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.

---


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), expressly seeks to acquire information about purchasers of electric energy who purchased “for purposes other than resale.”

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.”

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

---


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.”

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.

---