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Title 18 - Conservation of Power and Water Resources

Chapter I - Federal Energy Regulatory Commission, Department of Energy

Subchapter X - Procedural Rules

Part 385 - Rules of Practice and Procedure

Subpart B

- Pleadings, Tariff and Rate Filings, Notices of Tariff or Rate Examination, Orders To Show Cause, Intervention, and Summary Disposition

§ 385.206 Complaints (Rule 206).

- (a) **General rule.** Any person may file a complaint seeking Commission action against any other person alleged to be in contravention or violation of any statute, rule, order, or other law administered by the Commission, or for any other alleged wrong over which the Commission may have jurisdiction.
- (b) **Contents.** A complaint must:
- (1) Clearly identify the action or inaction which is alleged to violate applicable statutory standards or regulatory requirements;
 - (2) Explain how the action or inaction violates applicable statutory standards or regulatory requirements;
 - (3) Set forth the business, commercial, economic or other issues presented by the action or inaction as such relate to or affect the complainant;
 - (4) Make a good faith effort to quantify the financial impact or burden (if any) created for the complainant as a result of the action or inaction;
 - (5) Indicate the practical, operational, or other nonfinancial impacts imposed as a result of the action or inaction, including, where applicable, the environmental, safety or reliability impacts of the action or inaction;
 - (6) State whether the issues presented are pending in an existing Commission proceeding or a proceeding in any other forum in which the complainant is a party, and if so, provide an explanation why timely resolution cannot be achieved in that forum;
 - (7) State the specific relief or remedy requested, including any request for stay or extension of time, and the basis for that relief;
 - (8) Include all documents that support the facts in the complaint in possession of, or otherwise attainable by, the complainant, including, but not limited to, contracts and affidavits;
 - (9) State
 - (i) Whether the Enforcement Hotline, Dispute Resolution Service, tariff-based dispute resolution mechanisms, or other informal dispute resolution procedures were used, or why these procedures were not used;
 - (ii) Whether the complainant believes that alternative dispute resolution (ADR) under the Commission's supervision could successfully resolve the complaint;
 - (iii) What types of ADR procedures could be used; and
 - (iv) Any process that has been agreed on for resolving the complaint.
 - (10) Include a form of notice of the complaint suitable for publication in the FEDERAL REGISTER in accordance with the specifications in § 385.203(d) of this part. The form of notice shall be on electronic media as specified by the Secretary.

- (11) Explain with respect to requests for Fast Track processing pursuant to section 385.206(h), why the standard processes will not be adequate for expeditiously resolving the complaint.
- (c) **Service.** Any person filing a complaint must serve a copy of the complaint on the respondent, affected regulatory agencies, and others the complainant reasonably knows may be expected to be affected by the complaint. Service must be simultaneous with filing at the Commission for respondents. Simultaneous or overnight service is permissible for other affected entities. Simultaneous service can be accomplished by electronic mail in accordance with § 385.2010(f)(3), facsimile, express delivery, or messenger.
- (d) **Notice.** Public notice of the complaint will be issued by the Commission.
- (e) [Reserved]
- (f) **Answers, interventions and comments.** Unless otherwise ordered by the Commission, answers, interventions, and comments to a complaint must be filed within 20 days after the complaint is filed. In cases where the complainant requests privileged treatment for information in its complaint, answers, interventions, and comments are due within 30 days after the complaint is filed. In the event there is an objection to the protective agreement, the Commission will establish when answers will be due.
- (g) **Complaint resolution paths.** One of the following procedures may be used to resolve complaints:
- (1) The Commission may assign a case to be resolved through alternative dispute resolution procedures in accordance with §§ 385.604-385.606, in cases where the affected parties consent, or the Commission may order the appointment of a settlement judge in accordance with § 385.603;
 - (2) The Commission may issue an order on the merits based upon the pleadings;
 - (3) The Commission may establish a hearing before an ALJ;
- (h) **Fast Track processing.**
- (1) The Commission may resolve complaints using Fast Track procedures if the complaint requires expeditious resolution. Fast Track procedures may include expedited action on the pleadings by the Commission, expedited hearing before an ALJ, or expedited action on requests for stay, extension of time, or other relief by the Commission or an ALJ.
 - (2) A complainant may request Fast Track processing of a complaint by including such a request in its complaint, captioning the complaint in bold type face "COMPLAINT REQUESTING FAST TRACK PROCESSING," and explaining why expedition is necessary as required by section 385.206(b)(11).
 - (3) Based on an assessment of the need for expedition, the period for filing answers, interventions and comments to a complaint requesting Fast Track processing may be shortened by the Commission from the time provided in section 385.206(f).
 - (4) After the answer is filed, the Commission will issue promptly an order specifying the procedure and any schedule to be followed.
- (i) **Simplified procedure for small controversies.** A simplified procedure for complaints involving small controversies is found in section 385.218 of this subpart.
- (j) **Satisfaction.**
- (1) If the respondent to a complaint satisfies such complaint, in whole or in part, either before or after an answer is filed, the complainant and the respondent must sign and file:
 - (i) A statement setting forth when and how the complaint was satisfied; and
 - (ii) A motion for dismissal of, or an amendment to, the complaint based on the satisfaction.
 - (2) The decisional authority may order the submission of additional information before acting on a motion for dismissal or an amendment under paragraph (c)(1)(ii) of this section.

[Order 225, 47 FR 19022, May 3, 1982, as amended by Order 602, 64 FR 17097, Apr. 8, 1999; Order 602-A, 64 FR 43608, Aug. 11, 1999; Order 647, 69 FR 32440, June 10, 2004; Order 769, 77 FR 65476, Oct. 29, 2012]