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Code of Federal Regulations
Subchapter P - Regulations Under the Interstate Commerce Act
18 C.F.R. § § 341-347 (1991)

Part 341 of the Federal Energy Regulatory Commission's Regulations (Commission) contains regulations issued by the Interstate Commerce Commission under the Interstate Commerce Act as amended and transferred to the Commission under authority of section 705(a) of the Department of Energy Organization Act (Public Law 95-91, 91 Stat. 606 (1977), 42 U.S.C. § 7295 (1988)) to govern the construction and filing of tariffs of pipeline companies filing under the Interstate Commerce Act. The regulations in this part also govern the construction and filing of tariffs naming through rates and joint rates over the lines of common carriers by pipeline for the transportation of oil between any place in the United States and any place in a foreign country.

Part 341 contains 63 sections pertaining oil pipeline tariffs. Some of the more important sections involve filing standards; special permission applications; statutory notice; and powers of attorneys and occurrences in special situations.

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[¶ 26,309]

Part 341—Oil Pipeline Tariffs: Pipeline Companies Subject to Section 6 of the Interstate Commerce Act and Carriers Jointly Therewith

Sec.

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AUTHORITY: Department of Energy Organization Act, 42 U.S.C. 7101-7352 (1982); Interstate Commerce Act, 49 U.S.C. 1-27 (1976); E.O. 12009, 3 CFR Part 142 (1978).

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SOURCE: The provisions of Part 341 are contained in 49 F.R. 12898, March 30, 1984, effective October 30, 1984, as per 49 F.R. 38540, October 1, 1984, unless otherwise noted.

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[¶ 26,310]

§ 341.0 General provisions; definitions.

(a) *General application; conformation to rules; reissue.* (1) This part contains regulations issued by the Interstate Commerce Commission under the Interstate Commerce Act, as amended and transferred to the Federal Energy Regulatory Commission under authority of section 705(a) of the Department of Energy Organization Act, as amended, to govern the construction and filing of tariffs of pipeline companies filing under the Interstate Commerce Act. The regulations in this Part shall also govern the construction and filing of tariffs naming through routes and joint rates over the lines of common carriers by pipeline subject to the Interstate Commerce Act, on the one hand, and vessel-operating common carriers by water engaged in the foreign commerce of the United States, as defined in the Shipping Act, 1916, on the other hand, for the transportation of oil between any place in the United States and any place in a foreign country. See § 341.67.

(2) All tariffs filed on or after October 1, 1928, except as otherwise provided in this part or unless otherwise authorized by special permission of the Commission, must conform to the rules in this part. The Commission may direct the reissue of any tariff, power of attorney, or concurrence at any time.

CROSS REFERENCE: For filing tariffs, see § 341.13. For provisions covering statutory notice, additional procedure in filing tariffs, rejection of tariffs or schedules, see § 341.14. For provisions concerning powers of attorney and concurrences, see § § 341.17 to 341.26 inclusive.

(b) *Definitions*—(1) *Local rate.* The term "local rate," as used in this part, is construed to mean a rate that extends over the lines of one carrier only.

(2) *Local tariffs.* "Local tariffs" are those which contain "local rates."

(3) *Joint rate.* The term "joint rate," as used in this part, is construed to mean a rate that extends over the lines of two or more carriers and that is made by arrangement or agreement between such carriers and evidenced by concurrence or power of attorney.

(4) *Joint tariffs.* "Joint tariffs" are those which contain "joint rates."

CROSS REFERENCE: For joint tariffs issued by joint agents see § 341.18(e).

(5) *Through rate.* The term "through rate" is construed to mean the total rate from point of origin to destination. It may be a local rate, a joint rate, or a combination of separately established rates.

[¶ 26,311]

§ 341.1 Form size and arrangement.

(a) All tariffs and supplements thereto must be in book, pamphlet, or loose-leaf form of size 8 to 8½ inches wide and 10½ to 11 inches long, and must be plainly printed on hard calendered or No. 1 machine finished book paper of durable quality using type of size not less than 8-point bold or full face, except as provided in § 341.3(b) as to FERC number and § 341.9(k) as to

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vacation notice and except further that not less than 6-point bold-face type may be used for reference marks, for explanation of reference marks when such explanation appears on the page on which such reference marks appear, and for column headings and other places where only a few words are used continuously. Stereotype, planograph, or other similar durable process may be used, provided the copies posted and filed are clear and legible in all respects. Reproductions by hectograph or similar process, typewritten sheets or proof sheets must not be used for posting or filing. Alterations in writing or erasures must not be made in tariffs filed with the Commission or posted at points.

(b) A margin of not less than five-eighths of an inch without any printing thereon must be allowed at the binding edge of each tariff. When rates or numerals used for other purposes are shown in tables, the page shall be ruled from top to bottom. When not more than three figures or letters, including reference characters, are employed, the columns shall be not less than one-fourth of an inch in width with a correspondingly greater width when more than three figures or letters, including reference characters, are employed. In such tables a break in the printed matter of at least one space across the page or a ruled line shall appear after each sixth line or less.

.01 49 F.R. 44628 (*November 8, 1984*).

.05 *Historical record.*—Section 341.1 originated in 49 F.R. 12908 (3/30/84), effective 10/30/84 as per 49 F.R. 38540 (10/1/84), and was amended in 49 F.R. 44628 (11/8/84), effective 11/1/84, in subsection (a) by removing the words "size 8½ by 11 inches" and adding, in their place, the words "size 8 to 8½ inches wide and 10½ to 11 inches long", and in subsection (b) by removing from the second sentence the words "rate basis numbers," which appeared after the word "rates".

[¶ 26,312]

§ 341.2 Changes to be indicated in tariff or supplement.

(a) *Symbols.* (1) All tariff publications and supplements thereto must indicate changes thereby made in existing rates or charges, rules, regulations or practices, or classifications by use of the following uniform symbols in connection with such changes:

♦ to indicate reductions.

● to denote increases.

▲ to denote changes in wording which result in neither increases nor reductions in charges.

(2) Explanation of such symbols must be provided in the tariff or supplement in which used, and these symbols shall not be used for any other purpose.

(3) When a change of the same character is made in all or in substantially all rates in a tariff or supplement, or a page thereof, that fact and the nature of such change may be indicated in distinctive type at the top of the title page of such issue, or at the top of each page, respectively, in the following manner, "All rates in this issue are increases," or "All rates on this page are reductions except as otherwise provided in connection with the rates." Under this paragraph of the rule a bold-face dot, "●" must be used to

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symbolize a rate in which no change has been made. This symbol must not be used for any other purpose.

(b) *Omissions from previous tariff.* When a tariff or supplement canceling a previous issue omits points of origin or destination, or rates, ratings, rules or regulations, or routes which were contained in such previous issue, the new tariff or supplement shall indicate the cancellation in the manner prescribed in § 341.8(e), and if such omissions effect changes in charges or services that fact shall be indicated by the use of the uniform symbols prescribed in paragraph (a) of this section.

[¶ 26,313]

§ 341.3 Content of tariff title page.

The title page of every tariff and of every supplement shall show in the order named:

(a) [Reserved]

(b) On the upper right-hand corner, the FERC identification, in which each carrier or agent numbers each new issue consecutively. (All tariffs filed after January 1, 1985 must use a FERC identification number.) The type shall be bold-face and of not less than 12 point. Immediately under this number, in smaller type, shall be shown the FERC number of each tariff or the number of each supplement cancelled thereby. If the number of cancelled publications is so large as to render it impracticable to thus enter them on the title page, they must be shown immediately following the table of contents, provided specific reference thereto is entered on the title page directly under the FERC number.

(c) Corporate name of issuing carrier or name of agent issuing under power of attorney. (See § 341.4(b).)

(d) Whether tariff or supplement contains local, joint, proportional, export, or import rates, or any combination of such rates; whether it contains commodity rates; and whether it contains all-pipeline or intermodal pipeline rates, or any combination of such rates.

(e) The territory or points from and to which the tariff or supplement applies, briefly stated by Territories, States, points, or carriers. Where the publication contains both specific and distance or mileage rates, the title-page description must include the application of the distance or mileage rates as well as that of the specific rates. (See § 341.4(d).)

(f)(1) Reference by name and FERC number to the rules tariff, if any, governing the tariff. The following form modified as required shall be used.

Governed, except as otherwise provided herein, by rules and regulations shown in FERC No. ————, by exception thereto, supplements thereto or successive issues thereof.

(2) A tariff is not governed by a rules tariff, except when and to the extent stated on or in the tariff.

(g) Date of issue and date effective. A provision in a tariff or supplement that the same, or any part thereof, will expire with a given date, is not a

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guaranty that the tariff or supplement, or such part of it, will remain effective until and including that date. Such provision, if used, will be held to mean that the tariff or supplement, or specified part of it, will expire with the date named, unless the date is changed on statutory notice, or under authority of special permission of the Commission. In such tariffs or supplements the term "Expires with (date) ————, unless sooner canceled, changed, or extended" must be used. The term "Expires with close of business" on a named date must not be used.

(h) On every tariff or supplement in which all the rates, rules, or regulations are made effective on less than 30 days' notice under authorty of the Commission, notation that it is issued on — days' notice under authority of — (here show the authority).

CROSS REFERENCE: For exceptions to general effective date, see § 341.9(d).

(i) At the bottom of the title page—name, title and mail address of the individual actually responsible for compiling and filing the schedule. If the tariff is issued by a natural person as agent, his name must be shown with the title of "Agent." If issued by a corporation or association as agent, the name and title of the person responsible for the actual compilation and filing must be shown.

.01 Subsections (a)-(e), 49 F.R. 12898 (March 30, 1984); subsection (f), 49 F.R. 44628 (November 8, 1984); subsections (g)-(i), 49 F.R. 12898 (March 30, 1984).

.05 *Historical record.*—Subsection (f), appearing in 49 F.R. 12898 (4/30/84), effective 10/30/84 as per 49 F.R. 38540 (10/1/84), was amended in 49 F.R. 44628 (11/8/84), effective 11/1/84, in paragraph (f)(1), by adding, in the third sentence the words "by exception thereto," following the words "shown in FERC No. ————.".

[¶ 26,314]

§ 341.4 Content of tariffs.

Tariffs shall contain in the order named:

(a) *Table of contents.* A full and complete statement, in alphabetical order, of the exact location where information under general headings, by subjects, will be found, specifying page or item numbers. If a tariff contains so small a volume of matter that its title page or its interior arrangement plainly discloses its contents, the table of contents may be omitted.

(b) *Names of participating carriers.* A list, alphabetically arranged, of the correct names of all carriers participating therein, together with the form and number of power of attorney or certificate of concurrence. If there be not more than 10 participating carriers, their names and power of attorney or concurrence forms and numbers may be shown on the title page. Reference to the forms and numbers of powers of attorney and concurrences may be omitted provided this information is furnished to the Commission in an acceptable form.

CROSS REFERENCE: For provisions concerning powers of attorney and concurrences, see § § 341.17 to 341.26, inclusive.

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(c) *Index of commodities.* (1) A complete index, alphabetically arranged, of all articles upon which commodity rates are named therein, together with reference to each item (or page) where such article is shown. When nouns are not sufficiently distinctive, articles shall also be indexed under their adjectives. All of the entries relating to different kinds or species of the same commodity shall be grouped together. For example, all items of petroleum, "Petroleum," and descriptive word or words following, as "Petroleum, crude," "Petroleum products, butane," etc.

(2) When articles are grouped together in one list under a generic heading as authorized in paragraph (i)(5) of this section, such generic heading shall be shown in the index and opposite thereto shall be shown reference to each item (or page) where the generic term is used. Each article in the list must be shown separately in its proper alphabetical order in the index, together with reference to each item (or page) where such article is shown by name, but reference to the items (or pages) containing rates applying on the complete list may be omitted provided reference is given to the generic heading as it appears in the index or to an item in that tariff which contains a complete list of the articles covered by the generic term or to the FERC number of a separate tariff which contains such list.

(3) If all of the commodity rates to each destination in a general commodity tariff are arranged in alphabetical order by commodities, the index of commodities may be omitted from that tariff.

CROSS REFERENCE: For commodity-list tariffs see § 341.6.

(d) *Index of origins and destinations.* (1) An alphabetical index of all points from which rates apply, and a separate alphabetical index of all points to which rates apply together with the names of the States or Territories in which located, except that when the rates apply in both directions between all or substantially all of the points, the points of origin and destination may be shown in one index. Such index or indexes must contain the item numbers in which rates from or to such points appear, except that when points are arranged in numerical order or when points are alphabetically arranged in commodity items, and such commodity items are referred to in the commodity index prescribed by paragraph (c) of this section, item numbers and page numbers may be omitted from the index of points. When item numbers are not used the index or indexes must contain the index numbers of the points and the pages on which rates from or to such points will be found, except that when the index numbers are arranged in the rate tables in numerical order the page numbers may be omitted from the index. If there be not more than 12 points of origin or 12 points of destination, the name of each, if practicable, may be shown in alphabetical order on the title page of the tariff and the index of such points of origin or destination, as the case may be, may be omitted.

(2) If rates are shown in the tariff by territorial groups, such as "Colorado common points," "Chicago and points taking the same rates," or "Chicago and points taking the same rates and arbitraries or differentials to be added to or deducted therefrom," the indexes of points of origin and destination required by the paragraph (d)(1) of this section must show for

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each point in such groups the pipeline on which it is located and the group to which it is assigned, except that where reference is made to a separate publication for lists of points in such groups, such points may be omitted from the indexes. *Provided,* That (i) there is shown in the table of contents specific reference to the item or page which gives FERC reference to the separate publication, and (ii), if the tariff contains any index of points, there is shown at the head of such index FERC reference to the separate publication.

(3) If points of origin or of destination are shown throughout the tariff of rates, or throughout one or more sections of such tariff, alphabetically by States, and such States are alphabetically arranged, or if points of origin or of destination are shown throughout the tariff of rates in continuous alphabetical order no index of such points of origin or of destination will be required. But when such alphabetical arrangement in the tariff is used, the table of contents must refer to the pages on which points are shown and when arranged by States must give reference to the pages on which rates from or to points in each State will be found.

(4) When the application of a tariff is extended to cover additional points by an intermediate rule as authorized in § 341.27 no index of such points need be shown.

(e) *Public holding out.* (1) Tariffs must contain only rates, charges, and related provisions that cover services in strict conformity with each carrier's public holding out. No provision may be published in tariffs, supplements, or revised pages which results in restricting service to less than the carrier's full obligation to the public to provide and furnish transportation or which exceeds such carrier's lawful public holding out.

(2) [Reserved].

(f) [Reserved].

(g) *Explanatory statements.* Such explanatory statements in clear and explicit terms regarding the rates and rules contained in the tariff as may be necessary to remove all doubt as to their proper application.

(h) *Rules governing the tariffs.* (1) Rules and regulations which govern the tariff, the title of the subject of each rule or regulation to be shown in distinctive type. Under this head all of the rules, regulations, or conditions which in any way affect the rates named in the tariff shall be entered, except as otherwise provided in this part. A special rule affecting a particular item or rate must be specifically referred to in such item or in connection with such rate.

(2) Each rule or regulation should be given a separate number; portions which can be understandingly read without recourse to the whole may be published in separate paragraphs, and such paragraphs be given subnumbers or letters.

(3) Except as provided in § 341.27, no rule or regulation shall be included which in any way or in any terms authorizes substituting for any rate named in the tariff a rate found in any other tariff, nor shall any rule be provided to

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the effect that traffic of any nature will be "taken only by special agreement" or other provision of like import.

(4) Where it is not desirable or practicable to include the governing rules and regulations in the rate tariff, such rules and regulations may be separately published in tariffs filed by an individual carrier or by an agent. A carrier may have not more than two such rules tariffs, one published by an individual carrier and the other by an agent, except as follows: The following tariffs will not be counted in applying the provisions of this section: Tariffs containing exclusively rules, regulations, and/or charges applying to the special services covered by § 341.10(a); tariffs containing rules and regulations governing the transportation of explosive materials and other dangerous substances.

(5) Separate publications may be made of the rules and regulations pertaining to a specific commodity to which reference by FERC number may be made in tariffs that contain rates on that commodity only, provided the general rules published under this section shall also contain a reference as follows:

For rules and regulations applying on—(here name commodity) see FERC No. —.

(6) When rules or regulations are thus separately published, rate tariffs may be made subject thereto only by specific FERC reference in the rate tariff. This reference should be made in substantially the following form:

Governed, except as otherwise provided herein, by rules and regulations shown in —— FERC No. —, supplements thereto or successive issues thereof.

(7) When tariffs of joint rates make reference to separate publications for governing rules and regulations such separate publications must be concurred in by all of the carriers parties to such joint rates.

(8) Tariffs which contain rates for the transportation of explosive materials and other dangerous substances must also contain the hazardous material regulations of the Department of Transportation governing the transportation thereof, must bear specific reference to the FERC number of the publication which contains such rules and regulations. When the latter plan is adopted, the tariff referred to shall contain no matter other than the regulations promulgated by the Department of Transportation.

(i) *Rates.* (1) An explicit statement of the rates, in cents or in dollars and cents, per 100 pounds, per ton, per gallon, per barrel, or other unit, together with the names or designation of the places from and to which they apply, all arranged in a simple and systematic manner. Complicated plans or ambiguous terms must not be used.

(2) Insofar as possible such rates should be subdivided into small sections (by items, index numbers, or similar method) to each of which should be assigned an identifying number to facilitate reference thereto.

(3) If all rates in a tariff are stated in the same unit, that fact may be indicated on the title page immediately in connection with the application of the tariff. Tariffs containing rates per ton must state that rates apply per ton

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of 2,000 pounds or per ton of 2,240 pounds as the case may be. Where rates are stated in amounts per barrel, definite specifications of the barrels on which such rates apply must be shown or reference must be made to the FERC number of a publication containing such specifications.

(4) Minimum volumes governing the application of commodity rates must be specifically stated in immediate conjunction with such rates or shown in such manner as will avoid an extensive search therefor, except as provided in paragraph (i)(5) of this section.

(5) An item of a commodity tariff may provide rates on a group of related products by means of a generic description and without naming the individual products provided such item refers to another item of the same tariff or to another tariff (as authorized by §§ 341.6(a) and 341.10) which contains under an identical generic description a complete list of the products included: for example "Petroleum products as described under that heading in Item ——— of ——— (Tariff) FERC No. ———." Where cross reference is made to a list of commodities on which rates apply (as authorized in the preceding sentence), the minimum volume (or volumes) governing the application of the rates may be omitted from the commodity-rate item and published with the list of commodities to which reference is made, provided the commodity-rate item specifically states that the minimum volume (or volumes) will be found in the list of commodities referred to.

(6) If a carrier (not an agent) publishes, either for itself or jointly with other carriers, a tariff containing only commodity rates on a single commodity or a group of related commodities, it must include therein all commodity rates which it (not an agent) publishes on the same product or products from the same points of origin to the same destination area. If additional commodity rates, local or joint, are published for it by an agent on the same product or products from any of the same points of origin to other points in the same destination area, the individually-published commodity tariff must so state and make reference to the agency tariff in which the additional rates are published.

(7) A general commodity tariff shall contain reference to other tariffs in which rates on other commodities are published from any point of origin to any point of destination named therein via the same route. Such reference shall include the FERC number or numbers of such other tariff or tariffs with a brief description of the character of traffic and territory or points of origin and of destination and may be shown in the index, or in alphabetical order in the rate tables, or in a separate list arranged alphabetically by commodities, such list to be specifically referred to in the table of contents. For example, "Butane, from ——— to ———, ——— FERC No. ———." Carriers' tariff numbers may also be shown. The publication of commodity rates which duplicate or conflict with the rates published in some other tariff via the same route is not permissible and except as otherwise authorized in §§ 341.7, 341.10(g) and 341.27, the publication of a statement in a tariff to the effect that the rates published therein take precedence over the rates published in some other tariff, or that the rates published in some other tariff take precedence over the rates published therein, is hereby prohibited.

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(j) [*Reserved.*]

(k) *Routing.* (1) Routing over which the rates apply, stated in such manner that such routes may be definitely ascertained.

This must be accomplished by one of the following plans: (i) By providing that the rates in the tariff apply only via the routes specifically shown therein, or (ii) by providing that the rates apply via all routes made by use of the pipeline of the carriers parties to the tariff except as otherwise specifically provided in the tariff.

When it is desired to follow the plan listed in paragraph (k)(1)(i) of this section and provide complete routing for all rates shown in the tariff, the following notation must be shown in the tariff under the heading "Routing instructions":

The rates herein apply only via the routes specified on pages (or in items —).

When it is desired to use the plan listed in paragraph (k)(1)(ii) of this section and provide complete routing for some but not all of the rates in the tariff, or incomplete routing for all of the rates, the following notation must be included in the tariff under the heading "Routing Instructions":

The rates herein apply via all routes made by use of the pipeline of any of the carriers parties to this tariff, except as otherwise specifically provided on pages—, in individual rate items, or in connection with individual rates.

The exceptions referred to in the notation shown next preceding may be provided either by showing affirmative routing, viz, a statement of routes (for one or more carriers, for all or a part of the route) together with a definite statement that the rates apply between such points and for account of such carrier or carriers only via the route or routes specified; and/or by showing negative routing, viz, a statement of routes (for one or more carriers, for all or a part of the route) via which the rates do not apply.

NOTE: This section does not authorize departures from the long-and-short-haul provisions of the fourth section of the act.

In lieu of showing in rate tariffs the affirmative routes provided in the plans listed in paragraphs (k)(1)(i) and/or (ii) of this section such affirmative routes may be published in a separate publication (or publications) filed either by a carrier or by an agent, and specific FERC reference must be made in the rate tariff to such guide. Such a separate publication will hereinafter be designated as a "Routing guide," and may be used only in accordance with the provisions of paragraphs (k)(2)(5) of this section.

(2) When in a tariff containing joint rates it is desired to refer to a routing guide or guides for all of the routes, the following notation shall be used:

The rates herein apply only via the routes of the carriers parties to this tariff specified in ——— FERC No. ——, supplements thereto or successive issues thereof.

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When in a tariff containing local rates it is desired to refer to a routing guide for all of the routes, an appropriate modification of the notation shown next above shall be used.

When it is desired to refer to a routing guide or guides for routes in connection with some but not all of the rates in a tariff, or for routes for account of some but not all of the carriers parties to the tariff, an appropriate notation in lieu of those above set forth shall be used. When it is desired to provide that certain rates published in a tariff will not apply via all the routes shown in a routing guide to which the rate tariff is made subject, the rate tariff must show clearly what routes in the routing guide are not applicable, or are the only routes applicable, in connection with such rates. When a tariff which refers to a routing guide also shows routes, it must show clearly whether the routes named therein are in addition to the routes shown in the routing guide or are the only routes via which the rates will apply. No one rate may be made subject to more than one routing guide for account of any initial carrier except that

(i) a subsidiary or small carrier which connects with two or more parent or connecting carriers may authorize each of such parent or connecting carriers to publish its routes via each of such carriers and its joint rates may be made subject to the routing guides of each of such carriers for routes via which rates apply via their respective lines;

(ii) Where complete through routes are shown in connection with joint rates (either in the rate tariff or in a routing guide or guides to which it is subject), such rates may be made subject to the separate routing guides of any of the carriers parties thereto for internal routing over their respective lines.

(3) A routing guide must contain three sections: (i) an alphabetical list of all of the points from and to which routes are provided, with the pipeline location of each point which is served by more than one carrier, together with an index number for each of such points, (ii) a table containing the points from which routes apply, the points to which routes apply (or between which routes apply), and the numbers of the routes provided from and to (or between) such points, and (iii) a table containing all the route numbers in numerical order with a full statement of the route opposite each of such numbers.

A routing guide must be concurred in by all carriers over whose lines routes are provided therein. Such guides must not contain exceptions to the routes provided therein. All exceptions thereto, if any, must be published in the tariffs making reference thereto.

(4) Routing guides must show on their title pages the following notation:

The routes provided herein may be used only in connection with rates made subject thereto by specific FERC reference to this guide in the tariffs containing such rates. Its use in connection with any tariff is restricted to the carriers and to the application provided in such tariff.

(5) If desired, the following tariff provision may be incorporated under the heading "Routing instructions" in rate tariffs:

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The rates named in this tariff will apply only via the routes and junction points authorized herein except that when in the case of capacity shortage (not an embargo), washout, or other similar emergency, or through carriers' error, carriers forward shipments via other junction points of the same carriers or via the pipelines of other carriers parties to the tariff, the rate to apply will be that specified in this tariff but not higher than the rate applicable via the route of movement.

NOTE: If desired, the words "or via the pipelines of other carriers parties to the tariff" may be omitted from the emergency routing clause.

The above clause may not be shown in routing guides. Its publication in a rate tariff does not relieve carriers from the requirements of the fourth section of the act via the route used.

(l) [Reserved.]

(m) *Explanation of abbreviations and reference marks.* (1) At the end of each tariff, except loose-leaf tariffs, there shall appear an Explanation of Abbreviations, followed by an Explanation of Reference Marks. Under the Explanation of Abbreviations shall appear an explanation of all abbreviations used in the tariff, except that commonly used abbreviations of State names may be omitted, and except further that the abbreviations of the names of participating carriers may be explained in the list of such carriers, provided a statement to that effect is included under the Explanation of Abbreviations.

(2) Under the Explanation of Reference Marks shall appear an explanation of all reference marks used in the tariff except reference marks used only once or a few times, which shall be explained on the page or pages of the tariff on which they appear.

(3) The following reference marks shall be used, and shall only be used, for the purposes indicated:

♦ to indicate reductions.

♦ to denote increases.

▲ to denote changes in wording which result in neither increases nor reductions in charges.

• to denote no change in rate. (See § 341.2).

+ to denote intrastate application only.

□ to denote reissued matter. (See § 341.9(b)).

(4) At the end of each supplement there shall likewise appear an Explanation of Abbreviations followed by an Explanation of Reference Marks. Under those headings shall be shown, subject to the exceptions stated in the preceding paragraphs of this section, an explanation of all abbreviations appearing in the supplement which were not explained in the original tariff (if explained in a prior supplement, the explanation shall be repeated); and an explanation of all reference marks appearing in the supplement.

(5) In loose-leaf tariffs an Explanation of Abbreviations followed by an Explanation of Reference Marks as provided for in this rule may be shown immediately following the index of points.

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.01 Subsections (a) and (b), 49 F.R. 12898 (March 30, 1984); subsection (c), 49 F.R. 44628 (November 8, 1984); subsection (d), 49 F.R. 12898 (March 30, 1984); subsection (e), 49 F.R. 44628 (November 8, 1984); subsections (f)-(h), 49 F.R. 12898 (March 30, 1984); subsection (i), 49 F.R. 44628 (November 8, 1984); subsections (j)-(m), 49 F.R. 12898 (March 30, 1984).

.05 *Historical record.*—**Section 341.4 originated in 49 F.R. 12898 (4/30/84), effective 10/30/84 as per 49 F.R. 38540 (10/1/84).**

Subsection (c), appearing in 49 F.R. 12898 (4/30/84), effective 10/30/84 as per 49 F.R. 38540 (10/1/84), was amended in 49 F.R. 44628 (11/8/84), effective 11/1/84, by removing from the first sentence "(i)(8)" and adding, in its place, "(i)(5)".

Subsection (e), appearing in 49 F.R. 12898 4/30/84, effective 10/30/84 as per 49 F.R. 38540 (10/1/84), read as follows until it was amended in 49 F.R. 44628 (11/8/84), effective 11/1/84:

(e) *Public holding out.* (1) Tariffs must contain only rates, charges, and related provisions that cover services in strict conformity with each carrier's public holding out. No provision may be published in tariffs, supplements, or revised pages which results in restricting service to less than the carrier's full obligation to the public to provide and furnish transportation or which exceeds such carrier's lawful public holding out.

(2) Unless each tariff filed on and after the effective date hereof contains a certification by the carrier filing the same that, with respect to all of the services described therein (except those services being published for the first time), it is in fact (i) fully offering and, when requested, impartially providing all of its obligated services, and (ii) fully observing all requirements of law and the regulations prescribed by the Commission, the tariff or supplement will be rejected until such time as certification thereof is made. Such service includes service on c.o.d., freight-collect, and order-notify shipments, including such services on shipments transported under combinations of rates.

Subsection (i), appearing in 49 F.R. 12898 4/30/84, effective 10/30/84 as per 49 F.R. 38540 (10/1/84), was amended in 49 F.R. 44628 (11/8/84), effective 11/1/84, in (i)(3), by removing the word "package" in the third sentence and adding, in its place, the word "barrel" and by removing the word "packages" in the third sentence, and adding, in its place, the word "barrels".

[The next page is 17,033.]

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[¶ 26,315]

§ 341.5 Proportional rates.

Tariffs containing proportional rates must clearly and definitely show the application thereof. If the application is not restricted, such proportional rates will be useable in connection with any other applicable rates from or to the proportional rate point. It will not be permissible for a tariff to state that a proportional rate applies from (or to) points from (or to) which no through rates are published. Such a provision is not sufficiently definite to restrict the application of the rate. If a proportional rate is intended for use on movements destined to a restricted territory such territory should be clearly defined. For example, a tariff naming a proportional rate to St. Louis intended for use on movements destined to Kansas should state that the rates apply on movements destined to Kansas only.

[¶ 26,316]

§ 341.6 Commodity-list tariffs.

(a) A rate tariff may not refer to another rate tariff for a list of commodities on which rates apply. A separate tariff not containing rates may be filed either by a carrier or by an agent, showing under appropriate generic headings lists of commodities which are accorded common treatment for rate or other tariff purposes; and rate and other tariffs may be made subject thereto. When any commodity list consists of less than 20 articles it may not be published in a commodity-list tariff and must be published in the tariff naming the related rates or ratings. The commodities in each list shall be alphabetically arranged. Such tariffs shall be known as general commodity-list tariffs. No carrier or agent may maintain in effect at any time more than one such publication.

(b) In addition to one such general commodity-list tariff, a carrier or agent may file for the same purpose separate tariffs, each containing under an appropriate generic heading a single list of commodities (not less than 20, alphabetically arranged). Such publications shall be known as specific commodity-list tariffs. Rate and other tariffs may be made subject thereto.

(c) The title page of the tariffs authorized in this section shall contain the following: (1) In the case of the general commodity-list tariff, in large type the words "List of commodities upon which rates or other provisions affecting charges are published in tariffs making reference hereto"; and in the case of specific commodity-list tariffs, in large type the words "List of (here insert the generic description of the commodities listed in the tariffs, such as petroleum products) upon which rates or other provisions affecting charges are published in tariffs making reference hereto;" and (2) in smaller type "This tariff is applicable only in connection with tariffs specifically made subject hereto." Rate or other tariffs governed by a commodity-list tariff shall, to the extent they are so governed, employ the same generic descriptions or headings as the commodity-list tariff, followed in each case by the words "as shown in Item —— of ——— FERC No. ———," or language equally definite. Commodity-list tariffs shall contain no other matter than that authorized in this section, except that they may contain minimum volumes as authorized by

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§ 341.4(i) and except further that a specific commodity-list tariff may also contain rules applicable in connection therewith.

(d) All carriers that are parties to a tariff making reference to a general or specific commodity-list tariff must also be parties to the tariff so referred to.

(e) Where a tariff contains commodity rates on a given article (termed in this paragraph the basic article) rates may be provided in the same tariff on one or more related articles either (1) by a statement that the rates for the related articles will be specified amounts more or less than the rates for the basic article between the same points, or (2) by a table showing in adjoining columns what the rate for the related articles will be when the rate for the basic article is a specified amount.

(f) When commodity rates are established, the description of the commodity must be specific and the rates thereon must not be applied to analogous products. As far as possible, uniform commodity descriptions should be used in all tariffs.

[¶ 26,317]

§ 341.7 Alternating rates.

(a) *Alternative rates or ratings subject to different minimum volume or quantity limitations.* Where it is desired to provide for the alternating application of rates or ratings subject to different minimum volume or quantity limitations otherwise than as authorized in paragraph (b) or (c) of this section, the following procedures must be observed:

(i) Alternating commodity rates must be published together, that is, in the same item or on the same page of the tariff.

(ii) Alternating ratings must be published in the same item of the tariff.

(iii) There must be published in the same tariff a note or rule plainly stating, in substance, that where rates or ratings are so published the applicable rate on any given shipment will be that which, subject to the minimum attached thereto, produces the lowest charge.

(b) *Alternative use of rates in sectional tariffs.* (1) Except as authorized or required by paragraph (a) of this section, alternation of rates may be provided by publishing such rates in different sections of a single tariff in the manner herein prescribed. When alternating rates are so provided, carriers and publishing agents shall, at frequent intervals, carefully check the rates in one section against those in other sections and make proper cancellations to avoid unnecessary alternation of rates. Alternating reference obviously should not be given to another section unless that section contains rates which in fact alternate.

(2) The first page of each section, which shall be known as the title page of the section, shall contain the number of the section and, if desired, the application of the rates published in that section. Each succeeding page of the section shall also bear the section number. The title page of each section con-

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taining alternating rates (not the non-alternating section hereinafter referred to) shall also contain the following notation:

If the charge accruing on a given shipment under section ——— or ——— of this tariff is lower than that accruing under this section, the charge accruing under section ——— or ———, whichever is lower, will apply.

(3) Where the purpose is to provide for application of the higher or highest of the alternating rates or charges, rather than the lower or lowest of such charges, the foregoing notation and other notations prescribed in this section shall be appropriately changed.

(4) Each commodity tariff arranged in alternating sections shall also contain a section hereinafter referred to as the non-alternating section. That section shall contain only commodity rates which in all instances result in charges lower than would result from the application of the commodity rates in any other section. If the tariff contains only commodity rates, the non-alternating section shall be section 1. The title page of the non-alternating section shall contain either of the two following notations, as appropriate:

When rates are published in this section on a given shipment, such rates will apply to the exclusion of the rates in any other section

or

When rates are published in this section on a given shipment, such rates will apply to the exclusion of the rates in any other commodity section.

(5) The title page of each other commodity section of the tariff shall contain the following notation preceding that prescribed in paragraph (b)(2) of this section:

When rates are published in section ——— (the non-alternating section) on a given shipment, such rates will apply to the exclusion of the rates in this section.

(6) The publication of alternating rates in different sections of a tariff is subject to the following restrictions: (i) that commodity rates in one section may alternate with commodity rates in not more than two other sections; (ii) that rates published in another tariff may not be reproduced for purposes of alternation; (iii) that one section of a tariff may not alternate with more than three other sections; and (iv) that alternating sections may not be subdivided and, except as authorized in paragraph (a)(1) of this section, a rate in one section may not be alternated with a rate in the same section.

.01 Subsection (a), 49 F.R. 12898 (March 30, 1984); subsection (b), 49 F.R. 44628 (November 8, 1984).

.05 *Historical record.*—Section 341.7 originated in 49 F.R. 12898 (4/30/84), effective 10/30/84 as per 49 F.R. 38540 (10/1/84).

Subsection (b), appearing in 49 F.R. 12898 (4/30/84), effective 10/30/84 as per 49 F.R. 48540 (10/1/84), was amended in 49 F.R. 44628 (11/8/84), effective 11/1/84, in paragraph (b)(1), by removing the words "paragraphs (a) and (c)" and adding, in their place, the words "paragraph (a)".

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[¶ 26,318]

§ 341.8 Transfer and cancellation of rates.

(a) *Transfer of rates from one tariff to another.* (1) If a tariff or supplement to a tariff or a revised page is issued which is to displace a part of another tariff which is in force at the time, and which tariff is not thereby cancelled in full, it shall specifically state the portion of such other tariff or such other supplement which is thereby cancelled, and such other tariff shall at the same time be correspondingly amended, effective on the same date, in the regular way; that is, by reissue if tariff is of four pages or less, by reissue or supplement if tariff is of more than four pages, and by revised pages if tariff is a loose-leaf tariff. (See paragraph (e) of this section and § 341.9(e), (k).) Such reissue, supplement, or revised page must state where rates will thereafter be found and must be filed at the same time and in connection with the tariff or supplement which contains the new rates. Cancellation may be indicated substantially as follows: "cancels ——— FERC No. ———, to the extent shown in supplement No. ——— thereto."

(2) A tariff canceling more than one tariff in whole or in part must include a brief description of such tariffs.

(3) If a tariff is canceled by the issuance of another tariff to take its place, cancellation notice must not be given by supplement, but by notice printed, in the new tariff, as provided in § 341.3(b). (See § 341.2(b).)

(4) Cancellation of a tariff also cancels supplements to such tariff, if any in effect.

(b) *Transfer of rates from carriers' to agents' tariff and from agents' to carriers' tariff.* (1) An agent who acts under authority of power of attorney is fully authorized to act for the principals that have named him their agent and attorney, and therefore, when an agent publishes rates in his tariffs which are to displace the rates in his principals' tariff, the agent must cancel the rates in his principals' tariffs as per paragraph (a) of this section.

(2) A carrier must not publish in its individual tariff rates which are to displace the rates published in a tariff of a duly authorized agent unless the tariff is accompanied by a supplement issued by the agent canceling the rates in his tariff effective on the same date, as per paragraph (a) of this section.

(c) *Concurrence does not confer authority to cancel.* A concurrence does not confer authority upon a carrier to cancel tariffs of the concurring carrier, and tariffs issued under concurrence must not assume to do so. Such cancellations must be made by the carrier which issued the tariff that is to be canceled.

(d) *Cancellation notice must be by supplement.* If a tariff is canceled with the purpose of canceling entirely the rates named therein, or when, through error or omission, a later issue failed to cancel the previous issue and such tariff is canceled for the purpose of prefecting the records, the cancellation notice must not be given a new FERC number, but must be issued as a supplement to the tariff (including loose-leaf tariffs) which it cancels. In the issuance of such supplement the provisions of § 341.9(e) need not be observed.

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(e) *Notice to specify where rates can be found.* When a tariff is canceled in whole or in part by a supplement thereto, the supplement must show where the rates will thereafter be found or what rates will thereafter apply. When a tariff is canceled by another tariff which does not contain all of the rates shown in the tariff to be canceled the canceling tariff must show where rates not shown therein will thereafter be found, or what rates will thereafter apply. For example: "Rates in ——— FERC No. ——— will apply," or "Combination rates will apply." See § 341.2(b).

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(f) *Cancellation by item numbers.* (1) When portions of a tariff (excepting a tariff in loose-leaf form), or of a supplement to a tariff, are designated as items, they must be given numbers and the cancellation of an item by supplement must be made by bringing forward the item number with a capital letter suffix in alphabetical sequence. For example, if Item 445 is to be canceled, it shall be done by one of the following methods:

State the numbers of both the canceling and the canceled item. For example: "Item 445-A cancels Item 445."

Bring forward the item number with letter suffix; for example: "Item 445-A", "Item 445-B". When cancellation under this method is used the following provision is to be published in the general rules section of the tariff proper:

METHOD OF CANCELING ITEMS

As this tariff is supplemented numbered items with letter sufffixes cancel correspondingly numbered items in the original tariff or in a prior supplement. Letter suffixes will be used in alphabetical sequence starting with A. Example: Item 445-A cancels Item 445, and Item 365-B cancels Item 365-A in a prior supplement, which in turn canceled Item 365.

(2) When special circumstances require, appropriate variations of the above methods may be used. For example, if an item is to be republished on the same or an earlier effective date, the following may be used: "Item 40-B cancels Item 40-A and 40."

(3) When due to suspension or other circumstances, a portion of an item is to be canceled or items cannot be canceled in consecutive sequence, the following may be used: "Item 40-B cancels Item 40-A except portions under suspension," or "Item 40-B cancels Item 40-A and completes the cancellation of Item 40."

(4) If an item or any part thereof is transferred to another item of different number in the same tariff, the cancellation must be carried under the original item number and must show in what item or items the effective rates are to be found.

(5) If an item is withdrawn in its entirety, leaving no rates or provisions in effect in that item, the cancellation must be brought forward in subsequent supplements as a reissued item.

(6) If an item in a supplement expires by its own terms, and that supplement is canceled by a subsequent supplement, the item, or more accurately, the item number, must be brought forward in the new supplement, together with a statement reading. "Expired with ——— (date), in Supplement ——— ."

(7) An item once lawfully eliminated by cancellation or expiration may not be reinstated except by republication under a new effective date. Such republication must be under the same item number and must be given the next letter suffix. For example: If the canceling item is 445-B then the newly published item should be numbered 445-C.

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(8) When withdrawing a rule or item designated by an item number the canceled matter need not be reproduced in connection with the item effecting the cancellation except to the extent necessary to identify the item.

[The next page is 17,051.]

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§ 341.9 Amendments and supplements.

(a) *Amendment procedure.* (1) A change in or addition to a tariff shall be known as an amendment, and, excepting amendments to tariffs of less than five pages and amendments to tariffs in loose-leaf form, shall be published in a supplement to the tariff. When an amendment is made in a numbered item or other unit, such item or other unit must be published in a supplement in its entirety as amendment, except that additions, changes, or eliminations in a numbered item or other unit consisting of a list of commodities or a list of points comprising 10 lines or more (measured along the left margin), may be made without publishing such items or units as amended in their entirety, provided that only one such partial amendment of any such item or unit may be in effect at any one time. When rates are published in numbered items, cancellation shall be made as prescribed in § 341.8(f). When rates are published in numbered units other than item numbers, supplements effecting such change must specifically provide for cancellation of previously effective matter by reference to the number of the unit it cancels. When such a change is made in matter published in a supplement in a numbered unit other than an item, the new supplement must also give reference by number to the previous supplement. In those instances where matter is not published in numbered units, the changed provision must be published in the supplement in its entirety and reference must be made to the page or pages of the tariff on which the matter to be canceled is shown. If such matter has been canceled by a previous supplement, specific cancellation must be made of the corresponding matter in the "tariff as amended" and specific reference shall be made by number to page or pages of the previous supplement containing the matter to be changed, and to the page or pages of the original tariff formerly containing such matter corresponding thereto.

(2) The matter contained in each supplement shall be arranged in the same general manner and order as in the tariff which it amends and when points in a tariff are given index numbers the same index number must be assigned to the same point in all supplements to the tariff.

(b) *Cancellation of rates when participating carrier is eliminated.* When a participating carrier is eliminated by supplement or by a revised page of a loose-leaf tariff, the tariff must be amended on the same effective date to provide for the cancellation of rates and other provisions in connection with that carrier. This may be done either by appropriate amendment of the individual items or provisions, or by a notation immediately following the statement that the carrier has been eliminated, reading:

This has the effect of canceling all rates and other provisions published in connection with this carrier in this tariff.

(1) When the notation method is used in a supplement the notation must be brought forward as reissued matter, together with reference to the supplement in which the change first appeared.

(2) When the notation method is used in loose-leaf tariffs, subsequent revised pages containing the list of participating carriers must bear reference

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to such elimination so long as the name of the eliminated carrier appears elsewhere in the tariff, the reference to be shown in the following manner:

_____ (Show name of carrier here)

eliminated as a participating carrier in this tariff and all rates and other provisions published in connection with that carrier canceled effective ———. See ——— Revised Page ———.

(c) *Supplement number and cancellations.* Supplements to a tariff shall be numbered consecutively. Each supplement shall specify on its title page the supplement or supplements or tariff or tariffs which it cancels, and shall also show what supplements contain actual changes from the rates, rules, or regulations in the original tariff. Supplements filed under the authority of paragraphs (i), (j), (k), (m) of this section, and § 341.12(d) and blanket or special supplements that do not change rates, rules or regulations, must be shown separately and the nature of each such supplement must be clearly indicated.

(d) *Effective date; reissued matter.* (1) Every publication which contains rates, rules, or regulations effective upon a date different from the general effective date of such publication must show on its title page the following notation:

"Effective ———, 19—, (except as otherwise provided herein)" or "except as provided in Item—)" or "(except as provided on page—)."

(2) Every publication which consists partly but not wholly of matter established upon less than statutory notice shall show in connection with each change made effective on less than statutory notice a notation that such matter is issued on ——— days' notice under authority of ———, (here give specific reference to the special permission, decision, order, rule, or other authority).

(3) Matter brought forward without change from a tariff which has not been in effect 30 days, also matter brought forward without change from one supplement to another, must be designated "Reissued" in distinctive type and must show the original effective date and the number of the supplement or tariff from which it is reissued; or must be uniformly indicated by the letter T in a square when reissued from another tariff or from a supplement to another tariff and by numerals commencing with 1 in squares when reissued from a prior supplement to the same tariff, printed in distinctive type and shown in a conspicuous manner, and the explanation thereof must be made in the tariff or supplement in which the symbols are used. Examples: "1 Reissued from FERC No. ——— or (Supplement No. ——— to FERC No. ———), effective (date upon which item became effective in former tariff or supplement to another tariff ———, 19—)"; "1 Reissued from Supplement No. 1, effective ———, 19—", and so on numerically, the figures of the symbols always representing the number of the supplement to the same tariff from which the reissued item is brought forward. If items in a tariff or supplement are made effective on dates other than the general effective date shown on the title page, reissue of such items may be indicated in later

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publications by showing a letter suffix or other symbol in connection with, and as a part of, the letter T or the numerals in squares as authorized in this paragraph. When the reissued item became effective in a supplement to another tariff, the FERC number of that tariff must also be given.

(4) The letter T in a square and numerals commencing with 1 in a square shall not be used as reference marks or symbols for any other purpose in any tariff or supplement.

(e) *Amount of supplemental matter; loose-leaf tariffs.* (1) Except as authorized in §§ 341.8(d) paragraphs (i), (j), (k), (m) of this section, 341.11 and 341.12(d) the following is the maximum number of effective supplements permitted to any tariff:

4 pages or less—No supplements.

5 to 16 pages, inclusive—1 supplement.

17 to 80 pages, inclusive—2 supplements.

81 to 200 pages, inclusive—3 supplements.

201 pages or more—4 supplements.

In addition to above, tariffs of 17 pages or more may have one additional supplement not exceeding 4 pages.

(2) Except as authorized in §§ 341.8(d), paragraphs (f), (h), (i), (j), (k), (m) of this section, 341.11 and 341.12(d), tariffs having 5 or more pages may have supplemental matter aggregating not more than 50 percent of the total number of pages in the tariff, except that if the number of pages in the supplement which brings the volume up to that authorized by this rule is not evenly divisible by 4, it may exceed the volume authorized to the extent necessary to bring the number of pages of such supplement to the next multiple of 4. The concluding page or pages of supplements on which appear only explanations of abbreviations and reference marks shall not be counted in applying this paragraph.

(3) The provisions of paragraphs (a), (b) of this section will also apply to tariffs filed prior to October 1, 1928.

(4) Pages of loose-leaf tariffs shall be printed on thin paper of strong texture, on one side only, and must be consecutively numbered and designated as "Original page 1," "Original page 2," etc. Each page must show at the top of the page the name of the issuing carrier, or of the issuing agent (identified as "Agent"). If the issuing agent is a corporation or association, there shall also be shown the full name of the bureau, committee or regional association, if any, under whose auspices the schedule is compiled and filed. It shall also show the page number and the FERC number of the tariff. At the bottom of the page shall be shown the date of issue, the effective date, and the name, title, and mail address of the individual actually responsible for compiling and filing the schedule. If the tariff is issued by an individual agent, his name must be shown with the title of "Agent." If issued by a corporation or association as agent, the name and title of the person responsible for the actual compilation and filing must be shown.

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(5) Changes in and additions to loose-leaf tariffs shall be made by reprinting the page upon which change or addition is made, and such changed page shall be designated as a revised page. For example, "First revised page 1 cancels original page 1," or "Second revised page 2 cancels first revised page 2," etc. When a revised title page is issued the following notation shall be shown in connection with its effective date:

Original tariff effective ———————— (here show effective date of the original tariff)

(6) If on account of expansion of matter on any page it becomes necessary to add an additional page in order to take care of the additional matter, such additional page shall be given the same number with a letter suffix: for example "Original page 4-A," "Original page 4-B," etc. If it is necessary to change matter on original page 4-A it may be done by issuing first revised page 4-A, which shall provide for the cancellation of original page 4-A.

(7) When a revised page is issued which omits rates, rules, or regulations theretofore published on the page which it cancels, and such rates, rules, or regulations are published on another page, the revised page must make specific reference to the page on which the rates, rules, or regulations will be found, and the page to which reference is so made must contain the following notation in connection with such rates, rules, regulations, etc.:

For ———————— (here insert rates, rules, regulations, etc., as case may be) in effect prior to the effective date hereof see page —.

Subsequently revised pages of the same number must omit this notation insofar as this particular matter is concerned.

(8) If after a tariff has been filed with the Commission it is desired to file additional pages, such pages may be subsequently filed to the tariff and numbered beginning with the next successive page number to the last page of the tariff, and must be designated as "Original page —." For example, when the tariff filed has 150 pages, page 151 when filed must not be designated as an "Additional" page but should be designated as "Original page 151." Such a page can be filed only for the purpose of adding new matter which does not change the rates, rules, or regulations then in force on other pages of the tariff.

(9) The page of every loose-leaf tariff next to the title page shall be designated as "Original page 1" and shall be known as a "check sheet." When the original tariff is filed the check sheet must show the number of pages contained in the tariff. For example, "Pages 1 to 150, inclusive, of this tariff are effective as of the date shown." When new pages numbered 151, 152, etc., are added, the above notation must be correspondingly revised to include the added pages. When pages are revised, when new pages (including pages with letter suffix) are added to the tariff, or when supplements are issued the check sheet must be revised accordingly and, in addition to the above notation, shall show under the heading "Original and revised pages as named below and Supplement No. ——— contain all changes from the original tariff that are in effect on the date hereof" in numerical order a list of all original pages that have been added to the tariff and the pages which have been revised, including the revision number. For example:

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Page	Number of revision except as indicated
3	5th
5A	Orig.
10	8th
151	Orig.

(10) Revised check sheets listing the added or revised pages must accompany such pages when forwarded to the Commission for filing.

(11) Changes shall be indicated as required by § 341.2(a). Items which have been in effect 30 days or more need not be shown as reissued items on revised pages but may be republished as effective on 30 days' notice. Items which have not been in effect 30 days when brought forward on revised page must be shown as reissued in the manner prescribed in paragraph (d) of this section.

(12) When protective covers for loose-leaf tariffs are used, only such information should appear thereon as will remain constant and in use during the life of the tariffs.

(13) Supplements shall not be issued to loose-leaf tariffs, except for the purposes authorized by paragraphs (i), (j), and (k) of this section, and § 341.12(d). When all changes made by a supplement to a loose-leaf tariff have been incorporated in the tariff proper by revision of the appropriate pages, the supplement shall be canceled. Such cancellation must be made by the reissue of the check sheet page (page 1) and by adding in the upper right hand corner immediately following the words "cancels revised page 1" the words "also cancels Supplement No. ———."

(f) *Periodical tariffs.* A tariff may provide that it will be reissued periodically, but not less frequently than once a year. Such tariff must carry on its title page the notation:

A reissue of this tariff will become effective not later than ———, 19—.

Supplements may be issued to such tariffs without limit as to volume.

(g) *Index to supplement.* (1) A supplement of 5 or more pages must have an index of the matter which it contains, and a supplement of more than 23 pages must also contain a table of contents. In view of the provision of § 341.8(f) which requires that cancellation of a numbered item must be made under the same item number in a supplement as that given to that item in the tariff, and the requirement of paragraph (a) of this section which provides that the index number assigned to a point in a supplement must be the number assigned to that point in the tariff, the table of contents and indexes in a supplement of five or more pages need not contain therein entries which are shown in the table of contents or indexes in the tariff: *Provided,* That in connection with the index of points of origin (or destination) the following notation shall be shown:

The index numbers of points in this supplement correspond with the index numbers of the same points shown on pages — to —, inclusive, of the tariff, with the following additions and exceptions.

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(2) The table of contents and indexes in such a supplement may be omitted if § 341.4 does not require the tariff, to which the supplement is issued, to contain a table of contents and indexes.

(h) *Supplement to tariff filed not yet effective.* (1) If a tariff is filed on statutory notice cancelling another tariff and after such filing a supplement to the tariff to be so cancelled should be issued effective prior to the general effective date of such new tariff, rates in such supplement could not continue in effect for the 30 days required by law because the cancellation of the former tariff also cancels supplements to it. In such a case, and confined to additions or to changes in rates or provisions which were brought forward in the new tariff without change, the provisions of paragraph (e) of this section need not be observed as to the old tariff, and a supplement making the same changes in or additions to both tariffs may be issued as supplements both to the tariff in effect and to the tariff which will effect cancellation, and be given both FERC numbers. In other words, such issue must be a supplement both to the old and the new tariffs and copies must be posted and filed accordingly. Only one such supplement may be in effect at any time.

(2) Rates or provisions which have been established in an old tariff and reproduced or reissued in a new tariff may be changed upon lawful notice by supplement to the new tariff, effective not earlier than the general effective date of the new tariff, by showing in the following manner in connection with the changed rates or provisions that the rates or provisions changed thereby have been in effect 30 days or more, in the former issue. Example: "Item 40-A cancels item 40. Item 40 effective ———, brought forward without change from Item No. ——— of FERC No. ——— (former issue)." New rates or provisions which do not change rates or provisions in either the old or new tariff may be established upon lawful notice by supplement to the new tariff, effective not earlier than the general effective date of the new tariff, by showing in the following manner, in connection with the new rates or provisions that the rates or provisions previously applicable have been in effect 30 days or more in a former issue, Example: "Addition. Changes commodity rates which became effective ——— in FERC No. ———." Unless the provisions of this paragraph are complied with no supplement to a tariff that is on file and not yet effective may be made effective within 30 days from the effective date of the tariff without special permission.

This section does not waive the requirements of § § 341.14 and 341.54.

CROSS REFERENCE: For additional procedure of statutory notice in filing tariffs, see § 341.13.

(i) *Complete adoption notice.* (1) When the name of a carrier is changed, or when its operating control is transferred to another company the carrier which will thereafter operate the properties shall file and post an adoption notice, numbered in its FERC series, reading as follows:

The ——— (corporate name of adopting carrier) hereby adopts, ratifies, and makes its own, in every respect as if the same had been originally filed and posted by it, all tariffs, rules, notices, concurrences, movements, agreements, divisions, authorities, powers of attorney, or other instruments

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whatsoever, including supplements or amendments thereto, filed with the Federal Energy Regulatory Commission by or heretofore adopted by, the ——— (corporate name of old company) prior to ——— (date).

(2) In addition to the above adoption notice the new carrier shall immediately file a consecutively numbered supplement to each of the tariffs covered by the adoption notice, reading as follows:

Effective ——— (here insert date shown in the adoption notice) this tariff, or as amended, because the tariff of the ——— (corporate name of new carrier) as per its adoption notice FERC No. ———.

(3) Such supplements issued under authority of this section must contain no other matter, must bear reference to this section and may be issued without regard to the provisions of paragraph (e) of this section.

(4) Succeeding supplements to such tariffs filed by the adopting carrier must be numbered consecutively following the number of the adoption supplement. New tariffs reissuing or succeeding such tariffs shall be numbered in the FERC series of the adopting carrier. When adopted tariffs are canceled by new tariffs of the adopting carrier, the cancellation reference must describe the canceled tariff by using the name or initials of the former issuing carrier.

(5) Tariffs issued by other carriers or agents in which the pipeline absorbed, taken over, operated by another carrier, or whose name is changed, is named as a participating carrier, shall be amended on statutory notice, to eliminate the name of the old carrier and to show the name of the new carrier by the first subsequent supplement. Such supplement shall also contain the following provision:

The ——— (corporate name of adopting carrier) by its adoption notice FERC No. ——— having taken over tariffs, etc., of the ——— (corporate name of old carrier) the ——— (corporate name of adopting carrier) is hereby substituted for the ——— (corporate name of old carrier) wherever it appears in this tariff.

(6) A similar adoption notice must immediately be filed by a receiver when he assumes possession and control of a carrier's lines. The adoption notice bears a FERC number and it must be consecutively numbered in the FERC series of the adopted carrier. When the receivership is terminated, the carrier taking over the properties shall file an adoption notice and shall also file supplements as hereinabove prescribed if a change in the name of the carrier has been made.

(7) Notices of adoption should be filed with the Commission immediately, and if possible, on or before the date shown therein. Copies must be sent to each agent or carrier to which power of attorney or concurrence has been given. The notice must refer to this section and its effective date must be the date (as shown in body of notice) on which the change in name of operation occurs. If prior approval of such change is necessary, reference must also be made to the order of the Commission.

(8) Concurrences and powers of attorney adopted by a carrier or a receiver must within 120 days be replaced and superseded by new concur-

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rences and powers of attorney issued by and numbered in the series of the new carrier or receiver except that if desired the receiver may number concurrences and powers of attorney in the old series. The cancellation reference to the former concurrence or power of attorney must include name or initials of the former issuing carrier. Concurrences and powers of attorney which will not be replaced by new issues must be regularly revoked on the notice and in the manner prescribed in § 341.26(b).

(9) If a carrier ceases operation without having a successor, its tariffs, concurrences, and powers of attorney must be regularly canceled on statutory notice, unless otherwise specifically provided by order of the Commission and when canceled on less than statutory notice the cancellation notice must show that cancellation is made on account of discontinuance of operation and must refer to the authority of the Commission permitting such discontinuance.

CROSS REFERENCE: For provisions concerning powers of attorney and concurrences, see § § 341.18 to 341.26, inclusive.

(j) *Partial adoption notice.* (1) When the operating control of only a part of a carrier's properties is transferred to another company, the carrier which will thereafter operate the properties shall file and post an adoption notice, numbered in its FERC series, reading as follows:

The _____ (corporate name of adopting carrier) hereby adopts, ratifies, and makes its own, in every respect as if the same had been originally filed and posted by it, all freight tariffs, rules, notices, concurrences, movements, agreements, divisions, authorities, powers of attorney, or other instruments whatsoever, including supplements or amendments thereto, filed with the Federal Energy Regulatory Commission by the _____ (corporate name of old carrier) prior to _____ (date) in so far as said instruments apply from, to, at, or via the following points _____ (naming them).

(2) If, on the transferred portion, there is a junction point which will remain a point on the old line as well as being established as a point on the new line, a note or reference mark may be provided in connection with the name of such point and explained substantially as follows:

This adoption notice does not have the effect of eliminating _____ as a point on _____ (corporate name of old carrier), but has the effect of establishing said point also as a point on _____ (corporate name of adopting carrier).

(3) In addition to the adoption notice in paragraph (j)(2) of this section the old carrier shall immediately file, under proper concurrence from the adopting carrier, a supplement to each of the tariffs covered by the adoption notice reading as follows:

Effective _____ (here insert date shown in the adoption notice), this tariff or as amended, in so far as it contains rates, rules, and/or regulations applying from, to, at, or via the following points _____ (naming them), became the tariff of the _____ (corporate name of adopting carrier as per adoption notice FERC No. _____ of _____ (corporate name of adopting carrier).

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(4) Such supplements must contain no other matter, must bear reference to this section, and may be issued without regard to the provisions of paragraph (e) of this section.

(5) Rates applying locally between points on the transferred portion shall as quickly as possible be transferred to tariffs of the adopting carrier. In all instances where rates are transferred from tariffs of the old carrier to tariffs of the adopting carrier, the adopting carrier shall establish the rates in its tariffs and the old carrier shall cancel the corresponding rates from its tariffs effective on the same date with a reference to the FERC number of the adopting carrier for rates applying thereafter.

(6) Tariffs issued by other carriers or agents, in which the pipeline absorbed, taken over, or operated in part by another carrier is named as a participating carrier, shall be amended on statutory notice, to add the new carrier as a participating carrier by the first subsequent supplement. Such supplement shall also contain the following provision:

The ——— (corporate name of adopting carrier) by its adoption notice FERC No. ———, having taken over tariffs etc., of the ——— (corporate name of old carrier) in so far as they contain rate charges, rules, or regulations applying from, to, at, or via the following points ——— (naming them), the ——— (corporate name of adopting carrier) is hereby substituted for the ——— (corporate name of old carrier) wherever the latter appears in this tariff in connection with said points and rates.

(7) Similar adoption notice numbered in the FERC series of the carrier must immediately be filed by a receiver when he assumes possession and control of part of a carrier's lines. When the receivership is terminated, the carrier taking over the properties shall file an adoption notice and shall also file supplements as prescribed in this section if a change in the name of the carrier has been made.

(8) Notices of adoption should be filed with the Commission immediately, and if possible, on or before the date shown therein. Copies must be sent to each agent or carrier to which power of attorney or concurrence has been given. The notice must refer to this rule and its effective date must be the date (as shown in body of notice) on which the change in name or operation occurs. If prior approval of such change is necessary, reference must also be made to the order of the Commission.

(k) *Suspension of tariff schedules.* (1) Upon receipt of an order suspending any tariff or portion thereof, the carrier or agent who filed such tariff shall immediately file with the Commission a supplement, not bearing an effective date, which shall contain a reproduction of the pertinent portions of the Commissioner's order of suspension (including the paragraph prohibiting changes in the suspended matter), followed by a statement that by reason of the Commission's order (i) the use and application of the suspended publication or portions thereof (which must be identified with certainty) is either indefinitely deferred or deferred for the period prescribed in the Commission's suspension order and (ii) the schedules which were to be changed by the suspended publication (which schedules must also be

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identified with certainty) will remain in effect and will not be changed so long as effectiveness of the suspended matter is deferred (if deferred only for the term of the Commission's order, the date must be specified), except by order or special permission of the Commission.

(2) If the responsible carrier or publishing agent has elected to file a supplement deferring the suspended matter only for the period prescribed by the Commission's order, and if prior to the expiration of that order, the Commission formally or informally requests that a further deferment be made, the carrier or publishing agent may, under the authority of this section, issue a supplement effecting such further deferment. Where suspended matter has previously been deferred under the authority of this section, the carrier or publishing agent may, when requested by the Commission and prior to the date to which the matter is postponed, issue a supplement under the authority of this section, further postponing the effective date of the matter originally suspended. Supplements issued should be filed on statutory notice if practicable, and otherwise on shorter notice, but the notice shall be as long as time will reasonably permit and in no event less than one day. Where the effectiveness of matter originally suspended by the Commission has been voluntarily postponed beyond the term of the Commission's order, no change during the period of such voluntary postponement may be made in the tariff matter which was originally held in force by the Commission's suspension order, except by order or special permission of the Commission.

(3) Where, following the entry of a report and order in an investigation and suspension proceeding, a further order is entered in such proceeding postponing the effective date or requirement of the original order, the carrier or publishing agent, under authority of this section, may issue a supplement effecting such further deferment of the suspended schedule, and may also issue a supplement to announce postponement of the effective date of a cancellation or vacation supplement or notice filed following the entry of such report and order, to and including a date immediately preceding the effective date fixed in the further order effecting the postponement. Further, where pursuant to the provisions of section 17(8) of the Interstate Commerce Act, the filing of an application for rehearing, reargument, or reconsideration stays the order fixing the effective date of a requirement or other action in an investigation and suspension proceeding, as evidenced by notice of the Commission to the parties, the carrier or publishing agent, under authority of this section, may issue a supplement effecting further deferment of the schedule under suspension or under voluntary postponement, and may also issue a supplement to announce postponement of the effective date of a cancellation or vacation supplement or notice that was filed following the entry of the report and order in such investigation and suspension proceeding. (Postponement should be to the last day of the suspension period prescribed in the suspension order, except where the responsible carrier or publishing agent elects to defer the use of the suspended schedule beyond the statutory period of suspension, in which event postponement should be until the date upon which the supplement announcing such postponement is canceled.) Supplements issued should be filed on statutory notice if practicable, and

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otherwise on shorter notice, but the notice shall be as long as time will reasonably permit and in no event less than one day.

(4) When the Commission has suspended a supplement in whole or in part, it sometimes occurs that prior to the filing of the supplement announcing suspension, a later supplement has been filed which purports to reissue the suspended matter. In such instances the suspension supplement required by this section shall also (i) specifically cancel from the later supplement such reissued matter, and (ii) amend the cancellation notice on the title page of said supplement so as to except the suspended matter from the cancellation. Tardiness in filing supplements announcing suspension may result in the rejection by the Commission of the supplement which cancels the suspended matter.

(5) When the Commission suspends an entire tariff, the previous tariff and effective supplements are continued in effect and will remain in force during the period of suspension or until lawfully canceled or reissued. Except as to loose-leaf tariffs and tariffs of less than five pages, supplements containing additions and/or changes in rates or other provisions which were not sought to be changed by the suspended tariff may be filed to the previous tariff without regard to the volume of supplemental matter which the effective supplements in the aggregate may contain. If the volume of supplemental matter permitted by paragraph (e) of this section has been exceeded under authority of this paragraph, and the Commission orders the cancellation of the suspended tariff, the volume of supplemental matter must be brought within the requirements of paragraph (e) of this section by schedule filed within 90 days, or such tariff must be reissued in accordance with the following: If consisting of less than 100 pages, by schedule filed within 90 days, and if consisting of 100 or more pages, by schedule filed within 120 days, from date upon which the suspended tariff is canceled.

(6) When the Commission suspends an entire supplement, the supplement will not be counted in the number of supplements nor in the volume of supplemental matter permitted by paragraph (e) of this section; nor in the event of suspension of a portion of a supplement will that supplement be so counted after all matter therein except the suspended portions has been reissued in or canceled by a subsequent supplement. Such subsequent supplement shall cancel the supplement containing the suspended matter "except portions under suspension in Docket No. IS _____, viz, (identifying the portion by item and page number)."

(7) When a tariff (not a supplement), any portion of which is under suspension, is canceled, the new tariff may either (i) cancel the previous tariff "except portions under suspension in Docket No. IS _____, viz. (identifying the suspended matter and the matter held in force by the suspension order by item and page number)." or (ii) cancel the previous tariff entirely and bring forward without change the matter held in force by the order of suspension, followed immediately by the matter under suspension. The matter held in force by the order of suspension must be identified as such and shown as expiring with the date to which the suspended matter has been postponed. The suspended matter immediately following must likewise be identified as

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such and shown as effective on the day following the expiration of the matter held in force by the order of suspension.

(8) When an order of suspension relates to a portion of a new tariff or a supplement thereto, intended to supersede completely a readily identifiable item (or other unit) in the prior tariff, such matter as is continued in effect by the order of suspension may be published (see Note following paragraph (k)(9) of this section) in the supplement announcing suspension. When so published the following notation must be provided in connection therewith, either as a note or in the form of a reference mark:

The matter subject to this (note or reference mark as the case may be) is reissued from tariff FERC _____ and is continued in effect by the terms of the order of suspension in Docket No. IS _____, and unless it is sooner canceled, changed, or extended, will expire with _____. (The date to be shown will be the date to which the suspended matter has been postponed.)

(9) When an order suspends a particular rate or rates or a portion of matter in an item (or other unit) in a new tariff and the matter remaining in effect in a prior tariff thereby becomes an integral part of such item (or other unit) of the new tariff, the entire item (or other unit) of the new tariff may be republished in the supplement announcing the suspension, provided there is shown in such item (or other unit), (i) the matter continued in effect by reason of the order of suspension, (ii) the suspended matter, and (iii) all other provisions of the item (or other unit) without change and appropriately indicated as reissued from the new tariff (see Note following this paragraph). The matter held in force by the order of suspension must be identified as such and shown as expiring with the date to which the suspended matter has been postponed. The suspended matter immediately following must likewise be identified as such and shown as effective on the day following the expiration of the matter held in force by the order of suspension. When the effective date of suspended matter has been indefinitely postponed that fact must be stated by appropriate language.

NOTE: The form of publication permitted by the two paragraphs preceding may be used only when it permits complete cancellation of the tariff containing the matter continued in effect by the order of suspension. It may not be used in loose-leaf tariffs nor where the application of matter continued in effect depends in whole or in part upon other provisions, such as point grouping, rate bases, rules or regulations, which differ from those in the new tariff and which cannot be brought forward in the supplement announcing suspension.

(10) When a revised (not an original) loose-leaf page, a portion of which is under suspension, is reissued, the new revised page shall (i) include the matter continued in effect by reason of the order of suspension, (ii) cancel the page previously containing such matter, and (iii) cancel the loose-leaf page containing the suspended matter "except portions under suspension in Docket No. IS _____, viz. (identifying the suspended portion by item and page number)."

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(11) Neither a suspended tariff provision nor a provision held in force by reason of an order of suspension may be changed or canceled except by order or permission of the Commission.

(12) When the Commission vacates an order of suspension, or when suspended matter has been voluntarily postponed beyond the term of the Commission's order, and the Commission finds the suspended matter justified, a supplement may be filed making the suspended or postponed matter effective on one day's notice unless the Commission directs otherwise.

(13) When an order which suspended a tariff in its entirety is vacated and/or the Commission formally finds that the suspended tariff is justified, the vacating supplement filed under authority of this section may also include as reissues any changes or additions which in the interim have been made in the tariff which was held in force by the order of suspension. If by special permission a new tariff has been filed during the period of suspension, canceling the tariff proposed to be canceled by the suspended tariff, any changes or additions published in the new tariff which are not included in the suspended tariff may likewise be included in the vacating supplement as reissued items, but in such cases the vacating supplement must also cancel the new tariff. No other matter may be included in vacating supplements. When reissued matter is published in a vacating supplement, the vacation notice must be printed in not less than 10-point type, either on the title page or immediately preceding the particular tariff matter to which the notice applies.

(14) When a tariff has been canceled except portions under suspension by a new tariff and the Commission vacates its suspension order and/or formally finds the suspended matter justified after the new tariff has become effective, a supplement may be filed to the new tariff on not less than one day's notice (unless the Commission directs otherwise), republishing and establishing the suspended matter and canceling the matter which was effective during the period of suspension, together with the matter under suspension in the former issue. When the Commission vacates its suspension order and/or formally finds the suspended matter justified before the new tariff becomes effective, a vacating supplement as provided in this section should be filed to the old tariff, and a supplement should also be filed to the new tariff on not less than one day's notice (unless the Commission directs otherwise), establishing therein the matter which was under suspension in the old tariff. A supplement common to both tariffs as authorized by paragraph (h) of this section may be issued for this purpose.

(15) When the Commission suspends matter in a tariff or a supplement thereto and thereafter orders its cancellation, the cancellation shall become effective upon not less than one day's notice (unless the Commission directs otherwise), by supplement to or reissue of the tariff. When the Commission orders suspended matter canceled and the final date for compliance is subsequent to the date to which the matter has been postponed, carriers should endeavor to make the cancellation in time to prevent the rates or other provisions which have been found not justified from becoming effective. If this is not done and the suspended matter becomes temporarily effective, it is

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necessary when cancellation is effected to republish and reestablish the matter which was continued in force by reason of the order of suspension.

(16) Every suspension, vacation, and cancellation supplement issued under authority of this section must bear on its title page the following notation:

Issued under authority of 18 C.F.R. § 341.9(k) and in compliance with order of the Federal Energy Regulatory Commission in Docket No. _____ of (date).

Postponement supplements issued under authority of this section must show on the title page:

Issued upon _____ day's notice under authority of 18 C.F.R. § 341.9(k).

(17) Supplements issued under authority of this section will not be counted in the number of effective supplements, or the volume of supplemental matter, permitted under paragraph (e) of this section, but must be listed among the effective supplements as required by paragraph (c) of this section.

(18) The provisions of this section relating to suspension, postponement, vacation, and cancellation supplements will also govern in connection with tariffs issued in loose-leaf form, except that such supplements must not contain any other matter. All changes made in loose-leaf tariffs must be published on revised pages. (See paragraph (e) of this section.)

(l) [Reserved]

(m) *Additional supplement to establish rates under rule or order of Commission.* Except as to loose-leaf tariffs and tariffs of less than five pages, one additional supplement may be issued to any tariff without regard to the requirements of paragraph (e) of this section for the purpose of establishing rates or other provisions in compliance with an order or formal decision of the Commission and/or to establish rates under authority of § 341.56 or § 341.57. The next regular supplement filed must bring the number of effective supplements within the requirements of paragraph (e) of this section. Only one such supplement may be in effect at any time and, except as provided in § 341.14(f), may contain no other matter. It must be designated on its title page as "Issued under authority of 18 C.F.R. § 341.9(m)."

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[¶ 26,320]

§ 341.10 Terminal and special services; distance and mileage rates.

(a) *Terminal and special services.* Each carrier or its agent shall publish, post, and file tariffs which shall contain in clear, plain, and specific form and terms all the rules governing and rates and charges for demurrage, lighterage, wharfage, and other terminal services, storage transfer, weighing, diversion, reconsignment, heat, elevation, odorization, coloration, filtration, loading and unloading, gathering, terminalling, in-line transfers, storage, batching, blending, commingling, etc., and other transit services, absorptions, allowances, and all other charges and rules which in any way increase or decrease the amount to be paid on any shipment, or which increase or decrease the value of the service to the shipper. Tariffs authorizing such services, or providing charges therefor or for the absorption of such charges, must clearly show their application in connection with volume moving under any quantity rates.

(b) *Method of publication.* Subject to the provisions of paragraphs (c), (f) of this section the application of the several services and/or the charges covered by paragraph (a) of this section in connection with line-haul rates lawfully on file with the Commission must be provided for in one of the three following ways:

(1) By including in the tariff which contains the rate upon which charges are finally to be assessed the specific authority for the extra service, the rules or regulations under which such extra service is to be performed, and the charge, if any, therefor; (2) by specific reference, in the tariff which contains the rate upon which charges are finally to be assessed, to the FERC number of a separate publication containing the authority for such service and the charge, if any, therefor; or (3) by including in the tariff which contains the rate upon which charges are finally to be assessed a clause providing that shipments made under the rates contained therein are entitled to the following services (here name specifically the services which will be permitted in connection with such rate (tariff)) and are subject to the charges therefor if any, of participating carriers performing the services "as per tariffs lawfully on file with the Federal Energy Regulatory Commission."

(c) *Intermediate transfer.* A joint through rate from a point on the line of one carrier to a point on the line of another carrier includes transfer services at intermediate interchange points, and no part of such charges may be added to the joint rate on shipments handled through and not stopped for special services at such intermediate interchange points. Carriers performing intermediate transfer services in connection with joint rates should be shown as participating carriers in the joint rate; but if this is not done, the carrier performing the transfer service must have on file with the Commission a tariff naming its charges for the intermediate transfer service and the line-haul carriers parties to the joint rate must file tariffs providing for the payment of all such charges to the transferring line.

All tariffs containing joint rates must contain the following provision:

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The joint rates published herein include all charges for transfer services at intermediate interchange points on shipments handled through and not stopped for special services at such intermediate interchange points.

(d) *Transfer changes.* (1) Any carrier performing a transfer or terminal service, even though its line be located wholly within one state, must publish, post, and file in accordance with the law and the Commission's regulations a tariff containing its transfer charges upon or for movements on interstate shipments, and this must be done regardless of absorption provisions published in connecting lines' tariffs. Such transfer tariff must name the points at which shipments will be received or delivered within the transfer limits, or must clearly define such limits.

(2) all of the transfer charges of a carrier must be published in one tariff except as indicated in (d)(2)(i), (ii), and (iii) of this section.

(i) When a carrier divides its line and publishes separate FERC series of tariffs for the different portions thereof, separate tariffs of transfer charges must be published for each.

(ii) When a carrier publishes a separate FERC series to provide rates and charges on a single commodity or group of commodities, for example, gasoline and diesel it may publish a separate tariff covering all of its switching charges on that commodity or group of commodities.

(iii) Carriers may publish separate tariffs of transfer charges applicable at important points on their lines. Provided, That such points are indexed in the general transfer tariff and reference is made therein to the FERC number of the separate tariffs published for such points.

(3) Provisions, if any, for the absorption of connecting-line transfer charges may be included in the tariff of rates or in the transfer tariffs described in this section, or such provisions must be included in a single separate publication or in a single separate publication in each FERC series of tariffs. (See paragraph (f) of this section.)

(4) Nothing in this section shall be construed as prohibiting two or more carriers employing a joint agent for the publication of a consolidated transfer tariff at a particular point, which tariff must contain all of the transfer charges and absorption provisions of the carriers parties to the tariff at that point. In such cases the general transfer tariff (or tariffs) of each carrier must index the point covered by the joint agency publication and must show reference by FERC number to the joint agency publication.

(e) *Transfer and other terminal charges added to rate.* A carrier's charges for transfer or other terminal services (except as otherwise provided in paragraph (c) of this section) must be added to the line-haul tariff charges unless such transfer charges are absorbed, in whole or in part, in the manner provided by paragraph (f) of this section.

(f) *Transfer charges absorbed.* Line-haul carriers may absorb charges for transfer or other terminal services performed at point of origin, point of destination, or (except as otherwise provided in paragraph (c) of this section) at an intermediate point, provided, the line-haul carriers publish and file a

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tariff which shows that such transferring charges as published in tariffs of the transferring carrier (naming it) lawfully on file with the Federal Energy Regulatory Commission will be absorbed in their entirety. Line-haul carriers may also absorb transfer charges in part or in a specified amount. In such cases the tariff containing the absorption provision shall state that such charges are published in tariffs of the transferring carrier (naming it) lawfully on file with the Federal Energy Regulatory Commission and shall also state that charges not absorbed will be in addition to the line-haul rate.

(g) *Distance rates may be used when no other rates provided.* (1) A carrier or an agent acting for two or more carriers may file tariffs containing distance or mileage commodity rates. Except as otherwise provided in §§ 341.7 and 341.27, distance or mileage commodity rates may be used only when no specific through commodity rates from and to the same points are provided. Except as otherwise provided in §§ 341.7 and 341.27, distance or mileage commodity rates will apply.

(2) Tariffs containing distance or mileage rates must clearly and definitely show the application of the rates, must contain an alphabetical list of points between which the rates apply and must also show in proper arrangement the specific distances between such points, or may make reference by FERC number to a separate tariff for such list of points and distances. (See paragraph (h) of this section.)

(3) Each tariff that contains only distance or mileage commodity rates must bear on its title page the following rule:

The distance or mileage commodity rates shown herein may be used only when no specific through commodity rates from and to the same points have been provided on the same shipment.

(4) If distance or mileage rates without alternative application are published in a tariff which also contains specific rates, the notation for commodity rates prescribed by this paragraph must be shown immediately in connection with such distance or mileage rates.

(5) If distance or mileage rates have alternative application, the notations prescribed in this paragraph must be qualified by the prefatory words, "Except to the extent alternative application of rates is provided."

[Reserved].

.01 49 F.R. 12898 (March 30, 1984).

.05 *Historical record.*—Section 341.10 originated in 49 F.R. 12898 (4/30/84), effective 10/30/84 as per 49 F.R. 38540 (10/1/84).

Subsection (h), appearing in 49 F.R. 12898 (4/30/84), effective 10/30/84 as per 49 F.R. 38540 (10/1/84), read as follows until it was deleted in 49 F.R. 44628 (11/8/84), effective 11/1/84:

(h) *Distance or mileage tables.* (1) Each carrier must publish, post, and file, individually or through an agent, a tariff containing a list of its points and the shortest distances via its line between such points arranged in one of the three following ways:

(i) Showing the distance from each point to each point.

(ii) Showing the distance from each point to each junction point with a branch of its own pipeline and to each junction point with another pipeline.

(iii) Showing the distance from each junction point on its line, either with a branch of its own pipeline or with another pipeline to each other such junction point, and the distance from each local point to the nearest junction point in each direction.

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(2) Each of such tariffs must also clearly indicate which of the points are junction points at which it is possible to interchange volume without transfer of lading and must name the connecting carriers at each such junction with which such transfer is possible.

(3) Where carriers participate in joint distance or mileage rates they must on or before May 5, 1930 either (i) publish in the tariff containing such joint distance or mileage rates or in a separate publication filed by an agent, an alphabetical list of all points between which such distance or mileage rates apply and the distances from each of such points to every other point, indicating in an appropriate manner which of such points are junction points at which it is possible to interchange carload traffic without transfer of lading, and naming the connecting carriers at each such junction point with which such transfer is possible or (ii) file through an agent a separate joint publication which shall contain an alphabetical list of all the junction points on their respective lines at which it is possible to interchange volume without transfer of lading in the area embraced by the application of such joint distance or mileage rates, together with the names of the connecting carriers at each junction point with which such transfer is possible, and the distance from each such junction to each other such junction point; and they must in the tariffs containing such joint distance or mileage rates give reference by FERC number to such separate joint publication. The latter must also contain the distance from each local point to the nearest junction point in each direction, or the tariff containing the joint distance or mileage rates must also refer by FERC number to the tariff or tariffs of each carrier containing the distances between points on its line and such junction points.

NOTE: It is not intended by the preceding paragraph to require carriers to have one separate publication for each rate tariff containing joint distance or mileage rates but all the distances over which joint rates in which such carrier participates may be included in one publication.

[¶ 26,321]

§ 341.11 Index of tariffs.

(a) Each carrier shall publish as a tariff, under FERC number, a complete index of all effective tariffs to which it is a party either as initial or delivering carrier. Such index shall be arranged in sections as indicated below, and shall show as to each tariff: (1) FERC number, (2) full or abbreviated name of issuing carrier, tariff publishing bureau, or agent, (3) type of tariff or description of the traffic upon which it applies, (4) where tariff applies from, (5) where tariff applies to, and (6) whether tariff contains other than all-pipeline rates. The information required by items (3), (4), and (5) shall be stated in sufficient detail to show clearly the application of the tariff. Additionally, the index may show as to each tariff the carrier's own number, the index number, and the issuing carrier's (or agent's or tariff publishing bureau's) number.

First section: A list of all tariffs as to which the carrier is an initial carrier, entered in the following order: Specific commodity tariffs, general commodity tariffs, and miscellaneous schedules such as rules and regulations,

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loading/unloading, transfers, etc. Specific commodity tariffs shall be entered alphabetically under the names of commodities or principal commodities. Tariffs applying to different groups of the same commodity shall be grouped together; for example, "Petroleum, crude, Petroleum, product" etc. Each group of specific commodity tariffs and tariffs grouped under the respective heads of general commodity tariffs shall be entered by alphabetical arrangement of the points or territory from or to which they apply, in either the "From" or "To" column. Miscellaneous schedules shall be entered in alphabetical order.

Second section: A list of all tariffs under which the carrier is a delivering carrier arranged alphabetically by names of issuing carriers or agents, with the items arranged by commodities under each of such carriers or agents, as prescribed for the first section. If carrier so desires, lists of tariffs under which it is an intermediate carrier may be included in this section provided those tariffs under which it is a delivering carrier or an intermediate carrier or both are indicated.

Third section: A complete list of the numbers of effective tariffs of its own FERC series arranged in numerical order.

(b) Supplements to tariffs should not be included in indexes. Where supplements have the effect of changing the application of the original tariff, the descriptions of such tariff in the index should be amended accordingly. If carriers so desire, lists of their intrastate tariffs, official tariffs, etc., may appear in this publication. In connection with intrastate tariffs which do not bear FERC numbers the reference mark prescribed in § 341.4(m) must be used with explanation "Rates in this tariff do not apply on interstate shipments." All intrastate tariffs which bear FERC numbers must be properly shown in the index.

(c) A group of family lines may unite in the publication and filing by a connecting trunk line of a joint index of the tariffs of such family lines, provided the application of the tariffs as to each line is plainly indicated and such lines are shown as parties to the joint index under concurrence.

(d) The index must be kept current by supplements which need not be issued more frequently than quarterly. The index must be reissued every four years. Supplements must be numbered consecutively, must be constructed in accordance with specifications for the index itself and must show additions, changes and cancellations made in index itself or in prior supplements, by reference to the page or index number of the entry changed or canceled. Supplements may be issued without regard to volume of supplemental matter permitted by § 341.9(e), but not more than five supplements may be in effect at any time.

(e) Each index must bear on its title page these notations: "This index contains list of tariffs in effect on (date of issue of index)" to which in proper circumstances may be added "or which have been filed to become effective at a later date as shown within"; also "This index will be reissued on or before _____ 19__, and all changes will be reflected in supplements issued quarterly."

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(f) Each supplement to an index must bear on its title page the notation, "Supplements Nos. _____ and _____ contain all changes from original index that are in effect on date hereof"; to which may be added "or which have been filed to become effective at a later date as shown within."

(g) The title page of each index and of each supplement must bear date of issue but must not bear an effective date. The rule requiring thirty days' notice does not apply to these indexes and their supplements.

[¶ 26,322]

§ 341.12 Restoration and discontinuance of water service.

Tariffs containing pipeline-and-water rates applicable via routes upon which it is necessary to close navigation during a portion of each year, must provide for the restoration and discontinuance of service over such routes in the manner prescribed in paragraphs (a) to (e) of this section.

(a) *Notation on title page.* The following notation shall appear either (1) on the title page of the pipeline tariff, (2) amongst the rules governing the application of rates, or (3) immediately in conjunction with the rates to which the notation applies:

Transportation service in connection with (here insert name of water carrier or carriers specified in the tariff) is subject to restoration and discontinuance as indicated on page _____

When the foregoing notation is published in the tariff amongst the rules governing the application of rates, reference thereto must be made in the table of contents of the tariff, and the words "as follows" must be substituted for "as indicated on page _____"

(b) *When definite dates of service cannot be determined.* (1) When definite dates for restoration and discontinuance of transporation service for each season of navigation cannot be determined the following rule must be published in the tariff under the heading of "Application of rates":

Shipments will be accepted by carriers parties to this tariff during the period from _____ (here show date approximately 30 days prior to the first sailing from port of transshipment) to _____ (here insert date which will allow sufficient time for shipment to reach the port of transshipment prior to the last sailing) of each year, for transportation on the vessels of the _____ (here insert name of water carrier or carriers named in the tariff). Shipments also will be accepted from the latter date until the date announced by supplements to this tariff subject to the condition that all freight left on hand at the port of transshipment after the closing of navigation for lack of space on vessels sailing after the arrival of such freight, and all freight reaching the port of transshipment after the last sailing of each season of navigation, will be forwarded via all-pipeline routes and be subject to the tariff rates applicable via such all-pipeline routes in effect on date of shipment from the point of origin of the shipment. In such cases shipping receipts, bills of lading and way-bills must bear notation to that effect. Supplements announcing the final date upon which shipments will be accepted for transportation, under this tariff and effective supplements thereto, will be filed with the Federal

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Energy Regulatory Commission and posted at points from which the rates apply not less than 1 day in advance of such date.

NOTE: In applying the provisions of the preceding paragraph, the date on which final instructions are received for transportation via the water line will be considered the date of acceptance of the shipment for transportation by that line. The rate to be applied on shipments moved via the water line will be the rate in effect on the date shipments are received for transportation at points of origin.

(2) The dates for restoration and discontinuance of service as set forth in this paragraph shall be shown in boldface type.

(c) *When definite dates of service can be determined.* When definite dates for restoration and discontinuance of transportation service for each season of navigation can be determined the following rule must be published in the tariff under the heading of "Application of rates":

Shipments will be accepted by carriers parties to this tariff during the period from _____ (here show date approximately 30 days to the first sailing from port of transshipment) to _____ (here show date which will allow sufficient time for shipment to reach the port of transshipment prior to the last sailing) of each year for transportation on the vessels of the _____ (here insert name of water carrier or carriers named in the tariff). Shipments also will be accepted from the latter date until _____ (here insert final date upon which shipments will be accepted for transportation under the tariff and effective supplements thereto), subject to the condition that all freight left on hand at the port of transshipment after the closing of navigation for lack of space on vessels sailing after the arrival of such freight, and all freight reaching the port of transshipment after the last sailing of each season of navigation, will be forwarded via all-pipeline routes and be subject to the tariff rates applicable via such all-pipeline routes in effect on date of shipment from the point of origin of the shipment. In such cases shipping receipts, bills of lading, and way-bills must bear notation to that effect.

No supplement will be issued to this tariff announcing the date of discontinuance of transportation service.

NOTE: In applying the provisions of the preceding paragraph, the date on which final instructions are received for transportation via the water line will be considered the date of acceptance of the shipment for transportation by that line. The rate to be applied on shipments moved via the water line will be the rate in effect on the date shipments are received for transportation at points of origin.

The dates for restoration and discontinuance of service as set forth in this section shall be shown in boldface type.

(d) *Contents of supplements.* Supplements announcing discontinuance of transportation service under this section may be filed with the Federal Energy Regulatory Commission and posted at points from which the rates apply on not less than 1 day's notice by noting thereon reference to this section. Only one such supplement may be in effect at any time; it may not contain other matter and may be issued without regard to the requirements of § 341.9(e).

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(e) *Tariffs may be reissued,* Tariffs containing pipeline-and-water rates may be reissued or amended at any time in the regular manner, but tariffs containing the clause prescribed by paragraph (b) of this section which are made effective subsequent to the date of actual discontinuance of service must contain a statement that service was discontinued on ——— as per supplement No. ——— to FERC No. ——— (former tariff) and that supplement announcing discontinuance of service for that season will not be filed.

[¶ 26,323]

§ 341.13 Filing tariffs.

(a) *Authority to file.* Tariffs shall be published and filed by carriers either directly or through duly authorized tariff-publishing agents. When filed directly by a carrier the concurrence (or power of attorney as authorized in § 341.18(f)) and when filed by an agent the power of attorney, of every carrier participating therein must be filed or on file with the Commission. (See § § 341.17 to 341.20, inclusive.)

(b) *Agent will file under own FERC number.* A tariff publishing agent must file tariffs under his or its own single series of FERC numbers and not in the series of any of his principals. If the agent is a corporation or an unincorporated association (see § 341.17(a)) having jurisdiction over two or more tariff publishing organizations, bureaus, or committees, the tariffs issued through each such tariff publishing organization may bear a separate series of FERC numbers.

(c) *Filing by issuing carrier or agent.* Tariffs must be filed by the issuing carrier or agent, and such filing will constitute filing for all carriers parties thereto. Such tariffs must be posted at offices of carriers participating therein in the manner required by law.

(d) *Exchange of publications.* The agent or the carrier that issues a joint tariff publication shall at once send copies thereof to each and every carrier that is named as party thereto.

(e) *Conflict between tariffs; avoidance.* A carrier that grants authority to an agent or to another carrier to publish and file certain of its rates must not in its own issues publish rates which duplicate or conflict with those which are published by such authorized agent or other carrier.

CROSS REFERENCE: For provisions concerning powers of attorney and concurrences, see § § 341.17 to 341.26 inclusive.

[¶ 26,324]

§ 341.14 Statutory notice; additional procedure in filing tariffs.

(a) *Period of notice.* The act requires that all changes in rates, or in rules that affect rates, shall be filed with the Commission at least 30 days before the date upon which they are to become effective unless otherwise authorized by the Commission. Manifestly it is impossible for the Commission to check the items in tariffs to determine whether or not statutory notice has been given. Therefore, except as otherwise authorized by the Commission, 30 days'

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notice to the public and to the Commission must be given as to every tariff publication filed with the Commission, regardless of whether or not changes are effected thereby. (See § § 341.3(h), 341.9(d)).

(b) *Filing of tariffs and receipt by Commission not relief of carriers from liability.* The law affirmatively imposes upon each carrier the duty of filing with the Commission all of its tariffs and amendments thereto in the manner prescribed in the law or in any rule which may be promulgated by the Commission. A penalty is provided for failure so to do, or for using any rate which is not contained in its lawfully published and filed tariffs. The receipt and filing of a tariff or supplement by the Commission does not relieve carriers from liability for violation of the act or of regulations issued thereunder.

(c) *Interstate shipments.* Rates for through shipments are often made by adding together two or more rates. All rates used in making combination through rates for interstate shipments, including rates between points in one State, must be filed with the Commission and posted at points and can only be changed as to such traffic in accordance with the terms of the act.

(d) *Delivery free of charges.* No tariff, revised page, or supplement will be received by the Commission unless it is delivered to it free from all charges including claims for postage.

(e) *Rejection of tariffs and notices of revocation.* (1) Any tariff or schedule, tendered for filing, which fails to give lawful notice of changes in rates, charges or other provisions which it proposes to establish, or which fails to meet the requirements of the regulations contained in this chapter, or violates any order of the Commission or of a court, is subject to rejection by the Commission. When a tariff or schedule is rejected, the Commission, acting through a designated administrative officer, will inform the carrier or the agent who tendered it for filing, in writing, of the reasons for rejection, and will return the rejected tariff or schedule to such carrier or agent.

(2) The number assigned to a tariff or schedule which has been rejected may not again be used. The rejected tariff or schedule may not be referred to in any subsequent tariff or schedule as having been cancelled, amended or withdrawn, but the tariff or schedule which is published in its stead must bear the following notation: "Issued in lieu of (here identify the rejected schedule or tariff), rejected by the Commission."

(3) A notice of the revocation, complete or partial, of a concurrence or power of attorney which, if it were to become effective, would require the establishment of rates, fares, or charges in violation of an order of the Commission or of a court, or of the regulations in this chapter, may be rejected in the same manner as a tariff or schedule and any such notice of revocation which would require the establishment of rates, fares, or charges of doubtful lawfulness may be suspended.

(f) *Promulgation of rates prescribed in decisions of Commission.* (1) Rates prescribed by the Commission in its decisions and orders in formal cases shall be promulgated by the carriers against which such orders are entered, in duly published, filed, and posted tariffs, revised pages or supplements, and notice

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shall be sent to the Commission that its decision (or order) in Docket No. ———, has been complied with in item ———, page — of ——— tariff, FERC No. ——— or supplement No. ——— to ——— tariff, FERC No. ———.

(2) Unless otherwise specified in the decision or order in the case, such tariff or supplement must be made effective upon statutory notice to the Commission and to the public. Whether made effective on less than statutory notice under special authority granted in the decision or order in the case, or upon statutory notice, when an entire tariff or supplement is issued in compliance with a decision or order, such tariff or supplement shall bear on its title page the notation "In compliance with decision (or order) of Federal Energy Regulatory Commission in Docket No. ———." (Whenever possible, the volume and page number of the report of the Federal Energy Regulatory Commission should be shown.)

(3) If the decision or order of the Commission affects only portions of the tariff or supplements, the above notice shall be shown in connection with each portion so affected.

(4) In establishing rates, rules or regulations effective on less than thirty days notice under authority of a decision or order of the Commission in a formal case, the carrier or carriers parties of the record, or that are lawful parties to a joint tariff in which the rates, rules, or other regulations that are prescribed are published by some carrier that is a party to the record may include change or changes in commodity or commodities that are grouped with that or those which are specified in the decision or order; and may include adjustment at other points in order to conform rates to the provisions of the fourth section of the act, or to preserve established grouping or relation of points; and may also include adjustment of rates to same points on other commodities for the purpose of maintaining established relation of rates between commodities; *Provided,* All changes made under authority of this section shall be effected by reductions in rates or charges.

(5) If a carrier that is not a party to the record or to the joint tariff desires to make on less than statutory notice the same changes that are made under the decision or order by carrier that is party to the same it must secure special permission so to do. (See also § 341.9(m).)

(g) *Explanation of missing numbers required.* Tariffs bearing FERC numbers and supplements are required to be numbered consecutively. If, for any reason, this is not done, the tariff or supplement which is not numbered in sequence with the publication last filed must be accompanied by a memorandum explaining why consecutive numbers were not used.

(h) *Number of copies; address.* Two copies of each tariff, supplement, revised page, or other schedule of rates or regulations, shall be filed with the Commission, both copies to be filed together under one letter of transmittal (see § 341.29). They must be addressed to the Federal Energy Regulatory Commission, Washington, D.C. 20426 with the envelope marked as containing "Tariffs."

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[¶ 26,325]

§ 341.15 [Reserved.]

[¶ 26,326]

§ 341.16 [Reserved.]

[The next page is 17,101.]

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[¶ 26,327]

§ 341.17 Tariffs issued through an agent.

(a) If a carrier desires to issue a tariff or tariffs through an agent it may do so by filing with the Commission an appropriate power of attorney to the designated agent. Agents may be either natural persons, corporations, or unincorporated associations whose articles of association (or other form of agreement) have been approved by the Commission in a proceeding pursuant to the provisions of section 5a, part I, of the Interstate Commerce Act. An officer or employee of an incorporated tariff-publishing agent may not act as an agent in his individual capacity for the publication of tariffs.

(b) When an association or corporation has been appointed an issuing agent, the executive head thereof shall at once notify the Commission of the name of the individual who is to be responsible for the actual compilation and filing of each FERC series of tariffs issued by the agent. There may be only one issuing officer for each such series of tariffs, and the same individual may not act as issuing officer for more than one series without the special permission of the Commission. When an issuing officer is replaced the Commission shall be immediately notified in like manner of his successor.

(c) When a natural person is authorized by power of attorney to act as a tariff-publishing agent, such instrument shall designate another natural person to act as alternate agent in the event of the death or disability of the principal agent. On or before the date of filing of the first tariff or supplement by the alternate agent under the authority granted in the instrument, such alternate agent shall notify the Commission in writing that death or disability of the principal agent has occurred and that he, the alternate agent, will thereafter act until the appointment of a new principal agent. The term "disability" as used in the instrument means resignation, permanent transfer to other duties, or other permanent absence of the principal agent. After an alternate agent has once exercised the authority granted by the instrument, the principal agent may not thereafter act under that instrument.

[¶ 26,328]

§ 341.18 Powers of attorney.

(a) *Publishing agents.* (1) A power of attorney shall be used by a carrier to give to a publishing agent, but not to another carrier, authority to publish and file freight rate tariffs and supplements for it, except that a carrier may give a power of attorney to another carrier in the circumstances and subject to the conditions stated in paragraph (f) of this section. Powers of attorney given to publishing agents may be either unlimited or limited, and in the case of corporations or unincorporated associations comprised of more than one bureau, committee or regional organization, the power of attorney may consist of multiple instruments, such instruments to define separately the authority to be exercised by each component bureau, committee or regional organization.

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(2) A carrier may not have in effect at the same time an unlimited power of attorney and a limited power of attorney in favor of the same agent for use by the same bureau, committee, or regional organization.

(b) *Unlimited power of attorney form.* (1) An unlimited power of attorney, when given to a publishing agent, authorizes the agent to file any freight tariff in which the carrier giving the power is a participating carrier. Form FA1 confers unlimited authority to publish local rates and charges for the carrier issuing the power and to publish joint rates and charges for such carrier and such other carriers as have issued the necessary authority.

(2) The following form of power of attorney, FA1, shall be used to give such unlimited powers:

POWER OF ATTORNEY

FA1 No. —

Cancels ——— No. —

_____

(Name of carrier)

_____

(Mail address)

_____

(Date)

Know All Men by These Presents:

That the [full and correct name of carrier] has made, constituted, and appointed, and by these presents does make, constitute, and appoint [name of principal agent] its true and lawful attorney and agent, to file in its name, place, and stead, (1) for it alone, and (2) for it jointly with other carriers [through its (name of bureau, committee, or regional organization, if any] tariffs and supplements thereto, as required of common carriers by existing laws and regulations established thereunder. And does hereby give and grant unto its said attorney and agent full and unlimited power and authority to do and perform all and every act and thing above specified as fully, to all intents and purposes, as if the same were done and performed by the undersigned carrier itself, and does hereby assume full responsibility for the acts and failures to act of said attorney and agent.

And, further, that the undersigned carrier does hereby make and appoint [name of alternate agent] alternate attorney and agent to do and perform the same acts and exercise the same authority herein granted to the principal agent in the event and only in the event of the death or disability of the above-named principal agent.

_____

(Name of carrier)

By _____

Its _____

(Title)

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Duplicate mailed to:

(Name of Agent)

(Address)

(c) *Limited power of attorney form.* (1) A power of attorney may be limited in any appropriate manner provided the limitations are specifically and unambiguously expressed in the instrument. For example, the agent may be authorized to publish only local rates, only joint rates, only rates and charges on specified commodities or in a specified territory, or only specified tariffs or types of tariffs.

(2) The following power of attorney, Form FA2, shall be used to give such limited authority:

POWER OF ATTORNEY

FA2 No. __

Cancels _____ No. __

_____

(Name of carrier)

_____

(Mail address)

_____

(Date)

Know All Men by These Presents:

That the [full and correct name of carrier] has made, constituted, and appointed, and by these presents does make, constitute and appoint [name of principal agent] its true and lawful attorney and agent, to file in its name, place, and stead, (1) for it alone and (2) for it jointly with other carriers [through its (name of bureau, committee, or regional organization, if any)], tariffs and supplements thereto and successive reissues thereof, as required of common carriers by existing laws and regulations established thereunder, but only as hereinafter specified.

_____

(Here specify affirmatively the precise authority given to the agent)

And does hereby give and grant unto its said attorney and agent full power and authority to do and perform all and every act and thing above specified as fully, to all intents and purposes, as if the same were done and performed by the undersigned carrier itself, and does hereby assume full responsibility for the acts and failures to act of said attorney and agent.

And, further, that the undersigned carrier does hereby make and appoint [name of alternate agent] alternate attorney and agent to do and perform the same acts and exercise the same authority herein granted to the principal

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agent in the event and only in the event of the death or disability of the above named principal agent.

_____

(Name of carrier)

By _____

Its _____

(Title)

Duplicate mailed to:

(Name of Agent)

(Address)

(d) *Manner of execution.* (1) In the blank space for the name of the carrier in Forms FA1, FA2, and FA3, there must be shown, if the carrier is an individual, the individual name followed by the trade name, if any. If the carrier is a partnership, the correct names of all partners must be given, followed by the trade name, if any. If the carrier is a corporation, the correct corporate name must be used.

(2) If the carrier is an individual, the power of attorney must be signed by the individual; if a partnership, the power of attorney must be signed individually by each partner. If the carrier is a corporation, the power of attorney must be signed by the president, a vice-president or any other authorized official of the carrier. However, before the signature of an employee other than the president or a vice-president on a power of attorney will be recognized by the Commission, the carrier must file with the Commission, over the signature of the president or a vice-president, a statement reciting that the individual is authorized to sign powers of attorney. The statement must include a specimen signature of the individual or individuals so designated. The authority to sign powers of attorney may be conferred in the manner described on more than one official of the carriers. If the carrier is being operated by trustees or receivers the power of attorney must be signed by each trustee or receiver individually or by his or their designee. Trustees or receivers may invest others with the authority to sign in the same manner as the president or vice-president of a corporation may confer the authority on subordinate officials.

(3) If the agent appointed by either FA1 or FA2 is a corporation or an unincorporated association the last full paragraph of the form shall be omitted.

(e) *Joint agents.* If an agent does not hold the requisite authority to publish a particular tariff the authority to do so may be obtained by pooling the authority held by him with that held by one or more other agents, and the tariff may be published jointly by both or all such agents in the FERC series of each. For example, if one agent has authority to publish rates only from territory A to territory B, and another agent has authority to publish rates only from territory B to territory A, the rates may be published in a single

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tariff on a "between" basis and filed with the Commission as a joint tariff of both agents under the FERC series of each.

(f) *Carrier acting for anothe- carrier.* (1) A power of attorney may be given by small carriers to large carriers with which they connect, or by subsidiary to parent carriers, authorizing the large or parent carriers to publish tariffs, to give and receive concurrences, and to give powers of attorney to agents, all in behalf of the small or subsidiary carrier. The authority granted may be unlimited, as in the form which follows (Form FA3), or it may be limited in any appropriate manner, provided the limitations are specifically and unambiguously expressed in the instrument. When an FA3 form of power of attorney has been given, the granting carrier may not thereafter do in its own behalf anything which it has authorized the grantee carrier to do in its stead. Concurrences and powers of attorney given by the grantee carrier will, however, be deemed to be given on its own behalf only, unless the instrument expressly recites that it is given or is also given, in behalf of the granting carrier. An FA3 form of power of attorney will be construed as authorizing the grantee carrier to give a concurrence to itself in behalf of the granting carrier.

(2) The following form of power of attorney, Form FA3, shall be used by a carrier to give authority to another carrier. When the authority is to be limited in any way, the form should be altered to the extent necessary.

POWER OF ATTORNEY

FA3 No. —

Cancels ——— No. —

———————————————————————————

(Name of carrier)

———————————————————————————

(Mail address)

———————————————————————————

(Date)

Know All Men by These Presents:

That the [name of granting carrier] has made, constituted, and appointed, and by these presents does make, constitute, and appoint [name of grantee carrier] its true and lawful attorney and agent (1) to issue in its name, place and stead powers of attorney to tariff-publishing agents, (2) to give and receive in its name, place and stead concurrences in tariffs of other carriers, and (3) to publish and file, or cause to be published and filed, tariffs and supplements thereto and successive reissues thereof, in which the undersigned carrier is a participant, all as required of common carriers by existing laws and regulations established thereunder. And the undersigned carrier does hereby give and grant unto its said attorney and agent, full, sole and exclusive power and authority to do and perform all and every act and thing above specified for and on behalf of the undersigned carrier as fully, to all intents and purposes, as if the same were done and performed by

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the undersigned carrier itself and does hereby assume full responsibility for the acts and failures to act of its attorney and agent.

_____

(Name of carrier)

By _____

Its _____

(Title)

Duplicate mailed to:

(Name and Title of Officer)

(Name of Carrier)

(Address)

[¶ 26,329]

§ 341.19 Concurrences.

(a) A carrier desiring to become a participant in a tariff or tariffs issued by another carrier (not by an agent) may do so by filing with the Commission a limited or unlimited concurrence (except as provided in § 341.18(f)) in one of the four following forms. In Forms FC2 and FC4 the limitations must be specifically and unambiguously expressed.

(1) Form FC1 which follows is unlimited and covers all tariffs applying on traffic moving from, to, via or at points on the line of the carrier giving the concurrence:

CONCURRENCE

FC1 No. __

Cancels _____ No. __

_____

(Name of carrier)

_____

(Mail address)

_____

(Date)

TO THE FEDERAL ENERGY REGULATORY COMMISSION, WASHINGTON, D.C. 20426

This is to certify that [name of carrier issuing concurrence] assents to and concurs in all tariffs and supplements thereto, filed by [name of carrier to which concurrence is given] in which the undersigned carrier is shown as a participant, and the undersigned carrier hereby makes itself a party thereto and bound thereby insofar as such tariffs apply from, to, via or at points on its lines, until this authority is revoked by formal notice of revocation filed with the Federal Energy Regulatory Commission and sent to the carrier to which this concurrence is given.

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_____

(Name of carrier)

By _____

Its _____

(Title)

Duplicate mailed to

(Name and Title of Officer)

(Name of Carrier)

(Address)

(2) Form FC2 covers tariffs applying on limited but affirmatively specified traffic moving from, to, via or at points on the line of the carrier giving the concurrent. The form follows:

CONCURRENCE

FC2 No. __

Cancels _____ No. __

_____

(Name of carrier)

_____

(Mail address)

_____

(Date)

TO THE FEDERAL ENERGY REGULATORY COMMISSION, WASHINGTON, D.C. 20426

This is to certify that [name of carrier issuing concurrence] assents to and concurs in all tariffs and supplements thereto, filed by [name of carrier to which concurrence is given] in which the undersigned carrier is shown as a participant, but only to the extent that such tariffs apply:

(Here affirmatively state the limitations, such as designating the commodities to which, the points to and/or from and/or at which, the limited territory within which, or the specific publication(s) or series of tariffs to which, the concurrence shall be applicable.)

And the undersigned carrier hereby makes itself a party thereto and bound thereby insofar as such tariffs apply from, to, via or at points on its lines, until this authority is revoked by formal notice of revocation filed with the Federal Energy Regulatory Commission and sent to the carrier to which this concurrence is given.

_____

(Name of carrier)

By _____

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Its _____

(Title)

Duplicate mailed to:

(Name and Title of Officer)

(Name of Carrier)

(Address)

(3) Form FC3 is restricted to tariffs applying on traffic moving to points on or via the line of the carrier giving the concurrence but is not otherwise limited. The form follows:

CONCURRENCE

FC3 No. __

Cancels _____ No. __

_____

(Name of carrier)

_____

(Mail address)

_____

(Date)

TO THE FEDERAL ENERGY REGULATORY COMMISSION, WASHINGTON, D.C. 20426

This is to certify that [name of carrier issuing concurrence] assents to and concurs in all tariffs or supplements thereto filed by the [name of carrier to which concurrence is given] in which the undersigned carrier is shown as a participant, and hereby makes itself a party thereto and bound thereby, insofar as such tariffs or supplements contain rates or other provisions applying via its lines and to, but not from or at, points thereon, until this authority is revoked by formal notice of revocation filed with the Federal Energy Regulatory Commission and sent to the carrier to which this concurrence is given.

_____

(Name of carrier)

By _____

Its _____

(Title)

Duplicate mailed to:

(Name and Title of Officer)

(Name of Carrier)

(Address)

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(4) Form FC4 which follows covers tariffs applying on limited but affirmatively specified traffic moving to points on or via the line of the carrier giving the concurrence.

CONCURRENCE

FC4 No. __

Cancels _____ No. __

_____

(Name of Carrier)

_____

(Mail address)

_____

(Date)

TO THE FEDERAL ENERGY REGULATORY COMMISSION, WASHINGTON, D.C. 20426

This is to certify that [name of carrier issuing concurrence] assents to and concurs in all tariffs or supplements thereto filed by [name of carrier to which concurrence is given] in which the undersigned carrier is shown as a participant, but only to the extent that such tariffs apply.

(Here affirmatively state the limitations, such as designating the commodities to which, the points to or the lines over which the limited territory within which, or the specific publication(s) or series of tariffs to which, the concurrence shall be applicable.)

And the undersigned carrier hereby makes itself a party to such tariffs and bound thereby insofar as such tariffs or supplements contain rates or other provisions applying via its lines and to, but not from or at, points thereon, until this authority is revoked by formal notice of revocation filed with the Federal Energy Regulatory Commission and sent to the carrier to which this concurrence is given.

_____

(Name of carrier)

By _____

Its _____

(Title)

Duplicate mailed to:

(Name and Title of Officer)

(Name of Carrier)

(Address)

(b) Concurrences shall be personally signed by any official of the issuing carrier.

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(c) If a carrier has been authorized by power of attorney to issue concurrences in behalf of one or more subsidiary carriers (see § 341.18(f)), the carrier holding such authority may by a single instrument issue a concurrence in its own behalf and in behalf of any or all of such small or subsidiary carriers.

[¶ 26,330]

§ 341.20 Filing of powers of attorney and concurrences.

(a) If a power of attorney or concurrence is issued subsequent to the date of the filing of the tariff with the Commission the original instrument shall be forwarded directly to the Commission with a copy to the issuing agent or carrier, but if it is issued prior to or concurrently with the issuance of the tariff, the original instrument may either be forwarded directly to the Commission, or it may be sent to the carrier or agent issuing the tariff and be transmitted by it of him to the Commission with the tariff. (For exceptions see § § 341.22 and 341.23(a)).

(b) Powers of attorney, concurrences, amendments thereto and revocation notices shall be printed or typed on paper of good quality, 8½ × 11 inches, and must show the date on which they are issued. Each power of attorney and concurrence shall bear a form and serial number, the serial numbers to run consecutively for each form of instrument. Concurrences issued by a carrier jointly in its own behalf and in behalf of one or more other carriers (see § 341.18(f)) may, if desired, be issued under a separate series of numbers. The form and serial numbers shall be shown on the upper right-hand corner and immediately thereunder shall be shown the form and number of the power of attorney or concurrence, if any, which is canceled thereby. If the instrument to be canceled contains more authority or is broader in scope than the new instrument, such new instrument must, in addition to the date of issue, bear an effective date at least 60 days after the date on which it is received by the Commission. When the new instrument is the same or broader in scope than the instrument which it cancels, it becomes effective when filed with the Commission. The instrument shall also show, in the lower left-hand corner, the name, title and address of the person to whom the duplicate is sent.

[¶ 26,331]

§ 341.21 Certificate stating correct name of carrier to be filed.

When a corporate or partnership carrier files its first tariff, power of attorney or concurrence, it shall also file a certificate stating the precisely correct name of the carrier as it appears in the charter or articles of incorporation, or in the articles of co-partnership, as the case may be. If, for example, the article "The" is a part of the carrier's name, if the conjunction "and" appears therein as "&", or if the word "Company" is abbreviated to "Co.", the certificate must so indicate.

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[¶ 26,332]

§ 341.22 Transfer of authority from one agent to another agent.

(a) When it is desired to transfer authority from one agent to another agent superseding the former agent as to all such agent's effective tariffs, the transfer shall be accomplished by filing a new power of attorney naming the agent (and alternate when the new agent is a natural person) thereafter to serve, which shall specifically cancel the previous instrument or instruments, by including the following in the power of attorney to the new agent:

This power of attorney cancels the following power(s) of attorney:

Power of attorney form and number	In favor of
(Insert power of attorney forms and numbers)	(Insert name of agent and alternate)

(b) Under all other conditions the power of attorney must be revoked in accordance with § 341.26(b).

(c) The originals of such powers of attorney shall not be sent immediately to the Commission, but shall be forwarded to the new agent, who, after all the necessary instruments shall have been secured, shall file all of the originals with the Commission at one time. The new agent may file no tariffs with the Commission until the powers of attorney from all of the carriers shown therein as participants have been so filed.

[¶ 26,333]

§ 341.23 Procedure when one publishing agent succeeds another.

(a) When powers of attorney have been issued to a natural person and his alternate, and death or disability of either the principal agent or the alternate occurs, new powers of attorney shall be filed with the Commission within 180 days, canceling the previous instruments and designating the new agent (and also his alternate if the new agent is a natural person) thereafter to serve. If the filing of the new instruments is occasioned by the death or disability of the former alternate, the new instruments may, if desired, continue the former principal agent and designate a new alternate only. Likewise if death or disability of the principal agent has occurred it is permissible to continue the former alternate agent in the new instruments and designate a new principal agent only. As soon as the instruments appointing the new agent are filed the alternate agent who in the interim has acted may no longer do so. The new powers of attorneys shall not be forwarded directly to the Commission, but shall be collected by the new agent and forwarded to the Commission together, as provided in § 341.22. The new agent may not file a tariff for any carrier until that carrier's power of attorney to him is on file with the Commission.

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(b) In the first amendment to each tariff issued by the alternate agent after the death or disability of the principal agent, there shall be shown a statement reading substantially as follows: "On and after (show here the date on which the principal agent ceased to act) this publication shall be considered as the issue of _____, Alternate Agent."

(c) A new agent, on or after the filing of his or its authorities, shall include in the next supplement to each of the effective tariffs previously taken over by the alternate agent a statement reading substantially as follows: "On and after (show here the date on which the new authorities are filed with this Commission) this publication shall be considered as the issue of _____, Agent."

[¶ 26,334]

§ 341.24 FERC numbers of tariffs issued by a new agent or alternate agent.

Tariffs issued by a new agent may be, and those issued by an alternate agent must be, numbered in the FERC series of the former agent. If it is desired to number the tariffs of a new agent in a different FERC series, this may be done as to new or reissued tariffs, but amendments (supplements or revised pages) to tariffs issued by the former agent must be continued in the original series.

[¶ 26,335]

§ 341.25 Powers of attorney and concurrences in special situations.

(a) *Joint concurrences.* If joint concurrences are issued in behalf of two or more carriers by the same Officer, all concurrences in each series must be issued on behalf of all such carriers, except as to concurrences interchanged between those carriers. If concurrences in a single series are issued separately for different carriers, separate files in that series must be maintained for each carrier, and concurrences of each carrier must be issued in consecutive numerical order as required by § 341.20(b).

(b) *When operation discontinued or taken over by another carrier.* Powers of attorney and concurrences issued in favor of a carrier which has discontinued operations should be revoked within 120 days after such discontinuance. If its operations have been taken over by another carrier all effective powers of attorney and concurrences should be canceled within 120 days either by new issues or revocation notices.

NOTE: § 341.25(b) applies, among other situations, when an incorporated carrier is placed in the hands of trustees or receivers and is thereafter reorganized. When trustees or receivers are appointed they normally assume, and the corporation discontinues, operations; and thereafter, following reorganization, operations again pass from the receivers or trustees to the reorganized corporation.

(c) *Forms for joint intermodal pipelines tariffs.* Powers of attorney and concurrences authorizing the publication of joint intermodal pipeline tariffs and supplements shall be issued on the standard FA and FC Forms described

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in § § 341.18 and 341.19. Such powers of attorney and concurrences must bear the following notation in the upper portion of the document: "Joint Intermodal Pipeline Power of Attorney" or "Joint Intermodal Pipeline Concurrence."

.01 Subsections (a) and (b), 49 F.R. 12898 (March 30, 1984); subsection (c), 49 F.R. 44628 (November 8, 1984).

.05 *Historical record.*—Section 341.25 originated in 49 F.R. 12898 (4/30/84), effective 10/30/84 as per 49 F.R. 38540 (10/1/84).

Subsection (c), appearing in 49 F.R. 12898 (4/30/84), effective 10/30/84 as per 49 F.R. 38540 (10/1/84), was amended in 49 F.R. 44628 (11/8/84), effective 11/1/84, by changing all references to "intermodal pipelines" throughout the paragraph to read "intermodal pipeline", and by changing all references to "Intermodal Pipelines" throughout the paragraph to read "Intermodal Pipeline".

[¶ 26,336]

§ 341.26 Amendment and revocation of powers of attorney and concurrences.

(a) *Amendments.* (1) A power of attorney on Forms FA2 or FA3 or a concurrence on Forms FC2 or FC4 may be amended by issuing an "Amendment to Power of Attorney," or "Amendment to Concurrence," respectively. However, only four amendments to any one power of attorney or concurrence will be permitted. The amendment must specify with particularity the exact change in the scope of the powers or the authority conferred by appropriate reference by number to the power of attorney or concurrence affected, by identification by FERC and agent's or carrier's number of the tariff or tariffs affected, and by a detailed description of the tariff or territory affected.

(2) If an amendment to a power of attorney or to a concurrence reduces the scope of the original instrument, such amendment must bear in addition to the date of issue, an "effective" date at least 60 days after the date on which it is received by the Commission. If the amendment adds to or increases the scope of the original power of attorney or concurrence, no notice is required, and it becomes effective when filed with the Commission. (See paragraph (e) of this section.)

(3) The form of an "Amendment to Power of Attorney" is as follows:

AMENDMENT TO POWER OF ATTORNEY

Amendment No. —

To FA No. —

_____

(Name of carrier)

_____

(Mail address)

_____

(Date)

Know All Men by These Presents:

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Effective _____ (date), the undersigned hereby amends the above-numbered power of attorney, in the following respects:

_____

_____

(Name of carrier)

By _____

Its _____

(Title)

Duplicate mailed to:

(Name of Agent or Carrier)

(Address)

(4) The form of an "Amendment to Concurrence" is as follows:

AMENDMENT TO CONCURRENCE

Amendment No.—

To FC — No.—

_____

(Name of carrier)

_____

(Mail address)

_____

(Date)

TO THE FEDERAL ENERGY REGULATORY COMMISSION,

WASHINGTON, D.C. 20426

The undersigned hereby amends FC — No. — in the following respects:

_____

_____

(Name of carrier)

By _____

Its _____

(Title)

Duplicate mailed to:

(Name of Carrier)

(Address)

(b) *Revocations.* A power of attorney or a concurrence may be revoked upon not less than 60 days' notice by filing a Notice of Revocation with the Commission and serving at the same time a copy thereof on the agent, in the case of powers of attorney on Forms FA1 and FA2, or on the carrier, in the

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case of concurrences or powers of attorney on FA3, in whose favor the instrument was executed. Such notice shall not bear a separate serial number, but shall specify the form and number of the power of attorney, or the form and number of the concurrence to be revoked, shall name the agent, and alternate agent, if any, or the carrier in whose favor the instrument was executed, and shall specify a date upon which revocation is to become effective. (See paragraph (e) of this section.)

(c) *Corresponding revision of tariff.* When a power of attorney or concurrence is revoked corresponding revision of the tariff or tariffs must be made not later than the effective date stated in the notice of revocation. If the tariff or tariffs are not so amended the rates and other provisions therein remain effective and must be protected by the carrier or carriers responsible for their continued maintenance.

(d) *Form of revocations.* Revocation notices shall be in one of the following forms, as appropriate:

REVOCATION NOTICE

(Power of Attorney)

_____

(Name of carrier)

_____

(Mail address)

_____

(Date)

Know All Men by These Presents:

Effective _____ (date), power of attorney FA _____ No. _____, issued by (Name of carrier issuing power of attorney)

in favor of_____

_____

(Name of carrier, or agent (an alternate), if any) is hereby canceled and revoked.

_____

(Name of carrier)

By_____

Its_____

(Title)

Duplicate mailed to:

(Name of Agent or Carrier)

(Address)

REVOCATION NOTICE

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(Concurrence)

_____

(Name of carrier)

_____

(Mail address)

_____

(Date)

TO THE FEDERAL ENERGY REGULATORY COMMISSION, WASHINGTON, D.C. 20426

Effective _____ (Date) concurrence FC _____ No. _____, issued by

_____

(Name of carrier issuing concurrence) in favor of _____

(Name of carrier)

is hereby canceled and revoked.

_____

(Name of carrier)

By_____

Its_____

(Title)

Duplicate mailed to:

(Name of Carrier)

(Address)

(e) *Manner of execution.* (1) An amendment to, or a revocation of a power of attorney shall be executed in the same manner as powers of attorney, and a statement of the kind specified in § 341.18(d) shall be filed with the Commission to designate persons authorized to sign such amendments or revocations. The statement filed in accordance with § 341.18(d) may include in the one instrument designations and specimen signatures of persons authorized to sign powers of attorney, amendments to powers of attorney, and revocations of powers of attorney.

(2) An amendment to, or a revocation of a concurrence shall be executed in the same manner as concurrences. (See § 341.19(b).)

.01 Subsections (a)-(c), 49 F.R. 12898 (March 30, 1984); subsection (d), 49 F.R. 44628 (November 8, 1984); subsection (e), 49 F.R. 12898 (March 30, 1984).

.05 *Historical record.*—Section 341.26 originated in 49 F.R. 12898 (4/30/84), effective 10/30/84 as per 49 F.R. 38540 (10/1/84).

Subsection (d), appearing in 49 F.R. 19828 (4/30/84), effective 10/30/84 as per 49 F.R. 38540 (10/1/84) was amended in 49 F.R. 44629 (11/8/84), effective 11/1/84, by removing the words "in favor of" and adding, in their place, the words "in favor of".

[The next page is 17,131.]

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[¶ 26,337]

§ 341.27 Intermediate application of rates.

Tariffs may provide for the application of commodity rates from or to intermediate points by incorporating in such tariffs the appropriate one or more of the rules set forth below, subject to the limitations of this section.

(a) *Intermediate rules to be used only where routing is provided.* Effective on and after June 10, 1959, an intermediate point rule may not be published so as to result in establishing from (or to, as the case may be) an intermediate point, a rate from (or to) a more distant point unless the tariff contains specific routing instructions showing definitely in accordance with the plan listed in paragraph (k)(1)(i) of § 341.4 the routes through the intermediate point over which the rate from (or to) the more distant point applies.

(b) *Intermediate point commodity rate rules*—(1) *From intermediate points.* Subject to the provisions of notes 1, 2, and 3 in this paragraph from any point of origin from which a commodity rate on a given article to a given destination and via a given route is not named in this tariff, which point is intermediate to a point from which a commodity rate on said article is published in this tariff via a route through the intermediate point over which such commodity rate applies to the same destination, apply from such intermediate point to such destination and via such route the commodity rate in this tariff on said article from the next point beyond from which a commodity rate is published herein on that article to the same destination via the same route.

NOTE 1: When by reason of branch or diverging lines there are two or more "next beyond" points, apply the rate from the next point beyond (in this tariff) which on that article to the same destination via the same route results in the lowest charge.

NOTE 2: If the intermediate point is located between two points from which commodity rates on the same article via the same route are published in this tariff, apply via that route from the intermediate point the rate from the next point in either direction which results in the higher charge. In applying this note, if there are two or more next beyond points due to branch or diverging lines, eliminate all such next beyond points except the point from which the lowest charge is applicable.

NOTE 3: If there is in any other tariff a commodity rate on the same article from the intermediate origin point applicable over the same route to the same destination, the provisions of this rule are not applicable from such intermediate origin point.

(2) *To intermediate points.* Subject to the provisions of notes 1, 2, and 3 in this subparagraph, to any point of destination to which a commodity rate on a given article from a given point of origin and via a given route is not named in this tariff, which point is intermediate to a point to which a commodity rate on said article is published in this tariff via a route through the intermediate point over which such commodity rate applies from the same point of origin, apply to such intermediate point from such point of origin and

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via such route the commodity rate in this tariff on said article to the next point beyond to which a commodity rate is published herein on that article from the same point of origin via the same route.

NOTE 1: When by reason of branch or diverging lines, there are two or more "next beyond" points, apply the rate to the next point beyond (in this tariff) which on that article from the same point of origin via the same route results in the lowest charge.

NOTE 2: If the intermediate point is located between two points to which commodity rates on the same article via the same route are published in this tariff, apply via that route to the intermediate point the rate to the next point in either direction which results in the higher charge. In applying this note, if there are two or more next beyond points due to branch or diverging lines, eliminate all such next beyond points except the point to which the lowest charge is applicable.

NOTE 3: If there is in any other tariff a commodity rate on the same article to the intermediate destination point applicable over the same route from the same point of origin the provisions of this rule are not applicable to such intermediate destination point.

(c) *"From" and "to" rules may apply in connection with same rate.* When the rules providing application from and to intermediate points are both shown in connection with any commodity rate, they establish commodity rates from intermediate points of origin to intermediate points of destination on such commodities. Concurrences are not posted at offices and their provisions are not published in tariffs. Unless otherwise provided in the tariff intermediate application rules establish rates from (or to) intermediate points on the lines of carriers parties to the tariff without regard to the concurrence forms and numbers under authority of which carriers are shown as participating carriers.

(d) *Application of rules may be restricted.* Tariffs may by appropriate application published in connection with one or more of such rules, provide that they apply only in connection with the rates or routes making reference thereto, or may provide for the nonapplication of such rule or rules to particular rates or routes.

(e) *Wording of rules not to vary.* The wording of the above rules may not be varied, except that (1) in tariffs containing alternative sections the rules may be modified by substituting the words "in this section" for the words "in this tariff" wherever they appear. If this is done such rules must be published in each section of tariff in which they are to apply and may not be published elsewhere in the tariff; or (2) when it is desired to alternate the rates in any section of a tariff with the rates made only by use of an intermediate point rule applicable in connection with rates in another section, such intermediate rule must be published in a separate section and must be modified by changing the words "this tariff" to read "Section No. _____" (here insert number of the section which contains the points and rates in connection with which the intermediate rule is to be used). The provisions of this paragraph do not waive the requirements of § 341.7(b).

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[¶ 26,338]

§ 341.28 Tariff notations in connection with fourth section orders.

(a) *When relief from long-and-short haul provision is granted.* (1) When the Commission has issued an order granting to a carrier authority to depart from the provisions of the amended fourth section of the Act and to charge higher rates for shorter than for longer distances over the same line or route, the title page of each tariff or supplement issued and filed under such authority must bear the following notation:

This tariff (or supplement) contains rates that are higher for shorter than longer distances over the same route. Such departure from the terms of the amended fourth section of the Interstate Commerce Act is permitted by authority of Federal Energy Regulatory Commission fourth section order (or orders), as indicated in individual items herein.

(2) In connection with the item or items containing the rates as to which such authority has been granted, specific authority has been granted, specific reference to the Commission's fourth section order number and date must be given, except that in instances where all of the rates in the tariff or supplement are covered by one fourth section order references to the number and date thereof may be shown on the title page. When a general fourth section order is referred to, the particular section thereof granting such authority must be shown in addition to the order number.

(b) *When relief from aggregate of intermediate provision is granted.* (1) When the Commission has issued an order granting to a carrier authority to depart from the provisions of the amended fourth section of the Act and to charge rates higher than the aggregate of the intermediate rates subject to the Act, the title page of each tariff or supplement issued and filed under such authority must bear the following notation:

This tariff (or supplement), contains rates that exceed the aggregates of the intermediate rates subject to the Interstate Commerce Act. Such departure from the terms of the amended fourth section of the Act is permitted by authority of Federal Energy Regulatory Commission Fourth section order (or orders), as indicated in individual items herein.

(2) In connection with the item or items containing the rates as to which such authority has been granted, specific reference to the Commission's fourth section order number and date must be given, except that in instances where all of the rates in the tariff or supplement are covered by one fourth section order, reference to the number and date thereof may be shown on the title page. When a general fourth section order is referred to, the particular section thereof granting such authority must be shown in addition to the order number.

(c) *When relief is denied.* When the Commission has denied authority to carriers to continue existing departures from the provisions of the amended fourth section of the Act, but has not prescribed specific rates in lieu of those existing, and it becomes necessary for carriers to publish and file rates in full conformity with the provisions of that section, the rates so filed have not been approved by the Commission. Tariffs or supplements in which they are

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published should not indicate that they are prescribed by, or are in compliance with an order of the Commission. If desired, however, a clause reading substantially as follows may be shown:

Issued to bring rates into conformity with the provisions of the fourth section of the Interstate Commerce Act following the issuance by the Federal Energy Regulatory Commission of its fourth section order No. —— of —— (date), denying carrier's application.

(d) *Fourth section not waived.* Nothing in this section may be construed as waiving any of the provisions of the amended fourth section of the Interstate Commerce Act.

[¶ 26,339]

§ 341.29 Letter of transmittal.

(a) All tariffs and supplements filed with the Commission shall be accompanied by a letter of transmittal of one sheet 8½ × 11 inches in size, in form substantially as follows:

[Corporate name of carrier in full]

[Post-office address]

——————————, 19—.

Transmittal No. ——————————————————————

To THE FEDERAL ENERGY REGULATORY COMMISSION, WASHINGTON, D.C. 20426

Accompanying schedule is sent you for filing in compliance with the requirements of the Interstate Commerce Act issued by ——— and bearing FERC No. ———; Supp. No. ——— to FERC No. ———; revised page to FERC No. ———; effective ———, 19—; and is concurred in by all carriers named thereon as participants under continuing concurrences or authorizations now on file with the Federal Energy Regulatory Commission except the following named carriers whose concurrences are attached hereto:

——————————————————————————————

——————————————————————————————

——————————————————————————————

——————————————[Sig.]

——————————————[Title]

(b) A separate letter may accompany each schedule, or the form may be modified to provide for filing under one letter as many schedules as can be conveniently entered.

NOTE: If receipt for accompanying schedule is desired the letter of transmittal must be sent in duplicate, and one copy showing the date of receipt by the Commission will be returned to the sender.

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[¶ 26,340]

§ 341.30 Transmission of publications to subscribers.

(a) Except as otherwise authorized in paragraphs (b) and (d) of this section, one copy of each new tariff, supplement, and loose-leaf page must be transmitted to each (subscriber) thereto by first-class mail (or other means requested in writing by subscriber) not later than the time the copies for official filing are transmitted to the Commission. The letter of transmittal accompanying the copies to the Commission must contain the following certification:

I hereby certify that I have on or before this day sent one copy of each publication listed hereon to each subscriber thereto by first-class mail, or by other means of transmission agreed upon in writing by the subscriber.

Signature of person

transmitting publication(s)

Date

(b) If a new tariff or supplement is filed which in its entirety is published under an authority from this Commission to publish and file without notice or on notice of less than ten days, or if a new loose-leaf page is filed which contains a provision published under an authority from this Commission to publish and file without notice or on notice of less than ten days, paragraph (a) of this section need not be complied with as to such publication if it cannot be or compliance would cause excessive delay, but one copy of such publication must be transmitted to each subscriber thereto by first-class mail (or other means requested in writing by subscriber) within five calendar days, starting with the calendar day following that on which the copies for official filing are transmitted to the Commission, and the letter of transmittal to the Commission must contain the following certification:

I hereby certify that I will within five calendar days after today send one copy of each publication listed hereon to each subscriber thereto by first-class mail, or by other means of transmission agreed upon in writing by the subscriber.

Signature of person

transmitting publication(s)

Date

Included in this exception are supplements issued for the purpose of announcing suspensions made by the Commission, publications (published in the name of a carrier only) announcing adoptions.

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(c) When copies of different publications are transmitted to the Commission at the same time, some copies of which have been transmitted to subscribers in compliance with paragraph (a) of this section and some copies of which will be transmitted to subscribers in compliance with paragraph (b) of this section, two letters of transmittal must accompany the copies to the Commission, one complying with paragraph (a) of this section and the other complying with paragraph (b) of this section.

(d) If there are no subscribers to any publication listed on a letter of transmittal accompanying the copies for official filing to the Commission, the letter of transmittal must contain the following certification:

I hereby certify that there are no subscribers to the publication(s) listed hereon

_____

Signature of person
transmitting publication(s)

_____

Date

If copies of different publications are transmitted to the Commission at the same time, some of which are subscribed to and some of which are not, only the provisions of paragraphs (a) or (b) of this section, or both, as the case may be, need be complied with.

(e) Expedited service (when transmitting one copy of each publication) must be provided to each subscriber requesting it. The cost of this service may be passed on to the subscriber.

(f) Carriers and agents shall furnish without delay one copy of any of their tariff publications, effective or published but not yet effective, to any person upon reasonable request therefor at a reasonable charge not to exceed that assessed a subscriber.

(g) As used herein, the term "subscriber" means a party who voluntarily or upon reasonable request is furnished at least one copy of a particular tariff and amendments thereto (including reissues thereof) by the publishing carrier or agent. The term does not, however, pertain to requests for a copy or copies of a tariff without a request for future amendments thereto.

[¶ 26,341]

§ 341.31 [Reserved]

[¶ 26,351]

§ 341.51 Movement of shipments refused by consignees.

(a) Subject to the limitations in this section, rules (1) providing that shipments which are refused by consignee may be reconsigned and forwarded to a new destination under application of the through rate from point of origin to final destination, either with or without the exaction of a reconsignment charge, or (2) providing for the return of shipments (or portions of shipments)

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refused by consignee to point of origin at free or reduced rates, are permissible.

(b) Such rules must provide that if reconsignment or forwarding to a new destination is permitted, the through rate to be applied shall be that in effect from point of origin to final destination through the point of reconsignment or reforwarding, and if return to point of origin is permitted such return must be made over the route over which the shipment moved to the original destination. Such rules must be published in tariffs and must be so worded and applied as to be free from unjust discrimination and to avoid abuse or improper practices thereunder. The practice of forwarding to a new destination or redeeming at reduced rates volumes that have been delivered into the possession of consignees and have been altered is neither proper nor free from unjust discrimination.

(c) Where a shipment is refused and is left on the hands of the carrier, it is believed that the carrier, when it recognizes its responsibility for the value of the shipment and the transportation charges on same, may haul it for itself to such point on its own lines as offers the best opportunities or facilities for disposing of it to advantage, just as it may haul product of its own.

[¶ 26,352]

§ 341.52 Responsibilities of carriers under tariffs.

(a) The Commission's tariff regulations require that the carrier or agent that issues a joint tariff shall, before issuing same, have secured definite and affirmative authority from every carrier shown therein as a participant, and shall show in connection with the name of each participating carrier the form and number of the instrument by authority of which that carrier is made a party to the tariff.

A carrier has no means of preventing another carrier from naming it as a party to a joint tariff without proper authority so to do, or of preventing another carrier from exceeding the authority conferred by a limited concurrence. It can not, however, be bound by such unauthorized act and it is its obvious duty to refuse to recognize or apply any such unlawful issue. It should also at once call the attention of the Commission and of the one that issued the tariff to such erroneous action.

(b) If one or more carriers are, without proper authority, so shown as participating in any tariff and other carriers are lawfully shown as parties thereto, the use of the publication is unlawful as to the carriers that are named as parties thereto without proper authority and lawful as to those that are parties to it under proper authority. The carrier over whose line shipments are sent under a joint tariff is bound by the terms of that tariff if it has lawfully concurred therein, and, if it has not lawfully concurred therein, may not accept earnings in accordance therewith, but must demand for the service performed its lawful earnings according to its lawful tariffs.

(c) Responsibility and liability for the unlawful incorporation of any carrier in a tariff, or for exceeding the authority conferred by a limited concurrence, will rest wholly upon the carrier that issued the tariff.

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[¶ 26,353]

§ 341.53 Withdrawal of filed tariffs not permitted.

On occasion, the Commission is requested to return to carriers tariff publications which have been forwarded to the Commission for filing or which have been received by the Commission in the ordinary course of business. Such requests are usually based on the desire to substitute some corrected or changed publication for the one that has been filed. To surrender publications duly filed and permit the substitution of others would involve falsification of the records, which cannot be permitted. Tariff publications received for filing will not be returned unless rejected because of failure to give lawful notice of changes.

[¶ 26,354]

§ 341.54 Changes in rates.

Section 6(3) of the act, as amended, provides that:

No change shall be made in the rates, fares, and charges or joint rates, fares, and charges which have been filed and published by any common carrier in compliance with the requirements of this section, except after 30 days' notice to the Commission and to the public published as aforesaid, which shall plainly state the changes proposed to be made in the schedule then in force and the time when the changed rates, fares, or charges will go into effect; and the proposed changes shall be shown by printing new schedules, or shall be plainly indicated upon the schedules in force at the time and kept open to public inspection.

(a) *Effectiveness; notice of change.* This provision plainly refers to rates which have already become effective, and also applies the term "proposed changes" to rates which have not become effective. It follows that after notice of a change in rates has been published and filed the new rates must be allowed to go into effect, and cannot be changed, withdrawn, or canceled for at least 30 days after the date when the rates have become effective except as otherwise specifically authorized by rule, decision, or order of the Commission. A tariff may provide that it will expire with a date specified therein and which is at least 30 days subsequent to the date upon which it becomes effective, or a tariff may contain a notation that certain rates therein stated will expire with a date specified which is at least 30 days subsequent to the date upon which such rates become effective, and this will be legal notice of the cancellation or withdrawal of such tariff or of such rates. A provision in a tariff or supplement that the same or any part thereof will expire with a given date is not a guaranty that the tariff, or supplement, or such part thereof, will remain effective until and including that date. Such provision must be understood to mean that the tariff, or supplement, or specified part thereof, will expire with the date named unless sooner canceled, changed, or extended in lawful way. (See § 341.3(g).)

(b) *Commission may allow exception.* Carriers must comply fully with the requirements of the law respecting the publication, filing, and taking effect of proposed rates, unless upon application and for good cause shown, the

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Commission, in the exercise of authority conferred upon it, shall allow rates to be changed or withdrawn upon less than 30 days' notice or by formal order otherwise modify such requirements. No rule decision, or order of the Commission is authority to change rates or issue tariffs on less than statutory notice unless so specifically provided in the rule, decision, or order. (See § 341.14(f).)

[¶ 26,355]

§ 341.55 Legal rate.

(a) *Rate named from origin to destination only legal rate.* When a rate, whether local or joint, from point of origin to destination, has been established via a route, it becomes the only legal rate for through transportation via that route, whether it is greater or less than the aggregate of intermediate rates.

(b) *Combination rate.* (1) If no rate is named from point of origin to destination of a shipment via the route of movement, the lowest combination of rates applicable via the route of movement is the legal rate.

(2) A combination rate for a through shipment must be treated as a unit from point of origin to final destination, and the rate applied must be the combination of the factors in effect on the date the shipment was accepted for transportation at point of origin. All of the conditions applicable to each factor in such combination rate for through shipment in effect on the date the shipment was accepted for transportation at point of origin must be observed and cannot be varied as to that shipment during the period of its transportation to final destination.

(c) *Back-haul unnecessary.* If, in applying combination rates on a through shipment, the shipment moves from a point of origin (or to a point of destination) intermediate to a base point upon which the lowest combination makes, or moves via a junction point which the lowest combination makes, or moves via a junction point with connecting or branch line intermediate to the base point upon which the lowest combination makes, such combination must be applied; and it is not necessary to haul the shipment to such base point and back again through (or to) such intermediate point of origin (or destination), or such intermediate junction point: *Provided,* (1) That the rates used in such combination are applicable over the route the shipment would have moved had it been hauled to the base point and back again over the same route; and (2) That compliance with routing instructions will permit movement to the base point and back again over the same route.

NOTE: This section does not authorize equalizing via one route the combination of rates applicable over another route and does not confer any authority to depart from the provisions of the fourth section of the act, which prohibits higher charges for shorter than for longer distances over the same route and higher charges than the aggregate of the intermediate rates over the same route. It must also be understood that in a case where the lowest combination of rates makes on a base point as to which the point of origin or of destination is directly intermediate, a specific rate to or from such point that is higher than such combination is included in the Commission's ruling that a through rate that is higher then the combination of intermediate rates

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between the same points is prima facie unreasonable. It must be further understood that in applying the lowest combination authorized in this section the Commission expresses no opinion as to the reasonableness of a rate so constructed.

[¶ 26,356]

§ 341.56 Reduction of rate to equal the aggregate of the intermediate rates.

(a) Section 4 of the act, as amended, prohibits the charging of any greater compensation as a through rate than the aggregate of the intermediate rates that are subject to the act. The Commission has frequently held that through rates which are in excesss of the sum of the intermediate rates between the same points via the same route are prima facie unreasonable. The Commission has no authority to change or fix a rate except after full hearing. It is believed to be proper for the Commission to say that if called upon to formally pass upon a case of this nature it would be its policy to consider a rate which is higher than the aggregate of the intermediate rates between the same points via the same route as prima facie unreasonable and that the burden of proof would be upon the carrier to defend such unreasonable rate.

(b) Where a rate is in effect by a given route from point of origin to destination which is higher than the aggregate of intermediate rates from and to the same points, by the same or another route, such higher rate may, on not less than 1 day's notice to the public and the Commission, be reduced to the actual aggregate of such intermediate rates. Such reduced rate must be published in a supplement to or a reissue of the tariff in which the rate so reduced appears. Any tariff or supplement containing a rate reduced under authority of this section must bear on its title page, or in connection with such item, the notation "Issued on 1 day's notice under authority of 18 CFR 341.56. The rate (or rates) hereby reduced appears in _____ Tariff, FERC No. _____, item (or page) _____, and the factors to and from _____ (here insert point or points on which combination makes) used in making the new rate (or rates) are found in _____, Tariff, FERC No. _____, item (or page) _____, and _____ Tariff, FERC No. _____, item (or page) _____."

(c)(1) In order to facilitate the publication of rates which will be in accord with the aggregate of intermediates provision of the fourth section of the act, the following rule may be incorporated in tariffs:

Carriers have endeavored to publish herein rates which do not exceed the aggregate of the intermediate rates between points between which there is an actual movement of traffic, but if there should be in this tariff any rate which is in excess of the aggregate of intermediates, or if through subsequent change in an intermediate factor any rate in this tariff becomes higher than the aggregate of intermediates in violation of the provisions of the fourth section of the Act, carriers will reduce such rates to the aggregate of the intermediate rates on 1 day's notice under authority of 18 CFR 341.56. On any commodity between points between which there is a movement or a prospective movement of that commodity. The publication of such reduced rate will be made within 30 days after such unlawful rate comes to carrier's notice.

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Carriers, parties to this tariff, whose rate over the route of movement is higher than the aggregate of the intermediates over that route, further agree that on any shipment on which the higher rate named in this tariff for that route has been charged, application will be made promptly to the Federal Energy Regulatory Commission for authority to award reparation on the basis of the aggregate of intermediates in effect on date of shipment. (See note.)

Note.—Carriers or shippers who discover combinations which result in lower charges than the rates named herein, should promptly report such cases to the publishing agent of his tariff, showing the through rate and the item or page where it is found together with the separate factors which make up the combination, giving tariff reference by item or page, where possible, for each.

(2) In placing this rule in tariffs, carriers must strictly adhere to the wording of the rule as no modification thereof will be permitted.

(3) The failure to publish and file reduced rates as provided in this part, within 30 days from the date that said rates are brought to the attention of the carriers parties thereto, or any of them, or their agents, will be considered by the Commission as sufficient ground for the issuance of an order prohibiting its use in connection with such carrier or carriers. A promise to publish certain rates, when published in a tariff, becomes the rule of the carriers parties to the tariff and therefore when a carrier or agent has been called upon to reduce rates under authority of the above rule it will not be necessary for such carrier or agent to secure any additional authority from the carriers parties to the tariff for the publication of the reduced rates and any delay on that account may cause carriers, to incur the penalties provided for violations of the fourth and sixth sections of the act in addition to losing the right to use the rule in tariffs.

[¶ 26,357]

§ 341.57 Newly constructed pipelines.

(a) *Rates from, to, or via newly constructed lines.* Charges applicable at, and rates, charges, rules or regulations applicable from, to, or via points on newly constructed pipelines including loops, branches and extensions of existing pipelines may be established in the first instance on not less than 10 days' notice. Such rates when established may be changed only in accordance with the act, except that where, by reason of the establishment of local rates between points on a newly constructed line as defined in this section, combination through rates have become effective between points on said line and points on other lines of the same or other carriers, such combination through rates may, within 60 days after the effective date of the local rates between points on said newly constructed line, be displaced on not less than 10 days' notice by other rates, through or combination, which produce lower charges than such combination rates.

(b) *Tariff notation when rates established in first instance.* A tariff or supplement establishing rates, charges, rules, or regulations in the first instance under authority of this section must contain the following notation on its title page, except that if only a portion of the rates, charges, rules, or regulations in such publications are established under authority of the rule the

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notation must be shown in connection with such rates, charges, rules, or regulations:

Issued on 10 days' notice, authority rule 18 CFR 341.57. Rates established in the first instance (from, to, between, via, or at, as case may be) points on pipeline.

(c) *Tariff notation for subsequent publications.* A tariff or supplement which changes combination rates from, to, or via points on a newly constructed line as provided in paragraph (a) of this section must contain the following notation on its title page, except that if only a portion of the rates, charges, rules, or regulations in such publication are established under authority of the rule, the notation must be shown in connection with such rates, charges, rules, or regulations:

Issued on 10 days' notice, authority 18 C.F.R. § 341.57. Rates established (from, to, between, via, or at, as case may be) points on pipeline. Local rates first established (from, to, between, via, or at, as the case may be) such points in —— FERC No. —— effective —— (date).

(d) *Rates established may not be reduced by similar rates.* When a commodity rate has been established from, to, via, or between points on a newly constructed line, a different commodity rate from, to, via, or between the same points may not be established at a later date under authority of this section; but commodity rates may be established under authority of this section within the 60-day period prescribed herein. Interested carriers and publishing agents should be notified as much in advance of the opening of a newly constructed line as is possible in order that rates may be established which will give carriers and shippers fullest possible use of such newly constructed lines.

[The next page is 17,161.]

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[¶ 26,358]

§ 341.58 Applications under section 6 for authority to make changes in tariffs.

(a) *Rates changed on less than statutory notice.* Section 6 of the Act authorizes the Commission in its discretion and for good cause shown, to permit changes in rates on a notice of less than 30 days. The Commission will exercise this authority only in cases where actual emergency and real merit are shown. Desire to meet the rates of a competing carrier which has given the full statutory notice of change in rates will not of itself be regarded as good cause for allowing changes in rates on less than statutory notice. Clerical or typographical errors in tariffs constitute good cause for the exercise of this authority, but every application based thereon must plainly specify the omissions or mistakes together with a full statement of the circumstances attending such omission or error and must be presented with reasonable promptness after issuance of the defective tariff.

(b) *Authority necessary to make applications.* Applications for permission to establish rates, rules, or regulations on less than statutory notice, or for waiver of the provisions of this part must be made by the agent or carrier that holds authority to file the proposed changes. If the application requests permission to make changes in joint tariffs it must state that it is filed for and on behalf of all carriers parties to the proposed change.

(c) *Permission will not issue to modify formal orders.* Frequently carriers file sixth section applications requesting authority to make changes on short notice when a formal order of the Commission required publication on 30 days' notice. Such requests in effect are requests for modification of the formal order and should be filed as petitions on the formal docket for modification of the order and not as applications under sixth section.

(d) *Partial use of permission prohibited.* Instances have occurred where carriers or their agents have not used the full authority extended by special permissions. When passing upon sixth section applications the Commission gives consideration to all of the facts and circumstances set forth in the application and if approved the special permission is issued with the understanding that all of its terms are to be complied with and that all the authority dealing with the same subject matter will be used. Therefore, if all related matter authorized by special permissions will not be established and more limited authority is desired a new application complying with the provisions of this section in all respects and making reference to the previous authority must be filed.

(e) *Applications, form and number.* Applications (including amendments thereto and exhibits made a part thereof) for permission to change rates, rules, or regulations, on less than statutory notice or for waiver of the provisions of this part shall be made with fourteen copies in conformance with Rule 2004 of the Commission's Rules of Practice and Procedure, shall be addressed to the Federal Energy Regulatory Commission, and shall be sent to the Secretary, Federal Energy Regulatory Commission, Washington, D.C. 20426. Such applications shall be made on paper 8½ × 11 inches, shall be in the following

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form, shall give the information required by that form, shall be numbered consecutively and must bear the signature of the president, vice president, traffic manager, assistant traffic manager, general freight agent, or a duly authorized attorney and agent, specifying title.

FORM OF APPLICATION

(Name of carrier in full)

———, 19—.

(Place and date)

TO THE FEDERAL ENERGY REGULATORY COMMISSION,
WASHINGTON, D.C. 20426:

The ——— (Name of carrier), by ——— (Name of officer) its ——— (Title of officer) does hereby respectfully petition the Federal Energy Regulatory Commission that it be permitted, under section 6 of the Interstate Commerce Act, as amended, to put in force the following rates (or rules or regulations) to become effective ——— days after the filing thereof with the Federal Energy Regulatory Commission.

(State fully, either specifically or by reference to an accompanying exhibit, the rates (or rules or regulations) which it is desired to put into effect, the commodities upon which they are to apply and the points of origin and destination. If permission is sought to establish a rule or regulation the exact wording of the proposed rule or regulations must be shown.)

Your petitioner further represents that the said rates (or rules or regulations) above mentioned will be published in Tariff FERC No. —— (or in a consecutively numbered supplement to FERC No. ——), and will supersede and take the place of the rates (or rules or regulations) on like traffic from and to the points above named which are set forth in Tariff FERC No. —— (or supplement) on file with the commission.

(Here state, either specifically or by reference to an accompanying exhibit, the present rates, rules or regulations, together with the FERC numbers in which published and the effect of the proposed change)

(State names of all carriers publishing rates on the commodity or commodities covered by the application between the same or related points and the FERC numbers of tariffs containing such rates)

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(State whether or not the proposed rates or rules or regulations, including the request to establish on less than statutory notice, have been called to the attention of such carriers, and their views thereon)

_____

_____

(State the basis on which the proposed rates are constructed, if the application seeks less than statutory notice)

_____

_____

(State the relationship existing between points of origin and destination covered by the application, and any point or points of origin or destination not covered by said application, if the application seeks less than statutory notice)

_____

_____

(State what relationship, if any, the rates on the commodity or commodities covered by the application bear to rates on other commodities if the application seeks less than statutory notice)

And your petitioner further bases such request upon the following facts, which present certain special circumstances and conditions justifying the request herein made:

_____

_____

(State fully all other circumstances and conditions which are relied upon as justifying the application and which may aid the commission in determining the question presented. If short notice is requested, state why the change was not established upon statutory notice)

_____

(Corporate name of carrier)

By _____

(Name and title of officer)

Subscribed and sworn to before me this ——— day of ————, 19—.

(Only the original need be executed)

_____

Notary Public

When an application is made by an agent, appropriate change should be made in the introductory and closing paragraphs of the form

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[¶ 26,359]

§ 341.59 Diversion or reconsignment privileges and rules.

(a)(1) Frequently a shipper desires to forward a shipment to a certain point and have the privilege of changing the destination or consignee while shipment is in transit or after it arrives at destination to which originally consigned, and to forward it under the through rate from point of origin to final destination which generally is lower than the combination of intermediate rates.

(2) Such services are of value to the shipper. If they are granted, carriers' tariffs shall so state in terms that are not open to misconstruction, and shall also state clearly the conditions under which they may be used and the charges that will be made therefor.

(b) Some carriers do not consider a change of consignee which does not involve a change of destination as a reconsignment, while others do consider it a reconsignment and charge for it as such. The Commission holds the view that when not specifically qualified in tariffs, the terms "reconsignment" or "diversion" include changes in destination, routing, consignor or consignee. If carrier wishes to distinguish between such changes in its privileges or charges it must so specify in its tariff rules.

[¶ 26,360]

§ 341.60 [Reserved]

[¶ 26,361]

§ 341.61 Demurrage on interstate shipments.

(a) The act requires that carriers shall publish, post and file tariffs containing terminal or other charges and all rules or regulations which in any wise change, affect, or determine the value of the service rendered to the shipper or consignee. Such terminal charges include demurrage charges.

(b) Demurrage rules and charges applicable to interstate shipments are governed by the act and therefore are within the jurisdiction of the Federal Energy Regulatory Commission and not within the jurisdiction of State authorities.

(c) Demurrage rules and charges published and filed must be observed as strictly as transportation rules and charges. Such charges are controlled by the tariffs in effect contemporaneously with the accrual of the service, and therefore are subject to such changes as may be made in the applicable tariffs during the period of accrual.

CROSS REFERENCE: For regulations concerning posting tariffs at stations, see Part 343 of this chapter.

[¶ 26,362]

§ 341.62 [Reserved]

[¶ 26,363]

§ 341.63 [Reserved]

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[¶ 26,364]

§ 341.64 In absence of routes, rates apply via lines parties to tariffs.

If a tariff contains no routing direction the joint rates shown therein are applicable between the points specified via the lines of any and all carriers that are parties to the tariff; and shipper must not be required to pay higher charges than those stated in the tariff because the carriers have not agreed divisions of the rates via the junction through which the shipment moves. If agent of carrier bills or sends shipment via a route or junction point that is covered by the tariff but via which no division of the rate applies, it is for the carriers to agree between themselves upon the division of the rate.

[¶ 26,366]

§ 341.66 [Reserved]

[¶ 26,367]

§ 341.67 Export and import traffic—ocean carriers.

(a) *Ocean carriers not subject to Act.* Common carriers by water, or conferences of such carriers, engaged in the foreign commerce of the United States, as defined in the Shipping Act, 1916, that operate between ports of the United States and foreign countries are not subject to the terms of the Interstate Commerce Act or to the jurisdiction of the Federal Energy Regulatory Commission.

(b) *Through routes and joint rates.* (1) A common carrier by pipeline subject to the Interstate Commerce Act (hereinafter referred to in this section as the domestic carrier), may establish a through route and joint rate with a vessel-operating common carrier by water engaged in the foreign commerce of the United States (hereinafter referred to in this section as the ocean carrier) as defined in the Shipping Act, 1916, for the transportation of property between any place in the United States and any place in a foreign country. Every tariff naming such a through route and joint rate shall be filed with this Commission. The tariff may be filed in the name of the ocean carrier, a conference of ocean carriers, the domestic carrier or the duly appointed tariff publishing agent of such carriers.

(2) The tariff shall be constructed, filed, and posted in conformity with the Interstate Commerce Act, and, except as otherwise specifically authorized, with the regulations in Parts 341 and 343 of this chapter. The tariff shall be printed in the English language, include the names of all participating carriers, a description of the services to be performed by each participating carrier, a statement of the joint rate, and a clear and definite statement of the division, rate, or charge to be received by the domestic carrier for its share of the revenue covering a through shipment or aggregate of shipments under the tariff. The division, rate, or charge accruing to the domestic carrier must be shown in terms of lawful money of the United States. If shipments are to be permitted to be aggregated which are rated under more than one tariff published by the carrier or for its account, each tariff so affected must contain a specific rule, providing for the aggregation in connection with the statement of the domestic carrier's divisions and identifying by FERC designation each

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of the other tariffs. A tariff filed in the name of a conference need not show "Agent" after the name of the conference unless the conference publishes as an agent. Where the volumes are to be loaded or unloaded into or from the facilities by the domestic carrier, the tariff must clearly state that the joint rate includes this service or must provide a separate charge to apply when said service is provided.

(3) Rates or charges may be stated to apply in a unit other than a United States unit provided the unit is defined in the tariff where used. The International System of Units (SI) (the metric system) may be used and need not be defined. A rate or charge applying on a unit of measurement other than weight may be published, but if the tariff also includes a rate or charge applying on a unit of weight on the same traffic, the charges on the weight basis must alternate with the charges on the measurement basis other than weight. In every case the tariff shall provide a definite method for determining the measurement of the shipment and the applicable charges. "Cargo, N.O.S." may be provided as a commodity description provided the term is clearly defined in the tariff where used. Tariffs governing the application of the rate tariff need not show a carrier as a participant when none of the provisions therein apply for such carrier's account.

(4) Allowances, cargo administrative charges, or reductions shall not be provided for payment to shippers or other parties for services performed by or facilities furnished by other than the carriers parties to the through transportation unless (i) such carriers by tariff publication hold themselves out to perform such services and furnish such facilities; (ii) such carriers are able to perform such services and furnish such facilities upon reasonable demand, and (iii) the performance of such services and furnishing of such facilities are included in the through joint rate or charge. This subparagraph does not apply where such provisions do not affect the division, rate, or charge accruing to the domestic carrier or the services performed by such carrier.

(5) A domestic carrier desiring to become a participant in a tariff filed in the name of a conference of ocean carriers, which conference does not publish as an agent, must give to its connecting ocean carrier participating in such conference tariffs a concurrence in tariffs issued and filed by the ocean carrier or the conference, or both. A limited concurrence may provide for only those limitations authorized in § 341.19 of this chapter. The concurrence forms prescribed by § 341.19 shall be modified to show that the authority extends to amendments to the tariff(s) and extends to tariffs filed in the name of the conference, and to show the types of tariffs (such as tariffs containing joint pipeline-ocean rates) in which the domestic carrier desires to participate. Powers of attorney must not be executed unless the conference publishes as an agent.

(6) The following changes may be published to become effective upon a specified date not prior to the date filed with the Commission in Washington, D.C., provided the division, rate, or charge accruing to the domestic carrier or a provision governing or affecting such division, rate, or charge does not change.

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(i) A change in a published rate, charge, rule, regulation, or other provision which results in a reduction or in no change in charges. This includes a change in a rate or charge which results in lessening or canceling a proposed (published but not yet effective) increase.

(ii) The establishment of a rate on a specific commodity not previously named in a tariff which results in a reduction or in no change in charges. The tariff must contain a cargo, N.O.S. rate or similar general cargo rate, which rate would otherwise be applicable to the specific commodity. The specific commodity rate must be equal to or lower than the cargo, N.O.S. or general cargo rate.

(iii) Except as otherwise provided in this paragraph, no new or initial rate, charge, rule, regulation, or other provision and no new point of origin or destination may be published upon less than 30 days' notice. In no case may the establishment of or a change in a division, rate, or charge accruing to the domestic carrier or a provision governing or affecting such division, rate, or charge become effective upon less than 30 days' notice.

(7) If a tariff includes charges for terminal services, canal tolls, or additional charges not under the control of the carrier or conference, which carrier merely acts as a collection agent for the charges, and the agency making such charges to the carrier increases the charges without notice or without adequate notice to the carrier or conference, such charges may be increased in the tariff by specific publication effective upon a specified date not prior to the date filed with the Commission, in Washington, D.C., whether included in the joint rate or separately stated. If the change occurs in the division, rate, or charge accruing to the domestic carrier, the amendment must contain a statement explaining the change.

(8) Every change made under authority of § 341.67(b)(6) or (7) must be shown in an amendment (a supplement if the tariff is in bound form or a loose-leaf page if the tariff is in loose-leaf form) to the tariff. The rates, charges, rules, regulations, or other provisions authorized to be changed thereunder may be changed without their having been effective for 30 days prior to the effective date of the change.

(9) The regulations in § 341.9(k)—Suspension of Tariff Schedules—shall govern only when the operation of the division, rate, or charge accruing to the domestic carrier or any provision governing the division, rate, or charge or the service performed by such carrier is suspended by an order of this Commission.

(10) The following reference marks may be used in the exact form shown for the purposes indicated and may not be used for any other purpose:

(R) to denote reductions.

(A) to denote increases.

(C) to denote changes in wording which result in neither increases nor reductions in charges.

An explanation of these reference marks must be provided in the tariff in which used.

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(c) *Port combination basis.* Domestic and ocean carriers may enter into joint rate arrangements, as authorized by paragraph (b) of this section, and domestic carriers may at the same time maintain in effect rates applicable only from and to the ports, usable in combination with ocean carriers[1] independently established rates. Publication of such rates by the domestic carrier shall be subject to the following:

(1) The domestic carriers shall file their rates to the ports and from the ports, and such rates must be the same for all, regardless of which ocean carrier may be designated by the shipper, except as otherwise provided by section 28 of the Merchant Marine Act (41 Stat. 988, 46 U.S.C. 884).

(2) When the domestic carriers publish rates which are indicated to apply only on export or import traffic, the tariffs containing such rates shall specify by inclusion or exclusion the countries to or from which traffic subject to such rates shall move, regardless of whether such countries are, or are not, adjacent to the United States. Tariffs shall also specify whether or not properly destined to or from which traffic subject to such the Commonwealth of Puerto Rico, Guam, Hawaii, or the Canal Zone is subject to such rates. In the absence of a statement in tariffs limiting the application of export or import rates, such rates will apply on traffic destined to or coming from them.

(3) As a matter of convenience to the public, the domestic carriers may also publish as information in their tariffs the ocean carriers' rates or charges that will apply to or from a foreign country in connection with the domestic carriers' rates. When this is done, the ocean carriers' rates or charges are in no manner subject to the jurisdiction of this Commission, but the rates of the domestic carriers applying to or from the ports are subject to all provisions of the Interstate Commerce Act and to this Commission's regulations.

(d) *Through export and import billing.* Export and import shipments may be forwarded under through billing. Through bills of lading must clearly separate the liability of the carriers included therein, where different, and must show (1) the tariff rates or charges of the domestic carriers to or from the port or (2) the joint rates or charges when such rates or charges are established and are named in tariffs on file with this Commission as provided in paragraph (b) of this section. The name of the domestic carrier shall appear in a prominent place on the face of the bill of lading when that carrier originates the shipment. Tariffs which provide for the use of a specified kind of bill of lading shall reproduce all of the terms and conditions thereof.

CROSS REFERENCE: For regulations governing the posting of tariffs of common carriers by pipeline, see Part 343.

[The next page is 17,201.]

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Part 342—Long-And-Short-Haul And Aggregate-of-Intermediate Rates—Pipelines

[¶ 26,375]

Sec.	
342.11	[Reserved].
342.21	Disposition of fractions.
342.31	[Reserved].
342.61	Relief for departures in rates on transit shipments.
342.65	Filing schedules simultaneously with applications.
342.75	Applications, preparation and filing, conformity with rules.
342.76	[Reserved].
342.77	Long-and-short-haul and aggregate of intermediate applications separate.
342.78	Number of copies, form, general specifications and requirements, signatures, and verification.
342.79	Matters to be shown in the application.
342.80	Additional information required.
342.81	Additional matters to be shown.
342.82	Miscellaneous provisions.
342.83	Acceptance of applications.
342.84	Applications for relief previously denied.
342.85	Changes and additions.

AUTHORITY: Department of Energy Organization Act, 42 U.S.C. §§ 7101-7352 (Supp. V 1981), Interstate Commerce Act, 49 U.S.C. 1-27 (1976); E.O. 12009. 3 CFR Part 142 (1978).

SOURCE: The provisions of Part 342 are contained in 49 F.R. 12898, March 30, 1984, effective July 2, 1984, unless otherwise noted.

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[¶ 26,376]

§ 342.11 [Reserved].

[¶ 26,377]

§ 342.21 Disposition of fractions.

(a) Applying the rule de minimis, all carriers are hereby authorized, in the making up of through rates on the aggregate of the intermediate rates, to disregard fractions of a cent less than .5 retaining the half cent in the rate when it is even .5, and making the rate in even cents when the fraction is more than .5.

(b) Tariffs need contain no reference to this order. The Commission does not hereby approve any rates that may be filed under this authority, all such rates being subject to complaint, investigation, and correction if in conflict with any other provision of the act.

[¶ 26,379]

§ 342.31 [Reserved].

[The next page is 17,211.]

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[¶ 26,381]

§ 342.61 Relief for departures in rates on transit shipments.

In those instances in which fourth-section orders have been or may be entered granting carriers relief from the provisions of section 4 of the act to maintain lower rates for the transportation of like kind of property for longer than for shorter distances the same relief shall also apply when the said rates, with or without the addition of lawfully established charges to cover the cost of transit, are applied on transit shipments. This section shall not be construed as authorizing fourth-section departures which might result from the establishment of transit privileges at some points and not at other points on the route of movement, nor as approving any transit arrangements that may be established under this permission, all such arrangements being subject to complaint, investigation, and correction if in conflict with any other provision of the act.

[¶ 26,382]

§ 342.65 Filing schedules simultaneously with applications.

(a) Section 4(1) of the Interstate Commerce Act (49 U.S.C. 4(1)) has been amended by the Transportation Act of 1940, now effective, so as to eliminate the so-called equidistant clause and to provide:

That tariffs proposing rates subject to the provisions of this paragraph may be filed when application is made to the Commission under the provisions hereof, and in the event such application is approved, the Commission shall permit such tariffs to become effective upon one day's notice.

(b) Heretofore, the practice of carriers has been to file applications for, and to obtain, fourth-section relief of either a temporary or continuing character before publishing and filing rates which would without relief contravene the fourth section. The new proviso is construed as intended to shorten the period intervening between carrier's determination to publish rates and their effective date so that if relief is granted, the time now intervening between the filing of the application and its granting will be eliminated, but is not intended to set aside the 30 days' notice requirement of section 6 or to abridge the rights of interested persons to seek suspension under section 15(7). To facilitate administration of the new proviso and at the same time to avoid interference with other sections of the act, the following procedure has been adopted:

(1) Insofar as possible, fourth section applications filed under the proviso will be acted upon before the effective date of the tariffs.

(2) In cases where it is found possible to pass upon applications before the effective date of the tariffs, if relief is granted, such relief will be made effective not with issuance of the order but on the same date as the effective date of the tariffs.

(3) In cases where action upon the application has not been taken prior to the effective date of the schedules, or where the relief sought has been denied in whole or in part, the present intention is to suspend the tariffs in

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order to avoid the unauthorized fourth-section departures which otherwise would result.

(4) Where rates were suspended solely because of failure to act upon the fourth-section application and where the necessary relief is subsequently granted, the present intention is promptly to vacate the order of suspension, the vacating order to be effective with issuance.

(c) Pending modification of the Commission's Rules of Practice, carriers that file applications for relief from the provisions of section 4 with respect to rates or charges included in schedules filed concurrently with such applications, should include in the applications a complete statement of the tariffs and supplements containing such rates or charges in substantially the following form:

The rates (charges) as to which relief is prayed herein have been published and filed to become effective _____ (date) in _____ (name of agent or carriers). Tariff, FERC _____ (No.) (supplement number to tariff should be shown if published therein).

(d) Tariffs and supplements filed under the above provision should show on the title page thereof a statement that they contain rates or charges, as the case may be, that contravene the long-and-short-haul (or aggregate-of-intermediates) provision of section 4, and should give specific reference to an item or page of the tariff or supplement on which shall be prominently displayed a complete and specific list of items and pages on which such rates are found, with specific number and date reference to the application for relief with respect to such rates or charges.

(e) When appropriate fourth section relief has been granted before the effective date of tariffs or supplements, and such tariffs or supplements become effective, number reference to the order granting such relief need be given only when the next supplement or reissue is filed.

(f) Many outstanding orders granting relief from the long-and-short-haul provision of section 4 contain conditions designed to give effect to the equidistant clause. The present intention is not to eliminate such conditions in the absence of petitions for reopening of proceedings in which such orders were entered as it is believed that in some cases retention of such conditions may be warranted notwithstanding the repeal of the equidistant clause and in others some substitute limitation may be necessary.

Note.—See previous notice in this matter, 5 FR 3758, Sept. 25, 1940.

[The next page is 17,221]

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[¶ 26,385]

§ 342.75 Applications, preparation and filing, conformity with rules.

Any common carrier subject to the Act may apply to this Commission, under section 4(1) of the Act, for such authorization as it is empowered to grant thereunder. Such application must conform to the requirements hereinafter provided.

[¶ 26,386]

§ 342.76 [Reserved].

[¶ 26,387]

§ 342.77 Long-and-short-haul and aggregate of intermediate applications separate.

Separate applications shall be filed for relief from the long-and-short-haul provision, and for relief from the aggregate-of-intermediates provision of section 4 of the act.

[¶ 26,388]

§ 342.78 Number of copies, form, general specifications and requirements, signatures, and verification.

(a) Applications shall be substantially in the form shown below, and five copies of each, including all exhibits and maps must be furnished.

Form of Application for Relief Under

Section 4(1) of the Act

Fourth Section Application

Commission's No. ——

Carrier's No. ——

The Company _____, by _____, its _____ (Official title), hereby petitions the Federal Energy Regulatory Commission (FERC) for authority to establish rates or charges hereinafter set forth without observing the long-and-short haul (or aggregate-of-intermediates) provision of section 4(1) of the Interstate Commerce Act. (If rates, etc., are to apply over the lines of more than one carrier, the application should show that it is made for and on behalf of all such carriers, naming them, or if made for or on behalf of all carriers parties to a particular tariff, reference may be made by FERC No. to such tariff for the names of such carriers.)

I. (State fully the rates, charges, etc., which it is desired to establish, with complete reference to the tariffs in which published and the effective date thereof, the routes over and the commodities upon which they are to apply, and name, or descriptions of the points of origin and destination. *See* Note A following.)

II. (State fully names or description of intermediate points at which it is desired to maintain higher rates etc., and rates etc., at such points or a sufficient number of such points to illustrate the situation, including the first

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and last higher-rated and the highest-rated intermediate points. Distances between all points shown should be included in this statement. In applications for relief from the aggregate-of-intermediates provision, set forth typical examples of the higher through rates or charges, and the intermediate rates or charges that in the aggregate are less than the through rates etc. *See* Note A, following. Also show FERC Nos. of tariffs, and supplements thereto, containing the rates and distances stated.)

III. This application is based upon the following facts which present all of the circumstances and conditions relied upon by your applicant in justification of the relief herein prayed: (Make a complete and accurate statement as to the necessity for the proposed changes, and all of the circumstances and conditions relied upon as justifying the relief prayed. *See* Note A, following.)

IV. (Give specific reference to any proceeding pending before or determined by the Commission, by docket number, and report citation, if any, which may have any bearing upon, or be in any way related to the rates, etc., sought to be established or maintained. If none, state that fact.)

_____ Company (Corporate title of applicant)

By (Personal signature of officer) _____

Title of officer _____

Note A.—When more convenient this information may be given in an exhibit or exhibits, and here referred to: "As stated in exhibit _____ attached to and made a part hereof." Information required under each numbered section, as above, should be shown in a separate exhibit.

Exhibits should conform to the following requirements:

Generally. Exhibits of a documentary character may have a maximum width of 22 inches by 12 1/2 inches in height. Whenever practicable the sheets of each exhibit and the lines of each sheet should be numbered. If the exhibit consists of five or more sheets, the first sheet or title-page should be confined to a brief statement of what the exhibit purports to show, with reference by sheet and line to illustrative or typical examples contained therein. The exhibit should bear an identifying number, letter, or short title which will readily distinguish it from other exhibits offered. It is desirable that, whenever practicable, rate comparisons and other evidence should be condensed into tables. Exhibits should not be argumentative, should be limited to statements of fact, and be relevant and material to the issue.

Reference to tariff authority, routes, and distances. All exhibits showing rates, charges, or other tariff or schedule provision must, by appropriate Federal Energy Regulatory Commission number reference, indicate the tariff or schedule authority therefor, and if distances are shown must also show the authority therefor and, by lines, highways, or waterways, and junction points, the routes over which the distances are computed; except that the routes over which the distances are computed need not be shown when such distances are specifically published in a tariff or schedule lawfully on file with the

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Commission, or definitely ascertainable from a tariff or schedule on file with the Commission showing rates prescribed by the Commission and based on short-lined distances, or short highway distances, provided the exhibit makes specific reference to such tariff or schedule as provided by this rule.

(b) Applications shall be on opaque, unglazed, durable paper not exceeding 8 1/2 by 11 inches. To permit the binding in covers of uniform size, margins of at least 1 1/2 and 1 inch, respectively, shall be allowed on the left and right margins. Binding shall be on the left margin. Reproduction may be by printing, multilithing, mimeographing, or any other process, provided the copies are clear and permanently legible. Whiteline blue prints which cannot be reproduced by photography are not desirable. If directly typewritten, or if in facsimile reproduction of typewriting, the impression must be on one side of the paper and must be double spaced, except that long quotations shall be single spaced and indented. If printed, nothing less than 10-point type shall be used, except that 8-point type may be used in footnotes.

(c) The original copy of the application must be over the personal signature of an executive officer, a responsible traffic officer, or a duly authorized attorney or agent, specifying his title, and sworn to before a notary public or other officer authorized by law to administer oaths. Verification shall be in the manner shown below:

Verification

State of_____:

County of_____

(Name of affiant), being duly sworn, deposes and says: That he is the _____ (title of affiant) of the _____ (Name of applicant); that he is authorized by said applicant to sign and file with the Federal Energy Regulatory Commission this application and exhibits attached hereto, and to verify the facts and statements contained in said application and exhibits; that he has carefully examined all of such statements contained in said application and exhibits; and that the same are true and correct to the best of his knowledge, information, and belief.

Subscribed and sworn to before me, a _____ in and for the State and County above, this _____ day of _____, 19_____.

(SEAL) My commission expires _____.

[¶ 26,389]

§ 342.79 Matters to be shown in the application.

(a) The information required in this section and in § § 342.80 and 342.81, and 342.82, according to the grounds upon which relief is sought, shall be shown in the application when Commission action is desired on the presentation made therein, without hearing. When a hearing is desired and applicants propose to justify at the hearing the relief desired, the information specified in this section shall be included in the application, and the information required in § § 342.80, 342.81 and 342.82 may, instead, be

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introduced at the hearing. It should be understood, however, that where the information included in the application does not fully justify the relief sought, or for other good cause, the application may be assigned for hearing at the Commission's discretion. The application shall show:

(b) The names of the carrier or carriers for, or on behalf of which it is made, or, if made on behalf of all carriers parties to a particular tariff, the application may refer to such tariff by the Federal Energy Regulatory Commission number (hereinafter abbreviated FERC No.).

(c) The FERC No. of all tariffs in which rates or charges referred to in the application or exhibits are published.

(d) The rates or charges proposed to be established; the basis or bases therefor; the commodities on which they are to apply; the points of origin and destination; and the routes between such points over which the rates or charges will apply. (Direct routes only with respect to applications for long-and-short-haul relief). When relief is desired from or to "related" points or "group" points, the points or groups shall be indicated in the map hereafter required to be furnished, or defined by reference to tariff publications providing the grouping.

(e) If long-and-short-haul relief is sought, the intermediate points at which it is proposed to maintain rates or charges higher than those proposed from or to more distant points and the rates or charges at such points. If relief from the aggregate-of-intermediate provision of section 4 is sought, the intermediate rates or charges that, in the aggregate, are less than the through rates or charges.

(f) A complete and accurate statement of the grounds relied upon as justification for the relief prayed.

(g) Applications for relief from the provisions of section 4 with respect to rates or charges included in schedules filed before the necessary relief has been obtained shall include in the opening or second paragraph a complete statement of the tariffs and supplements containing such rates or charges in substantially the following form:

The rates (charges) as to which relief is prayed herein have been published and filed to become effective _____ (Date) in ____ (Name of agent or carriers) tariff FERC ____ (Number). (Supplement number should be shown if published in a supplement).

[¶ 26,390]

§ 342.80 Additional information required.

(a) *Long-and-short-haul relief.* Applications should show:

(1) That, where proposed rates are depressed to meet competition, the competitive rates they are being established to meet are not within the control of applicant carriers, and any other facts tending to show that such rates should not be observed as maxima at intermediate points.

(2) That the lower rates for longer than for shorter hauls over the same line or route are reasonably compensatory.

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The following information is considered pertinent in a showing as to the reasonably compensatory nature of rates:

(i) Statement of ton-mile and per barrel-mile earnings under the competitive rates. When a general adjustment is involved covering rates between numerous competitive points and applicable or to be applied by numerous routes, it will be sufficient, ordinarily, to give representative examples of rates throughout the territory yielding the lowest earnings for the longest and shortest hauls involved.

(ii) Statement of ton-mile and barrel-mile expenses of petitioning carriers on the traffic involved, or other evidence showing that the proposed rates will be reasonably compensatory.

(3) A statement of rates at representative intermediate points at which rates exceed or would exceed the rates at more distant points under the proposed adjustment, including rates at the first and last higher-rated intermediate points and the distances from and to such intermediate points. This information need not be shown where the rates at the more distant points are constructed on the basis of a mileage scale and the rates at the intermediate points reflect the same mileage scale.

(4) That the higher rates for the shorter than for the longer hauls over the same line or route are reasonable. (The usual facts tending to show the reasonableness of rates should be presented).

(5) Whether there is a complaint pending as to the reasonableness of the rates at the intermediate points on the applicant line or route.

(6) In the event the rates proposed to be superseded by subsequent revisions are maintained under authority of outstanding fourth-section orders, reference to such orders shall be furnished.

(7) Where the proposed adjustment is in any way related to a prior adjustment as to which relief has been authorized, that is, the addition of origins, destinations, commodities, etc., or involves rates for the return movement of commodities as to which relief for initial hauls has been authorized, reference to orders authorizing such relief shall be furnished.

(b) *Aggregate-of-intermediates relief.* Applications should show:

(1) The origins and destinations from and to which it is proposed to continue, or to establish and maintain through rates or charges which exceed the aggregate-of-intermediate rates or charges, together with the intermediate rates or charges that, in the aggregate, are less than the through rates or charges.

(2) That the intermediate rates or charges which, in the aggregate, are lower than the through rates or charges, are depressed by competitive conditions that do not affect the through rates, or charges; and the same information with respect to the conditions alleged as affecting the intermediate rates as that required in applications for long-and-short-haul relief with respect to similar conditions when alleged as grounds for maintaining lower rates for longer than for shorter distances.

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(3) That the through rates or charges that would exceed the aggregate of intermediate rates or charges are reasonable. (The usual facts tending to show the reasonableness of rates should be presented).

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[¶ 26,391]

§ 342.81 Additional matters to be shown.

(a) *Applications based on water competitions* (1) The name of the competing water line or lines actually in operation between the water points and whether said water line or lines, in the transportation of the traffic involved, are subject to the Interstate Commerce Act.

(2) A detailed statement of the charges over the water line or lines, including marine insurance, wharfage, handling, shrinkage, and all other applicable incidental charges. Where such charges are named in tariffs on file with the Interstate Commerce Commission, reference should be made to such tariffs by ICC number.

(3) Whether facilities for loading into and unloading from barges or ships are available.

(4) The minimum tender that may be made to the water carrier or carriers, and whether shippers and receivers are equipped to handle such amounts.

(5) If the season of navigation is restricted, and, if so, that available storage will permit the handling by water of receivers' needs during the season of navigation.

(6) The cost of installation, maintenance, etc., of loading, unloading, and storage facilities which must be constructed or installed before water transportation is feasible.

(7) Evidence supporting water costs and accessorial charges which are not published in tariffs on file with the Interstate Commerce Commission.

(8) Certification that a copy of the application has been served upon the competing water line or lines named in paragraph (a)(1) hereof. The service and certification shall conform with the requirements of § 385.203 of this chapter.

(b) *Applications based on motor carrier competition.* The charges over the competing motor line or lines, including all incidental charges, and if interstate common contract carrier or carriers, reference to the applicable tariffs by ICC numbers.

(c) *Applications based on market competition.* (1) The names of the producing or receiving points whose competition is to be met.

(2) The short line or route and distances, or the class rate distances if the latter are normally used for rate making purposes, from the various producing points to the common market and tariff authority for the distances.

(3) The rates from the competitive producing points with reference by ICC No. to the tariffs naming the rates and whether they conform to the provisions of section 4 of the act. If relief has been granted or application is pending as to such rates, give reference to the ICC No. of the application or order.

(4) Whether similar competition is to be met at intermediate points.

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(d) *Applications based on weak financial condition or high operating costs of the applicant line.* Financial statistics and operating conditions.

[¶ 26,392]

§ 342.82 Miscellaneous provisions.

(a) In addition to the above, applications should show any other conditions or circumstances relied upon as constituting a special case within the meaning of section 4(1) of the Act.

(b) Applications should contain a map, made a part thereof, showing the relative location of lines or routes, the competitive points, and representative intermediate points at which higher rates are to be charged, or representative points from or to which it is proposed to maintain through rates or charges which exceed the aggregate of intermediates.

[¶ 26,393]

§ 342.83 Acceptance of applications.

In any case when, upon inspection, the Commission is of the opinion that an application does not sufficiently set forth required material or is otherwise deficient, the Commission may decline to accept the application for filing and may return it unfiled, or the Commission may accept it for filing and advise the person tendering it of the deficiencies and require that such deficiencies be corrected.

[¶ 26,394]

§ 342.84 Applications for relief previously denied.

If the Commission denies an application, and the carrier presents a new application based upon new or additional facts in justification of the proposed rates or charges, such facts should be clearly indicated as such, and the modified application must refer specifically to the previous application and the number of the order by which it was denied.

[¶ 26,395]

§ 342.85 Changes and additions.

Copies of any amendment to the application, or any additional information furnished to the Commission in connection therewith, including notices of any changes in the effective date of the rates or charges as set forth in compliance with § 342.79(g), shall be served by applicant upon all parties served with a copy of the application and upon all parties protesting the application. The service and certification thereof shall conform with the requirements of § 385.203 of this chapter.

[The next page is 17,251.]

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Part 343—Posting Tariffs of Common Carrier Pipelines

[¶ 26,399]

Tariffs of Common Carriers by Pipeline and Tariffs Containing Joint Intermodal Pipeline Rates

Sec.

343.0 Application - posting of tariffs defined.
343.1 Location of complete public files of tariffs.
343.2 Time of posting.
343.3 Tariff files to be accessible to the public.
343.4 Notice required to be posted.
343.5 Check-up on files of tariffs.

AUTHORITY: Department of Energy Organization Act, 42 U.S.C. 7101-7352 (Supp. V 1981); Interstate Commerce Act, 49 U.S.C. 1-27 (1976); E.O. 12,009, 3 CFR Part 142 (1978).

SOURCE: The provisions of Part 343 are contained in 49 F.R. 12898, March 30, 1984, effective July 2, 1984, unless otherwise noted.

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Tariffs of Common Carriers by Pipeline and Tariffs Containing Joint Intermodal Pipeline Rates

[¶ 26,400]

§ 343.0 Application-posting of tariffs defined.

(a) The regulations in this part shall also govern the posting (by carriers subject to the jurisdiction of the Federal Energy Regulatory Commission) of any tariff containing a through route and joint rate over the lines of a common carrier by pipeline subject to the Interstate Commerce Act, on the one hand, and a vessel-operating common carrier by water engaged in the foreign commerce of the United States, as defined in the Shipping Act, 1916, on the other hand, and all other tariffs governing the application of the rate tariff, for the transportation of property between any place in the United States and any place in a foreign country. The carrier subject to the jurisdiction of this Commission receiving shipments at a port for delivery to points in the United States under joint through rate and route arrangements shall post at its office at such port the tariffs naming such rates and its governing tariffs.

(b) The term "post" as used in this part means the maintenance of a file of tariffs in the custody of an agent of the carrier in a complete, accessible, and usable form, and keeping such file of tariffs available to the public upon request during ordinary business hours. The term "tariff" as used in this part includes tariff supplements or amendments.

[¶ 26,401]

§ 343.1 Location of complete public files of tariffs.

Each common carrier by pipeline shall post at its principal office a complete set of all tariffs which it issued or to which it is a party, together with an index thereto.

[¶ 26,402]

§ 343.2 Time of posting.

Each tariff must be posted at least 30 days before its effective date, excepting those as to which the Commission has authorized a shorter period of notice to the public. Each carrier shall require the agent at every office at which tariffs are posted to write or stamp on each tariff the date on which it was posted.

[¶ 26,403]

§ 343.3 Tariff files to be accessible to the public.

Each file of tariffs shall be in charge of an agent of the carrier. Each carrier shall require and instruct such agent to afford inquirers an opportunity to examine any of such tariffs without asking the inquirer to assign any reason therefor, and, upon request, to lend assistance to seekers of information therefrom with all promptness possible and consistent with proper performance of other duties.

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[¶ 26,404]

§ 343.4 Notice required to be posted.

Each carrier shall also cause to be displayed continuously in a conspicuous public place at each office at which tariffs are required to be posted, a notice printed in large type reading as follows:

With only such exceptions as have been authorized by the Federal Energy Regulatory Commission, all tariffs which contain rates and charges applying from or at this location are on file, in this office, together with an index of all of this company's tariffs. The tariffs and index may be inspected by any person upon application and without the assignment of any reason for such inspection. The agent on duty in this office will lend any assistance desired in securing information therefrom.

If request is made for a tariff naming rates from this location, the posting of which has been discontinued because of nonuse, the agent will arrange to ve it reposted within 20 days and thereafter keep it posted.

In addition a complete file of all of this company's tariffs, with indexes thereof, is maintained and kept available for public inspection at:

(Here indicate the place or places where complete tariff files are maintained, including the street address and, where appropriate, the room number.)

[¶ 26,405]

§ 343.5 Check-up on files of tariffs.

Each carrier shall place in effect a system of supervision that will insure the continued maintenance in proper and readily accessible form of tariff files required at each office where complete files are maintained. Such offices must be furnished at least once a year with a list of all of the tariffs which should be in their files. Upon receipt of the list the agent or employee in charge will immediately check the tariffs on hand against the list, and report any deficiencies. Evidence of improper maintenance of files at any office may incur the prescription of detailed instructions to the carrier by the Commission necessary to insure compliance with the regulations.

[The next page is 17,261.]

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Part 344—Filing Quotations for Government Shipments at Reduced Rates

[¶ 26,407]

Sec.

344.1 Applicability.

344.2 Manner of submitting quotations.

AUTHORITY: Department of Energy Organization Act, 42 U.S.C. § § 7101-7352 (Supp. V 1981); Interstate Commerce Act, 49 U.S.C. § § 1-27 (1976); E.O. 12009, 3 CFR Part 142 (1978).

SOURCE: The provisions of Part 344 are contained in 49 F.R. 12898, March 30, 1984, effective July 2, 1984, unless otherwise noted.

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[¶ 26,408]

§ 344.1 Applicability.

The provisions of this part shall apply to copies of quotations or tenders made by all pipeline common carriers to the United States Government, or any agency or department thereof, for the transportation, storage or handling of property at reduced rates as permitted by section 22 of the Interstate Commerce Act, as amended, except quotations or tenders which, as indicated by the United States Government or any department or agency thereof to any carrier or carriers, involves information the disclosure of which would endanger the national security.

[¶ 26,409]

§ 344.2 Manner of submitting quotations.

(a) *General.* Copies of all quotations or tenders by common carriers to which this part applies, concerning rates or charges for the transportation, storage, or handling of property, at reduced rates, including quotations or tenders for retroactive application whether negotiated or renegotiated after the services have been performed, which are submitted to the Federal Energy Regulatory Commission on and after the effective date of this part in conformity with the provisions of paragraph (2) of section 22 of the Interstate Commerce Act (49 U.S.C. 22) shall conform to the provisions of paragraphs (b), (c), (d), (e), (f) and (g) of this section.

(b) *Copies to be submitted concurrently with submittal to government agencies.* Exact copies of the quotation or tender shall be submitted to the Commission concurrently with the submittal of the quotation or tender to the Federal department or agency for whose account the quotation or tender is offered or the proposed services are to be rendered.

(c) *Filing in duplicate required.* All quotations or tenders shall be filed in duplicate, one copy of which will be maintained at the Washington office of this Commission for public inspection. One of such copies shall be signed and both shall clearly indicate the name and official title of the officer executing the document.

(d) *Filing procedure.* Both copies of the quotations or tenders shall be filed together with a letter of transmittal which clearly indicates that they are being filed in accordance with the requirements of section 22, as amended. They must be addressed to the "Federal Energy Regulatory Commission, Washington, D.C. 20426," with the envelope marked as containing "Section 22 Quotations", and delivered free of all charges. If receipt for the accompanying documents is desired, the letter of transmittal must be sent in duplicate, and one copy showing date of receipt by the Commission will be returned to the sender.

(e) *Numbering.* The copies of quotations or tenders which are filed with this Commission by each carrier or agent shall be numbered consecutively in a series maintained by such carrier or agent beginning with the number "1".

(f) *Quotation or tender superseding prior one.* A quotation or tender which supersedes a prior quotation or tender shall, by a statement shown

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immediately under the number of the new document, cancel the prior document by number.

(g) *Amendments or supplements to quotations or tenders.* When amendments or supplements are filed to quotations or tenders issued prior to August 31, 1957, copies of the original quotations or tenders, and any prior amendments thereto, must be filed with the amendments or supplements.

[The next page is 17,271.]

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Part 345—Section 5a Applications

[¶ 26,410]

Applications for Authority to Establish or Control Agreements Between or Among Carriers

Sec.

345.1 Form and contents of application.
345.2 Required exhibits.
345.3 Procedure.
345.4 New parties to an agreement.
345.5 Public notice.

AUTHORITY: Department of Energy Organization Act, 42 U.S.C. 7101-7352 (Supp. V 1981); Interstate Commerce Act, 49 U.S.C. 1-27 (1976); E.O. 12009, 3 CFR Part 142 (1978).

SOURCE: The provisions of Part 345 are contained in 49 F.R. 12898, March 30, 1984, effective July 2, 1984, unless otherwise noted.

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Applications for Authority to Establish or Control Agreements Between or Among Carriers

[¶ 26,411]

§ 345.1 Form and contents of application.

The application and supporting exhibits shall conform to Rule 203 of the general rules of practice (§ 385.203 of this chapter) and shall show, in the order indicated, with the following paragraph designations, the following information:

(a) Full and correct name and business address (street and number, city and ZIP Code, county and State) of the carrier applicant or applicants (hereinafter called applicant); whether applicant is a corporation, individual, or partnership; if a corporation, the government, State or territory under the laws of which the applicant was organized and received its present charter, and if a partnership, the names of the partners and the date of formation of the partnership.

(b) Full and correct name and business address (city and State) of each carrier on whose behalf the application is filed and whether it is a corporation, individual, or partnership.

(c) If the agreement of which approval is sought pertains to a conference, bureau, committee, or other organization, a complete description of such organization, including any subunits, and of its or their functions and methods of operation, together with a description of the territorial scope of such operations; and, if such organization has a working or other arrangement or relationship with any other organization, a complete description of such arrangement or relationship. If the agreement is of any other character, a precise statement of its nature and scope and the mode of procedure thereunder.

(d) The facts and circumstances relied upon to establish that the agreement will be in furtherance of the national transportation policy declared in the Interstate-Commerce Act, as amended.

(e) The name, title, and post office address of counsel, officer, or other person to whom correspondence in regard to the application is to be addressed.

[¶ 26,412]

§ 345.2 Required exhibits.

There shall be filed with and made a part of each original application, and each copy, the following exhibits:

(a) As Exhibit 1, a true copy of the agreement.

(b) As Exhibit 2, if the agreement pertains to a conference, bureau, committee, or other organization, a copy of the constitution, by-laws, or other documents or writings, specifying the organization's powers, duties, and procedures, unless incorporated in the agreement filed as Exhibit 1.

(c) As Exhibit 3, if the agreement relates to a conference, bureau, committee, or other organization, an organization chart.

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(d) As Exhibit 4, if the agreement relates to a conference, bureau, committee, or other organization, a schedule of its charges to members or, where expenses are divided among the members, a statement, showing how the expenses are divided.

(e) As Exhibit 5, opinion of counsel for applicant that the application made meets the requirements of law as set forth in section 5a of the Interstate Commerce Act, as amended, and will be legally authorized if approved by the Commission, with specific reference to any specially pertinent provisions of articles of incorporation or association.

[¶ 26,413]

§ 345.3 Procedure.

The following procedure shall govern the execution, filing, and disposition of the application:

(a) The original application shall be made under oath and shall be signed in ink by applicant, if an individual; by all partners, if a partnership; and if a corporation, by an executive officer having knowledge of the matters therein contained; and shall show, among other things, that the affiant is duly authorized to verify and file the application.

(b) The original application and supporting papers and twenty copies thereof for the use of the Commission shall be filed with the Secretary of the Federal Energy Regulatory Commission, Washington, D.C. 20426. Each copy shall bear the dates and signatures that appear in the original and shall be complete in itself, but the signatures in the copies may be stamped or typed, and the officer's seal may be omitted.

(c) A copy of the application shall be served by applicant by first-class mail upon the regulatory body having jurisdiction as to rates, fares, or charges of each State, territory, or district embraced within the scope of the agreement, and the original application filed with the Commission shall include a certificate naming the bodies upon whom the application has been so served.

(d) A public notice will be issued by the Commission and filed with the Director of the Federal Register stating the fact that an application has been filed under these rules and indicate how a hearing on such application may be obtained.

(e) A protest against the granting of an application should be filed in accordance with Rule 1403 of the general rules of practice (§ 385.1403 of this chapter).

(f) To the extent that matters of procedure are not covered by these special rules, the Commission's general rules of practice shall apply.

[¶ 26,414]

§ 345.4 New parties to an agreement.

Where a carrier becomes a party to an agreement which has been approved by the Commission, such approval will extend and be applicable to

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such carrier upon the filing with the Commission by the carrier or its authorized agent of a verified statement that it has become a party to the agreement, which statement shall show the information required by § 345.1(b): *Provided* (a) That such carrier is not, under the agreement, to act with carriers of a different class, within the meaning of section 5a(4) of the Interstate Commerce Act, except as the agreement relates to transportation under joint rates or over through routes, and (b) that no change is made in the agreement except the addition of such carrier.

[¶ 26,415]

§ 345.5 Public notice.

When independent action is announced and tariff publication is to be made by a publishing agent operating pursuant to an agreement under section 5a of the Interstate Commerce Act, notification thereof will be given by the agent to the same extent and in the same manner that the agent gives notice of actions proposed under procedures for collective consideration of the parties to the agreement; and no other joint or collective procedures under the agreement are thereby invoked.

[The next page is 17,281.]

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Part 346—Fees

[¶ 26,417]

Sec.

346.1 Filing Fees.

AUTHORITY: Department of Energy Organization Act, 42 U.S.C. 7101-7352 (Supp. V 1981); Interstate Commerce Act, 49 U.S.C. 1-27 (1976); E.O. 12009, 3 CFR Part 142 (1976).

SOURCE: The provisions of Part 346 are contained in 49 F.R. 12898, March 30, 1984, effective July 2, 1984, unless otherwise noted.

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[¶ 26,418]

§ 346.1 Filing fees.

(a) *Manner of payment.* All filing fees will be payable at the time and place the application, petition, notice, tariff, contract, or other document is tendered for filing. Fees will be payable to the Federal Energy Regulatory Commission by check drawn upon funds deposited in a bank in the United States or money order payable in U.S. currency.

(b) *Fees not refundable.* Fees will be assessed for every filing in the types of proceedings listed in the schedule of fees contained in paragraph (d) of this section. After the application, petition, notice, tariff, contract, or other document has been accepted for filing by the Commission, the filing fee will not be refunded, regardless of whether the application, petition, notice, tariff, contract, or other document is granted or approved, denied, dismissed, or withdrawn. If an application, petition, notice, tariff, contract, or other document is rejected by the Commission as incomplete or for some other reason, the fee will be returned.

(c) *Related or consolidated proceedings.* (1) Separate fees need not be paid on related applications filed by the same applicant which would be the subject of one proceeding. In such instances, the only fee to be assessed will be that applicable to the embraced proceeding which carries the highest filing fee as listed in paragraph (d) of this section.

(2) The Commission may reject concurrently filed applications, petitions, notices, contracts, or other documents asserted to be related and refund the filing fee if, in its judgment, they embrace two or more severable matters which should be the subject of separate proceedings.

(d) *Schedule of filing fees.* [1]

Type of Proceeding Fee Applications to Enter Upon a Particular Financial Transaction of Joint Arrangement

(1) An application for the pooling or division of traffic.

Section 5(1)—$100

(2) An application for approval of, or to amend, a rate association agreement. Section 5a—$300

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[1] Except as noted, statutory references are to the Interstate Commerce Act.

Other Proceedings

(3) An application for relief from the long-and-short-haul and aggregate-of-intermediate provisions, including applications for relief with respect to additional commodities, origins or destinations, but not including petitions for modification of conditions, effective or not yet effective of outstanding orders, or amendments to applications not yet disposed of. Section 4—$250

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(4) An application for authority to establish released value rates or ratings, except that no fee will be assessed for applications seeking such authority in connection with reduced rates established to relieve distress caused by drought or other calamitous visitation under section 22(1) of the act. Sections 20(11)—$200.

(5) An application for special permission for short notice or the waiver of tariff-publishing requirements, including applications to extend or eliminate the scheduled expiration date of an outstanding special permission or to broaden the application thereof to additional territory or tariffs, except amendments to pending applications not yet disposed of, and applications to postpone the effectiveness of suspended schedules, when carrier or agent is requested to do so, in order to afford the Commission more time for disposition of the proceeding or to postpone the scheduled effective date of protested schedules or those for which a fourth-section application has been filed, in order to afford the Oil Pipeline Board more time within which to process the protests or applications—$ 20.

(6) Application for basic (original) valuation of a pipeline carrier's operating property. Section 19a—$10/hr.

(7) Application for each annual valuation of a pipeline carrier's operating property as of the close of any calendar year following the carrier's basic valuation. Section 19a—

The following fees are based on the carrier's size:

Cost of reproduction (millions)	Fee
Under 10	$ 50
10 to 29.9	200
30 to 49.9	500
50 to 74.9	700
75 to 99.9	1,000
100 to 149.9	1,300
150 to 199.9	1,850
200 to 299.9	2,500
Over 300	4,300

[The next page is 17,291.]

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Part 347—Competitive Bids Oil Pipeline

[¶ 26,420]

Sec.

347.1 Specifications, form of proposal and contract; publication of request for bids; variation from the generally applicable procedure.
347.2 Opening of bids; bonds; form and contents of bids.
347.3 Considerations for acceptance of bids, rejection, readvertising for new bids.
347.4 Statement of the transaction.
347.5 Examination.

AUTHORITY: Department of Energy Organization Act, 42 U.S.C. 7101-7352 (Supp. V 1981); Interstate Commerce Act, 49 U.S.C. 1-27 (1976); E.O. 12009, 3 CFR Part 142 (1978).

SOURCE: The provisions of Part 347 are contained in 49 F.R. 12898, March 30, 1984, effective July 2, 1984, unless otherwise noted.

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[¶ 26,421]

§ 347.1 Specifications, form of proposal and contract; publication of request for bids; variation from the generally applicable procedure.

(a) When any pipeline, subject to the Interstate Commerce Act, is required by section 10 of the Clayton Antitrust Act (38 Stat. 734; 15 U.S.C. § 20) to call for bids for securities, supplies, or other articles of commerce, or for the construction or maintenance of any kind or part of its carrier property such carrier shall prepare specifications, form of proposals and contract, setting forth clearly and so far as applicable in each case in detail a description or descriptions of the matters and things for which bids are requested, the terms, times and conditions of delivery and payment, the place or places where delivery or performance is to be made, the character, amount, and terms of securities offered or sought, and a full description of the supplies or other articles required or offered for sale, hypothecation, or purchase, and shall make and attach to such specifications such maps, drawings, and illustrations and state such other substantial facts or conditions as are or may be necessary to a full understanding of the premises and procedure by bidders. Such specifications, drawings and illustrations in each case shall be kept open at the principal office or offices of the carrier for full examination, free of charges, by persons desiring to examine the same with a view to bidding, and, upon request, such carrier shall furnish to any person or persons desiring the same true and accurate copies of such specifications, maps, drawings and illustrations; *Provided*, That the pipeline may make a charge for such copies so furnished, the charge not to exceed the reasonable cost of making and forwarding the copies requested.

(b) The pipeline shall publish in each case a request for bids in at least two daily newspapers of general circulation, at least two publications in each week for two weeks, the first publication to be at least two weeks immediately preceding the day when the bids are to be submitted; one such newspaper shall be published or shall be of general circulation in the city or town where the principal operating office of the carrier is located and the other newspaper shall be published in one other of the following cities nearest to the operating or financial office of the carrier or the place where the contract is to be performed; namely: New York, N.Y., Boston, Mass., Chicago, Ill., St. Louis, Mo., Atlanta, Ga., San Francisco, Calif., and Portland, Oreg.; and a printed copy of the published notice in each case shall be posted in plain view, for two weeks immediately preceding the day on which bids are to be received, on a bulletin board, designated for that purpose, in a public and conspicuous place in the building where the principal operating office of the carrier is located.

(1) Such published notices shall describe in general but intelligible terms the proposed contract, giving its serial number, and the special matter or things for which bids are requested, and the date and time at or before which the bids must be submitted, and the person by whom and the office at which the bids submitted will be received and opened as provided in this part. The carrier may in said notice reserve the right to reject, any and all bids and may, at its option, require each bidder to tender a bond in a reasonable sum to

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be therein named, with sufficient surety or sureties conditioned upon the faithful and prompt performance of the terms of the contract.

(c) Upon application, a pipeline owned or operated by any state or by an agency of one or more states or a wholly-owned subsidiary corporation thereof, may be authorized by the Commission to employ a competitive bidding procedure or procedures varying from the generally applicable procedure provided by this regulation upon the following showing: (1) That the applicant carrier is owned or operated by a state or by an agency of one or more states, or is a wholly-owned subsidiary corporation thereof; (2) a detailed statement of the procedure for which authorization is requested and the variations thereof from the generally applicable procedure provided by this regulation and the purpose or reason for such variation; and (3) that the generally applicable procedure provided by this regulation imposes on the carrier an unreasonable burden or interferes with obtaining by the carrier of the most favorable bid.

[¶ 26,422]

§ 347.2 Opening of bids; bonds; form and contents of bids.

(a) Every bid to receive consideration shall be submitted at the place and at or before the hour specified in the notice for the receipt of bids. The time specified may be any hour from 10:00 a.m. until 3:00 p.m. of any business day, and the bids shall be opened after the specified hour and before six o'clock on the day and at place and by the person or persons designated in the notice. Each bidder may attend in person or by a duly authorized representative at the opening of the bids, and shall be afforded an opportunity to do so and to examine each bid. The bids shall forthwith be tabulated in conformity with the form of proposal prepared and a copy of such tabulation shall be promptly furnished to any bidder or his authorized representative upon application therefor.

(b) When required by the notice, each bid shall be accompanied by tender of a bond in the amount specified in the notice with sufficient surety or sureties conditioned upon the faithful and prompt performance of the proposed contract. A bond shall be required only in cases where the notice for bids expressly calls for a bond.

(c) Each bid shall be enclosed with accompanying papers in a plain envelope securely sealed bearing no indication of the name of the bidder or the amount of the bid, and shall be marked "Bid under proposed contract No. —— ——," and shall be addressed to the officer of the carrier designated in the notice to receive the same.

(d) Each bid shall state the name and address of the bidder and, if the bidder be a corporation, the names and addresses of the officers, directors and general manager thereof and of the purchasing or selling officer or agent in that transaction and, if the bidder is a firm, partnership or association, the bid shall give the names and addresses of each member thereof, and of the manager, purchasing or selling officer or agent in that transaction.

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[¶ 26,423]

§ 347.3 Considerations for acceptance of bids; rejection; readvertising for new bids.

(a) After receiving and opening bids as aforesaid, the carrier receiving the same shall within 48 hours in cases where the sale or purchase of securities is the undertaking, and within 21 days where bids are for supplies, equipment, other articles of commerce and for construction or maintenance work, accept the most favorable bid considering (1) the lowest price or prices for the supplies, equipment, and other articles of commerce, and for the construction or maintenance work, described in the advertisement, and the highest price or prices offered for any securities or property, so described, for sale by the carrier, and (2) the ability and reliability of the bidder, financial and otherwise, to deliver the property or to perform the work or transaction, or to pay for the securities, described in the advertisement, giving due consideration to any bond or security tendered by the bidder.

(b) If the right be reserved in the notice, all bids may be rejected and the pipeline may readvertise for bids. The pipeline shall notify the successful bidder of the acceptance of his or its bid, and the bidder shall within 10 days execute the required contract, and, if required by the notice, execute a good and sufficient bond for the faithful and prompt performance of the contract. In case the successful bidder shall neglect or fail within said time to execute the contract or bond as aforesaid the carrier may within 5 days award the contract to the next most favorable bidder, ascertained as herein provided for determining the most favorable bidder. If neither the most favorable bidder nor the next most favorable bidder shall execute a contract and qualify as aforesaid, the carrier shall readvertise for new bids.

[¶ 26,424]

§ 347.4 Statement of the transaction.

Each pipeline after having made and executed a contract as and in the manner above specified shall within 30 days after the execution of such contract file with the Federal Energy Regulatory Commission a statement of the transaction giving, (a) a copy of the published notice; (b) the names of all bidders, and, if the bidder be a corporation, the names and addresses of the officers, directors and general managers thereof and of the purchasing or selling officer or agent in that transaction, or if the bidder be a partnership or firm, the names and addresses of the members of the firm, the general manager and purchasing or selling agent thereof, and the total amount of each bid; (c) the name of the bidder to whom the contract was awarded together with a copy of the contract; and (d) if any other than the lowest or the highest bid, as the case may be, is accepted as being most favorable to the carrier, the reasons for such acceptance. The statement shall be made in typewriting, in pamphlet form on pages not less than 8 by 10 1/2 inches in size nor greater than 9 1/2 by 12 inches, in size, bound on the longer edge of the page, the paper to be of durable quality fit for permanent record.

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[¶ 26,425]

§ 347.5 Examination.

In the case of each bid so taken as aforesaid, the pipeline shall preserve and keep open for examination by the Federal Energy Regulatory Commission or any duly authorized examiner thereof, (a) a copy of the resolution or order of the Board of Directors, Executive Committee, or officers of the said common carrier specifying the purposes and terms of the contract for which the bids were invited; (b) a copy of the specifications, maps, drawings, and illustrations upon which bids were made; (c) copies of the notices published, sworn to by or on behalf of the publisher of each paper, respectively, giving the dates and times of publication; (d) the original bids received, designating the bid accepted and giving a statement of the reasons for accepting the same; (e) a copy of the contract entered into between the carrier and the accepted bidder, together with a copy of the bonds if any; (f) references by number of volume and page to the records of proceedings of the stockholders, directors, or executive committee of the pipeline. The files in each transaction shall be securely fastened together and given the contract number and each document therein shall be numbered consecutively and at the conclusion there shall be a sworn statement by the president, a vice president, or the general manager of the pipeline, stating that the files in No. contain true and complete records and statements of all the negotiations had in connection with the contract therein set forth. Carriers subject to the requirements of section 10 of the Clayton Antitrust Act, 15 U.S.C. § 20, may destroy such contracts or other records required thereby 10 years after the expiration thereof, without permission of the Commission: *Provided*, There is no litigation pending involving these records: *And further provided*, That the carrier has informed the Commission of its intended action at least 2 weeks prior to the date the records are to be destroyed.