

153 FERC ¶ 61,176
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Norman C. Bay, Chairman;
Cheryl A. LaFleur, Tony Clark,
and Colette D. Honorable.:

Revisions to Public Utility Filing
Requirements

Docket No. RM15-3-001

ORDER NO. 812-A

ORDER GRANTING CLARIFICATION

(Issued November 19, 2015)

1. On July 16, 2015, the Commission issued a Final Rule (Final Rule or Order No. 812)¹ in this proceeding that revised certain aspects of its regulations regarding FERC-566 (Annual Report of a Utility's 20 Largest Customers). In this order, we grant a request for clarification or, in the alternative, rehearing filed by Dominion Resources Services, Inc. (Dominion), pursuant to section 313 of the Federal Power Act (FPA),² of the Final Rule.

I. Background

2. In the Final Rule, the Commission eliminated the requirement to submit FERC-566 for regional transmission organizations, independent system operators, and exempt wholesale generators (EWG). The Commission also eliminated the requirement to submit FERC-566 for public utilities that have not made any reportable sales under FERC-566 in any of the three preceding years. In addition, the Commission eliminated the requirement for public utilities submitting FERC-566 to identify individual residential customers by name and address.

¹ *Revisions to Public Utility Filing Requirements*, Order No. 812, 80 Fed. Reg. 43,619 (July 23, 2015), FERC Stats. & Regs. ¶ 32,704 (2015) (cross-referenced at 152 FERC ¶ 61,032).

² 16 U.S.C. § 825l (2012).

II. Dominion's Filing

3. Dominion provides various management services to Dominion Resources, Inc. (Dominion Resources) and its affiliates. Dominion Resources, a holding company, owns subsidiaries that own and operate several EWGs and qualifying facilities (QF), and that also own facilities that are both EWGs and QFs (EWG/QF). All of Dominion Resource's EWG/QFs make sales pursuant to power purchase agreements.

4. On August 17, 2015, Dominion filed a request for clarification or, in the alternative, rehearing of the Final Rule. Specifically, Dominion requests that the Commission clarify that an entity that is an EWG/QF is not required to file FERC-566. Dominion notes that, in the Final Rule, the Commission explained that an EWG is exempt from the FERC-566 filing requirement because it can only sell electric energy at wholesale, whereas the relevant statutory provision, FPA section 305(c),³ expressly seeks to acquire information about purchasers of electric energy who purchased "for purposes other than resale."⁴ Dominion states that the Commission specifically declined to grant Edison Electric Institute's request that QFs also be exempt from the FERC-566 filing requirement because QFs may in fact "make sales for purposes other than for resale."⁵ Dominion notes, however, that the Commission was silent as to whether an exemption applies to EWG/QFs.

5. Dominion states that it interprets the Final Rule as exempting EWG/QFs from the FERC-566 filing requirement for two reasons. Dominion submits that the fact that an EWG may also be a QF does not change the definitional requirement of being an EWG. Dominion also submits that exempting EWG/QFs from the FERC-566 filing requirement would be consistent with the Commission's determination in the Final Rule to exempt EWGs. Dominion reiterates that, like EWGs, EWG/QFs can only sell at wholesale, and requiring such entities to file FERC-566 would do nothing to satisfy the aforementioned statutory intent.

III. Discussion

6. We grant the request for clarification. We clarify that an entity that is an EWG/QF is exempt from the FERC-566 filing requirement, for the same reasons that an EWG

³ 16 U.S.C. § 825d(c) (2012).

⁴ Dominion Request for Clarification (citing Order No. 812, FERC Stats. & Regs. ¶ 32,704 at P 15).

⁵ *Id.* (citing Order No. 812, FERC Stats. & Regs. ¶ 32,704 at P 12).

standing alone is exempt from the FERC-566 filing requirement, i.e., the EWG/QF can only sell electric energy at wholesale, whereas FPA section 305(c) expressly seeks to acquire information about purchasers of electric energy who purchased “for purposes other than resale.”⁶

The Commission orders:

Dominion’s request for clarification is hereby granted, as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

⁶ 16 U.S.C. § 825d (2012).