United States General Accounting Office

GAO

Report to the Chairman, Environment, Energy, and Natural Resources Subcommittee, Committee on Government Operations, House of Representatives

July 1993

# ELECTRICITY REGULATION

## Factors Affecting the Processing of Electric Power Applications



GAO/RCED-93-168

GAO

**United States**
**General Accounting Office**
**Washington, D.C. 20548**

**Resources, Community, and**
**Economic Development Division**

B-253405

July 23, 1993

The Honorable Mike Synar
Chairman, Environment, Energy, and
Natural Resources Subcommittee
Committee on Government Operations
House of Representatives

Dear Mr. Chairman:

This report responds to your request that we review the Federal Energy Regulatory Commission's (FERC) processing of applications for the approval of proposed wholesale electricity transactions. FERC is responsible for regulating the rates, terms, and conditions of these transactions—a growing portion of the nation's electricity business—as well as certain mergers and other transactions between utility companies. The Energy Policy Act of 1992 provided for changes in the electric utility industry that are likely to increase the number of wholesale transactions and expanded FERC's authority to regulate the transmission of electric energy.

Specifically, we identified (1) factors affecting the time that FERC takes to process electric power applications; (2) the potential effects of the 1992 act on FERC's work load, particularly the Commission's new authority to order utility companies to allow other electricity sellers to use the companies' transmission lines; and (3) potential procedural changes that could reduce the time needed to decide on applications.

## Results in Brief

The processing time for electric power applications depends primarily on the applications' characteristics, which determine the procedures FERC follows. About 80 percent of the 4,475 applications FERC processed during fiscal years 1990-92 were "routine": They did not raise factual, legal, or policy issues and were not contested by customers, other affected parties, or FERC staff.[1] These applications were decided on by the staff in FERC's Office of Electric Power Regulation (OEPR) within an average of 68 days from receipt. In contrast, the 919 nonroutine applications required a review and decision by the five FERC commissioners, who decided on 747 applications without a trial-type hearing in an average of 169 days. The remaining 172 nonroutine applications were scheduled for a trial-type

[1]FERC does not track applications but "dockets," generally defined as items before the Commission that require a decision. Depending on the issues raised in an application, FERC may create more than one docket.

hearing for resolution; while more than half were settled voluntarily, it took an average of roughly 2 years to decide on these applications.

The Energy Policy Act of 1992 is likely to increase the number of wholesale electricity sellers and transactions requiring FERC approval. Most importantly, because the act expanded FERC's authority to order utility companies to provide electricity transmission services, FERC is likely to begin receiving applications for such orders. Because its authority to issue such orders prior to the act was limited, FERC has little experience in this area. The effect of transmission applications on FERC's work load is difficult to determine. It depends in part on the volume and complexity of the applications and the extent to which parties reach voluntary agreements before submitting the applications to FERC.

Although FERC has taken actions to reduce the time needed for processing applications, our analysis suggests that further reductions are possible by (1) revising its method for tracking applications in its management information system to identify potential bottlenecks, (2) improving the accuracy of the applications received by analyzing the number of and reasons for incomplete applications, and (3) increasing the use of voluntary settlement procedures by adopting a policy as required by a 1990 law designed to encourage alternatives to lengthy trial-type hearings.

## Background

Under the Federal Power Act as amended, FERC—an independent regulatory commission within the Department of Energy—is responsible for ensuring that the rates (prices), terms, and conditions of wholesale electricity transactions are "just and reasonable" and nondiscriminatory. In addition, owners and operators of jurisdictional facilities are required to obtain FERC approval before selling, merging, consolidating, or otherwise disposing of those facilities.[2] Utilities or nonutility generators that wish to carry out these transactions must submit an application to FERC.

FERC consists of five appointed commissioners and associated staff. The commissioners generally hold a public meeting twice a month to decide on applications. They complete action on applications at these meetings by issuing "orders." Pursuant to the Federal Power Act and the Administrative Procedure Act, FERC must follow certain procedural rules in deciding on proposed electric power transactions; these include filing a public notice of the transactions and allowing affected parties—such as

[2]With some exceptions, facilities subject to FERC jurisdiction are those used to sell or transmit wholesale electricity.

utility customers, competitors, state utility commission officials, or others—to comment. (Applications that result in one or more affected parties' intervening to protest are referred to as contested applications.) In general, FERC must develop a "public record" demonstrating the rationale underlying its decisions, which can be appealed in federal courts.

About half of the electric power applications FERC decided on during fiscal years 1990-92 were to establish or modify agreements for the sale or transmission of wholesale electricity (rate-change applications). Historically, FERC approved proposed wholesale electricity sales largely after ensuring that the proposed rates properly reflected the seller's costs, including a predetermined estimated rate of return; such rates are called cost-based rates. In the 1980s, FERC began approving certain wholesale transactions if it found that they resulted from an operating free market; that is, they were the outcome of competitive market forces among buyers and sellers. Rates determined in this manner are called market-based rates. Market-based rates provide sellers with an opportunity to earn a greater rate of return than do rates determined by cost-based regulation.

## Time Required to Process Applications Depends on Their Characteristics

The time taken to process an application depends largely on the application's characteristics. Routine applications are reviewed and decided on in OEPR. In contrast, nonroutine applications require action by the five FERC commissioners and take significantly more time to decide on.

### Most Applications Are Routine and Are Processed Relatively Quickly

OEPR staff initially review all applications and determine which review procedure to follow. Those that do not raise factual, legal, or policy issues and are not contested by affected parties—routine applications—are decided on by the Director, OEPR, under authority delegated by the commissioners (delegated authority). Roughly 80 percent of the applications completed during fiscal years 1990-92 were considered "routine" and were decided on by OEPR using delegated authority. The average processing time for these applications was 68 days. Roughly 70 percent of these applications were decided on within 60 days; another 23 percent were decided on within 6 months.

### Nonroutine Applications Can Take Months or Even Years to Process

The remaining 20 percent were nonroutine applications that raised factual, legal, or policy issues or were contested. The range of issues included new policy areas (for example, market-based rates) as well as numerous

factors affecting the determination of cost-based wholesale rates. Nonroutine applications must be decided on by the commissioners; they cannot be completed through delegated authority.

The commissioners' review—assisted as necessary by staff in OEPR, the Office of Economic Policy, and/or the Office of General Counsel—requires an assessment of the issues raised by the application, the arguments raised by the applicant and affected parties, and the analysis and recommendations of FERC staff. Those nonroutine applications determined to have sufficient information can be decided on directly by the commissioners without the use of a trial-type hearing.

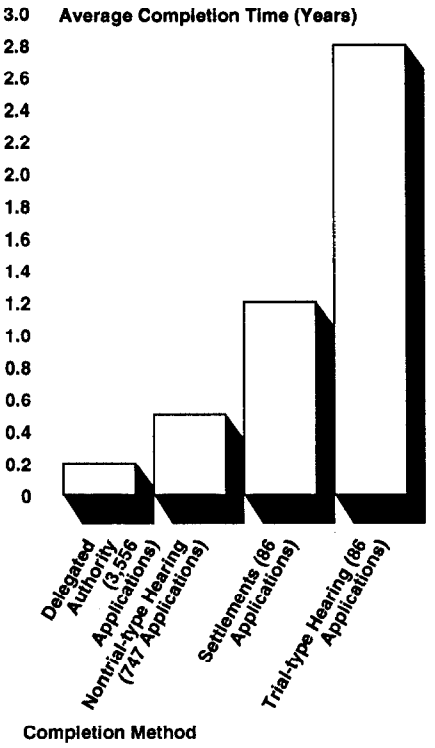
Nonroutine applications completed without the use of a trial-type hearing are often uncontested but raise legal or policy issues. Additional information is generally not needed in these cases because the issues are related to legal questions or Commission policy rather than disputes of factual information. Examples include market-based rate applications and applications seeking a determination of whether a certain utility activity is under FERC jurisdiction. Processing time for the 747 applications decided on in this manner during fiscal years 1990-92 averaged 169 days. More than 70 percent of these applications were decided on within 6 months; another 24 percent were decided on within 1 year.

Nonroutine applications that are contested by affected parties (intervenors) or that contain factual information questioned by FERC must also be decided on by the commissioners. Contested applications frequently involve factual disputes concerning a wholesale rate increase, in which the basis for the increase (the seller's costs) is disputed by customers. To settle factual disputes, the commissioners generally rely on a trial-type evidentiary hearing that allows cross-examination of witnesses before one of FERC's administrative law judges (ALJ). In such cases, the cross-examination helps to develop the factual evidence that will form the basis for the ALJ's decision, and, following a review by the commissioners, a FERC order. Although the commissioners may summarily affirm the ALJ's decision, a new opinion is written in most cases. Applicants and contesting parties may reach a voluntary settlement before the ALJ has issued a decision. Such settlement agreements, if approved by the commissioners, become the basis for FERC settlement orders.

As figure 1 shows, nonroutine applications, while fewer in number, consume a large share of FERC's time. Of the 919 nonroutine applications processed during fiscal years 1990-92, 172 (19 percent) were scheduled for

a trial-type hearing. Eighty-six of these cases proceeded through the entire hearing process, taking an average of 2.8 years to complete. The remaining 86 cases resulted in voluntary settlements between the applicants and affected parties; these took an average of 1.2 years to process.

**Figure 1: Applications Processed, Fiscal Years 1990-92**




Note: The total number of applications completed was 4,475.

Source: GAO analysis of FERC data.

## Statutory Changes Could Increase FERC's Work Load

The Energy Policy Act of 1992 amended two key statutes that regulate electric utilities: the Federal Power Act, as amended, and the Public Utility Holding Company Act of 1935, as amended, (PUHCA). These amendments, in conjunction with industry changes already under way, are likely to increase (1) applications requesting FERC orders for electricity transmission services and (2) applications for wholesale power transactions, especially those proposing market-based rates. However, the

magnitude of these increases and the change—if any—in FERC resources that will be required to respond are uncertain.

## FERC Faces New Role in Electricity Transmission

Because electricity transactions require that the generating source (seller) and the utility (purchaser) be connected via electrical transmission and/or distribution systems, the potential for more transactions depends to some extent on the ability of wholesale sellers to arrange for the transmission of their electricity. In 1978, FERC was authorized to mandate the provision of transmission services; however, partly because such orders had to satisfy a number of rigorous criteria, FERC has virtually never used this authority. The 1992 act (1) expanded FERC's authority to issue mandatory orders by reducing the number of criteria that must be satisfied and (2) required FERC to acquire and make public information about utilities' transmission capacity and known constraints.

The effects of these amendments on FERC's overall work load are difficult to estimate and could be contradictory. For example, those seeking transmission services may be more likely to request a mandatory order simply because FERC has expanded authority to issue such orders. However, public information about available transmission capacity may provide a more effective position for those seeking transmission services to negotiate voluntary arrangements with owners of transmission facilities, thus precluding the need for a mandatory FERC order. Also, because of FERC's lack of experience in issuing such orders, owners of transmission facilities may be more willing to enter into voluntary arrangements to avoid uncertainty and the possibility of a FERC order with unfavorable rates, terms, or conditions.

Requests for mandatory orders or the approval of voluntary agreements could add to FERC's work load by requiring FERC to undertake complex analyses of transmission systems and the effects of various transmission options—information that it previously has not been required to routinely analyze. For example, assessing whether a mandatory order to provide transmission services would affect the reliability of service to the transmitting utility's customers might entail a relatively complex engineering study of alternative power flows. FERC officials responsible for electricity regulation stated that they have limited experience in deciding on the best use of transmission resources and that the effect of applications requesting mandatory orders on FERC's work load is difficult to determine. Specific effects depend on how many transmission applications FERC receives; whether they are contested; whether they raise

factual, legal, or policy issues that the Commission must decide; and whether parties can reach voluntary settlements before submitting applications to FERC.

## Potential Exists for More Wholesale Transactions

Partly in response to economic and regulatory changes, wholesale electricity markets have grown significantly in recent years; electricity in wholesale transactions now accounts for more than half of the electricity sold to retail customers. As we reported in 1992, amendments to PUHCA are likely to further increase the number of wholesale suppliers in electricity markets and the proportion of electricity generated for wholesale consumption.[3]

The increase in wholesale suppliers and expanded access to transmission facilities may create or augment wholesale electricity markets. Because of the opportunity to earn greater returns, wholesale suppliers may be more likely to propose market-based, rather than cost-based, rates. Market-based rate applications require FERC to analyze aspects of the process used to develop proposed rates, terms, and conditions, such as the seller's and buyer's relative influence in determining the "market" price. This analysis differs significantly from that for traditional cost-based rate applications, which require FERC to review detailed utility cost information used to justify the proposed rates, terms, and conditions.

Since 1984, FERC has processed roughly 50 market-based rate applications. Most of these applications were decided on by the commissioners as nonroutine applications without the use of a trial-type hearing, while the remainder were processed as routine applications and were decided on by OEPR under its delegated authority. According to FERC officials, the number of issues that can be contested in market-based rate applications are substantially fewer than in cost-based rate applications; as a result, market-based rate applications are less likely than cost-based rate applications to require a trial-type hearing.

## Actions Could Reduce Average Processing Time

Over the years, FERC has taken a number of actions to improve the processing of electric power applications, including (1) establishing and expanding the circumstances under which FERC staff can use delegated authority to decide on applications, thereby freeing commissioners for nonroutine cases; (2) revising Commission procedures to expedite the

[3]Electricity Supply: Potential Effects of Amending the Public Utility Holding Company Act (GAO/RCED-92-52, Jan. 7, 1992).

consideration of voluntary settlements; (3) adopting procedures for ALJs to conduct settlement negotiations; and (4) adopting procedures for expediting litigated applications. Some evidence suggests that FERC has been successful in streamlining the processing of electric power applications. For example, our 1980 report on FERC's application review process found that, as of April 1979, FERC had roughly 60 electric rate applications that had been pending for more than 4 years.[4] As of September 1992, FERC had only seven cases that had been pending for that long.

Our discussions with FERC and industry officials, as well as our recent report on FERC's gas pipeline activities,[5] suggest that cost-effective opportunities exist to further reduce the time needed to process electric power applications. These include (1) revising how applications are tracked in FERC's management information system to identify potential bottlenecks, (2) improving the accuracy of applications to reduce the number submitted that lack certain information, and (3) increasing the use of voluntary settlement procedures to reduce the number of cases that are decided on through a trial-type hearing.

## Improving FERC's Management Information System

We reported in February 1992 that FERC's management information system—the Key Indicator Case Tracking System (KICTS)—did not enable FERC to effectively evaluate its application review process for natural gas pipelines. Specifically, KICTS did not retain the original target dates for key phases in the review process. Retaining these dates would have allowed FERC to assess its performance in meeting target dates and to identify areas needing improvement. FERC officials agreed with our assessment and altered KICTS to retain these dates for gas pipeline cases.

Similarly, KICTS files used to assess electric power applications could benefit from upgrades to capture certain dates. Under its current design, KICTS does not consistently retain beginning and ending dates for applications' movement through the various stages of FERC's review process. Such information would allow FERC to assess its performance in processing applications and to identify bottlenecks in the review process. KICTS also does not capture the number of incomplete applications FERC receives or the dates showing how long it takes applicants who file

[4]Additional Management Improvements Are Needed to Speed Case Processing at the Federal Energy Regulatory Commission (GAO/EMD-80-54, July 15, 1980).

[5]Natural Gas: Factors Affecting Approval Times for Construction of Natural Gas Pipelines (GAO/RCED-92-100, Feb. 26, 1992).

incomplete applications to provide missing information. Improving KICTS to capture this information would allow FERC to use KICTS as a management tool for identifying the volume of incomplete applications and the additional time spent processing them—first steps in reducing the incidence of incomplete applications.

In addition, because KICTS does not consistently retain certain dates and other information FERC uses to assess its performance, FERC staff must rely on personal computers in conjunction with KICTS-generated information to develop management reports. Staff efforts to assemble these reports result in a duplication of work using both computer and staff resources; a reconfiguration of KICTS could produce this information.

## Improving the Accuracy of Applications

FERC has written requirements for filing applications that are part of the Code of Federal Regulations. However, FERC's decisions in individual cases can affect these requirements by establishing Commission precedent that must generally be followed by later applicants. FERC also maintains an "electronic bulletin board" that provides access to the texts of formal documents issued by the Commission.

FERC staff responsible for processing electric power applications estimated that 30 percent of all rate-change applications fail to satisfy FERC's application filing requirements. This is the same percentage of incomplete electric power rate applications that we reported in our 1980 report. FERC staff identified several reasons that may explain the volume of incomplete applications. First, compared with state-regulated retail sales, wholesale power is a smaller portion of most utilities' business, and applicants file applications with FERC on a much less frequent basis. Also, not all applicants stay abreast of changes in filing requirements that result from FERC orders in individual cases.

To minimize processing time, FERC staff often telephone applicants if information is missing from an uncontested application. FERC staff estimate that they place roughly 250 calls annually. For contested applications, the staff issue formal letters (referred to as deficiency letters) requesting the needed information. These letters are infrequent, averaging about 40 per year during fiscal years 1990-92. Applicants also have the option of telephoning FERC staff to discuss filing requirements prior to submitting an application. FERC staff estimate that they receive about 200 such calls annually. However, issues raised and information communicated in telephone calls are not retained and analyzed.

By formally tracking the number of and reasons for incomplete applications, and by periodically assessing the issues raised through letters and telephone calls, FERC could identify problem areas that could be addressed through amendments to filing requirements or a policy statement to reduce the number of incomplete applications. Identifying and resolving problems is essential because industry changes and the Energy Policy Act are likely to lead to increased numbers of nontraditional applications (for example, market-based rate applications or transmission applications) that will probably demand more staff time, leaving less time for routine applications.

## Increasing the Use of Voluntary Settlement Procedures

Our analysis of applications completed during fiscal years 1990-92 clearly indicates that those requiring a trial-type hearing take significantly more time and that processing time can be reduced if the parties settle voluntarily. FERC has had some success in encouraging parties to reach voluntary settlements: Roughly half of the applications scheduled for a trial-type hearing are settled voluntarily. However, FERC has yet to implement a 1990 law designed to promote alternatives to trial-type hearings at federal agencies. Implementing the law could help increase the number of applications resolved through voluntary settlements.

The Administrative Dispute Resolution Act, enacted in November 1990, authorized federal agencies to use measures other than trial-type hearings, including arbitration and mediation, to resolve cases until October 1, 1995. The act requires almost all government authorities, including FERC, to adopt a policy addressing the use of alternative settlement procedures but does not mandate a date by which such a policy must be adopted. FERC has not yet adopted a policy pursuant to the act. According to a FERC official, the commissioners have not been able to reach agreement on the use of alternative processes to resolve disputes. In response to questions raised during March 1993 testimony before the Subcommittee on Energy and Power, House Committee on Energy and Commerce, FERC's Chair stated that FERC is evaluating the best way to integrate alternative dispute resolution techniques into its decision-making processes and that FERC is likely to consider a proposal prior to the end of July 1993.

The extent to which alternative procedures would affect processing time depends on the number of cases scheduled for a trial-type hearing for which these techniques could be used successfully. A FERC ALJ noted that similar alternative settlement procedures could also be used to reach voluntary settlements on issues prior to an applicant's submitting an

application to FERC, thereby decreasing the likelihood of a contested application requiring a trial-type hearing.

## Conclusions

While FERC has taken action to decrease the time required for processing electric power applications, opportunities exist for further improvements. These opportunities are especially important considering the potential increased work load stemming from the Energy Policy Act. FERC's management information system could be upgraded to provide FERC managers with more specific information that could help identify problem areas and assess performance. Examining the information exchanged by applicants and FERC staff at the initial filing stage could help FERC to determine if changes to filing requirements or policy statements could reduce the number of incomplete applications. Alternative dispute resolution techniques could reduce the need for time-consuming trial-type hearings. In addition, similar techniques could enable applicants to settle disputed issues prior to submitting applications to FERC.

## Recommendations

To further improve FERC's processing of electric power applications, we recommend that the Chair of FERC

- upgrade FERC's management information system to retain (1) data reflecting starting and completion dates of when applications moved through the stages of the application review process and (2) data indicating the number of incomplete applications and the length of time needed for applicants to supply missing information;
- systematically gather data on incomplete applications, through deficiency letters and telephone calls regarding filing requirements, and periodically assess this information to determine if revisions to FERC's filing requirements, policy statements, or other strategies could be used to eliminate or reduce the number of recurring problems; and
- expedite the adoption of a policy, as required by the Administrative Dispute Resolution Act, allowing for the use of additional alternative settlement procedures.

## Agency Comments

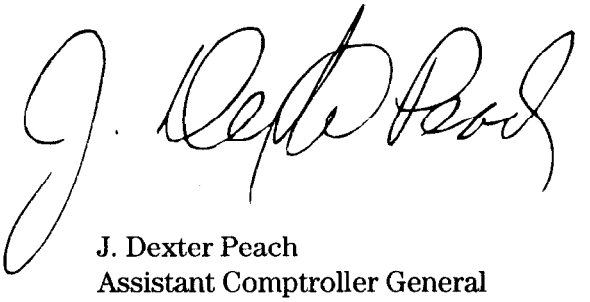
As requested, we did not obtain written comments on this report, but we discussed its contents with the Director and Assistant Director, OEPR, and the Associate General Counsel for Hydroelectric and Electric, Office of General Counsel, who generally agreed with the facts presented. Their comments have been incorporated where appropriate.

To respond to your request, we examined existing reports and studies on FERC's activities and work load. We interviewed and obtained documents from officials in OEPR and other FERC offices. We obtained and analyzed data on the applications FERC decided on for fiscal years 1990, 1991, and 1992. We considered those dockets decided on rather than those received because dockets created in one year may not be decided on until a following year. We also interviewed one current and one former FERC ALJ, a former FERC commissioner, and several attorneys who currently practice before the Commission. We conducted our review between April 1992 and May 1993 in accordance with generally accepted government auditing standards. Our methodology is detailed in app. V.

Unless you publicly announce its contents earlier, we plan no further distribution of this report until 30 days from the date of this letter. At that time, we will send copies of this report to congressional energy committees; the Chair, FERC; and other interested parties. We will also make copies available to others on request.

This work was performed under the direction of Victor S. Rezendes, Director, Energy and Science Issues, who may be reached at (202) 512-3841 if you or your staff have any questions. Major contributors to this report are listed in appendix VI.

Sincerely yours,



J. Dexter Peach
Assistant Comptroller General

# Contents

## Tables



## Figures



### Abbreviations

| | |
|---|---|
| ALJ | administrative law judge |
| EEI | Edison Electric Institute |
| EWG | exempt wholesale generator |
| FERC | Federal Energy Regulatory Commission |
| KICTS | Key Indicator Case Tracking System |
| OEP | Office of Economic Policy |
| OEPR | Office of Electric Power Regulation |
| OGC | Office of General Counsel |
| PMA | power marketing administration |
| PUHCA | Public Utility Holding Company Act |
| PURPA | Public Utility Regulatory Policies Act |
| RTG | regional transmission groupB-253405 |

# Background

The structure of the electric utility industry has undergone significant changes over the last decade, including an increased number of wholesale electricity transactions and wholesale suppliers that operate independently of traditional utility companies. Under the Federal Power Act, the Federal Energy Regulatory Commission (FERC) is responsible for regulating the rates, terms, and conditions of transactions involving the sale or transmission of wholesale electricity in interstate commerce. As the volume of wholesale electricity transactions has increased, FERC's regulatory role has become even more important.

## Structure of the Electric Utility Industry

Privately owned electric utilities produce the majority of electricity in the United States. These companies operate as monopolies within geographically defined service areas. Utilities are required by their state public utility commissions to supply electricity to all electricity consumers within their service areas. Sales from utilities to consumers within their service areas (retail sales) are regulated by state commissions, while most power sales from utilities or other wholesale electricity suppliers to other utilities (wholesale sales) are regulated by FERC under the Federal Power Act.

Utilities have traditionally owned and operated the facilities used to generate, transmit, and distribute electric power. To increase the reliability and efficiency of the overall electrical system, the transmission systems of individual utilities were eventually interconnected. Most utilities in the United States are now interconnected and voluntarily conduct many transactions with other utility systems, including short- and long-term electricity purchases and arrangements to share transmission facilities. Utilities generally have a monopoly on transmission facilities within their service areas.

For a number of reasons, wholesale electricity transactions have increased substantially in recent years. Furthermore, legislative and economic changes over the past decade have led to increasing amounts of wholesale electricity being generated by power producers that are independent of the traditional utility structure (nonutility generators). In a March 1993 report, the Department of Energy's Energy Information Administration noted that electric power purchases by utilities from nonutilities have been increasing at an "astonishing" average annual rate of 31 percent since

1986 and that electricity in wholesale transactions now accounts for more than half of the electricity sold to retail customers.[1]

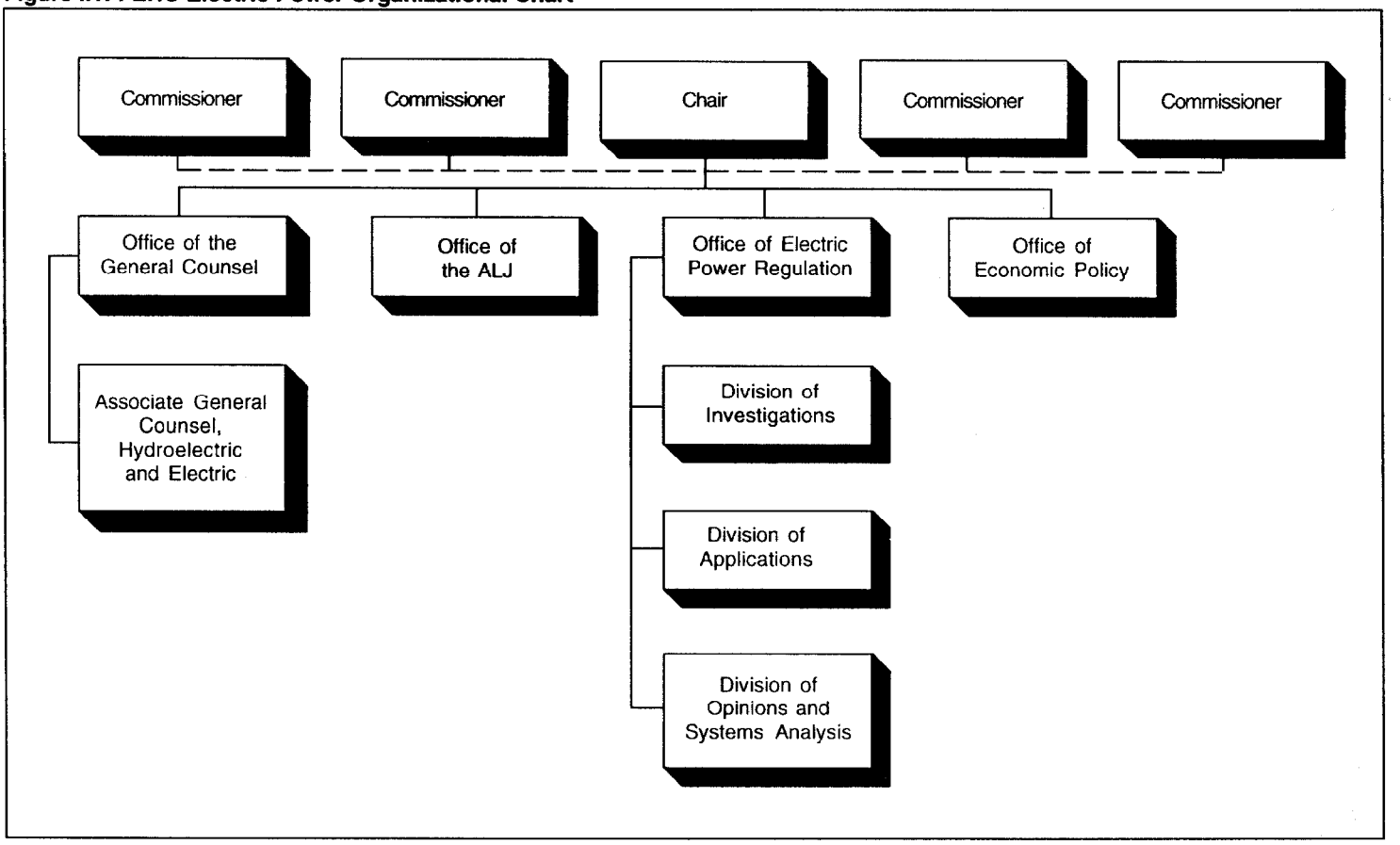
## FERC Responsibilities

FERC is composed of five presidentially appointed commissioners and about 1,500 staff. One commissioner is designated by the President to serve as the chairperson. FERC receives about $143 million in annual appropriations; however, FERC recovers its costs from the industries it regulates through fees and annual charges, and the revenues collected from these sources are used to offset congressional appropriations. About one fourth of FERC's staff and budget are allocated to the electric program area, and the majority is assigned to FERC's Office of Electric Power Regulation (OEPR), which is responsible for reviewing and processing electric power applications.

The Commission administers numerous energy-related laws and regulations involving interstate commerce in energy, including those pertaining to wholesale electricity transactions, oil and natural gas pipelines, and nonfederal hydroelectric projects. FERC is organized around these major energy areas; the offices with responsibilities for electric power regulation are highlighted in figure I.1.

[1]Energy Information Administration, The Changing Structure of the Electric Power Industry 1970-1991, Mar. 1993. DOE/EIA-0562.

**Figure I.1: FERC Electric Power Organizational Chart**




The Federal Power Act and the Public Utility Regulatory Policies Act (PURPA) provide the primary basis for much of FERC's regulation of electric power. Under the Federal Power Act, FERC is responsible for regulating the rates, terms, and conditions for the sale and transmission of wholesale electricity in interstate commerce; regulating mergers, dispositions, and acquisitions of many of the facilities used for these wholesale transactions; and authorizing the issuance of securities in some instances. The Federal Power Act requires that these rates, terms, and conditions must be "just and reasonable," without "undue preferences or advantages" to buyer or seller.

Under the Federal Power Act, any public utility intending to sell or transmit wholesale electricity in interstate commerce must submit an

application to FERC; in most cases the application must be made at least 60 days before the transaction is to take effect. FERC regulations, along with legal precedent established through FERC orders, define the required information that must be included in an application. The volume of information needed in an application can be substantial, including detailed past and projected utility cost data.

Historically, FERC approved proposed transactions largely after ensuring that the rates properly reflected the seller's costs; such rates are called cost-based rates. Because nonutility generators do not operate as monopolies within a defined service area and thus often lack the market power necessary to influence the rates they charge, FERC began approving certain wholesale transactions in the 1980s if the rates were the result of a competitive process; such rates are called market-based rates.

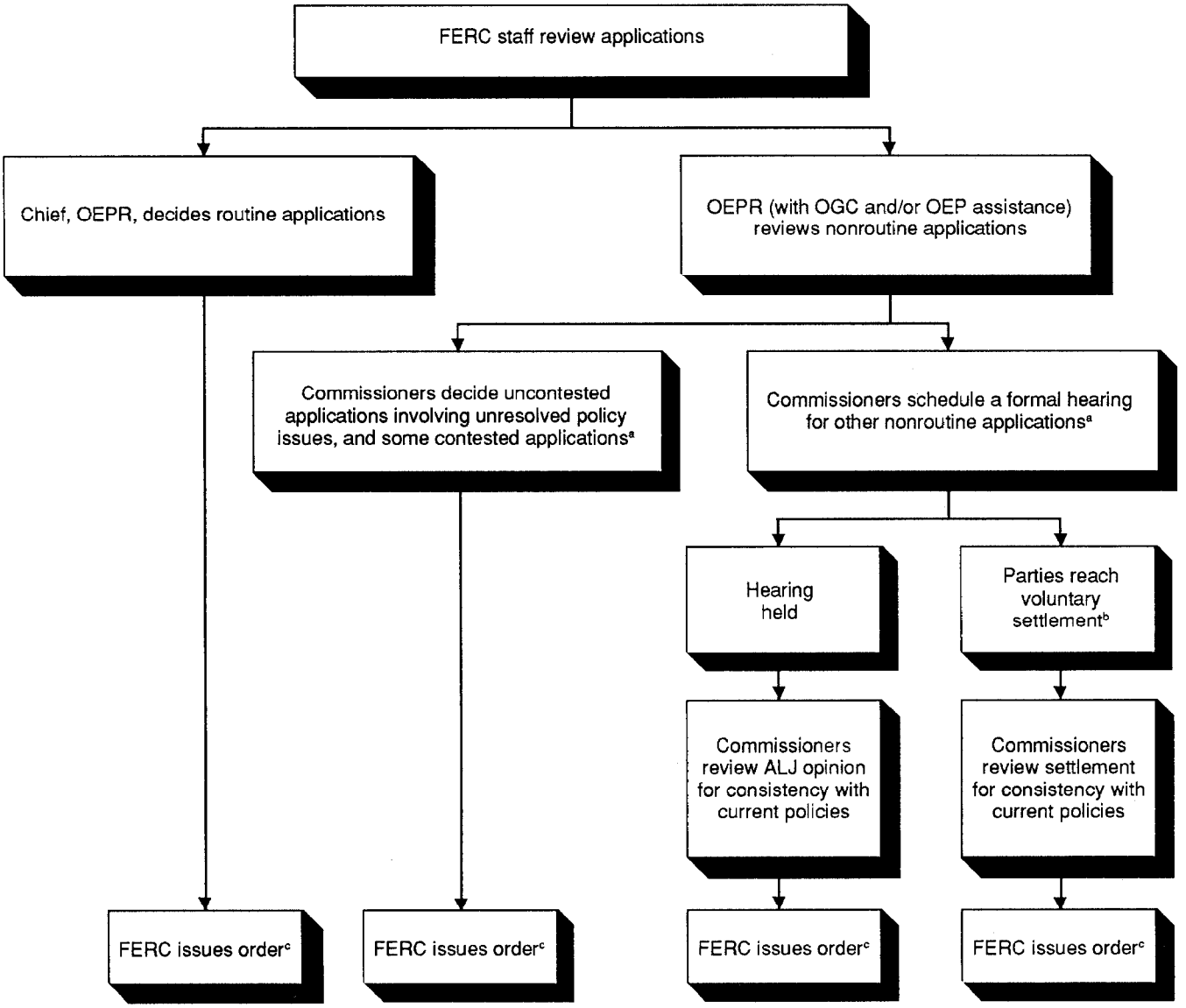
Enacted in part to encourage efficiency in electricity production, PURPA authorized the creation of electricity sources, called qualifying facilities, that sell wholesale electricity to utilities. Qualifying facilities must meet certain technology and size criteria but are exempted in whole or in part from some federal and state regulations. Under PURPA, FERC is responsible for processing applications received from owners of electricity-generating facilities seeking status as qualifying facilities.

## Processing Electric Power Applications

When processing applications, FERC uses adjudicatory proceedings subject to the provisions of the Federal Power Act, as amended, and the Administrative Procedure Act. Under these laws, FERC must follow certain procedural rules that allow for public notice of proposed transactions and the opportunity for affected parties—such as utility customers, state utility commissions, or others—to comment.

Generally, FERC procedures are directed at determining whether transactions meet relevant criteria—for example, whether rates are "just and reasonable." As shown in figure I.2, there are two general phases—a technical review by FERC staff and a "decision" by FERC staff under delegated authority for routine matters and by the FERC commissioners for nonroutine matters. As discussed below, the specific process the commissioners use to reach a decision can vary, depending on the extent to which additional information is needed, and can include a trial-type hearing. The end result is a FERC order that details the commissioners' decision and summarizes the underlying rationale.

**Figure I.2: Overview of FERC Application Review Process**




[a]At this point, the commissioners may reject part or all of an application.

[b]Although most settlements occur at this stage, settlements can occur before a hearing is scheduled or after a hearing.

[c]Although an application has been decided at this point, a request for rehearing necessitates additional Commission action, which concludes by the Commission issuing an order on rehearing.

## Technical Analysis Phase

The technical analysis phase begins when FERC receives an application. FERC generally must complete its analysis and act on rate-change applications within 60 days of receipt, or else the rate is effective automatically. The technical analysis includes public notice of applications, a review of the contents of applications for completeness and accuracy, and an analysis of cost and revenue figures for applications involving proposed rate increases.

"Complete" applications are those that comply with FERC's filing requirements and conform to any FERC legal precedent applicable to the received application. Upon receipt of a complete application, FERC publishes a notice in the Federal Register and allows interested parties the opportunity to file written comments or petitions to intervene within about 15 days. It then allows applicants to file any reply comments within 15 days thereafter. If applications are determined to be incomplete, the applicants are either contacted directly by telephone or through a formal letter (deficiency letter) notifying the applicant that more information is required.

Applications that are uncontested and do not raise factual, legal, or policy issues are considered "routine" applications; these are decided by staff in OEPR and, if necessary, assistance from FERC's Office of General Counsel (OGC) and Office of Economic Policy (OEP). Nonroutine applications are those that raise factual, legal, or policy issues and/or are contested. After the technical analysis, FERC staff forwards these applications, with the staff's analysis and recommendations, to the commissioners for decision.

## Commission Decision

In this phase, the commissioners consider the application, staff analysis and recommendations, and comments filed by affected parties. The commissioners generally hold public meetings twice a month to decide on applications; they are generally prohibited from meeting outside of these public meetings to discuss pending applications. Following their initial review, the commissioners may take one of three principal actions: (1) approve the application, (2) reject all or part of the application, or (3) order a trial-type hearing before a FERC administrative law judge (ALJ).[2] If the application involves proposed rates, the commissioners may also suspend the effective date of the rates when it orders a hearing. A decision to take any of these actions is subject to further review and reconsideration if a party files a request for rehearing.

[2]Though rarely done, the commissioners may order a "paper hearing," through which the commissioners obtain additional information and comments from involved parties.

Applications that are acted on without a trial-type hearing may involve legal or policy issues and may or may not be contested. Because such applications typically require a judgment on Commission policy rather than an examination of contested factual issues, these applications do not require a trial-type hearing. These cases may be completed directly by the commissioners on the basis of either the comments received in response to the public notice and reply comments, or a paper hearing. In either case, the commissioners determine that they have a sufficient record to make a decision without a trial-type hearing.

The commissioners may reject an application if, on the basis of the factual record, it does not meet relevant criteria or conform to Commission policy. The majority of rejected applications are those seeking a rehearing on a prior FERC order: Because the commissioners have already made a decision on the basis of the factual record, the request for rehearing is usually rejected. According to FERC officials and attorneys familiar with FERC's operations, applications for rehearing often present no new issues for review and are filed because of the Federal Power Act's requirement that, before appealing a FERC order in federal court, parties must seek a rehearing from FERC.

Applications are scheduled for a trial-type hearing when, in the judgment of the commissioners, there are contested factual issues that require cross-examination. In scheduling a rate-change application for hearing, the commissioners may suspend the effective date of a proposed rate increase, usually for 5 months.[3] Procedurally, hearings are governed largely by the Administrative Procedure Act and FERC regulations. Parties may voluntarily settle issues; if not, the presiding ALJ issues a formal opinion. The commissioners review the hearing record and may accept the ALJ's decision without modification, or issue an order that modifies the ALJ decision.

[3]If the proceeding has not been concluded and an order has not been issued by the end of the 5-month period, the rate increase becomes effective; but any portion of the transaction later found not to be "just and reasonable" is refundable to customers.

# Processing Time Depends Largely on Application Characteristics

Because of the variety of types of electric power applications, and because within each type of application, some applications are routine while others are not, it is difficult to generalize about the factors that affect processing time for all applications. However, our analysis shows that generally, regardless of application type, the time needed to reach a decision is longer if the application raises factual, legal, or policy issues and/or is contested; applications that require a trial-type hearing to resolve take the longest.

## FERC Processes a Variety of Electric Power Applications

The largest number of electric power applications FERC receives are rate-change applications—proposals to establish (or modify existing) agreements for the sale and/or transmission of wholesale electric power. FERC completed 2,084 such applications during fiscal years 1990-92. About nine other types of applications do not directly involve rates, terms, or conditions, but serve other regulatory or procedural purposes;[1] for example, electricity-generating facilities seeking status as "qualifying facilities" under PURPA must file an application with FERC. FERC completed 2,391 of these other types of applications during fiscal years 1990-92.

## Rate-Change Applications

Rate-change applications are submitted to establish or change the rates, terms, or conditions for the transmission or sale of wholesale electricity. As provided by the Federal Power Act, FERC must ensure that such rates, terms, and conditions are, among other things, "just and reasonable" and not unduly discriminatory or preferential.

Rate-change applications encompass a wide variety of electric power transactions, such as short- and long-term power sales agreements, arrangements for the sharing of generation and transmission capacity among several interconnected utilities (power pools), and wheeling arrangements (using a utility's transmission system to accomplish a third-party power sale). They also vary widely in the number and type of utilities and customers involved (investor-owned, municipal, cooperative); the type(s) of service (generation only, transmission only, or a combination); the time periods covered; and the basis for proposed rates (cost- or market-based). Contracts among utilities may be for the sale or exchange of capacity (basically, the use of generation or transmission facilities) and/or energy (a specified quantity of electric power).

[1]For this analysis, we excluded several minor categories that account for a small number of applications each year.

The majority of rate-change applications FERC receives are routine (about 80 percent of those decided on in fiscal years 1990-92 were routine) and are processed by the Office of Electric Power Regulation acting under delegated authority from the Commission. Two hypothetical examples illustrate routine rate applications:

- Utility A, which has been supplying the XYZ Electric Cooperative with electricity for a number of years, files an application to change the "delivery point" from one substation to another.
- Utility B files an application to add a wholesale customer under an existing rate schedule approved by FERC.[2]

## Other Applications

FERC receives and processes a variety of other applications in fulfilling its regulatory responsibilities for electric power. Some are related to rate applications, in that they help ensure that rates, terms, and conditions are "just and reasonable." Other "applications" are more akin to notifications that utilities and/or utility officers are undertaking certain activities. The categories we analyzed, and the number of applications processed during fiscal years 1990-92, are explained below.

- Federal rate application is a request for review of electric power and transmission rates of the five federal power marketing agencies (PMA).[3] FERC must confirm and approve power and transmission rates developed for all PMAs. During fiscal years 1990-92, FERC decided on 41 federal rate applications.
- Compliance action application is a utility's request for FERC to accept the utility's compliance with the terms of an existing FERC order. The FERC order may stipulate that the applicant must take certain actions before the order is valid; for example, a utility may have to refund rates or charges found by FERC not to be justified, together with interest. During fiscal years 1990-92, FERC decided on 278 compliance action applications.
- Declaratory order application is a petition for a FERC order or opinion on the interpretation of a contract, statute, rule, regulation, or order under the Commission's purview. During fiscal years 1990-92, FERC processed 39 such applications.
- Rehearing request is an application for FERC to reconsider its decision on a previous application. Any party may file a request for rehearing within 30

[2]Utilities can file general rate schedules at FERC outlining rates, terms, and conditions applicable to any interested customer.

[3]The five federal power marketing administrations—Alaska, Bonneville, Southeastern, Southwestern, and Western—market electricity produced at federal hydroelectric facilities.

days of the date the order was issued, and FERC has 30 days to act from the date the request was filed. A rehearing is deemed denied if no Commission action is taken within the 30-day period. Under the Federal Power Act, parties wishing to appeal a FERC order in federal court must first apply for a rehearing at FERC. During fiscal years 1990-92, FERC decided on 377 such applications.

- "Complaint" application is a request for FERC to review and/or take action against a utility alleged to be in violation of a statute, rule, order, or law that is administered by FERC. Typically, complaints are filed by wholesale customers regarding the rates charged for electricity. Complaints are often filed in conjunction with a rate application by the same parties that intervene to "contest" a rate application; in such cases FERC combines the applications into a single proceeding and processes them together. During fiscal years 1990-92, FERC processed 75 complaint applications.
- Court remand is a directive from a federal court to FERC requiring further action on issued FERC orders. During fiscal years 1990-92, FERC processed 16 remands.
- "Qualifying facility" application is a request for certification under PURPA. FERC regulations permit owners of facilities seeking qualifying status to (1) self-certify their facilities by submitting the required application, which FERC simply keeps on file, or (2) apply to FERC for formal certification. During fiscal years 1990-92, FERC processed 1,071 qualifying facility applications, the majority of which were for self-certification.
- Interlocking position application results from a Federal Power Act requirement: Any person seeking to become an officer or director of more than one public utility or of a company involved in marketing the securities or supplying electrical equipment to a public utility must notify FERC. The purpose of such notification is to alert FERC to potential conflict-of-interest situations when reviewing rate applications or other matters affecting utilities. As with qualifying facilities applications, applicants may self-certify or may request formal certification from FERC. During fiscal years 1990-92, FERC processed 435 applications of this type, the majority of which were for self-certification.
- Corporate action application is a request for FERC approval of utility mergers, disposition or acquisition of jurisdictional facilities, and issuance or acquisition of securities involving more than $50,000. FERC approval is required for any such transaction. FERC approval is also required for issuances of securities if a state commission does not regulate such issuances. During fiscal years 1990-92, FERC processed 59 such applications.

## All Application Categories Included Nonroutine Applications

About 80 percent of all applications FERC completed during fiscal years 1990-92 were routine. However, as shown in table II.1, each category of applications included nonroutine applications. In four categories—complaints, rehearing requests, declaratory orders, and court remands—applications are typically "nonroutine."

**Table II.1: Routine and Nonroutine Applications Decided During Fiscal Years 1990-92**

| Application type | Routine | Nonroutine | Total |
|---|---|---|---|
| Rate changes | 1,771 | 313 | **2,084** |
| Complaints | | 75 | **75** |
| Rehearing requests | 1 | 376 | **377** |
| Qualifying facilities | 1,039 | 32 | **1,071** |
| Compliance actions | 244 | 34 | **278** |
| Corporate actions | 41 | 18 | **59** |
| Interlocking positions | 428 | 7 | **435** |
| Federal rate review | 30 | 11 | **41** |
| Declaratory orders | 2 | 37 | **39** |
| Court remands | | 16 | **16** |
| **Total** | **3,556** | **919** | **4,475** |

During fiscal years 1990-92, FERC completed 919 nonroutine applications. The variety of issues raised makes generalizations difficult; however, our analysis shows that applications involving wholesale rate changes—which include not only many rate-change applications but also most complaint applications and over half of all rehearing request applications—accounted for the majority of nonroutine applications. Categories with relatively higher percentages of nonroutine applications included corporate action applications, federal rate reviews, and requests for declaratory orders.

## Rate-Change Applications Can Raise Many Issues

During fiscal years 1990-92, FERC completed 313 nonroutine rate-change applications. These applications were the most likely to be contested and therefore be treated as "nonroutine" applications. Those that raised legal or policy issues were usually decided by commissioners without a trial-type hearing, while those that raised contested issues of fact typically required a trial-type hearing. According to FERC staff, rate-change applications that require a trial-type hearing usually involve one or more of three general categories of factual issues: (1) rate level, (2) rate design, and (3) discrimination/competition. Applications may include issues from

more than one category, but issues involving rate level and rate design are the most common.

Rate-level issues include disputes over the costs used by a utility to justify a proposed increase in the rates it charges its customers. Applications for cost-based rate increases must demonstrate that the proposed rates will recover only the costs incurred: expenses (operation and maintenance expense; depreciation expense; and taxes, including income, property, and payroll taxes) and a return on the utility's investment in the facilities used to provide the service to customers. Each of these costs can be contested; for example:

- Utility C, which supplies power to a number of wholesale customers, files an application to raise its rates. The application cites increased fuel and labor expenses and forecasts 4-percent annual inflation during the term of the sales agreement. However, FERC forecasts only 3-percent inflation, which could make the proposed rates excessive (i.e., not "just and reasonable").
- Utility D files a rate increase application totaling $50 million for its municipal customers. Municipal customers contest the application, arguing that Utility D's return on investment is excessive and its depreciation costs are unsupported.
- Utility E files a rate schedule to provide a new transmission service to a municipal customer. The municipal customer contests the application, claiming that the terms and conditions of the contract are unacceptable, the rate of return is excessive, and the allocation of the costs of the transmission facilities is unfair.

Rate-design issues involve the terms and conditions of new or existing contracts that determine the method by which the selling utility recovers the costs associated with providing wholesale electricity to its customers. The payment calculation typically involves a number of components covering both capacity and energy costs, including the fixed costs of the utility's assets (such as the generating plants) and the variable costs associated with providing the service (such as fuel costs).

Discrimination and competition issues stem from the interaction of utilities in the marketplace. Utilities frequently compete with their wholesale customers to provide service to new or existing retail customers. Wholesale customers may allege that a selling utility is discriminating by raising the customer's rates and not the rates of other customers. In other instances wholesale customers may claim that a

selling utility's rates do not allow the customer to compete for other wholesale customers.

## Other Applications Can Raise Rate-Related And/or Other Issues

Although rate-change applications account for a large number of nonroutine applications, all other categories include nonroutine applications. Some of these applications, including complaints and court remands, involve the same issues as rate-change applications. Other applications, such as those for qualifying facilities and interlocking positions, are mostly administrative reporting requirements; those that are nonroutine involve issues that differ from the rate-level and rate-design issues of rate-change applications.

Complaints, rehearing requests, declaratory orders, and court remands are almost always nonroutine: in almost all cases they are decided by the commissioners. Complaints typically stem from allegations related to utility rates and thus involve the same issues as rate-change applications. For example, in one case a publicly owned system charged that its utility wholesale supplier's present rates were excessive, a rate-level issue. Rehearing requests and court remands frequently stem from the results of a FERC order involving a rate-change application and thus typically require the commissioners to reexamine rate-level and rate-design issues.

About 25 percent of the 41 federal rate review applications were nonroutine: They were contested by the customers of the utilities buying power from the federal power marketing agencies. For example, one of the power marketing authorities had proposed certain rate increases that were contested and claimed by the affected parties to be excessive.

There were 34 nonroutine applications for compliance action, all contested by customers. For example, in several cases utilities submitted for approval proposed actions that parties alleged differed from the FERC-directed action. These cases involved the method through which the utilities were to refund customers' overpayments.

Declaratory orders frequently raise contested factual, legal, or policy issues. Of the 39 declaratory order applications decided during fiscal years 1990-92, 37 were nonroutine. For example, several utilities requested waivers from FERC regulations regarding certain fuel-related expenses. The utilities argued that strict adherence to FERC regulations in these cases would cause unnecessary delay in receiving compensation for justified expenses.

In several categories, the incidence of nonroutine applications was quite small. Of the 1,071 qualifying facility applications decided by FERC during fiscal years 1990-92, less than 3 percent were nonroutine. For example, one of the cases involved a request to be exempted from the fuel requirements specified under PURPA. Of the 435 interlocking position applications, less than 2 percent were nonroutine. For example, several cases included parties claiming that FERC regulations had been violated because certain executives of a utility served as members of financial institutions without obtaining Commission authorization.

FERC processed 18 nonroutine corporate action applications (out of a total of 59 corporate action applications) during fiscal years 1990-92. Several of these applications involved the merger of utility companies; the issues included cost projections and the extent of customer savings that could be anticipated by the merger. For example, in a recent utility merger, several parties argued with the savings that utilities claimed would result from the merger.

## Nonroutine Applications Took Longer to Process

As shown in table II.2, applications that raised factual, legal, or policy issues or that were contested—nonroutine applications—took longer than routine applications, regardless of application type. Furthermore, applications that required a trial-type hearing took the longest of all.

**Table II.2: Processing Times for Routine and Nonroutine Applications Decided During Fiscal Years 1990-92**

| | Routine application | | Nonroutine application | |
|---|---|---|---|---|
| Application type | Number completed | Average (days) | Number completed | Average (days) |
| Rate changes | 1,771 | 77 | 313 | 403 |
| Complaints | | | 75 | 396 |
| Rehearing requests | 1 | 32 | 376 | 152 |
| Qualifying facilities | 1,039 | 32 | 32 | 148 |
| Compliance actions | 244 | 99 | 34 | 190 |
| Corporate actions | 41 | 90 | 18 | 190 |
| Interlocking positions | 428 | 93 | 7 | 509 |
| Federal rate review | 30 | 154 | 11 | 602 |
| Declaratory orders | 2 | 229 | 37 | 294 |
| Court remands | | | 16 | 154 |
| **Total** | **3,556** | | **919** | |
| Weighted average | | 68 | | 275 |

## Routine Applications Were Processed Relatively Quickly

FERC processed 3,556 routine applications during fiscal years 1990-92 in an average of 68 days. However, as shown in table II.2, the average processing time varied among application categories. Routine rate-change applications, which accounted for about half of all routine applications, took an average of 77 days to process. Average processing times for other application categories ranged from 32 days for qualifying facility certifications to 229 days for 2 declaratory orders.

Two categories, although accounting for a small number of routine applications, took significantly longer. The 30 federal rate reviews took an average of 154 days to complete. According to FERC officials, these applications required more time to review because of the amount of information these applications contained and because of the complexity of the rate process typically involved with federal PMA. FERC staff explained that these reviews generally include an examination of the PMA's rate proceedings, including records of public hearings, between different customer groups.

In addition, two routine applications for declaratory orders required an average of 229 days. In these cases, the applications were delayed because one applicant failed to submit all necessary information and the other applicant requested FERC to delay processing until an agreement could be worked out between the applicant and its customer.

## Nonroutine Applications Can Take Months or Years to Complete

Our analysis shows that, on average, the 919 nonroutine applications took about 4 times longer to decide than routine applications. Applications were more likely to take longer if they required a trial-type hearing for a decision.

## Resolution of Cases Without a Trial-Type Hearing

Of the 919 nonroutine applications, 747—about 80 percent—were decided by the commissioners without a trial-type hearing, taking about 169 days on average. As with routine applications, the average processing time varied significantly among application categories; however, as shown in table II.3, in some categories the numbers of applications decided using this process was quite small, rendering the averages less meaningful.

**Table II.3: Average Processing Times for Nonroutine Applications Decided Without a Trial-Type Hearing During Fiscal Years 1990-92**

| Application type | Number completed | Average (days) |
|---|---|---|
| Rate changes | 174 | 133 |
| Complaints | 52 | 271 |
| Rehearing requests | 376 | 152 |
| Qualifying facilities | 32 | 148 |
| Compliance actions | 34 | 190 |
| Corporate actions | 14 | 107 |
| Interlocking positions | 7 | 509 |
| Federal rate review | 11 | 602 |
| Declaratory orders | 32 | 239 |
| Court remands | 15 | 94 |
| **Total completed** | **747** | |
| Weighted average | | 169 |

Nonroutine rate-change applications and requests for rehearing accounted for more than half of the applications completed by the Commissioners without a trial-type hearing. FERC completed 174 nonroutine rate-change applications without a trial-type hearing, requiring 133 days on average. (The range was from 25 to 485 days.) The Commission also acted on 376 requests for rehearing in about the same time. (Excluding 20 extreme cases, the range was 28 to 672 days.)

In contrast, several categories with relatively fewer numbers of applications took significantly longer to complete. For example, the 11 federal rate reviews completed without a trial-type hearing required an average of 602 days, or nearly 2 years. Most of the cases involved one PMA whose cases hinged upon FERC's interpretation of a statute. The PMA requested that the Commission defer processing of all this PMA's pending cases until the interpretation was made. The applications were processed within 4 months of FERC's order interpreting the statute.

Similarly, 52 complaint applications required, on average, 271 days to process. Many of these applications involved allegations by a utility wholesale customer that the utility's existing rate level was excessive. As a result, these applications required significant effort on the part of FERC staff to examine the fairness of a utility's existing rates.

## Trial-Type Hearings

As shown in table II.4, the 172 applications that were scheduled for a trial-type hearing took, on average, the longest time to process—over 2 years. However, cases that were decided by voluntary settlements among the litigants required significantly less time than cases that proceeded through the entire trial-type hearing process. The 86 cases that resulted in voluntary settlements took about half the time (1.2 years), on average, of the 86 applications that were resolved through the entire process (an average of 2.8 years).

**Table II.4: Average Processing Times for Nonroutine Applications Involving a Trial-Type Hearing During Fiscal Years 1990-92**

| | Settlements | | Completed trial-type hearings | |
|---|---|---|---|---|
| Application type | Number completed | Average (days) | Number completed | Average (days) |
| Rate changes | 73 | 393 | 66 | 1,125 |
| Complaints | 13 | 665 | 10 | 792 |
| Corporate actions | | | 4 | 479 |
| Declaratory orders | | | 5 | 645 |
| Court remand | | | 1 | 1,589 |
| **Total completed** | **86** | | **86** | |
| Weighted average | | 434 | | 1,033 |

Applications for which the commissioners scheduled a trial-type hearing were dominated by rate-change applications; these accounted for 139 (roughly 80 percent) of the 172 nonroutine cases that were scheduled for trial-type hearings. About half of these cases resulted in voluntary settlements in an average of 393 days (the range was from 125 to 1,077 days). However, the 66 rate-change applications that proceeded through the entire hearing process (accounting for more than three-quarters of all such applications) required an average of 1,125 days, or about 3 years (the range was from 31 to 4,161 days). Lengthy rate application hearings thus tended to "drive up" average processing time for all applications.

# Statutory Changes Could Increase FERC Work Load

By amending two key statutes governing electric utilities, the Energy Policy Act of 1992 is likely to increase the number of wholesale electricity sellers and transactions subject to FERC regulation. Most importantly, FERC could face requests to use its expanded authority to compel the owners of transmission facilities to allow others to use the facilities—an area in which it has limited experience. The effect of these transmission applications on FERC work load is difficult to determine and depends in part on the extent to which parties reach voluntary agreements before submitting applications to FERC. Another likely effect is a further shift from cost-based to market-based rate applications; also, FERC must process a new type of application for certifications.

## Federal Power Act Amendments Provide Expanded Transmission Authority

The Energy Policy Act of 1992 amends the Federal Power Act's transmission provisions in two significant ways. First, it expands FERC's authority to issue orders requiring transmission-owning utilities to provide other wholesale buyers and sellers with access to their transmission lines. Second, the act requires FERC to promulgate a rule to require transmitting utilities to make public information about their potentially available transmission capacity and known constraints.

### Transmission Service Has Historically Been Provided on Voluntary Basis

Transmission facilities—high-voltage lines, substations, and related equipment—are owned and operated by individual utilities, which generally have a monopoly on these facilities within their service areas. Providing transmission service to other utilities and/or nonutility generators has been largely at the owners' discretion. However, wholesale electricity markets depend on the ability of potential sellers to deliver power where it is needed; for example, a wholesale seller located outside a purchasing utility's service area might need to arrange to use another utility's transmission facilities to transmit (wheel) its power to the purchasing utility. Thus, if transmission-facility owners do not voluntarily provide access to their facilities, wholesale markets may be less competitive than they would be otherwise.

Transmission systems were originally designed by utilities to serve their own customers. Over time, they were interconnected to increase the reliability and efficiency of the overall electrical system. U.S. electric utilities are interconnected in three large transmission grids. Within each grid are utility control areas, typically designated by geographic boundaries, within which are located one or more utilities. The utilities voluntarily conduct many transactions involving their transmission facilities, including power exchanges and emergency transfers.

In addition, many utilities have established relationships to pool their power resources through joint planning and central control. Power pools are a combination of individual utility power systems (including generation, transmission, and distribution systems) within a state or region that are linked through physical and contractual arrangements for the purposes of achieving maximum practical benefits from coordinated planning and operation. The pool often operates as a single system: Electricity is produced by the most economical generating units, regardless of their location within the pool, and is transferred via transmission lines to meet demand. For example, the Pennsylvania-New Jersey-Maryland power pool controls roughly 500 generating plants owned by eight investor-owned utilities covering five states and the District of Columbia with more than 6,300 miles of transmission lines.

## Amendments Expand FERC's Ability to Order Transmission Services

Prior to the Energy Policy Act, FERC could compel transmission-owning utilities to provide transmission services to others only in very limited circumstances. Sections 211 and 212 of the Federal Power Act—added by the Public Utility Regulatory Policies Act of 1978—authorized applications to FERC for an order requiring a transmission-owning utility to provide transmission services. However, before approving such applications, FERC was required to show that several criteria had been satisfied. Specifically, FERC had to demonstrate that such orders would

- be in the public interest;
- conserve a significant amount of energy, significantly promote efficient use of facilities and resources, or improve reliability;
- not likely result in a "reasonably ascertainable uncompensated economic loss" to any electric utility or qualifying facility affected by the order;
- not place an "undue burden" on any electric utility or qualifying facility affected by the order;
- not unreasonably impair electric service reliability;
- not impair the ability of any utility to render adequate service to its customers;
- ensure the transmitting utility of reimbursement for reasonable costs of the service plus a reasonable rate of return on those costs; and
- reasonably preserve existing competitive relationships.

In part because of the difficulty in demonstrating that these requirements had been satisfied, FERC issued only one order under sections 211 and 212. This order was based on a settlement between the parties. The planning,

use, and control of transmission facilities remained under the direction of transmission-owning utilities.

The Energy Policy Act amended sections 211 and 212 of the Federal Power Act; under the amended sections, FERC may order such services if it finds that such an order would

- be in the public interest;
- not unreasonably impair the continued reliability of electric systems affected by the order; and
- provide for rates, charges, terms, and conditions that (1) permit the transmitting utility to recover all the costs of providing the service and (2) are just and reasonable and not unduly discriminatory or preferential.

By reducing the number of criteria that must be satisfied, the amendments may make it easier for FERC to issue transmission orders under these sections. However, in deciding if a mandatory transmission order is warranted or if a voluntary transmission arrangement should be approved, FERC must ensure that the rates, terms, and conditions are just and reasonable and not unduly discriminatory or preferential. FERC may need to analyze information that it previously has not been required to routinely analyze: details about the design, capacity, configuration, costs, and operation of utilities' transmission facilities. For example, assessing whether a mandatory order to provide transmission services would affect the reliability of service to the transmitting utility's customers might entail a relatively complex engineering study of alternative power flows. The process could require FERC to perform complex analyses heretofore conducted by transmission facility owners, including detailed reviews of utilities' operating systems to determine whether transmission capacity is available.

FERC has taken several actions to build the necessary base of resources with which it can carry out its new authorities. These actions include

- developing familiarity with computer software similar to that used by utility companies to assess transmission systems,
- planning a technical conference with representatives from the electric utility industry to determine ways to improve or further refine FERC's existing transmission pricing policy, and
- issuing a proposed transmission information rule pursuant to the Energy Policy Act.

## Amendments Could Prompt More Voluntary Arrangements

While providing FERC with more ability to order transmission services, the amendments also may, in effect, provide transmission owners with more incentives for voluntary transmission agreements. First, transmission capacity information will be public, aiding the negotiating position of those seeking voluntary transmission services. The Energy Policy Act requires FERC to promulgate a rule (within 1 year of enactment) that will require transmission-owning utilities to submit transmission capacity information annually to FERC. The information is to adequately inform potential transmission customers, state regulatory authorities, and the public of potentially available transmission capacity and known constraints. Thus, potential wholesale sellers in need of transmission services will have significant information necessary to negotiate transmission arrangements with transmission-owning utilities.

The information requirement is significant in that capacity information has always been largely proprietary to transmission-owning utilities. Negotiations between transmission owners and those seeking transmission services may be more quickly resolved if both parties have access to the same operational and planning data. FERC has surveyed utilities and other groups to determine what information is needed to satisfy the informational rule.

In addition, owners may be more willing to enter into voluntary arrangements to avoid uncertainty and the possibility of a FERC order with unfavorable rates, terms, or conditions. Transmission owners have traditionally controlled the nation's transmission facilities through voluntary arrangements and may be hesitant to allow FERC to make resource decisions regarding these facilities.

## Overall Effects of Transmission Provisions Are Unclear

Although FERC has taken steps to equip itself with the necessary resources to carry out its expanded transmission authority, FERC staff and the commissioners recognize that they are faced with many unknowns. For example, in March 1993 testimony before the Subcommittee on Energy and Power, House Committee on Energy and Commerce, FERC's chair noted that in some cases a transmission-owning utility may vigorously oppose a transmission access request, which could lead to protracted litigation through FERC's trial-type hearing process.

To avoid contested rate applications and requests for mandatory transmission orders, FERC is exploring a process that could facilitate parties' reaching voluntary agreements. During development of the Energy

Policy Act, industry groups developed a proposal for voluntary resolution of transmission access matters. The proposal would establish "regional transmission groups" (RTG)—voluntary associations of utilities and other wholesale suppliers, including those that own and do not own transmission facilities—to coordinate transmission matters for a given geographic region. In November 1992, FERC published the RTG proposal in the Federal Register seeking public comment, and it is currently analyzing the responses received.

The effect of the RTG proposal, if adopted, as well as other provisions that may prompt voluntary transmission agreements, is difficult to determine. Although these factors may help to mitigate the number of contested applications involving transmission issues, it is likely that some such applications will raise issues requiring a trial-type hearing at FERC.

## PUHCA Amendments Require Generator Certifications and May Increase Market-Based Rate Applications

Designed to promote an industry structure that enables effective regulation of utility transactions, the Public Utility Holding Company Act (PUHCA) regulates the corporate and financial structures of public utility holding companies and generally limits their operations to specific geographical areas. The Energy Policy Act amends PUHCA by exempting owners of facilities used exclusively for the generation of wholesale electricity—called "exempt wholesale generators" (EWG)—from PUHCA's corporate, financial, and geographical restrictions. As we noted in our January 1992 report,[1] exempting these facilities from PUHCA is likely to increase the number of wholesale electricity sellers. Under the Energy Policy Act, FERC must determine whether persons seeking EWG status meet relevant statutory criteria.

The PUHCA amendments—in conjunction with industry trends already under way—make it more likely that rate applications will propose market-based, rather than cost-based, rates. An increased number of suppliers with greater access to transmission facilities—both more likely because of the amendments—can provide purchasing utilities with more competitive choices and make the emergence of functioning wholesale markets more likely.

[1]Electricity Supply: Potential Effects of Amending the Public Utility Holding Company Act (GAO/RCED-92-52, Jan. 7, 1992).

## FERC Is Responsible for Certifying Exempt Wholesale Generators

The Energy Policy Act provides that applicants seeking EWG status under PUHCA must obtain a determination from FERC that they meet the statutory requirements. The act specifies that FERC make such determinations within 60 days of receipt of such applications. While FERC has received more than 50 such applications since enactment of the Energy Policy Act (Oct. 24, 1992), FERC staff believe that they have adequate resources to process certification applications.

Pursuant to the act, FERC promulgated an order in February 1993 defining the filing requirements and other administrative procedures for applicants seeking EWG status. The rule provides for a period of public notice and comment. Prior to granting EWG status, FERC staff will review, among other things, comments made by affected parties and information regarding the adequacy or accuracy of the facts presented in an application. As of June 1, 1993, FERC had received 53 applications for EWG determinations. FERC had acted on 35 of the applications. All applications have been acted on within 60 days.

## Market-Based Rate Applications Require a Different Type of Analysis

Although many of the likely additional wholesale electricity sellers may be affiliated with traditional utility companies, which are subject to cost-based regulation, the new sellers will likely be independent corporate entities. An increase in wholesale suppliers, combined with potentially greater access to transmission facilities, may serve to create or augment wholesale markets. Because market-based rates allow the opportunity to earn greater returns than cost-based rates, FERC is likely to experience an increase in the proportion of rate applications proposing market-based, rather than cost-based, rates. Market-based rate applications require an analysis that differs from traditional cost-based rate applications.

Cost-based rate applications require detailed historical and projected utility capital and operating cost data. FERC staff must review each cost figure to ensure that proposed rates reflect appropriate cost levels and allocations. Market-based rates, on the other hand, are market-driven (i.e., were arrived at through a competitive market process or reflect the fact that the seller has no market power over the buyer); typically, a utility announces the need for a certain amount of electricity and invites suppliers to submit bids. In reviewing market-based rates, FERC focuses on the seller's market power and the bidding or negotiation process used by the buyer and seller to arrive at a price—for example, it looks at the number of bidders and whether the winning seller used undue influence.

As noted in appendix II, the cost figures in cost-based rate applications are subject to scrutiny by customers and other affected parties, and if contested, can result in a lengthy hearing process. FERC staff explained that market-based rate applications are much less likely to result in factual disputes because the elements that form the basis for market-driven rates are less extensive than those forming the basis for cost-based rates. Thus, market-based rate applications are less likely to require a trial-type hearing. According to FERC data, over 90 percent of the 51 major cost-based rate-change applications (proposed rate increases to municipal or cooperative utility customer groups) filed with FERC in fiscal years 1990 and 1991 were scheduled by the commissioners for a trial-type hearing. The value of the increases sought was roughly $529 million. In comparison, all of the market-based rate applications processed by FERC (about 50 since fiscal year 1984) have been completed by the commissioners without a trial-type hearing or by the director of OEPR through delegated authority.

According to FERC staff, the effect of increased market-based rate applications on FERC's overall work load will probably not be significant. While the technical review of market-based rate applications has required roughly twice the 60- to 90-day processing time of cost-based rate applications, this time difference stems from the new issues raised by market-based rate applications. These officials explained that the processing time for market-based rate applications will likely decrease as FERC and applicants gain more experience with them. In addition, although the analysis is different, the applications may be less likely than cost-based rate applications to require a trial-type hearing.

# Opportunities Exist to Reduce Processing Time

Although FERC has undertaken efforts to reduce application processing time, additional improvements may be possible. FERC's efforts have included expanded use of delegated authority and encouragement of voluntary settlement procedures. Our analysis shows that three actions have the potential to further reduce average processing time: (1) revising how applications are tracked in FERC's management information system, (2) improving the accuracy and completeness of applications, and (3) increasing the use of voluntary settlement procedures.

## FERC Has Taken Steps to Improve Application Processing

Since 1977,[1] FERC has taken many actions to speed the processing of electric power applications. In 1978, and again in 1988, FERC established and expanded the circumstances under which FERC staff might use delegated authority to decide on applications. These changes were instituted to free the commissioners to focus on more complicated and controversial tasks. In addition, FERC reduced the need for lengthy hearings by revising Commission procedures to expedite consideration of voluntary settlements, adopting procedures for FERC ALJs to conduct settlement negotiations, and adopting procedures to expedite litigated applications.

Although the effects of these and other actions on FERC operations are difficult to discern, FERC's backlog in electric power applications has been reduced from the levels experienced in prior years. For example, our 1980 report, which examined FERC's application review process, found that, as of April 1979, FERC had roughly 60 electric rate applications that had been pending for more than 4 years.[2] In comparison, as of September 1992, FERC had seven cases that had been pending for that long.

Also, a report prepared in 1980 by the FERC Chairman found that the backlog of electric power rate applications was large and growing; in some cases, applicants were submitting applications to change rates proposed in previous applications that FERC had not yet completed—a phenomenon the report called "pancaking." In contrast, our review shows that most rate-change applications were completed during fiscal years 1990-92 in an average of 77 days, and according to FERC officials, issues such as "pancaking" are not currently a problem. However, the economic

[1]FERC was created through the Department of Energy Organization Act on Oct. 1, 1977. At that time, FERC's predecessor, the Federal Power Commission, established in 1920, was abolished, and FERC inherited most of that agency's energy regulatory responsibilities.

[2]Additional Management Improvements Are Needed to Speed Case Processing at the Federal Energy Regulatory Commission (GAO/EMD-80-54, July 15, 1980).

conditions prompting relatively frequent rate-change applications in 1980 were considerably different than those during the period of our analysis, which may also explain differences in observed processing times.

## Additional Actions Have Potential to Reduce Average Processing Time

Several actions have further potential for reducing application processing time. Adopting these additional strategies could help reduce the resources required to process routine applications, allowing more resources to be applied to the newer, less traditional applications that FERC expects to receive in the future.

### Improving FERC's Management Information System

FERC uses an automated system—the Key Indicator Case Tracking System (KICTS)—to evaluate the performance of specific programs and to manage work load and resources in each of its three broad regulatory areas (electric power, oil and gas pipelines, and hydropower licensing). We reported in February 1992 that KICTS did not retain the original target dates for key phases in the review process.[3] Retaining these dates would have allowed FERC to assess its performance in meeting target dates and to identify areas needing improvement. FERC officials agreed with our assessment and altered KICTS to retain these dates for gas pipeline cases.

Similarly, KICTS files used to assess electric power applications could benefit from upgrades to capture certain dates. Under its current design, KICTS does not consistently retain the start and end dates at which applications move through the various stages of FERC's review process. For example, KICTS does not consistently retain the information that would allow FERC to assess the length of time FERC staff take to review incoming applications—information that could help identify ways to reduce processing time.

We noted other shortcomings with the current design of KICTS in achieving its intended goal of performance evaluation. First, if an applicant submits an incomplete application, KICTS does not retain the dates showing how long it takes the applicant to supply additional information so that the application is "complete" (the date at which FERC staff can begin processing an application). This information would allow FERC managers to identify both the quantity of incomplete applications and the amount of time spent in obtaining additional information—necessary first steps toward reducing the incidence of incomplete applications.

[3]Natural Gas: Factors Affecting Approval Times for Construction of Natural Gas Pipelines (GAO/RCED-92-100, Feb. 26, 1992).

We also noted that KICTS does not allow FERC managers to determine the status of certain applications, such as whether an application forwarded to the commissioners has been scheduled for a trial-type hearing (meaning that a final decision is likely to be years away), or whether the application will be addressed directly by the Commission (meaning that a decision is likely to be made within 6 months). Under the current design, KICTS provides this information for rate-change applications only.

To accommodate the shortcomings of KICTS, FERC staff rely on personal computers to generate reports that KICTS is unable to produce. For example, FERC staff combine KICTS information and personal computer software to generate a monthly status report of applications in process. The inability of KICTS to produce needed management information results in a duplication of work using both computer and staff resources; a reconfiguration of KICTS could produce this information.

FERC has proposed a system to replace KICTS within the next several years. FERC staff explained that the new system will likely use many of the recently purchased personal computers. FERC's computer design staff have been working with OEPR and other staff offices to determine user needs. FERC staff explained that the design effort is intended to result in a system that provides users with needed management information, including the application processing dates and status reports that we found lacking in KICTS. However, FERC staff cautioned that the design for this system is tentative and full-scale implementation will take years.

## Improving the Accuracy and Completeness of Applications

FERC receives a number of applications that are missing required pieces of information, necessitating follow-up by FERC staff to obtain the missing data and adding to average processing time. FERC does not formally track the number of these "incomplete" applications or the reasons for them. However, FERC staff responsible for processing electric power applications estimated that 30 percent of rate-change applications are missing one or more pieces of required information. This is the same percentage of incomplete electric power rate applications that we reported in our 1980 report. Taking steps to reduce incomplete applications—by, for example, providing more detailed and/or up-to-date written filing requirements—could potentially improve the quality of applications submitted and, in turn, reduce average processing time.

## Reasons for Incomplete Applications

FERC has written requirements for filing applications that are part of the Code of Federal Regulations. However, FERC decisions in individual cases

can affect these requirements by establishing Commission precedent that must generally be followed by later applicants. FERC also maintains an "electronic bulletin board" that provides access to the texts of formal documents issued by the Commission. In addition, FERC regulations specify that, with respect to rate changes, the submission of any cost information must be done in conformity with Commission rules of general applicability and any FERC orders specifically applicable to the filing utility.

FERC staff identified several reasons that may explain the volume of incomplete applications. First, compared with state-regulated retail sales, wholesale power is a smaller portion of most utilities' business, and applicants file applications with FERC on a much less frequent basis. And second, not all applicants stay abreast of changes in filing requirements that result from FERC orders in individual cases. For example, a recent FERC order required an applicant to submit information on all prior electric power transactions entered into by the applicant that had not first received FERC approval, in violation of the Federal Power Act. This order became a precedent for future applicants that had conducted similar transactions in the past without first obtaining FERC approval.

Members of the Edison Electric Institute (EEI) explained that familiarity with FERC filing requirements is often a function of the size of the utility.[4] Smaller utilities typically have a smaller portion of wholesale sales. This results in fewer filings, and thus staff are less familiar with FERC requirements. Larger utilities, in comparison, often have greater amounts of wholesale trade and thus are more likely to have staff with the expertise in submitting complete applications. These EEI members also noted that certain utility officials have experienced what they perceive as inconsistent interpretation of filing requirements by FERC staff: In some cases applications were accepted and completed without question, whereas similar applications were delayed while FERC staff contacted the applicant for "clarifying" information.

## FERC Does Not Analyze Incomplete Applications

To minimize processing time, FERC staff often telephone applicants if information is missing from an application. FERC staff estimate placing roughly 250 calls annually. These calls are made only for uncontested applications. For contested applications, FERC staff issue formal letters (called deficiency letters) to obtain the needed information. These letters are infrequent, averaging roughly 40 per year during fiscal years 1990-92.

[4]EEI is an association of investor-owned utilities. According to EEI, its members account for about 78 percent of the electricity generated in the United States and serve about 74 percent of all electricity customers in the nation.

Applicants also have the option of telephoning FERC staff to discuss filing requirements prior to a submitting an application. FERC staff estimate receiving roughly 200 calls per year regarding prefiling issues.

However, issues raised and information communicated in telephone calls are not retained and analyzed. As a result, FERC cannot identify recurring problems or issues. Formally tracking the number of, and reasons for, incomplete applications, and periodically assessing the issues raised through letters and telephone calls could help reveal problem areas. In turn, this information could help FERC reduce the number of incomplete applications by revising its application filing requirements, issuing policy statements, or implementing other strategies directed at reducing incomplete applications.

Identifying and resolving problems is essential because continuing industry changes and the Energy Policy Act are likely to lead to increased numbers of nontraditional applications (e.g., applications for market-based rates and access to transmission facilities). Until FERC and applicants become more familiar with them, these nontraditional applications are likely to demand more staff time, leaving less time for routine requests.

## Increasing the Use of Voluntary Settlement Procedures

As shown in appendix II, our analysis of applications completed during fiscal years 1990-92 clearly indicates that those requiring trial-type hearings take significantly more time and that processing time can be reduced if the parties settle voluntarily. Compared with full litigation through a trial-type hearing, settlements result in substantial time and resource savings to both FERC and the involved parties. The 1990 Administrative Dispute Resolution Act, which provides for additional methods of achieving settlements, could help FERC to further encourage parties to reach voluntary agreements. Although FERC has taken steps to implement the act, it still has not adopted a formal policy, as the act requires.

FERC's existing regulations allow for convening a conference at any time during FERC's hearing process to discuss a potential settlement agreement. The regulations also allow for the appointment of a settlement judge to help facilitate settlement agreements. The settlement judge presides over settlement negotiations and assesses the potential for the parties to reach voluntary settlements. A settlement judge may be requested at any time during the application review process by the affected parties or by the

presiding ALJ. In addition, the commissioners may order the chief ALJ to appoint a settlement judge. According to FERC data, out of roughly 200 applications scheduled for a trial-type hearing since 1989, settlement judges have been used in 17 cases.

The Administrative Dispute Resolution Act could help FERC to further encourage parties to contested applications to reach voluntary agreements. The act is intended to encourage administrative agencies such as FERC to use alternative settlement procedures such as arbitration, mediation, and mini-trials. Arbitration is conducted using an expert, or panel of experts, following the presentation of evidence by the affected parties. Mediation uses an expert to examine the merits of each party's position and to communicate this examination to each of the affected parties. Mini-trials typically include a presentation of evidence and arguments to senior officers of the parties involved, who then attempt to negotiate a settlement. A third party neutral advisor or mediator is often used to facilitate settlement discussions.

According to a FERC ALJ, use of similar alternative procedures could help to increase the number of settlement agreements. The ALJ explained that alternative procedures could be helpful in resolving cases before proceeding through the entire hearing process, or even before the application is submitted to FERC.

Similarly, several trial attorneys who represent applicants before the Commission and a former ALJ explained that alternative settlement procedures should be used as much as possible. One of the trial attorneys explained that alternative procedures should be used because it is more likely to result in the parties who truly have a stake in the outcome (utility officials and their customers) participating in settlement procedures, rather than relying on those who have a stake in the process (trial attorneys).

# Objectives, Scope, and Methodology

Concerned that administrative delays at FERC may inhibit the positive effects of more competitive wholesale power markets, the Chairman, Environment, Energy, and Natural Resources Subcommittee, House Committee on Government Operations, requested that we assess (1) factors affecting the time that FERC takes to process electric power applications; (2) the potential effects of the Energy Policy Act of 1992 on FERC's work load, particularly the Commission's new authority to order utility companies to allow other electricity sellers to use the companies' transmission lines; and (3) potential procedural changes that could reduce the time needed to decide on applications.

To determine the factors affecting the time needed to process electric power applications, we examined Commission records and interviewed Commission staff responsible for electric power regulation. In examining the factors contributing to processing time, we focused on "dockets" decided on rather than applications decided on by FERC during fiscal years 1990-92. According to FERC officials responsible for electric power regulation, FERC assigns a docket number to each electric power application received.

In calculating processing time for electric power applications, we made several adjustments to FERC data. First, to reduce the effects on average processing time stemming from one case completed by FERC during the 1990-92 time frame, we omitted this application from the statistics. This case involved two dockets stemming from an application originally filed in 1972. In addition, on the basis of discussions with FERC staff, we included only the time needed to complete initial applications (or dockets) rather than "partial" settlements. We did this to determine the processing time for applications scheduled for a trial-type hearing and completed through a voluntary settlement. Partial settlements occur when one or more of the parties in a case reach agreement on all or some of the issues involved in a case. Because the docket used by FERC to track these "partial" settlements is created at the time of these settlements, the processing time is short. Therefore, combining statistics on partial settlements with settlements on the original application tends to understate the average processing time for settlements. Our analysis of settlements includes only settlements of the original application; thus, the number of settlements is somewhat understated, but the average processing time is more accurate when compared with applications decided through delegated authority, directly by the commissioners without a trial-type hearing, or through a trial-type hearing.

To determine the effects of the Energy Policy Act of 1992, we examined the legislation and spoke with many of the same officials mentioned above. To determine the potential effect of granting FERC authority to order access to transmission lines, we met with Commission staff to determine the extent to which the Commission has experience with these issues. We also met with officials responsible for operating one of the nation's largest integrated electricity transmission networks.

To determine if potential procedural changes could be made to reduce the time needed to complete applications, we interviewed FERC staff and examined Commission manuals and records. We also reviewed recommendations made in prior reports on regulatory delay at FERC and other administrative agencies. (A bibliography of these studies is contained at the end of this report.) In addition, we interviewed legal counsel representing electric utilities and their customers before the Commission, the chief ALJ, one current and one former FERC ALJ, and a former FERC Chairman. We also discussed these issues with officials representing trade organizations, state utility commissions, and privately and publicly owned utility companies.

As requested, we did not obtain written agency comments on this report. However, we discussed factual information in the report with the Director and Assistant Director, OEPR, and the Associate General Counsel for Hydroelectric and Electric, Office of General Counsel, who generally agreed with the facts presented. Their comments have been incorporated where appropriate. We conducted our review between April 1992 and May 1993 in accordance with generally accepted government auditing standards.

# Major Contributors to This Report

| | |
|---|---|
| Resources, Community, and Economic Development Division, Washington D.C. | Jim Wells, Associate Director<br>David G. Wood, Assistant Director<br>Daniel J. Feehan, Evaluator-in-Charge<br>Carol Herrnstadt Shulman, Reports Analyst |
| Office of the General Counsel | Jackie A. Goff, Senior Attorney |

# Bibliography


Allen, Donald, R. "To FERC or Not To FERC, That is the Question." Electricity Journal. Jan./Feb. 1991.

Benkin, Isaac, D. "More Ado About Prehearing Discovery at FERC." Energy Law Journal. Vol. 6:1. 1985.

Bobbish, Donna, J. "Electric Utility Restructuring: Who's Regulating the Revolution?" Electricity Journal. June 1990.

Bobbish, Donna, J. "From Gas to Electric at FERC: Will It be Deja Vu All Over Again?" Electricity Journal. June 1992.

Boiler, Diane, S. "CPR for Strangled Utility Proceedings." Public Utilities Fortnightly. Nov. 1, 1992.

Bonbright, James, C., Albert L. Danielson and David R. Kamerschen. Principles of Public Utility Rates. Arlington, Va.: Public Utilities Reports, Inc., 1988.

Breyer, Stephen, G. and Paul W. MacAvoy. Energy Regulation by the Federal Power Commission. Washington, D.C.: The Brookings Institution, 1974.

"Broken or Not, Should FERC be Fixed?" Electricity Journal. Aug./Sept. 1991.

Congressional Research Service. Electricity: A New Regulatory Order? June 1991.

Curtis, Charles B. Report to Congress: Decisional Delay in Wholesale Electric Rate Increase Cases: Causes, Consequences and Possible Remedies. Federal Energy Regulatory Commission. Jan. 1980.

Electric Power Wheeling and Dealing: Technological Considerations for Increasing Competition. Office of Technology Assessment. Washington, D.C.: U.S. Government Printing Office, 1989.

"Examining the Federal Energy Regulatory Commission." Public Utilities Fortnightly. Nov. 22, 1990.

Federal Energy Regulatory Commission. Electricity Transmission: Realities, Theory and Policy Alternatives. Oct. 1989.

Federal Energy Regulatory Commission. Public Conference and Request for Comments on Electricity Issues. June 11, 1991.

Federal Regulation and Regulatory Reform. Subcommittee on Oversight and Investigations, Committee on Interstate and Foreign Commerce, U.S. House of Representatives. Oct. 1976.

Hyman, Leonard, S. America's Electric Utilities: Past, Present, and Future. Arlington, Va.: Public Utilities Reports, Inc., 1985.

Joseph, Daniel and Michelle L. Gilbert. "Breaking the Settlement Ice: The Use of Settlement Judges in Administrative Proceedings." Administrative Law Journal. Vol. 3:571. 1989/90.

Martin, Herbert, J. "Alternative Dispute Resolution: Coming to Proceedings Near You." Public Utilities Fortnightly. Mar. 1, 1991.

Peters, Lon, L. "When are Bulk Power Markets 'Workably Competitive'?" Electricity Journal. Mar. 1990.

Phillips, Charles, F. The Regulation of Public Utilities. Arlington, Va.: Public Utilities Reports, Inc., 1988.

Pierce, Jr., Richard J. "Reconstituting the Natural Gas Industry From Wellhead to Burnertip." Energy Law Journal. Vol. 9:1. 1988.

Reiter, Harvey, L. "The FERC's New Rules of Discovery: A Welcomed Approach." Energy Law Journal. Vol. 8:35. 1987.

Stafford, G., William. "Electric Wholesale Power Sales at Market-based Rates." Energy Law Journal. Vol. 12:265. 1991.

Stalon, Charles, G., and R. Odisio. "Transmission—The Heart of the Issue." Electricity Journal. Apr. 1990.

Strauss, Peter, L. An Introduction to Administrative Justice in the United States. Durham, N.C.: Carolina Academic Press, 1989.

Study on Federal Regulation: Volume IV-Delay in the Regulatory Process. Committee on Governmental Affairs, United States Senate. July 1977.

Tenenbaum, Bernard, W. and J. Stephen Henderson. "Market-Based Pricing of Wholesale Electric Services." Electricity Journal. Dec. 1991.

Walker, Mary, Ann. "Settlement Practice at the FERC: Boom or Bane." Energy Law Journal. Vol. 7:343. 1986.

Wallace, Megan, A. "A Negotiated Alternative to Mandatory Wheeling." Energy Law Journal. Vol. 10:99. 1989.

# Related Products

Energy and Science Reports and Testimony: 1992 (GAO/RCED-93-131, Apr. 1993)

Natural Gas: Factors Affecting Approval Times for Construction of Natural Gas Pipelines (GAO/RCED-92-100, Feb. 26, 1992)

Electricity Supply: Potential Effects of Amending the Public Utility Holding Company Act (GAO/RCED-92-52, Jan. 7, 1992)

Federal Energy Regulatory Commission Has Expedited Case Processing; Additional Improvements Needed (GAO/RCED-83-51, June 10, 1983)

Additional Management Improvements Are Needed to Speed Case Processing at the Federal Energy Regulatory Commission (GAO/EMD-80-54, July 15, 1980)

Management Improvements in the Administrative Law Process: Much Remains To Be Done (GAO/FPCD-79-44, May 23, 1979)

Review of Administrative Law Judge Activities and the Hearing Process at the Federal Energy Regulatory Commission (GAO/EMD-79-28, Feb. 13, 1979)

The Administrative Law Process: Better Management is Needed (GAO/FPCD-78-25, May 1978)

Management Improvements Needed in the Federal Power Commission's Processing of Electric Rate Increase Cases (GAO/EMD-76-9, Sept. 7, 1976)

Ordering Information

The first copy of each GAO report and testimony is free. Additional copies are $2 each. Orders should be sent to the following address, accompanied by a check or money order made out to the Superintendent of Documents, when necessary. Orders for 100 or more copies to be mailed to a single address are discounted 25 percent.

Orders by mail:

U.S. General Accounting Office
P.O. Box 6015
Gaithersburg, MD 20884-6015

or visit:

Room 1000
700 4th St. NW (corner of 4th and G Sts. NW)
U.S. General Accounting Office
Washington, DC

Orders may also be placed by calling (202) 512-6000 or by using fax number (301) 258-4066.

United States
General Accounting Office
Washington, D.C. 20548

Official Business
Penalty for Private Use $300

First-Class Mail
Postage & Fees Paid
GAO
Permit No. G100