104 FERC ¶ 61,183
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

18 CFR Parts 35, 101, 154, 201, 346, and 352

Docket No. RM02-7-001, Order No. 631-A

Accounting, Financial Reporting, and Rate Filing Requirements for Asset Retirement Obligations

(Issued July 31, 2003)

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final Rule. Order on rehearing.

SUMMARY: The Commission is denying Missouri Public Service Commission's (MoPSC) request for rehearing of its Final Rule in Order No. 631, Accounting, Financial Reporting, and Rate Filing Requirements for Asset Retirement Obligations. This order denies MoPSC's request to expand the filing requirements related to the initial adoption of Order No. 631 because the new accounting standards provide adequate safeguards to ensure proper implementation of Order No. 631. This order also denies MoPSC's request to impose generic external funding requirements for amounts recovered in rates related to asset retirement obligations because there are various assurance methods which are best considered on a case-by-case in individual rate proceedings. This order benefits customers by providing transparent financial accounting and reporting for asset retirement obligations.

EFFECTIVE DATE: July 31, 2003

FOR FURTHER INFORMATION CONTACT:

Mark Klose (Project Manager)
Office of the Executive Director
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, D.C. 20426
(202) 502-8283

Julia A. Lake (Legal Information)
Office of the General Counsel
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, D.C. 20426
(202) 502-8370

SUPPLEMENTARY INFORMATION:

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Before Commissioners: Pat Wood, III, Chairman;
William L. Massey, and Nora Mead Brownell

Accounting, Financial Reporting, and Rate Filing Requirements for Asset Retirement Obligations — Docket No. RM02-7-000

ORDER NO. 631-A

ORDER ON REHEARING

(Issued July 31, 2003)

I. Introduction

1. In this order, the Federal Energy Regulatory Commission (Commission) denies a request for rehearing of Order No. 631, the Final Rule on the accounting, reporting and rate filing requirements by public utilities, licensees, natural gas and oil pipeline companies associated with the legal obligations for the retirement of tangible long-lived assets.[1]

II. Background

2. On April 9, 2003, the Commission issued Order No. 631, revising the Commission's regulations to establish uniform accounting, financial reporting and rate filing requirements for the recognition and measurement of liabilities arising from legal obligations to retire and decommission long-lived assets (asset retirement obligations).

[1] 68 FR 19610 (Apr. 21, 2003) and 68 FR 34795 (June 11, 2003), III FERC Stats. & Regs. ¶ 31,142 (Apr. 9, 2003).

Order No. 631 is part of the Commission's ongoing effort to address emerging accounting developments within the context of the Uniform Systems of Accounts.[2]

3. Missouri Public Service Commission (MoPSC) filed a timely request for rehearing requesting that the filing requirements related to the implementation of the new accounting requirements be expanded to cover all adjustments and journal entries made pursuant to Order No. 631 and not be limited to adjusting journal entries that only affect net income resulting from initial adoption of Order No. 631. MoPSC also requests the Commission to require external funding for asset retirement obligations recovered in rates

III. Discussion

1. Expanding Filing Requirements

4. Order No. 631 required public utilities and licensees, and natural gas companies to file with the Commission, their journal entries and related supporting documentation to record any adjustment that affects net income resulting from the initial adoption of Order No. 631.[3]

5. MoPSC states that, while it supports the filing requirement, it challenges the limitation on the reporting requirement to journal entries that only affect net income. MoPSC requests the Commission to expand the scope of the filing requirements to cover

[2] 18 CFR Parts 35, 101, 154, 201, 346 and 352.

[3] Order No. 631 requires a jurisdictional entity to file its journal entries within 60 days after the effective date of Order No. 631. See III FERC Stats. & Regs. ¶ 31,142 at P 31. The effective date of Order No. 631 is May 21, 2003, and filings are due on or before July 21, 2003. See III FERC Stats. & Regs. ¶ 31,142 at P 84.

all adjustments and journal entries made pursuant to Order No. 631, including, but not limited to, those affecting net income. MoPSC argues that this is necessary to allow the Commission and all interested parties the opportunity to review and comment on all accounting entries and adjustments made pursuant to Order No. 631.[4]

6. In Order No. 631, the Commission adopted standards for the measurement and recognition of an asset retirement obligation (ARO) for Commission financial accounting and reporting purposes. It established a new non-current liability account for recording AROs, a new income statement account for recording accretion expense, new primary plant accounts within each functional plant group for recording the asset retirement cost and a new account for recording the related depreciation expense.

7. Order No. 631 required jurisdictional entities that report an ARO to disclose in the "Notes to the Financial Statements" of the Commission's Annual Reports (FERC Forms Nos. 1, 1-F, 2, 2-A and 6) a general description of the AROs and the related long-lived assets, the fair value of assets that legally are restricted for purposes of settling the AROs.

8. In addition, Order No. 631 also required jurisdictional entities to provide a reconciliation of the beginning and ending aggregate carrying amounts of AROs showing separately the changes attributable to (1) liabilities incurred in the current period, (2) liabilities settled in the current period, (3) accretion expense, and (4) revisions in estimated cash flows. All of this information is subject to review by the Commission's

[4] MoPSC Rehearing Request at p. 2.

auditors and the external accounting firms that must attest to the financial statements compliance with the new accounting standards.[5]

9. As a final safeguard, Order No. 631 required companies to file all journal entries needed to implement the new standard with the related documentation when the implementation affects net income. This final safeguard allows the Commission to examine the underlying basis for the company's implementation of the new standards in those instances offering the greatest potential for inappropriate rate consequences for customers or impact on a key financial measurement (i.e., net income) closely watched by the Commission as well as customers, investors and others.

10. All of the foregoing requirements, taken as a whole, provide adequate assurance that jurisdictional entities will properly implement Order No. 631. For these reasons, we deny MoPSC's request for this revision of the filing requirements.

2. External Funding for Asset Retirement Obligations

11. The Commission in Order No. 631 declined to make a policy call regarding external funding of all amounts collected in rates for asset retirement obligations, and accretion of the asset retirement obligations from rate base. The Commission stated that

[5] 18 CFR 41.10 to 41.12 (Public Utilities and Licensees) and 18 CFR 158.10 to 158.12 (Natural Gas Companies).

the issue of external funding is better resolved on a case-by-case basis in rate proceedings.[6]

12. On rehearing, MoPSC requests the Commission to reconsider their comments made in the Notice of Proposed Rulemaking that jurisdictional entities establish external trust funds to account for all amounts recovered in rates for the purpose of funding future removal obligations. MoPSC argues that absent an external trust fund, entities recovering substantial removal costs in rates will have use of the funds to the extent removal costs are not currently being spent for removal activities. MoPSC argues an external trust fund will ensure that the funds will be available when it is time to remove the facilities. As an example, MoPSC notes that if a facility is sold to a new owner or the current owner becomes insolvent, jurisdictional customers should not be required to fund the removal costs for a second time. Also, MoPSC notes that if a removal obligation is subsequently repealed, an external trust will facilitate the return of the amounts previously collected to ratepayers. Lastly, MoPSC argues that an external fund will dispose of the ratemaking issues related to the need to compensate ratepayers for the time value of capital advanced to the utility for a future liability.[7]

13. MoPSC has not raised any new arguments in the rehearing request. The Commission will not impose a generic policy requiring external funding for all amounts

[6] See III FERC Stats. & Regs. ¶ 31,142 at P 64.

[7] MoPSC Rehearing Request at pp. 2-3.

recovered in rates for asset retirement obligations. As a general matter and as MoPSC notes, establishing external trust funds provide a level of assurance that funds will be available when it is time to remove the facilities. However, external trust funds represent only one method of providing that assurance. Assurance can also be provided through surety bonds, insurance policies, letters of credit, guarantees by other entities or dedication of other assets to satisfy the asset retirement obligation. Which of these methods provides the appropriate level of assurance at the lowest possible cost will depend on the nature of each individual ARO, the credit worthiness of the entity having the liability to satisfy the ARO, that entity's liquidity position relative to the date the obligation must be satisfied and other matters influencing the entity's risk profile. These types of factors, as well as the other factors identified by MoPSC on this topic, are best considered in individual rate proceedings where all the relevant factors can be considered by the Commission and interested parties rather than in a generic accounting rule. The Commission therefore denies MoPSC's request to impose external trust fund requirements for all ARO amounts recovered in rates.

<u>The Commission orders</u>:

MoPSC's request for rehearing is denied, as discussed above.

By the Commission.

(S E A L)

Linda Mitry.
Acting Secretary.