

**SUPPLEMENTAL SUPPORTING STATEMENT FOR
FERC FORM 423 Monthly Report of Cost and Quality of Fuels for Electric Plants**

Request is made for a three-year extension (through 5/31/2010) of OMB approval for FERC Form 423 (Form 423), "Monthly Report of Cost and Quality of Fuels for Electric Plants," which expires 5/31/2007.

A. Justification

1. CIRCUMSTANCES THAT MAKE THE COLLECTION OF INFORMATION NECESSARY

The Form 423 information collection is conducted pursuant to Sections 205 and 206 of the Federal Power Act (FPA) as amended by Section 208 of the Public Utility Regulatory Policy Act of 1978 (PURPA) (Attachments A and B). The Commission collects basic cost and quality of fuels data at electric generating plants on the Form 423 and has used such data to conduct fuel reviews, rate investigations and to track market changes and trends. The Federal Energy Regulatory Commission's (FERC/Commission) Form 423 filing requirements are found at 18 CFR Section 141.61 (Attachment C).

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

Through the Form 423, the Commission collects, from every electric power producer having electric generating plants with a rated capacity of 50 megawatts or greater, monthly data on the cost and quality of fuel delivered to each generating plant. The Form 423 is required to be submitted to the Commission no later than 45 days after the end of the reporting month. Currently, there are approximately 569 generating plants filing with the Commission (this is a reduction from the last OMB clearance of 636 plants).

Form 423 data has been used by the Commission staff to conduct mandated fuel reviews rate investigations under Section 205 and 206 of the FPA, to analyze the performance of the electric wholesale market, in affiliate preference determinations and to evaluate policy issues. The data is also used by other government agencies to track the supply, disposition and prices of fuel on a regional and national basis, to determine the environmental effects of power generated by various fuels, and by the public in determining how fuel costs affect electricity rates. Without the Form 423 data, the Commission would not have the necessary information available to fulfill its mandated responsibilities under the FPA. However, as the Commission and the electric industry

are moving from traditional cost-based rates to market-based rates for power sales, the Commission continues to assess the need for the Form 423 data. Growing reliance on market-based regulation would place the Commission in a more responsive, as opposed to command-and-control regulatory posture, making the collection of real-time market data critical for future consumer protection under the FPA. Under traditional cost-based regulation, where the Commission establishes a cost-based rate for a particular public utility, the Commission requires the utility to periodically file cost-based information useful to the rate-setting process. Under market based-pricing, certain cost-based data may become less important to the Commission however; the Commission must still ensure that market participants do not exercise market power. The Commission will therefore need to increase its market monitoring oversight of wholesale power and refine its capabilities to handle market manipulation complaints.

The Commission recognizes that electric, natural gas, and oil pipeline markets are not fully competitive in all areas of the country. In those areas where competitive market forces are not sufficient to protect against the abuse of market power, the Commission is working to ensure that the market is functioning well. A well functioning market will be flexible and liquid, with prices becoming more responsive to changing conditions and prices for a commodity tending to converge. Transactions in the market will be easier and less costly as the market becomes more transparent. As the electric industry progresses from cost-of-service regulated markets toward fully competitive markets, the need to collect this data diminishes.

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

At present, the one page Form 423 is submitted to the Commission electronically on a monthly basis. Since electronic filing has been implemented, the Commission sees no additional opportunities to reduce burden.

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 2.

Filing requirements are periodically reviewed as OMB review dates occur or as the Commission deems necessary in carrying out its regulatory responsibilities under the FPA. The Commission is obligated by statute to regulate key economic aspects of the electric, natural gas and oil industries. The Commission needs the 423 data to meet these obligations and collects this data because there is no other source of this data.

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

This data collection imposes the least possible burden on small entities while collecting the information necessary for the Commission to carry out its responsibilities under Sections 205 and 206 of the FPA as amended by Section 208 of PURPA.

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

Monthly collection of the Form 423 data makes it possible to discern instances in which a utility's fuel costs deviate significantly from existing market prices. If the fuel cost data were gathered less frequently than on a monthly basis, the Commission and utilities would lose the ability to identify these cost deviations in a timely manner. These deviations may be significant since fuel costs in a utility's rates are generally based on estimates, and are a major component of the cost of generating electricity.

Complaint proceedings involving existing formula rates on file, require the Commission to make timely decisions, usually within a 60-day time period from when the complaint was filed. This tight time-frame requires the monthly filing of Form 423 information for not only timely but accurate and fair decisions. If the collection were conducted less frequently, the Commission would be unable to carry-out this act.

7. EXPLAIN ANY SPECIAL CIRCUMSTANCES RELATING TO THE INFORMATION COLLECTION

There are no special circumstances relating to the collection of this information.

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

The notice of proposed information collection and request for comments was published in the Federal Register on September 22, 2006 and generated comments from the Edison Electric Institute (EEI), the American Public Power Association (APPA), the American Electric Power Service Corp. (AEP), and the United States Combined Heat and Power Association (USCHPA). The comments concerned the following: the need for confidential treatment of the Form 423 data; eliminating some of the data collected; preference for the use of the FERC filing software over that of the Energy Information

Administration's (EIA), should the collections be combined; providing continued access to the utility's own past filed data; and allowing utilities to report prior period settlement amounts without adding them to the current month's costs or filing multiple month revisions.

Comments: AEP stated that they participate in numerous fuel supply agreements which are confidential in nature and that making the Form 423 data publicly available potentially places them at a competitive disadvantage. Similarly, EEI contends that the Form 423 data is commercially sensitive and that releasing it will erode the benefits of the wholesale competitive market. EEI also suggests that the Commission consider whether it should continue collecting any or all of the Form 423 data.

APPA and USCHPA were supportive of the Commission's request to continue the Form 423 data collection and the continued public disclosure of the data. APPA disagrees with EEI and AEP that respondents will be harmed by continuing to make the Form publicly available. APPA contends that, the case to keep the data confidential has not been convincing. They state that a considerable body of case law exists that supports the regulatory agencies right to collect and disseminate data.

Commission's Response: With regard to the elimination of some of the data collected, EEI has not indicated what specific information could be eliminated. Rather, it would seem that the real focus of EEI's concerns are that certain data should be treated as confidential, because in EEI's view this data is commercially sensitive. The data collected is the minimum necessary to conduct fuel reviews and investigations to ensure that rates charged to wholesale electric rate customers continue to be just and reasonable and to protect customers from undue discrimination. Thus, the continued collection of all of this data is important as long as respondents continue to have wholesale power sales contracts containing FACs that automatically track changes in fuel costs, cost based rates with fuel cost recovery components, and/or retain some form of control over other power market participants. As noted above, however, the Commission recognizes the need to conduct, and will continue to conduct, reviews of its data collection activities in light of changes in the electric market and corresponding regulatory programs and based on those reviews will modify its data collections as appropriate.

While the Commission understands the desire of some of the respondents to keep the data in the Form 423 confidential, it is necessary that this data continue to be publicly reported for two reasons. First, the Commission and other government agencies need this data to carry out their statutory responsibilities (e.g., to ensure that the rates are just and reasonable and customers are protected from undue discrimination). Second, withholding this data denies ratepayers the information they need to evaluate whether the rates they

are being charged are excessive or whether they are victims of undue discrimination.

Comment: EEI expresses the concerns of utilities over whether they will have continued access to their own past filed data.

Commission's Response: The Commission has no plans to change its policy, and acknowledges EIA's present policy to allow utilities access to their previously filed data.

Comment: EEI encourages the Commission to modify the Form to allow companies to report prior period settlement amounts without either adding them to the current month's costs or filing multiple month revisions. Such settlements can span multiple years but have only minor impacts on monthly costs previously filed. On the other hand, says EEI, including such multi-year settlement amounts in a current month filing can distort that month's costs.

Commission's Response: The Commission feels that settlements should be reflected in the months to which they pertain. This methodology accurately reflects the actual purchases. While, spread out over a period of months, cost changes could be small, however, they are necessary to ensure the accuracy of the data. Reporting these settlements as lump sums within one month's report would distort that month's costs. EEI offers no third alternative to consider.

Comment: EEI states their member utilities are concerned about the possible transfer of the Commission's Form 423 collection responsibilities to EIA because they feel the parameter checks that EIA employs, trigger "unnecessary requests for further information" from member utilities.

Commission's Response: Without an example or more detail, we are uncertain as to what EEI's members are referring to in this comment. However, for example, with regard to fuel costs, the parameters EIA uses in their 423 software are adjusted with rising and falling fuel prices. Costs outside of EIA's set bounds justifiably trigger inquiries. The bounds are set so that EIA can carry out their Congressional mandate to collect the most accurate information possible.

Comment: EEI states that because the FERC Form 423 and EIA Form 423 are filed by separate, non-overlapping groups of respondents, there does not appear to be a "reduction in burden" benefit to having current FERC Form 423 respondents file the information at EIA instead.

Commission's Response: EIA and the Commission both staff teams to manage their collection of these data. Many of the same duties are duplicated, for instance both have programmers to handle any electronic filing issues. If EIA alone collects the information,

EIA's programming staff will not have to be doubled in size, instead, the small incremental amount of additional work they would have to pick up might be handled by their current staff or at the most, a small increase in staffing would be able to manage.

The most significant benefit of EIA collecting the Commission's 423 information along with their own non-utility 423 information is that many users of this information will be able to look at all categories of generators together, simplifying a process where they are frequently combining FERC and EIA data to provide complete coverage. Having the data collected by a single entity would speed the public release of data, provide more timely access to it and result in more reliable data. However, it should be noted that at this time, the Commission has not made a final determination of transferring its 423 information to EIA.

9. EXPLAIN ANY PAYMENT OR GIFTS TO RESPONDENTS

No gifts or payments have been made to the respondents.

10. DESCRIBE ANY ASSURANCE OF CONFIDENTIALITY PROVIDED TO RESPONDENTS

This is addressed fully in item 8 above.

11. PROVIDE ADDITIONAL JUSTIFICATION FOR ANY QUESTIONS OF A SENSITIVE NATURE THAT ARE CONSIDERED PRIVATE.

There are no questions of a sensitive nature that are considered private.

12. ESTIMATED BURDEN OF COLLECTION OF INFORMATION

18 CFR Section 141.61 of the Commission's regulations require electric power producers having electric generating plants with a rated capacity of 50 MW or greater during a reporting month to file Form 423 data on or before the 45th day after the end of each reporting month. Each month, Form 423 data is submitted by approximately 569 electric generating plants. Over the last six years, the average number of submittals received each month by the Commission has declined from 735 to 569 because of mergers and disposition of various utility's generating assets, plant retirements and the transfer of generating assets to power marketers and other entities with market-based rate authority who have been granted a waiver of the Commission's reporting requirements.

Through extensive staff involvement with this form, it is estimated that the burden hours will range from 0.50 hours for smaller utilities with just a few plants to report, to 1.5

hours for utilities with a larger number of plants to report, resulting in an average overall response time of about 1 hour. The frequency of the response is monthly.

Estimated number of respondents		569 respondents
Estimated number of hours per response		1
	hour/response	
Frequency of responses		12/year
Total estimated annual burden		6,828
	burden hours	
Burden hours in OMB Inventory		7,008
	burden hours	
Adjustment Change:		
		-180 burden hours

13. ESTIMATE OF THE TOTAL ANNUAL COST BURDEN TO RESPONDENTS

Total		Number of
		Cost per
		Total
Respondent		÷
		Hours
		per
		x
		Staff
		Annua
		lized
<u>Burden Hours</u>		<u>Staff year</u>

	<u>Employee¹</u> = <u>Cost</u>
6,828	<div style="display: flex; justify-content: space-between;"> <div style="text-align: right;">÷</div> <div style="text-align: right;">2,080</div> </div> <div style="display: flex; justify-content: space-between;"> <div style="text-align: right;">x</div> <div style="text-align: right;">\$117,321</div> </div> <div style="display: flex; justify-content: space-between;"> <div style="text-align: right;">=</div> <div style="text-align: right;">\$385,128</div> </div>

14. ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT

(a) Forms Clearance Review	\$ 6,155
(b) Dissemination of data (1.6 FTE)	\$187,714
Year of Operation	\$193,869

The estimate of the cost to the Federal Government is based on salaries for professional and clerical support, as well as direct and indirect overhead costs.

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

The total annual estimated number of burden hours for all respondents has been reduced from 7,008 to 6,828 due to mergers and dispositions of various utility’s generating assets, plant retirements and the sale or transfer of generating assets to power marketers and other entities with market-based rate authority who have been granted a waiver of the Commission's reporting requirements.

16. TIME SCHEDULE FOR THE PUBLICATION OF DATA

Form 423 data are made available within 48 hours after filing through the Commission’s online e-Library repository.

17. DISPLAY OF EXPIRATION DATE

An expiration date is shown on Form 423 which can be downloaded from the Commission’s website: <http://www.ferc.gov/docs-filing/eforms/form-423/form-423.pdf>

1 The "Cost per Staff Employee" estimate is based on the estimated annual allocated cost per Commission employee for Fiscal year 2006. The estimated \$117,321 "cost" consists of approximately \$96,235 in salaries and benefits and \$ 21,086 in overhead.

The Commission meets the other conditions as specified in 5 CFR 1320.5(d) with the exception of (d)(2)(i) submission of data on a quarterly basis which has been addressed above in this submission.

18. EXCEPTIONS TO THE CERTIFICATION STATEMENT

There is an exception to the Paperwork Reduction Act Submission Certification. Because the data collected for this reporting requirement is not used for statistical purposes, the Commission does not use as stated in item 19(i) "effective and efficient statistical survey methodology." 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. 205. RATES AND CHARGES; SCHEDULES; SUSPENSION OF NEW RATES

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Rates and Charges; Schedules; Suspension of New Rates

Sec. 205. (a) All rates and charges made, demanded, or received by any public utility for or in connection with the transmission or sale of electric energy subject to the jurisdiction of the Commission, and all rules and regulations affecting or pertaining to such rates or charges shall be just and reasonable, and any such rate or charge that is not just and reasonable is hereby declared to be unlawful.

(b) No public utility shall, with respect to any transmission or sale subject to the jurisdiction of the Commission, (1) make or grant any undue preference or advantage to any person or subject any person to any undue prejudice or disadvantage, or (2) maintain any unreasonable difference in rates, charges, service, facilities, or in any other respect, either as between localities or as between classes of service.

(c) Under such rules and regulations as the Commission may prescribe, every public utility shall file with the Commission, within such time and in such form as the Commission may designate, and shall keep open in convenient form and place for public inspection schedules showing all rates and charges for any transmission or sale subject to the jurisdiction of the Commission, and the classification, practices, and regulations affecting such rates and charges, together with all contracts which in any manner affect or relate to such rates, charges, classifications, and services.

(d) Unless the Commission otherwise orders, no change shall be made by any public utility in any such rates, charges, classification, or service, or in any rule, regulation, or contract relating thereto, except after sixty days' notice to the Commission and to the public. Such notice shall be given by filing with the Commission and keeping open for public inspection new schedules stating plainly the change or changes to be made in the schedule or schedules then in force and the time when the change or changes will go into effect. The Commission, for good cause shown, may allow changes to take effect without requiring the sixty days' notice herein provided for by an order specifying the changes so to be made and the time when they shall take effect and the manner in which they shall be filed and published.

(e) Whenever any such new schedule is filed the Commission shall have authority, either upon complaint or upon its own initiative without complaint at once, and, if it so orders, without answer or formal pleading by the public utility, but upon reasonable notice to enter upon a hearing concerning the lawfulness of such rate, charge, classification, or service; and, pending

such hearing and the decision thereon the Commission, upon filing with such schedules and delivering to the public utility affected thereby a statement in writing of its reasons for such suspension, may suspend the operation of such schedule and defer the use of such rate, charge, classification, or service, but not for a longer period than five months beyond the time when it would otherwise go into effect; and after full hearings, either completed before or

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after the rate, charge, classification, or service goes into effect, the Commission may make such orders with reference thereto as would be proper in a proceeding initiated after it had become effective. If the proceeding has not been concluded and an order made at the expiration of such five months, the proposed change of rate, charge, classification, or service shall go into effect at the end of such period, but in case of a proposed increased rate or charge, the Commission may by order require the interested public utility or public utilities to keep accurate account in detail of all amounts received by reason of such increase, specifying by whom and in whose behalf such amounts are paid, and upon completion of the hearing and decision may by further order require such public utility or public utilities to refund, with interest, to the persons in whose behalf such amounts were paid, such portion of such increased rates or charges as by its decision shall be found not justified. At any hearing involving a rate or charge sought to be increased, the burden of proof to show that the increased rate or charge is just and reasonable shall be upon the public utility, and the Commission shall give to the hearing and decision of such questions preference over other questions pending before it and decide the same as speedily as possible.

(f)(1) Not later than 2 years after the date of the enactment of this subsection and not less often than every 4 years thereafter, the Commission shall make a thorough review of automatic adjustment clauses in public utility rate schedules to examine--

(A) whether or not each such clause effectively provides incentives for efficient use of resources (including economical purchase and use of fuel and electric energy), and

(B) whether any such clause reflects any costs other than costs which are--

(i) subject to periodic fluctuations and

(ii) not susceptible to precise determinations in rate cases prior to the time such costs are incurred.

Such review may take place in individual rate proceedings or in generic or other separate proceedings applicable to one or more utilities.

(2) Not less frequently than every 2 years, in rate proceedings or in generic or other separate proceedings, the Commission shall review, with respect to each public utility, practices under any automatic adjustment clauses of such utility to insure efficient use of resources (including economical purchase and use of fuel and electric energy) under such clauses.

(3) The Commission may, on its own motion or upon complaint, after an opportunity for an evidentiary hearing, order a public utility to--

(A) modify the terms and provisions of any automatic adjustment clause, or

(B) cease any practice in connection with the clause, if such clause or practice does not result in the economical purchase and use of fuel, electric

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energy, or other items, the cost of which is included in any rate schedule under an automatic adjustment clause.

(4) As used in this subsection, the term "automatic adjustment clause" means a provision of a rate schedule which provides for increases or decreases (or both), without prior hearing, in rates reflecting increases or decreases (or both) in costs incurred by an electric utility. Such term does not include any rate which takes effect subject to refund and subject to a later determination of the appropriate amount of such rate.

ATTACHMENT B

FPA, SEC. 206. FIXING RATES AND CHARGES; DETERMINATION OF COST OF PRODUCTION OR TRANSPORTATION

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Fixing Rates and Charges; Determination of Cost of Production or Transportation

Sec. 206. (a) Whenever the Commission, after a hearing held upon its own motion or upon complaint, shall find that any rate, charges, or classification, demanded, observed, charged, or collected by any public utility for any transmission or sale subject to the jurisdiction of the Commission, or that any rule, regulation, practice, or contract affecting such rate, charge, or classification is unjust, unreasonable, unduly discriminatory or preferential, the Commission shall determine the just and reasonable rate, charge, classification, rule, regulation, practice, or contract to be thereafter observed and in force, and shall fix the same by order. Any complaint or motion of the Commission to initiate a proceeding under this section shall state the change or changes to be made in the rate, charge, classification, rule, regulation, practice, or contract then in force, and the reasons for any proposed change or changes therein. If, after review of any motion or complaint and answer, the Commission shall decide to hold a hearing, it shall fix by order the time and place of such hearing and shall specify the issues to be adjudicated.

(b) Whenever the Commission institutes a proceeding under this section, the Commission shall establish a refund effective date. In the case of a proceeding instituted on complaint, the refund effective date shall not be earlier than the date of the filing of such complaint or later than 5 months after the filing of such complaint. In the case of a proceeding instituted by the Commission on its own motion, the refund effective date shall not be earlier than the date of the publication by the Commission of notice of its intention to initiate such proceeding nor later than 5 months after the publication date. Upon institution of a proceeding under this section, the Commission shall give to the decision of such proceeding the same preference as provided under section 205 of this Act and otherwise act as speedily as possible. If no final decision is rendered by the conclusion of the 180-day period commencing upon

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initiation of a proceeding pursuant to this section, the Commission shall state the reasons why it has failed to do so and shall state its best estimate as to when it reasonably expects to make such decision. In any proceeding under this section, the burden of proof to show that any rate, charge, classification, rule, regulation, practice, or contract is unjust, unreasonable, unduly discriminatory, or preferential shall be upon the Commission or the complainant. At the conclusion of any proceeding under this section, the Commission may order refunds of any amounts paid, for the period subsequent to the refund effective date through a date fifteen months after such refund effective date, in excess of those which would have been paid under the just and reasonable rate, charge, classification, rule, regulation, practice, or contract which

the Commission orders to be thereafter observed and in force: *Provided*, That if the proceeding is not concluded within fifteen months after the refund effective date and if the Commission determines at the conclusion of the proceeding that the proceeding was not resolved within the fifteen-month period primarily because of dilatory behavior by the public utility, the Commission may order refunds of any or all amounts paid for the period subsequent to the refund effective date and prior to the conclusion of the proceeding. The refunds shall be made, with interest, to those persons who have paid those rates or charges which are the subject of the proceeding.

(c) Notwithstanding subsection (b), in a proceeding commenced under this section involving two or more electric utility companies of a registered holding company, refunds which might otherwise be payable under subsection (b) shall not be ordered to the extent that such refunds would result from any portion of a Commission order that (1) requires a decrease in system production or transmission costs to be paid by one or more of such electric companies; and (2) is based upon a determination that the amount of such decrease should be paid through an increase in the costs to be paid by other electric utility companies of such registered holding company: *Provided*, That refunds, in whole or in part, may be ordered by the Commission if it determines that the registered holding company would not experience any reduction in revenues which results from an inability of an electric utility company of the holding company to recover such increase in costs for the period between the refund effective date and the effective date of the Commission's order. For purposes of this subsection, the terms "electric utility companies" and "registered holding company" shall have the same meanings as provided in the Public Utility Holding Company Act of 1935, as amended.

(d) The Commission upon its own motion, or upon the request of any State commission whenever it can do so without prejudice to the efficient and proper conduct of its affairs, may investigate and determine the cost of the production or transmission of electric energy by means of facilities under the jurisdiction of the Commission in cases where the Commission has no authority to establish a rate governing the sale of such energy.

(e)(1) In this subsection:

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(A) The term 'short-term sale' means an agreement for the sale of electric energy at wholesale in interstate commerce that is for a period of 31 days or less (excluding monthly contracts subject to automatic renewal).

(B) The term 'applicable Commission rule' means a Commission rule applicable to sales at wholesale by public utilities that the Commission determines after notice and comment should also be applicable to entities subject to this subsection.

(2) If an entity described in section 201(f) voluntarily makes a short-term sale of electric energy through an organized market in which the rates for the sale are established by Commission-

approved tariff (rather than by contract) and the sale violates the terms of the tariff or applicable Commission rules in effect at the time of the sale, the entity shall be subject to the refund authority of the Commission under this section with respect to the violation.

(3) This section shall not apply to--

(A) any entity that sells in total (including affiliates of the entity) less than 8,000,000 megawatt hours of electricity per year; or

(B) an electric cooperative.

(4)(A) The Commission shall have refund authority under paragraph (2) with respect to a voluntary short term sale of electric energy by the Bonneville Power Administration only if the sale is at an unjust and unreasonable rate.

(B) The Commission may order a refund under subparagraph (A) only for short-term sales made by the Bonneville Power Administration at rates that are higher than the highest just and reasonable rate charged by any other entity for a short-term sale of electric energy in the same geographic market for the same, or most nearly comparable, period as the sale by the Bonneville Power Administration.

(C) In the case of any Federal power marketing agency or the Tennessee Valley Authority, the Commission shall not assert or exercise any regulatory authority or power under paragraph (2) other than the ordering of refunds to achieve a just and reasonable rate

ATTACHMENT C

FPA, Regulations 18 CFR Sec. 141.61 FERC Form No. 423, Monthly report of cost and quality of fuels for electric plants.

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§141.61 FERC Form No. 423, Monthly report of cost and quality of fuels for electric plants.

(a) *Who must file.* Every electric power producer having electric generating plants with a stream-electric generating capacity of 50 megawatts or greater during the reporting month must file with the Federal Energy Regulatory Commission for each such plant the FERC Form No. 423, "Monthly Report of Cost and Quality of Fuels for Electric Plants," pursuant to the General Instructions set out in this form.

(b) *When to file and what to file.* This report must be filed on or before the 45th day after the end of each reporting month. This report must be filed

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with the Federal Energy Regulatory Commission as prescribed in §385.2011 of this chapter and as indicated in the General Instructions set out in this form, and must be properly completed and verified. Filing on electronic media pursuant to §385.2011 of this chapter will be required commencing with the report required to be submitted for the reporting month of January 2002.