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*Comment Date:* 5 p.m. Eastern Time on November 9, 2009.

**Kimberly D. Bose,**  
Secretary.

[FR Doc. E9-25257 Filed 10-20-09; 8:45 am]

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. EL10-3-000]

#### Citizens Energy Corporation; Notice of Filing

October 14, 2009.

Take notice that on October 9, 2009, pursuant to Rule 207 of the Federal Energy Regulatory Commission's Rules of Practice and Procedure, 18 CFR 385.207 (2006), Section 219 of the Federal Power Act, 16 U.S.C. 791a-828c, 824s, and Order No. 679, *Promoting Transmission Investment Through Pricing Reform*, Order No. 679, 116 FERC 61,057, *order on reh'g*, 117 FERC 61,345 (2006) (Order No. 679A) (Incentive Pricing Rule), Citizens Energy Corporation filed a Petition for Declaratory Order requesting Commission approval of two rate treatments for the Sunrise Powerlink Transmission Project, located in Imperial Valley, California.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at <http://www.ferc.gov>. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at <http://www.ferc.gov>, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov), or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

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**Kimberly D. Bose,**  
Secretary.

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. NP09-26-000]

#### North American Electric Reliability Corporation; Order Addressing Applicability of Section 215 of the Federal Power Act to Federal Entities

October 15, 2009.

1. On June 24, 2009, the North American Electric Reliability Corporation (NERC) filed a Notice of Penalty for a self-certified violation of a Commission-approved Reliability Standard by the U.S. Army Corps of Engineers (Corps)-Tulsa District. In that filing, NERC requested that the Commission issue a decision addressing the jurisdictional issue of whether, pursuant to section 215 of the Federal Power Act (FPA), federal entities that use, own, or operate the Bulk-Power System, such as the Corps-Tulsa District, must comply with mandatory Reliability Standards.

2. The Corps-Tulsa District did not seek Commission review of the Notice of Penalty, which took effect on the 31st day after filing pursuant to section 215(e)(2) of the FPA.<sup>1</sup> In this order, we affirm that, pursuant to section 215 of the FPA, the Corps-Tulsa District and other federal entities that use, own, or operate the Bulk-Power System must comply with mandatory Reliability Standards.

#### Background

##### A. Statutory Framework

3. Section 215 of the FPA authorizes the Commission to certify and oversee

an electric reliability organization (ERO), which is responsible for developing and enforcing mandatory Reliability Standards that are applicable to owners, users, and operators of the Bulk-Power System.<sup>2</sup> Section 215(e) authorizes the ERO, as well as the Commission on its own motion or on complaint, to assess penalties for violation of Reliability Standards.<sup>3</sup> Exercising this statutory authority, the Commission certified NERC as the ERO<sup>4</sup> and initially approved 83 Reliability Standards.<sup>5</sup> Further, consistent with the statute, NERC as the ERO delegated to eight Regional Entities, including Texas Regional Entity, authority to, *inter alia*, enforce mandatory Reliability Standards.<sup>6</sup>

4. Users, owners, and operators of the Bulk-Power System are required to register with NERC.<sup>7</sup> NERC's Compliance Registry identifies all entities subject to compliance with the approved Reliability Standards. Further, NERC has developed a statement of Registry Criteria that is employed by NERC and the Regional Entities to determine which organizations should be registered because they are material to the reliability of the Bulk-Power System.<sup>8</sup> In cases where an entity is registered involuntarily by NERC, that entity has an opportunity to timely appeal its registration status in accordance with Rule 504 and Appendix 5 to NERC's Rules of Procedure.

5. NERC must file a Notice of Penalty with the Commission before a Regional Entity or NERC penalty assessment for the violation of a Reliability Standard takes effect.<sup>9</sup> Each penalty determination is subject to Commission review, on its own motion or by an application for review by the recipient

<sup>2</sup> 16 U.S.C. 824o(c) (2006).

<sup>3</sup> *Id.* § 824o(e).

<sup>4</sup> *North American Electric Reliability Corp.*, 116 FERC ¶ 61,062, *order on reh'g and compliance*, 117 FERC ¶ 61,126 (2006), *order on compliance*, 118 FERC ¶ 61,030, *order on compliance*, 118 FERC ¶ 61,190, *order on reh'g*, 119 FERC ¶ 61,046 (2007), *aff'd sub nom. Alcoa Inc. v. FERC*, 554 F.3d 1342 (D.C. Cir., 2009).

<sup>5</sup> *Mandatory Reliability Standards for the Bulk-Power System*, Order No. 693, FERC Stats & Regs. ¶ 31,242, *order on reh'g*, Order No. 693-A, 120 FERC ¶ 61,053 (2007).

<sup>6</sup> *North American Electric Reliability Corp.*, 119 FERC ¶ 61,060, *order on reh'g*, ¶ 61,260 (2007).

<sup>7</sup> 18 CFR 39.2(c) (2009).

<sup>8</sup> The Commission accepted the NERC Registry Criteria in Order No. 693, FERC Stats. & Regs. ¶ 31,242 at P 93-95.

<sup>9</sup> *Rules Concerning Certification of the Electric Reliability Organization; and Procedures for the Establishment, Approval, and Enforcement of Electric Reliability Standards*, Order No. 672, FERC Stats. & Regs. ¶ 31,204 at P 506, *order on reh'g*, Order No. 672-A, FERC Stats. & Regs. ¶ 31,212 (2006).

<sup>1</sup> 16 U.S.C. 824o(e)(2) (2006).