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FERC Requires Filing of Additional Oil Pipeline Rate Base Information

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On July 18th, the Federal Energy Regulatory Commission ("FERC") approved a final rule that makes substantive changes to the components of FERC Form 6, which interstate oil pipelines are required to file each year.[1] The rule requires additional reporting of the figures underlying pipelines' rates of return and is intended to make it easier for both FERC and oil pipeline shippers to evaluate whether a given transportation rate complies with the law. The new rule pertains to page 700 of Form 6, which provides information designed to show the pipeline's cost of service, including O&M expenses, rate base, rate of return, total cost of service, revenues, and throughput. The purpose of this reporting is to provide a preliminary screen for determining whether a pipeline's rates are "just and reasonable" as required by the Interstate Commerce Act. In the final rule, FERC added new fields to page 700 that are intended to allow shippers to more easily calculate an oil pipeline's actual rate of return on equity. The new required information, which FERC anticipates is already being developed in the preparation of the rate base and rate of return information required on existing page 700, is outlined briefly and at a high level below. Interestingly, the Commission was asked by commenters to include additional changes to Form 6 in this rulemaking, including requiring companies that file Form 6 for multiple oil pipeline systems to file separate page 700s for each segment, service, or rate schedule. The Commission declined to do so in this proceeding as it was beyond the scope, but it should be noted that the consolidated Form 6's and page 700's that many companies currently file are alleged to mask the cost of service and rate of return for individual pipelines and services, and the comments in this proceeding suggest that shippers may continue to press FERC to require individualized page 700 filings in the future. The changes to page 700 will take effect for the annual Form 6 filing for calendar year 2013, which is due April 18, 2014. These changes could enable new scrutiny of pipeline rates and complaints and challenges both to existing rates and to proposed annual rate increases under FERC regulations in the near future. Outline of Page 700 Changes: - Rate Base: While current page 700 requires the pipeline to report its rate base for each year, the revised page 700 will require this number to be broken out into three new components: Depreciated Original Cost; Unamortized Starting Rate Base Write-Up; and Accumulated Net Deferred Earnings. The sum of these three components will equal the rate base number that was already required. - Rate of Return: The existing rate of return percentage reported on page 700 is a weighted cost of capital; the new page 700 will require reporting of the cost of equity, costs of debt, and capital structure supporting the rate of return. - Return on Rate Base: Currently, page 700 requires reporting of the return on rate base, combining the real return on equity and the portion of the return allocated to paying the pipeline's cost of debt. The revised page 700 requires breaking the return of rate base into separate debt and equity components. - Composite Tax Rate: The revised page 700 will require pipelines to report the adjusted sum of the pipeline's applicable state and federal income tax rates. The stated purpose of the page 700 changes is to better enable the calculation of the actual return on equity of the pipeline, as adjusted for taxes, inflation and depreciation. The final rule states that this calculation "is particularly useful information when using page 700 as a preliminary screen to evaluate whether additional proceedings may be necessary to challenge rates."[2]

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[1] *Revisions to Page 700 of FERC Form No. 6*, 144 FERC ¶ 61,049 (2013). [2] *Id.* at P 36.