

accounting purposes and their recovery in rates.

25. The Commission established the accounting requirements for recording regulatory assets and liabilities as set forth in the Uniform Systems of Accounts in part 101 and part 201 pursuant to Commission Order No. 552.¹⁸ Under these requirements regulatory assets and liabilities are defined as assets and liabilities that result from ratemaking actions of regulators.¹⁹ Regulatory assets and liabilities generally arise from specific revenues, expenses, gains, or losses that would have been included in net income determinations in one period under the general requirements of the Uniform System of Accounts but for it being probable they will be included in a different period(s) for purposes of developing the rates the utility is authorized to charge for its utility services or in the case of regulatory liabilities, for refunds to customers, not provided for in other accounts, that will be required.²⁰ The term "probable," as used in Order No. 552 for the definition of regulatory assets or regulatory liabilities, refers to that which can be reasonably be expected or believed on the basis of available evidence or logic but is neither certain nor proved.²¹

26. Jurisdictional entities will initially recognize a cumulative effect adjustment and thereafter record the depreciation of the asset retirement costs in account 403.1, Depreciation expense for asset retirement costs, and the accretion of the liability for the asset retirement obligations in account 411.10, Accretion expense. The amounts for depreciation and accretion expense that will be recognized under the general requirements of the Uniform Systems of Accounts and the amount of asset retirement obligation costs included in cost of service for ratemaking purposes may be different. Recognition of such differences as regulatory assets and liabilities may be appropriate in some instances, but not in others. This determination however cannot be made in a generic accounting

rulemaking proceeding. It must instead be made by each individual entity taking into consideration the jurisdictional entity's rate setting bodies, the specific agreements entered into between the jurisdictional entity and certain customers regarding the manner in which costs will be allocated among the parties or other relevant evidence. Therefore, if the requirements of Order No. 552 are met, a jurisdictional entity must recognize regulatory assets and liabilities for the cumulative effect adjustment and any differences between the recognition of asset retirement obligation expenses for financial accounting purposes and their recovery in rates.

C. Authority To Adjust Accumulated Depreciation (Accounts 108 and 110)

27. The Commission proposed granting public utilities, licensees and natural gas companies the requisite authority to remove any excess amounts²² from accounts 108 and 110 provided that the amounts were transferred to account 254, Other regulatory liabilities.²³

Comments Received

28. Certain commenters request that the Commission clarify the authority granted to jurisdictional entities to adjust the balances in accounts 108 and 110 for existing long-lived assets with legal retirement obligations.²⁴ However, one commenter requests that the Commission provide explicit authority to remove all of the previously accrued amounts for legal obligations to retire or dispose of the long-lived assets recorded in accounts 108 and 110. Another commenter requests the Commission allow transferring from accounts 108 and 110 to the new proposed account 230, Asset retirement obligations, any remaining amounts for previously accrued legal obligations to retire or dispose of the long-lived assets.

29. Another commenter agrees with the Commission's pregranting authority to public utilities, licensees and natural gas companies for the removal of amounts from accumulated depreciation accounts associated with asset

retirement obligations. However, the commenter asserts that the Commission should still require public utilities, licensees and natural gas companies to notify the Commission by submitting a description and journal entries related to such adjustments to the Commission for amounts transferred from accounts 108 and 110 to account 254, Other regulatory liabilities, related to any existing asset with a legal retirement obligation.²⁵

Commission Response

30. After considering the comments, the Commission will grant jurisdictional entities the authority to adjust accounts 108, 110 and 253 to properly recognize and record the liabilities for legal retirement obligations for existing assets, the asset retirement costs and related accumulated depreciation on the capitalized costs when the amounts that would otherwise be included in net income determinations meet the criteria for recognition as regulatory asset or liability.

31. The Commission notes that there may be instances where adjustments to accounts 108, 110 and 253 may be required as a result of this final rule but the criteria for the recognition of a regulatory asset or liability for the net income effect is not met. While we permit jurisdictional entities to make such adjustments our actions here should not be construed as approval.²⁶ Therefore, the Commission will require that jurisdictional entities file with the Commission their journal entries along with supporting information to record any adjustment that affects net income within 60 days of the effective date of this final rule. The filing must include a description and explanation of the full particulars for including the amounts in net income.

32. The filing must also include a statement by the public utility, licensee or natural gas company of the facts and circumstances and the explicit determinations made by the jurisdictional entity demonstrating that the amounts credited to net income are not required to be refunded to customers or required to be recorded as a regulatory liability and must be credited to net income and not included in account 254, Other regulatory liabilities.

¹⁸ See Order No. 552, *supra* note 9, for guidance on the recognition of regulatory assets and regulatory liabilities when certain conditions are met.

¹⁹ See paragraph A of account 182.3, Other regulatory assets, and paragraph A of account 254, Other regulatory liabilities, in 18 CFR part 101 (Public Utilities and Licensees), and paragraph A of account 182.3, Other regulatory assets, and paragraph A of account 254, Other regulatory liabilities, in 18 CFR part 201 (Natural Gas Companies).

²⁰ See Definition 30 in 18 CFR part 101 (Public Utilities and Licensees), and Definition 30 in 18 CFR part 201 (Natural Gas Companies).

²¹ See FERC Stats. & Regs., Regulations Preambles January 1991-June 1996 ¶ 30,967 at 30,826 (1993).

²² This excess amount results when the amount of accumulated depreciation recognized for prior accrued legal retirement obligations is greater than the accumulated depreciation recognized on the capitalized asset retirement costs under the new requirements.

²³ See paragraph E to account 108, Accumulated provision for depreciation of electric utility plant (Major only), and paragraph E to account 110, Accumulated provision for depreciation and amortization of electric utility plant (Nonmajor only), in 18 CFR part 101 (Public Utilities and Licensees).

²⁴ See EEI at pp. 2-3 and Progress Energy at p. 2.

²⁵ See MoPSC at p. 6.

²⁶ The income accounts used to record the cumulative effect adjustments are account 434, Extraordinary income, and account 435, Extraordinary deductions.