

extensive discovery in proceedings set for trial-type hearing) that are attributable solely to the fact that the existing filing requirements for these applications require insufficient data from which to determine whether the proposed rates are cost-justified.

The NOPR also proposed to afford filing utilities an opportunity to file additional cost data and supporting testimony in the event that the Commission suspends the proposed rate increase and orders a hearing.

The NOPR retained the existing abbreviated filing requirements for short-term and non-firm coordination sales rates in § 35.13(a)(2)(ii).

The NOPR also proposed to revise § 35.13(h)(24) to require that companies submit Statement AX (other recent and pending rate changes) only if the proposed rate design tracks retail rates. This proposed change was intended to streamline the public utility's rate presentation and expedite Commission review by eliminating submission of information not generally needed for Commission review.

Comments: Several commenters¹² express concern that the proposed regulations will increase the time and costs associated with preparing rate filings, and thereby discourage utilities from entering into small transactions for the sale or transmission of power, which will in turn result in a less competitive bulk power market.

Many commenters also express concerns or uncertainty about the number and variety of filings subject to the proposed regulations.¹³ The commenters recommend that the Commission narrowly define the class of rate filings subjects to the proposed rule to include only those filings for which the Commission must have additional information to properly and expeditiously perform its duties under the FPA.¹⁴

Other commenters express the view that the new filing requirements are vague.¹⁵ EEI recommends that the

regulations state with greater specificity the information that public utilities must file.

With respect to filings based on retail rate decisions, NYSEG asserts that it is unclear what calculations would have to be provided to show how all retail rate treatments are factored into the cost of service. If the Commission changes the abbreviated filing requirements, NYSEG requests that the Commission clarify its specific requirements regarding information to be provided for filings based on retail rates.

The Commission's Response: We agree with the commenters that the Commission should attempt to minimize regulatory burdens and improve the flexibility accorded public utilities covered by its rules. However, contrary to the statements of many commenters, the proposed regulations do not change the abbreviated filing requirements for most proposed rate increases. Neither do the proposed regulations require companies to file comprehensive cost of service statements (Statements AA–BM). Rather, the proposed regulations require only that a company that files a small rate increase for non-coordination services support the calculations it makes, explain why it makes those calculations, and show the revenue impact of the proposed rates on its customers.

Based on concerns expressed, however, we will make several changes to the proposed regulations to more clearly define the class of filings subject to the rule and the information that must be submitted in order for the Commission to perform its preliminary analyses of small, non-coordination filings. Finally, the Commission reiterates that any company may request waiver of the filing requirements for good cause.

Filings Covered by the Rule: Many of the commenters express uncertainty concerning the types of rate increase filings that are affected by the proposed regulations.

We agree with the commenters that the Commission should more clearly define the class of filings subject to the new rule. The Commission's intent is to create a new, abbreviated filing option for small increases in rates for non-coordination, firm power and transmission services, particularly small requirements rate increase filings that are based on a fully distributed cost of service analysis (sometimes known as a

“net plant” cost of service).¹⁶ The Commission will revise the regulations to identify the class of filings covered by new § 35.13(a)(2)(i) as power or transmission services that are: (1) not covered by the filing requirements of § 35.13(a)(2)(ii); and (2) for which the rate increase being sought is less than \$200,000 (without customer consent) or less than \$1 million (with customer consent).

We will also change our regulations to permit utilities to file under § 35.13(a)(2)(ii) rate increases, without regard to the size of the proposed increase, for firm coordination and interchange services.

Filing Requirements: EEI maintains that if the Commission decides to adopt new filing requirements for small rate increases, then greater clarity and specificity in the filing requirements is needed to avoid confusion and errors in responding to the changes. We agree. However, we disagree with EEI that the Commission should or must explain, at the level of detail used in the current § 35.13(h), what is expected. Such specificity would unduly increase the regulatory burden on most utilities that file under this subparagraph. To meet EEI's concerns and those of other commenters, we will make the following changes.

First, the final rule provides that filing utilities should submit cost of service, allocation, revenue, fuel clause and rate design data that are “consistent with the requirements” of other paragraphs of part 35 that require similar information. The final rule also requires filing utilities to explain in narrative form how and why various calculations are made to develop the proposed rates.¹⁷

Second, the NOPR proposed to make § 35.13(a)(2)(i) mandatory rather than optional, thereby precluding utilities from electing to file comprehensive Period I statements, as allowed under § 35.13(a)(1). The revised regulation makes clear that the filing utility may elect to file under either paragraph.

Third, the revised regulation clarifies the two-stage filing process proposed in the NOPR. A utility that elects to file

¹² Arizona Public Service, Atlantic Electric, Baltimore Gas & Electric, Delmarva, LILCO, NEP, Pennsylvania P&L, Southern Companies.

¹³ E.g., Delmarva, Detroit Edison, NEP.

¹⁴ Some commenters infer that a large number and variety of filings would be subject to the new rules. EEI asserts that the changed regulations would greatly increase the regulatory burden of all applicants, while saving time and effort in only a small number of cases. Some commenters conclude that the Commission proposed to modify the abbreviated filing requirements for coordination rates. Commenters such as NEP and Southern Companies focus on the increased filing requirements for small rate increases.

¹⁵ EEI and several other commenters infer that the Commission is now requiring companies to submit Statements AA through BM. Detroit Edison argues that it would be burdensome and expensive to

calculate thirteen-month average plant balances, and Southern Companies interprets the proposed regulations to require the use of end-of-year balances instead of thirteen-month averages.

¹⁶ In most but not all cases, rates developed under a net plant approach are customer-specific, in that costs are first allocated to each wholesale customer group based on the demand and energy loads it imposes on the company, after which customer group-specific rates are developed based on the customer group's projected billing determinants. See generally Southern Company Services, Inc., 61 FERC ¶ 61,339 at 62,337–38 (1992), *reh'g denied*, 63 FERC ¶ 61,217 (1993), *appeal pending*, No. 93–1165 (D.C. Cir. filed Feb. 11, 1993).

¹⁷ Narrative statements should address the rate design and allocation factors employed in the filing, explain all *pro forma* adjustments to test period data, and describe specific costs or rate components that are drawn from retail rate decisions.