

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

18 CFR Parts 35, 131, 154, 157, 250, 281, 284, 300,
341, 342, 344, 346, 347, 348, 375 and 385

Docket No. RM01-5-000

Electronic Tariff Filings

(July 8, 2004)

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of Proposed Rulemaking, Prototype Testing, and Technical Conference

SUMMARY: The Federal Energy Regulatory Commission is proposing to require that all tariffs and tariff revisions and rate change applications for the public utility, natural gas pipeline, and oil pipeline industries, be filed electronically via software provided by the Commission. Upon the effective date of a final rule in this proceeding, the Commission will no longer accept tariff filings submitted in paper format. This endeavor is intended to improve the administrative convenience for the regulated entities, facilitate public access to the tariffs, improve the overall tariff management processes, and facilitate the Commission's and the public's analysis of proposed tariff changes and tariff filings.

The Commission will make the proposed tariff filing software available on its website (<http://www.ferc.gov>) shortly after this Notice of Proposed Rulemaking (NOPR) is issued and is seeking participation from the industry in testing the software as well as comments on its operation. Commission staff will hold a technical conference with the industry and the public to assess the results of the testing.

DATES: Comments are due October 4, 2004.

ADDRESSES: Comments may be filed electronically via the eFiling link on the Commission's web site at <http://www.ferc.gov>. Commenters unable to file comments electronically must send an original and 14 copies of their comments to: Federal Energy Regulatory Commission, Office of the Secretary, 888 First Street N.E., Washington, DC, 20426. Refer to the Comment Procedures section of the preamble for additional information on how to file comments.

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SUPPLEMENTARY INFORMATION:

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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NOTICE OF PROPOSED RULEMAKING

ISSUED: July 8, 2004

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Docket No. RM01-5-000

NOTICE OF PROPOSED RULEMAKING

(July 8, 2004)

1. The Federal Energy Regulatory Commission (Commission) is proposing to amend its regulations to mandate that utilities make their tariff and rate case filings electronically with the Commission, over the Internet, via computer software provided by the Commission. Electronically filed tariffs and tariff changes should improve the efficiency and administrative convenience of the tariff and tariff change filing process, reduce the burden and expense associated with paper tariffs and paper tariff changes, facilitate public access to tariff information, improve the overall management of the tariff and tariff change processes, and facilitate the analysis of proposed tariff changes. In addition, electronically filed tariffs should improve access and research capabilities within and among applicants' tariffs. This feature should help facilitate the Commission's monitoring of energy markets, to the benefit of the customers and all involved. It also should enhance competition within industries by providing the customers and all involved with an electronic means of comparing the rates, terms and conditions, and other provisions applicable to the regulated entities.

2. After the issuance of this Notice of Proposed Rulemaking (NOPR), the Commission will be posting on its website instructions for downloading the proposed software that the utilities will use to make their tariff and rate case filings. The Commission encourages utilities to download the proposed software to see how the system will operate and to participate in the Commission's program for testing the software.

I. BACKGROUND

3. The federal government has set a goal to substitute electronic means of communication and information storage for paper. For example, the Government Paperwork Elimination Act directed agencies to provide for the optional use and acceptance of electronic documents and signatures, and electronic record-keeping, where

practical.¹ Similarly, the Office of Management and Budget (OMB) Circular A-130 required agencies to use electronic information collection techniques, where such means will reduce the burden on the public, increase efficiency, reduce costs, and help provide better service.² This requirement applies to all filings, including tariff filings.

4. As part of its statutory responsibilities, the Commission requires regulated entities to file tariffs which include, among other things, their respective rates, and terms and conditions of service.³ In addition, the Commission regulations require regulated entities that are amending tariffs to file material accompanying the proposed tariff changes. This material can range from a filing including a letter of transmittal, an explanation of the basis of the filing, and a form of notice to a full rate case filing, including required schedules detailing the derivation of the rates.

5. Currently, gas and electric tariffs are filed at the Commission in the form of numbered tariff sheets. When changes to the tariffs are necessary, the companies file substitute or revised tariff sheets, which supersede the effective tariff sheets on file.⁴ The use of tariff sheets as the base unit for the tariff allows for changes to be submitted to the Commission without the necessity of refileing the entire tariff.

¹ See 44 U.S.C. § 3504 (a)(1)(B)(vi); 44 U.S.C. § 3504 note, Pub. L. No. 105-277, § 1704 (October 21, 1998).

² Circular A-130, Para. 8.a.1(k).

³ A tariff is the compilation of any rates, schedules, rate schedules, contracts, application, rule, or similar matter that clearly and specifically set forth all rates and charges for any services subject to the jurisdiction of this Commission, the classifications, practices, rules and regulations affecting such rates and charges and all contracts which in any manner affect or relate to such rates, charges, classifications, services, rules, regulations or practices.

⁴ Such tariff pages are frequently identified using the following nomenclature, as an example, Third Revised Sheet No. 100, superseding Second Revised Sheet No. 100.

6. Oil pipeline tariffs do not use the tariff sheet format. The oil pipeline tariff format consists of parts identified by item numbers. Changes are filed either as complete tariffs⁵ or tariff supplements.⁶ The changes being made by the new filing are identified by the item number, and can be revisions, insertions, and cancellations.

7. The Commission has previously undertaken changes to provide for electronic submission of tariff filings and other material. In 1988, the Commission required natural gas pipelines to file formatted electronic versions of certain tariffs on diskette in addition to filing paper copies. These requirements retained the tariff page concept. Each pipeline files electronically only the tariff page or pages that are being revised. In Order No. 888, the Commission required that public utilities submit a complete electronic version of all open access transmission tariffs and service agreements in a word processor format, with the diskette labeled as to the format (including version) used, initially and each time changes are filed. The electronic filing requirements do not extend to oil pipelines, which, to this date, are required to file only paper copies of their tariffs.

8. With respect to electric filings, the Commission, in Order No. 614, stated that it was initiating a process "necessary to accommodate the movement toward an integrated energy industry and to facilitate the development of common standards for the electronic filing of all rate schedule sheets."⁷ Order No. 614 required public utilities to refile their tariffs to comply with new formatting requirements, including removing superceded tariff language, extraneous provisions, and items that were not subject to Commission jurisdiction.⁸ These refilings were to aid public utilities in preparing their tariffs for conversion to an electronic format. As another step in moving towards electronic filing, the Commission, in Order No. 2001,⁹ eliminated the requirement to file paper copies of conforming service agreements, but required the filing of an electronic report that summarized the contractual terms and conditions in the service agreements.

⁵ For example, to indicate that a new tariff had been filed to supersede an existing tariff, the tariff would state: FERC No. 46 cancels FERC No. 45.

⁶ For example, a supplement filed to amend a tariff could be identified as: Supplement No. 1 to FERC No. 46.

⁷ Designation of Electric Rate Schedule Sheets, Order No. 614, 65 FR 18221, FERC Stats. & Regs., ¶ 31,096 at 31,501 (2000).

⁸ *E.g.*, Boston Edison Company, 98 FERC ¶ 61,292 (2002).

⁹ Revised Public Utility Filing Requirements, Order No. 2001, 67 FR 31043, (May 8, 2002), FERC Stats. & Regs., ¶ 31,127 (2002).

9. At the same time, the Commission has been expanding the scope of electronic filing with respect to material filed with the Commission.¹⁰ These regulations permit electronic filing of interventions, protests, rehearings, and other material. But, to date, they do not include materials filed to revise tariffs, and except as discussed above, have not provided for electronic filing of tariffs.

10. On March 14, 2001, the Commission issued a Notice of Inquiry and Informational Conference (NOI) in this proceeding. The NOI requested comments, from the electric, gas, oil, and other regulated industries that file tariffs, on several specific and general issues.¹¹ The NOI further provided for the establishment of a staff informational conference to discuss the electronic tariff filing initiative. The NOI requested comments on whether to move to a section-based tariff, whether to standardize tariffs, and the electronic format to be used in filing tariffs. The conference was held on April 24, 2001, with interested members of the public and industry in attendance.¹² Comments on the NOI were filed by the sixteen parties listed in Appendix A. Most of the commenters responded to the issues in general, with the majority opposing any effort to standardize tariffs out of concern about unintended tariff changes that could result and the possibility that such reorganization could spawn burdensome proceedings to check and resolve potential discrepancies.

¹⁰ See Electronic Registration, Order No. 891, 67 FR 52406 (Aug. 12, 2002), FERC Stats. & Regs. ¶ 31,132 (2002); Electronic Filing of FERC Form 1, Order No. 626, 67 FR 36093 (May 23, 2002), FERC Stats. & Regs. ¶ 31,130 (2002); Electronic Service of Documents, 66 FR 50591 (Oct. 4, 2001), FERC Stats. & Regs. ¶ 35,539 (2001); Revised Public Utility Filing Requirements, Order No. 2001, 67 FR 31043 (May 8, 2002), FERC Stats. & Regs. ¶ 31,127 (2002); Electronic Filing of Documents, Order No. 619, 65 FR 57088 (Sept. 21, 2000), FERC Stats. & Regs. ¶ 31,107 (2000); Electronic Notification of Commission Issuances, Notice of Proposed Rulemaking, 107 FERC ¶ 61,311 (2004).

¹¹ Electronic Tariff Filings, 66 FR 15673 (March 20, 2001), FERC Stats. & Regs. ¶35,538 at 35,789-91 (2001).

¹² Notice of the conference was published in the *Federal Register*, 66 FR 17130 (March 29, 2001).

II. DISCUSSION

11. This NOPR represents a continuation of the Commission's efforts to meet its responsibilities in implementing the goals of the legislative and executive branches of the federal government with respect to substituting electronic means of communication and information storage for paper means. The benefits of this endeavor for all involved, including the regulated industries, the customers, state commissions, parties to the proceedings, the Commission and its staff, other persons impacted by the tariffs and tariff filings, and the general public, are extensive. Thus, the primary justifications for this NOPR are to reap the benefits of electronic filing and access and to implement the goals of the legislative and executive branches of the federal government with respect to moving towards the electronic filing of documents.

12. The Commission is proposing in this rule to require regulated entities filing under Parts 35, 154, 284, 300 and 341¹³ to make all tariff and rate filings, as well as other material involved in these proceedings, electronically.¹⁴ Requiring the provision of all tariff and related material electronically will provide easier access, including search and copy and paste functionality, to all such material. The Commission is developing its own software to accommodate the tariff filings. This software will be distributed via the Commission's web site to all utilities needing to make the filings. In order to make their initial tariff compliance filing, regulated entities will have to electronically cut and paste their existing tariffs into the software in order to submit the material using the Internet. As discussed below, the Commission proposes some changes from current practice to

¹³ At this time, the Commission is not proposing to include pro forma tariffs filed in certificate proceedings under § 7, or import/export permission under § 3, of the Natural Gas Act, although such filings could be included at a later date. Compliance tariff filings pursuant to findings made by the Commission pursuant to §§ 3 and 7 of the NGA are proposed to be subject to the electronic tariff requirements.

¹⁴ These filings include, but are not limited to, tariffs, rate schedules, and contracts, or parts thereof, and material related thereto, cancellation, termination or adoption of tariffs, statements, workpapers, responses to data requests, compliance filings, and rehearings.

facilitate electronic filing. The Commission is proposing to change from the tariff-sheet format to a section-based format, which is better suited to electronic filing.¹⁵ Also, the Commission proposes to standardize the process for withdrawals of tariff filings and amendments to tariff filings.

13. The Commission will discuss below in greater detail the mechanism it is proposing.

A. Scope

14. The companies or entities covered by this NOPR are those that submit tariffs, rates, or contracts with the Commission pursuant to the Natural Gas Act (NGA), the Natural Gas Policy Act of 1978 (NGPA), the Federal Power Act (FPA), the Interstate Commerce Act (ICA), and any other relevant statutes. Included among the companies or entities proposed to be covered by requirement are: regional transmission organizations (RTOs) and independent system operators (ISOs); power authorities and federal power marketing administrations which file rates, contracts, or tariffs at the Commission; intrastate natural gas pipelines that file rates and operating conditions pursuant to the NGPA; interstate natural gas pipelines subject to the NGA which serve only an industrial customer; and companies or entities that may make voluntary tariff filings, such as reciprocity filings pursuant to Order No. 888.

15. Further, to the extent that the Commission has granted waivers to regulated entities with respect to the requirements that they file tariffs, rates, rate schedules, and/or contracts in the format required by our regulations, the Commission is proposing to rescind such waivers with the effectiveness of a final rule in this proceeding. Those entities would therefore be required to refile their tariffs, rates, rate schedules, and/or contracts consistent with the electronic formatting requirements proposed in this NOPR. This includes, for example, Part 284 negotiated rate contracts that have been filed in lieu of a tariff sheet under the Commission's negotiated rate policy,¹⁶ and pipelines serving

¹⁵ Commenters to the NOI objected to requiring a reorganization of the tariff structure and the Commission is not proposing any reorganization in this NOPR.

¹⁶ See Natural Gas Pipeline Negotiated Rate Policies and Practices, 104 FERC ¶ 61,134 at P 31-34 (2003); East Tennessee Natural Gas Company, 107 FERC ¶ 61, 197 (2004). Service agreements, such as those discussed in ANR Pipeline Company, 106 FERC ¶ 61,313 (2004), Columbia Gulf Transmission Company, 96 FERC ¶ 61,242 and 61,243 (2001) will be required to be filed as part of the electronic tariff.

industrial customers that filed transportation contracts.¹⁷ The Commission's objective is to have all tariffs for all companies and industries in the same format and available from the same location without the need to go to different places depending on the industry or company at issue.

B. Tariff Sections

16. In order to make the process of referencing and searching tariffs easier, the Commission is proposing to replace the traditional use of tariff sheets with tariff sections as the basis for making tariff revisions. Using the Commission's software, companies will be able to file tariff revisions by filing to revise specific tariff sections, or by adding or removing tariff sections. As a result companies will no longer file tariff supplements to reflect tariff revisions,¹⁸ but instead will directly change the tariff sections.

17. The concept of the tariff sheet is a hold-over from a paper filing world in which revised tariff sheets were filed so that they could replace individual pages in a tariff book. In an electronic world, there is no longer a need to physically replace pages in a tariff book. Instead, electronic filing is much more conducive to replacing only the specific tariff section involved in the revision.

18. The use of tariff sheet filing has, in the past, caused certain difficulties in finding tariff provisions. Under the tariff sheet method, there are two references to each relevant tariff provision, the sheet number (which is the official reference) and the internal section number. In pleadings before the Commission, parties frequently refer only to the section that is being changed rather than to the official tariff sheet. For example, reference is frequently made to General Terms and Conditions, section 12.1, rather than to the particular tariff sheet on which this section is located. Under a tariff sheet method, it can be difficult to determine which tariff sheet is being referenced, which in turn makes tariff research more difficult.

¹⁷ *E.g.*, B-R Pipeline Co., 89 FERC ¶ 61,312 at 61,955-957 (1999); Valero Natural Gas Pipeline Co., 82 FERC ¶ 61,280 at 62,094 (1998).

¹⁸ A tariff supplement is similar to an appendix or codicil that reflects revisions to be made to the tariff. Tariff supplements are used frequently in oil company tariff filings, and the Commission staff will work with individual oil companies to determine the easiest and most efficient means of transitioning from the use of supplements to the new electronic filing method.

19. Another problem with the current system is that a company may make multiple filings to change different parts of its tariff language or rates on the same tariff page. While these proposed changes are pending Commission action, the tariff includes multiple versions of the same tariff page, some of which may be effective and others suspended and not yet effective. A further problem is that when a paragraph of text is added or deleted from one page of the tariff, there can be a domino effect on many of the subsequent pages. Unchanged tariff provisions are pushed forward or backward on the subsequent tariff pages. Thus, the company has to file changes to many subsequent tariff pages because their appearance changes even though there are no substantive changes on those sheets. This also makes it hard to do historical tariff research.

20. The current tariffs generally include a designation for each tariff sheet denoting where that sheet falls in the range of sheets that have been filed, *e.g.*, Second Revised Sheet No. 100 indicates that two other sheet 100s were filed before that one. The Commission is proposing to replace this numbering scheme by simply dating each tariff section as it is filed, and identifying which sections are effective, proposed, and suspended. Commenters should address whether using such date stamps will be sufficient to identify historic tariff provisions.

21. Tariffs of gas pipelines and public utilities currently employ an organizational structure, with a form of outline or section numbering, to a single tariff. This structure can be maintained in filing section based tariffs, although, as discussed below, the Commission requests comment on whether a uniform numbering system should be employed across all tariffs or tariffs within an industry. Oil pipelines currently file individual tariffs relating to a specific movement of oil between specified points, or to a series of related movements. The Commission here is proposing that these individual tariffs be structured as a single tariff, with sections that refer to the individual or related movements.

22. In comments on the NOI, the Interstate Natural Gas Association of America , Gulf South Pipeline Company, LP, Enron Interstate Pipelines and the William Companies, Inc. (collectively, INGAA) oppose a section-based electronic tariff. INGAA contends that the existing page-based system is easy to reference and print. It argues sections could easily span multiple printed pages, which is inefficient, and the printed tariff would no longer have a common format. INGAA states an electronic section-based system will not improve the overall process of referencing tariff sections, because paper copies of the tariff will still be necessary to maintain and reference, and number of pages in those paper versions will increase due to inefficient use of space. Further, INGAA maintains tariff sections do not eliminate the issue of redesignating sections to reflect the addition of new sections. Thus, it argues a section-based tariff offers no improvement in historical research, and concludes that the costs of converting to a section-based system outweigh the limited benefits. The Association of Oil Pipelines and Buckeye Pipe Line Company

(collectively, AOPL) support a section-based tariff for the oil program. Given the current format of oil tariffs, AOPL believes a section-based system is appropriate.

23. While reformatting tariffs in a section-based format will cause some additional effort in the initial filing stage, the Commission believes that such a change is warranted for the reasons discussed above. Continuing with a system of dual referencing to tariff provisions causes confusion and makes tariff research more difficult. In fact, pipeline companies, when establishing internal tariff cross-references, use tariff sections as the cross reference and not tariff sheet numbers.

24. INGAA contends that printing sections will be more difficult than printing tariff sheets, because a section may require multiple pages to print. But this same problem can occur with tariff sheets, since in most instances, those using tariffs print the tariff section in which they are interested, even if that section covers numerous tariff sheets. As to the ability to print a large number of sections with a minimum of unused space, that is simply an issue of software design which is being examined.

25. INGAA maintains that moving to a section-based tariff will not change the problem of having to redesignate sections as new sections are added. As discussed below, the Commission is requesting comment on whether under a section-based system, utilities should not be permitted to change the initial section numbering of the tariff sheets in order to improve the ability to do tariff research.

26. The Commission requests specific comment on a number of issues raised by different section numbering methods.

27. First, tariffs filed with the Commission currently use different section numbering or outlining schemes. Public utility tariffs generally number sections using a numeric numbering approach, *e.g.*, 1.1.2.3. In contrast the gas pipelines often use a Roman outlining approach for each portion of the tariff. For example, the General Terms and Conditions (GT&C) portion of the tariff would use (a)(2)(i) to identify various tariff provisions within the GT&C. The oil pipelines' tariffs frequently utilize only paragraph numbering.

28. The tariff filing software the Commission is developing can handle any document numbering scheme. However, the Commission requests comment on whether to adopt a standardized numbering or outlining scheme for tariff filings across industries, to adopt a standardized scheme within each industry, or to permit each filer to choose its own numbering scheme. The use of a numeric scheme, such as 1.1.2, appears more consistent with electronic filing, because it can easily accommodate the filing of new tariff sections

between other sections. For example, if there are two sections, 1.1 and 1.2, and a section needs to be inserted between those, it can simply be labeled 1.1.1.¹⁹ On the other hand, the Commission recognizes that changing numbering schemes could require the utility to go through its tariff to identify all cross-references that need to be changed. The Commission requests comment from users of tariffs as to whether a uniform numbering and citation scheme would be of sufficient use as to warrant the effort involved in changing numbering schemes.

29. Second, the Commission requests comment on whether utilities should not (except in extreme cases) change the initial numbering of tariff provisions. For instance, in adding a tariff section in between existing sections, 3.1 and 3.2, the utility should not renumber the pre-existing sections, but instead should add a subsection, 3.1.1, or a new section, 3.3. Keeping section numbers stable would make historical tariff research easier, since a reference in a two-year old order to a particular tariff section will still refer to the same section at a later point in time, and permit the user to see how the section read at the time of the order.

30. Third, commenters should address the size of the individual sections to be included in the tariff. In other words, should the utilities in making their initial filing be required to break their tariff into the same sections they currently use, or should they be able to file larger or smaller sections. For example, if a utility currently breaks its tariff into sections of three levels (1.1.1), should it be required to create its initial tariff with at least that many levels or should it be able to create larger sections, filing only sections of two levels. Decreasing the number of levels would make the creation of the initial tariff easier, but on the other hand would make each level less specific. This issue will also be examined during the testing of the prototype software.

31. Fourth, commenters should address whether using date stamps to reference changes in tariff sections is sufficient or whether the existing practice of numbering revisions with designations like Second Revised Section 1.1.2 would provide for more accurate tracking and citation.

C. Description of the Proposed Tariff Software

32. The Commission will describe in more detail below the way in which the tariff software and filing system will operate.

¹⁹ Indeed, whatever choice is made, the proposed tariff software will be using such a numbering scheme internally to keep track of the relationship between labeled sections.

1. Tariff Creation and Submission

33. The tariff creation and submission modules will be available from the Commission's website and downloadable to anyone, free of charge. These modules will install on most personal computers that have a Microsoft Windows operating system, such as Windows 2000 or XP. The Commission expects that, at a minimum, every regulated entity, agent or person that submits tariff filings will have to install this software after the rule becomes effective. These parties, for the purposes of this discussion, will be referred to as the "client." The tariff creation and submission software consists of several components. The principal components are the actual tariff text; and the data that provide information about the tariff section (in this NOPR referred to as "metadata").

2. Tariff Text

34. Tariffs consist largely of text. However, either as required by Commission regulation or company option, some type of graphic may be required, such as a map showing zone boundaries.²⁰ Some tariff content is best formatted in programs other than a text program, such as a table or columns created by a spreadsheet program for tariff sections that identify rates or rate tables. The software which the Commission provides to the client will be capable of accommodating at least these standard electronic formats. Utilities will be expected to make all rate case filings using the Commission software.

35. The software the Commission provides to clients will permit the regulated entities to create their tariffs in several electronic formats, provided such format meets certain criteria. First, the electronic tariff text must be in a format that can be cut and pasted into the Commission's software. This requirement permits the use of virtually every Windows text software including Word, WordPerfect, AmiPro, Adobe and dozens of other text programs, spreadsheet programs such as Excel and Quattro, presentation software, and many other software programs. Material generated on other operating systems, such as Apple's or Linux', in programs with cut and paste capabilities also can serve as sources for tariff material. These programs permit the tariff creator to create many different text formats. While there is never a guarantee that material cut and pasted from one software product into another will retain its formatting, most of the formatting should transfer. The Commission's tariff creation software will have limited text editing capabilities to correct minor problems that may occur.

²⁰ See 18 CFR 154.106.

36. The electronic tariff may not include embedded objects. Embedded objects require additional software to access and read that the Commission or the public may not have. Further, embedded objects are difficult to manage and extract information necessary for other required functions, such as word searches of tariffs.

37. The tariff may include graphics. However, the Commission proposes that graphics cannot include any text that cannot be found utilizing standard search software.

38. The formatting requirements for gas pipeline rate case filings established in Order No. 582 will continue to apply. In this proceeding, the Commission is not proposing similar requirements for the other regulated entities; although such changes in filing requirements may be proposed in the future in other proceedings. Public utilities and oil pipelines can make their rate case filings in any format accepted by the Commission's software.

3. Meta Data

39. Each tariff section has a large amount of data that is associated with it that provide information as to whose tariff it is, what its origins are, and what its status is. These data will be available for viewing along with the tariff sections as an information resource to improve understanding about the tariff and tariff sections. Some of these data change over time, such as status of the tariff section (*e.g.*, proposed, accepted, accepted and suspended, rejected) and effective date. The Commission's tariff filing requirements define what data is required for a regulated entity to submit a complete tariff filing, such as the proposed effective date.

40. In a paper environment, some data are required to be placed on the same sheet as the tariff text, such as the company name and tariff name. Other data are maintained elsewhere, such as the date of filing or docket number. The Commission proposes to maintain an electronic tariff data base that has each of these metadata elements associated with every section of the tariff. The software will populate certain metadata with default required values (such as company name and filer's name), and require the company to populate other required fields, such as the proposed effective date.

4. Tariff Filing

41. Once a regulated entity completes its creation of the tariff filing and the supporting documentation, the tariff filing must be assembled prior to submission to the Commission's Secretary. The Commission's software will provide industry specific tariff filing menus for electric, gas or oil filings. The software will permit the required and additional supporting documents to be attached as part of the tariff filing.

42. The Commission is not proposing any additional formatting requirements for the electronic files, such as spreadsheets or other types of documents that contain large amounts of data. Existing formatting requirements will continue, such as those established for natural gas rate case filings in Order No. 582.²¹ The Commission's experience with gas rate case filings shows that in many cases, raw data provided in spreadsheets is easier to manipulate than data which is formatted for viewing or printing, but may not be as legible and easy to read. The Commission invites comments on whether to impose requirements with respect to formatting or legibility.

43. There are some types of files that the Commission currently cannot manage as part of a tariff filing. These include video and audio files. The Commission will post on its website the file types it cannot accept as part of a tariff filing. The software will check file extensions and provide a warning to the client.

44. Natural gas pipelines and public utilities will still be required to file a marked version of the tariff. Although the tariff creation software the Commission provides will have the capability to generate marked versions of the tariff, the Commission believes that applicants should be responsible for identifying those changes for which they are requesting Commission action.

45. Currently, oil pipelines are required to indicate changes in tariff language through the use of symbols. These symbols are part of the effective tariff and show where changes occurred from the superceded tariff. These symbols may be considered graphics in the Commission's software, which could lead to unpredictable results in generating a redlined/strikeout version of the tariff. The Commission proposes to require oil pipelines to mark tariff changes in the same manner as the electric and gas programs.

46. The Commission's Secretary will receive electronic tariff and tariff filings. If the Secretary deems the filing to have satisfied the minimal elements for submitting a filing to the Commission, the Secretary will assign a docket number and an eLibrary accession number to the filing.²² The Secretary will then e-mail a response to the filing party with that information.

²¹ Filing and Reporting Requirements for Interstate Natural Gas Company Rate Schedules and Tariffs, Order No. 582, 60 FR 52960 (Oct. 11, 1995), FERC Stats. & Regs. Regulations Preambles [Jan. 1991- June 1996] ¶ 31,025 at 31,434-35 (Sept. 28, 1995).

²² eLibrary is the Commission's electronic document management system.

5. Confidential Information

47. Although most tariff filings do not contain confidential information, in some cases such information, including maps or other critical energy infrastructure information, may be included. The Commission's tariff filing software will contain options for the applicants to identify various levels of security as provided by the Commission's regulations. Further, the tariff filing submission process will abide with all applicable federal laws with regard to filing sensitive material with a government agency over the Internet. In cases in which confidential information is included, the filer will have to file the confidential information and a redacted version of the document. In addition, in cases where the confidential information is germane to the filing, the filer should have a protective order prepared that will permit parties to the case to review such information so they can knowledgeably participate in the proceeding.²³

6. Public Access to the Tariffs and Tariff Filings

48. Access to tariffs and tariff filings is necessary for the public to ascertain a regulated entity's effective rates, terms and conditions, and whether they have an interest in a pending proceeding. Experience with the electronic gas tariff database also has shown the value of providing access to a historical record of past tariff sections, and the ability to search using a variety of criteria both within a tariff, among tariffs, and within an industry's tariffs.

49. Currently, the Commission provides the gas program's electronic tariffs in two formats from the Commission's website. One format, FASTR, is the Commission's tariff software and the other format is HTML, which can be accessed using a standard web browser such as Netscape or Internet Explorer. The FASTR format provides the public and natural gas pipelines the same functionality that is available to the Commission and access to the same metadata not otherwise shown on the tariff sheets. However, this level of access requires downloading the FASTR software and a tariff data base. The Commission's posted HTML version only reflects the currently effective tariff, without search capability and additional metadata information.

50. The Commission proposes to make the electronic tariff data base accessible to the public in a similar manner through its web site at <http://www.ferc.gov>.

²³ See 18 CFR 385.214 (5)(i).

D. Proposed Transition Procedures

51. The Commission is aiming for a March 1, 2005 effective date for the proposed regulations, along with a staggered implementation period as described below. Regulated entities, therefore, should take this date and the transition process into account in their in-house planning process. Since the Commission is making the software for this effort available soon after the issuance of this NOPR, the regulated entities will have more than half a year to become familiar with the software.

52. The Commission proposes to implement the electronic tariff filing in a staggered six month transition process. During this period all entities with tariffs on file at the Commission will have to refile their existing and effective tariffs in electronic format utilizing the Commission's software. This initial filing will be referred to as the baseline tariff filing. The baseline tariff filing is to have no other proposed changes included in it. Rather, the baseline tariff filing will strictly be used for the purpose of putting the existing effective tariff into an electronic format using the Commission's software. Any other changes to the tariff, which are not specifically mandated by the Commission's software, will be rejected.²⁴

53. The baseline tariff filings will be subject to notice and comment to permit customers to ensure that the proposed baseline tariff is an accurate duplication of the effective tariff. Protests in the baseline tariff proceedings, therefore, will only be considered if they involve the issue of whether the baseline tariff reflects an accurate duplication of the existing effective tariff. No protests involving other issues, such as the merits of various sections of the tariff, will be considered. Rather, they will be rejected as being outside the scope of the baseline tariff filing proceedings.

54. If a regulated entity has a pending or suspended tariff change filing at the time of the filing of the baseline tariff, the regulated entity will not have to file these pending or suspended tariff sections as part of the baseline tariff filing. However, the regulated entity will be required to identify the proceedings where such tariff changes exist. As the Commission acts on pending or suspended tariffs sections, the Commission will require the regulated entities to file the accepted tariffs in the new electronic format.

55. The Commission proposes to implement the proposed electronic tariff regulations as follows. All new regulated entities filing tariffs for the first time from the effective date of the final rule must file complete electronic tariffs under the proposed regulations.

²⁴ For example, since the software will be section-based, as opposed to page-based, changes necessary to implement this change will be acceptable.

Any regulated entity that wishes to file its baseline tariff in accordance with the new regulations after the effective date of the final rule, but before the required transition date, is free to do so.

56. The Commission proposes to require the majority of the regulated entities to transition to the new electronic format over a six month period, with natural gas pipelines filing in the first eight week period, followed by oil pipelines over an eight week period, and public utilities, including RTOs and ISOs, as well as Power Authorities and Power Marketing Administrations, over a 14 week period. The Commission proposes that the gas pipelines proceed first, as their tariffs are largely already in an electronic format and they are accustomed to filing tariffs with the Commission in an electronic format. The Commission proposes that the oil pipelines follow, as their tariffs are comparatively small, but are not currently maintained in an electronic format. The Commission proposes that the electric entities file after the oil filing period ends. With the exception of the OATTs, electric tariffs are not maintained in an electronic format. Further, the Commission is aware that many public utilities have not made full use of their opportunities provided by Order Nos. 614 and 2001. These orders provide utilities with an opportunity to purge their tariffs of outdated, superseded, unnecessary and no longer required tariff text, and to reorganize their tariffs. These changes can reduce the volume of tariff sections requiring conversion and resubmission as part of the baseline tariff. Placing the electric industry last in the conversion process will give them additional time to bring their tariffs up to current standards.

57. The Commission is proposing a compliance period of one year for the following: (1) pipelines which are subject to the NGPA and Part 284 of the Commission's regulations; (2) Part 153 natural gas pipelines (*i.e.*, natural gas pipelines constructed for import or export purposes); (3) industrial natural gas pipelines subject to the NGA that filed transportation contracts with the Commission but received waiver of having to file these tariffs consistent with Part 154 of the Commission's regulations; and (4) all other regulated entities that are required to file tariffs, rates, or contracts.

58. All regulated entities with tariffs, including those that previously received a waiver of the requirements to file tariffs in the formats previously required by the Commission's regulations, will be required to file their baseline tariff in electronic format, in accordance with the requirements described in this NOPR, but as may be changed in the Final Rule.

E. Proposed Changes to the Commission Regulations

59. The basic changes to the Commission regulations will occur in § 35.7 for public utilities, § 154.4 for natural gas pipelines, § 284.123 for NGPA § 311 pipelines, and § 341.2 for oil pipelines. These regulations would require regulated entities to file tariffs and other materials electronically using the software provided by the Commission. Once

this rule is implemented, utilities will no longer be required to file rate cases on paper. In filing documents requiring signatures as well as those requiring sworn declarations or verifications, the filings will have to comply with the electronic signature requirements as the Commission adopts them in Docket No. RM04-9-000.²⁵ Under these procedures, sworn declarations and oaths would have to comply with 28 U.S.C. § 1746, which requires that all such documents include the following language: “I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature).”²⁶

60. The Commission also is proposing to clean up other regulations that are inconsistent with the electronic filing regulations, such as language changes to reflect the change from tariff sheets to tariff sections and the elimination of paper formatting requirements. In addition, miscellaneous changes are being proposed to update outdated references and dates (*e.g.*, updating the references from the Offices of Pipeline and Electric Power Regulation to Office of Markets, Tariffs, and Rates and correcting regulation citations). The Commission has made an effort to identify all parts of its tariff filing regulations that must be modified to reflect the new electronic tariff filing and tariff formatting requirements. The Commission requests that parties identifying other sections of the regulations which potentially require change bring such potential changes to the attention of the Commission in comments submitted regarding this rulemaking, so that such changes, if necessary, can be reflected in the Final Rule.

61. Further, the Commission is proposing changes to the regulations regarding notices of cancellation, termination, or succession and withdrawal of tariff filings in order to ensure uniform procedures for all regulated entities and to better fit with the electronic software the Commission will be providing.

1. Notices of Cancellation, Termination, or Succession

62. Parts 35, 154, and 341 specify different processes for canceling, terminating, succeeding, or adopting tariff provisions. Section 154.603 provides for a pipeline to provide a notice of succession, and then file a tariff within 90 days of the notice. Section 341.6 has a slightly more formal procedure in that it requires a tariff supplement to the adopted tariff, followed by a formal tariff filing within 30 days. Section 35.16 simply provides for a notice of succession, but there is no requirement to actually file the

²⁵ Electronic Notification of Commission Issuances, Notice of Proposed Rulemaking, 107 FERC ¶ 61,311 (2004).

²⁶ 18 U.S.C. § 1746.

succeeded tariff in the public utility's own name. This requirement is inconsistent with § 35.9, which requires every tariff and tariff sheet to be properly associated with the public utility providing the service. Sections 154.602 and 341.5 require tariff filings to cancel tariffs. However, §§ 35.9 and 35.15 have inconsistent requirements. Section 35.9 requires a tariff filing that contains a cancellation tariff sheet. Section 35.15 only requires notice of cancellation.

63. The Commission proposes to standardize these filing requirements. The Commission proposes to require regulated entities that propose to cancel, terminate, succeed or adopt tariff changes to make a tariff filing which would accompany the proposed tariff change. This standardized requirement will render the various notices of adoption, succession or termination superfluous.

64. The Commission proposes to eliminate the grace period contained in §§ 154.603 and 341.6. Both currently require a filing from which the grace period starts. With the Commission's proposed electronic tariff, regulated entities will be able to quickly file termination and succession tariffs by downloading complete tariffs, loading them into a tariff filing that reflects their new data, and creating cancellation tariff text for the superseded tariff. Thus, the Commission concludes that the current grace period is no longer necessary.

2. **Withdrawal of Pending Tariff Filings and Amendments to Tariff Filings**

65. Currently the electric, gas, and oil programs at the Commission have different procedures for withdrawing a tariff filing. For a public utility to withdraw a proposed tariff change, the utility must make a new tariff filing that amends the underlying tariff filing. This withdrawal filing stops the statutory notice period by which the Commission must act on the underlying tariff filing and initiates a new statutory action date based on the date of the withdrawal filing, and requires a Commission order to effectuate the withdrawal of the filing.²⁷ Filings by gas pipelines to withdraw tariff filings are treated as motions to withdraw pleadings pursuant to § 385.216. This rule provides that, if the motion has not been protested or the Commission does not act to deny the motion within 15 days, then the motion is deemed granted. Section 341.13 provides that oil pipelines may withdraw any tariff filing that has not gone into effect and filings that are subject to

²⁷ See Canal Electric Co., 29 FERC ¶ 61,330 (1984).

investigation upon notice to the Commission's Secretary and the parties to the proceeding. The Commission's electric and gas regulations do not address amendments to tariff filings prior to suspension,²⁸ in particular, whether such amendments toll the statutory notice dates on which the Commission must act before the initial filing becomes effective.

66. Tariff withdrawal and amendment filings affect the status of tariff proposals, which is information that will be included in the tariff filing software. The principal differences exist in the approaches taken with respect to electric and gas filings. In order to create greater standardization of this process, the Commission proposes to revise the process of withdrawing and amending gas and electric tariff filings. Such standardization should streamline the withdrawal process, to the extent possible, so as to reduce the administrative burden for both the regulated entities, the public which uses the tariffs, and the Commission.

67. The Commission does not see the need for public utilities or natural gas pipelines to make new tariff filings to effectuate withdrawal or a formal Commission order as is now required. The Commission therefore is proposing to make withdrawal of public utility tariff filings more similar to the approach used for oil and gas pipelines.

68. The Commission proposes to allow a gas pipeline or public utility to withdraw in its entirety a rate schedule or tariff filing upon which no Commission or delegated order has been issued by filing a withdrawal motion with the Commission. The withdrawal will become effective, and the filing deemed withdrawn, at the end of 15 days, so long as no answer in opposition to the withdrawal motion is filed within that period and the Commission has not acted to deny the withdrawal motion. If such an answer in opposition is made, the withdrawal is not effective until a Commission or delegated order accepting the withdrawal is issued. Upon the filing of the withdrawal motion, the notice periods of the FPA and NGA will be tolled, so that the tariff filing cannot become effective in the absence of Commission action. The Commission is also proposing to delegate to the Director of the Office of Markets, Tariffs and Rates the authority to take appropriate action on contested and uncontested motions to withdraw tariff filings filed under Parts 35 and 154.

²⁸ Sections 35.17 and 154.205 address amendments made after suspensions.

69. All motions to withdraw pending filings would be filed utilizing the Commission's tariff filing software. Filings made utilizing this mechanism will ensure that withdrawals become automatically effective absent answers in opposition or Commission action denying the motion. Also, the software will assist in the creation of the necessary data to effect the withdrawal in the tariff data base, and create a historical record for that tariff section.

70. Amendments or modifications to tariff provisions can correct minor technical errors in a filing or may have a substantive effect on the filing. Because such modifications may have a substantive effect, the Commission is proposing that the filing of an amendment or modification to a tariff section will toll the period for action on the prior filing and establish a new period for action. The Commission, however, will continue its past practice of trying to process gas amendment filings within the initial 30-day notice period, as long as the amendment is not significant or does not create a major substantive difference in the tariff proposal.

III. PROTOTYPE TESTING

71. After the issuance of this NOPR, the Commission will post on its website the prototype tariff and tariff filing software. Commission staff will work with various regulated entities and associations representing the natural gas, electric, and oil industries to test and improve the software prototype. The testing will involve each of the software's modules, including the installation of the software on clients' machines, tariff recreation and modification, tariff filings, tariff data base maintenance and verification that the Commission's tariff filing and tariff regulations are accurately implemented. While the software will be posted and available to clients, the Commission will not accept tariffs or tariff filings utilizing this software at this time. Nor will the Commission support the prototype software for parties who are not part of the testing team.

72. When the Commission staff determines that the software is ready for regulated entities to use for beginning the process to create a baseline electronic tariff, the Office of the Secretary will provide a notice that the tariff software is ready for experimental use, and draft instructions will be posted on the Commission's website.

73. Commission staff will hold a technical conference to address issues that have arisen during the testing, and any related software and electronic format issues. The technical conference should be held prior to the date comments are due on this NOPR.

IV. COMMENT PROCEDURES

74. The Commission invites interested persons to submit comments on the matters and issues proposed in this notice to be adopted, including any related matters or alternative proposals that commenters may wish to discuss. Comments are due October 4, 2004.

Comments must refer to Docket No. RM01-5-000, and must include the commenter's name, the organization they represent, if applicable, and their address in their comments. Comments may be filed either in electronic or paper format.

75. Comments may be filed electronically via the eFiling link on the Commission's web site at <http://www.ferc.gov>. The Commission accepts most standard word processing formats and commenters may attach additional files with supporting information in certain other file formats. Commenters filing electronically do not need to make a paper filing. Commenters that are not able to file comments electronically must send an original and 14 copies of their comments to: Federal Energy Regulatory Commission, Office of the Secretary, 888 First Street N.E., Washington, D.C., 20426.

76. All comments will be placed in the Commission's public files and may be viewed, printed, or downloaded remotely as described in the Document Availability section below. Commenters on this proposal are not required to serve copies of their comments on other commenters.

V. INFORMATION COLLECTION STATEMENT

77. The following collections of information contained in this proposed rule have been submitted to the Office of Management and Budget (OMB) for review under § 3507(d) of the Paperwork Reduction Act of 1995, 44 U.S.C. § 3507(d). Comments are solicited on the Commission's need for this information, whether the information will have practical utility, the accuracy of the provided burden estimates, ways to enhance the quality, utility and clarity of the information to be collected and any suggested methods for minimizing the respondent's burden, including the use of automated information techniques.

78. OMB regulations²⁹ require OMB to approve certain information collection requirements imposed by agency rule. The information collection requirements in this NOPR will be submitted to OMB for review.

Title: FERC-516, Electric Rate Schedule Filings; FERC-545, Gas Pipeline Rates: Rate Change(Non-Formal); FERC-549 Gas Pipeline Rates: NGPA Title III and NGA Blanket Certificate Transactions; FERC-550 Oil Pipeline Rates: Tariff Filings.

Action: Proposed Collections.

OMB Control Nos.: 1902-0096, 1902-0154, 1902-0086, 1902-0089.

²⁹ 5 C.F.R. § 1320.11.

Respondents: Business or other for profit, (public utilities, natural gas pipelines and oil pipelines).

Frequency of respondents: Most tariff filings are made at the discretion of the applicant and are a function of their business judgment.

Necessity of Information: This proposed rule, if implemented would require that all tariffs be filed electronically in lieu of paper. Electronically filed tariffs and rate case filings should improve the efficiency of the administrative process for tariff and rate case filings, by providing time and resource savings for all stakeholders. Respondents should see savings by reducing the number of personnel required to assemble and submit paper filings, and a reduction in duplication and mailing expenses. Users of the information will be able to access the data at lower costs due to efficiencies provided by electronic filing and retrieval. Data filed electronically can be processed faster than paper filings. This is due in part because procedural steps related to verifying the applicant, receiving the tariff filing, routing the tariff filing, entering the tariff filing into FERC's official record, public tariff maintenance, public access to the tariff and tariff filing, and confirming receipt of the tariff filing largely can be automated. Also the speed at which tariff filings can be processed electronically can increase the integrity of the data by speeding the process by which the applicants and public can view the filings and identify errors, and facilitating rapid filing of corrections. This capability is beneficial as many tariff filings involve statutory processing deadlines.

This proposed rule will assist the Commission in its efforts to comply with the Government Paperwork Elimination Act (GPEA) by developing the capability to file electronically with the Commission via the Internet with uniform formats using software that is readily available and easy to use and also achieve the President's Management Agenda initiatives of expanding electronic government.

Estimated Annual Burden: The public reporting burden for these information collections has two components. The first impact will be the requirement for all regulated entities to refile their complete tariffs in the new electronic format. This is a one-time cost that will not recur. The Commission's estimate cost for this one-time requirement for all three industries is approximately \$350,000. This estimate is for installing the Commission's software and converting existing tariffs into the new electronic format. The Commission's estimates for various classes of filer are shown in the following table.

Baseline Tariff Filing Costs

Data Collection	Number of Respondents	Cost Per Tariff	Total Cost
FERC-516			
Utilities	152	\$288	\$43,836
Marketers	984	\$139	\$136,415
RTOs/ISOs	5	\$2,057	\$10,283
FERC -545			
Small Pipelines	96	\$482	\$46,245
Large Pipelines	60	\$579	\$34,740
NGPA	200	\$168	\$33,539
FERC -550 Oil	200	\$216	\$43,225
Total			\$348,283

The second component of the cost estimate is the impact on regulated entities after the proposed regulations go into effect. The Commission estimates that the cost savings to the industries of no longer having to print, assemble and mail tariff filings to the Commission will be approximately \$1.4 million per year. This estimate does not include additional cost savings that may result should the Commission grant requests of regulated entities to electronically provide service of their filings.

Going Forward Cost Savings Per Year

	Total Number of Filings	Cost Per Filing	Total Cost Savings
Oil	689	\$55	\$37,895
Electric	4,445	\$203	\$902,335
Gas	2,548	\$203	\$517,244
Total			\$1,457,474

Internal Review: The Commission has conducted an internal review of the public reporting burden associated with this collection of information and assured itself, by means of internal review, that there is specific, objective support for this information burden estimate. Moreover, the Commission has reviewed the collections of information proposed by this NOPR and has determined that these collections of information are

necessary and conform to the Commission's plans, as described in this order, for the collection, efficient management, and use of the required information.³⁰

79. Interested persons may obtain information on the reporting requirements by contacting the following: Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, [Attention: Michael Miller, Office of the Executive Director, phone: (202) 502-8415, fax: (202)273-0873, e-mail: michael.miller@ferc.gov.]

VI. ENVIRONMENTAL ANALYSIS

80. The Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any action that may have a significant adverse effect on the human environment.³¹ The Commission has categorically excluded certain actions from these requirements as not having a significant effect on the human environment. The actions proposed here fall within categorical exclusions in the Commission's regulations for rules that are clarifying, corrective, or procedural, for information gathering, analysis, and dissemination, and for sales, exchange, and transportation of natural gas that requires no construction of facilities. Therefore, an environmental assessment is unnecessary and has not been prepared in this NOPR.

VII. REGULATORY FLEXIBILITY ACT CERTIFICATION

81. The Regulatory Flexibility Act of 1980 (RFA)³² generally requires a description and analysis of final rules that will have significant economic impact on a substantial number of small entities. The proposed rule will be applicable to all entities regulated by the Commission, a small number of which may be small businesses. The Commission finds that the regulations proposed here should not have a significant impact on these few small businesses. The regulations only require that a small business have a computer, which the vast majority already have. The software to file tariffs will be provided for free by the Commission. Indeed, by eliminating the requirement to file numerous paper copies of tariffs and documents associated with rate filings, these regulations are designed to reduce the filing burden on all companies, including small businesses.

³⁰ See 44 U.S.C. § 3506(c).

³¹ Regulations Implementing the National Environmental Policy Act, Order No. 486, 52 FR 47897 (Dec. 17, 1987), FERC Stats. & Regs. ¶ 30,783 (1987).

³² 5 U.S.C. §§ 601-612.

Accordingly, the Commission certifies that these regulations will not impose a significant economic impact on small businesses and no regulatory flexibility analysis is required pursuant to section 603 of the RFA.

VIII. DOCUMENT AVAILABILITY

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

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

84. User assistance is available for eLibrary and the Commission's website during normal business hours by contacting FERC Online Support at FERCOnlineSupport@ferc.gov or toll-free at 1-866-208-3676 or the Public Reference Room at (202) 502-8371, TTY (202)502-8659 (or e-mail the Public Reference Room at public.referenceroom@ferc.gov).

List of subjects in 18 CFR Part 35

Electric power rates, Electric utilities, Reporting and recordkeeping requirements, Electricity, Incorporation by reference.

List of subjects in 18 CFR Part 131

Electric power.

List of subjects in 18 CFR Part 154

Natural gas, Pipelines, Reporting and recordkeeping requirements, Natural gas companies, Rate schedules and tariffs.

List of subjects in 18 CFR Part 157

Administrative practice and procedure, Natural gas, Reporting and recordkeeping requirements.

List of subjects in 18 CFR Part 250

Natural gas, Reporting and recordkeeping requirements.

List of subjects in 18 CFR Part 281

Natural gas, Reporting and recordkeeping requirements.

List of subjects in 18 CFR Part 284

Continental Shelf, Natural gas, Reporting and recordkeeping requirements, Incorporation by reference.

List of subjects in 18 CFR Part 300

Administrative practice and procedure, Electric power rates, Reporting and recordkeeping requirements, Electricity.

List of subjects in 18 CFR Part 341

Maritime carriers, Pipelines, Reporting and recordkeeping requirements.

List of subjects in 18 CFR Part 344

Pipelines, Reporting and recordkeeping requirements.

List of subjects in 18 CFR Part 346

Pipelines, Reporting and recordkeeping requirements.

List of subjects in 18 CFR Part 347

Pipelines, Reporting and recordkeeping requirements.

List of subjects in 18 CFR Part 348

Pipelines, Reporting and recordkeeping requirements.

List of subjects in 18 CFR Part 375

Authority delegations (Government agencies), Seals and insignia, Sunshine Act, Electric power rates, Electric utilities, Reporting and recordkeeping requirements.

List of subjects in 18 CFR Part 385

Administrative practice and procedure, Electric power, Penalties, Pipelines, Reporting and recordkeeping requirements.

By direction of the Commission.

Magalie R. Salas,
Secretary

In consideration of the foregoing, the Commission proposes to amend Parts 35, 131, 153, 154, 157, 250, 281, 284, 300, 341, 344, 346, 347, 348, 375 and 385, Chapter I, Title 18, Code of Federal Regulations, as follows.

PART 35 – FILING OF RATE SCHEDULES AND TARIFFS

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

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

2. Section 35.1 is amended as follows:

- a. In paragraphs (b) and (c) remove all references to “supplement”.
- b. In paragraph (c), the reference to “Notices of Cancellation or Termination” is revised to read “cancellation or termination”.
- c. Paragraph (a) is revised to read as follows:

§ 35.1 Application; obligation to file rate schedules and tariffs.

(a) Every public utility shall file with the Commission and post, in conformity with the requirements of this part, full and complete rate schedules and tariffs, as defined in section 35.2(b) and (f), clearly and specifically setting forth all rates and charges for any transmission or sale of electric energy subject to the jurisdiction of this Commission, the classifications, practices, rules and regulations affecting such rates and charges and all contracts that in any manner affect or relate to such rates, charges, classifications, services, rules, regulations or practices, as required by section 205(c) of the Federal Power Act (49 Stat. 851; 16 U.S.C. 824 d(c)). Where two or more public utilities are parties to the same rate schedule, each public utility transmitting or selling electric energy subject to the jurisdiction of this Commission shall post and file such rate schedule, or the rate schedule may be filed by one such public utility on behalf of all other parties having an obligation to file; the concurrence of other parties must also be filed.

* * * * *

- 3. Section 35.2 is amended as follows:
 - a. In paragraph (b), remove footnote 1.
 - b. In paragraph (d), remove the phrase “or schedules”.
 - c. Add paragraph (f) to read as follows:

§ 35.2 Definitions.

* * * * *

(f) *Tariff.* A “tariff” is the compilation of any rates, schedules, rate schedules, contracts, applications, rules, or similar matters clearly and specifically setting forth all rates, charges, and terms and conditions for any transmission or sale of electric energy subject to the jurisdiction of this Commission, the classifications, practices, rules and regulations affecting such rates, charges, and terms and conditions, and all contracts that in any manner affect or relate to such rates, charges, terms and conditions, classifications, services, rules, regulations or practices.

- 4. Section 35.7 is revised to read as follows:

§ 35.7 Electronic filing requirements.

(a) *General rule.* All filings made in proceedings initiated under this part must be made electronically, including tariffs, rate schedules, and contracts, or parts thereof, and

material related thereto, cancellation, termination or adoption of tariffs, statements, workpapers, responses to data requests, compliance filings, and rehearings. Paper submittals are not required to be filed.

(b) *Requirement for Signature.* All filings must be signed in compliance with the following:

(1) The signature on a filing constitutes a certification that: the contents are true and correct to the best knowledge and belief of the signer; and that the signer possesses full power and authority to sign the filing.

(2) A filing must be signed by one of the following:

(i) The person on behalf of whom the filing is made;

(ii) An officer, agent, or employee of the company, governmental authority, agency, or instrumentality on behalf of which the filing is made; or,

(iii) A representative qualified to practice before the Commission under § 385.2101 of this chapter who possesses authority to sign.

(3) All signatures on the filing or any document included in the filing must comply, where applicable, with the requirements in § 385.2005 of this chapter with respect to sworn declarations or statements and electronic signatures.

(d) *Format Requirements for Electronic Filing.* The requirements and formats for electronic filing are listed in instructions for electronic filing and for each form. These formats are available on the Internet at <http://www.ferc.gov> and can be obtained at the Federal Energy Regulatory Commission, Public Information and Reference Branch, 888 First Street, N.E., Washington, D.C. 20426.

5. Section 35.9 is removed and reserved.

6. Section 35.10 is revised to read as follows:

§ 35.10 Filing a marked version of rate schedule or tariff changes.

At the time a public utility files with the Commission and posts under this part to supersede or otherwise change the provisions of a rate schedule or tariff previously filed with the Commission under this part, in addition to the other requirements of this part, it must file and post a marked version of the tariff sections to be changed showing additions

and deletions. The new language must be marked by highlight, background shading, bold text, or underlined text. Deleted language must be marked by strike-through.

- 7. In § 35.10a(b), the reference to “§ 35.10(b)” is revised to read “§ 35.7”.
- 8. In § 35.11, the reference to “purchasers under other rate schedules” is revised to read “purchasers under other rate schedules or tariff provisions”.
- 9. In § 35.12, the section heading and the last sentence of paragraph (a) are revised to read as follows:

§ 35.12 Filing of rate schedules and tariffs.

(a) * * * In the case of coordination and interchange arrangements in the nature of power pooling transactions, all supporting data required to be submitted in support of a rate schedule filing shall also be submitted by all parties to the arrangement, or a representative to file supporting data on behalf of all parties may be designated as provided in § 35.1.

* * * * *

- 10. Amend § 35.13 as follows:
 - a. In paragraph (a) introductory text, remove the reference to “supplement,”.
 - b. In paragraph (c)(1) introductory text, remove the reference to “or supplemented”.
 - c. In paragraph (f), the reference to “each party filing a certificate of concurrence” is revised to read “each concurring party”.
 - d. Revise the section heading, and add a sentence to the end of paragraphs (a)(2)(i)(F) and paragraph (a)(3) to read as follows:

§ 35.13 Filing of changes in rate schedules and tariffs.

(a) * * *

(2) * * *

(i) * * *

(F) * * * These filings must be made electronically in conformance with the electronic filing instructions.

* * * * *

(3) * * * These filings must be made electronically in conformance with the electronic filing instructions.

* * * * *

11. In § 35.15, the first sentence of paragraph (a) is revised to read as follows:

§ 35.15 Notices of cancellation or termination.

(a) *General rule.* When a rate schedule or tariff or part thereof required to be on file with the Commission is proposed to be cancelled or is to terminate by its own terms and no new rate schedule or tariff or part thereof is to be filed in its place, each party required to file the rate schedule or tariff shall notify the Commission of the proposed cancellation or termination by filing a cancellation tariff section at least sixty days but not more than one hundred-twenty days prior to the date such cancellation or termination is proposed to take effect. * * *

* * * * *

12. In § 35.16, the reference to “on the form indicated in § 131.51 of this chapter” is revised to read “with a tariff consistent with the electronic filing requirements in § 35.7”.

13. Section 35.17 is amended as follows:

a. Paragraphs (a), (b), and (c) are redesignated (c), (d), and (e), respectively.

b. The section heading is revised and paragraphs (a) and (b) are added to read as follows:

§ 35.17 Withdrawals and amendments of rate schedules or tariff filings.

(a) *Withdrawals of rate schedule or tariff filings prior to Commission action.*

(1) A public utility may withdraw in its entirety a rate schedule or tariff filing upon which no Commission or delegated order has been issued by filing a withdrawal motion with the Commission. Upon the filing of such motion, the proposed rate schedule or tariff sections will not become effective under section 205(d) of the Federal Power Act in the absence of Commission action making the rate schedule or tariff filing effective.

(2) The withdrawal motion will become effective, and the rate schedule or tariff filing will be deemed withdrawn, at the end of 15 days from the date of filing of the withdrawal motion, if no answer in opposition to the withdrawal motion is filed within that period and if no order disallowing the withdrawal is issued within that period. If an answer in opposition is filed within the 15 day period, the withdrawal is not effective until an order accepting the withdrawal is issued.

(b) *Amendments or modifications to rates or tariff sections prior to Commission action on the filing.* A public utility may file to amend or modify a rate or tariff section contained in a rate schedule or tariff filing upon which no Commission or delegated order has yet been issued. Such filing will toll the notice period in section 205(d) of the Federal Power Act for the original filing, and establish a new date on which the entire filing will become effective, in the absence of Commission action, no earlier than 61 days from the date of the filing of the amendment or modification.

* * * * *

14. In § 35.21, in footnote 5, remove the reference to “footnote 1 to”.

15. In § 35.28, a last sentence is added to paragraph (e)(1) to read as follows:

§ 35.28 Non-discriminatory open access transmission tariff.

* * * * *

(e) * * *

(1) * * * These tariff filings must be made in accordance with the requirements of § 35.7.

* * * * *

16. In § 35.30, a last sentence is added to paragraph (c) to read as follows:

§ 35.30 General provisions.

* * * * *

(c) * * * These tariff filings must be made in accordance with the requirements of § 35.7.

§§ 35.1, 35.2, 35.4, 35.6, 35.11, 35.12, 35.13, and 35.17 [Amended]

17. In addition to the amendments set forth above, in 18 CFR part 35, the following nomenclature changes are made to the sections indicated:

a. In §§ 35.1(b) and (c), 35.2 (c), (d) and (e), 35.4, 35.6, 35.11, 35.12(a), 35.13(a), 35.13(a)(1), 35.13(a)(2)(iii), 35.13(b)(1), 35.13(c)(1), 35.17(c), 35.17(d), and 35.17(e), all references to “rate schedule” are revised to read “rate schedule or tariff”.

b. In the headings of §§ 35.17(c), 35.17(d), and 35.17(e), all references to “rate schedules” are revised to read “rate schedules or tariffs”.

c. In §§ 35.2(c), 35.13(a)(3), all references to “Director of the Office of Electric Power Regulation” are revised to read “ Director of the Office of Markets, Tariffs, and Rates”.

PART 131 – FORMS

18. The authority citation for part 131 continues to read as follows:

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

19. Sections 131.51, 131.52, and 131.53 are removed.

PART 154 – RATE SCHEDULES AND TARIFFS

20. The authority citation for part 154 continues to read as follows:

Authority: 15 U.S.C. 717-717w; 31 U.S.C. 9701; 42 U.S.C. 7102-7352.

21. In § 154.2, paragraph (b) is amended by removing the phrase “either in book form or”.

22. Section 154.4 is revised to read as follows:

§ 154.4 Electronic filing of tariffs and related materials.

(a) *General rule.* All filings made in proceedings initiated under this part must be made electronically, including tariffs, rate schedules, and contracts, or parts thereof, and material related thereto, cancellation, termination or adoption of tariffs, statements filed pursuant to subpart D of this part, workpapers, responses to data requests, compliance filings, and rehearings. Paper submittals are not required to be filed.

(b) *Requirement for signature.* All filings must be signed in compliance with the following:

(1) The signature on a filing constitutes a certification that the contents are true to the best knowledge and belief of the signer, and that the signer possesses full power and authority to sign the filing.

(2) A filing must be signed by one of the following:

(i) The person on behalf of whom the filing is made;

(ii) An officer, agent, or employee of the company, governmental authority, agency, or instrumentality on behalf of which the filing is made; or,

(iii) A representative qualified to practice before the Commission under § 385.2101 of this chapter who possesses authority to sign.

(3) All signatures on the filing or any document included in the filing must comply, where applicable, with the requirements in § 385.2005 of this chapter with respect to sworn declarations or statements and electronic signatures.

(c) *Format requirements for electronic filing.* The requirements and formats for electronic filing are listed in instructions for electronic filing and for each form. These formats are available on the Internet at <http://www.ferc.gov> and can be obtained at the Federal Energy Regulatory Commission, Public Information and Reference Branch, 888 First Street, N.E., Washington, D.C. 20426.

23. Amend § 154.5 as follows:

a. Remove the words “Pipeline Regulation” and add in their place the words “Markets, Tariffs and Rates”.

b. The reference to “(b)(2)” is revised to read “(f)(2)”.

24. Sections 154.101, 154.102, and 154.104 are removed and reserved.

25. In § 154.106, paragraph (b) is removed and reserved.

26. Amend § 154.112 as follows:

a. In paragraph (a) remove the word “page” and add in its place “section”.

b. In paragraph (a) remove the phrase “or insert sheets” and add in its place “tariff sections”.

27. Amend § 154.201 as follows:

a. Amend paragraph (a) to remove the references to “pages” and add in its place “tariff sections”.

b. Amend paragraph (a) to remove the words “each copy of”.

28. Section 154.205 is amended as follows:

a. Paragraphs (a), (b), and (c) are redesignated (c),(d), and (e), respectively.

b. The section heading is revised and paragraphs (a) and (b) are added to read as follows:

§ 154.205 Withdrawals and amendments of tariff filings and executed service agreements.

(a) *Withdrawals of tariff filings or service agreements prior to Commission action.* (1) A natural gas company may withdraw in its entirety a tariff filing or executed service agreement upon which no Commission or delegated order has been issued by filing a withdrawal motion with the Commission. Upon the filing of such motion, the

proposed tariff sections or service agreements will not become effective under section 4(d) of the Natural Gas Act in the absence of Commission action making the rate schedule or tariff filing effective.

(2) The withdrawal motion will become effective, and the rate schedule or tariff filing will be deemed withdrawn, at the end of 15 days from the date of filing of the withdrawal motion, if no answer in opposition to the withdrawal motion is filed within that period and if no order disallowing the withdrawal is issued within that period. If an answer in opposition is filed within the 15 day period, the withdrawal is not effective until an order accepting the withdrawal is issued.

(b) *Amendments or modifications to tariff sections or service agreements prior to Commission action on a tariff filing* A natural gas company may file to amend or modify a tariff or service agreement contained in a tariff filing upon which no Commission or delegated order has yet been issued. Such filing will toll the notice period in section 4(d) of the Natural Gas Act for the original filing, and establish a new date on which the entire filing will become effective, in the absence of Commission action, no earlier than 31 days from the date of the filing of the amendment or modification.

* * * * *

29. In § 154.402, paragraph (b)(1) is amended to replace the word “schedules” with the words “rate schedules”.

30. Section 154.602 is amended by removing the phrase “on the form indicated in § 250.2 or § 250.3 of this chapter, whichever is applicable” and add in its place the phrase “tariff filing in the electronic format required by § 154.4”.

31. Section 154.603 is revised as follows:

§ 154.603 Adoption of the tariff by a successor.

Whenever the tariff or contracts of a natural gas company on file with the Commission is to be adopted by another company or person as a result of an acquisition, or merger, authorized by a certificate of public convenience and necessity, or for any other reason, the succeeding company must file with the commission, and post within 30 days after such succession, a tariff filing in the electronic format required by § 154.4 bearing the name of the successor company.

§§ 154.7, 154.111, 154.202, 154.206, 154.402, 154.403, and 154.208 [Amended]

32. In addition to the amendments set forth above, in 18 CFR part 154, the following nomenclature changes are made to the sections as amended:

a. In §§ 154.7(a)(5), 154.111(c), 154.202 (b), 154.206(a), 154.208(a), all references to “sheets” are revised to read “sections”.

b. In §§ 154.402(b), 154.402(b)(3), 154.403(b), all references to “sheet” are revised to read “section”.

PART 157- APPLICATIONS FOR CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY AND FOR ORDERS PERMITTING AND APPROVING ABANDONMENT UNDER SECTION 7 OF THE NATURAL GAS ACT

33. The authority citation for part 157 continues to read as follows:

Authority: 15 U.S.C. 717-717w, 3301-3432; 42 U.S.C. 7101-7352.

34. Amend § 157.217 by adding a sentence to the end of paragraph (a)(4) to read as follows:

§ 157.217 Changes in rate schedules.

(a) * * *

(4) * * * This tariff filing must be filed in the electronic format required by § 154.4 of this chapter.

* * * * *

PART 250 – FORMS

35. The authority citation for part 250 continues to read as follows:

Authority: 15 U.S.C. 717-717w; 3301-3432; 42 U.S.C. 7101-7352.

36. Sections 250.2, 250.3, and 250.4 are removed and reserved.

PART 281 – NATURAL GAS CURTAILMENT UNDER THE NATURAL GAS POLICY ACT OF 1978

37. The authority citation for part 281 continues to read as follows:

Authority: 15 U.S.C. 717-717w; 3301-3432; 16 U.S.C. 2601-2645; 42 U.S.C. 7101-7352.

38. In § 281.204, the first sentence in paragraph (a) is revised to read as follows:

§ 281.204 Tariff filing requirements.

(a) *General Rule.* Each interstate pipeline listed in § 281.202 shall file tariff sheets, in accordance with § 154.4 of this chapter, including an index of entitlements, which provides that if the interstate pipeline is in curtailment, natural gas will be delivered in accordance with the provisions of this subpart. * * *

* * * * *

§§ 281.204, 281.212, 281.213 [Amended]

39. In addition to the amendments set forth above, in 18 CFR part 281, the following nomenclature changes are made to the sections as amended:

a. In §§ 281.204 (a), 281.212 (a), 281.212 (b), 281.212 (c), 281.213 (b), 281.213 (d), 281.213 (e), all references to “sheets” are revised to read as “sections”.

b. In § 281.212, the section heading is amended to remove the reference to “sheets” and add in its place “sections”.

PART 284 – CERTAIN SALES AND TRANSPORTATION OF NATURAL GAS UNDER THE NATURAL GAS POLICY ACT OF 1978 AND RELATED AUTHORITIES

40. The authority for part 284 continues to read as follows:

Authority: 15 U.S.C. 717-717w; 3301-3432; 42 U.S.C. 7101-7352; 43 U.S.C. 1331-1356.

41. In § 284.8, paragraph (i) is removed.

42. In § 284.123, the heading of paragraph (e)(1), paragraph (e)(2), and paragraph (f) are added to read as follows:

§ 284.123 Rates and charges.

* * * * *

(e) *Filing requirements. (1) Information to be filed.* * * *

(2) *Form of filing.* The filed statement must contain rates and operating conditions for each rate schedule. Additional sections such as forms of service agreements may be added where applicable. Each rate schedule must be separately designated. Each rate scheduled and section of the operating conditions must be numbered for convenient reference.

(f) *Electronic filing of statements, and related materials. (1) General Rule.* All filings made in proceedings initiated under this part must be made electronically, including rates and charges, or parts thereof, and material related thereto, statements, and all workpapers. Paper submittals are not required to be filed.

(2) *Requirements for Signature.* All filings must be signed in compliance with the following:

(i) The signature on a filing constitutes a certification that the contents are true to the best knowledge and belief of the signer, and that the signer possesses full power and authority to sign the filing.

(ii) A filing must be signed by one of the following:

(A) The person on behalf of whom the filing is made;

(B) An officer, agent, or employee of the company, governmental authority, agency, or instrumentality on behalf of which the filing is made; or,

(C) A representative qualified to practice before the Commission under § 385.2101 of this chapter who possesses authority to sign.

(iii) All signatures on the filing or any document included in the filing must comply, where applicable, with the requirements in § 385.2005 of this chapter with respect to sworn declarations or statements and electronic signatures.

(3) *Format requirements for electronic filing.* The requirements and formats for electronic filing are listed in instructions for electronic filing and for each form. These formats are available on the Internet at <http://www.ferc.gov> and can be obtained at the Federal Energy Regulatory Commission, Public Information and Reference Branch, 888 First Street, N.E., Washington, D.C. 20426.

PART 300 – CONFIRMATION AND APPROVAL OF THE RATES OF FEDERAL POWER MARKETING ADMINISTRATIONS

43. The authority citation for part 300 continues to read as follows:

Authority: 16 U.S.C. 825s, 832-832i, 838-838k, 839-839h; 42 U.S.C. 7101-7352; 43 U.S.C. 485-485k.

44. Section 300.10 is amended as follows:

a. In paragraph (h)(2), the reference to “Electric Power Regulation” is revised to read “Markets, Tariffs and Rates”.

b. Add paragraph (a)(4) to read as follows:

§ 300.10 Application for confirmation and approval.

(a) * * *

(4) *Electronic Filing.* All material must be filed electronically in accordance with the requirements of § 35.7 of this chapter. Paper submittals are not required to be filed.

* * * * *

PART 341 – OIL PIPELINE TARIFFS: OIL PIPELINE COMPANIES SUBJECT TO SECTION 6 OF THE INTERSTATE COMMERCE ACT

45. The authority citation for part 341 continues to read as follows:

Authority: 42 U.S.C. 7101–7352; 49 U.S.C. 1–27.

46. Amend § 341.0 as follows:

a. In paragraph (a)(11), remove the words “pages and supplements” and add in their place “sections”.

b. Paragraph (b)(3) is removed and reserved.

47. Section 341.1 is revised to read as follows:

§ 341.1 Electronic filing of tariffs and related materials.

(a) *General rule.* All filings made in proceedings initiated under this part must be made electronically, including tariffs, rate schedules, and contracts, or parts thereof, and material related thereto, cancellation, termination or adoption of tariffs, statements, workpapers, responses to data requests, compliance filings, and rehearings. Paper submittals are not required to be filed.

(b) *Requirement for signature.* All filings must be signed in compliance with the following:

(1) The signature on a filing constitutes a certification that the contents are true to the best knowledge and belief of the signer, and that the signer possesses full power and authority to sign the filing.

(2) A filing must be signed by one of the following:

(i) The person on behalf of whom the filing is made;

(ii) An officer, agent, or employee of the company, governmental authority, agency, or instrumentality on behalf of which the filing is made; or,

(iii) A representative qualified to practice before the Commission under § 385.2101 of this chapter who possesses authority to sign.

(3) All signatures on the filing or any document included in the filing must comply, where applicable, with the requirements in § 385.2005 of this chapter with respect to sworn declarations or statements and electronic signatures.

(c) *Format requirements for electronic filing.* The requirements and formats for electronic filing are listed in instructions for electronic filing and for each form. These formats are available on the Internet at <http://www.ferc.gov> and can be obtained at the Federal Energy Regulatory Commission, Public Information and Reference Branch, 888 First Street, N.E., Washington, D.C. 20426.

48. Section 341.2 is amended as follows:

a. In paragraph (c)(1) the phrase “tariffs or supplement numbers” is revised to read “tariff sections”.

b. Paragraph (c)(3) is removed.

c. Paragraph (a) is revised to read as follows:

§ 341.2 Filing requirements.

(a) *Service of filings.* Carriers must serve a copy of the tariff publication and any tariff justification to each shipper and subscriber consistent with §§ 385.2010 of this chapter.

* * * * *

49. Section 341.3 is amended as follows:

a. Paragraphs (b)(2) and (c) are removed.

b. Paragraphs (b)(3) through (b)(11) are redesignated paragraphs (b)(2) through (b)(10).

c. Paragraphs (a), (b) introductory text, (b)(1), (b)(5)(ii), (b)(5)(iv), (b)(5)(v), (b)(9) and the section heading are revised to read as follows:

§ 341.3 Format of tariff publication.

(a) *Structure of tariff.* Each carrier’s tariff publication must be structured so that the rates for movements, rules and regulations, and other information are contained in sections of a single tariff addressing each of the carrier’s movements.

(b) *Contents of tariff.* All major tariff sections must contain the following information:

(1) *General information.* (i) The number designation of the section, numbered consecutively, and the number designation of the section that is canceled, if any, under it;

(ii) The type of rates, e.g., local, joint, or proportional, and the commodity to which the tariff or section applies, e.g., crude, petroleum product, or jet fuel;

(iii) Governing sections, e.g., separate “rules and regulations” tariffs or sections, if any;

(iv) The specific Commission order pursuant to which the tariff or section is issued;

(v) The issue date;

(vi) The expiration date, if applicable;

(vii) The name of the issuing officer or duly appointed official issuing the relevant section, the complete street and mailing address of the carrier, and the name and phone number of the individual responsible for compiling the tariff publication.

* * * * *

(5) * * *

(ii) Each rule must be given a separate number, and the title of each rule must be shown in distinctive font.

* * * * *

(iv) Rules may be separately published in a general rules section when it is not desirable or practicable to include the governing rules in the rate section. Rate sections that do not contain rules must make specific reference to the governing general rules section.

(v) When joint rate tariffs or sections refer to a separate governing rules section, such separate tariff must be concurred in by all joint carriers.

* * * * *

(9) *Changes to be indicated in tariff.* (i) A marked version of the tariff sections to be changed or superseded showing additions and deletions. All new numbers and text must be marked by either highlight, background shading, bold, or underline. Deleted text and numbers must be indicated by a strike-through. A marked version of the tariff sections to be changed must be included in each copy of the filing required by these regulations.

(ii) When a tariff publication that cancels a previous tariff publication does not include points of origin or destination, or rates, rules, or routes that were contained in the prior tariff publication, the new tariff publication must indicate the cancellation.

* * * * *

50. Section 341.4 is revised to read as follows:

§ 341.4 Postponing the effective date of a pending tariff.

Tariff filings postponing the effective date of pending tariffs must be filed prior to the proposed effective date of the filing. A postponement tariff filing may not postpone the effective date for more than 30 days. Postponements must be filed in conformance with § 341.1.

51. Section 341.5 is revised to read as follows:

§ 341.5 Cancellation of tariffs.

Carriers must cancel prior tariffs when the tariffs are reissued. If the service in connection with the tariff is no longer in interstate commerce, the tariff publication must so state. Cancellation of tariffs must be filed in accordance with the requirements of § 341.1.

52. In § 341.6, paragraph (b) is amended to remove the last sentence, and paragraphs (c) and (d) are revised to read as follows:

§ 341.6 Adoption rule.

* * * * *

(c) *Change of name.* When a carrier changes its legal name, the carrier must file revised tariffs incorporating the name change.

(d) *Adoption.* When the ownership of a carrier’s properties is transferred in whole or in part to another carrier, the adopting and former carrier must comply with the following: (1) The adopting carrier must file and post a revised tariff that reflects the transfer and indicates whether the rates remain unchanged after the transfer; and

(2) The former owner must immediately file revisions to its tariff or applicable sections covered by the adoption that states that the movement is transferred, names the adopting carrier, and specifies the tariff section where it can be found in the adopting carrier’s tariff.

53. Section 341.7 is removed and reserved.

54. In § 341.9, paragraph (f) is removed and paragraph (e) is revised to read as follows:

§ 341.9 Index of tariffs.

* * * * *

(e) *Updating.* The index must be kept current by tariff section filings pursuant to § 341.2. The index updates may be issued quarterly. At a minimum, the index must be reissued every four years.

55. In § 341.11, paragraph (b) is removed and reserved.

56. In § 341.13, paragraph (b) introductory text is revised to read as follows:

§ 341.13 Withdrawal of proposed tariff publications.

* * * * *

(b) *Tariff publications that are subject to investigation.* A tariff publication that has been permitted to become effective subject to investigation may be withdrawn at any time by filing a notice with the Commission, which includes a transmittal letter, a certification that all subscribers have been notified of the withdrawal, and the previous tariff provisions that are to be reinstated upon withdrawal of the tariff publication under investigation. Such withdrawal shall be effective immediately upon the submission of the notice, unless a specific effective date is set forth in the notice, and must have the following effects:

* * * * *

57. In § 341.14 (a) remove the phrase “on the Title Pages”.

58. In § 341.15 (d), remove the reference to “the title page of”.

PART 344 – FILING QUOTATIONS FOR U.S. GOVERNMENT SHIPMENTS AT REDUCED RATES

59. The authority citation for part 344 continues to read as follows:

Authority: 42 U.S. 7101–7352; 49 U.S.C. 1–27.

60. Amend § 344.2 as follows:

a. Remove and reserve paragraph (b).

b. Revise paragraphs (a) and (c) to read as follows:

§ 344.2 Manner of submitting quotations.

(a) The quotation or tender must be submitted to the Commission concurrently with the submittal of the quotation or tender to the Federal department or agency for whose account the quotation or tender is offered or the proposed services are to be rendered.

(b) [Reserved]

(c) *Filing procedure.* (1) The quotation must be filed with a letter of transmittal that prominently indicates that the filing is in accordance with section 22 of the Interstate Commerce Act.

(2) All filings pursuant to this part must be filed electronically consistent with §§ 341.1 and 341.2 of this chapter.

* * * * *

PART 346 – OIL PIPELINE COST-OF-SERVICE FILING REQUIREMENTS

61. The authority citation for part 346 continues to read as follows:

Authority: 42 U.S.C. 7101–7352; 49 U.S.C. 60502; 49 App. U.S.C. 1–85.

62. In § 346.1, paragraph (b) is revised to read as follows:

§ 346.1 Content of filing for cost-of-service rates.

* * * * *

(b) The proposed tariff filed consistent with the requirements of §§ 341.1 and 341.2 of this chapter; and

* * * * *

PART 347 – OIL PIPELINE DEPRECIATION STUDIES

63. The authority citation for part 347 continues to read as follows:

Authority: 42 U.S.C. 7101–7352; 49 U.S.C. 60502; 49 App. U.S.C. 1–85.

64. In § 347.1, remove and reserve paragraph (b), remove the last two sentences of paragraph (c), and paragraph (a) is revised to read as follows:

§ 347.1 Material to support request for newly established or changed property account depreciation studies.

(a) *Means of filing.* Filing of a request for new or changed property account depreciation rates must be made pursuant to part 347 and must be consistent with §§ 341.1 and 341.2 of this chapter.

* * * * *

PART 348 – OIL PIPELINE APPLICATIONS FOR MARKET POWER DETERMINATIONS

65. The authority citation for part 348 continues to read as follows:

Authority: 42 U.S.C. 7101–7352; 49 U.S.C. 60502; 49 App. U.S.C. 1–85.

66. In § 348.2, paragraphs (a) and (c) are revised to read as follows:

§ 348.2 Procedures.

(a) A carrier must file in the manner provided by §§ 341.1 and § 341.2 of this chapter. A carrier must submit with its application any request for privileged treatment of documents and information under § 388.112 of this chapter and a proposed form of protective agreement. In the event the carrier requests privileged treatment under § 388.112 of this chapter, it must file in the manner provided by § 388.122(b)(2) of this chapter.

* * * * *

(c) A letter of transmittal must describe the market-based rate filing, including an identification of each rate that would be market-based, and the pertinent tariffs, state if a waiver is being requested and specify the statute, section, subsection, regulation, policy or order requested to be waived. Letters of transmittal must be certified pursuant to § 341.1(b).

* * * * *

PART 375 – THE COMMISSION

67. The authority citation for part 375 continues to read as follows:

Authority: 5 U.S.C. 551-557; 15 U.S.C. 717-717w, 3301-3432; 16 U.S.C. 791-825r, 2601-2645; 42 U.S.C. 7101-7352.

68. In § 375.307, paragraphs (i)(5), (n)(1), and (o) are removed and reserved, and paragraph (k)(5) is added to read as follows:

§ 375.307 Delegations to the Director of the Office of Markets, Tariffs and Rates.

* * * * *

(k) * * *

(5) Take appropriate action on motions to withdraw tariff filings filed under parts 35 and 154 of this chapter.

* * * * *

PART 385--RULES OF PRACTICE AND PROCEDURE

69. The authority citation for part 385 continues to read as follows:

Authority: 5 U.S.C. 551-557; 15 U.S.C. 717-717z, 3301-3432; 16 U.S.C. 791a-825r, 2601-2645; 28 U.S.C. 2461; 31 U.S.C. 3701, 9701; 42 U.S.C. 7101-7352; 49 U.S.C. 60502; 49 App. U.S.C. 1-85 (1988).

70. Amend § 385.203 as follows:

a. In paragraph (a)(1), remove the reference to “symbols” and add in its place “information”.

b. In paragraph (a)(4) the reference to “sheets” is revised to read “sections”.

71. In § 385.215, paragraph (a)(2) is amended to add a first sentence to read as follows:

§ 385.215 Amendment of pleadings and tariff or rate filings (Rule 215).

(a) * * *

(2) A tariff or rate filing may be amended or modified only as provided in the regulations governing such filings. * * *

* * * * *

72. In § 385.216, paragraph (a) is redesignated as paragraph (a)(1) and paragraph (a)(2) is added to read as follows:

§ 385.216 Withdrawal of pleadings and tariff or rate filings (Rule 216).

(a) *Filing.* (1) * * *

(2) A tariff or rate filing may be withdrawn only as provided in the regulations governing such filings. The procedures provided in this section do not apply to withdrawals of tariff or rate filings.

* * * * *

73. In § 385.217 (d)(1)(iii), the reference to “sheets” is revised to read “sections”.

74. Section 385.2011 is amended as follows:

a. Paragraphs (b)(4) and (b)(5) are removed.

b. In paragraph (c)(1), the word “schedule” is revised to read “schedule, tariff”.

c. Paragraphs (b)(1), (c)(3), and (d)(1) are revised to read as follows:

§ 385.2011 Procedures for filing on electronic media (Rule 2011).

* * * * *

(b) * * *

(1) All tariff and rate filings required by this chapter to be submitted electronically.

* * * * *

(c) * * *

(3) With the exception of the Form Nos. 1, 2, 2–A and 6, and the tariff and rate filings required to be submitted electronically, the electronic filing must be accompanied by the traditional prescribed number of paper copies.

* * * * *

(d)(1) *Where to file.* The electronic media must be submitted according to the electronic filing instructions applicable to each filing. Electronic files submitted on media such as diskettes or CD Roms, as well as paper copies when applicable, and accompanying cover letter must be submitted to: Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426.

* * * * *