

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

18 CFR Part 375

(Docket No. RM05-20-000; Order No. 660)

Delegation of Authority to the Director of the Office of Markets, Tariff and Rates,
and to the Director of External Affairs

(Issued May 31, 2005)

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final Rule.

SUMMARY: The Commission is amending its regulations to delegate to the Director of the Office of Markets, Tariffs and Rates the ability to refer to an Administrative Law Judge uncontested interim rate motions for natural gas rate decreases, pending Commission action on settlement agreements. Currently, the Director only has this authority in electric cases. This change is needed to facilitate more efficient processing of natural gas settlements, which will permit customers to receive the benefits of lower rates at an earlier time. The Commission also is revising its regulations to allow the Director of the Office of External Affairs to subdelegate responsibilities under the Freedom of Information Act. This will allow for more efficient processing of requests under that Act.

EFFECTIVE DATE: The rule will become effective immediately upon publication in the FEDERAL REGISTER.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;
Nora Mead Brownell, Joseph T. Kelliher,
and Suedeem G. Kelly.

Delegation of Authority to Director of
External Affairs

Docket No. RM05-20-000

ORDER NO. 660

FINAL RULE

(Issued May 31, 2005)

1. This Final Rule amends 18 C.F.R. § 375.307(f) to add a new subparagraph (4).

The new provision parallels 18 C.F.R. § 375.307(k)(4), which delegates to the Director of the Office of Markets, Tariffs and Rates the authority to assign to an Administrative Law Judge (ALJ), with the ALJ's assent, an uncontested interim electric rate motion calling for lower rates, pending the Commission's consideration of a settlement. This authority is needed in natural gas proceedings as well, in situations where the Commission receives an uncontested motion calling for an interim rate decrease in a proceeding that is already pending before an ALJ. This revision will allow for more efficient processing of settlements, which in turn will permit customers to receive the benefits of lower rates at an earlier time.

2. One further change is being made, to specify, in both the natural gas (new § 375.307(f)(4)) and electric (existing § 375.307(k)(4)) provisions, that the motion will

be referred to the Chief ALJ. In some cases, a settlement may already have been certified by the time the interim motion is received. In such cases it will be necessary for the Chief ALJ to assign the matter to an ALJ.

3. This rule also permits the Director of the Office of External Affairs (Director), to subdelegate authority to carry out responsibilities under the Freedom of Information Act (FOIA). Under the Commission's regulations, the Director has the primary responsibility for handling FOIA requests, including the responsibility to release information under FOIA, rule upon the applicability of FOIA exemptions, and grant or deny requests for fee waivers. See 18 C.F.R. §§ 388.108, 388.110 (2004). The current regulations, however, do not expressly permit the Director to subdelegate that responsibility to other officials with the Office of External Affairs. Id.; 18 C.F.R. § 375.311 (2004). In most cases, the Commission allows officials to subdelegate authority delegated to them by the Commission. See generally 18 C.F.R. Part 375. This facilitates the efficient division of responsibilities within an office. Subdelegations must be made to a deputy, head of division, or comparable official. 18 C.F.R. § 375.301(b) (2004). To ensure efficiency in the handling of FOIA matters, the Commission is revising the Director's delegations, in Section 375.311, to permit subdelegation to a designee.

Information Collections Statement

4. The Office of Management and Budget's (OMB) regulations require that OMB approve certain information collection requirements imposed by agency rule. 5 CFR Part 1320.

5. This Final Rule contains no information reporting requirements, and is not subject to OMB approval.

Environmental Analysis

6. 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.¹ 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.² Part 380 of the Commission's regulations lists exemptions to the requirement that an Environmental Analysis or Environmental Impact Statement be done. Included is an exemption for procedural, ministerial or internal administrative actions. 18 CFR 380.4(1) and (5). This rulemaking is exempt under that provision.

Regulatory Flexibility Act Certification

7. The Regulatory Flexibility Act of 1980 (RFA)³ generally requires a description and analysis of final rules that will have significant economic impact on a substantial number of small entities. The Regulatory Flexibility Act of 1980 (RFA)⁴ generally requires a description and analysis of final rules that will have significant economic

¹ Order No. 486, Regulations Implementing the National Environmental Policy Act, 52 FR 47897 (Dec. 17, 1987), FERC Stats. & Regs. Preambles 1986-1990 ¶ 30,783 (1987).

² Order No. 486, 52 FR 47897 (Dec. 17, 1987); FERC Stats. & Regs. [Regulations Preambles 1986-1990] ¶ 30,783 (Dec. 10, 1984) (codified at 18 CFR Part 380).

³ 5 U.S.C. 601-612

⁴ 5 U.S.C. 601-612

impact on a substantial number of small entities. This final rule concerns a matter of internal agency procedure and the Commission therefore certifies that it will not have such an impact. An analysis under the RFA is not required.

Document Availability

8. 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.gov> 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 D.C. 20426

9. From FERC's Home Page on the Internet, this information is available in the Federal Energy Regulatory Records Information System (FERRIS). The full text of this document is available on FERRIS in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in FERRIS, type the docket number excluding the last three digits of this document in the docket number field.

10. User assistance is available for FERRIS and the FERC's website during normal business hours from our Help line at (202)502-8222 or the Public Reference Room at (202) 502-8371 Press 0, TTY (202)502-8659. E-Mail the Public Reference Room at public.referenceroom@ferc.gov

Effective Date

11. These regulations are effective immediately upon publication in the FEDERAL REGISTER. In accordance with 5 U.S.C. § 553(d)(3), the Commission finds that good cause exists to make this Final Rule effective immediately. It concerns only a matter of internal operations and will not affect the rights of persons appearing before the Commission. There is therefore no reason to make it effective at a later time.

12. The provisions of 5 U.S.C. § 801 regarding Congressional review of Final Rules do not apply to this Final Rule, because the rule concerns agency procedure and practice and will not substantially affect the rights of non-agency parties.

13. The Commission is issuing this as a final rule without a period for public comment. Under 5 U.S.C. § 553(b), notice and comment procedures are unnecessary where a rulemaking concerns only agency procedure and practice, or where the agency finds that notice and comment is unnecessary. This rule concerns only matters of agency procedure and will not significantly affect regulated entities or the general public.

List of subjects in 18 CFR Part 375

Authority delegations (Government agencies), Seals and insignia, Sunshine Act.

By the Commission.

(S E A L)

Linda Mitry,
Deputy Secretary.

In consideration of the foregoing, the Commission amends Part 375, Chapter I, Title 18, Code of Federal Regulations, as follows.

PART 375—THE COMMISSION

1. The authority citation for Part 375 continues to read as follows:

Authority: 5 U.S.C. 551–557; 15 U.S.C. 717–717w, 3301–3432; 16 U.S.C. 791–825r, 2601–2645; 42 U.S.C. 7101–7352.

2. Section 375.307 is amended by revising paragraphs (f) and (k) to read as follows:

§ 375.307 Delegations to the Director of the Office of Markets, Tariffs and Rates.

* * * * *

(f) * * *

(3) Advise the filing party of any actions taken under paragraph (f)(1) or (f)(2) of this section and designate rate schedules, rate schedule changes, and notices of changes in rates, and the effective date hereof; and

(4) Refer to the Chief Administrative Law Judge (Chief ALJ), with the Chief ALJ's concurrence, uncontested interim natural gas rate motions that would result in lower rates, pending Commission action on settlement agreements.

* * * * *

(k) * * *

(4) Refer to the Chief Administrative Law Judge (Chief ALJ), with the Chief ALJ's concurrence, uncontested interim electric rate motions that would result in lower rates, pending Commission action on settlement agreements.

* * * * *

3. Section 375.311 is revised to read as follows:

§ 375.311 Delegations to the Director, Office of External Affairs.

The Commission authorizes the Director, Office of External Affairs, or the Director's designee, to take all actions required or permitted to be taken by the Director under Secs. 388.108 through 388.110 of this chapter.