



BILLING CODE 6717-01-P  
DEPARTMENT OF ENERGY  
Federal Energy Regulatory Commission

18 CFR Part 385

[Docket No. RM18-7-000]

Withdrawal of Pleadings

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission proposes to adopt a more accurate title of Withdrawal of pleadings (Rule 216), for Rule 216 of the Commission's Rules of Practice and Procedure. The Commission also proposes to clarify the text of the Rule.

DATES: Comments are due **[INSERT DATE 30 days after date of publication in the FEDERAL REGISTER]**.

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

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

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

**FOR FURTHER INFORMATION CONTACT:**

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Washington, DC 20426  
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**SUPPLEMENTARY INFORMATION:**

1. In this Notice of Proposed Rulemaking (NOPR), the Commission proposes to clarify the title and text of Rule 216 of the Commission’s Rules of Practice and Procedure, 18 CFR 385.216. The Commission proposes to adopt a more accurate title of “Withdrawal of pleadings (Rule 216).” The Commission also proposes to clarify the text of the Rule.

**I. Discussion**

2. The Commission proposes two changes to Rule 216. First, the current title may confuse some readers by implying that Rule 216 governs the withdrawal of tariff or rate filings, which are instead governed by separate regulations.<sup>1</sup> Thus, the Commission proposes changing the title from “Withdrawal of pleadings and tariff or rate filings (Rule 216)” to “Withdrawal of pleadings (Rule 216).”

3. Second, the Commission proposes changing the first sentence of Rule 216(a) to read, “Any person may seek to withdraw its pleading by filing a notice of withdrawal.” This change clarifies that it is the person who has submitted a pleading that may withdraw that pleading. The Commission also proposes a conforming change, to refer to “person” rather than “party,” in Rule 216(c).

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<sup>1</sup> *E.g.*, 18 CFR 35.17, 154.205, 284.123, 341.13.

## **II. Information Collection Statement**

4. Review by the Office of Management and Budget, pursuant to section 3507(d) of the Paperwork Reduction Act of 1995, is not required since this NOPR does not contain new or modified information collection or recordkeeping requirements.

## **III. Environmental Analysis**

5. The Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any action that may have a significant adverse effect on the human environment.<sup>2</sup> Section 380.4(a)(1) of the Commission's regulations exempts certain actions from the requirement that an Environmental Analysis or Environmental Impact Statement be prepared.<sup>3</sup> Included is an exemption for procedural actions. As this NOPR falls within that exemption, issuance of the NOPR does not represent a major federal action having a significant adverse effect on the human environment under the Commission's regulations implementing the National Environmental Policy Act, and, thus, does not require an Environmental Analysis or Environmental Impact Statement.

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<sup>2</sup> *Regulations Implementing National Environmental Policy Act of 1969*, Order No. 486, FERC Stats. & Regs. 30,783 (1987) (cross-referenced at 41 FERC 61,284).

<sup>3</sup> 18 CFR 380.4(a)(1) (2017).

#### **IV. Regulatory Flexibility Act Analysis**

6. The Regulatory Flexibility Act of 1980 (RFA)<sup>4</sup> generally requires a description and analysis of proposed rules that will have significant economic impact on a substantial number of small entities. This NOPR concerns clarifications to agency procedure. The Commission certifies that the proposed clarifications will not have an economic impact upon participants in Commission proceedings and, therefore, an analysis under the RFA is not required.

#### **V. Comment Procedures**

7. The Commission invites interested persons to submit comments on the matters and issues proposed in this notice to be adopted, including any related matters or alternative proposals that commenters may wish to discuss. Comments are due **[INSERT DATE 30 days after dpublication in the FEDERAL REGISTER]**. Comments must refer to Docket No. RM18-7-000, and must include the commenter's name, the organization they represent, if applicable, and their address in their comments.

8. The Commission encourages comments to be filed electronically via the eFiling link on the Commission's web site at <http://www.ferc.gov>. The Commission accepts most standard word processing formats. Documents created electronically using word processing software should be filed in native applications or print-to-PDF format and not

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<sup>4</sup> 5 USC 601-612 (2012).

in a scanned format. Commenters filing electronically do not need to make a paper filing.

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

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

#### **VI. Document Availability**

11. In addition to publishing the full text of this document in the Federal Register, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the Internet through the Commission's Home Page (<http://www.ferc.gov>) and in the Commission's Public Reference Room during normal business hours (8:30 a.m. to 5:00 p.m. Eastern time) at 888 First Street, NE, Room 2A, Washington, DC 20426.

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

13. User assistance is available for eLibrary and the Commission's website during normal business hours from the Commission's Online Support at (202) 502-6652 (toll free at 1-866-208-3676) or e-mail at [ferconlinesupport@ferc.gov](mailto:ferconlinesupport@ferc.gov), or the Public Reference Room at (202) 502-8371, TTY (202) 502-8659. E-mail the Public Reference Room at [public.referenceroom@ferc.gov](mailto:public.referenceroom@ferc.gov).

By direction of the Commission.

Issued: February 15, 2018.

Nathaniel J. Davis, Sr.,  
Deputy Secretary.

List of subjects in 18 CFR Part 385

Electric power rates  
Electric power  
Reporting and recordkeeping requirements

In consideration of the foregoing, the Commission proposes to amend Part 385, Chapter I, Title 18, *Code of Federal Regulations*, as follows.

**PART 385—RULES OF PRACTICE AND PROCEDURE**

1. The authority citation for part 385 continues to read as follows:

Authority: 5 U.S.C. 551-557; 15 U.S.C. 717-717w, 3301-3432; 16 U.S.C. 791a-825v, 2601-2645; 28 U.S.C. 2461; 31 U.S.C. 3701, 9701; 42 U.S.C. 7101-7352, 16441, 16451-16463; 49 U.S.C. 60502; 49 App. U.S.C. 1-85 (1988); 28 U.S.C. 2461 note (1990); 28 U.S.C. 2461 note (2015).

2. Revise the title of section 385.216 to read as follows:

**§ 385.216 Withdrawal of pleadings (Rule 216).**

3. Revise section 385.216(a) to read as follows:

(a) *Filing.* Any person may seek to withdraw its pleading by filing a notice of withdrawal. The procedures provided in this section do not apply to withdrawals of tariff or rate filings, which may be withdrawn only as provided in the regulations under this chapter.

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4. Revise section 385.216(c) to read as follows:

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(c) *Conditional withdrawal.* In order to prevent prejudice to other participants, a decisional authority may, on motion or otherwise, condition the withdrawal of any pleading upon a requirement that the withdrawing person leave material in the record or otherwise make material available to other participants.