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Accounting for Change: Federal Energy Regulatory Commission Proposes Accounting and Financial Reporting Reforms to Address Renewable Energy Assets

By Mark R. Haskell, Brett A. Snyder and Lamiya N. Rahman*

The authors review a Notice of Proposed Rulemaking issued recently by the Federal Energy Regulatory Commission regarding whether the agency's Uniform System of Accounts adequately accounts for renewal energy assets.

The Federal Energy Regulatory Commission ("FERC" or "Commission") recently issued a Notice of Proposed Rulemaking ("NOPR") to address industry concerns that FERC's current Uniform System of Accounts ("USofA") does not adequately account for renewable energy assets.[1] The NOPR, which was released during the last Commission open meeting, proposes the following four categories of amendments to the USofA, as well as conforming revisions to FERC's accounting reports:

- Creating new production accounts specifically dedicated for wind, solar, and other non-hydro renewable assets;
- Creating a single dedicated functional class for energy storage accounts;
- Specifying the accounting treatment of renewable energy credits ("RECs") and similar instruments by codifying prior Commission guidance; and
- Adding new dedicated accounts for hardware, software, and communication equipment within existing functions in the USofA.

Additionally, the NOPR requests feedback on whether the FERC Chief Accountant should issue accounting guidance related to hydrogen. Comments in response to the NOPR were due 45 days after publication in the Federal Register.

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[1] Accounting and Reporting Treatment of Certain Renewable Energy Assets, 180 FERC ¶ 61,050 (2022) ("NOPR").

BACKGROUND

As part of its duty to ensure that jurisdictional rates are just and reasonable, FERC imposes various regulatory accounting and financial reporting requirements on FERC-regulated entities. Such entities are generally required to maintain their books and records in accordance with the USofA which, for public utilities subject to regulation under the Federal Power Act, is located at 18 C.F.R. §§ 101–125. The USofA specifies account descriptions, instructions, and accounting definitions, and "was created . . . to facilitate the Commission's ratemaking responsibilities and uniformly capture financial and operational information for, first, traditional public utilities, and then natural gas pipelines."[2]

FERC has not significantly modified the USofA in almost a decade. As it currently stands, the USofA does not specifically account for renewable energy assets such as wind and solar. As the NOPR concedes, this has resulted in uncertainty and disagreement among regulated entities as to the proper accounting treatment for a rapidly growing segment of electricity generation assets. In 2021, the Commission denied a petition requesting confirmation of proposed accounting treatment for certain wind and solar generation assets.[3] The Commission noted there was "substantial disagreement" among participants in that proceeding, but agreed that the industry would benefit from further guidance on the accounting treatment of wind and solar generation assets.[4] As a result, the Commission issued a Notice of Inquiry in Docket No. RM21-11 to seek comment on the appropriate accounting treatment for

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[2] NOPR at P 4.

[3] *Locke Lord LLP*, 174 FERC ¶ 61,033 (2021). In that proceeding, the petitioner requested confirmation from the Chief Accountant that the cost of certain specified wind and solar generating equipment would be properly booked to USofA Account Nos. 343 (Prime Movers), 344 (Generators), and 345 (Accessory Electric Equipment). The petitioner noted that the USofA does not address how wind and solar generating equipment should be booked. Protests were filed arguing, among other things, that the issues raised by the petition should be examined in a technical conference or generic proceeding and that the Commission should evaluate whether to create solar and wind-specific accounts rather than "force-fitting" such assets into the existing Other Production Account. The Commission denied the petition, finding that "the record in his proceeding [was] insufficient to support the issuance of the requested guidance." *Id.* at P 19. Given the "substantial disagreement regarding equipment and categorizations," the lack of specific details contained in the petition, and the far-reaching implications of the requested guidance, the Commission determined it would be inappropriate to issue the requested guidance. *Id.* Instead, the Commission determined that a separate Notice of Inquiry proceeding intended to provide the industry with accounting guidance regarding renewables would be appropriate.

[4] *Id.* at P 19.

renewable energy assets,[5] culminating in the instant NOPR, which seeks to modernize the USofA and provide greater certainty on the accounting treatment for renewables.

FERC'S PROPOSED ACCOUNTING REVISIONS

The NOPR proposes to make four categories of revisions to the USofA to account for various technological and market changes.

First, the NOPR proposes to create new dedicated production accounts for renewable energy assets. Specifically, the Commission proposes new subfunctions within the Production function[6] for "Solar Production," "Wind Production, and "Other Non-Hydro Renewable Production."[7] FERC proposes various new plant and operations and maintenance ("O&M") expense accounts under these new subfunctions, as detailed in the NOPR.

Second, FERC is proposing to establish a dedicated new function for energy storage. The NOPR points out that, currently, energy storage assets are recorded among separate functions (generation, transmission, and distribution), resulting in additional regulatory burdens and potential for errors (for example, where a utility reclassifies assets among different plant accounts with different depreciation rates). In proposing a single dedicated function for energy storage, FERC notes that utilities would no longer be required to track and reclassify storage assets in response to changes in function. As proposed in the NOPR, the new storage function would have a similar structure to existing functions and include various plant and O&M expense accounts detailed in the NOPR.

Third, the NOPR proposes to codify the accounting treatment of RECs by making various revisions to the USofA. FERC proposes to rename the existing General Instruction No. 21 (Allowances) to encompass both "Allowances and Renewable Energy Credits (RECs)."

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[5] Accounting and Reporting Treatment of Certain Renewable Energy Assets, 174 FERC ¶ 61,032 (2021).

[6] The USofA currently contains separate functions for production, transmission, and distribution. The NOPR proposed to add, under the production function, the subfunctions of solar production, wind production, and other non-hydro renewable production. As described below, on the function level, the NOPR also proposes to add a new energy storage function.

[7] The "Other Non-Hydro Renewable Production" subfunction is intended to encompass renewable generation technologies that are not solar or wind. Because there is an existing generation subfunction entitled "Other Production," which based on the current instructions is intended to describe prime mover type generation assets, the Commission requested comment on whether to rename this subfunction as "Prime Mover Production." As FERC explains, a "prime mover electric generator is one where the fuel source directly moves the electric turbine rather than using a boiler or other secondary energy transfer." NOPR at P 34, n.73.

Substantively, the NOPR would add new proposed accounts and revise General Instruction No. 21 to provide guidance on accounting for RECs and similar instruments. Among other things, the NOPR provides the following clarifying language and guidance:

- The NOPR would clarify various provisions in the general instruction to provide that public utilities must account for allowances and RECs at historical cost.
- The NOPR removes references to the Clean Air Act and Environmental Protection Agency ("EPA") to make the applicability of the instruction less narrow. With respect to penalties to be charged to Account No. 426.3 (Penalties), the amended language broadens the scope of applicable penalties to those assessed by *any* authoritative agency (rather than just the EPA).
- The proposed amendments would clarify the accounts used for allowances and RECs owned for operational purposes.[8] If acquired for speculative purposes, the amended instruction would require that such allowances and RECs be accounted for in Account 124 (Other Investments). To the extent such allowances/RECs become eligible for use in different years and the allocation of purchase cost cannot be determined by fair value, the amended instruction would require that the purchase cost allocated to allowances/RECs of each vintage be determined through use of a present value-based measurement, as further detailed in the instruction.
- The NOPR adds clarifying language regarding inventory accounting for RECs. Specifically, the amended instruction would note that in any period in which a utility records its estimated amount of required RECs, the utility must debit Account 158.3[9] with the estimated cost and credit the proper liability account. Furthermore, the language states that when differences between estimated and actual costs become known, adjustments should be made through Account 158.1[10] and Account 158.3 and Account 509.1[11] and Account 509.2[12] within a single month, as appropriate.
- The NOPR adds language specifying that prepayments made for

[8] As appropriate, Account Nos. 158.1 (Allowance Inventory), 158.2 (Allowances Withheld), 158.3 (Bundled Renewable Energy Credits Inventory), or 158.4 (Unbundled Renewable Energy Credits Inventory).

[9] Balance Sheet Chart of Accounts—(Bundled Renewable Energy Credits Inventory).

[10] Balance Sheet Cart of Accounts—(Allowance Inventory).

[11] Operation and Maintenance Expense Chart of Accounts—(Allowance Inventory).

allowances or RECs are to be debited to Account No. 165 (Prepayments). The proposed language explicitly states that this accounting treatment is not intended to influence the outcome of rate treatment.

- The NOPR amends the guidance to specify the accounts to be used to account for gains or losses from disposition of RECs.
- The NOPR adds language clarifying that revenues for RECs associated with energy sales must be recorded in the appropriate operating revenue account.

While acknowledging that other regulatory bodies may prescribe different methods of accounting for and reporting on RECs, the NOPR indicates FERC's regulations generally prevail for purposes of the accounting and financial reporting needed by FERC in furtherance of its statutory responsibilities.

Fourth, the NOPR proposes to add three new plant accounts and three new maintenance accounts relating to computer hardware, software, and communication equipment in each function and subfunction (including the general function) that does not currently have such accounts. Additionally, the NOPR adds a new Electric Plant Instruction No. 17 that addresses recording of computer hardware, software, and communication equipment that is integrated as part of a larger retirement unit. FERC also requested comments on whether it should create computer hardware, software, and communication accounts for natural gas pipelines, oil pipelines, and holding companies' service companies.

The NOPR proposes conforming revisions to FERC Form Nos. 1, 1-F, 3-Q (electric), and 60 to accommodate the newly proposed function/subfunctions and associated accounts, references to RECs, and the new plant and maintenance accounts for computer hardware, software, and communication equipment.

Finally, the NOPR solicited comments on whether the FERC Chief Accountant should issue accounting guidance regarding hydrogen, as requested by various industry participants. FERC notes the following potential areas to be covered by such guidance:

- Whether the classification of hydrogen plant should be based on its functionality for both plant and associated O&M accounting, as well as for fuel accounting.
- Which activities should be accounted for under the electric USofA, and which should be accounted for under the natural gas USofA.
- Whether FERC should use existing natural gas accounts and instruc-

[12] Operation and Maintenance Expense Chart of Accounts—(Bundled Renewable Energy Credits).

tions for production plant and O&M expenses for hydrogen, or whether it should update its titles/instructions or create new accounts for hydrogen.