

SUBCHAPTER T—REGULATIONS UNDER SECTION 32 OF THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

PART 365—FILING REQUIREMENTS AND MINISTERIAL PROCEDURES FOR PERSONS SEEKING EXEMPT WHOLESALE GENERATOR STATUS

Sec.

- 365.1 Purpose.
- 365.2 Definitions.
- 365.3 Contents of application and procedure for filing.
- 365.4 Effect of filing.
- 365.5 Amendment of applications.
- 365.6 Commission action.
- 365.7 Notification of Commission action to the Securities and Exchange Commission.
- 365.8 Procedure for notifying Commission of material change in facts.

AUTHORITY: 15 U.S.C. 79.

SOURCE: Order 550, 58 FR 8906, Feb. 18, 1993, unless otherwise noted.

§ 365.1 Purpose.

The purpose of part 365 is to implement section 32 of the Public Utility Holding Company Act of 1935, as added by section 711 of the Energy Policy Act of 1992.

§ 365.2 Definitions.

(a) For the purpose of this part terms will have the same meaning as defined in the Public Utility Holding Company Act of 1935, as amended by the Energy Policy Act of 1992, except as provided in paragraph (b) of this section.

(b) For the purpose of this part:

(1) *Commission* means the Federal Energy Regulatory Commission; and

(2) *Receipt of an application* means the date on which the Commission receives the application or an amendment allowed for good cause shown and the applicable filing fee, if any; and

(3) *Affected State commission* means the State commission of each state in which a generating facility owned and/or operated by the applicant is located; each State commission regulating the retail rates of an electric utility that will purchase power from the applicant, if known at the time of application; and, each State commission regu-

lating a retail utility that is affiliated with the applicant.

[Order 550, 58 FR 8906, Feb. 18, 1993, as amended by Order 591, 61 FR 57327, Nov. 6, 1996]

§ 365.3 Contents of application and procedure for filing.

(a) A person seeking status as an exempt wholesale generator (applicant) must file with the Commission, and serve on the Securities and Exchange Commission and any affected State commission, the following:

(1) A sworn statement, by a representative legally authorized to bind the applicant, attesting to any facts or representations presented to demonstrate eligibility for EWG status, including:

(i) A representation that the applicant is engaged directly, or indirectly through one or more affiliates as defined in section 2(a)(11)(B) of the Public Utility Holding Company Act of 1935, and exclusively in the business of owning or operating, or both owning and operating, all or part of one or more eligible facilities and selling electric energy at wholesale;

(ii) Any exceptions for foreign sales of power at retail; and

(iii) If the applicant intends to satisfy the “and selling electric energy at wholesale” requirement of paragraph (a)(1)(i) as a person engaged exclusively in operating all or part of one or more eligible facilities, a representation that the operator has an agency relationship with the person (or persons) who sells electric energy at wholesale from the eligible facility (or facilities).

(2) A brief description of the facility or facilities which are or will be eligible facilities owned and/or operated by the applicant including:

(i) The related transmission interconnection components;

(ii) Any lease arrangements involving the facilities, including leases to one or more public utility companies; and

(iii) Any electric utility company that is an affiliate company or associate company of the applicant.