FROM	TO	MEA	MAA
§95.7228 JET ROUTE NO. 228—Continued			
LINDEN, VA VORTAC	LANCASTER, PA VORTAC	18000	45000
LANCASTER, PA VORTAC	BROADWAY, NJ VOR/DME	18000	45000
BROADWAY, NJ VOR/DME	SPARTA, NJ VORTAC	18000	45000
SPARTA, NJ VORTAC	ALBANY, NY VORTAC	18000	45000
ALBANY, NY VORTAC	PLATTSBURGH, NY VORTAC	18000	45000
PLATTSBURGH, NY VORTAC	U.S. CANADIAN BORDER	18000	45000
§95.7230 JET ROUTE NO. 230			
	IS ADDED TO READ		
BELLAIRE, OH VORTAC	ROBBINSVILLE, NJ VORTAC	18000	45000
§95.7584 JET ROUTE NO. 584			
	IS AMENDED TO READ IN PART		
SLATE RUN, PA VORTAC	WILLIAMSPORT, PA VORTAC	18000	33000
WILLIAMSPORT, PA VORTAC	BROADWAY, NJ VOR/DME	18000	31000

9

§95.8005 JET ROUTES CHANGEOVER POINTS

AIRWAY SEGMENT		CHANGEOVER POINTS	
FROM	TO	DISTANCE	FROM
	J-48		
	IS AMENDED BY ADDING		
PULASKI, VA VORTAC	CASANOVA, VA VORTAC	126	PULASKI
	J-91		
	IS AMENDED TO DELETE		
KNOXVILLE, TN VORTAC	HENDERSON, WV VORTAC	135	KNOXVILLE
	J-220		
	IS AMENDED BY ADDING		
ARMEL, VA VORTAC	STONYFORK, PA VORTAC	111	ARMEL
	J-221		
	IS AMENDED BY ADDING		
LAKE HENRY, PA VORTAC	WELLSVILLE, NY VORTAC	50	LAKE HENRY

10

[FR Doc. 87-2682 Filed 2-9-87; 8:45 am]

BILLING CODE 4910-13-C

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM 84-14-025 and Order No. 406-C]

18 CFR Part 271

Deregulation and Other Pricing Charges on January 1, 1985, Under the Natural Gas Policy Act; Order Clarification

Issued February 3, 1987.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule; clarification.

SUMMARY: On November 16, 1984, the Commission issued a final rule, Order No. 406, amending its regulations to prepare for price deregulation under section 121 of the NGPA for certain types of natural gas subject to sections 102, 103, 105, and 106, and published new maximum lawful prices under sections 103(b) and 105(b)(3). The Commission received a request for clarification of certain language within the preamble of Order No. 406 concerning "production-related costs" and its applicability to gas deregulated on November 1, 1979. This order clarifies the language in question.

EFFECTIVE DATE: This order, issued subject to leave of court, will be effective March 12, 1987.

FOR FURTHER INFORMATION CONTACT: Arthur W. Iler, Federal Energy Regulatory Commission, Office of the General Counsel, 825 North Capitol Street NE., Washington, DC 20426.

Before Commissioners: Martha O. Hesse, Chairman; Anthony G. Sousa, Charles G. Stalon, Charles A. Trabandt, and C.M. Naeve.

I. Introduction

The Federal Energy Regulatory Commission is issuing a clarification of Order No. 406 [1] concerning the applicability of the Commission's regulations [2] which allow and limit the recovery of production-related costs by a first seller of gas, in connection with gas which is no longer subject to the price ceilings of the Natural Gas Policy Act of 1978 (NGPA) or the Commission's jurisdiction under the Natural Gas Act. The Commission is clarifying the determination that the Commission's regulations do not act as authorization for or limitation on the amount parties may allocate for production-related costs in a contract for the sale of deregulated gas.

II. Background

NGPA section 107(c) (1), (2), (3) and (4) "high-cost" natural gas was deregulated as to price pursuant to NGPA section 121(b) on November 1, 1979, the effective date of the Commission's incremental pricing regulations.[3] The gas was also removed from the Commission's Natural Gas Act jurisdiction by operation of NGPA section 601(a). On November 16, 1984, the Commission issued Order No. 406 to implement NGPA section 121(a) which deregulated the price for NGPA section 102(c) "new natural gas" and NGPA section 103(c) "new, onshore production" gas produced from depths below 5,000 feet, effective January 1, 1985. NGPA section 121(a) also deregulated the price of intrastate gas categorized under NGPA sections 105 and 106(b), under certain circumstances, if the price paid, or the price which would have been paid absent regulation, for such gas was in excess of $1.00 per MMBtu on December 31, 1984.

On April 29, 1986, FMF Oil & Gas Properties, Inc. (FMF) petitioned the Commission for clarification of Order No. 406 pursuant to Rule 207 of the Commission's Rules of Practice and Procedure.[4] Specifically, FMF seeks clarification of the applicability of certain language in Order No. 406 to contracts for the sale of gas deregulated prior to the issuance of Order No. 406, that contain provisions for the payment of production-related costs. FMF argues that payment of production-related costs provided for by contract are not prohibited just because the gas is decontrolled.

III. Discussion

FMF sells NGPA section 107(c) (1), (2), (3), or (4) "high-cost" gas to Columbia Gas Transmission Corporation (Columbia). FMF has made its request because Columbia has ceased paying for production-related costs on the basis of its interpretation of Order No. 406. Specifically, FMF is concerned with the language in Order No. 406 which provides:

> The Commission believes that the allowances in § 271.1104 [of the Commission's Regulations, 18 CFR 271.1104 (1986)] for production-related costs should cease to apply to gas that is deregulated on January 1, 1985. Because the price for deregulated gas will be determined by market forces, presumably any production-related costs will be considered in the price ultimately charged.[5]

FMF argues that Order No. 406 should be clarified to provide that deregulation of NGPA section 107(c) (1)–(4) "high-cost" gas on November 1, 1979, did not render such gas ineligible for the receipt of such production-related costs as are provided for in its contract with Columbia. In the alternative, FMF argues that Order No. 406 should be clarified to permit allowances for production-related costs attributable to sales of "high-cost" gas made before the effective date of Order No. 406. FMF states that it relied on its contract authorization to collect such costs since the Commission's Order No. 78,[6] which implemented the NGPA's deregulation of the high-cost gas at issue here, did not address the availability of production-related costs for such gas. FMF argues that it should not be precluded from collecting such costs by extension of the above-quoted language in Order No. 406, issued in 1984, to gas deregulated by Order No. 78, issued in 1980.

Columbia argues [7] that the principles of Order No. 406 also apply to gas deregulated in 1979. Columbia has refused to pay FMF for production-related costs provided for in its contract with FMF based on its analysis of the above-quoted language in Order No. 406. Columbia argues that Order No. 406 clearly provides that after deregulation, provisions in a gas sales contract for recovery of production-related costs are not enforceable because an allowance for the recovery of such costs is deemed

[1] Deregulation and Other Pricing Changes on January 1, 1985, under the Natural Gas Policy Act, 49 FR 46,874 (Nov. 29, 1984), FERC Stats. & Regs. [Regulations Preambles 1982–1985] ¶ 30,614. Order No. 406 is currently on appeal to the United States Court of Appeals for the Tenth Circuit in Martin Oil Service, Inc. *et al.* v. FERC, Docket Nos. 84-2756 *et al.* (argued Sept. 9, 1986). Therefore, this order is issued subject to leave of court.

[2] 18 CFR 271.1104 (1986).

[3] Regulations Implementing the Incremental Pricing Provisions of the Natural Gas Policy Act of 1978, 44 FR 57,726 (Oct. 5, 1979), FERC Stats. & Regs. [Regulations Preambles 1977–1981] ¶ 30,085. Interim Rules Defining and Deregulating Certain High-Cost Natural Gas, 44 FR 61,950 (Oct. 29, 1979) F.E.R.C. Stats. & Regs. [Regulations Preambles 1977–1981] ¶ 30,094.

[4] 18 CFR 385.207 (1986).

[5] 49 FR at 46,882, FERC Stats. & Regs. [Regulations Preambles 1982–1985] at 31,235.

[6] Final Rules Defining and Deregulating Certain High-Cost Gas, 45 FR 28,092 (April 28, 1980) (Order No. 78), FERC Stats. & Regs. [Regulations Preambles 1977–1981] ¶ 30,147.

[7] Columbia Gas Transmission Corporation filed on May 30, 1986, an untimely answer to FMF's request for clarification. Nevertheless, the Commission has considered Columbia's answer in order to provide full and fair consideration of the issues presented in this proceeding.

to be included in the price ultimately agreed to by the parties.

Columbia is correct in stating that the principles of Order No. 406 are equally applicable to gas deregulated on November 1, 1979. However, FMF and Columbia have misinterpreted the Commission's intent when it issued Order No. 406 and Congress' intent when it deregulated the gas in question. Congress intended to allow the market to control the price for deregulated gas. Order No. 406 merely provides that any allowance for production-related costs should be determined by market forces, thus eliminating the regulations implementing NGPA section 110 as a limit on the amount which may be allocated in a contract to cover production-related costs.[8] In Order No. 406 we concluded that it would be inconsistent with Congressional intent for the Commission to implement rules which deregulate the price of gas while leaving any component of the price subject to a ceiling. Thus, Order No. 406 does not stand for the proposition, as both parties seem to have mistakenly assumed, that a freely negotiated contract for the sale of deregulated gas may not contain a provision which permits an allowance for production-related costs.

The Commission has no authority to require the parties to a contract for deregulated gas to include or exclude any pricing provisions.[9] The Commission had no intent, when issuing Order No. 406, to prohibit the parties to a freely negotiated contract from including in their contract a separate pricing provision for production-related costs. Nor did we intend to imply that production-related costs are not collectible unless thay are included in the ultimately agreed upon commodity price. In sum, the Commission's rules neither provide for nor prohibit the inclusion of such contract terms and to the extent that the parties disagree on the effect of such terms, their remedy lies with a court of competent jurisdiction rather than with this Commission.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-2638 Filed 2-9-87; 8:45 am]

BILLING CODE 6717-01-M

[8] FERC Stats. & Regs. [Regulation Preambles 1982-1985] at 31,235.

[9] This order is intended merely to clarify Order No. 406 and does not construe any clause in the contract.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Parts 203 and 234

[Docket No. R-87-1296; FR-2197]

Refinancing of FHA Insured Single Family Mortgages

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Interim rule.

SUMMARY: This rule revises HUD's regulations concerning the insurance of mortgages given to refinance existing FHA-insured single family mortgages. It also extends the authority to insure refinancing mortgages to FHA-insured mortgages covering units in condominium projects. In essence, the rule extends the maximum term allowable on the refinancing mortgage from the unexpired term of the existing FHA insured mortgage to the unexpired term plus twelve years, but not exceeding thirty years.

DATES: Effective date: March 23, 1987.

Comment due date: April 13, 1987.

FOR FURTHER INFORMATION CONTACT: Morris Carter, Director, Single Family Development Division, Department of Housing and Urban Development, Room 9270, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 755-6720. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: The current trend toward lower mortgage interest rates makes it advantageous for many FHA mortgagors who purchased their homes in recent years to refinance their mortgage loans. Such refinancings would also be advantageous to HUD, since a lowering of monthly mortgage payments based on lower interest charges should decrease the risk of default and, consequently, the risk exposure of the FHA insurance funds. This rule revises HUD's single family refinancing policies in an effort to make it possible for a larger number of FHA morgagors to take advantage of current market conditions.

HUD's authority to insure morgages given to refinance single family insured mortgages, where the refinancing mortgage does not meet all eligibility requirements, is derived from section 223(a)(7) of the National Housing Act. The refinancing provisions in section 223(a)(7) were enacted to authorize the Department to insure mortgages given to refinance existing FHA insured mortgages, when the refinancing mortgages do not meet all of the requirements of the section of the National Housing Act under which the mortgages were originally insured. After enactment of section 223(a)(7), HUD issued a regulation (24 CFR 203.43(b)(7)), the refinancing provisions of which provide that the Department may accept a mortgage for insurance if

> given to refinance an existing mortgage insured under the (National Housing) Act. The amount of the refinancing mortgage shall not exceed the original principal amount of the existing mortgage. It shall have a maturity limited to the unexpired term of the existing mortgage.

The basic statute, section 223(a)(7) of the National Housing Act, also provided that

> in any case involving the refinancing of a loan in which the Secretary determines that the insurance of a mortgage for an additional term will inure to the benefit of the applicable insurance fund, taking into consideration the outstanding insurance liability under the existing insured mortgage, such refinancing mortgage may have a term not more than twelve years in excess of the unexpired term of such existing insured mortgage.

This provision for an increased mortgage term was not incorporated in the HUD regulation—24 CFR 203.43(b)(7). In this rule, the Department does incorporate the statutory provision—with the addition of safeguards relating to review of the mortgagor's prior payment record and assurances that the refinancing will result in lower monthly payments. This change is based upon HUD's findings, stated earlier, concerning current mortgage market trends and their probable impact upon FHA mortgagors and the FHA insurance funds.

This rule also changes the maximum mortgage amount of the refinancing mortgage so that it is the lesser of the original principal amount for the existing mortgage or the unpaid principal balance of such mortgage plus closing costs as approved by the Commissioner. 24 CFR 203.43(b)(7) currently provides that the mortgage amount of the refinancing mortgage shall not exceed the original principal amount of the existing mortgage.

In this rule the current § 203.43(b)(7) is removed and a new § 203.43(c), containing the provisions referred to above, is substituted. In addition, this rule amends 24 CFR Part 234 (Condominium Ownership Mortgage Insurance) to authorize the refinancing of insured condominium unit mortgages under the same terms and conditions.

With respect to the other large category of FHA single family mortgages that falls outside Part 203—namely section 221(d)(2) mortgages covering low-cost homes—it should be noted that 24 CFR 221.1 incorporates by reference the refinancing provisions contained in 24 CFR 203.43 as revised by this rule. Through similar incorporations by reference, other miscellaneous single family programs are also covered by this rule. It should be noted, however, that the rule is *not* being made applicable to mortgages insured under section 235 of the National Housing Act (see 24 CFR 235.1).

The Department recognizes that this rule will not be capable of being applied to Graduated Payment Mortgages and Modified Graduated Payment Mortgages until their negative amortization has been paid down to the original principal amount. "Original principal amount" is not to be equated with the "maximum principal amount" permitted in the GPM and modified GPM programs.

Also, the rule makes clear that any refund of a one-time MIP which was included in the amount of an existing mortgage shall be deducted in determining that mortgage's original principal amount and unpaid principal balance, but the amount of one-time MIP (if any) associated with the refinancing mortgage may be included in that mortgage.

The Department traditionally provides for prior notice and comment even when not required by the Administrative Procedure Act, before a rule is published for effect. Although this is the general policy of the Department, we have determined in this instance that to delay the rule's implementation would not be in the public interest, since the principal goal of the rule is to make available a potential benefit to FHA mortgagors. Accordingly, the Department has determined that good cause exists for publishing these revisions as an interim rule. The Department is, however, soliciting post-publication comments for a 60-day period and will consider all comments received in its preparation of a final rule.

Procedural Requirements

This rule does not constitute a "major rule" as that term is defined in section 1(b) of Executive Order 12291 on Federal Regulation issued by the President on February 17, 1981. Analysis of the proposed rule indicates that it does not (1) have an annual effect on the economy of $100 million or more; (2) cause a major increase in cost or prices for consumer, individual industries, Federal, State or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United State-based enterprises to compete with foreign-based enterprises in domestic or export markets.

A Finding of No Significant Impact with respect to the environment has been make in accordance with HUD regulations in 24 CFR Part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection and copying during regular business hours in the Office of the Rules Docket Clerk, Office of the General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410.

Under 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities. While the rule will have some impact on those mortgagors who choose to refinance their existing FHA-insured mortgages, and on their mortgagees, the rule's impact on individual borrowers and lenders should not be economically substantive, and in all instances its impact will be in accord with existing contractual rights reflected in these parties' mortgage loan contracts.

This rule was listed as item H-8-86 [Sequence Number 813] under the Office of Housing in the Department's Semiannual Agenda of Regulations published on October 27, 1986 (51 FR 38424) under Executive Order 12291 and the Regulatory Flexibility Act.

The FHA home mortgage insurance and condominium unit mortgage insurance programs are listed in the Catalog of Federal Domestic Assistance as 14.117, Mortgage Insurance—Homes and 14.133 Mortgage Insurance—Purchase of Units in Condominiums.

List of Subjects

24 CFR Part 203

Mortgage insurance.

24 CFR Part 234

Condominiums, Mortgage insurance, Homeownership, Projects, Units.

Accordingly, 24 CFR Parts 203 and 234 are amended as follows:

PART 203—MUTUAL MORTGAGE INSURANCE AND REHABILITATION LOANS

1. The authority citation for 24 CFR Part 203 continues to read as follows:

Authority: Secs. 203 and 211, National Housing Act, (12 U.S.C. 1709, 1715b); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d). In addition, Subpart C is also issued under sec. 230, National Housing Act (12 U.S.C. 1715(u)).

2. Section 203.43 is amended by removing the semicolon and the word "or" at the end of paragraph (b)(6) and inserting a period, removing paragraph (b)(7) and adding a new paragraph (c) to read as follows:

§ 203.43 Eligibility of miscellaneous type of mortgages.

* * * * *

(b) * * *

(6) Executed in connection with the first resale, within two years from the date of its acquisition from the Government, of any portion of a project or property of the character described in paragraphs (b) (1), (2), (3), and (4) of this section

(c) The Commissioner may insure under this part, without regard to any limitation upon eligibility contained in this subpart, any mortgage given to refinance an existing mortgage which is insured under the National Housing Act. The refinancing mortgage must meet the following special requirements:

(1) It must be in an amount which does not exceed the lesser of (i) the original principal amount of the existing mortgage, or (ii) the sum of the unpaid principal balance of the existing mortgage plus loan closing charges as approved by the Commissioner. Where a one-time mortgage insurance premium (MIP) was financed as part of the existing mortgage, the amount of any refund of such premium to which the mortgagor may be entitled shall be deducted in determining the original principal amount and the unpaid principal balance of the existing mortgage. However, the maximum amount of the refinancing mortgage computed in accordance with this paragraph (c)(1) may be increased by the amount of the one-time MIP (if any) associated with such mortgage. Any increase in the original principal amount of the existing mortgage resulting from any negative amortization associated with mortgages insured under section 203 of the National Housing Act pursuant to section 245 (a) or (b) of the Act (24 CFR 203.45 or 203.46) shall not be included in determining the original principal amount of the existing mortgage;

(2) It must have a term which does not exceed the unexpired term of the existing mortgage, except that in any case where the Commissioner determines that an extension of the term of the mortgage will inure to the benefit of the applicable insurance fund, taking

into consideration the outstanding insurance liability under the existing insured mortgage, the term may be extended to the lesser of (i) 30 years or (ii) the unexpired term of the existing mortgage, plus 12 years;

(3) It must result in a reduction in regular monthly mortgage payments by the mortgagor; and

(4) It must be made by a mortgagor whose record of payment on the existing mortgage meets standards established by the Commissioner.

* * * * *

PART 234—CONDOMINIUM OWNERSHIP MORTGAGE INSURANCE

3. The authority citation for 24 CFR Part 234 continues to read as follows:

Authority: Secs. 211 and 234, National Housing Act, (12 U.S.C. 1715b, 1715y); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

4. 24 CFR Part 234 is amended by adding a new § 234.52 to read as follows:

§ 234.52 Refinancing of existing mortgages.

The Commissioner may insure under this part, without regard to any limitation upon eligibility contained in this subpart, any mortgage covering a family unit given to refinance an existing mortgage which is insured under the National Housing Act. The refinancing mortgage must meet the following special requirements:

(a) It must be in an amount which does not exceed the lesser of (1) the original principal amount of the existing mortgage, or (2) the sum of the unpaid principal balance of the existing mortgage plus loan closing charges as approved by the Commissioner. Any increase in the original principal amount of the existing mortgage resulting from any negative amortization associated with mortgages insured under section 234(c) of the National Housing Act pursuant to section 245 (a) or (b) of the Act (24 CFR 234.75 or 234.76) shall not be included in determining the original principal amount of the existing mortgage;

(b) It must have a term which does not exceed the unexpired term of the existing mortgage, except that in cases where the Commissioner determines that an extension of the term of the mortgage will inure to the benefit of the insurance fund, taking into consideration the outstanding insurance liability under the existing insured mortgage, the term may be extended to the lesser of (1) 30 years or (2) the unexpired term of the existing mortgage, plus 12 years;

(c) It must result in a reduction in regular monthly mortgage payments by the mortgagor; and

(d) It must be made by a mortgagor whose record of payment on the existing mortgage meets standards established by the Commissioner.

Dated: November 25, 1986.

Thomas T. Demery,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 87-2780 Filed 2-9-87; 8:45 am]

BILLING CODE 4210-27-M

FEDERAL MARITIME COMMISSION

46 CFR Part 502

[Docket No. 86-22]

Miscellaneous Amendments to Rules of Practice and Procedure

AGENCY: Federal Maritime Commission.

ACTION: Final rule.

SUMMARY: The Federal Maritime Commission amends its Rules of Practice and Procedure to: allow for appeals from Commission staff actions; establish a procedure for the filing of a brief of an amicus curiae in adjudicatory proceedings and authorize U.S. Government agencies to file amicus pleadings without first asking leave of the Commission; bring special docket procedures into conformity with the Shipping Act of 1984 and recent Commission decisions; and require persons requesting oral argument to set forth the specific issues they propose to address at oral argument.

EFFECTIVE DATE: March 12, 1987.

FOR FURTHER INFORMATION CONTACT: Robert D. Bourgoin, General Counsel, Federal Maritime Commission, 1100 L Street NW., Washington, DC 20573-0001, (202) 523-5740.

SUPPLEMENTARY INFORMATION:

Background

This proceeding was initiated by a Notice of Proposed Rulemaking (Proposed Rule) published in the **Federal Register** on August 14, 1986 (51 FR 29124-29126). The Proposed Rule would amend the Commission's Rules of Practice and Procedure (Rules), 46 CFR Part 502, to provide for appeals from Commission staff actions; to establish a procedure for the filing of a brief of an amicus curiae in adjudicatory proceedings; to bring special docket procedures into conformity with the Shipping Act of 1984 (Act or 1984 Act), 46 U.S.C. app. 1701-1720, and recent Commission decisions; and to set forth the grounds upon which a request for oral argument should be based.

Comments in response to the Notice of Proposed Rulemaking were submitted by the Department of Transportation (DOT or Executive Agencies);[1] by the Transpacific Westbound Rate Agreement (TWRA); by Sea-Land Service, Inc. (Sea-Land); and by Messrs. C. Jonathan Benner, Joseph A. Klausner, Neal M. Mayer, and Russell T. Weil, attorneys who practice before the Commission.[2]

The Commission has considered the comments received and made certain modifications to the Proposed Rule. These changes and the related comments are discussed in the following section-by-section analysis of the Final Rule.

Discussion

I. Section 502.69 Petitions—general and fee (Rule 69)

The Proposed Rule would add the phrase "including appeals from Commission staff action," after the words "affirmative action by the Commission," in order to make clear that the petition procedure provided in Rule 69 is available in an appeal from a staff action. TWRA urges that either Rule 69 or the Supplementary Information should indicate that when reference is made to the Commission it means "the Commission acting as the sitting Commissioners and not simply a member or members of the staff."

A reasonable reading of the reference to "relief or other affirmative action by the Commission" in Rule 69 indicates that matters submitted under Rule 69 are ultimately to be decided by the Commission acting as a collegial body.[3] Therefore, no specific language to that effect is necessary in Rule 69 itself.

II. Section 502.76—Brief of an amicus curiae (Rule 76)

As proposed, Rule 76 would: (1) Allow a United States government entity, or a State, Territory or Commonwealth, to file a brief as an amicus curiae without leave of the Commission; (2) clarify the distinction between participation as an

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[1] This comment was submitted by the Department of Transportation on its own behalf and on behalf of the Departments of State and Commerce and the United States Trade Representative.

[2] A comment by the Trans-Pacific Freight Conference of Japan and the Japan-Atlantic & Gulf Freight Conference was not accepted because it was not timely filed and hence is not part of the record in this proceeding.

[3] Moreover, a definition of the reference to "Commission" in this instance could create uncertainty as to the meaning of that term where it appears elsewhere in the Rules.