Regulation Z (Reg Z), an application fee may only serve to recoup the actual costs incurred by an FCU to process a PAL loan application. FCUs would still need to accurately account for their costs in determining a permissible application fee, and they would not be able to use this fee to offset losses associated with this type of lending. NCUA will continue to scrutinize these fees to ensure compliance with Reg Z and ensure PAL loans remain a beneficial product for FCU members.

In addition to seeking comment on the application fee and interest rate, the Board seeks comment on all aspects of the regulation. The questions enumerated below are intended to stimulate commenter response and suggest areas where NCUA may improve the rule to encourage more FCUs to offer PAL loans. Commenters should feel free to comment on any aspect of the PAL regulation. Of course, commenters should include reasonable justification for all comments provided.

Additional Questions for Consideration

(1) Should the Board increase the permissible PAL loan interest rate, which is currently set at 28% (based on 1000 basis points above the maximum interest rate established by the Board for non-PAL loans)?

(2) Should the Board expand the permissible loan range, which is currently set from $200 to $1000?

(3) Should the Board permit PAL loan maturities of shorter than one month or longer than six months?

(4) Should the Board allow FCUs to make more than one PAL loan at a time to a borrower?

(5) Should the Board eliminate or decrease the one-month minimum length of membership requirement?

(6) Should the Board increase the limit on the permissible aggregate dollar amount of loans made, which currently is 20% of an FCU's net worth?

In addition to soliciting comments on the current PAL rule, the Board is also interested in learning about viable payday-alternative products credit unions are currently offering their members. The Board invites commenters to describe products and programs they offer and to share details about the business models they use to execute successful programs.

By the National Credit Union Administration Board on September 21, 2012.

Mary Rupp,

Secretary of the Board.

[FR Doc. 2012–23718 Filed 9–26–12; 8:45 am]

BILLING CODE 7535–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 357

[Docket No. RM12–18–000]

Revisions to Page 700 of FERC Form No. 6

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission (Commission) proposes to modify Page 700 of FERC Form No. 6 (Form 6) to facilitate the calculation of a pipeline's actual return on equity. The Commission proposes to expand the information provided regarding rate base (line 5), rate of return (line 6), return on rate base (line 7), and income tax allowance (line 8).

DATES: Comments are due November 26, 2012.

ADDRESSES: Comments, identified by docket number, may be filed in the following ways:

- *Electronic Filing through: http://www.ferc.gov.* Documents created electronically using word processing software should be filed in native applications or print-to-PDF format and not in a scanned format.
- *Mail/Hand Delivery:* Those unable to file electronically may mail or hand-deliver comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE., Washington, DC 20426.

Instructions: For detailed instructions on submitting comments and additional information on the rulemaking process, see the Comment Procedures Section of this document

FOR FURTHER INFORMATION CONTACT:

James Sarikas (Technical Information), Office of Energy Market Regulation, 888 First Street NE., Washington, DC 20426, (202) 502–6831, *James.Sarikas@ferc.gov.*

Brian Holmes (Technical Information), Office of Enforcement, 888 First Street NE., Washington, DC 20426, (202) 502–6008, *Brian.Holmes@ferc.gov.*

Andrew Knudsen (Legal Information), Office of the General Counsel, 888 First Street NE., Washington, DC 20426, (202) 502–6527, *Andrew.Knudsen@ferc.gov.*

SUPPLEMENTARY INFORMATION:

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(Issued September 20, 2012)

1. The Federal Energy Regulatory Commission (Commission) proposes to modify the reporting requirements on Page 700, Annual Cost of Service Based Analysis Schedule, of FERC Form No. 6, Annual Report of Oil Pipeline Companies (Form 6), to facilitate the calculation of a pipeline's actual rate of return on equity based upon Page 700 data. The modifications to Page 700 include requiring additional information regarding rate base, rate of return, return on rate base, and income taxes.[1]

[1] Concurrent with the issuance of this NOPR, the Commission is issuing a final rule in Docket No. RM11–21–000, *Revision to Form No. 6.*

I. Background

2. The Commission is responsible for regulating the rates, terms and conditions that oil pipelines charge for transportation under the Interstate Commerce Act (ICA).[2] The ICA prohibits pipelines from charging rates that are ''unjust and unreasonable'' and permits shippers and the Commission to challenge both pre-existing and newly filed rates.[3]

3. To assist the Commission in the administration of its jurisdictional responsibilities, the ICA authorizes the Commission to prescribe annual or other periodic reports.[4] Through Form 6, the Commission collects annual financial information from crude and refined product pipelines [5] subject to the Commission's jurisdiction, as prescribed in section 357.2 of the Commission's regulations.[6] Form 6 ''is intended to be both a financial and ratemaking document.'' [7]

4. Page 700 of Form 6 provides a simplified presentation of an oil pipeline's jurisdictional cost-of-service. Page 700 serves as a preliminary screening tool to evaluate pipeline rates.[8] However, ''Page 700 information alone is not intended to show what a just and reasonable rate should be.'' [9] Currently, pipelines are required to provide the following on Page 700: Operating and Maintenance Expenses (line 1), Depreciation Expense (line 2), AFUDC Depreciation (line 3), Amortization of Deferred Earnings (line 4), Rate Base (line 5), Rate of Return (line 6), Return on Rate Base (line 7), Income Tax Allowance (line 8), Total Cost of Service (line 9), Total Interstate Operating Revenues (line 10), Throughput in Barrels (line 11), and Throughput in Barrel-Miles (line 12).

II. Discussion

5. The Commission proposes to modify Page 700 to more easily enable the calculation of a pipeline's actual rate of return on equity consistent with the ratemaking principles embodied in Opinion 154–B, *et al.* The actual rate of return on equity reflects the relationship between a pipeline's revenues and its cost of service. As a result, the actual rate of return on equity is particularly useful information when using Page 700 to evaluate whether a pipeline's rates are just and reasonable consistent with the Commission's mandate under the ICA.

6. To provide the data necessary to calculate the actual return on equity, Page 700 must be modified to include additional information related to rate base, rate of return, return on rate base, and income tax rates.

A. Rate Base

7. The Commission seeks to enhance the information provided on Page 700 related to rate base, rate of return, and return on rate base. The components of an oil pipeline's rate base are governed by the Trended Original Cost Methodology adopted by the Commission in Opinion No. 154–B. [10] Under this methodology, a pipeline's Rate Base consists of (1) The Original Cost Rate Base, (2) any unamortized amounts from the oil pipeline's Starting Rate Base Write-Up (SRB),[11] and (3) Accumulated Net Deferred Earnings.[12]

8. Consistent with Opinion No. 154–B, the Commission proposes to enhance the Rate Base information provided on line 5 of Page 700 by adding (1) Rate Base – Original Cost (proposed line 5a), (2) Rate Base – Unamortized Starting Rate Base Write-Up (proposed line 5b), (3) Rate Base – Accumulated Net Deferred Earnings (proposed line 5c). The sum of proposed lines 5a, 5b and 5c comprise the pipeline's Trended Original Cost Rate Base, which is currently reported on line 5 of Page 700 and which the Commission proposes to move to line 5d entitled Total Rate Base – Trended Original Cost – (5a + 5b + 5c).

B. Rate of Return

9. The Commission proposes to require oil pipelines to report the cost of equity and cost of debt components that constitute the overall Weighted Cost of Capital currently reported as ''Rate of Return'' on line 6, Page 700. Specifically, the Commission proposes to include additional information related to debt and equity capital structure ratios, i.e. (1) Rate of Return – Adjusted Capital Structure Ratio for Long Term Debt (proposed line 6a), (2) Rate of Return – Adjusted Capital Structure Ratio for Proprietary Capital (proposed line 6b).[13] The Commission further proposes to add information related to the cost of debt and the cost of equity, specifically: (1) Rate of Return – Cost of Long Term Debt Capital (proposed line 6c), (2) Rate of Return – Real Cost of Proprietary Capital [14] (proposed line 6d). This additional information forms the basis for the Rate of Return – Weighted Average Cost of Capital (the total of 6a * 6c + 6b * 6d), which is now reported as ''Rate of Return'' on line 6 on Page 700 and which the Commission proposes to move to line 6e.

C. Return on Rate Base

10. The Commission proposes to require oil pipelines to report additional information related to the Return on Rate Base in line 7. The Return on Rate Base currently reported on line 7 combines the pipeline's return on equity and the portion of the pipeline's return allocated to paying its cost of debt. The

[2] 49 U.S.C. 1, *et seq.*

[3] 49 U.S.C. 13(1), 15(1), (7). Just and reasonable rate are ''rates yielding sufficient revenue to cover all proper costs, including federal income taxes, plus a specified return on invested capital.'' *City of Charlottesville* v. *FERC,* 774 F.2d 1205, 1207 (D.C. Cir. 1985).

[4] 49 App. U.S.C. 1–85 (2000).

[5] Hereafter, the term ''oil pipeline'' shall include both crude and refined product pipelines.

[6] 18 CFR 357.2 (2012).

[7] *Revisions to and Electronic Filing of the FERC Form No. 6 and Related Uniform Systems of Accounts,* Order No. 620, FERC Stats. & Regs., Regulation Preambles July 1996–December 2000 ¶ 31,115, at p. 31,954 (2000) (*citing Cost of Service Requirements and Filing Requirements for Oil Pipelines,* Order No. 571, FERC Stats. & Regs., Regulation Preambles Jan. 1991–June 1996 ¶ 31,006, at p. 31,169 (1995) and Form 6, p. I, Roman Numeral 1; *on reh'g,* Order No. 620–A, 94 FERC 61,130 (2001); *order on reh'g,* Order No. 620–A, 94 FERC ¶ 61,130 (2001)).

[8] All jurisdictional pipelines are required to file page 700, including pipelines exempt from filing the full Form 6. 18 CFR 357.2(a)(2) and (a)(3) (2012).

[9] Order No. 571–A, 69 FERC ¶ 61,411, at p. 31,254 (1994).

[10] *See Williams Pipeline Co.,* Opinion No. 154–B, 31 FERC ¶ 61,377 (1985), *order on reh'g,* Opinion No. 154–C, 33 FERC ¶ 61,327 (1985). Instruction No. 2 of Page 700 of the FERC Form No. 6 requiring the values ''be computed consistent with the Commission's Opinion No. 154–B *et al.* methodology * * *.''

[11] The Starting Rate Base Write-Up is a transitional rate base element employed to bridge the transition from a valuation ratemaking methodology to the Trended Original Cost methodology as adopted in Opinion 154–B. The SRB was to be amortized over the estimated life of the pipeline at the time the SRB was established.

[12] The trended original cost methodology divides the nominal return on equity component of the cost of service into real return and an inflationary return. The real return is collected in the current year. The Net Deferred Earnings consists of the inflation component, which is deferred to be recovered in annual installments over the remaining life of the pipeline. *See* Opinion No. 154–B, 31 FERC ¶ 61,377 (1985), *order on reh'g,* Opinion No. 154–C, 33 FERC ¶ 61,327 (1985). *See, e.g., BP West Coast Prods., LLC* v. *FERC,* 374 F.3d 1263, 1282–83 (D.C. Cir. 2004).

[13] The Adjusted Capital Structure Ratio adjusts upward the level of equity in capital structure to account for the treatment of Accumulated Deferred Earnings under the Opinion 154–B Methodology. Under the 154–B Methodology, a pipeline's return on the Original Cost and the SRB Write-Up is based on a weighted average of the cost of debt and the return on equity. However, a pipeline's rate of return on Accumulated Net Deferred Earnings is the equivalent to the rate of return on equity (proposed line 6d) and does not include a cost of debt component. The upward adjustment to equity ratio allows the pipeline to apply its weighted average cost of capital consisting of debt and equity to one rate base. *ARCO Pipe Line Co.,* 53 FERC ¶ 61,398 at 62,388–89.

[14] The real cost of capital excludes the inflationary component of the nominal return that is placed in Net Deferred Earnings pursuant to the trended original cost methodology.

Commission proposes to require the pipeline to include on Page 700 the Return on Rate Base – Debt Component (proposed line 7a) [15] and the Return on Rate Base – Equity Component (proposed line 7b).[16] The Commission proposes to report on proposed on line 7c the Total Return on Rate Base – (7a + 7b), which is the same information currently reported on line 7.

D. Composite Tax Rate

11. The Commission proposes to modify the Page 700 to include the Composite Tax Rate used to determine the ''Income Tax Allowance.'' [17] Line 8 of the Page 700 currently requires each pipeline to report the total dollar amount attributable to the ''Income Tax Allowance'' in its cost-of-service. The Commission proposes to add a new line 8a which will require a pipeline to report its ''Composite Tax Rate Percentage.''

12. The Commission defines the Composite Tax Rate Percentage as the sum, adjusted consistent with Commission policy, of (a) the applicable state income tax rate and (b) a federal income tax rate. As filed on Page 700, the Composite Tax Rate Percentage should reflect the income tax rate used pursuant to Commission's policies to determine the Income Tax Allowance reported on line 8.[18]

13. The Composite Tax Rate Percentage will create a better understanding of the differential between a pipeline's Total Interstate Operating Revenues (line 10) and the pipeline's Total Cost of Service (line 9). Specifically, the Composite Tax Rate Percentage may be used to determine the portion of this differential that is attributable to income taxes under Commission policy, and the portion that may be treated as part of a pipeline's actual return on equity.

E. Calculation of Actual Rate of Return on Equity

14. These modifications to Page 700 will provide information that may be used to calculate a pipeline's actual rate of return on equity. The actual rate of return on equity is determined by dividing (a) the actual return on equity by (b) the equity portion of Trended Original Cost Rate Base reported on line 5d. The actual return on equity is the sum of three components that can be derived using the proposed modifications to Page 700: (a) The return on equity embedded in a pipeline's Page 700 Total Cost of Service (proposed line 7b); (b) the difference, adjusted for taxes, between a pipeline's Total Interstate Operating Revenues (proposed Line 10) and a pipeline's Total Cost of Service (proposed Line 9); [19] and (c) the current year's contribution to Net Deferred Earnings, which is calculated by multiplying the equity portion of the Trended Original Cost Rate Base (line 5d) by the current year's Department of Labor's consumer price index for all urban areas (CPI–U).[20]

15. Once the actual return on equity has been derived, it may be divided by the equity portion of Trended Original Cost Rate Base. The equity portion of the Trended Original Cost Rate base consists of the Trended Original Cost Rate Base (proposed line 5d) multiplied by the equity component of capital structure (proposed line 6b).

16. These proposed modifications to Page 700 will increase the usefulness of Page 700. Prior to this proposal, any attempt to estimate an oil pipeline's actual return on equity required assumptions regarding several cost of service components, including capital structure (proposed lines 6a and 6b), the composite income tax rate (proposed line 8a), and the return on equity embedded in a pipeline's Page 700 cost of service (proposed line 7b). The Commission believes this additional information will make Page 700 a more useful tool for evaluating a pipeline's rates; however, it welcomes comments as to whether the proposed changes herein are sufficient for the goals we have described above.

F. Conclusion

17. As discussed herein, the proposed modifications will facilitate the calculation of the actual rate of return on equity based upon Page 700 data. The actual rate of return on equity is particularly useful information when using Page 700 to evaluate a pipeline's rates. The additional information proposed to be reported will impose almost no additional burden on oil pipelines because pipelines already must develop cost of service supporting calculations to determine the Income Tax Allowance, Rate Base, Rate of Return, and Return on Rate Base reported on Page 700. Given these existing requirements, the Commission does not anticipate that these proposed additions to Page 700 of Form 6 will impose a significant burden on oil pipelines.

G. Effective Date

18. The Commission proposes that the changes to Form 6 are to be effective for reporting in the 2013 Form 6. The 2013 Form 6 must be filed on or before April 18, 2014.[21] The new schedule appearing on Page 700 therefore would not be required for Form 6 filings until April 18, 2014, for the reporting year ending December 31, 2013.

III. Information Collection Statement

19. The Office of Management and Budget (OMB) regulations require approval of certain information collection requirements imposed by agency rules.[22] Upon approval of a collection(s) of information, OMB will assign an OMB control number and an expiration date. Respondents subject to the filing requirements of an agency rule will not be penalized for failing to respond to these collections of information unless the collections of information display a valid OMB control number. The Paperwork Reduction Act (PRA) [23] requires each federal agency to seek and obtain OMB approval before undertaking a collection of information directed to ten or more persons or contained in a rule of general applicability.[24]

20. The Commission is submitting these reporting requirements to OMB for its review and approval under section

[15] Return on Rate Base – Debt Component will be the equivalent of the weighted average cost of debt (product of proposed lines 6a and 6c) multiplied by the Trended Original Cost Rate Base (proposed line 5d).

[16] Return on Rate Base – Equity Component will be the equivalent of the weighted average cost of equity (product of proposed lines 6b and 6d) multiplied by the Trended Original Cost Rate Base (proposed line 5d).

[17] The Commission's income tax policy permits ''an income tax allowance for all entities or individuals owning public utility assets, provided that entity or individual has an actual or potential income tax liability to be paid on that income from those assets.'' *Inquiry Regarding Income Tax Allowances,* 111 FERC ¶ 61,139 (2005).

[18] For instance, the business structure for a large number of oil pipelines is a Master Limited Partnership (MLP). The income tax allowance for an MLP pipeline is based upon the tax liability of the owners.

[19] The difference between the pipeline's Total Interstate Operating Revenues (Line 10) and Total Cost of Service (proposed Line 9) provides the pipeline's earnings above its Total Cost of Service. As described above, the Composite Tax Rate Percentage may be used to determine the portion of this differential that is attributable to income taxes under Commission policy and the portion that may be treated as part of a pipeline's actual return on equity.

[20] As noted in footnote 16, the trended original cost methodology divides the nominal return on equity component of the cost of service into real return and an inflationary return.

[21] 18 CFR 357.1.

[22] 5 CFR 1320.

[23] 44 U.S.C. 3501–3520.

[24] OMB's regulations at 5 CFR 1320.3(c)(4)(i) require that ''Any recordkeeping, reporting, or disclosure requirement contained in a rule of general applicability is deemed to involve ten or more persons.''

3507(d) of the PRA. Comments are solicited on the Commission's need for this information, whether the information will have practical utility, the accuracy of provided burden estimates, ways to enhance the quality, utility, and clarity of the information to be collected, and any suggested methods for minimizing the respondent's burden, including the use of automated information techniques.

21. The Commission's estimate of the additional Public Reporting Burden and cost related to the proposed rule in Docket RM12–18–000 follow.

22. For the recurring effort involved in filing the data on proposed lines 5a–5c, 6a–6e, 7a–7c, and 8a of Page 700 for 2013 and future years, we estimate that the change in burden is 0.5 hours per year per respondent.

RM12–18–000, FERC Form 6	Annual number of fliers	Estimated additional burden per filer (Hr)	Total estimated additional burden (Hr)	Estimated additional cost per filer ($) [25]	Total estimated additional cost ($)
Filing new proposed lines on page 700	166	0.5	88	$34.51	$3,036.88

23. *Information Collection Cost and Burden: The Commission seeks comments on the costs and burden to comply with these requirements.*

Title: FERC Form 6, Annual Report of Oil Pipeline Companies.

Action: Proposed Revisions to the FERC Form 6.

OMB Control No: 1902–0022.

Respondents: Oil pipelines.

Frequency of Responses: Annual.

Necessity of the Information: This action ensures the availability of data consistent with the Commission's obligation to regulate interstate oil and petroleum product pipeline rates and the intent of Page 700, to enable the Commission and shippers to monitor and analyze interstate pipeline costs.

Internal review: The Commission has reviewed the proposed changes and has determined that the changes are necessary. These requirements conform to the Commission's need for efficient and sufficient information collection, communication, and management with regard to the oil pipeline sector of the energy industry. The Commission has, by means of internal review, assured itself that there is specific, objective support for the burden estimates associated with the information collection requirements.

24. Interested persons may obtain information on the reporting requirements by contacting: Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426 [Attention: Ellen Brown, Office of the Executive Director, email: *DataClearance@ferc.gov,* Phone: (202) 502–8663, fax: (202) 273–0873]. Comments on the requirements of this rule may also be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 [Attention: Desk Officer for the Federal Energy Regulatory Commission]. For security reasons, comments should be sent by email to OMB at *oira_submission@omb.eop.gov.* Please reference OMB Control No. 1902–0022, FERC–6 and the docket number of this proposed rulemaking in your submission.

IV. Environmental Analysis

25. 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.[26] The actions taken here fall within categorical exclusions in the Commission's regulations for information gathering, analysis, and dissemination.[27] Therefore, an environmental assessment is unnecessary and has not been prepared in this rulemaking.

V. Regulatory Flexibility Act

26. The Regulatory Flexibility Act of 1980 (RFA) generally requires agencies to prepare certain statements, descriptions, and analyses of proposed rules that will have a significant economic impact on a substantial number of small business entities.[28] Agencies are not required to make such an analysis if a rule would not have such an effect.

27. The Commission does not believe that this proposed rule will have an adverse impact on small entities, nor will it impose upon them any significant costs of compliance. The Commission identified 29 small entities as respondents to the requirements in the proposed rule.[29] As explained above, the Commission estimates that the change to Page 700 will increase the paperwork burden of preparing Page 700 by approximately $34.51 per respondent. The Commission does not estimate that there are any other regulatory burdens associated with this proposed rule. Therefore the Commission certifies that the proposed rule will not have a significant impact on a substantial number of small entities. Accordingly, no regulatory flexibility analysis is required.

VI. Comment Procedures

28. The Commission invites interested persons to submit comments on the matters and issues proposed in this notice to be adopted, including any related matters or alternative proposals that commenters may wish to discuss. Comments are due 60 days from publication in the **Federal Register**. Comments must refer to Docket No. RM12–18–000, and must include the commenter's name, the organization they represent, if applicable, and their address in their comments.

29. The Commission encourages comments to be filed electronically via the eFiling link on the Commission's web site at *http://www.ferc.gov.* The Commission accepts most standard word processing formats. Documents created electronically using word processing software should be filed in native applications or print-to-PDF format and not in a scanned format. Commenters filing electronically do not need to make a paper filing.

[25] Based on an estimated average cost per employee for 2012 (including salary plus benefits) of $143,540, the estimated average hourly cost per employee is $69.01. The average work year is 2,080 hours.

[26] Order No. 486, *Regulations Implementing the National Environmental Policy Act,* 52 FR 47897 (Dec. 17, 1987), FERC Stats. & Regs. ¶ 30,783 (1987).

[27] 18 CFR 380.4(a)(5).

[28] 5 U.S.C. 601–12.

[29] The RFA definition of ''small entity'' refers to the definition provided in the Small Business Act, which defines a ''small business concern'' as a business that is independently owned and operated and that is not dominant in its field of operation. 15 U.S.C. 632. The Small Business Size Standards component of the North American Industry Classification System defines a small oil pipeline company as one with less than 1,500 employees. See 13 CFR parts 121, 201.

30. Commenters that are not able to file comments electronically must send an original of their comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE., Washington, DC 20426.

31. All comments will be placed in the Commission's public files and may be viewed, printed, or downloaded remotely as described in the Document Availability section below. Commenters on this proposal are not required to serve copies of their comments on other commenters.

VII. Document Availability

32. 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 the Commission's Home Page (*http://www.ferc.gov*) and in the Commission's Public Reference Room during normal business hours (8:30 a.m. to 5 p.m. Eastern time) at 888 First Street NE., Room 2A, Washington DC 20426.

33. From the Commission's Home Page on the Internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

34. User assistance is available for eLibrary and the Commission's Web site during normal business hours from the Commission's Online Support at 202–502–6652 (toll free at 1–866–208–3676) or email at *ferconlinesupport@ferc.gov,* or the Public Reference Room at (202) 502–8371, TTY (202) 502–8659. Email the Public Reference Room at *public.referenceroom@ferc.gov.*

By direction of the Commission.

Kimberly D. Bose,

Secretary.

Appendix A—Summary of Proposed Changes to FERC Form 6, Page 700

Line 5a is added to read as follows:

Rate Base – Original Cost

Line 5b is added to read as follows:

Rate Base – Unamortized Starting Rate Base Write-Up

Line 5c is added to read as follows:

Rate Base – Accumulated Net Deferred Earnings

Line 5d is added to read as follows:

Total Rate Base – Trended Original Cost – (5a + 5b + 5c)

Line 6a is added to read as follows:

Rate of Return – Adjusted Capital Structure Ratio for Long Term Debt

Line 6b is added to read as follows:

Rate of Return – Adjusted Capital Structure Ratio for Proprietary Capital

Line 6c is added to read as follows:

Rate of Return – Cost of Long Term Debt Capital

Line 6d is added to read as follows:

Rate of Return – Real Cost of Proprietary Capital

Line 6e is added to read as follows:

Rate of Return – Weighted Average Cost of Capital – (6a × 6c + 6b × 6d)

Line 7a is added to read as follows:

Return on Rate Base – Debt Component

Line 7b is added to read as follows:

Return on Rate Base – Equity Component

Line 7c is added to read as follows:

Total Return on Rate Base – (7a + 7b)

Line 8a is added to read as follows:

Composite Tax Rate % (37.50%–37.50)

Note: Appendix B will not be published in the *Code of Federal Regulations*

BILLING CODE 6717–01–P

Appendix B: Revised Page 700 to Form 6

Name of Respondent	This Report Is: □ (1) An Original □ (2) A Resubmission	Date of Report (Mo, Da, Yr) / /	Year/Period of Report End of _____

Annual Cost of Service Based Analysis Schedule

1.) Use footnotes when particulars are required or for any explanations.
2.) Enter on lines 1-9, columns (b) and (c), the value the respondent's Operating & Maintenance Expenses, Depreciation Expense, AFUDC Depreciation, Amortization of Deferred Earnings, Rate Base, Rate of Return, Return, Income Tax Allowance, and Total Cost of Service, respectively, for the end of the current and previous calendar years. The values shall be computed consistent with the Commission's Opinion No. 154-B et al. methodology. Any item(s) not applicable to the filing, the pipeline company shall report nothing in columns (b) and (c).
3.) Enter on line 10, columns (b) and (c), total interstate operating revenue, as reported on page 301, for the current and previous calendar years.
4.) Enter on line 11, columns (b) and (c), the throughput in barrels from the Statistics of Operations schedule, page 601, line 33b, total of items (1) and (2), from the current and previous year's FERC Form No. 6.
5.) Enter on line 12, columns (b) and (c), the throughput in barrel-miles from the Statistics of Operations schedule, page 600, line 33a, total of items (1) and (2), from the current and previous year's FERC Form No. 6.
6.) If the company makes major changes to its application of the Opinion No. 154-B et al. methodology, it must describe such changes in a footnote, and calculate the amounts in columns (b) and (c) of lines No. 1-12 using the changed application.
7.) A respondent may be requested by the Commission or its staff to provide its workpapers which support the data reported on page 700.

Line No.	Item (a)	Current Year Amount (in dollars) (b)	Prior Year Amount (in dollars) (c)
1	Operating and Maintenance Expenses	25,000,000	24,500,000
2	Depreciation Expense	6,500,000	6,450,000
3	AFUDC Depreciation	500,000	510,000
4	Amortization of Deferred Earnings	800,000	840,000
5	Rate Base		
5a	Rate Base – Original Cost	90,000,000	94,000,000
5b	Rate Base – Unamortized Starting Rate Base Write-Up		
5c	Rate Base – Accumulated Net Deferred Earnings	20,000,000	21,000,000
5d	Total Rate Base –Trended Original Cost – (5a + 5b + 5c)	110,000,000	115,000,000
6	Rate of Return % (10.25% - 10.25)		
6a	Rate of Return – Adjusted Capital Structure Ratio for Long Term Debt	36.00	36.00
6b	Rate of Return – Adjusted Capital Structure Ratio for Proprietary Capital	64.00	64.00
6c	Rate of Return – Cost of Long Term Debt Capital	8.00	8.00
6d	Rate of Return – Real Cost of Proprietary Capital	14.25	14.25
6e	Rate of Return – Weighted Average Cost of Capital – (6a x 6c + 6b x 6d)	12.00	12.00
7	Return on Rate Base		
7a	Return on Rate Base – Debt Component	3,168,000	3,312,000
7b	Return on Rate Base – Equity Component	10,032,000	10,488,000
7c	Total Return on Rate Base – (7a + 7b)	13,200,000	13,800,000
8	Income Tax Allowance	9,000,000	9,400,000
8a	Composite Tax Rate % (37.50% - 37.50)	37.50	37.50
9	Total Cost of Service	55,000,000	55,500,000
10	Total Interstate Operating Revenues	60,000,000	57,000,000
11	Throughput in Barrels	80,000,000	79,000,000
12	Throughput in Barrel-Miles	40,000,000,000	39,000,000,000

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DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 51

RIN 2900–AO37

Removal of 30-Day Residency Requirement for Per Diem Payments

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: The Department of Veterans Affairs (VA) is proposing to amend its regulations concerning per diem payments to State homes for the provision of nursing home care to veterans. Specifically, this rule would remove the requirement that a veteran must have resided in a State home for 30 consecutive days before VA will pay per diem for that veteran when there is no overnight stay. The intended effect of this proposed rule is to permit per diem payments to State homes for veterans who do not stay overnight, regardless of how long the veterans have resided at the State homes, so that the State homes will hold the veterans' beds until the veterans return.

DATES: Written comments must be received on or before October 29, 2012.

ADDRESSES: Written comments may be submitted through *http://www.regulations.gov;* by mail or hand delivery to the Director, Regulation Policy and Management (02REG), Department of Veterans Affairs, 810 Vermont Ave., NW., Room 1068, Washington, DC 20420; or by fax to (202) 273–9026. Comments should indicate that they are submitted in response to ''RIN 2900–AO37, Removal of 30-Day Residency Requirement for Per Diem Payments.'' Copies of comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1063B, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays). Please call (202) 461–4902 for an appointment. (This is not a toll-free number.) In addition, during the comment period, comments may be viewed online through the Federal Docket Management System at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Harold Bailey, Program Management Officer (Director of Administration), VA Health Administration Center, Purchased Care (10NB3), Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Ave., NW., Washington, DC 20420, (303) 331–7551. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: This proposed rule would amend part 51 of title 38, Code of Federal Regulations (CFR), to remove the requirement that a veteran receiving nursing home care in a State home must have resided in the State home for at least 30 consecutive days before VA would pay per diem when that veteran does not stay in the State home overnight. VA pays per diem to State homes for veterans who stay elsewhere overnight to create a ''bed hold,'' so that the State home reserves the veteran's bed until the veteran returns from a temporary absence. Typically, these temporary absences arise from a veteran's acute need for a higher level of care, such as a period of hospitalization. Temporary absences also arise for reasons other than hospital care, such as when a veteran travels to visit family members.

This proposed rule would also clarify in 38 CFR 51.43 that VA calculates occupancy rate ''by dividing the total number of patients in the nursing home or domiciliary by the total recognized nursing home or domiciliary beds in that facility.'' This would be consistent with current practice, and would help ensure that State homes understand our methodology.

The 30-day residency requirement for bed hold per diem payments was established in 2009 in 38 CFR 51.43(c), which stated: ''Per diem will be paid under §§ 51.40 and 51.41 for each day that the veteran is receiving care and has an overnight stay. Per diem also will be paid when there is no overnight stay if the veteran has resided in the facility for 30 consecutive days (including overnight stays) and the facility has an occupancy rate of 90 percent or greater. However, these payments will be made only for the first 10 consecutive days during which the veteran is admitted as a patient for any stay in a VA or other hospital (a hospital stay could occur more than once in a calendar year) and only for the first 12 days in a calendar year during which the veteran is absent for purposes other than receiving hospital care.'' *See* 74 FR 19433.

In the proposed rule that preceded the addition of § 51.43, we stated that the basis for the 30-day residency requirement was that ''State homes should receive per diem payments to hold beds only for permanent residents and only if the State home would likely fill the bed without such payments. Allowing payments for bed holds only after a veteran has been in a nursing home for at least 30 consecutive days (including overnight stays) appears to be sufficient to establish permanent residency.'' 73 FR 72402. In addition, the 2009 final rule confirmed VA's intent to make the 30-day rule a factor that directly affected eligibility for bed hold payments, stating: ''We believe that 30 days is a minimal amount of time for demonstrating that a veteran intends to be a resident at the State home and that the veteran was not temporarily placed in the State home.'' 74 FR 19429.

VA adopted the 30-day residency requirement as the measure for determining whether a veteran would likely return to a State home after not having stayed there overnight, and in turn whether the State home should receive continued per diem payments in the veteran's absence to hold the veteran's bed. Through application of this requirement, however, VA has come to recognize that duration of residency in a State home is not an accurate predictor of whether a veteran is likely to return to a State home after a temporary absence. For instance, with absences resulting from the veteran's need for hospital care, the veteran's health status while hospitalized is actually what determines whether and when he or she will return to a nursing home level of care at the State home. With absences resulting from non-hospital care reasons, the veteran in almost all instances communicates an intent to return to the State home within a specific period of time, or communicates that he or she will not be returning. With both types of absences, we no longer find that a veteran's period of residency at a State home is determinative as to whether the veteran will likely return to the State home. Therefore, we believe the 30-day residency requirement is unnecessary in ensuring standards of bed hold per diem payments, and propose to remove this requirement from 38 CFR 51.43(c).

Based on our experience in applying § 51.43(c) since 2009, we believe our determination of whether to pay bed hold per diem for veterans who are absent overnight from State homes should be based on whether the veteran's bed would otherwise be taken by another resident. The best predictor of whether a veteran's bed is likely to be taken by another resident during the veteran's absence is the State home's occupancy rate, not the length of time the veteran has resided in the State home. If a State home has sufficient beds to offer new residents so that it need not fill the veteran's bed during the veteran's absence, then per diem payments to hold the veteran's bed are not needed. If the State home does not have a sufficient number of available beds, then per diem payments should be