marketing of the security issue of any public utility with which applicant was also connected; if so, the details with respect to every such transaction that occurred during the past 36 months.

(9) (If the answer to paragraph (d)(7) of this section is in the negative.) Give excerpts from the charter, declaration of trust, or articles of partnership that authorize the

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underwriting or participating in the marketing of securities of a public utility.

(10) (If the answer to paragraph (d)(7) of this section is in the negative.) Give general requirements of and appropriate reference to, the laws of the State of organization and of States in which corporation is doing business or has qualified to do business, with which it must comply in order to engage in the business of underwriting or participating in the marketing of the securities of a public utility.

(11) What steps, if any, have been taken to comply with laws mentioned in paragraph (d) (10) of this section.

(12) In lieu of paragraphs (d)(9), (10), and (11) of this section, an opinion by counsel to the same effect and including the information in respect thereto may be filed with the application.

(13) Whether the corporation has registered with the Securities and Exchange Commission; if so, when and under what section of what act.

(e) Data as to positions with each company, mentioned in paragraph (b) of this section, supplying electrical equipment to a public utility in which applicant holds a position.

(Applicant shall use a separate sheet for each company.)

(1) Name of company and address of principal place of business.

(2) Positions which applicant holds or seeks authorization to hold therein and when and by whom elected or appointed to each position.

(3) Description of applicant's duties in each position and approximate amounts of time devoted thereto, and, if applicant seeks authorization as director, the percentage of directors meetings held during the past 12 months that were attended by the applicant.

(4) Names and titles of directors or partners.

(5) Name of each public utility, with which applicant holds or seeks authorization to hold a position, to which the company supplies electrical equipment; the frequency of such transactions; the approximate annual dollar volume of such business; and the type of equipment supplied.

(6) Nature of relationship between the company supplying electrical equipment and the public utility:

(i) Whether company manufactures such electrical equipment or is a dealer therein.

(ii) Whether company supplies electrical equipment to the public utility pursuant to construction, service, agency, or other contract with the public utility or an affiliate thereof, and, if so, furnish brief summary of the terms of such contract.

(7) Extent of applicant's direct or indirect ownership, or control of, or beneficial interest in, the company or in the securities thereof, including common stock, preferred stock, bonds, or other securities. If such ownership or interest is held in a name other than that of applicant, state name and address of such holder.

(8) All money or property received by applicant from the company (i) during the past 12 months, and expected during the ensuing 12 months, or (ii) during the company's most

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recently ended fiscal year, and expected during the company's current fiscal year, or (iii) during the past and current calendar years, whether for services, reimbursement for expenses, or otherwise. Specify in detail the amount thereof and the basis therefore.

(f) *Data as to positions with public utility holding companies.* (Do not include here data as to corporations listed in paragraph (b) of this section which are also holding companies. A *holding company* as herein used means any corporation which directly or indirectly owns, controls, or holds with power to vote, 10 per centum or more, of the outstanding voting securities of a public utility.)

(1) Name of holding company and address of principal place of business.

(2) Positions which applicant holds therein, when and by whom elected or appointed to each position.

(3) Extent of applicant's direct or indirect ownership, or control of, or beneficial interest in, the holding company or in the securities thereof, including common stock, preferred stock, bonds, or other securities. If such ownership or interest is held in a name other than that of applicant, state name and address of such holder.

(4) All money or property received by applicant from the holding company (i) during the past 12 months, and expected during the ensuing 12 months, or (ii) during the holding company's most recently ended fiscal year, and expected during the holding company's current fiscal year, or (iii) during the past and current calendar years, whether for services, reimbursement for expenses, or otherwise. Specify in detail the amount thereof and the basis therefore.

(g) *Positions with all other corporations.* (Do not include here data that have been filed within the past 12 months in FERC-561, pursuant to part 46 of this chapter, or data as to any corporations listed in paragraph (b) or (f) of this section.)

(1) All other corporations and positions therein, including briefly the information required in parallel columns as below:

Name of corporation	Address: Kind of business	Position held therein

(2) Any corporate, contractual, financial, or business relationships between any of the corporations listed in paragraph (g)(1) of this section and any of the public utilities listed in paragraph (b) of this section.

(h) *Data as to the public utility holding company system.* The names of the public utility holding company systems of which each public utility listed in paragraph (b) of this

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section is a part, with a chart showing the corporate relationships existing between and among the corporations within the holding company systems.

[Order 246, 27 FR 4912, May 25, 1962, as amended by Order 427, 36 FR 5598, Mar. 25, 1971; Order 374, 49 FR 20479–20480, May 15, 1984; Order 435, 50 FR 40358, Oct. 3, 1985]

Cross Reference:

For rules and regulations of the Securities and Exchange Commission, see 17 CFR, chap. II.

§ 45.9 Automatic authorization of certain interlocking positions.

(a) *Applicability.* Subject to paragraphs (b) and (c) of this section, the Commission authorizes any officer or director of a public utility to hold the following interlocking positions:

- (1) Officer or director of one or more other public utilities if 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) 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 generating facilities to provide transmission service or electric power for sale to its owners; and
- (3) Officer or director of more than one public utility, if such officer or director is already authorized under this part to hold different positions as officer or director of those utilities where the interlock involves affiliated public utilities.

(b) *Conditions of authorization.* As a condition of authorization, any person authorized 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 is already authorized to hold interlocking positions of the type governed by this section. Failure to timely file the informational report will constitute a failure to satisfy this condition, and will constitute automatic denial.

(c) *Informational report.* An informational report required under paragraph (b) of this section must state:

- (1) The full name and business address of the person required to submit this report;
- (2) The names of all public utilities with which the person holds or will hold the positions of officer or director and a description of those positions;
- (3) The names of any entity, other than those listed in paragraph (c)(2) of this section, of which the person is an officer or director and a description of those positions; and
- (4) An explanation of the corporate relationship between or among the public utilities listed in paragraph (c)(2) of this section which qualifies the person for automatic

authorization under this section.

(5) A statement or an affirmation that the applicant has not yet performed or assumed the duties or responsibilities of the position which necessitated the filing of this informational report.

[Order 446, 51 FR 4905, Feb. 10, 1986, as amended by Order 664, 70 FR 55723, Sept. 23, 2005]

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

§ 46.3 Purchaser list.

(a) Compilation and filing list. On or before January 31 of each year, each public utility shall compile a list of the purchasers described in paragraph (b) of this section and shall identify each purchaser by name and principal business address. An original and two (2) copies of such list shall be filed with the Commission by the public utility and the list shall be made publicly available through its principal business office.

(b) Largest purchasers. The list required under paragraph (a) of this section shall include each purchaser who, during any of the three (3) preceding calendar years, purchased (for purposes other than resale) from a public utility one of the twenty (20) largest amounts of electric energy measured in kilowatt hours sold (for purposes other than resale) by such utility during such year.

(c) Special rules. If data for actual annual sales (for purposes other than resale) are not available in the records of the public utility, the utility may use estimates based on actual data available to it. If one purchaser maintains several billing accounts with the public utility, the kilowatt hours purchased in each account of that purchaser shall be aggregated to arrive at the total for that purchaser.

(d) Notification of largest purchasers. Each public utility shall notify by January 31 of each year each purchaser which has been identified on the list of largest purchasers under paragraph (b) of this section.

(e) Revision of the list. Each public utility relying upon any estimates for its January 31st filing, shall revise the list compiled under paragraph (b) of this

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section no later than March 1 of the year in which the list was originally filed to reflect actual data not available to the utility prior to that time. Any revised list shall be filed with the Commission and made publicly available through the utility's principal business office no later than March 1. A utility filing a revised list shall indicate thereon the changes made to the list previously filed under paragraph (b) of this section. On or before the filing and publication of the revised list, the public utility shall notify the newly-listed purchasers and any purchasers whose names were removed from the list.

[Order 67, 45 FR 3569, Jan. 18, 1980; 45 FR 6377, Jan. 28, 1980]

§ 46.2 Definitions.

For the purpose of this part:

(a) *Public utility* has the same meaning as in section 201(e) of the Federal Power Act and further includes any company which is part of a holding company system which includes a registered holding company unless no company in such system is an electric utility within the meaning of section 3 of the Federal Power Act. Such term does not include any rural electric cooperative which is regulated by the Rural Electrification Administration of the Department of Agriculture or any other entities covered in section 201(f) of the Federal Power Act.

(b) The following terms have the same meaning as in the Public Utility Holding Company Act of 1935:

(1) Holding company system; and

(2) Registered holding company.

(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 Electrification Administration of the Department of Agriculture.

(d) *Control* and *controlled* mean the possession, directly or indirectly, of the power to direct the management or policies of an entity whether such power is exercised through one or more intermediary companies or pursuant to an agreement, written or oral, and whether such power is established through ownership or voting of securities, or common

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directors, officers, or stockholders, or voting trusts, holding trusts, or debt holdings, or contract, or any other direct or indirect means. A rebuttable presumption that control exists arises from the ownership or the power to vote, directly or indirectly, ten percent (10%) or more of the voting securities of such entity.

(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 Electrification Administration of the Department of Agriculture.

(f) *Electrical equipment* means any apparatus, device, integral component, or integral part used in an activity which is electrically, electronically, mechanically, or by legal prescription necessary to the process of generation, transmission, or distribution of electric energy.¹

¹ Guidance in applying the definition of *electrical equipment* may be obtained by examining the items within the following accounts described in part 101, title 18 of the Code of Federal Regulations: Boiler/Reactor plant equipment (Accounts 312 and 322); Engines and engine driven generators (313); Turbogenerator units (314 and 323); Accessory electrical equipment (315, 324, 334 and 345); Miscellaneous power plant equipment (316, 325, 335 and 346); Water wheels, turbines and generators (333); Fuel holders, producers, and accessories (342); Prime movers (343); Generators (344); Station equipment (353 and 362); Poles, towers and fixtures (354, 355 and 364); Overhead conductors and devices (356 and 365); Underground conduit (357 and 366); Underground conductors and devices (358 and 367); Storage battery equipment (363); Line transformers (368); Services (369); Meters (370); Installation on customers' premises (371); Street lighting and signal systems (373); Leased property on customers' premises (372); and Communication equipment (397). Excepted from these accounts, are vehicles, structures, foundations, settings, and services.

(g) *Produces or supplies* means any transaction including a sale, lease, sale-leaseback, consignment, or any other transaction in which an entity provides electrical equipment, coal, natural gas, oil, nuclear fuel, or other fuel to any public utility either directly or through an entity controlled by such entity.

(h) *Appointee* means any person appointed on a temporary or permanent basis to perform any duties or functions described in §46.4(a).

(i) *Representative* means any person empowered, through oral or written agreement, to transact business on behalf of an entity and any person who serves as an advisor regarding policy or management decisions of the entity. The term does not include

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attorneys, accountants, architects, or any other persons who render a professional service on a fee basis.

§ 46.4 General rule.

A person must file with the Secretary of the Commission a statement in accordance with §46.6, and in the form specified in §131.31 of this chapter (except that with respect to calendar year 1980, no filings in the form specified in §131.31 is required if such person has previously filed the statement required for calendar year 1980 in a different form than specified in §131.31), if such person:

- (a) Serves for a public utility in any of the following positions: A director or a chief executive officer, president, vice president, secretary, treasurer, general manager, comptroller, chief purchasing agent, or any other position in which such person performs similar executive duties or functions for such public utility; and
- (b) Serves for any entity described in §46.5 in any of the positions described in paragraph (a) of this section or is a partner, appointee, or representative of such entity.

[45 FR 23418, Apr. 7, 1980, as amended by Order 140, 46 FR 22181, Apr. 16, 1981; Order 737, 75 FR 43404, July 26, 2010]

§ 46.5 Covered entities.

Entities to which the general rule in §46.4(b) applies are the following:

- (a) Any investment bank, bank holding company, foreign bank or subsidiary thereof doing business in the United States, insurance company, or any other organization primarily engaged in the business of providing financial services or credit, a mutual savings bank, or a savings and loan association;
- (b) Any entity which is authorized by law to underwrite or participate in the marketing of securities of a public utility;
- (c) Any entity which produces or supplies electrical equipment or coal, natural gas, oil, nuclear fuel, or other fuel, for the use of any public utility;
- (d) Any entity specified in §46.3;
- (e) Any entity referred to in section 305(b) of the Federal Power Act; and
- (f) Any entity which is controlled by any entity referred to in this section.

§ 46.6 Contents of the statement and procedures for filing.

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Each person required to file a written statement under the general rule in §46.4 shall comply with the following requirements:

(a) Each person shall provide the following information: full name and business address; identification of the public utilities and the covered entities in which such person holds executive positions described in §46.4; and identification of the interlock described in §46.4;

(b) If the interlock is between a public utility and an entity described in §46.5(c), which produces or supplies electrical equipment for use of such public utility, such person shall provide the following information:

(1) The aggregate amount of revenues received by such entity from producing or supplying electrical equipment to such public utility in the calendar year specified in paragraph (d) of this section, rounded up to the nearest \$100,000; and

(2) The nature of the business relationship between such public utility and such entity.

(c) If the person is authorized by the Commission to hold the positions of officer or director in accordance with part 45, such person shall identify the authorization by docket number and shall give the date of authorization.

(d)(1) Each person shall file an original and one copy of such written statement with the Office of Secretary of the Commission on or before April 30 of each year immediately following the calendar year during any portion of which such person held a position described in §46.4. The original of such statement shall be dated and signed by such person. The copy shall bear the date that appeared on the original; the signature on the copy may be stamped or typed on the copy.

(2) Instead of submitting changes to the Commission on the pre-printed Form No. 561 sent annually by the Commission, a person may choose to make changes to the pre-filled electronic version provided by the Commission. This electronic version, along with the signed original and one copy (as required by Paragraph (d)(c)) shall also be filed with the Commission.

(3) Such statement shall be available to the public through the Commission's eLibrary system on <http://www.ferc.gov> and shall be made publicly available through the principal business offices of the public utility and any entity to which it applies on or before April 30 of the year the statement was filed with the Commission.

(Pub. L. 96-511, 94 Stat. 2812 (44 U.S.C. 3501 *et seq.*))

[45 FR 23418, Apr. 7, 1980, as amended by Order 601, 63 FR 72169, Dec. 31, 1998; Order 737, 75 FR 43404, July 26, 2010]