## Federal Energy Regulatory Commission § 42.1

file with the Commission a letter or re- port of the independent accountant certifying approval, together with or within 30 days after the filing of the Annual Report, Form No. 1, covering the subjects and in the form prescribed in the General Instructions of the An- nual Report. For such utility or li- censee operating on a non-calendar fis- cal year, the letter or report of the independent accountant certifying ap- proval must be filed within 150 days of the close of the company’s fiscal year; the letter or report must also identify which, if any, of the examined sched- ules do not conform to the Commis- sion’s requirements and shall describe the discrepancies that exist. The Com- mission will not be bound by a certifi- cation of compliance made by an inde- pendent accountant pursuant to this paragraph.

[73 FR 58736, Oct. 7, 2008]

### § 41.12 Qualifications of accountants.

The Commission will not recognize any certified public accountant or pub- lic accountant through December 31, 1975, who is not in fact independent. Beginning January 1, 1976, and each year thereafter, the Commission will recognize only independent certified public accountants, or independent li- censed public accountants who were li- censed on or before December 31, 1970, who are in fact independent. For exam- ple, an accountant will not be consid- ered independent with respect to any person or any of its parents or subsidi- aries in whom he has, or had during the period of report, any direct financial interest. The Commission will deter- mine the fact of independence by con- sidering all the relevant circumstances including evidence bearing on the rela- tionships between the accountant and that person or any affiliate thereof.

[Order 462, 37 FR 26006, Dec. 7, 1972]

# PART 42—LONG-TERM FIRM TRANS- MISSION RIGHTS IN ORGANIZED ELECTRICITY MARKETS

AUTHORITY: 16 U.S.C. 791a–825r and section 217 of the Federal Power Act, 16 U.S.C. 824q.

SOURCE: Order 681, 71 FR 43619, Aug. 1, 2006,

unless otherwise noted.

### § 42.1 Requirement that Transmission Organizations with Organized Elec- tricity Markets Offer Long-Term Firm Transmission Rights.

1. *Purpose.* This section requires a transmission organization with one or more organized electricity markets (administered either by it or by an- other entity) to make available long- term firm transmission rights, pursu- ant to section 217(b)(4) of the Federal Power Act, that satisfy each of the guidelines set forth in paragraph (d) of this section. This section does not re- quire that a specific type of long-term firm transmission right be made avail- able, and is intended to permit trans- mission organizations flexibility in satisfying the guidelines set forth in paragraph (d) of this section.
2. *Definitions.* As used in this sec- tion:
	1. *Transmission Organization* means a Regional Transmission Organization, Independent System Operator, inde- pendent transmission provider, or other independent transmission organi- zation finally approved by the Commis- sion for the operation of transmission facilities.
	2. *Load serving entity* means a dis- tribution utility or an electric utility that has a service obligation.
	3. *Service obligation* means a require- ment applicable to, or the exercise of authority granted to, an electric util- ity under Federal, State, or local law or under long-term contracts to pro- vide electric service to end-users or to a distribution utility.
	4. *Organized Electricity Market* means an auction-based day ahead and real time wholesale market where a single entity receives offers to sell and bids to buy electric energy and/or ancillary services from multiple sellers and buy- ers and determines which sales and purchases are completed and at what prices, based on formal rules contained in Commission-approved tariffs, and where the prices are used by a trans- mission organization for establishing transmission usage charges.
3. *General rule.* (1) Every public util- ity that is a transmission organization and that owns, operates or controls fa- cilities used for the transmission of electric energy in interstate commerce

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and has one or more organized elec- tricity markets (administered either by it or by another entity) must file with the Commission, no later than January 29, 2007, one of the following:

1. Tariff sheets and rate schedules that make available long-term firm transmission rights that satisfy each of the guidelines set forth in paragraph
2. of this section; or
3. An explanation of how its current tariff and rate schedules already pro- vide for long-term firm transmission rights that satisfy each of the guide- lines set forth in paragraph (d) of this section.
4. Any transmission organization ap- proved by the Commission for oper- ation after January 29, 2007 that has one or more organized electricity mar- kets (administered either by it or by another entity) will be required to sat- isfy this general rule.
5. Filings made in compliance with this paragraph (c) must explain how the transmission organization’s trans- mission planning and expansion proce- dures will accommodate long-term firm transmission rights, including but not limited to how the transmission or- ganization will ensure that allocated long-term firm transmission rights re- main feasible over their entire term.
6. Each transmission organization subject to this general rule must also make its transmission planning and ex- pansion procedures and plans publicly available, including (but not limited to) both the actual plans and any un- derlying information used to develop the plans.

(d) *Guidelines for Design and Adminis-*

*tration of Long-term Firm Transmission Rights.* Transmission organizations subject to paragraph (c) of this section must make available long-term firm transmission rights that satisfy the following guidelines:

1. The long-term firm transmission right should specify a source (injection node or nodes) and sink (withdrawal node or nodes), and a quantity (MW).
2. The long-term firm transmission right must provide a hedge against day-ahead locational marginal pricing congestion charges or other direct as- signment of congestion costs for the period covered and quantity specified. Once allocated, the financial coverage

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provided by a financial long-term right should not be modified during its term (the ‘‘full funding’’ requirement) ex- cept in the case of extraordinary cir- cumstances or through voluntary agreement of both the holder of the right and the transmission organiza- tion.

1. Long-term firm transmission rights made feasible by transmission upgrades or expansions must be avail- able upon request to any party that pays for such upgrades or expansions in accordance with the transmission orga- nization’s prevailing cost allocation methods for upgrades or expansions.
2. Long-term firm transmission rights must be made available with term lengths (and/or rights to renewal) that are sufficient to meet the needs of load serving entities to hedge long- term power supply arrangements made or planned to satisfy a service obliga- tion. The length of term of renewals may be different from the original term. Transmission organizations may propose rules specifying the length of terms and use of renewal rights to pro- vide long-term coverage, but must be able to offer firm coverage for at least a 10 year period.
3. Load serving entities must have

priority over non-load serving entities in the allocation of long-term firm transmission rights that are supported by existing capacity. The transmission organization may propose reasonable limits on the amount of existing capac- ity used to support long-term firm transmission rights.

1. A long-term transmission right held by a load serving entity to support a service obligation should be re-as- signable to another entity that ac- quires that service obligation.
2. The initial allocation of the long- term firm transmission rights shall not require recipients to participate in an auction.

# PART 45—APPLICATION FOR AU- THORITY TO HOLD INTER- LOCKING POSITIONS

Sec.

* 1. Applicability; who must file.
	2. Positions requiring authorization.
	3. Time of filing application.
	4. Supplemental applications.