



441 G St. N.W.  
Washington, DC 20548

B-335566

September 14, 2023

The Honorable Joe Manchin  
Chairman  
The Honorable John Barrasso  
Ranking Member  
Committee on Energy and Natural Resources  
United States Senate

The Honorable Cathy McMorris Rodgers  
Chair  
The Honorable Frank Pallone, Jr.  
Ranking Member  
Committee on Energy and Commerce  
House of Representatives

Subject: *Department of Energy, Federal Energy Regulatory Commission: Improvements to Generator Interconnection Procedures and Agreements*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Department of Energy, Federal Energy Regulatory Commission (FERC) entitled "Improvements to Generator Interconnection Procedures and Agreements" (RM22-14-000). We received the rule on August 1, 2023. It was published in the *Federal Register* as a final rule on September 6, 2023. 88 Fed. Reg. 61014. The effective date is November 6, 2023.

FERC states that the final rule adopts reforms to its *pro forma* Large Generator Interconnection Procedures, *pro forma* Small Generator Interconnection Procedures, *pro forma* Large Generator Interconnection Agreement, and *pro forma* Small Generator Interconnection Agreement to address interconnection queue backlogs, improve certainty, and prevent undue discrimination for new technologies. FERC further states that these reforms are intended to ensure that the generator interconnection process is just, reasonable, and not unduly discriminatory or preferential.

Enclosed is our assessment of FERC's compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. If you have any questions about this report or wish to contact GAO officials responsible for the evaluation work relating to the subject matter of the rule, please contact Shari Brewster, Assistant General Counsel, at (202) 512-6398.

A handwritten signature in black ink that reads 'Shirley A. Jones'.

Shirley A. Jones  
Managing Associate General Counsel

Enclosure

cc: Matthew Christiansen  
General Counsel  
Federal Energy Regulatory Commission

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE  
ISSUED BY THE  
DEPARTMENT OF ENERGY,  
FEDERAL ENERGY REGULATORY COMMISSION  
ENTITLED  
“IMPROVEMENTS TO GENERATOR INTERCONNECTION  
PROCEDURES AND AGREEMENTS”  
(RM22-14-000)

(i) Cost-benefit analysis

In its submission to us, the Department of Energy, Federal Energy Regulatory Commission (FERC) indicated that it did not prepare an analysis of the costs and benefits of this final rule.

(ii) Agency actions relevant to the Regulatory Flexibility Act (RFA), 5 U.S.C. §§ 603–605, 607, and 609

FERC certified that the reforms proposed in this final rule would not have a significant economic impact on a substantial number of small entities.

(iii) Agency actions relevant to sections 202–205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532–1535

As an independent regulatory agency, FERC is not subject to the Act.

(iv) Agency actions relevant to the Administrative Pay-As-You-Go-Act of 2023, Pub. L. No. 118-5, div. B, title III, 137 Stat 31 (June 3, 2023)

Section 270 of the Administrative Pay-As-You-Go-Act of 2023 amended 5 U.S.C. § 801(a)(2)(A) to require GAO to assess agency compliance with the Act, which establishes requirements for administrative actions that affect direct spending, in GAO’s major rule reports. In guidance to Executive Branch agencies, issued on September 1, 2023, the Office of Management and Budget (OMB) instructed that agencies should include a statement explaining that either: “the Act does not apply to this rule because it does not increase direct spending; the Act does not apply to this rule because it meets one of the Act’s exemptions (and specifying the relevant exemption); the OMB Director granted a waiver of the Act’s requirements pursuant to section 265(a)(1) or (2) of the Act; or the agency has submitted a notice or written opinion to the OMB Director as required by section 263(a) or (b) of the Act” in their submissions of rules to GAO under the Congressional Review Act. OMB, *Memorandum for the Heads of Executive Departments and Agencies*, Subject: Guidance for Implementation of the Administrative Pay-As-You-Go Act of 2023, M-23-21 (Sept. 1, 2023), at 11–12. OMB also states that directives in the memorandum that supplement the requirements in the Act do not apply to proposed rules that have already been submitted to the Office of Information and Regulatory Affairs, however agencies must comply with any applicable requirements of the Act before finalizing such rules.

FERC does not discuss the Administrative Pay-As-You-Go Act of 2023 in the final rule, which was issued on July 28, 2023, and therefore prior to OMB’s guidance.

(v) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 *et seq.*

On June 16, 2022, FERC published a proposed rule. 87 Fed. Reg. 39934 (July 5, 2022). FERC received 189 comments in response to the proposed rule. FERC responded to comments in the final rule.

Paperwork Reduction Act (PRA), 44 U.S.C. §§ 3501–3520

FERC determined that this final rule contains information collection requirements under the Act. Specifically, FERC stated that the final rule affects the following collections of information: FERC-516, Electric Rate Schedules and Tariff Filings (OMB Control Number 1902-0096), and FERC-516A, Standardization of Small Generator Interconnection Agreements and Procedures (OMB Control Number 1902-0203). FERC estimated that the total burden associated with these information collection requirements in the final rule will be 34,320 hours and \$3,123,120 in “year 1” and 1,760 hours and \$160,160 on an “ongoing” basis.

Statutory authorization for the rule

FERC promulgated this final rule pursuant to sections 791a–825r and 2601–2645 of title 16, section 9701 of title 31, and sections 7101–7352 of title 42, United States Code.

Executive Order No. 12866 (Regulatory Planning and Review)

As an independent regulatory agency, FERC is not subject to the Order.

Executive Order No. 13132 (Federalism)

As an independent regulatory agency, FERC is not subject to the Order.