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Docket Nos. PL15-3

Item No. E-4

FERC Proposes Policy Statement on Hold-Harmless Commitments

The Federal Energy Regulatory Commission (FERC) today proposed a policy statement clarifying several aspects of hold harmless commitments offered by applicants to mitigate adverse rate impacts from certain transactions under section 203 of the Federal Power Act (FPA). The impact on rates for wholesale requirements and transmission customers is one factor that FERC considers in reviewing mergers and other FPA section 203 transactions.

Under the proposed policy statement, applicants retain the burden of showing that the transaction does not have an adverse effect on rates. However, FERC no longer would accept hold harmless commitments that are limited in duration, and the proposed policy statement clarifies the scope and definition of the costs that should be subject to these commitments, as well as the appropriate internal controls and procedures for tracking the costs.

The proposed policy statement clarifies that an applicant may demonstrate that, under certain circumstances, a transaction will not have an adverse effect on rates without relying on hold harmless commitments or other ratepayer protection measures.

For example, the proposed policy statement notes that hold harmless commitments may not be appropriate in transactions that involve the acquisition of existing jurisdictional facilities by a traditional franchised utility seeking to satisfy resource adequacy requirements at the state level, improve system reliability, and/or meet other regulatory requirements. In this and other similar circumstances, the transaction may have an effect on rates, but that effect may not be adverse.

Comments on the proposed policy statement are due 60 days from the date of publication in the *Federal Register*.

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