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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 2

[Docket No. RM98-9-000; Order No. 603]

Revision of Existing Regulation Under Part 157 and Related Sections of the Commission's Regulations Under the Natural Gas Act; Correction

March 31, 2000.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule; correction.

SUMMARY: The Federal Energy Regulatory Commission ("Commission") published in the *Federal Register* of May 14, 1999, a document updating its regulations governing the filing of applications for the construction and operation of facilities to provide service or to abandon facilities or service under section 7 of the Natural Gas Act. Two amendatory instructions for Part 2 were incorrectly stated. This document corrects those amendatory instructions.

DATES: Effective on April 7, 2000.

FOR FURTHER INFORMATION CONTACT: Julia A. Lake, Attorney, Federal Energy Regulatory Commission, 888 First Street, NW, Washington, DC 20426; phone: 202-208-2019; e-mail: julia.lake@ferc.fed.us.

SUPPLEMENTARY INFORMATION: The Federal Energy Regulatory Commission ("Commission") published in the *Federal Register* of May 14, 1999, a document updating its regulations governing the filing of applications for the construction and operation of facilities to provide service or to abandon facilities or service under section 7 of the Natural Gas Act. Two amendatory instructions for Part 2 were

incorrectly stated. This document corrects those amendatory instructions.

In rule FR Doc. 99-11247, published on May 14, 1999 (64 FR 26571), make the following corrections.

1. On page 26603, in the first column, correct amendatory instruction 2 to read as follows:

"2. In § 2.1, paragraph (a)(1)(viii) is removed."

2. On page 26603, in the first column, correct amendatory instruction 3 to read as follows:

"3. In § 2.55, paragraph (a) is revised; (b)(1)(ii) is revised; (b)(4) heading is removed; (b)(4)(i) is removed and (b)(4)(ii) is redesignated as (b)(4); and paragraph (d) is removed and reserved, to read as follows:"

Dated: March 31, 2000.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 00-8457 Filed 4-6-00; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 35

[Docket No. RM99-12-000; Order No. 614]

Designation of Electric Rate Schedule Sheets

Issued March 31, 2000.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is amending its regulations to require prospectively the inclusion of a proposed designation for all rate schedule sheets filed with the Commission by public utilities. This rule will streamline rate schedule sheet designation procedures for the Commission and the electric industry. This rule will also conform public utility tariff filing procedures with those for interstate natural gas and oil pipelines. This revision to the regulations is necessary to accommodate the movement toward an integrated energy industry and to facilitate the development of common standards for the electronic filing of all electric, gas, and oil rate schedule sheets.

EFFECTIVE DATE: This final rule will become effective on June 1, 2000.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

I. Introduction

The Federal Energy Regulatory Commission (Commission) is amending its regulations to require prospectively the inclusion of a proposed designation¹ on all rate schedule sheets filed with the Commission by public utilities.² This rule will streamline rate schedule sheet designation procedures for the Commission and the electric industry.

This rule will conform the procedures for identifying public utility tariff filings with those for interstate natural gas and oil pipelines.³ This revision to the

¹ For purposes here, "designation" refers to the practice of assigning rate schedule numbers as well as sheet designations, for purposes of identification and document tracking.

² For purposes of this rule, use of the term "rate schedule" refers to three types of filings: sets of terms and conditions for service offered to all who qualify for the service, such as an Open Access Transmission Tariff; agreements with specific terms for service negotiated between named seller(s) and buyer(s), such as a Facilities Agreement or Coordination Agreement; or form agreements under which a specific customer takes service under a tariff.

³ The Commission is adopting the gas program's pagination guidelines as the model for the electric program for several reasons. The gas guidelines use unique tariff sheet designations that, once assigned, cannot be reused. Therefore, the applicants, the Commission, and the public will have a common point of reference for every rate schedule sheet without the need for further identifiers, such as the date of filing or the docket number. Further, the gas guidelines provide for the use of standardized nomenclature, which conveys important information about the applicants' filings (e.g. a proposed change in the tariff pursuant to FPA section 205 ("Third Revised Sheet No.)) or a

Continued

regulations is necessary to accommodate the movement toward an integrated energy industry and to facilitate the development of common standards for the electronic filing of all electric, gas, and oil rate schedule sheets. However, it has not been determined what the common standards for electronic filing will be or the format that will be followed. For example, it has not been decided whether a page-based or non-page-based system would be most effective. These determinations will be developed by the Commission as it moves forward with electronic filing.

II. Background

A. Notice of Proposed Rulemaking

This proceeding began with the issuance of a Notice of Proposed Rulemaking (NOPR) on October 28, 1999.⁴ The NOPR addressed the following issues dealing with streamlining rate schedule sheet designation procedures for the Commission and the electric industry: (1) Requirements for identification and numbering of tariffs to be submitted by the filing utilities; and (2) rejection of materials that fail to comply with the applicable requirements.

Comments were filed by four commenters. Three of the comments were generally favorable to the proposed changes. The other comment expressed concerns with the proposed changes. The comments will be discussed below on an issue-by-issue basis.

B. Notice of Proposed Rulemaking's Origin

Section 205(c) of the Federal Power Act (FPA)⁵ and section 4(c) of the Natural Gas Act (NGA)⁶ provide that the Commission is charged with the responsibility to keep schedules showing all rates and charges, in such form as the Commission may designate, for any jurisdictional transmission or

compliance filing (Substitute Third Revised Sheet No. 7)). The gas guidelines also require additional information on each rate schedule sheet to further clarify what currently effective sheets will be changed if the filing is accepted and the date the applicant proposes for the rate schedule sheet to become effective. This information is necessary to determine both the utilities' compliance with their statutory notice obligation and when the Commission must act under the FPA. Because the Commission's experience with the gas guidelines has been satisfactory, both in terms of the pipelines' ability to conform with the guidelines and the Commission's ability to administer the gas program, the Commission proposed to use, and now has decided to use, the gas guidelines as the model for the electric program.

⁴ Designation of Electric Rate Schedule Sheets, Notice of Proposed Rulemaking, 64 FR 60390 (November 5, 1999), FERC Stats. & Regs. ¶ 32,547 (October 28, 1999).

⁵ 16 U.S.C. 824d(c).

⁶ 15 U.S.C. 717(c).

sale of electricity and for any jurisdictional transportation or sale of natural gas, respectively. Similarly, section 6 of the Interstate Commerce Act (ICA)⁷ requires that the rate schedules for oil pipelines be published, filed, and posted in the form and manner prescribed by the Commission. Parts 35, 154, and 341 of the Commission's Rules and Regulations⁸ implement these sections of the FPA, NGA, and ICA, respectively.

Pursuant to current Commission regulations under Parts 154 and 341, gas and oil pipelines are required to include proposed pagination on all tariff sheets filed with the Commission; the proposed pagination must be unique to the pertinent tariff sheets, *i.e.*, the proposed pagination is newly created and has never been used previously. Additionally, both Parts 154 and 341 require that the proposed pagination convey information as to whether the tariff sheet being filed contains changes proposed by the pipeline or is filed in compliance with a Commission order. Gas or oil tariff sheets filed without pagination or incorrect pagination are deemed incomplete, and may be rejected as such.⁹

With regard to public utility rate schedules, Part 35 of the Commission's regulations provides that every rate schedule filing under the FPA "will be numbered by the Commission and the filing public utility advised of the Rate Schedule FERC number."¹⁰ Therefore, pursuant to that regulation, the Commission routinely designates each rate schedule filed by a public utility and informs the utility of the designation.

III. Discussion

In this rule, we are revising 18 CFR Part 35. These revisions include: (1) Amending § 35.5 to allow the Director of the Office of Markets, Tariffs, and Rates (Director) to reject rate filings that fail to comply with Part 35;¹¹ (2) revising § 35.9 to provide instructions on how to identify and number proposed rate schedule sheets; and (3) removing and reserving § 35.18.

This rule will streamline tariff sheet¹² designation procedures for the

⁷ 49 U.S.C. app. 1 (1988).

⁸ 18 CFR Part 35; 18 CFR Part 154; 18 CFR Part 341.

⁹ See 18 CFR 154.5; 18 CFR 341.11.

¹⁰ 18 CFR 35.9.

¹¹ The proposed revision provided that the Director of the Office of Electric Power Regulation (OEPR) would have the power to reject these filings. OEPR has since been dissolved and functionally replaced by the Office of Markets, Tariffs, and Rates.

¹² For the convenience of the reader, unless the context otherwise indicates, we will use the term

Commission and the electric industry. Under current procedures, a significant amount of staff time is required to assign designations for public utility tariff sheets. Staff is required to research underlying tariff sheets and proceedings to identify the status of the superseded tariff sheet (effective without suspension, suspended, or effective under suspension) and the nature of the proposed tariff sheet (a proposed rate change or a compliance filing) in order to establish the proper designation. This information must then be conveyed to the utility and the public through issuance of Commission orders.

Under the designation procedures established by this rule, staff will only need to confirm the appropriateness of the proposed designation. Commission orders, including delegated orders, will not have to list tariff sheets individually, because the filings and the tariff sheets will be cross-referenced electronically. This will simplify the identification of any specific tariff sheet for any purpose from the time of filing. Also, the proposed designation procedure will allow tariff sheets to be more easily kept up to date, with superseded sheets archived for future reference.

Filing requirements for tariff sheets for the electric, gas, and oil industries have evolved independently over time. However, with the movement toward an integrated energy industry it now makes sense to have a common standard for all tariff sheets filed with the Commission. Further, as the Commission increases its use of electronic media for filing, storage, retrieval, and tracking of information and documents, greater uniformity in filing procedures, wherever practical, will greatly expedite and simplify this conversion to electronic media. Conforming the requirements for public utilities, interstate natural gas pipelines, and oil pipelines will position the Commission and the affected industries for a smooth transition to having the tariff sheets filed, tracked, and archived electronically. In addition, designing the electronic format for these filings will be simplified if all tariff sheets are filed uniformly.

The Commission believes that the transition from the existing designation procedure to that embodied by this rule will occur in an efficient manner if currently effective and paginated/ designated tariff sheets remain as filed. However, if a change is proposed in an existing tariff or rate schedule, the entire

"tariff sheet" in the remainder of the narrative discussion when referring to public utility rate schedules.

tariff or rate schedule must be re-filed according to the new system.¹³ In this way, as tariff sheets are replaced over time, the old designations will disappear and the new system will be implemented in an orderly and efficient manner. Further, changes would be prospective only, alleviating any need to retroactively alter, modify, or re-file the tariff sheets currently on file.

“Tariff, Rate Schedule, and Service Agreement Pagination Guidelines” (Designation Guidelines) have been developed and are attached hereto as an appendix. The guidelines offer definitions and examples designed to assist interested parties during the period of transition. The guidelines also provide the name and telephone number of a staff person who can answer questions and provide additional guidance.

Comments are discussed in the following sections.

A. Prospective Designation by Public Utilities of Tariff Sheets

Introduction

Currently, staff is responsible for assigning designations for public utility tariff sheets. In the NOPR, we noted that a significant amount of staff time is required to establish the proper designation. Accordingly, we proposed to revise our regulations to require that the public utilities prospectively include proposed designation for all tariff sheets filed with the Commission.

Comments

Southern Company Services, Inc. (Southern), Wisconsin Public Service Corporation (WPSC), and New England Power Company and Montaup Electric Company (NEP Companies) all filed comments generally supporting the Commission's efforts to standardize the designation of electric tariff sheets. Consumers Energy Company (Consumers) commented on the proposed requirement that public utilities, prospectively, include in their filings a proposed designation for all tariff sheets filed with the Commission. Consumers states that it does not support utility designation for non-standard contracts and service agreements. Consumers suggests that it would be best for staff to continue to designate non-standard contracts and service agreements. Consumers argues that it is sometimes unclear as to whether the contracts will be deemed a new agreement for a new service or a supplement to an existing service. Also, Consumers states that, when the

contracts are drafted, it is not sure which agreements will be executed and when and in which order they will be filed. Consumers also questions the usefulness of retaining the sheet identifying canceled tariff sheets. Consumers argues that, once terminated, canceled tariff sheets will never have a future use. Consumers further indicates that, for electric utilities, volume identifications are not used.

Commission Conclusion

The Commission is not persuaded by Consumers' argument that staff should continue to assign tariff sheet designations in certain circumstances. It is the responsibility of the utilities to clearly identify in their filings the nature of the services they are proposing and how those services relate to other services, if at all. It is not uncommon for there to be ambiguity as to the nature of a contract or when a tariff sheet will become effective. These issues, though, are separate from the issue of who should designate a tariff sheet. And, as an ultimate check, the Commission will review proposed designations to confirm their accuracy, and retains the right to require corrections to proposed designations that it believes are inaccurate.

The Designation Guidelines provide, in general, for proposed tariff sheets to identify the effective sheets to be superseded, except when the successive filings reflect underlying (and still pending) filings, in which case the utility should list the underlying but still pending sheets as the superseding sheets. (See Appendix, Example No. 1.) On joint services, each utility offering a service must file its own tariff sheets. This means that jointly offered services most likely will have different tariff sheet designations.

Consumers has a legitimate point concerning volume identification. Therefore, the Commission will permit the use of the rate schedule number as the identifier in the header of each tariff sheet.

The Commission is not directing utilities to use reserved tariff sheets in the future. Rather, the utilities may, at their option or as the needs of other tariff sheets require, use the reserved sheets, provided unique designations are applied.

Finally, Designation Guideline paragraph 11 and Example No. 7 originally provided that the canceling tariff sheet should be designated with the last sheet number of the canceled sheets. Consumers notes that this instruction differs from the Gas Guidelines' instruction for the first of the canceled sheets, and recommends

that the Commission adopt the Gas Guidelines for the sake of continuity between the gas pipeline and utility programs. The Commission agrees, and will do so.

B. Consistency Among Filings

Introduction

Currently, public utility filing requirements differ from those for natural gas and oil pipelines. In the NOPR, we proposed conforming public utility filing procedures with those for natural gas and oil pipelines. We explained that this revision would be necessary to accommodate the movement toward an integrated energy industry and to facilitate the development of common standards for the electronic filing of all electric, gas, and oil rate schedule sheets.

Comments

Consumers states that this rule will not make electric, gas pipeline, and oil pipeline rate filings more consistent. Consumers states that the proposed designation system goes beyond the designation system used for gas pipelines.¹⁴ Consumers recommends that the Commission adopt the procedures used for gas pipeline filings and not require the filing of electric service agreements.

Commission Conclusion

Consumers misconstrues the limits of this rule change. This rule is limited to public utility tariff sheet designations. The continued convergence of the gas and electric industries and markets, and the Commission's ongoing involvement in this convergence, are likely to require additional, future modifications to the Commission's procedures and regulations. This rule is but one step. As such, public utilities will continue to be required to file all service agreements. This is no different from what was required of gas pipelines prior to the implementation of Order No. 516.¹⁵

C. Non-Standard Contracts and Service Agreements

Comments

Consumers questions the need to apply tariff sheet designations to non-standard electric service agreements. Consumers argues that because gas pipeline companies are not required to paginate non-standard contracts, public

¹⁴ See 18 CFR 154.1(d).

¹⁵ Final Regulations Clarifying the Filing Obligations for Part 284 Transportation and Sale of Natural Gas, Order No. 516, 54 FR 47758 (November 17, 1989), FERC Stats. & Regs., Regulation Preambles 1986-1990 ¶ 30,864 (November 9, 1989). See also 18 CFR 154.1(d).

¹³ See 18 CFR 35.2(b) and n.1.

utilities should not be required to do so either. Consumers, in further support of this request, claims that, because non-standard service agreements are rarely, if ever, changed, the tariff sheet designation requirement is unnecessary. If designation is to be required, Consumers requests that the issue be deferred and taken up as part of the Commission's future efforts to create a standardized electronic tariff for public utilities, gas pipelines, and oil pipelines.

Commission Conclusion

The Commission's intent in this rule is, in part, to improve the level of regulatory convergence. While Consumers may be correct in stating that most non-conforming contracts and service agreements will not change once filed, the Commission will not speculate as to which terms of service or rates may be revised. However, the Commission recognizes that service agreements constitute a large portion of the tariff filings made in the electric program. Therefore, to ease the administrative burden on filing utilities, this rule will not require the individual pages of service agreements to be paginated. However, the Commission will retain the requirement for utilities to designate service agreements. If a service agreement is revised or modified, the utility must file a complete revised service agreement with a new designation comporting with the Guidelines.

D. Delegated Authority to Reject Tariff Filings and Related Issues

Introduction

Currently, our regulations permit the Secretary to reject any material submitted for filing with the Commission that patently fails to substantially comply with the applicable requirements.¹⁶ The NOPR proposed a new § 35.5(b), which would permit the Director, pursuant to delegated authority, to reject rate filings that fail to comply with Part 35 of the Commission's regulations.

Comments

Consumers, NEP Companies, WPSC, and Southern express concern that the Director may exercise the delegated authority to reject filings because of minor errors in the application. Consumers proposes a modification to the regulation that would permit the Director to reject only "patently deficient" filings. WPSC and Southern request that the Commission clarify that the Director could reject a tariff sheet,

but not the rate filing in total. The NEP Companies also suggest a six-to twelve-month transition period. All parties filing comments expressed concern that rejection due to a minor error would result in delayed effective dates for rate changes or new services, thus causing economic harm to utilities and end customers.

Consumers also claims that the authority in § 35.5(b) goes beyond the Director of the Office of Electric Regulation's existing delegated authority in 18 CFR § 375.308(a)(3).¹⁷ Consumers claims that § 375.308(a)(3) does not delegate authority to reject any non-compliant filing, but only those that patently fail to comply. Consumers claims that a simple failure to designate, or a mis-designation, does not warrant rejection.¹⁸

Commission Conclusion

New § 35.5(b) references § 375.307(k)(3), and the Director may, pursuant to § 375.307(k)(3), reject any rate filing not containing a request for waiver if it "fails patently to comply with applicable statutory requirement or Commission rules, regulations and orders." Accurate designation of tariff sheets is essential; it allows the Commission and the public to identify the tariff sheets (and rates) the utilities propose to supersede and when they will be superseded, as well as the proposed replacement tariff sheets (and rates) and when they will go into effect.¹⁹ It is thus incumbent upon utilities to unambiguously identify their proposed changes in a manner conforming to the Commission's regulations including properly formatting and designating their proposed tariff sheets. The proposed effective dates of utilities' proposals, in particular, are usually a function of the

¹⁷ The Commission recently reorganized the delegation authorities to reflect the creation of the Office of Markets, Tariffs, and Rates (OMTR). Section 375.308(a)(3) has been redesignated § 375.307(k)(3). The final regulations adopted here reflect this change.

¹⁸ Consumers notes that the Director of the Office of Pipeline Regulation, through delegated authority, frequently informs gas pipelines that their electronically-filed tariff sheets failed to comply with certain formatting and/or pagination requirements without rejecting those filings. However, we note that those letters also inform the gas pipelines that, if not corrected, usually within one working day, their filing and effective dates may be delayed.

¹⁹ The WPSC suggests that the Director be allowed to reject only those tariff sheets that are not properly paginated. We are not persuaded to limit the circumstances in which filings may be rejected only to those not properly paginated. In any event, we note that a filing that is incomplete is not properly filed with the Commission, and there is nothing for the Commission to act on, either directly or by delegation.

dates the utilities file and thus within the utilities' control. It is not the function of this Commission to speculate on the nature of an applicant's filing (for example, what a utility intends as the effective date,) nor is it our function to, on our own, perfect a utility's application.

The Commission anticipates the need, in the beginning, to provide assistance to utilities so they may become accustomed to the procedures established under the Designation Guidelines. The Commission has identified staff that affected utilities may contact to assist in initiating this new tariff designation process. Staff will work with applicants to facilitate correct filings. However, it remains the responsibility of the applicants in the first instance to file complete and accurate applications with properly formatted and designated tariff sheets.

Moreover, determinations as to whether tariff sheets are properly formatted and designated are matters properly delegated to the Director. Utilities may, of course, request rehearing of Director actions with which they disagree.²⁰

Finally, the Commission will not establish a definitive transition period. Instead, as when the Commission introduced new pagination guidelines for the gas program, the Commission will rely on the Director to manage the transition.

E. Issuance Date and Issuing Office

Introduction

Section 35.9(b)(3) requires tariff sheets to include the issuing officer and the issuance date.

Comments

Consumers requests clarification as to whom the officer should be and what the issuance date should be. Consumers claims that it is not possible to know what the issuance date will be when contracts are negotiated. Consumers also states that negotiating and executing a non-standard contract often takes a significant amount of time and that contracts often provide for an effective date at a date certain after Commission approval. As such, Consumers continues, it is often impossible to include a specific effective date when a non-standard contract is prepared.

Commission Conclusion

The Commission clarifies that: (1) The issuing officer is the person responsible for filing the tariff sheet with the Commission; and (2) the issuance date is the date the tariff sheet is filed with

¹⁶ 18 CFR 35.5.

²⁰ See 18 CFR 385.713.

the Commission. Consumers appears to equate tariff sheets with actual contract pages. While a utility may choose to equate a tariff sheet with a contract page, the Commission's regulations do not prescribe such an interrelationship.

It is the utilities' responsibility to propose an effective date when they file tariff sheets with the Commission.²¹ This rulemaking does nothing to change this pre-existing requirement.

F. Mechanics of the Transition to the New Designation System

Comments

Consumers requests clarification of certain issues related to the mechanics of the transition to the new designation system. It asks whether designation should start over at "Original Sheet No." when the superseded sheet already has a number. Consumers also requests clarification as to the effective date of tariff sheets that are filed with no changes except those necessary to comply with the designation rule. Consumers further notes that the requirement for additional data on each tariff sheet may result in tariff language rolling over to subsequent tariff sheets that differ from the pre-existing tariffs sheets.

Commission Conclusion

The Commission has traditionally allowed gas pipelines that are not replacing an entire volume to simply pick a designation number higher than the most recently filed effective tariff sheet. Thus, for example, a utility may decide to redesignate all tariff sheets in its first rate change as "7th Revised Sheet No. ____," provided all existing tariff sheets are designated at some figure less than seven.

The effective date for the newly designated sheets will be the effective date for the changes contained on those sheets. Superseded sheets will be effective from the effective date allowed

by the Commission up to the date they are superseded.

Rolling of text from one sheet to another is acceptable. Staff can provide additional suggestions based on the gas program's experience in order to facilitate ease in re-designation.²²

G. Effective Date

Comments

Consumers requests that the Commission delay the effective date of the designation rule for at least 90 days, or until it is clearer how electronic filing will be accomplished. Consumers states that considerable effort is required to assemble a rate filing and it will take significant time and effort to convert existing and lengthy tariffs over to the new designation system. Further, this conversion effort cannot start until the final rule is known.

Commission Conclusion

The Commission will make the effective date of this rule June 1, 2000. Consumers seems to believe that this rule will require the refiling of its entire tariff. That will not be required. While it is the Commission's intent to eventually update utilities' tariffs, this rule will require only incremental adjustments. As changes are made to a portion of a tariff or rate schedule (including service agreements), the Commission will require the redesignation of only that individual tariff or rate schedule (including service agreements).²³ Because the Commission is not requiring utilities to refile their entire tariffs, and because the Commission has attempted to reduce the problems associated with this transition, we do not believe it is necessary to afford additional time, beyond June 1, 2000, to adapt to the new designation procedures.

The Commission has not established a standardized electronic tariff format for the electric, gas, and oil programs.

Therefore, delaying the effective date of this final rule to coincide with the outcome of a future proceeding addressing this subject would be the equivalent of terminating this proceeding. The NOPR identified several reasons for implementing the designation requirements: streamlining the designation process; convergence of the gas and electric industries; facilitating case tracking and research as to the status of tariff sheets; preparing utilities for the eventual transition to electronic tariff filing; and reducing the amount of staff time necessary to process utility rate filings. These reasons provide adequate justification to implement this new rule, effective May 1, 2000.

Self-designation of tariff sheets also permits quicker and more certain Commission action on certain types of filings. The Commission is permitting certain gas and oil tariff sheets to go into effect by operation of law. If, upon staff review, a filing is complete, complies with all applicable statutory, regulatory, and policy requirements, is not protested by any party, requires no additional Commission action, and raises no other issues, these tariff sheets can go into effect without suspension or refund obligation and without an order from the Commission. Designation of utility tariff sheets will permit the same process to apply to the electric program.

IV. Information Collection Statement

The following collection of information contained in this rule is being submitted to the Office of Management and Budget (OMB) for review under section 3507(d) of the Paperwork Reduction Act of 1995.²⁴ FERC identifies the information provided under Part 35 as FERC-516. The additional reporting burden to implement this proposed rule is as follows:

Data collection	Number of respondents	Number of responses	Hrs. per response	Total annual hours
FERC-516	858	3.42	2.83	8,320

Total Additional Annual Hours for Collection (Reporting + Recordkeeping, if appropriate) = 8,320.

The total annual reporting burden for FERC-516 under the current regulations is 536,800 hours. Currently, the

Commission devotes approximately 8,320 hours per year to assign tariff designations to an estimated 2,934 filings per year. The proposed change will require the utilities to perform the designation duties currently performed

by Commission staff. There will, therefore, be an increase in reporting burden from 536,800 hours to 545,120 hours as utilities adopt the proposed designation system for changes proposed in existing tariffs or rate

²¹ Section 205(d) of the FPA (16 U.S.C. 824d(d)) provides that, unless the Commission otherwise provides, no change shall be made to a tariff except after 60 days' notice given by a filing by the utility, and that the filing must plainly state the changes

being made and the time when the changes will go into effect.

²² Consumers also raises questions and issues related to filing tariff sheets electronically. As the Commission has not yet initiated any proceeding

addressing electronic filing, it is premature to address these issues at this time.

²³ See 18 CFR 35.2(b) and n.1.

²⁴ 44 U.S.C. 3507(d).

schedules and/or if an entire tariff or rate schedule must be re-filed.²⁵

Information Collection Costs: The Commission has projected the average annualized cost for all respondents to be:

Annualized Capital/Startup Costs
\$205,424 (tariff designations)
Annualized Costs (Operations & Maintenance): \$28,359,815 (tariff + rate schedule filings)
Total Annualized Costs: \$28,565,239 (tariff designations + rate schedule filings)

The OMB regulations require OMB to approve certain information collection requirements imposed by agency rule.²⁶ Accordingly, pursuant to OMB regulations the Commission has provided notice of this information collection to OMB.

Title: FERC-516, Electric Rate Schedule Filings.

Action: Data Collection.

OMB Control No.: 1902-0096. The respondent shall not be penalized for failure to respond to this collection of information unless the collection of information displays a valid OMB control number.

Respondents: Business or other for profit, including small businesses.

Frequency of Responses: On Occasion.

Necessity of Information: The proposed rule revises the requirements contained in 18 CFR Part 35.

Internal Review: The Commission has assured itself, by means of its internal review, that there is specific, objective support for the burden estimates associated with the information requirements. Section 205 of the Federal Power Act (FPA) (16 USC 824d) requires that rates, terms, and conditions for jurisdictional service be filed with the Commission. In addition, the Commission uses the information provided to make determinations under sections 205 and 206 of the FPA (16 USC 824d-e) as to whether rates, terms and conditions of jurisdictional service are unjust, unreasonable, or unduly discriminatory or preferential and to prescribe just and reasonable rates, terms and conditions. Failure to issue these requirements would mean the Commission is not meeting its statutory obligations under Sections 205 and 206

²⁵ The proposed change may have even less impact on utilities, as the Commission assumes utilities currently maintain an informal recordkeeping system for proposed tariff sheets pending a final designation from the Commission. This informal system will no longer be necessary to maintain, as tariff sheet designations will be assigned by the utilities prior to filing the tariff sheets.

²⁶ 5 CFR 1320.11

of the FPA. These requirements also conform to the Commission's plan for the efficient collection, communication, and management of information for the electric industry.

Interested persons may obtain information on the reporting requirements by contacting the following: Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, [Attention: Michael Miller, Office of the Chief Information Officer, Phone: (202) 208-1415, fax: (202) 208-2425, email: mike.miller@ferc.fed.us].

For submitting comments concerning the collection of information and the associated burden estimate, please send your comments to the contact listed above and to the Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, DC 20503. [Attention: Desk Officer for the Federal Energy Regulatory Commission, phone: (202) 395-3087, fax: (202) 395-7285.

V. Environmental Statement

Issuance of this Final Rule does not represent a major federal action having a significant adverse effect on the human environment under the Commission's regulations implementing the National Environmental Policy Act.²⁷ 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. The Commission has categorically excluded certain actions from these requirements as not having a significant effect on the human environment. The actions proposed to be taken here fall within categorical exclusions found in 18 CFR § 380.4(a)(1) and (15).

VI. Regulatory Flexibility Act Certification

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601-612) requires rulemakings to contain either a description and analysis of the effect that a rule will have on small entities or a certification that a rule will not have a significant economic effect on a substantial number of small entities. Most filing entities do not fall within the RFA's definition of a small entity.²⁸ Therefore, the Commission certifies that this rule will not have a significant economic impact on a substantial number of small

²⁷ See Order No. 486, 52 FR 47897 (December 17, 1987), FERC Stats. & Regs. Regulations Preambles 1986-1990 ¶ 30,783 (December 10, 1987).

²⁸ See 5 U.S.C. 601(3).

entities. Therefore, no regulatory flexibility analysis is required.

VII. Document Availability

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 FERC's Home Page (<http://www.ferc.fed.us>) and in FERC'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, DC 20426.

From FERC's Home Page on the Internet, this information is available in both the Commission Issuance Posting System (CIPS) and the Records and Information Management System (RIMS).

—CIPS provides access to the texts of formal documents issued by the Commission since November 14, 1994.

—CIPS can be accessed using the CIPS link or the Energy Information Online icon. The full text of this document is available on CIPS in ASCII and WordPerfect 8.0 format for viewing, printing, and/or downloading.

—RIMS contains images of documents submitted to and issued by the Commission after November 16, 1981. Documents from November 1995 to the present can be viewed and printed from FERC's Home Page using the RIMS link or the Energy Information Online icon. Descriptions of documents back to November 16, 1981, are also available from RIMS-on-the-Web; requests for copies of these and other older documents should be submitted to the Public Reference Room.

User assistance is available for RIMS, CIPS, and the Website during normal business hours from our Help line at (202) 208-2222 (E-Mail to WebMaster@ferc.fed.us) or the Public Reference at (202) 208-1371 (E-Mail to public.referenceroom@ferc.fed.us).

During normal business hours, documents can also be viewed and/or printed in FERC's Public Reference Room, where RIMS, CIPS, and the FERC Website are available. User assistance is also available.

VIII. Effective Date and Congressional Notification

This Final Rule will take effect on June 1, 2000. The Commission has determined, with the concurrence of the Administrator of the Office of Information and Regulatory Affairs of the Office of Management and Budget, that this rule is not a "major rule"

within the meaning of section 251 of the Small Business Regulatory Enforcement Fairness Act of 1996.²⁹ The Commission will submit the Final Rule to both houses of Congress and the General Accounting Office.³⁰

List of Subjects in 18 CFR Part 35

Electric power rates, Electric utilities, Electricity, Reporting and recordkeeping requirements.

By the Commission.

Linwood A. Watson, Jr.,
Acting Secretary.

In consideration of the foregoing, the Commission amends Part 35, Chapter I, Title 18, *Code of Federal Regulations*, as follows:

PART 35—FILING OF RATE SCHEDULES

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 35.5 is amended by designating the existing text as paragraph (a) and by adding a paragraph (b) to read as follows:

§ 35.5 Rejection of material submitted for filing.

* * * * *

(b) A rate filing that fails to comply with this Part may be rejected by the Director of the Office of Markets, Tariffs, and Rates pursuant to the authority delegated to the Director in § 375.307(k)(3) of this chapter.

3. Section 35.9 is revised to read as follows:

§ 35.9 Identification and numbering of tariffs and rate schedules (including service agreements).

(a) All tariffs and rate schedules (including service agreements) must be numbered sequentially from the beginning of that tariff or rate schedule (or service agreement). Revised service agreements must be replaced in their entirety.

(b) All tariffs and rate schedules (not including service agreements, except as noted in paragraphs (b)(4) and (5) of this section) must have the following information placed in the margins of each sheet:

(1) *Identification.* At the top left of each page, the exact name of the company must be shown, under which must be set forth the words “FERC Electric Tariff” or “Rate Schedule FERC No. ____” together with volume identification, as appropriate.

(2) *Numbering of sheets.* Except for the title page, at the top right, the sheet number must appear as “(Original or Revised) Sheet No. (number).” All sheets must be numbered in the manner set forth in the Tariff, Rate Schedule and Service Agreement Pagination Guidelines, as modified from time to time.

(3) *Issuing officer and issue date.* On the lower left must be placed “Issued by:” followed by the name and title of the person authorized to issue the sheet. Immediately below must be placed “Issued on” followed by the date of issue.

(4) *Effective date.* On the lower right must be placed “Effective:” followed by the specific effective date proposed by the company. Service agreements must include this data on the same sheet containing the service agreement designation.

(5) *Filings made to comply with Commission orders.* Tariffs and rate schedules (including service agreements) filed to comply with Commission orders must carry the following notation in the bottom margin: “Filed to comply with order of the Federal Energy Regulatory Commission, Docket No. (number), issued (date), (FERC Reports citation).” Service agreements must include this data on the same sheet containing the service agreement designation.

§ 35.18 [Removed and reserved]

4. Section 35.18 is removed and reserved.

[Note: This Appendix will not appear in the Code of Federal Regulations.]

Appendix

Tariff, Rate Schedule, and Service Agreement Pagination Guidelines

Due to the complexity of tariff filing situations, the Commission Staff provides the following guidelines. If you have questions or need assistance, please call Kathleen E. Nieman at (202) 208–1070, or such other persons as may be identified from time to time.

(1) *Original Sheets.* Paginate as “Original Sheet No. ____” (a) all pages in initial filings, (b) added sheets, and (c) all sheets in a revised tariff volume. Guideline (11) gives an exception for reserved sheets.

(2) *Substitute Sheets.* Paginate a sheet as “Substitute” if it is filed to replace a sheet filed in the same proceeding (e.g., as a result of a hearing order, or of a correction to a tariff sheet filed prior to the issuance of an order, or of a compliance filing) with the same effective date. If a substitute sheet needs to be replaced, paginate the new sheet as “Second Substitute”, and so on. (See Example No. 1.)

(3) *Revised Sheets.* Paginate a sheet as “Revised” if it is (a) replacing a sheet filed in a different proceeding or (b) replacing a

sheet filed in the same proceeding but given a new proposed effective date. Each subsequent “Revised” pagination should be numbered sequentially, *i.e.*, First Revised, Second Revised, Third Revised, etc. (See Examples Nos. 1 and 2.)

(4) *Superseded Sheets.* Each designation must refer to the designation of the sheet being superseded, if any. The superseded sheet is the sheet being replaced by a revised sheet. (There is an exception to this guideline for retroactive filings—see Guideline (9).) Never designate a rejected or suspended sheet as the superseded sheet. However, if a sheet designated as superseded is subsequently rejected, it is not necessary to re-file solely to correct the superseded sheet designation. (See Example No. 1.)

(5) *Rejected Sheets.* Do not reuse the pagination of a rejected sheet. Paginate a sheet “Substitute” if it is filed to replace a rejected sheet in the same proceeding, but do not refer to a rejected sheet as the superseded sheet in the designation. (See Guidelines (3) and (4).)

(6) *Alternate Sheets.* When filing two versions of a proposed tariff sheet, paginate the sheet “____ Revised Sheet No. ____” and “Alternate ____ Revised Sheet No. ____”. Paginate a replacement alternate sheet “Sub Alternate ____”.

(7) *Inserted Sheets.* Paginate sheets inserted between two consecutively numbered sheets using an uppercase letter following the first sheet number (e.g., sheets inserted between sheets 8 and 9 would be 8A, 8B, etc.). For sheets inserted between two consecutively lettered sheets, add a “.” followed by a two digit number (e.g., sheets inserted between sheets 8A and 8B would be 8A.01 through 8A.99). For further insertions, add a lowercase letter (e.g., between sheets 8A.01 and 8A.02 would be 8A.01a, 8A.01b, etc.).

(8) *“Squeezed” Sheets.* When a sheet needs to be made effective between two sequentially paginated sheets already on file (all in different proceedings), paginate the new sheet by adding a “1st Rev” designation to the older sheet’s pagination. Commonly, this situation occurs when a sheet is suspended for five months and subsequent sheets need to be made effective prior to when the suspended sheet becomes effective. (See Example No. 3.)

(9) *“Retroactive” Sheets.* When filing a “retroactive” sheet change back to a certain date, all sheets in effect from that date forward need to be changed. The first sheet should be paginated either as “Substitute” (see Guideline (3) above) or “1st Rev” (see Guideline (8) above) depending on whether the retroactive filing is in the same or different docket as the sheet being replaced. For simplicity, the rest of the sheets should be paginated as a “Substitute” of each effective sheet already on file. Follow Guideline (4) in designating the superseded sheet for the first new sheet. However, the rest of the sheets should supersede each other in order, even though they are all filed in the same docket. In this way the superseded designation will reflect the latest sheet in effect on each given date. (See Examples Nos. 4 and 5.)

(10) *Canceled Sheets.* When canceling individual sheets, but retaining the tariff or

²⁹ 5 U.S.C. 804(2).

³⁰ 5 U.S.C. 801(a)(1)(A).

rate schedule, designate a blank sheet as a revised sheet superseding the prior sheets.

(11) *Canceled Tariff or Rate Schedule.* When canceling an entire tariff or rate schedule, file one sheet paginated as the first sheet of the tariff volume or Rate Schedule and refer to the tariff volume or Rate Schedule as canceled. (See Example No. 7.)

(12) *Sheets Reserved For Future Use.* When reserving a number of sheets for future use, file one sheet paginated "Sheet Nos. A—Z", where "A" and "Z" refer to the first and last reserved sheet numbers. In the body of the sheet state "Reserved for Future Use." (See Example No. 8.)

(13) *Rate Schedule and Service Agreement Designations.* Rate schedule and service agreement designation should follow the above principles and terminology. For example, if a change is made to Service Agreement No. 50, the designation should be 1st Revised Service Agreement No. 50.

(14) *Abbreviations.* Abbreviate from left to right using the Abbreviation Conventions List at the end of this document. *Abbreviate only as needed.* (See Example No. 6.) The following examples reflect the types of changes and corresponding designations that may be made over the life of a given tariff or rate schedule (all docket numbers and

dates are hypothetical, and are not intended to refer to actual proceedings):

Example No. 1: Revised and Substitute Sheets. "Original Sheet No. 4" is filed in Docket No. ER99-44-000 to be effective January 1, 1999. Subsequently, a sheet filed in Docket No. ER99-123-000 is to be effective February 1, 1999. Paginate the latter sheet as "First Revised Sheet No. 4 superseding Original Sheet No. 4". If a mistake is discovered and a corrected sheet needs to be filed in Docket No. ER99-123-001,¹ paginate that sheet "Substitute First Revised Sheet No. 4 superseding Original Sheet No. 4". Note the superseded sheet is from the prior proceeding.

Docket	Filed	Effective	Pagination	Superseded sheet
ER99-44-000	11/30/98	1/1/99	Original.	
ER99-123-000	12/31/98	2/1/99	First Revised	Original.
ER99-123-001	2/15/99	2/1/99	Sub First Revised	Original.

If the utility proposes two separate changes to be effective the same date, and the second filing reflects the first filing's proposed changes, then it is appropriate to show the first filing's pagination as superseded.

Docket	Filed	Effective	Pagination	Superseded sheet
ER99-44-000	11/30/98	1/1/99	Original.	
ER99-123-000	12/31/98	2/1/99	First Revised	Original
ER99-124-000	2/15/99	2/1/99	Second Revised	First Revised

Example No. 2: Sheets Effective on the Same Date. "Second Revised Sheet No. 4" is filed in Docket No. ER99-200-000 to be

effective April 1, 1999. Subsequently, a sheet is filed in Docket No. ER99-504-000 to be effective on the same date. Paginate that

sheet with the next revision number, "Third Revised Sheet No. 4" even though it is to be effective on the same date.

Docket	Filed	Effective	Pagination	Superseded sheet
ER99-200-000	2/28/99	4/1/99	Second Revised	Sub First Rev.
ER99-504-000	3/31/99	4/1/99	Third Revised	Second Rev.

Example No. 3: Squeezed Sheets. "Fourth Revised Sheet No. 4" is filed July 31, 1999, in Docket No. ER99-601-000 to be effective September 1, 1999. An order suspends this sheet until February 1, 2000. Subsequently, two filings are made to be effective prior to February 1, 2000. Paginate these sheets as

"1st Rev Third Revised Sheet No. 4" and "2nd Rev Third Revised Sheet No. 4". The utility will be required, if necessary, to file revised tariff sheets to update the suspended tariff sheets to include any changes to the tariff sheets that have been accepted by the Commission between the date of the

suspension and the effective date of the suspended rates. When filing to update the revised tariff sheets, paginate the revised tariff sheet as "Sub Fourth Revised Sheet No. 4". Note: using the alpha-numeric "1st, 2nd, etc." for the additional revision number assists in keeping the pagination clear.

Docket	Filed	Effective	Pagination	Superseded sheet
ER99-601-000	7/31/99	2/1/00	Fourth Revised	Third Revised.
ER99-761-000	8/31/99	10/1/99	1st Rev Third Rev	Third Revised.
ER00-822-000	10/31/99	11/1/99	2nd Rev Third Rev	1st Rev Third Rev.
ER99-601-001	1/31/00	2/1/00	Sub Fourth Revised	2nd Rev Third Rev.

Example No. 4: Retroactive Sheets. The sheet paginated in Example No. 1, "Sub First Revised Sheet No. 4" filed in Docket No. ER99-123-001 is in effect February 1, 1999, subject to the resolution of issues. A year later, settlement is reached resulting in a restatement of base rates back to that date. The revised sheets filed under Docket No. ER99-123-002 (using prior examples):

Docket	Filed	Effective	Pagination	Superseded sheet
ER99-123-002	2/15/00	2/1/99	2nd Sub First Revised	Original.
		4/1/99	Sub Second Revised	2nd Sub First Rev.
		4/1/99	Sub Third Revised	Sub Second Rev.
		10/1/99	Sub 1st Rev Third Rev	Sub Third Rev.
		11/1/99	Sub 2nd Rev Third Rev	Sub 1st Rev Third Rev.

¹ The Commission is issuing a notice contemporaneous with this Final Rule informing

the public of its intent to change its assignment of docket numbers to electric filings to a method

similar to that used for the gas and oil programs, effective June 1, 2000.

Docket	Filed	Effective	Pagination	Superseded sheet
		2/1/00	2nd Sub Fourth Rev	Sub 2nd Rev Third Rev.

Example No. 5: Retroactive Sheets. Continuing from Example 4, a subsequent tracker filing retroactive to November 1, 1999:

Docket	Filed	Effective	Pagination	Superseded sheet
ER00-77-000	4/30/00 2/1/00	11/1/99	3rd Rev Third Rev	Sub 2nd Rev Third Rev. 3rd Rev Third Rev.

Example No. 6: Abbreviations. Abbreviate "Fourth Revised Twenty-Third Revised Sheet No. 4" as "4th Rev Twenty-Third Revised Sheet No. 4".

Example No. 7: Canceled Rate Schedules and Tariffs. To cancel Rate Schedule FERC No. 26, which consists of Original Sheet Nos. 1-39, file First Revised Sheet No. 1.

Company Name; Rate Schedule FERC No. 26.

First Revised Sheet No. 1.

Cancels FERC Electric Rate Schedule No. 26.

Notice of Cancellation

Example No. 8: Reserved Sheets. Your general terms and conditions end on page 75 and you want to reserve sheets 76 through 99 for future use:

Company Name; FERC Electric Tariff, Original Volume No. 2.

Sheet Nos. 76 through 99.

Sheet Nos. 76 through 99 are reserved for future use.

Abbreviation Conventions List

Substitute: Sub

Alternate: Alt

Revised: Rev

First, Second, etc.: 1st, 2nd, etc.

Sheet No.: (omit these words)

SAMPLE PAGE

Day and Light Power Company, FERC Electric Tariff, Original Volume No. 1.

Original Sheet No. 4

Issued by: Harriet Officer, Rates Manager.

Effective: July 1, 2000.

Issued on: June 10, 2000.

Filed to comply with order of the Federal Energy Regulatory Commission, Docket No. ER99-5374-000, issued October 27, 1999, 90 FERC ¶ 61,010 (1999).

[FR Doc. 00-8459 Filed 4-6-00; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 35

[Docket No. RM00-2-000, Order No. 612]

Time Frame for Intervening in and Protesting Federal Power Act Section 205 Filings; Correction

April 3, 2000.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule; correction.

SUMMARY: The Federal Energy Regulation Commission (Commission) published in the **Federal Register** of December 28, 1999, a final rule amending its regulations to provide that, absent a notice providing some other time period, a twenty-one (21) calendar day time period from the date a Federal Power Act (FPA) Section 205 rate filing is filed, amended, or supplemented will be provided for interested parties to file any protest or intervention in the proceeding. Inadvertently, § 35.8(b) contained a typographical error. This document corrects that typographical error.

DATES: Effective on April 7, 2000.

FOR FURTHER INFORMATION CONTACT: Julia A. Lake, Attorney, Federal Energy Regulatory Commission, 888 First Street, NW, Washington, DC 20426; phone: 202-208-2019; e-mail: julia.lake@ferc.fed.us.

SUPPLEMENTARY INFORMATION: The Federal Energy Regulatory Commission (Commission) published in the **Federal Register** of December 28, 1999, a final rule amending its regulations to provide that, absent a notice providing some other time period, a twenty-one (21) calendar day time period from the date a Federal Power Act (FPA) Section 205 rate filing is filed, amended, or supplemented will be provided for interested parties to file any protest or intervention in the proceeding. Inadvertently, § 35.8(d) contained a typographical error. This document corrects that typographical error.

In rule FR Doc. 99-33593, published on December 28, 1999 (64 FR 72535), make the following correction. On page 72537, in the second column, last paragraph, correct the word "§ 35.9" to read "§ 35.8".

Dated: March 31, 2000.

Linwood A. Watson, Jr.,

Acting Secretary.

FR Doc. 00-8621 Filed 4-6-00; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 385

[Docket No. RM98-1-000; Order No. 607]

Regulations Governing Off-the-Record Communications; Correction

March 31, 2000.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule; correction.

SUMMARY: The Federal Energy Regulatory Commission ("Commission") published in the **Federal Register** of September 22, 1999, a document revising its rules concerning communications between persons outside the Commission and the Commission and its employees. One amendatory instruction for Part 385 was incorrectly stated. This document corrects that amendatory instruction.

DATES: Effective on April 7, 2000.

FOR FURTHER INFORMATION CONTACT: Julia A. Lake, Attorney, Federal Energy Regulatory Commission, 888 First Street, NW, Washington, DC 20426; phone: 202-208-2019; e-mail: julia.lake@ferc.fed.us.

SUPPLEMENTARY INFORMATION: The Federal Energy Regulatory Commission ("Commission") published in the **Federal Register** of September 22, 1999, a document revising its rules concerning communications between persons outside the Commission and the Commission and its employees. One amendatory instruction for Part 385 was incorrectly stated. This document corrects that amendatory instruction.

In rule FR Doc. 99-24616 published on September 22, 1999 (64 FR 51222), make the following correction. On page 51234, in the first column, correct amendatory instruction 2 to read as follows:

"2. In § 385.101, remove paragraph (b)(4)."