STATE OF NEW YORK DEPARTMENT OF PUBLIC SERVICE

THREE EMPIRE STATE PLAZA, ALBANY, NY 12223-1350

Internet Address: http://www.dps.state.ny.us

March 28, 2007

SENT VIA ELECTRONIC FILING
Honorable Philis Posey, Acting Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Room 1-A209
Washington, D.C. 20426

Re: Docket No. RM07-9-000 - Assessment of Information Requirements for FERC Financial Forms

Dear Acting Secretary Posey:

For filing, please find the Notice of Intervention and Comments of the New York State Public Service Commission in the above-entitled proceeding. Should you have any questions, please feel free to contact me at (518) 473-8178.

Very truly yours,

David G. Drexler
Assistant Counsel

Attachment

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Assessment of Information Requirements for FERC Financial Forms	))	Docket No. RM07-9-000

NOTICE OF INTERVENTION AND COMMENTS OF THE PUBLIC SERVICE COMMISSION OF THE STATE OF NEW YORK

NOTICE OF INTERVENTION

On February 15, 2007, the Federal Energy Regulatory Commission (FERC or Commission) issued a Notice of Inquiry (NOI) seeking comments on the Commission's financial reporting requirements. The New York State Public Service Commission (NYPSC) hereby submits its Notice of Intervention and Comments in the above-captioned proceeding pursuant to the Commission's NOI published in the Federal Register on February 26, 2007, and Rule 214 of FERC's Rules of Practice and Procedure.

Copies of all correspondence and pleadings should be addressed to:

David Drexler
Assistant Counsel
Office of General Counsel
New York State Department
of Public Service
Three Empire State Plaza
Albany, New York 12223-1350
david_drexler@dps.state.ny.us

Sheila Rappazzo
Chief, Policy Section
Office of Gas and Water
New York State Department
of Public Service
Three Empire State Plaza
Albany, New York 12223-1350
sheila_rappazzo@dps.state.ny.us

INTRODUCTION AND SUMMARY

The NOI seeks input regarding whether the Commission's annual and quarterly financial reporting forms provide sufficient information for the public to evaluate the filers' jurisdictional rates, or whether modification to the forms would improve their usefulness. The NYPSC has found FERC Forms 1 and 2 to be extremely valuable in evaluating the just and reasonableness of FERC-jurisdictional rates, including assessing whether companies doing business in New York have been in an over-earning position. These forms have also been useful in comparing the revenues and expenses of New York utilities against those in other states. While the data currently contained on such forms can be used to develop rudimentary analyses of a filers' cost-of-service, additional information would assist in performing a thorough and comprehensive evaluation of utility rates.

We have identified various areas where additional information should be included on FERC Forms 1 and 2 to assist in our analyses. In particular, we identify modifications to Form 1 that would assist in our analysis of a utility's performance, such as: consistent reporting of electric operating revenues; reporting of sales to delivery-only customers so that customer migration to Energy Service Companies can be measured; and, detailing revenue components used to analyze a utility's financial condition. We also recommend reporting related to affiliate transactions, pensions and Other Post-Employment Benefits on Forms 1 and 2, to ensure rates are just and reasonable. Finally, we recommend that FERC address the need for additional information on Form 2, by requiring interstate gas pipelines to file cost and revenue studies. Alternatively, Form 2 should be revised to require the filing of detailed information, including a breakdown of gas revenues, costs and quantities of gas that comprise such sales of system gas. This information will assist in our performing cost-of-service studies.

DISCUSSION

I. FERC Form 1 Should Be Revised To Ensure It Contains Adequate Information To Analyze Utility Performance

A. The Instructions For Reporting Electric Operating Revenues Should Be Clarified To Ensure Consistency

FERC Form 1 requires Electric Operating Revenues, included on pages 300-301, to be reported according to the Uniform System of Accounts (USOA). Pursuant to the USOA, sales of electricity are recorded on a full-service basis (Accounts 440 through 448), while revenues relating to delivery-only service are recorded as Other Electric Revenues (Account 456). However, the Form 1 instructions are silent with respect to how these revenues should be recorded, which has led to inconsistencies in how utilities report them. In order to ensure consistency, the instructions on pages 300-301 of Form 1 should indicate that delivery-only revenues shall be recorded as Other Electric Revenues (Account 456), while sales of electricity shall be recorded on a full-service basis (Accounts 440 through 448), assuming the USOA is not revised to provide for an unbundling of electric operating revenues.

B. Additional Information Regarding Sales of Electricity Should Be Reported In Order To Measure Customer Migration To Energy Service Companies

As noted above, Form 1 requires sales of electricity to be reported according to various rate schedules and presented on a bundled basis (page 304). However, this information is insufficient to effectively measure Energy Service Company (ESCO) penetration in a utility's service territory. Therefore, we recommend that the Commission require utilities to provide a breakdown of revenues related to bundled customers and delivery-only customers. In particular, the rate schedules on page 304 should be expanded to include the reporting of delivery-only revenues and other unbundled services (e.g., commodity, transmission, distribution).

C. The Components Of Other Electric Revenues Should Be Reported So That The Financial Condition Of A Utility Can Be Assessed

As discussed above, revenues relating to delivery-only customers are incorporated as Other Electric Revenues (Account

456) on pages 300-301. However, Form 1 does not require utilities to detail the components of these revenues, which are a significant source of a utility's revenues. Therefore, we suggest that FERC Form 1 be expanded to require a detailed breakdown of the various sources of Other Electric Revenues (e.g., transmission revenues, delivery revenues, and regulatory assets and liabilities). This will ensure that the public, including state regulatory commissions such as the NYPSC, has a readily available source of information to assist in the monitoring and evaluation of utility's revenue requirement and financial condition.

D. Other Income And Other Income Deductions Should Be Reported So That The Justness And Reasonableness Of Rates Can Be Assessed

In order to evaluate the financial condition of a utility and ensure its rates are just and reasonable, the Commission should require the reporting of Other Income and Other Income Deductions as part of FERC Form 1. For example, carrying charges, which are applied to regulatory assets and liabilities, should be recorded into these accounts since they can have a significant impact on the future recovery of such assets and liabilities. Having a readily accessible source of this information will provide an efficient way to verify such assets and liabilities, and ensure the utility's rates are just and reasonable.

II. **Affiliate Transactions Should Be Reported On Forms 1 And 2 To Ensure Costs Are Reasonable**

Presently, FERC Forms 1 and 2 do not require any reporting related to affiliate transactions. Since transactions between a utility and its affiliates are related party transactions, additional controls and disclosures are needed to ensure costs are reasonable and cross-subsidization is not occurring between regulated and non-regulated operations. Therefore, we recommend that Forms 1 and 2 be revised to require utilities to describe and quantify each type of affiliate transaction. This would provide a useful resource for identifying the proportion of related party transactions allocated to the utility from affiliates, and would greatly enhance the value of these forms.

These recommended reporting requirements are similar to those the Commission adopted in FERC Form No. 60 for centralized service companies.[1] FERC Form No. 60 (Schedule XVI) requires centralized service companies to perform an analysis of charges for services they bill to associate and non-associate companies by USOA account. We suggest FERC add a schedule similar to Schedule XVI to FERC Forms 1 and 2 in order to capture the

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[1] Docket No. RM05-32, Repeal of the Public Utility Holding Company Act of 1935 and Enactment of the Public Utility Holding Company Act of 2005, Order No. 667 (issued December 8, 2005), *reh'g granted*, Order No. 667-A (issued April 24, 2006), *reh'g granted*, Order No. 667-B (issued July 20, 2006), *reh'g denied*, Order No. 667-C (issued February 20, 2007).

centralized service company charges provided and allocated to individual utility companies.

III. <u>Pension and Other Post-Employment Benefits Should Be Reported On Forms 1 And 2 To Ensure Rates Are Just And Reasonable</u>

Similar to affiliate transactions, FERC Forms 1 and 2 do not require any reporting relating to pensions and Other Post-Employment Benefits (OPEBs). These expense components are extremely complex, volatile, and material to utility rates. Although valuable pension and OPEB information is contained in the notes to the financial statements, this information is at the holding company level, rather than the utility-specific level. We therefore suggest that additional utility-specific information, such as quantifying the impact of changes in actuarial assumptions (<u>e.g.</u>, discount rate, growth rate of plan assets, health care inflation), be included on FERC Forms 1 and 2 to assist in the evaluation of these expense components and ensure rates are just and reasonable. In addition, each company should report its contributions to OPEB and pension funds on Forms 1 and 2, and explain in the notes to the financial statements any differences in contributions from the last actuarial reports.

IV. FERC Form 2 Should Be Revised To Include Additional Information Needed To Analyze Interstate Gas Pipelines' Cost-Of-Service

One of the overarching problems with Form 2 data is that it includes categories of revenues without reference to offsetting expenses, thereby making it difficult to analyze rates and determine the net revenue flowing to the bottom line. In order to address this situation, we suggest that FERC require pipelines to include within their Form 2 filings an annual cost and revenue study in the same format as is required when the Commission sets a Section 5 compliant for hearing.[2]

The NYPSC recognizes that the need for data in the format of a cost and revenue study must be balanced against any incremental burden imposed on pipelines. Therefore, the Commission should consider the extent to which pipelines already have the ability to produce such studies from existing software. We also note that any burdens could be reduced by limiting such studies to actual data. Eliminating adjustments to actual data would reduce the burden of producing such a study.

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[2] RP06-298, Public Service Commission of New York, et al. v. National Fuel Gas Supply Corp., Order Setting Complaint for Hearing, Suspending Hearing for Settlement Procedures, and Denying Motion for Summary Disposition (issued June 7, 2006) (addressing a complaint filed by state commissions against National Fuel Gas Supply Corp., alleging that the company's rates are unjust and unreasonable based on an analysis of Form 2 data).

As an alternative to a cost and revenue study, the Commission could require a more detailed breakdown and description of costs and revenues within various accounts. For example, FERC Form 2 currently requires gas pipelines to list total revenues and quantities for Accounts 480-484 Sales on pages 300 to 301 (i.e., 480 - Residential Sales; 481 - Commercial and Industrial Sales; 482 - Other Sales to Public Authorities; 483 - Sales for Resale; and, 484 - Interdepartmental Sales). However, Form 2 does not require information regarding the components of each account. Because additional information would assist in determining what levels of revenues should or should not be reflected in a cost-of-service analysis, we request that the Commission require pipelines to provide a breakdown of Account 480-484 Sales according to revenues and quantities of gas that comprise each type of sale. To the extent there are additional costs associated with Account 480-484 Sales, those costs should be broken down and identified in connection with related revenues.

In addition, FERC Form 2 should be expanded to provide further detail under Account 489 Revenues. While these revenues are currently broken down by rate schedule, additional detail would be useful in analyzing the level of jurisdictional revenues to be reflected in a cost-of-service model. We suggest that additional information be included, such as billing determinants for each rate schedule (contract demand) at the beginning and end of the year. In addition, the revenue reported under each rate schedule should be broken down into two categories (i.e., maximum rate contracts and discounted/negotiated rate contracts). Each rate schedule should also be identified as rolled-in or incremental.

Additional detail should also be provided for Account 495 Other Gas Revenues. This account typically includes revenue realized from the sale of fuel from excess retainage (i.e., natural gas retained from customers that is not used for pipeline operations or attributed to the pipeline systems' lost and unaccounted for gas). In instances where pipelines account for such other gas revenues, specific detail should be provided in Form 2 as to the accounting of the revenues and the quantities and type of gas involved (i.e., retainage, lost and unaccounted for, and imbalances). The gas quantities associated with such other gas revenues should also be reconciled with related gas purchase expenses and the gas quantities shown on Form 2, page 520, Gas Account - Natural Gas.

Moreover, FERC Form 2 should separately identify any revenues and costs associated with trackers or special surcharges so that they can be properly accounted for in a cost-of-service analysis. Finally, the Commission should establish consistent reporting of deferred income taxes, which are included in rate base for cost-of-service purposes. Currently, Form 2 does not identify which components of deferred taxes should be included in rate base. Therefore, we recommend that Form 2 be modified to identify the rate base components of deferred taxes that should be reported.

CONCLUSION

In accordance with the above discussion, the Commission should modify FERC Forms 1 and 2. These modifications will assist in the evaluation of the just and reasonableness of utility rates.

Respectfully submitted,

Peter McGowan
Acting General Counsel
Public Service Commission
of the State of New York

By: David G. Drexler
Assistant Counsel
3 Empire State Plaza
Albany, NY 12223-1305
(518) 473-8178

Dated: March 28, 2007
Albany, New York

CERTIFICATE OF SERVICE

I, Matthew Baker, do hereby certify that I will serve on March 28, 2007, the foregoing Notice of Intervention and Comments of the Public Service Commission of the State of New York upon each of the parties of record indicated on the official service list compiled by the Secretary in this proceeding.

Date: March 28, 2007
Albany, New York

Matthew A. Baker

Matthew Baker