

**§ 801.12 Rules and regulations for the BE-140, Benchmark Survey of Insurance Transactions by U.S. Insurance Companies with Foreign Persons.**

(a) The BE-140, Benchmark Survey of Insurance Transactions by U.S. Insurance Companies with Foreign Persons, will be conducted covering calendar year 2008 and every fifth year thereafter. All legal authorities, provisions, definitions, and requirements contained in § 801.1 through § 801.9(a) are applicable to this survey. More detailed instructions and descriptions of the individual types of transactions covered are given on the report form itself. The BE-140 consists of three parts and two schedules. Part 1 requests information on whom to consult concerning questions about the report and the certification section. Part 2 requests information about the reporting insurance company. Part 3 requests information needed to determine whether a report is required, the types of transactions that would be reported, and which schedules apply. Each of the two schedules covers the types of insurance services to be reported and the ownership relationship between the U.S. insurance company and foreign transactor and is to be completed only if the U.S. insurance company has transactions of the types covered by the particular schedule.

(b) Who must report.  
(1) *Mandatory reporting.* A BE-140 report is required from each U.S. insurance company with respect to the transactions listed below, if any of the eight items was greater than \$2 million or less than negative \$2 million for the calendar year covered by the survey on an accrual basis:

- (i) Premiums earned, and
- (ii) Losses, on reinsurance assumed;
- (iii) Premiums incurred, and
- (iv) Losses, on reinsurance ceded;

- (v) Premiums earned, and
- (vi) Losses, on primary insurance sold;
- (vii) Sales of, and
- (viii) Purchases of, auxiliary insurance services.

U.S. insurance companies that file pursuant to this mandatory reporting requirement must complete parts 1 through 3 of Form BE-140 and all applicable schedules. The total amounts of transactions applicable to a particular schedule are to be entered in the appropriate column(s) and these amounts must be distributed among the countries involved in the transactions.

(2) *Voluntary reporting.* If, during the calendar year covered, the U.S. insurance company's transactions do not exceed the exemption level for any of the types of transactions covered by the survey, the U.S. person is requested to provide an estimate of the total for each type of transaction. Submission of this information is voluntary. The estimates may be judgmental, that is, based on recall, without conducting a detailed records search.

(3) Any U.S. insurance company that receives the BE-140 survey form from BEA, but is not reporting data in either the mandatory or voluntary section of the form, must complete Parts 1 through 3 of the survey. This requirement is necessary to ensure compliance with reporting requirements and efficient administration of the Act by eliminating unnecessary follow-up contact.

(c) *Covered types of insurance transactions.* The BE-140 survey is intended to collect information on U.S. international insurance transactions. The types of insurance transactions covered are: Reinsurance assumed from or ceded to insurance companies resident abroad, primary insurance sold to foreign persons, and receipts and

payments of auxiliary insurance services.

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**DEPARTMENT OF ENERGY**

**Federal Energy Regulatory Commission**

**18 CFR Part 385**

[Docket No. RM09-20-000; Order No. 725]

**Service of Interlocutory Appeals**

Issued August 10, 2009.

**AGENCY:** Federal Energy Regulatory Commission, DOE.

**ACTION:** Final rule.

**SUMMARY:** The Commission is amending regulations which specify on whom persons appealing a presiding officer's denial of a motion to permit an interlocutory appeal must serve copies of the appeal. The amendment requires that any person filing an appeal must separately serve a copy on not only the Motions Commissioner but also on the General Counsel.

**DATES:** *Effective Date:* This rule will become effective September 14, 2009.

**FOR FURTHER INFORMATION CONTACT:**  
Lawrence Greenfield, Deputy Associate General Counsel, Office of the General Counsel, 888 First Street, NE., Washington, DC 20426, (202) 502-6415, [lawrence.greenfield@ferc.gov](mailto:lawrence.greenfield@ferc.gov).  
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**SUPPLEMENTARY INFORMATION:**

**Table of Contents**

	Paragraph Nos.
I. Introduction .....	1
II. Background .....	2
III. Discussion .....	5
IV. Information Collection Statement .....	9
V. Environmental Analysis .....	10
VI. Regulatory Flexibility Act .....	11
VII. Document Availability .....	12
VIII. Effective Date .....	15

**I. Introduction**

1. By this instant final rule, the Commission is amending Rule 715(c)(1) of its Rules of Practice and Procedure, 18 CFR 385.715(c)(1), which governs the appeal process when a presiding officer has denied a motion to permit an interlocutory appeal. This amendment

specifies on whom persons appealing a presiding officer's denial of a motion to permit an interlocutory appeal must serve copies of the appeal. Given that the Motions Commissioner has only seven days to act on an interlocutory appeal, it is important that the Motions Commissioner be made aware of the

appeal as quickly as possible. Accordingly, the amendment adopted here requires that any person filing an appeal must serve a copy not only on the Motions Commissioner but also on the General Counsel.

## II. Background

2. On April 28, 1982, the Commission promulgated Order No. 225,<sup>1</sup> reorganizing, revising, and updating its Rules of Practice and Procedure.

3. In Order No. 225, the Commission adopted Rule 715, which governs interlocutory appeals to the Commission and sets forth the relevant standard by which a presiding officer or the Motions Commissioner determines whether to permit or deny an interlocutory appeal to the Commission. These procedures allow a question raised in a proceeding pending before a judge, or other presiding officer, to be determined by the Commission at a time prior to presentation of the entire case to the Commission for decision or review.<sup>2</sup>

4. In Order No. 402, the Commission revised Rule 715 and required that those filing an appeal of a denial of a motion to permit an interlocutory appeal separately serve an additional copy of the appeal on the Motions Commissioner.<sup>3</sup>

## III. Discussion

5. The Commission is amending Rule 715(c)(1) to require persons filing an interlocutory appeal to serve an additional copy of the appeal of a denial of a motion to permit an interlocutory appeal on the General Counsel.

6. The Motions Commissioner has seven days after an appeal is filed to make a determination as to whether or not the participant that has filed the appeal has demonstrated extraordinary circumstances that warrant Commission action.<sup>4</sup> Within those seven days, the Motions Commissioner must: (1) Obtain the participant's filing; (2) consider whether the information presented is sufficiently complete; and (3) determine whether extraordinary circumstances exist which make prompt Commission review of the contested ruling necessary to prevent detriment to the public interest or to prevent irreparable harm to a person. If no extraordinary circumstances determination is made within seven days after the appeal is filed and if the Motions Commissioner has not otherwise provided for a different time period to receive and consider additional information, the

appeal is automatically denied under Rule 715(c)(5).<sup>5</sup>

7. The Motions Commissioner, as noted, has only seven days to decide whether an appeal meets the extraordinary circumstances standard. Thus, it is important that the Motions Commissioner be made aware of the appeal as quickly as possible.<sup>6</sup>

8. The Commission believes that serving a copy of the appeal on the General Counsel, in addition to the Motions Commissioner, will better ensure that the Motions Commissioner receives the appeal in sufficient time to reach a decision.

## IV. Information Collection Statement

9. Office of Management and Budget (OMB) regulations require OMB to approve certain information collection requirements imposed by agency rule.<sup>7</sup> However, this instant Final Rule does not contain any information collection requirements and compliance with OMB regulations is thus not required.

## V. Environmental Analysis

10. 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>8</sup> Issuance of this Final Rule 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 of 1969. Part 380 of the Commission's regulations lists exemptions to the requirement to draft an Environmental Analysis or Environmental Impact Statement. Included is an exemption for procedural, ministerial or internal administrative actions.<sup>9</sup> This rulemaking is exempt under that provision.

## VI. Regulatory Flexibility Act

11. The Regulatory Flexibility Act of 1980 (RFA)<sup>10</sup> generally requires a description and analysis of final rules that will have significant economic impact on a substantial number of small

entities. This instant Final Rule concerns agency procedures. The Commission certifies that it will not have a significant economic impact upon participants in Commission proceedings. An analysis under the RFA is not required.

## VII. Document Availability

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

13. 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.

14. User assistance is available for eLibrary and the Commission's Web site during normal business hours from FERC 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).

## VIII. Effective Date

15. The Commission is issuing this rule as an instant Final Rule without a period for public comment. Under 5 U.S.C. 553(b), notice and comment procedures are unnecessary where a rulemaking concerns only agency procedure or practice, or where the agency finds that notice and comment is unnecessary. This rule concerns only matters of agency procedure and will not significantly affect regulated entities or the general public.

16. These regulations are effective September 14, 2009.

## List of Subjects in 18 CFR Part 385

Administrative practice and procedure, Electric utilities, Penalties, Pipelines, Reporting and recordkeeping requirements.

By the Commission.

**Kimberly D. Bose,**  
Secretary.

■ In consideration of the foregoing, the Commission amends Part 385, Chapter I,

<sup>1</sup> *Revision of Rules of Practice and Procedure To Expedite Trial-Type Hearings*, Order No. 225, 47 FR 19014 (May 3, 1982), FERC Stats. & Regs. ¶ 30,358 (1982), *order on reh'g*, Order No. 225-A, 47 FR 35952 (August 18, 1982), FERC Stats. & Regs. ¶ 30,385 (1982).

<sup>2</sup> 18 CFR 385.715.

<sup>3</sup> *Rules of Practice and Procedure; Interlocutory Appeals*, Order No. 402, 49 FR 39538 (October 9, 1984), FERC Stats. & Regs. ¶ 30,604 (1984).

<sup>4</sup> 18 CFR 385.715.

<sup>5</sup> *Id.*; *Rules of Practice and Procedure; Interlocutory Appeals*, Order No. 402, 49 FR 39538 (October 9, 1984), FERC Stats. & Regs. ¶ 30,604 (1984).

<sup>6</sup> 18 CFR 385.715; *Rules of Practice and Procedure; Interlocutory Appeals*, Order No. 402, 49 FR 39538 (October 9, 1984), FERC Stats. & Regs. ¶ 30,604 (1984).

<sup>7</sup> 5 CFR 1320.12.

<sup>8</sup> *Regulations Implementing the National Environmental Policy Act*, Order No. 486, 52 FR 47897 (Dec. 17, 1987), FERC Stats. & Regs. ¶ 30,783 (1987).

<sup>9</sup> 18 CFR 380.4(a)(1).

<sup>10</sup> 5 U.S.C. 601-12.

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. 717–717z, 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).

■ 2. Section 385.715, paragraph (c)(1), is revised to read as follows:

#### § 385.715 Interlocutory appeals to the Commission from rulings of presiding officers (Rule 715).

\* \* \* \* \*

(c) *Appeal of a presiding officer's denial of motion to permit appeal.* (1) If a motion to permit appeal is denied by the presiding officer, the participant who made the motion may appeal the denial to the Commissioner who is designated Motions Commissioner, in accordance with this paragraph. For purposes of this section, "Motions Commissioner" means the Chairman or a member of the Commission designated by the Chairman to rule on motions to permit interlocutory appeal. Any person filing an appeal under this paragraph must serve separate copies of the appeal on the Motions Commissioner and on the General Counsel by Express Mail or by hand delivery.

\* \* \* \* \*

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### PENSION BENEFIT GUARANTY CORPORATION

#### 29 CFR Part 4022

#### Benefits Payable in Terminated Single-Employer Plans; Interest Assumptions for Valuing and Paying Benefits

**AGENCY:** Pension Benefit Guaranty Corporation.

**ACTION:** Final rule.

**SUMMARY:** Pension Benefit Guaranty Corporation's regulation on Benefits Payable in Terminated Single-Employer Plans prescribes interest assumptions for valuing and paying certain benefits under terminating single-employer plans. This final rule amends the benefit payments regulation to adopt interest assumptions for plans with valuation

dates in September 2009. Interest assumptions are also published on PBGC's Web site (<http://www.pbgc.gov>).

**DATES:** Effective September 1, 2009.

**FOR FURTHER INFORMATION CONTACT:** Catherine B. Klion, Manager, Regulatory and Policy Division, Legislative and Regulatory Department, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005, 202–326–4024. (TTY/TDD users may call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4024.)

**SUPPLEMENTARY INFORMATION:** PBGC's regulations prescribe actuarial assumptions—including interest assumptions—for valuing and paying plan benefits of terminating single-employer plans covered by title IV of the Employee Retirement Income Security Act of 1974. The interest assumptions are intended to reflect current conditions in the financial and annuity markets.

These interest assumptions are found in two PBGC regulations: the regulation on Benefits Payable in Terminated Single-Employer Plans (29 CFR Part 4022) and the regulation on Allocation of Assets in Single-Employer Plans (29 CFR Part 4044). Assumptions under the asset allocation regulation are updated quarterly; assumptions under the benefit payments regulation are updated monthly. This final rule updates only the assumptions under the benefit payments regulation.

Two sets of interest assumptions are prescribed under the benefit payments regulation: (1) a set for PBGC to use to determine whether a benefit is payable as a lump sum and to determine lump-sum amounts to be paid by PBGC (found in Appendix B to Part 4022), and (2) a set for private-sector pension practitioners to refer to if they wish to use lump-sum interest rates determined using PBGC's historical methodology (found in Appendix C to Part 4022).

This amendment (1) adds to Appendix B to Part 4022 the interest assumptions for PBGC to use for its own lump-sum payments in plans with valuation dates during September 2009, and (2) adds to Appendix C to Part 4022 the interest assumptions for private-sector pension practitioners to refer to if they wish to use lump-sum interest rates determined using PBGC's historical methodology for valuation dates during September 2009.

The interest assumptions that PBGC will use for its own lump-sum payments

(set forth in Appendix B to part 4022) will be 3.00 percent for the period during which a benefit is in pay status and 4.00 percent during any years preceding the benefit's placement in pay status. These interest assumptions represent no change from those in effect for August 2009. For private-sector payments, the interest assumptions (set forth in Appendix C to part 4022) will be the same as those used by PBGC for determining and paying lump sums (set forth in Appendix B to part 4022).

PBGC has determined that notice and public comment on this amendment are impracticable and contrary to the public interest. This finding is based on the need to determine and issue new interest assumptions promptly so that the assumptions can reflect current market conditions as accurately as possible.

Because of the need to provide immediate guidance for the valuation and payment of benefits in plans with valuation dates during September 2009, PBGC finds that good cause exists for making the assumptions set forth in this amendment effective less than 30 days after publication.

PBGC has determined that this action is not a "significant regulatory action" under the criteria set forth in Executive Order 12866.

Because no general notice of proposed rulemaking is required for this amendment, the Regulatory Flexibility Act of 1980 does not apply. See 5 U.S.C. 601(2).

#### List of Subjects in 29 CFR Part 4022

Employee benefit plans, Pension insurance, Pensions, Reporting and recordkeeping requirements.

■ In consideration of the foregoing, 29 CFR part 4022 is amended as follows:

#### PART 4022—BENEFITS PAYABLE IN TERMINATED SINGLE-EMPLOYER PLANS

■ 1. The authority citation for part 4022 continues to read as follows:

**Authority:** 29 U.S.C. 1302, 1322, 1322b, 1341(c)(3)(D), and 1344.

■ 2. In appendix B to part 4022, Rate Set 191, as set forth below, is added to the table.

#### Appendix B to Part 4022—Lump Sum Interest Rates for PBGC Payments

\* \* \* \* \*