

of removal, and salvage estimates included in rates.⁴⁵ To the extent a utility believes materials are entitled to be non-public, protective orders are available to preserve confidentiality.

2. Tariff Filing Requirements Under 18 CFR Part 346

66. No comments were received objecting to the Commission's proposal to add a new § 346.3 to cost-of-service filing requirements for oil pipelines. Therefore, the Commission is implementing the provisions as noticed in the NOPR.

K. Implementation for Accounting and Reporting Purposes

67. The Commission proposed to implement the rule January 1, 2003, for accounting and reporting purposes for public utilities, licensees, natural gas companies and oil pipeline companies. This is the date jurisdictional entities that file FERC Forms 1, 1-F, 2, 2-A and 6, will measure the transition amounts for the asset retirement obligations.⁴⁶ The Commission also proposed that the reporting will be implemented for the FERC Forms 1, 1-F, 2, 2-A and 6 for the reporting year 2003.⁴⁷

Comments Received

68. The majority of the commenters did not object to the Commission's proposed implementation date of January 1, 2003, for accounting and reporting purposes for public utilities, licensees, natural gas companies and oil pipeline companies. Two commenters assert that their fiscal year begins on April 1, 2003, rather than January 1, 2003. The commenters request the Commission clarify this requirement given that their fiscal year does not coincide with the calendar year, which they use for FERC reporting purposes. Both commenters request that the Commission consider allowing them to implement the proposed rule for accounting and reporting purposes on April 1, 2003, rather than the earlier

date of January 1, 2003. The commenters assert that this would avoid the issue of retroactively applying the accounting rule to fiscal years prior to January 1, 2003.

69. One commenter recommends that the Commission allow jurisdictional entities to determine the differential in amounts between the two implementation dates, January 1, 2003 and the start of their fiscal year for FERC reporting purposes and footnote the difference in their FERC Annual Report.

Commission Response

70. The Commission is adopting the provisions in the NOPR for implementing the final rule for accounting and reporting purposes on January 1, 2003, except as clarified below for jurisdictional entities whose fiscal year begins after January 1, 2003. Upon considering the comments on this issue, the Commission will permit a jurisdictional entity for whose fiscal year begins after January 1, 2003, to apply the final rule on the first day of their fiscal year rather than on January 1, 2003 for accounting purposes and reporting in the FERC Forms 1, 1-F, 2, 2-A and 6 for the reporting year 2003. In adopting this provision, the Commission will require jurisdictional entities to determine the differential in amounts between the two implementation dates, January 1, 2003 and the jurisdictional entity's first day of their fiscal year of the adoption of the final rule in calendar year 2003 for accounting and FERC reporting purposes and footnote the difference in the FERC Annual Report for the reporting year 2003. Jurisdictional entities with fiscal years will continue to report to the Commission in FERC Annual Reports on a calendar year basis.

IV. FERC Annual Report Forms

71. The Commission proposed changes revising the existing schedules in the FERC Forms 1, 1-F, 2, 2-A, and 6 filed with the Commission. A table summarizing the changes to the various schedules is shown in Appendix B. The Commission also proposed that jurisdictional entities include certain disclosure for asset retirement obligations in the "Notes to Financial Statements" in the FERC Forms 1, 1-F, 2, 2-A and 6.⁴⁸

72. No commenters object to the Commission's proposed revisions to the existing schedules in the FERC Annual

Report and the proposed disclosure for asset retirement obligations in the "Notes to Financial Statements" in FERC Annual Reports. Therefore, the Commission will adopt the provisions as noticed.

V. Regulatory Flexibility Act Certification

73. The Regulatory Flexibility Act (RFA) requires agencies to prepare certain statements, descriptions, and analyses of rules that will have a significant economic impact on a substantial number of small entities.⁴⁹ The Commission is not required to make such analyses if a rule would not have such an effect.

74. The Commission does not believe that this rule will have such an impact on small entities. Most filing companies regulated by the Commission do not fall within the RFA's definition of a small entity.⁵⁰ Further, the Commission concludes that this reporting would not be a significant burden because the information jurisdictional entities will be required to report to the Commission specifically focuses on the activities of the jurisdictional entities that will be captured in their accounting systems and generally be reported to their shareholders and others at a company, or at a consolidated business level. Therefore, the Commission certifies that this rule will not have a significant economic impact on a substantial number of small entities.

75. However, if the reporting requirements represent an undue burden on small businesses, the entity affected may seek a waiver of the disclosure requirements from the Commission.

VI. Environmental Impact Statement

76. Commission regulations require that an environmental assessment or an environmental impact statement be prepared for any Commission action that may have a significant adverse effect on the human environment.⁵¹ No environmental consideration is necessary for the promulgation of a rule that is clarifying, corrective, or procedural or does not substantially change the effect of legislation or regulation being amended,⁵² and also

⁴⁵ When an electric utility files for a change in its jurisdictional rates, the Commission requires detailed studies in support of changes in annual depreciation rates if they are different from those supporting the utility's prior approved jurisdictional rate. (18 CFR 35.13(h)(10)(iv)).

⁴⁶ On February 20, 2002, the Commission's Chief Accountant issued interim guidance stating that jurisdictional entities may not adopt FAS 143 for financial accounting and reporting to the Commission before Commission action on this matter. See All Jurisdictional Public Utilities, Licensees, Natural Gas Companies, and Oil Pipeline Companies, 98 FERC ¶ 62,222 (2002).

⁴⁷ The FERC Forms 1-F and 2-A and 6 annual reports for the year 2003 are due on or before March 31, 2004. The FERC Forms 1 and 2 annual reports for the year 2003 are due on or before April 30, 2004.

⁴⁸ See the instructions to the Notes to Financial Statements schedule for FERC Forms 1, 1-F, 2, 2-A and 6 that requires respondents to report important notes and information related to the financial statements.

⁴⁹ 5 U.S.C. 601-612.

⁵⁰ 5 U.S.C. 601(3), citing to section 3 of the Small Business Act, 15 U.S.C. 632. Section 3 of the Small Business Act defines a "small-business concern" as a business which is independently owned and operated and which is not dominant in its field of operation.

⁵¹ Regulations Implementing National Environmental Policy Act, 52 FR 47897 (Dec. 17, 1987), FERC Stats. & Regs. ¶ 30,783 (1987).

⁵² 18 CFR 380.4(a)(2)(ii).