

Federal Energy Regulatory Commission

§ 35.19a

service agreement, or part thereof, which has been suspended by order of the Commission except by special permission of the Commission granted upon application therefor and for good cause shown.

(e) *Changes in rate schedules or tariffs or parts thereof continued in effect and which were proposed to be changed by the suspended filing.* A public utility may not, within the period of suspension, file any change in a rate schedule or tariff or part thereof continued in effect by operation of an order of suspension and which was proposed to be changed by the suspended filing, except by special permission of the Commission granted upon application therefor and for good cause shown.

[Order 271, 28 FR 10573, Oct. 2, 1963, as amended by Order 714, 73 FR 57533, Oct. 3, 2008; 74 FR 55770, Oct. 29, 2009]

§ 35.18 Asset retirement obligations.

(a) A public utility that files a rate schedule, tariff or service agreement under § 35.12 or § 35.13 and has recorded an asset retirement obligation on its books must provide a schedule, as part of the supporting work papers, identifying all cost components related to the asset retirement obligations that are included in the book balances of all accounts reflected in the cost of service computation supporting the proposed rates. However, all cost components related to asset retirement obligations that would impact the calculation of rate base, such as electric plant and related accumulated depreciation and accumulated deferred income taxes, may not be reflected in rates and must be removed from the rate base calculation through a single adjustment.

(b) A public utility seeking to recover nonrate base costs related to asset retirement costs in rates must provide, with its filing under § 35.12 or § 35.13, a detailed study supporting the amounts proposed to be collected in rates.

(c) A public utility that has recorded asset retirement obligations on its books, but is not seeking recovery of the asset retirement costs in rates, must remove all asset-retirement-obligations-related cost components from

the cost of service supporting its proposed rates.

[Order 631, 68 FR 19619, Apr. 21, 2003, as amended by Order 714, 73 FR 57533, Oct. 3, 2008]

§ 35.19 Submission of information by reference.

If all or any portion of the information called for in this part has already been submitted to the Commission, substantially in the form prescribed above, specific reference thereto may be made in lieu of re-submission in response to the requirements of this part.

§ 35.19a Refund requirements under suspension orders.

(a) *Refunds.* (1) The public utility whose proposed increased rates or charges were suspended shall refund at such time in such amounts and in such manner as required by final order of the Commission the portion of any increased rates or charges found by the Commission in that suspension proceeding not to be justified, together with interest as required in paragraph (a)(2) of this section.

(2) Interest shall be computed from the date of collection until the date refunds are made as follows:

(i) At a rate of seven percent simple interest per annum on all excessive rates or charges held prior to October 10, 1974;

(ii) At a rate of nine percent simple interest per annum on all excessive rates or charges held between October 10, 1974, and September 30, 1979; and

(iii)(A) At an average prime rate for each calendar quarter on all excessive rates or charges held (including all interest applicable to such rates or charges) on or after October 1, 1979. The applicable average prime rate for each calendar quarter shall be the arithmetic mean, to the nearest one-hundredth of one percent, of the prime rate values published in the *Federal Reserve Bulletin*, or in the Federal Reserve's "Selected Interest Rates" (Statistical Release H. 15), for the fourth, third, and second months preceding the first month of the calendar quarter.

(B) The interest required to be paid under clause (iii)(A) shall be compounded quarterly.

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(3) Any public utility required to make refunds pursuant to this section shall bear all costs of such refunding.

(b) *Reports.* Any public utility whose proposed increased rates or charges were suspended and have gone into effect pending final order of the Commission pursuant to section 205(e) of the Federal Power Act shall keep accurate account of all amounts received under the increased rates or charges which became effective after the suspension period, for each billing period, specifying by whom and in whose behalf such amounts are paid.

[44 FR 53503, Sept. 14, 1979, as amended at 45 FR 3889, Jan. 21, 1980; Order 545, 57 FR 53990, Nov. 16, 1992; 74 FR 54463, Oct. 22, 2009]

§ 35.21 Applicability to licensees and others subject to section 19 or 20 of the Federal Power Act.

Upon further order of this Commission issued upon its own motion or upon complaint or request by any person or State within the meaning of sections 19 or 20 of the Federal Power Act, the provisions of §§35.1 through 35.19 shall be operative as to any licensee or others who are subject to this Commission's jurisdiction in respect to services and the rates and charges of payment therefor by reason of the requirements of sections 19 or 20 of the Federal Power Act. The requirement of this section for compliance with the provisions of §§35.1 through 35.19 shall be in addition to and independent of any obligation for compliance with those regulations by reason of the provisions of sections 205 and 206 of the Federal Power Act. For purposes of applying this section *Electric Service* as otherwise defined in §35.2(a) shall mean: Services to customers or consumers of power within the meaning of sections 19 or 20 of the Federal Power Act which may be comprised of various classes of capacity and energy and/or transmission services subject to the jurisdiction of this Commission. *Electric Service* shall include the utilization of facilities owned or operated by any licensee or others to effect any of the foregoing sales or services whether by leasing or other arrangements. As defined herein *Electric Service* is without regard to the form of payment or compensation for the sales or services ren-

dered, whether by purchase and sale, interchange, exchange, wheeling charge, facilities charge, rental or otherwise. For purposes of applying this section, *Rate Schedule* as otherwise defined in §35.2(b) shall mean: A statement of

(1) Electric service as defined in this §35.21,

(2) Rates and charges for or in connection with that service, and

(3) All classifications, practices, rules, regulations, or contracts which in any manner affect or relate to the aforementioned service, rates and charges. This statement shall be in writing and may take the physical form of a contractual document, purchase or sale agreement, lease of facilities, tariff⁵ or other writing. Any oral agreement or understanding forming a part of such statement shall be reduced to writing and made a part thereof.

[Order 271, 28 FR 10573, Oct. 2, 1963, as amended by Order 714, 73 FR 57533, Oct. 3, 2008]

§ 35.22 Limits for percentage adders in rates for transmission services; revision of rate schedules, tariffs or service agreements.

(a) *Applicability.* This section applies to all electric rate schedules, tariffs or service agreements required to be filed under this part that are used for transactions in which the utility or system performs a transmission or purchase and resale function.

(b) *Definition.* For purposes of this section, *purchased power price* means the amount paid by a utility or system that performs a transmission or purchase and resale function for electric power generated by another utility or system.

(c) *General rule.* (1) If a utility or system uses a rate component that recovers revenues computed wholly or in part as a percentage of the purchased power price, the utility or system shall establish a limit on the revenues recovered by such rate component in any transaction, in accordance with paragraph (d) of this section.

(2) The limit established under this paragraph shall be stated in mills per kilowatt-hour.

⁵ See §35.2.