

129 FERC ¶ 61,024  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

18 CFR Part 35

Docket No. RM09-24-000; Order No. 727

Interest Rates for Refunds

(Issued October 15, 2009)

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final Rule.

SUMMARY: The Commission is revising its regulations governing the interest rates used in calculating refunds. Because the Federal Reserve no longer publishes Statistical Release G. 13, which was previously referenced in the Commission's regulations, and Statistical Release G. 13 has been superseded by Statistical Release H. 15, this Final Rule revises the Commission's regulations to now reference the Federal Reserve's Statistical Release H. 15.

EFFECTIVE DATE: This rule will become effective October 15, 2009.

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SUPPLEMENTARY INFORMATION:

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FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;  
Sudeen G. Kelly, Marc Spitzer,  
and Philip D. Moeller.

Interest Rates for Refunds

Docket No. RM09-24-000

ORDER NO. 727

FINAL RULE

(Issued October 15, 2009)

**I. Discussion**

1. The Commission is revising its regulations governing the interest rates used in calculating refunds to reflect a change in the Federal Reserve's publications. Currently, the regulations reference the Federal Reserve's Statistical Release G. 13 for the calculation of the average prime rate for each calendar quarter used in determining refunds.<sup>1</sup> The Federal Reserve no longer publishes Statistical Release G. 13, and Statistical Release G. 13 has been superseded by Statistical Release H. 15.<sup>2</sup> Accordingly, this Final Rule revises the Commission's regulations to now refer to the Federal

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<sup>1</sup> 18 CFR 35.19a(a)(2)(iii)(A)(2009).

<sup>2</sup> Federal Reserve, Discontinuance of the G.13 (Sept. 4, 2001), <http://www.federalreserve.gov/releases/g13/g13note.htm>.

Reserve's Statistical Release H. 15. The methods for calculating refunds or for determining the applicable interest rates are not being altered in any way.

## **II. Information Collection Statement**

2. The Office of Management and Budget's (OMB) regulations require that OMB approve certain information collection requirements imposed by agency rule.<sup>3</sup> This Final Rule does not contain information collection requirements and is not subject to OMB approval.

## **III. Environmental Analysis**

3. The Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any action that may have a significant adverse effect on the quality of the human environment.<sup>4</sup> Issuance of this Final Rule does not represent a major federal action having a significant adverse effect on the quality of the human environment under the Commission's regulations implementing the National Environmental Policy Act of 1969. Part 380 of the Commission's regulations lists exemptions to the requirement to draft an Environmental Analysis or Environmental

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<sup>3</sup> 5 CFR Part 1320.

<sup>4</sup> Regulations Implementing the National Environmental Policy Act, Order No. 486, 52 FR 47897 (Dec. 17, 1987), FERC Stats. & Regs. ¶ 30,783 (1987).

Impact Statement. Included is an exemption for procedural, ministerial or internal administrative actions and management.<sup>5</sup> This rulemaking is exempt under that provision.

#### **IV. Regulatory Flexibility Act**

4. The Regulatory Flexibility Act of 1980 (RFA)<sup>6</sup> generally requires a description and analysis of final rules that will have significant economic impact on a substantial number of small entities. This final rule makes a ministerial correction to the regulations, correcting the reference to a Federal Reserve Statistical Release. The Commission certifies that it will not have a significant economic impact on a substantial number of small entities. An analysis under the RFA is not required.

#### **V. Document Availability**

5. In addition to publishing the full text of this document in the Federal Register, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the Internet through the Commission's Home Page (<http://www.ferc.gov>) and in the Commission's Public Reference Room during normal business hours (8:30 a.m. to 5:00 p.m. Eastern time) at 888 First Street, N.E., Room 2A, Washington D.C. 20426.

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<sup>5</sup> 18 CFR 380.4(1).

<sup>6</sup> 5 U.S.C. 601-12.

6. From the Commission's Home Page on the Internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

7. User assistance is available for eLibrary and the Commission's website during normal business hours from FERC Online Support at 202-502-6652 (toll free at 1-866-208-3676) or email at [ferconlinesupport@ferc.gov](mailto:ferconlinesupport@ferc.gov), or the Public Reference Room at (202) 502-8371, TTY (202)502-8659. E-mail the Public Reference Room at [public.referenceroom@ferc.gov](mailto:public.referenceroom@ferc.gov).

## **VI. Effective Date**

8. These regulations are effective October 15, 2009. In accordance with 5 U.S.C. 553(d)(3), the Commission finds that good cause exists to make this Final Rule effective immediately. It corrects an out-of-date reference in the Commission's regulations to reflect a change in the Federal Reserve's Statistical Releases. It will not significantly and adversely affect persons appearing before the Commission. There is therefore no reason to make this rule effective at a later time.

9. The Commission is issuing this rule as a Final Rule without a period for public comment. Under 5 U.S.C. 553(b), notice and comment procedures are unnecessary where a rulemaking concerns only agency procedure and practice, or where the agency

finds that notice and comment are unnecessary.<sup>7</sup> The Commission finds that notice and comment are unnecessary because the Commission is merely correcting a reference to a no longer published Federal Reserve Statistical Release. No new burden or regulatory requirement is imposed on regulated entities or the general public. Instead, this Final Rule merely updates an out-of-date reference in the Commission's regulations to reflect a change in the Federal Reserve's Statistical Releases.

List of subjects in 18 CFR Part 35

Electric power rates, Electric utilities, Reporting requirements.

By the Commission.

( S E A L )

Kimberly D. Bose,  
Secretary.

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<sup>7</sup> We similarly find that this rule does not substantially affect the rights or obligations of parties to Commission proceedings, since it merely corrects a reference to a no longer published Federal Reserve Statistical Release, and otherwise does not change the methods for calculating refunds or for determining the applicable interest rates. See 5 U.S.C. 804(3)(C).

In consideration of the foregoing, the Commission amends part 35, Chapter I, Title 18, Code of Federal Regulations, as follows:

**PART 35—FILING OF RATE SCHEDULES AND TARIFFS**

1. The authority citation for part 35 continues to read as follows:

**Authority:** 16 U.S.C. 791a–825r, 2601–2645; 31 U.S.C. 9701; 42 U.S.C. 7101–7352.

2. In section 35.19a, paragraph (a)(2)(iii)(A) is revised to remove the phrase

“Statistical Release G. 13” and to add the phrase “Statistical Release H. 15” in its place.