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Vi L. Lipski,

*Manager, Transport Airplane Directorate,
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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 352, 357, and 385

[Docket No. RM99-10-001; Order No. 620-A]

Revisions to and Electronic Filing of the FERC Form No. 6 and Related Uniform Systems of Accounts

Issued February 12, 2001.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule; order on rehearing.

SUMMARY: The Society for the Preservation of Oil Pipeline Shippers (SPOPS) filed a request for clarification and rehearing of the Commission's Final Rule in Order No. 620, *Revisions to and Electronic Filing of the FERC Form No. 6 and Related Uniform Systems of Accounts*. The Commission provides clarification and denies rehearing.

ADDRESSES: Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT:

Mary C. Lauermaun (Technical Information), Office of the Executive Director, 888 First Street, NE., Washington, DC 20426, (202) 208-0087

Julia A. Lake (Legal Information), Office of the General Counsel, 888 First Street, NE., Washington, DC 20426, (202) 208-2019

David H. Ulevich (Page 700 Information), Office of Markets, Tariffs and Rates, 888 First Street, NE., Washington, DC 20426, (202) 208-0678.

SUPPLEMENTARY INFORMATION:

I. Introduction

In this order, the Commission addresses a request for rehearing and clarification of Order No. 620, the Final Rule on the revisions to and electronic filing of the FERC Form No. 6 and related uniform systems of accounts, issued on December 13, 2000.¹ In Order

No. 620, the Commission amended Parts 352, 357, and 385² of its regulations in order to better meet current and future regulatory requirements and industry needs; be more consistent with current Generally Accepted Accounting Principles; and to provide for the electronic filing of FERC Form No. 6. Order No. 620 is part of the Commission's ongoing program to update and eliminate burdensome and unnecessary accounting and reporting requirements. These changes will reduce, by about 25 percent, the burden on regulated companies for maintaining and reporting information under the Commission's regulations.

For the reasons stated below, the Commission provides clarification and denies rehearing.

II. Background

FERC Form No. 6, "Annual Report of Oil Pipeline Companies," collects information on an annual basis to enable the Commission to carry out its responsibilities associated with the regulation of oil pipeline companies under the Interstate Commerce Act.

Order No. 620, among other things, revised FERC Form No. 6 page 700, "Annual Cost of Service Based Analysis Schedule." Page 700 provides basic cost-of-service and throughput information that allows a shipper to compare proposed changes in a pipeline's rates against the change in level of the pipeline's cost of service and the change in the pipeline's average company-wide barrel-mile cost.

On January 12, 2001, the Society for the Preservation of Oil Pipeline Shippers (SPOPS) filed a timely request for rehearing and clarification of Order No. 620. SPOPS seeks rehearing of the Final Rule's requirement that pipelines report total jurisdictional revenues on Line 10 of page 700 rather than total company revenues. Also, SPOPS asks the Commission to clarify the Final Rule regarding what cost-of-service information must be reported on page 700.

Specifically, SPOPS argues that the Final Rule's requirement that oil pipelines report total jurisdictional revenues on Line No. 10 of page 700 results in a mismatch between the costs and revenues reported on this page. According to SPOPS, the Final Rule permits oil pipeline companies to exclude revenues earned from either non-carrier services or non-jurisdictional carrier services which could result in an understatement of company revenues. SPOPS also argues that pipelines will have an enhanced

opportunity to engage in an allocation shell game if only jurisdictional costs and revenues are reported on page 700.

SPOPS requests that the Commission clarify what cost-of-service information is to be reported on page 700: cost-of-service data related to jurisdictional operations or total company operations including non-jurisdictional activities. SPOPS cites the instructions listed on page 700 that were effective prior to the issuance of Order No. 620 which required the total cost-of-service to be computed on a total company basis consistent with the Commission's Opinion No. 154-B, *et al.*, methodology. SPOPS argues total company cost-of-service should be reported on page 700 although it acknowledges that pipelines have been reporting cost-of-service data on a jurisdictional basis.

The Association of Oil Pipelines (AOPL) filed an answer on January 29, 2001. AOPL essentially responds that Order No. 620, and page 700, properly focus on jurisdictional revenues.

Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 CFR 385.213(a)(2) (2000), prohibits answers unless otherwise ordered by the decisional authority. We find that good cause exists to allow AOPL's answer.

III. Discussion

We disagree with SPOPS's assertion that revised page 700, "Annual Cost of Service Based Analysis Schedule," of FERC Form No. 6 results in a mismatch between the costs and revenues reported on this schedule, or that pipelines will engage in an allocation shell game if only jurisdictional costs and revenues are reported on page 700.

In the Notice of Proposed Rulemaking (NOPR) issued in this proceeding, the Commission proposed to revise Instruction No. 3 of page 700 to require oil pipeline companies to report total company revenues so that it would be consistent with the total cost of service reported on this page.³ SPOPS had asserted in its comments to the NOPR that the Commission should require pipelines to report total company costs and total company revenues on page 700.

In its comments on the NOPR, AOPL explained that our proposed revision to Instruction No. 3 would in fact result in an inconsistency. That is, the total cost of service computed using the Opinion No. 154-B methodology does not equate to total company costs; rather it represents the aggregate cost of the pipeline's jurisdictional services. While AOPL did not object to reporting total

¹ 65 FR 81335 (Dec. 26, 2000); III FERC Stats. & Regs. ¶ 31,115 (Dec. 13, 2000).

² 18 CFR Parts 352, 357, and 385.

³ 65 FR 50376 (Aug. 17, 2000), IV FERC Stats. & Regs. ¶ 32,553 at 33,961 (July 27, 2000).

company revenues on page 700, it argued that only jurisdictional operating revenues should be reported on this page. In the Final Rule, the Commission stated that it agreed with AOPL's comment and revised Line No. 10 of page 700 to require pipelines to report "Total Interstate Operating Revenues."

On rehearing, SPOPS argues that by requiring pipelines to report only jurisdictional cost of service and revenues on page 700, it will give pipelines an enhanced opportunity to mis-allocate jurisdictional costs and revenues in favor of the pipelines.

The Commission never intended in the Final Rule to have a pipeline report its non-jurisdictional costs on page 700. Rather, page 700 was to be a preliminary screening tool that would permit a shipper to compare proposed changes in rates against the pipeline's jurisdictional cost of service.⁴ Page 700, as revised by Order No. 620, results in the proper matching of FERC jurisdictional costs and revenues for shippers to use in assessing rate proposals. Accordingly, we take this opportunity to clarify Order No. 620 that the cost-of-service and revenue data reported on page 700 will be the cost of service and revenues related to FERC jurisdictional services.

In response to SPOPS's concern that the Final Rule will enable pipelines to improperly allocate costs and revenues in determining data to be reported on page 700, we have adopted measures to ensure consistency in how a pipeline computes the information it reports on page 700. If a pipeline makes major changes in its application of the Opinion No. 154-B methodology, it must disclose on page 700 that it has done so and recalculate the prior year's cost of service data to reflect the change so that valid comparisons of data can be made from one year to the next.⁵

Moreover, in Order No. 620, we required pipelines to maintain workpapers that fully support the data reported on page 700 including but not limited to the total cost-of-service calculations and all of its associated components. This includes allocations of costs and revenues between carrier and non-carrier, jurisdictional and non-jurisdictional facilities/services, and between interstate and intrastate services, assumptions made for the Opinion No. 154-B calculations and cross-references to underlying source documents. In addition, Order No. 620 provides that the Commission or its staff

may request that a pipeline make its workpapers available.⁶ Given these safeguards, SPOPS's claim of possible manipulation of data reported on page 700 is speculative at best.

The Commission Orders

SPOPS's request for rehearing of Order No. 620 is denied.

By the Commission.

Linwood A. Watson, Jr.,

Acting Secretary.

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 179

[Docket No. 00F-0789]

Irradiation in the Production, Processing, and Handling of Food

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to expand the conditions of safe use of X-radiation and electron beam energy sources for the treatment of prepackaged foods by irradiation. This action is in response to a petition filed by the National Center for Food Safety and Technology, Illinois Institute of Technology.

DATES: This rule is effective February 16, 2001. Submit written objections and requests for a hearing by March 19, 2001.

ADDRESSES: Submit written objections to the Dockets Management Branch (HFA-305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Mark A. Hepp, Center for Food Safety and Applied Nutrition (HFS-215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-418-3098.

SUPPLEMENTARY INFORMATION: In a notice published in the *Federal Register* of March 2, 2000 (65 FR 11320), FDA announced that a food additive petition (FAP 0M4711) had been filed by the National Center for Food Safety and Technology, Illinois Institute of Technology, 6502 South Archer Rd.,

Summit-Argo, IL 60501-1933. The petition proposed to amend the food additive regulations in § 179.45 *Packaging materials for use during the irradiation of prepackaged foods* (21 CFR 179.45) to expand the conditions of safe use of X-radiation and electron beam energy sources for the treatment of prepackaged foods by irradiation.

FDA has evaluated the data in the petition and other relevant material. Based on this information, the agency concludes that: (1) The proposed use of the additives as sources of radiation for irradiating of prepackaged foods is safe, (2) the additives will achieve their intended technical effect, and therefore, (3) the regulations in § 179.45 should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person listed above. As provided in § 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has previously considered the environmental effects of this rule as announced in the notice of filing for FAP 0M4711. No new information or comments have been received that would affect the agency's previous determination that there is no significant impact on the human environment and that an environmental impact statement is not required.

This final rule contains no collection of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

Any person who will be adversely affected by this regulation may at any time file with the Dockets Management Branch (address above) written objections by March 19, 2001. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event

⁴ Order No. 571, 59 FR 59137 (Nov. 16, 1994); FERC Stats. & Regs. [Regulation Preambles January 1991-June 1996] ¶ 31,006 at 31,168 (Oct. 28, 1994).

⁵ See Instruction No. 6 of revised FERC Form No. 6 page 700.

⁶ 65 FR 81335 (Dec. 26, 2000); III FERC Stats. & Regs. ¶ 31,115 at 31,960-31,961 (Dec. 13, 2000). Also, see Instruction No. 7 of FERC Form No. 6 page 700.