

§ 250.27

may be prescribed by any other regulatory agency.

(g) Any references in other rules, forms or releases under the Act to the uniform system of accounts shall be hereafter deemed to refer to this rule.

[40 FR 22129, May 21, 1975, as amended at 49 FR 27309, July 3, 1984; 59 FR 21927, Apr. 28, 1994]

§ 250.27 Classification of accounts prescribed for utility companies not already subject thereto.

(a) Every registered holding company and subsidiary thereof, which is a public utility company and which is not required by either the Federal Energy Regulatory Commission or a State commission to conform to a classification of accounts, shall keep its accounts, insofar as it is an electric utility company, in the manner currently prescribed for similar companies by the Federal Energy Regulatory Commission or, and insofar as it is a gas utility company, in the manner currently recommended by the National Association of Railroad and Utilities Commissioners, except any company whose public utility activities are so limited that the application to it of such system of accounts is clearly inappropriate. A company claiming that its activities are thus limited, shall apply to the Commission for written instructions to that effect.

(b) All references, in the systems of accounts made applicable by paragraph (a) of this section, to the authority prescribing the same and to orders and instructions by, and reports to, said authority, shall be deemed to refer to the Securities and Exchange Commission as the "Commission" thereby designated.

[Rule U, 6 FR 2015, Apr. 19, 1941, as amended at 8 FR 15814, Nov. 23, 1943; 59 FR 21927, Apr. 28, 1994]

§ 250.28 Inconsistent financial statements.

Except as otherwise authorized or required by the Commission by rule, regulation, order, statement of administrative policy, or otherwise, no registered holding company or subsidiary company thereof shall distribute to its security holders, or publish, financial statements which are inconsistent with

17 CFR Ch. II (4-1-10 Edition)

the book accounts of such company or financial statements filed with this Commission by, or on behalf of, such company. This section shall not be deemed to prevent the distribution or publication of reasonable condensations or of unaudited financial statements or of financial statements (on a cash or other basis) pursuant to the requirements of an indenture or mortgage given to secure bonds or similar instruments, or of appropriate financial statements of a receiver or trustee appointed by a court of the United States.

[25 FR 1942, Mar. 5, 1960]

§ 250.29 Filing of reports to State Commissions.

PRELIMINARY NOTE: Reports to State Commissions shall be submitted to the Commission in paper only, whether or not the filer is otherwise required to file in electronic format.

A copy of each annual report submitted by any registered holding company or any subsidiary thereof to a State Commission covering operations not reported to the Federal Energy Regulatory Commission shall be filed with the Securities and Exchange Commission no later than ten days after such submission.

[59 FR 21927, Apr. 28, 1994]

REGULATION AND EXEMPTION OF VARIOUS FINANCIAL TRANSACTIONS²

§ 250.40 Exemption of certain acquisitions from nonaffiliates.

(a) Section 9(a) (49 Stat. 817; 15 U.S.C. 79i), shall not apply to the acquisition, from a person other than an associate or affiliate of the acquiring company or an affiliate of an associate company, of any of the securities (excluding securities issued by the acquiring company) as specified below:

(1) *Readily marketable securities.* Any bond or other evidence of indebtedness issued by any nonassociate company which qualifies as a legal investment for trust funds or for saving banks

¹ [Reserved]

² See, also, § 250.70(b)(2) as to dealings with financial institutions where there are or have been, certain interlocking relationships.

under the laws of New York, Pennsylvania or Massachusetts, if after giving effect to such acquisition the acquiring company, together with its associate companies, will not own more than 5 percent of the particular class of such securities.

(2) *Commercial paper and similar securities.* Any prime commercial paper, trade acceptance or bank certificate of deposit maturing within 12 months from the date of issuance or payable in not more than 60 days after demand.

(3) *Acquisitions resulting from previous ownership of securities.* Securities received as a dividend, or in renewal of an evidence of indebtedness, or pursuant to the exercise of preemptive right or conversion privilege, or as a result of any reclassification, general exchange offer or reorganization: *Provided,* That no exemption shall be available under this paragraph as to the acquisition of any voting securities or securities convertible into voting securities if after giving effect to such acquisition the acquiring company will, directly or indirectly, own, control, or hold 5 percent or more of the particular class of such securities.

(4) *Securities acquired in connection with routine business transactions.* In the ordinary course of the acquiring company's business (other than the business of a holding company or investment company as such), any evidence of indebtedness executed by its customers in consideration of utility or other services by such company or executed in connection with the sale of goods or of real property other than utility assets.³

(5) *Securities of local enterprises.* Any security issued by an industrial or other nonutility enterprise located in the service territory of the acquiring public-utility company or, if the acquiring company is not a public-utility company, in the service territory of the registered holding-company system: *Provided,*

(i) The total cost of acquisitions by the acquiring company of securities of industrial development companies or-

ganized for the purpose of, and in accordance with a State law that specifically relates to, promoting the development of business and industry in such state does not exceed an annual aggregate amount of \$5 million, and

(ii) The total cost of acquisitions of securities of other local industrial or nonutility enterprises does not exceed an annual aggregate amount of \$1 million. In no event, however, will the above exemption apply where, by reason of such acquisition, the acquiring company would become an affiliate of the issuer.

(6) *Small minority interests.* Any security of any subsidiary company, if prior to such acquisition the acquiring company owns 95 percent or more of the outstanding securities of the class acquired.

(b) Section 9(a) (49 Stat. 817; 15 U.S.C. 79i) shall not apply to the acquisition of any securities of a mutual or subsidiary service company: *Provided,* That such acquisition is in accordance with a program as to ownership of securities of such service company which the Commission has found to meet the requirements of section 13 (49 Stat. 825; 15 U.S.C. 79m) of the Act.

(c) Section 9(a)(1) shall not apply to the acquisition of securities of a company whose principal business is the ownership and/or licensing of trade names, trade-marks and service marks used by public-utility companies in the ordinary course of their business and the preparation, distribution and/or sale of material and services related wholly to such names and marks.

(d) Section 9(a)(2) shall not apply to the acquisition by a person who is neither a registered holding company, nor a subsidiary company thereof, of securities owned by a registered holding company, or subsidiary thereof, which are the subject of a divestment order under section 11(b), where such securities constitute all the vendor's interest in a company which does not operate any utility assets and which is a public-utility company only by reason of the ownership of a reversionary interest in utility assets: *Provided,* That such utility assets are operated under lease by a company which is not an affiliate of either the vendor or of the vendee, and the Commission finds that

³See, also, §250.48 for exemption concerning the acquisition of appliance paper in connection with the sale of electric or gas appliances.

§ 250.41

by reason of the duration of the lease, the ownership by the lessee of securities of the lessor and similar matters, there is no substantial probability of the lessor resuming operation of said utility assets. Such finding of the Commission may be made in connection with an application by the vendor company with respect to such sale.

[Rule U, 6 FR 2015, Apr. 19, 1941, as amended at 8 FR 5831, May 6, 1943; 18 FR 8890, Dec. 31, 1953; 28 FR 5664, June 11, 1963; 59 FR 21927, Apr. 28, 1994]

§ 250.41 Exemption of public utility subsidiaries with respect to limited acquisition of utility assets.

Any public utility company which is a subsidiary of a registered holding company shall be exempt from every obligation, duty, and liability imposed upon such company as a subsidiary company by the provisions of section 9(a)(1) of the Act (49 Stat. 817; 15 U.S.C. 79i) with respect to an acquisition of utility assets provided that the following conditions are met:

(a) *Electric utility assets.* Any electric utility assets to be acquired are, prior to the acquisition, or will be immediately thereafter, connected with electric utility assets already owned and operated by the acquiring company, excluding connections over lines not operated by the acquiring company.

(b) *Gas utility assets.* Any gas utility assets to be acquired are located in or adjacent to the same service area as that in which gas utility assets already owned and operated by the acquiring company are located.

(c) *Limit in amount.* The total consideration paid for utility assets acquired pursuant to the exemption granted by this section does not exceed in any calendar year the lesser of \$5 million or five percent of the gross annual revenues of the acquiring company derived from its operations as a public-utility company during the preceding calendar year.

(d) *Prohibition of fees.* No fees or commissions are to be paid by any person or company in connection with the acquisition of such utility assets except to a person or company subject to the rules of the Commission adopted under section 13 of the Act (49 Stat. 825; 15 U.S.C. 78m) or to a person or company

17 CFR Ch. II (4–1–10 Edition)

not affiliated with the acquiring company.

[Rule U, 6 FR 2015, Apr. 19, 1941, as amended at 59 FR 21928, Apr. 28, 1994]

§ 250.42 Acquisition, retirement and redemption of securities by the issuer thereof.

A registered holding company or its subsidiary company may acquire, retire or redeem any security of which it is the issuer (or which it has assumed or guaranteed) without the need for prior Commission approval under sections 9(a), 10 and 12(c) of the Act: *Provided*, This section shall not apply to a transaction by a registered holding company or its subsidiary company with an associate company, an affiliate, or an affiliate of an associate company, or to a transaction by a registered holding company, as defined in § 240.13e-3(a)(3) of this chapter.

[59 FR 21928, Apr. 28, 1994]

§ 250.43 Sales to affiliates.

(a) *General provisions.* No registered holding company or subsidiary thereof shall, directly or indirectly, sell to any company in the same holding company system or to any affiliate of a company in such holding company system any securities or utility assets or any other interest in any business, except pursuant to a declaration notifying the Commission of the proposed transaction, which has become effective in accordance with the procedure specified in § 250.23, and pursuant to the order of the Commission with respect to such declaration under the applicable provisions of the Act.

(b) *Exception.* The foregoing requirement in paragraph (a) shall not apply to any sale of securities or utility assets or any other interest in any business in an aggregate amount of up to \$5,000,000 during any calendar year if the acquisition of such securities, assets or other interest does not require prior Commission approval.

[Rule U, 6 FR 2015, Apr. 19, 1941, as amended at 10 FR 15413, Dec. 29, 1945; 59 FR 21928, Apr. 28, 1994]

§ 250.44 Sales of securities and assets.

(a) *Sales of utility securities or assets.* No registered holding company shall,