

FERC Issues Order No. 860: Changes Data Collection Requirements for Market Based Rate Sellers

by Steven A. Weiler and Zev Simpser

On July 18, 2019, the Federal Energy Regulatory Commission (“FERC”) issued Order No. 860, a final administrative rule that changes information submission requirements for “Sellers” with market-based rate (“MBR”) authorization. Notably, the rule establishes a “relational database” to collect from MBR Sellers information in a consolidated format, rendering the collected information more usable for data analytics and surveillance. Order No. 860 also

- Reduces ownership information that Sellers must provide as part of their MBR filings,
- Changes the information required in a Seller’s asset appendix, as well as the format through which such information must be submitted,
- Requires a Seller to update the relational database on a monthly basis to reflect any changes that have occurred, but extends the “change in status” filing requirement to a quarterly filing obligation, and
- Eliminates the requirement for Sellers to submit corporate organizational charts.

Significantly, the final rule does not adopt a proposal to collect information from Sellers and entities trading virtual products or holding financial transmission rights about their legal and financial connections to other entities -- so-called Connected Entity Information.

Although the final rule will be effective October 1, 2020, Sellers’ **initial submissions to the relational database will not be due until February 1, 2021**. Before those submissions are made, FERC will (1) post on its website a User Guide and a list of Frequently Asked Questions regarding the process for preparing and submitting information into the relational database, (2) make available a basic relational database test environment for submitters and software developers, and (3) conduct outreach with submitters and external software developers to facilitate feedback during the development/testing phase to fine-tune the relational database.

Commissioner McNamee did not participate in the voting on Order No. 860. Commissioner Glick supported creation of the relational database, but issued a partial dissent because he disagreed with the majority’s decision not to require the submission

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of Connected Entity Information, which he believes will hinder FERC's efforts to detect and deter manipulation.