

- 2. Section 240.17a-5 is amended by:
- a. Revising the phrase "except if the activities" to read "except as provided in paragraph (c)(5) of this section or if the activities" in the introduction text of paragraph (c)(1);
- b. Revising the introduction text of paragraph (c)(2);
- c. Revising paragraph (c)(3); and
- d. Adding paragraph (c)(5).
- The revisions and addition read as follows:

§ 240.17a-5 Reports to be made by certain brokers and dealers.

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(c) * * *

(2) *Audited statements to be furnished.* Audited statements shall be furnished within 105 days after the date of the audited financial statements required by paragraph (d) of this section. The statements may be furnished 30 days after that time limit has expired if the broker or dealer sends them with the next mailing of the broker's or dealer's quarterly customer statements of account. In that case, the broker or dealer must include a statement in that mailing of the amount of the broker's or dealer's net capital and its required net capital in accordance with § 240.15c3-1, as of a fiscal month end that is within the 75-day period immediately preceding the date the statements are sent to customers. The audited statements shall include the following:

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(3) *Unaudited statements to be furnished.* Unaudited statements dated 6 months from the date of the audited statements required to be furnished by paragraphs (c)(1) and (2) of this section shall be furnished within 65 days after the date of the unaudited statements. The unaudited statements may be furnished 70 days after that time limit has expired if the broker or dealer sends them with the next mailing of the broker's or dealer's quarterly customer statements of account. In that case, the broker or dealer must include a statement in that mailing of the amount of the broker's or dealer's net capital and its required net capital in accordance with § 240.15c3-1, as of a fiscal month end that is within the 75-day period immediately preceding the date the statements are sent to customers. The unaudited statements shall contain the information specified in paragraphs (c)(2)(i) and (ii) of this section.

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(5) *Exemption from sending certain financial information to customers.* A broker or dealer is not required to send to its customers the statements

prescribed by paragraphs (c)(2) and (c)(3) of this section if the following conditions are met:

(i) The broker or dealer semi-annually sends its customers, at the times it otherwise is required to send its customers the statements prescribed by paragraphs (c)(2) and (c)(3) of this section, a financial disclosure statement that includes:

(A) The amount of the broker's or dealer's net capital and its required net capital in accordance with § 240.15c3-1, as of the date of the statements prescribed by paragraphs (c)(2) and (c)(3) of this section;

(B) To the extent required under paragraph (c)(2)(ii) of this section, a description of the effect on the broker's or dealer's net capital and required net capital of the consolidation of the assets and liabilities of subsidiaries or affiliates consolidated pursuant to Appendix C of § 240.15c3-1; and

(C) Any statements otherwise required by paragraphs (c)(2)(iii) and (iv) of this section.

(ii) The financial disclosure statement is given prominence in the materials delivered to customers of the broker or dealer and includes an appropriate caption stating that customers may obtain the statements prescribed by paragraphs (c)(2) and (c)(3) of this section, at no cost, by:

(A) Accessing the broker's or dealer's Web site at the specified Internet Uniform Resource Locator (URL); or

(B) Calling the broker's or dealer's specified toll-free telephone number.

(iii) Not later than 90 days after the date of the audited statements prescribed by paragraph (c)(2) of this section and not later than 75 days after the date of the unaudited statements prescribed by paragraph (c)(3) of this section, the broker or dealer publishes the statements on its Web site, accessible by hyperlinks in either textual or button format, which are separate, prominent links, are clearly visible, and are placed in each of the following locations:

(A) On the broker's or dealer's Web site home page; and

(B) On each page at which a customer can enter or log on to the broker's or dealer's Web site; and

(C) If the Web sites for two or more brokers or dealers can be accessed from the same Home page, on the Home page of the Web site of each broker or dealer.

(iv) The broker or dealer maintains a toll-free telephone number that customers can call to request a copy of the statements prescribed by paragraphs (c)(2) and (c)(3) of this section.

(v) If a customer requests a copy of the statements prescribed by paragraphs

(c)(2) and (c)(3) of this section, the broker or dealer sends it promptly at no cost to the customer.

(vi) During the year prior to the date of the statements prescribed by paragraphs (c)(2) and (c)(3) of this section, the broker or dealer was not required by paragraph (e) of § 240.17a-11 to give notice and transmit a report to the Commission.

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By the Commission.

Dated: August 1, 2003.

Margaret H. McFarland,
Deputy Secretary.

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 2

[Docket No. PL03-4-000; Order No. 635]

Policy Statement on Consultation With Indian Tribes in Commission Proceedings

Issued: July 23, 2003.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule; policy statement.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is issuing this policy statement to articulate its commitment to promote a government-to-government relationship between itself and federally-recognized Indian tribes. The policy statement recognizes the sovereignty of tribal nations and the Commission's trust responsibility to Indian tribes. The policy statement also establishes a tribal liaison position. Finally, the policy statement establishes certain actions specific to the hydroelectric program.

EFFECTIVE DATE: The rule will become effective September 5, 2003.

FOR FURTHER INFORMATION CONTACT: Elizabeth Molloy, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, 202-502-8771.

SUPPLEMENTARY INFORMATION:

Before Commissioners: Pat Wood, III, Chairman; William L. Massey, and Nora Mead Brownell.

I. Introduction

1. To encourage and facilitate involvement by Indian tribes in the areas over which the Commission has jurisdiction, the Commission is issuing this policy statement to articulate its