

## Federal Energy Regulatory Commission

## § 385.1109

(2) Notwithstanding paragraph (b)(1) of this section, if a petitioner determines that compliance with such paragraph of this section would be impracticable, the petitioner must:

(i) Comply with the requirements of such paragraph with regard to those persons whom it is reasonable and practicable to serve; and

(ii) Include with the petition a description of the persons or class or classes of persons to whom notice was not sent.

(3) Staff may require the petitioner to provide alternate or additional service and will cause notice of the application to be published in the FEDERAL REGISTER.

[Order 225, 47 FR 19022, May 3, 1982, as amended by Order 394, 49 FR 35365, Sept. 7, 1984; Order 647, 69 FR 32440, June 10, 2004]

### § 385.1105 Intervention (Rule 1105).

(a) A motion to intervene in an adjustment proceeding, in conformity with Rule 214 (intervention) must be filed within 15 days after publication in the FEDERAL REGISTER of notice of the petition for adjustment.

(b) A motion to intervene is granted unless it is denied by staff within 75 days after the day on which it was filed.

### § 385.1106 Other filings (Rule 1106).

(a) *Intervenors.* Responses to the petition must be filed at the time the motion to intervene is filed.

(b) *Petitioner.* The petitioner may respond to filings of another party within 15 days after service of such filings. Amended pleadings may be filed under Rule 215 (amendments) if the petitioner discovers facts unavailable at the time the initial petition was filed, or if such pleadings are requested or permitted by Staff under Rule 1107 (evaluations).

### § 385.1107 Evaluations (Rule 1107).

(a) Staff will consider the filings made in connection with the petition for adjustment. Staff may also consider information received under paragraph (b) of this section. If Staff obtains information under paragraphs (b)(1) or (b)(3) of this section and relies upon such information, the petitioner will be advised of such information and will be

given 15 days to respond to such information.

(b)(1) Staff may initiate an investigation of any statement in a petition and use in its evaluation any relevant fact obtained in such an investigation.

(2) Staff may request additional information from the petitioner.

(3) Staff may solicit and accept submissions from intervenors or third persons relevant to the petition.

(4) Staff may consider information obtained in informal conferences held under Rule 1111 (adjustment conferences).

[Order 225, 47 FR 19022, May 3, 1982, as amended by Order 24-C, 50 FR 21596, May 28, 1985]

### § 385.1108 Criteria (Rule 1108).

(a) Staff will grant a petition where there are sufficient facts to make a determination on the merits and where Staff determines that an adjustment is necessary to prevent or alleviate:

(1) Special hardship;

(2) Inequity; or

(3) An unfair distribution of burdens.

(b) When there are not sufficient facts to make a determination on the merits, the Staff may dismiss the petition without prejudice; except, that when Staff has requested additional material information under Rule 1107 (adjustment evaluations) of this section and the petitioner has failed to provide the requested information, Staff may deny the petition if the requested information was reasonably available to the petitioner.

[Order 225, 47 FR 19022, May 3, 1982, as amended by Order 24-C, 50 FR 21596, May 28, 1985]

### § 385.1109 Orders (Rule 1109).

(a) Staff will issue a decision and an order granting or denying the petition in whole or in part. The order will articulate the basis for the decision, noting any dispute with the factual assertions of the petitioner.

(b) In addition to service otherwise required under this subpart, Staff will serve the decision and order on the persons who sought and were denied an opportunity to participate in the proceeding under this subpart.