

ORDER NO. 1357

UNITED STATES OF AMERICA
POSTAL RATE COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

George Omas, Chairman;
Dana B. Covington, Sr., Vice Chairman;
Ruth Y. Goldway; and
Tony Hammond

Filing Online

Docket No. RM2003-2

NOTICE AND ORDER OF REVISION TO THE COMMISSION'S
RULES OF PRACTICE SIMPLIFYING PROCEDURES FOR
FILING CERTAIN DOCUMENTS WITH THE COMMISSION

(Issued December 23, 2002)

On October 21, 2002, the Commission issued Order No. 1349 amending its rules of practice. This Order made submitting documents via the Internet using the Commission's Filing Online system the standard method for filing documents in Commission proceedings. The effective date of the new filing system is January 7, 2003.

Under this new filing system, each person intending to participate in Commission proceedings is required to set up a Filing Online account prior to using the Filing Online system to file documents. In order to become an account holder in the Filing Online system, a person must complete, sign, and mail to the Secretary, a hardcopy application. This process requires a modest amount of effort by the applicant, and involves a modest amount of delay. The effort and delay is necessary to effectively link documents with those that file them, to allow principal, agent, and client relationships to be tracked in an orderly way, to ensure that documents are authorized and authentic, and to provide adequate security for the system.

Obtaining a permanent Filing Online account requires the applicant to undertake a number of commitments, and usually takes several days. In addition to providing identifying and contact information, the applicant must request status as a Principal Account Holder or an Agent Account Holder. A person applying to become a Principal Account Holder must assume a contractual duty to ensure that each document that he or she files online is authentic, accurate, and authorized by the participant that the account holder purports to represent. A Principal Account Holder is obligated to notify the Commission when there are changes in his or her authority to file documents on behalf of another participant.

After a person has completed and signed the account holder application, he or she must mail it to the Commission. When the Commission accepts the application, it e-mails the applicant his or her User Name and a temporary password. Both are required to log in to Filing Online. After logging in, the account holder selects a permanent password. Several days may elapse between the time that a person applies to become an account holder and the receipt of his permanent password.

The Commission recognizes that this amount of effort and delay might not be necessary or appropriate for certain categories of documents that are filed with the Commission. It has decided to allow such documents to be filed under temporary Filing Online accounts which people may obtain through a simplified and expedited procedure.

The Commission has added Rule 9(f) to its rules of practice [39 CFR § 3001.9(f)]. This rule allows two categories of documents to be filed under temporary Filing Online accounts. The first category is notices of intervention. A notice of intervention is typically the first document submitted by a participant in a formal hearing. The Commission is aware that those who have not applied for permanent Filing Online accounts might assume that they will be able to apply for a permanent account, gain access to Filing Online, and file a notice of intervention all on the day that notices of intervention are due. First-time participants in a Commission hearing and first-time users of Filing Online may not realize that it could take several days for their signed,

hardcopy application for a permanent Filing Online account to be delivered to the Secretary and processed. If they are not aware of this requirement, they risk missing the deadline for filing their notice of intervention. In order to reduce this risk, the Commission has designated notices of intervention as a category of document that a prospective participant may file under a temporary account. This dispenses with the requirement to complete and sign a hardcopy application and undertake the duties inherent in the subscription requirement. In deciding to dispense with this requirement for notices of intervention, the Commission has considered that the representations of affected interests that are provided in notices of intervention are not the kind that require the safeguards of the subscription requirement. If there were material misrepresentations of fact in a notice of intervention, the Commission is aware that such misrepresentations may be brought to its attention by others in a motion to deny intervention.

The second category of documents that may be filed under a temporary Filing Online account is comments that have been solicited by the Commission. This includes comments that the Commission solicits in informal inquiries, such as its inquiry in the Petition for Review of Unclassified Services, instituted on November 21, 2002, and comments that the Commission solicits in rulemaking proceedings. As with notices of intervention, there may be first-time users of Filing Online who wish to file comments in a rulemaking or other Commission proceeding who assume that they may apply for a permanent account, gain access to Filing Online, and file comments, all on the day that comments are due. If they are not aware that a signed, hardcopy application must be delivered to the Commission and processed before they become permanent account holders, they risk missing the deadline for comments. In order to reduce this risk, the Commission allows comments that it solicits to be filed under a temporary Filing Online account.

The Commission has not included statements of views submitted under Rule 20b among the categories of documents that may be filed online under temporary accounts. Rule 20b is designed to allow the public to submit unsolicited comments on issues

raised in formal record hearings that have been noticed under Rule 17 of the Commission's rules of practice. Rule 20b provides an even less formal procedure for communicating with the Commission than the temporary Filing Online account provides. Statements submitted under Rule 20b may be mailed or e-mailed to the Commission. The preferred method is using the form provided under the "Contact Us" link on the Commission's website, at *www.prc.gov*. The language of Rule 20b has been revised to clarify the procedural options that are available to filers of Rule 20b comments.

Under new Rule 9(f), the Commission will entertain motions to allow other categories of documents to be filed under temporary Filing Online accounts under extraordinary circumstances for good cause shown.

The procedure required to obtain a temporary account is determined by the Secretary. Currently, an applicant for a temporary account may submit a form online that contains the applicant's identity and contact information, and the identity of the participant on whose behalf the document is submitted. After providing this information, the applicant for a temporary account will choose a User Name and a password that will allow him or her to log in to Filing Online and file a document of the type that the Commission has designated. This will establish the temporary account. The applicant need not mail a signed hardcopy form to the Secretary. The applicant will not be asked to undertake the obligations that accompany the subscription requirement, or to request status as a Principal Account Holder or an Agent Account Holder. The User Name and password that the applicant selects will be valid for a limited time that the Commission determines. Currently a temporary account is valid for ten days. Since a temporary account cannot be renewed, a temporary account holder who wishes to file a series of documents in a proceeding will need to obtain a permanent Filing Online account.

Because the revisions made in this Order to Rules 9 and 20b of the Commission's rules of practice simplify the procedures for filing some documents with the Commission, they are presumed not to be prejudicial to the interests of any prospective participant in Commission proceedings. For this reason, the Commission

considers it appropriate to make these revisions without first issuing a Notice of Proposed Rulemaking.

These revisions to Rules 9 and 20b, of the Commission rules of practice will take effect on January 7, 2003, concurrently with the implementation of the rules governing Filing Online adopted in Order No. 1349.

It is ordered:

1. The addition of § 3001.9(f) and the revision of § 3001.20b of the Commission's rules of practice, as set forth in the Attachment to this Order, shall take effect on January 7, 2003.
2. The Secretary shall cause this to be published in the Federal Register.

By the Commission
(S E A L)

Steven W. Williams
Secretary

List of subjects in 39 CFR Part 3001

Administrative practice and procedure, Postal Service

For the reasons stated in the accompanying Order, the Commission adopts the following amendments to 39 CFR part 3001.

PART 3001—RULES OF PRACTICE AND PROCEDURE

1. The authority citation for part 3001 continues to read as follows:

Authority: 39 U.S.C. 404(b); 3603; 3622-24; 3661; 3662; 3663.

Subpart A—Rules of General Applicability

2. Amend § 3001.9 by adding paragraph (f) to read as follows:

§ 3001.9 Filing of Documents.

* * * * *

(f) *Account holder exemptions.* Notices of intervention and comments solicited by the Commission may be filed under temporary Filing Online accounts. Temporary Filing Online accounts may be obtained without meeting all of the requirements of paragraphs (b) and (c) of this section, and the subscription requirements of section 11. Other categories of documents may be filed under temporary Filing Online accounts under extraordinary circumstances, for good cause shown.

3. Revise § 3001.20b by redesignating current paragraphs §§ 3001.20b(a) and (b) as paragraphs §§ 3001.20b(b) and (c), respectively, and adding a new paragraph § 3001.20b(a) to read as follows:

§ 3001.20b. Informal expression of views by persons not parties or limited participators (commenters).

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(a) *Form of statement.* A statement filed pursuant to this section may be submitted as a hardcopy letter mailed to the Secretary or an electronic message entered on the form provided for this purpose under the “Contact Us” link on the Commission’s website, www.prc.gov.