

## SUBCHAPTER E—REGULATIONS UNDER NATURAL GAS ACT

### PART 152—APPLICATION FOR EXEMPTION FROM THE PROVISIONS OF THE NATURAL GAS ACT PURSUANT TO SECTION 1(C) THEREOF AND ISSUANCE OF BLANKET CERTIFICATES AUTHORIZING CERTAIN SALES FOR RESALE

Sec.

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AUTHORITY: 15 U.S.C. 717-717w, 3301-3432; 42 U.S.C. 7101-7352.

#### § 152.1 Exemption applications and blanket certificates.

(a) Application for exemption from the provisions of the Natural Gas Act and the rules and regulations of the Commission issued pursuant thereto may be made by any person as defined in the Natural Gas Act engaged in, or authorized to engage in the transportation in interstate commerce or the sale in interstate commerce for resale, of natural gas received by such applicant from another person within or at the boundary of a State, if all of the natural gas so received is ultimately consumed in such State: *Provided*, That the natural-gas rates (including rates for sales for resale) and service of the applicant and its natural-gas facilities are subject to regulation by a State Commission, as defined in the Natural Gas Act, and that such State Commission is exercising that jurisdiction.

(b)(1)(i) For purposes of the Commission's regulations implementing the Natural Gas Act, "vehicular natural gas" or "VNG" means natural gas that will be used, in either a gaseous or liquefied state, as fuel in any self-propelled vehicle.

(ii) For purposes of the Commission's regulations implementing the Natural Gas Act, vehicular natural gas, or VNG, is deemed to be ultimately consumed in the state in which the gas is physically delivered into the vehicle's fuel tank regardless of whether the

tank is attached to the vehicle at the time it is filled.

(2)(i) Blanket certificates of public convenience and necessity are issued pursuant to section 7(c) of the Natural Gas Act to all persons that engage in sales for resale of VNG that are subject to the Commission's authority under section 1(b) of the NGA, such authorization to be effective upon that person's engagement in the jurisdictional sale. A blanket certificate issued under this paragraph (b)(2)(i) is a certificate of limited jurisdiction which will not subject the certificate holder to any other regulation under the Natural Gas Act jurisdiction of the Commission by virtue of transactions under the certificate. Such certificate will not impair the continued validity of any Natural Gas Act exemption from Commission jurisdiction.

(ii) A blanket certificate issued under paragraph (b)(2)(i) of this section authorizes the holder to make sales of VNG for resale in interstate commerce at market rates.

(iii) Abandonment of the sales service authorized in paragraph (b)(2)(i) of this section is authorized pursuant to section 7(b) of the Natural Gas Act upon the expiration of the contractual term or upon termination of each individual sales arrangement.

(Sec. 1(c), 68 Stat. 36; 15 U.S.C. 717(c))

[Order 306, 30 FR 12729, Oct. 6, 1965, as amended by Order 543, 57 FR 32894, July 24, 1992]

#### § 152.2 Form of application; service.

The application must be filed with the Secretary of the Commission in accordance with filing procedures posted on the Commission's Web site at <http://www.ferc.gov>. A copy of the application shall be served on the State Commission which has jurisdiction over the applicant and upon each wholesale customer of the applicant.

[Order 737, 75 FR 43404, July 26, 2010]

#### § 152.3 Contents of application.

Every application shall set forth in the order indicated, the following:

(a) The exact legal name of applicant.

(b) The name, title, and post office address of the person to whom correspondence in regard to the application shall be addressed.

(c) A statement of pertinent facts as to the existing service, if any, or authorized service by applicant, including a showing that all of the natural gas which applicant receives from out-of-State sources is and will be ultimately consumed within the State in which the operations sought to be exempted are conducted.

(Secs. 3, 16, 52 Stat. 822, 830; 15 U.S.C. 717b, 717o)

[Order 173, 19 FR 4276, July 13, 1954, as amended by Order 317, 31 FR 432, Jan. 13, 1966; Order 433, 50 FR 40345, Oct. 3, 1985; Order 737, 75 FR 43404, July 26, 2010]

#### § 152.4 Certificate from State Commission.

Applications for exemption under § 152.3 shall contain, or there shall be separately filed, a certificate from the appropriate State Commission that the natural-gas (a) rates (including rates for sales for resale), (b) service, and (c) facilities of the applicant are subject to the regulatory jurisdiction of the State Commission and that the State Commission is exercising such jurisdiction.

(Sec. 1(c), 68 Stat. 36; 15 U.S.C. 717(c))

[Order 306, 30 FR 12729, Oct. 6, 1965]

#### § 152.5 Applicability of exemption.

Nothing in this part shall be construed to relieve any person exempted from the provisions of the Natural Gas Act by section 1(c) thereof from compliance with valid State regulatory requirements. If an exemption from the provisions of the Natural Gas Act is effective pursuant to section 1(c), the exempted person shall be responsible for calling to the attention of the State Commission by which it is regulated and of the Federal Energy Regulatory Commission any future operations in which it may engage which may make the exemption inapplicable to it. The exempted person shall also be responsible for calling to the attention of the Federal Energy Regulatory Commission any changes, amendment, or judicial or administrative interpretation of the State law pursuant to which it is

regulated, which may make the exemption inapplicable to it.

(Sec. 1(c), 68 Stat. 36; 15 U.S.C. 717(c))

[Order 306, 30 FR 12729, Oct. 6, 1965, as amended by Order 737, 75 FR 43404, July 26, 2010]

## PART 153—APPLICATIONS FOR AUTHORIZATION TO CONSTRUCT, OPERATE, OR MODIFY FACILITIES USED FOR THE EXPORT OR IMPORT OF NATURAL GAS

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AUTHORITY: 15 U.S.C. 717b, 717o; E.O. 10485, 3 CFR, 1949–1953 Comp., p. 970, as amended by E.O. 12038, 3 CFR, 1978 Comp., p. 136, DOE Delegation Order No. 0204-112, 49 FR 6684 (February 22, 1984).

SOURCE: Order 595, 62 FR 30446, June 4, 1997, unless otherwise noted.

### Subpart A—General Provisions

#### § 153.1 Purpose and scope.

The purpose of this part is to implement the Commission's delegated authorities under section 3 of the Natural Gas Act and Executive Order 10485, as amended by Executive Order 12038. Subpart B of this part establishes filing requirements an applicant must follow to obtain authorization under section 3 of the Natural Gas Act for the siting, construction, operation, place of entry for imports or place of exit for exports. Subpart C of this part establishes filing requirements an applicant must follow to apply for a Presidential Permit, or an amendment to an existing Presidential Permit, for border facilities at the international boundary between the United States and Canada or Mexico.

#### § 153.2 Definitions.

(a) *DOE/FE* means the Department of Energy/Office of Fossil Energy or its successor office.

(b) *NBSIR* means the National Bureau of Standards Information Report.

(c) *Person* means an individual or entity as defined in 10 CFR 590.102(m).

(d) *LNG Terminal* means all natural gas facilities located onshore or in state waters that are used to receive, unload, load, store, transport, gasify, liquefy, or process natural gas that is imported to the United States from a foreign country, exported to a foreign country from the United States, or transported in interstate commerce by a waterborne vessel, but does not include:

(1) Waterborne vessels used to deliver natural gas to or from any such facility; or

(2) Any pipeline or storage facility subject to the jurisdiction of the Commission under section 7 of the Natural Gas Act.

(e) For purposes of this part and § 157.21, *related jurisdictional natural gas facilities* means any pipeline or other natural gas facilities which are subject to section 7 of the NGA; will directly interconnect with the facilities of an LNG terminal, as defined in paragraph (d) of this section; and which are necessary to transport gas to or regasified LNG from:

(1) A planned but not yet authorized LNG terminal; or

(2) An existing or authorized LNG terminal for which prospective modifications are subject pursuant to section 157.21(e)(2) to a mandatory pre-filing process.

(f) *Waterway Suitability Assessment (WSA)* means a document used by the U.S. Coast Guard in assessing the suitability of a waterway for LNG marine traffic pursuant to 33 CFR 127.007. The Preliminary WSA initiates the process of analyzing the safety and security risks posed by proposed LNG tanker operations to a port and waterways, and the Follow-On WSA provides a detailed analysis of the same issues.

[Order 595, 62 FR 30446, June 4, 1997, as amended by Order 665, 70 FR 60440, Oct. 18, 2005]

#### § 153.3 Notice requirements.

All applications filed under this part are subject to the landowner notification requirements in § 157.6(d) of this chapter.

[Order 609, 64 FR 57390, Oct. 25, 1999]

### Subpart B—Application Under Section 3

#### § 153.4 General requirements.

The procedures in §§ 157.5, 157.6, 157.8, 157.9, 157.10, 157.11, and 157.12 of this chapter are applicable to the applications described in this subpart.

[Order 687, 71 FR 62920, Oct. 27, 2006]

#### § 153.5 Who shall apply.

(a) *Applicant*. Any person proposing to site, construct, or operate facilities which are to be used for the export of natural gas from the United States to a foreign country or for the import of natural gas from a foreign country or to amend an existing Commission authorization, including the modification of existing authorized facilities, shall file with the Commission an application for authorization therefor under subpart B of this part and section 3 of the Natural Gas Act.

(b) *Cross-reference*. Any person applying under paragraph (a) of this section to construct facilities at the borders of

the United States and Canada or Mexico must also simultaneously apply for a Presidential Permit under subpart C of this part.

#### § 153.6 Time of filing.

(a) An application filed pursuant to § 153.5(a) shall state whether DOE/FE authorization for the import/export of natural gas is required and whether DOE/FE has granted all required authorizations for the import/export of natural gas.

(b) If all required DOE/FE authorizations have not been obtained prior to filing an application with the Commission, the applicant agrees, as a condition of its authorization, to file a statement that all required DOE/FE authorizations have been obtained prior to applicant's construction of border facilities.

(c) When a prospective applicant for authorization for LNG terminal facilities, related jurisdictional natural gas facilities or modifications to existing LNG terminal facilities is required by § 157.21(a) to comply with that section's pre-filing procedures, no application for such authorization may be made before 180 days after the date of issuance of the notice by the Director of the Office of Energy Projects, as provided in § 157.21(e), of the commencement of the prospective applicant's pre-filing process under § 157.21.

[Order 595, 62 FR 30446, June 4, 1997, as amended by Order 665, 70 FR 60440, Oct. 18, 2005]

#### § 153.7 Contents of application.

Every application under subpart B of this part shall include, in the order indicated, the following:

(a) *Information regarding applicant.* (1) The exact legal name of applicant;

(2) The name, title, and post office address, telephone and facsimile numbers of the person to whom correspondence in regard to the application shall be addressed;

(3) If a corporation, the state or territory under the laws of which the applicant was organized, and the town or city where applicant's principal office is located. If applicant is incorporated under the laws of, or authorized to operate in, more than one state, all pertinent facts should be stated. If appli-

cant company is owned wholly or in part by any foreign government entity, or directly or indirectly subsidized by any foreign government entity; or, if applicant company has any agreement for such ownership or subsidization from any foreign government, provide full details of ownership and/or subsidies.

(b) *Summary.* A detailed summary of the proposal, including descriptions of the facilities utilized in the proposed export or import of natural gas; state, foreign, or other Federal governmental licenses or permits for the construction, operation, or modification of facilities in the United States, Canada, or Mexico; and the status of any state, foreign, or other Federal regulatory proceedings which are related to the proposal.

(c) *Statements.* (1) A statement demonstrating that the proposal or proposed construction is not inconsistent with the public interest, including, where applicable to the applicant's operations and proposal, a demonstration that the proposal:

(i) Will improve access to supplies of natural gas, serve new market demand, enhance the reliability, security, and/or flexibility of the applicant's pipeline system, improve the dependability of international energy trade, or enhance competition within the United States for natural gas transportation or supply;

(ii) Will not impair the ability of the applicant to render transportation service in the United States at reasonable rates to its existing customers; and,

(iii) Will not involve any existing contract(s) between the applicant and a foreign government or person concerning the control of operations or rates for the delivery or receipt of natural gas which may restrict or prevent other United States companies from extending their activities in the same general area, with copies of such contracts; and,

(2) A statement representing that the proposal will be used to render transportation services under parts 157 or 284 of this chapter, private transportation, or service that is exempt from the provisions of the Natural Gas Act

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pursuant to sections 1(b) or 1(c) thereof. The applicant providing transportation service under part 157 of this chapter must represent that the pipeline's proposed increase in capacity at an existing import/export point is not exclusively reserved for part 157 users and that all new service made available as a result of a new or modified import/export facility will be under part 284 of this chapter.

### § 153.8 Required exhibits.

(a) An application must include the following exhibits:

(1) *Exhibit A.* A certified copy of articles of incorporation, partnership or joint venture agreements, and by-laws of applicant; the amount and classes of capital stock; nationality of officers, directors, and stockholders, and the amount and class of stock held by each;

(2) *Exhibit B.* A detailed statement of the financial and corporate relationship existing between applicant and any other person or corporation;

(3) *Exhibit C.* A statement, including signed opinion of counsel, showing that the construction, operation, or modification of facilities for the export or the import of natural gas is within the authorized powers of applicant, that applicant has complied with laws and regulations of the state or states in which applicant operates;

(4) *Exhibit D.* If the proposal is for a pipeline interconnection to import or export natural gas, a copy of any construction and operation agreement between the applicant and the operator(s) of border facilities in the United States and Canada or Mexico;

(5) *Exhibit E.* If the proposal is to import or export LNG, evidence that an appropriate and qualified concern will properly and safely receive or deliver such LNG, including a report containing detailed engineering and design information. The Commission staff's "Guidance Manual for Environmental Report Preparation" may be obtained from the Commission's Office of Energy Projects, 888 First Street, NE., Washington, DC 20426;

(6) *Exhibit E-1.* If the LNG import/export facility is to be located at a site in zones 2, 3, or 4 of the Uniform Building Code's Seismic Risk Map of the United

States, or where there is a risk of surface faulting or ground liquefaction, a report on earthquake hazards and engineering. Guidelines are contained in "Data Requirements for the Seismic Review of LNG Facilities," NBSIR 84-2833. This document may be obtained from the National Technical Information Service or the Commission's Office of Energy Projects, 888 First Street, NE., Washington, DC 20426;

(7) *Exhibit F.* (i) An environmental report as specified in § 380.3 and § 380.12 of this chapter. Applicant must submit all appropriate revisions to Exhibit F whenever route or site changes are filed. These revisions should identify the specific differences resulting from the route or site changes, and not just provide revised totals for the resources affected;

(8) *Exhibit G.* A geographical map of a suitable scale and detail showing the physical location of the facilities to be utilized for the applicant's proposed export or import operations. The map should indicate with particularity the ownership of such facilities at or on each side of the border between the United States and Canada or Mexico, if applicable; and

(9) *Exhibit H.* A statement identifying each Federal authorization that the proposal will require; the Federal agency or officer, or State agency or officer acting pursuant to delegated Federal authority, that will issue each required authorization; the date each request for authorization was submitted; why any request was not submitted and the date submission is expected; and the date by which final action on each Federal authorization has been requested or is expected.

(b) The applicant may incorporate by reference any Exhibit required by paragraph (a) of this section already on file with the Commission.

[Order 595, 62 FR 30446, June 4, 1997, as amended by Order 603, 64 FR 26604, May 14, 1999; Order 687, 71 FR 62920, Oct. 27, 2006; Order 699, 72 FR 45325, Aug. 14, 2007]

**§ 153.9 Transferability.**

(a) *Non-transferable.* Authorizations under subpart B of this part and section 3 of the Natural Gas Act and related facilities shall not be transferable or assignable without prior Commission authorization.

(b) *Involuntary transfer.* A Commission order granting such authorization shall continue in effect temporarily for a reasonable time in the event of the involuntary transfer of facilities used thereunder by operation of law (including such transfers to receivers, trustees, or purchasers under foreclosure or judicial sale) pending the making of an application for permanent authorization and decision thereon, provided notice is promptly given in writing to the Commission accompanied by a statement that the physical facts relating to operations of the facilities remain substantially the same as before the transfer and as stated in the initial application for such authorization.

**§ 153.10 Authorization not exclusive.**

No authorization granted pursuant to subpart B of this part and section 3 of the Natural Gas Act shall be deemed to prevent the Commission from granting authorization under subpart B to any other person at the same general location, or to prevent any other person from making application for such authorization.

**§ 153.11 Supplemental orders.**

The Commission also may make, at any time subsequent to the original order of authorization, after opportunity for hearing, such supplemental orders implementing its authority under section 3 of the Natural Gas Act as it may find necessary or appropriate.

**§ 153.12 Pre-filing procedures for applications for authorization to site, construct, maintain, connect or modify facilities to be used for the export or import of natural gas.**

The definitions in §157.1 and the pre-filing procedures in §157.21 of this chapter are applicable to applications under section 3 of the Natural Gas Act filed pursuant to subpart B of this part.

[Order 665, 70 FR 60440, Oct. 18, 2005]

**§ 153.13 Emergency reconstruction.**

The provisions of subpart F of part 157 of this chapter that permit reconstruction for the purpose of immediately restoring interrupted service for the protection of life or health or for maintenance of physical property in an emergency due to a sudden unanticipated loss of gas supply or capacity are applicable to facilities subject to section 3 of the Natural Gas Act.

[Order 633, 68 FR 31604, May 28, 2003]

**Subpart C—Application for a Presidential Permit****§ 153.15 Who shall apply.**

(a) *Applicant.* Any person proposing to construct, operate, maintain, or connect facilities at the borders of the United States and Canada or Mexico, for the export or import of natural gas to or from those countries, or to amend an existing Presidential Permit, shall file with the Commission an application for a Presidential Permit under subpart C of this part and Executive Order 10485, as amended by Executive Order 12038.

(b) *Cross-reference.* Any person applying under paragraph (a) of this section for a Presidential Permit for the construction and operation of border facilities must also simultaneously apply for authorization under subpart B of this part.

**§ 153.16 Contents of application.**

(a) *Cross-reference.* The submission of information under §§153.7 and 153.8 of subpart B of this part shall be deemed sufficient for purposes of applying for a Presidential Permit or an amendment to an existing Presidential Permit under subpart C of this part for the construction and operation of border facilities.

(b) *Amendment not proposing construction.* An applicant proposing to amend the article(s) of an existing Presidential Permit (other than facilities aspects) must file information pursuant to §153.7(a) and a summary and justification of its proposal.

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### § 153.17 Effectiveness of Presidential Permit.

A Presidential Permit, once issued by the Commission, shall not be effective until it has been accepted by the highest authority of the Permittee, as indicated by Permittee's execution of a Testimony of Acceptance, and a certified copy of the accepted Presidential Permit and the executed Testimony of Acceptance has been filed with the Commission.

### Subpart D—Paper Media and Other Requirements

#### § 153.20 General rule.

(a) *Filing procedures.* Applications under Subparts B and C must be submitted to the Secretary of the Commission in accordance with filing procedures posted on the Commission's Web site at <http://www.ferc.gov>.

(b) *Certification.* All applications must be signed in compliance with § 385.2005 of this chapter.

(1) The signature on an application constitutes a certification that: The signer has read the filing signed and knows the contents of the paper copies; and, the signer possesses the full power and authority to sign the filing.

(2) An application must be signed by one of the following:

(i) The person on behalf of whom the application is made;

(ii) An officer, agent, or employee of the governmental authority, agency, or instrumentality on behalf of which the filing is made; or,

(iii) A representative qualified to practice before the Commission under § 385.2101 of this chapter who possesses authority to sign.

(c) *Where to file.* The paper copies and an accompanying transmittal letter must be submitted in one package to: Office of the Secretary, Federal Energy Regulatory Commission, Washington, DC 20426.

[Order 595, 62 FR 30446, June 4, 1997, as amended by Order 737, 75 FR 43404, July 26, 2010]

#### § 153.21 Conformity with requirements.

(a) *General Rule.* Applications under subparts B and C of this part must con-

form with the requirements of this part.

(b) *Rejection of applications.* If an application patently fails to comply with applicable statutory requirements or with applicable Commission rules, regulations, and orders for which a waiver has not been granted, the Director of the Office of Energy Projects may reject the application within 10 days of filing as provided by § 385.2001(b) of this chapter. This rejection is without prejudice to an applicant's refiling a complete application. However, an application will not be rejected solely on the basis of: Environmental reports that are incomplete because the company has not been granted access by the affected landowner(s) to perform required surveys, or environmental reports that are incomplete, but where the minimum checklist requirements of part 380, appendix A of this chapter have been met. An application that relates to an operation, service, or construction concerning which a prior application has been filed and rejected, shall be docketed as a new application. Such new application shall state the docket number of the prior rejected application.

[Order 595, 62 FR 30446, June 4, 1997, as amended by Order 603, 64 FR 26604, May 14, 1999; Order 699, 72 FR 45325, Aug. 14, 2007]

#### § 153.22 Amendments and withdrawals.

Amendments to or withdrawals of applications must conform to the requirements of §§ 385.215 and 385.216 of this chapter.

#### § 153.23 Reporting requirements.

Each person authorized under this part 153 that is not otherwise required to file information concerning the start of construction or modification of import/export facilities, the completion of construction or modification, and the commencement of service must file such information with the Commission within 10 days after such event. Each person, other than entities without pipeline capacity, must also report by March 1 of each year the estimated peak day capacity and actual peak day usage of its import/export facilities.

## Federal Energy Regulatory Commission

## § 154.1

### PART 154—RATE SCHEDULES AND TARIFFS

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AUTHORITY: 15 U.S.C. 717-717w; 31 U.S.C. 9701; 42 U.S.C. 7102-7352.

SOURCE: Order 582, 60 FR 52996, Oct. 11, 1995, unless otherwise noted.

#### Subpart A—General Provisions and Conditions

##### § 154.1 Application; Obligation to file.

(a) The provisions of this part apply to filings pursuant to section 4 of the Natural Gas Act.

(b) Every natural gas company must file with the Commission and post in conformity with the requirements of this part, schedules showing all rates and charges for any transportation or sale of natural gas subject to the jurisdiction of the Commission, and the classifications, practices, rules, and regulations affecting such rates, charges, and services, together with all contracts related thereto.

(c) No natural gas company may file, under this part, any new or changed rate schedule or contract for the performance of any service for which a certificate of public convenience and necessity or certificate amendment must be obtained pursuant to section



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7(c) of the Natural Gas Act, until such certificate has been issued.

(d) For the purposes of paragraph (b) of this section, any contract that conforms to the form of service agreement that is part of the pipeline's tariff pursuant to §154.110 does not have to be filed. Any contract or executed service agreement which deviates in any material aspect from the form of service agreement in the tariff is subject to the filing requirements of this part.

### § 154.2 Definitions.

(a) Contract means any agreement which in any manner affects or relates to rates, charges, classifications, practices, rules, regulations, or services for any transportation or sale of natural gas subject to the jurisdiction of the Commission. This term includes an executed service agreement.

(b) FERC Gas Tariff or tariff means a compilation, on electronic media, of all of the effective rate schedules of a particular natural gas company, and a copy of each form of service agreement.

(c) Form of service agreement means an unexecuted agreement for service included as an example in the tariff.

(d) *Post means*: to make a copy of a natural gas company's tariff and contracts available during regular business hours for public inspection in a convenient form and place at the natural gas company's offices where business is conducted with affected customers; and, to serve each affected customer and interested state Commission in accordance with §154.208 of this Part.

(e) Rate schedule means a statement of a rate or charge for a particular classification of transportation or sale of natural gas subject to the jurisdiction of the Commission, and all terms, conditions, classifications, practices, rules, and regulations affecting such rate or charge.

(f) Filing date means the day on which a tariff, or part thereof, or a contract is received in the Office of the Secretary of the Commission for filing in compliance with the requirements of this part.

[Order 582, 60 FR 52996, Oct. 11, 1995, as amended by Order 714, 73 FR 57533, Oct. 3, 2008]

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### § 154.3 Effective tariff.

(a) The effective tariff of a natural gas company is the tariff filed pursuant to the requirements of this part, and permitted by the Commission to become effective. A natural gas company must not directly or indirectly, demand, charge, or collect any rate or charge for, or in connection with, the transportation or sale of natural gas subject to the jurisdiction of the Commission, or impose any classifications, practices, rules, or regulations, different from those prescribed in its effective tariff and executed service agreements on file with the Commission, unless otherwise specifically permitted by order of the Commission.

(b) No tariff provision may purport to change an effective rate or charge except in the manner provided in section 4 of the Natural Gas Act, and the regulations in this part. The tariff may not provide for any rate or charge to be automatically changed by an index or other periodic adjustment, without filing for a rate change pursuant to these regulations.

### § 154.4 Electronic filing of tariffs and related materials.

(a) *General rule.* All filings made in proceedings initiated under this part must be made electronically, including tariffs, rate schedules, service agreements, and contracts, or parts thereof, and material that relates to or bears upon such documents, such as cancellations, amendments, withdrawals, termination, or adoption of tariffs, and motions relating to suspension.

(b) *Requirement for signature.* All filings must be signed in compliance with the following:

(1) The signature on a filing constitutes a certification that the contents are true to the best knowledge and belief of the signer, and that the signer possesses full power and authority to sign the filing.

(2) A filing must be signed by one of the following:

(i) The person on behalf of whom the filing is made;

(ii) An officer, agent, or employee of the company, governmental authority, agency, or instrumentality on behalf of which the filing is made; or,

(iii) A representative qualified to practice before the Commission under §385.2101 of this chapter who possesses authority to sign.

(3) All signatures on the filing or any document included in the filing must comply, where applicable, with the requirements in §385.2005 of this chapter with respect to sworn declarations or statements and electronic signatures.

(c) Format requirements for electronic filing. The requirements and formats for electronic filing are listed in instructions for electronic filing and for each form. These formats are available on the Internet at <http://www.ferc.gov> and can be obtained at the Federal Energy Regulatory Commission, Public Reference Room, 888 First Street, NE., Washington, DC 20426.

[Order 714, 73 FR 57533, Oct. 3, 2008]

#### § 154.5 Rejection of filings.

A filing that fails to comply with this part may be rejected by the Director of the Office of Energy Market Regulation pursuant to the authority delegated to the Director in Part 375 of this chapter.

[Order 582, 60 FR 52996, Oct. 11, 1995, as amended by Order 699, 72 FR 45325, Aug. 14, 2007; Order 701, 72 FR 61054, Oct. 29, 2007; Order 714, 73 FR 57534, Oct. 3, 2008]

#### § 154.6 Acceptance for filing not approval.

The acceptance for filing of any tariff, contract or part thereof does not constitute approval by the Commission. Any filing which does not comply with any applicable statute, rule, or order, may be rejected.

#### § 154.7 General requirements for the submission of a tariff filing or executed service agreement.

The following must be included with the filing of any tariff, executed service agreement, or part thereof, or change thereto.

(a) A letter of transmittal containing:

(1) A list of the material enclosed,

(2) The name of a responsible company official to whom questions regarding the filing may be addressed, with a telephone number at which the official may be reached,

(3) The date on which such filing is proposed to become effective,

(4) Reference to the authority under which the filing is made, including the specific section of a statute, subpart of these regulations, order of the Commission, provision of the company's tariff, or any other appropriate authority. If an order is referenced, the letter must include the citation to the FERC Reports, the date of issuance, and the lead docket number of the proceeding in which the order was issued.

(5) A list of the tariff sheets or sections enclosed,

(6) A statement of the nature, the reasons, and the basis for the filing. The statement must include a summary of the changes or additions made to the tariff or executed service agreement, as appropriate. The statement must include a quantified summary comparing the cost of service, rate base and throughput underlying each change in rate made to the tariff or executed service agreement compared to the same information underlying the last rate found by the Commission to be just and reasonable. A detailed explanation of the need for each change or addition to the tariff or executed service agreement must be included. The natural gas company also must note all relevant precedents relied upon to prepare its filing.

(7) Any requests for waiver. A request for waiver must include a reference to the specific section of the statute, regulations, or the company's tariff from which waiver is sought, and a justification for the waiver.

(8) Where the natural gas company proposes a new rate, identification of the last rate, found by the Commission to be just and reasonable, that underlies the proposed rate.

(9) A motion, in case of minimal suspension, to place the proposed rates into effect at the end of the suspension period; or, a specific statement that the pipeline reserves its right to file a later motion to place the proposed rates into effect at the end of the suspension period.

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(b) A certification of service to all customers and state commissions pursuant to §154.2(d).

[Order 582, 60 FR 52996, Oct. 11, 1995, as amended by Order 582-A, 61 FR 9628, Mar. 11, 1996; Order 714, 73 FR 57534, 57535, Oct. 3, 2008]

### § 154.8 Informal submission for staff suggestions.

Any natural gas company may informally submit a proposed tariff or any part thereof or material relating thereto for the suggestions of the Commission staff prior to filing. Opinions of the Commission staff are not binding upon the Commission.

## Subpart B—Form and Composition of Tariff

### § 154.101 [Reserved]

### § 154.102 Requirements for filing rate schedules and tariffs.

(a) All rates schedules, tariffs, and service agreements may be filed either by dividing the rate schedule, tariff, or agreement into individual tariff sheets, or tariff sections, or as an entire document except as provided in paragraph (b) of this section.

(b) Open access transportation tariffs must be filed either as individual sheets or sections. If filed as sections, each section must include only material of related subject matter and must be of reasonable length and must include at a minimum a section for each item listed in the table of contents under §154.103 of this section and each topic listed under General Terms and Conditions of Service.

(c) Individual negotiated rate agreements, non-conforming service agreements, or other agreements that are included in the tariff may be filed as entire documents.

(d) The first section or sheet of the tariff must include:

(1) The FERC Gas Tariff Volume Number and Name of the Natural Gas Company, for example

FERC Gas Tariff Volume No. [ ] of [Name of Natural Gas Company]

(2) The name, title, address, telephone number, e-mail address and facsimile number of a person to whom

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communications concerning the tariff should be sent.

[Order 714, 73 FR 57534, Oct. 3, 2008]

### § 154.103 Composition of tariff.

(a) The tariff must contain sections, in the following order: A table of contents, a preliminary statement, a map of the system, currently effective rates, composition of rate schedules, general terms and conditions, form of service agreement, and an index of customers.

(b) Rate schedules must be grouped according to class and numbered serially within each group, using letters before the serial number to indicate the class of service. For example: FT-1, FT-2 may be used for firm transportation service; IT-1, IT-2 may be used for interruptible transportation service; X-1, X-2 may be used for schedules for which special exception has been obtained.

### § 154.104 Table of contents.

The table of contents must contain a list of the rate schedules, sections of the general terms and conditions, and other sections in the order in which they appear, showing the sheet number of the first page of each section or the section number. The list of rate schedules must consist of: The alphanumeric designation of each rate schedule, a very brief description of the service, and the sheet number of the first page of each rate schedule or the section number.

[Order 714, 73 FR 57534, Oct. 3, 2008]

### § 154.105 Preliminary statement.

The preliminary statement must contain a brief general description of the company's operations and may also contain a general explanation of its policies and practices. General rules and regulations, and any material necessary for the interpretation or application of the rate schedules, may not be included in the preliminary statement.

### § 154.106 Map.

(a) The map must show the general geographic location of the company's principal pipeline facilities and of the points at which service is rendered

under the tariff. The boundaries of any rate zones or rate areas must be shown and the areas or zones identified. The entire system should be displayed on a single map. In addition, a separate map should be provided for each zone.

(b) [Reserved]

(c) The map must be revised to reflect any major changes. The revised map must be filed no later than April 30 of the calendar year after the major change.

[Order 582, 60 FR 52996, Oct. 11, 1995, as amended by Order 714, 73 FR 57534, Oct. 3, 2008]

#### § 154.107 Currently effective rates.

(a) This section of the tariff must present the currently effective rates and charges under each rate schedule.

(b) All rates must be stated clearly in cents or dollars and cents per thermal unit. The unit of measure must be stated for each component of a rate.

(c) A rate having more than one part must have each component set out separately under appropriate headings (e.g., "Reservation Charge," "Usage Charge.")

(d) Where a component of a rate is adjusted pursuant to a mechanism approved under subpart E of this part, the adjustment must be stated in a separate column on the rate sheet or section.

(e) Exception to paragraph (d) of this section. Where the rate component is an Annual Charge Adjustment surcharge approved by the Commission, the adjustment or surcharge may be stated in a footnote on the rate sheet or section.

(f) A total rate, indicating the sum of the rate components under paragraph (c) of this section plus the adjustments under paragraph (d) of this section, must be shown in the last column at the end of a line for a rate, so that a reader can readily determine the separate components comprising the total rate for a service.

[Order 582, 60 FR 52996, Oct. 11, 1995, as amended by Order 714, 73 FR 57534, Oct. 3, 2008]

#### § 154.108 Composition of rate schedules.

The rate schedule must contain a statement of the rate or charge and all

terms and conditions governing its application, arranged as follows:

(a) *Title.* Each rate schedule must have a title consisting of a designation of the type or classification of service (see § 154.103(b)), and a statement of the type or classification of service to which the rate is applicable.

(b) *Availability.* This paragraph must describe the conditions under which the rate is offered, including any geographic zone limitations.

(c) *Applicability and character of service.* This paragraph must fully describe the kind or classification of service to be rendered.

(d) *Summary of rates.* This paragraph must briefly set forth all components of the rates, refer to the location of the rates in the Currently Effective Rates, and provide a description of the calculation of the monthly charges for each rate component.

(e) *Other provisions.* All other major provisions governing the application of the rate schedule, such as determination of billing demand, contract demand, heat content, and measurement base, must be set forth with appropriate headings or incorporated by reference to the applicable general terms and conditions.

(f) *Applicable terms and conditions.* This paragraph either states that all of the general terms and conditions set forth in the tariff apply to the rate schedule, or specifies which of the general terms and conditions do not apply.

#### § 154.109 General terms and conditions.

(a) This section of the tariff contains terms and conditions of service applicable to all or any of the rate schedules. Subsections and paragraphs must be numbered for convenient reference.

(b) The general terms and conditions of the tariff must contain a statement of the company's policy with respect to the financing or construction of laterals including when the pipeline will pay for or contribute to the construction cost. The term "lateral" means any pipeline extension (other than a mainline extension) built from an existing pipeline facility to deliver

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gas to one or more customers, including new delivery points and enlargements or replacements of existing laterals.

(c) The general terms and conditions of the tariff must contain a statement of the order in which the company discounts its rates and charges. The statement, specifying the order in which each rate component will be discounted, must be in accordance with Commission policy.

### § 154.110 Form of service agreement.

The tariff must contain an unexecuted pro forma copy of each form of service agreement. The form for each service must refer to the service to be rendered and the applicable rate schedule of the tariff; and, provide spaces for insertion of the name of the customer, effective date, expiration date, and term. Spaces may be provided for the insertion of receipt and delivery points, contract quantity, and other specifics of each transaction as appropriate.

### § 154.111 Index of customers.

(a) If a pipeline is in compliance with the reporting requirements of § 284.13(c) of this chapter, then an index of customers need not be provided in the tariff.

(b) If all of a pipeline's jurisdictional transportation and sales are pursuant to part 157 of this chapter, then an index of customers must be provided that contains: a list of the pipeline's firm transportation, storage, and sales customers, and the rate schedule number for the services for which the shippers are contracting; the effective date of the contract; the expiration date of the contract; if the service is transportation or sales, the maximum daily contract demand under the contract; and, if the service is storage, the maximum storage quantity. Specify units of measurement when reporting contract quantities.

(c) The index of customers must be kept current by filing new or revised sheets or sections, semi-annually. One filing must coincide with the filing of the natural gas company's FERC Form No. 2 or 2-A with a proposed effective date of June 1. The other filing must be made six months later with a proposed

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effective date of December 1. The Index of Customers must contain a list of the contracts in effect as of the filing date.

[Order 582, 60 FR 52996, Oct. 11, 1995, as amended by Order 637, 65 FR 10219, Feb. 25, 2000; Order 714, 73 FR 57535, Oct. 3, 2008]

### § 154.112 Exception to form and composition of tariff.

(a) The Commission may permit a special rate schedule to be filed in the form of an agreement in the case of a special operating arrangement, previously certificated pursuant to part 157 of this chapter, such as for the exchange of natural gas. The special rate schedule must contain a title page showing the parties to the agreement, the date of the agreement, a brief description of services to be rendered, and the designation: "Rate Schedule X-[number]." Special rate schedules may not contain any supplements. Modifications must be by revised or insert sheets. Special rate schedules must be included in Volume No. 2 of the tariff. Modifications must be made by inserting revised sheets, sections or the entire document as appropriate. Special rate schedules must be included in a separate volume of the tariff. Each such separate volume must contain a table of contents which is incorporated as a sheet or section in the open access transmission tariff.

(b) Contracts for service pursuant to part 284 of this chapter that deviate in any material aspect from the form of service agreement must be filed. Such non-conforming agreements must be referenced in the open access transmission tariff.

[Order 582, 60 FR 52996, Oct. 11, 1995, as amended by Order 714, 73 FR 57534, Oct. 3, 2008]

## Subpart C—Procedures for Changing Tariffs

### § 154.201 Filing requirements.

In addition to the requirements of subparts A and B of this part, the following must be included with the filing of any tariff, executed service agreement, or part thereof, that changes or supersedes any tariff, contract, or part thereof, on file with the Commission.

(a) A list in the transmittal letter of the tariff sheets or sections being revised and a marked version of the sheets or sections to be changed or superseded showing additions and deletions. New numbers and text must be marked by either highlight, background shading, bold, or underline. Deleted text and numbers must be indicated by strike-through. Only those revisions appropriately designated and marked constitute the filing. Revisions to unmarked portions of the rate schedule or tariff are not considered part of the filing nor will any acceptance of the filing by the Commission constitute acceptance of such unmarked changes.

(b) Documentation whether in the form of workpapers, or otherwise, sufficiently detailed to support the company's proposed change.

(1) The documentation must include but is not limited to the schedules, workpapers, and supporting documentation required by these rules and regulations and the Commission's orders.

(2) All rate changes in the filing must be supported by step-by-step mathematical calculations and sufficient written narrative to allow the Commission and interested parties to duplicate the company's calculations.

(3) Any data or summaries included in the filing purporting to reflect the books of account must be supported by accounting workpapers setting forth all necessary particulars from which an auditor may readily verify that such data are in agreement with the company's books of account. All statements, schedules, and workpapers must be prepared in accordance with the classifications of the Commission's Uniform System of Accounts. Workpapers in support of all adjustments, computations, and other information, properly indexed and cross-referenced to the filing and other workpapers, must be available for Commission examination.

(4) Where a rate, cost, or volume is derived from another rate, cost, or volume, the derivation must be shown mathematically and be accompanied by a written narrative sufficient to allow the Commission and interested parties to duplicate the calculations. If

the derivation is due to a load factor adjustment, application of a percentage, or other adjusting factor, the pipeline must also note or explain the origin of the adjusting factor.

(5) Where workpapers show progressive calculations, any discontinuity between one working paper and another must be explained.

[Order 582, 60 FR 52996, Oct. 11, 1995, as amended by Order 714, 73 FR 57534, Oct. 3, 2008]

**§ 154.202 Filings to initiate a new rate schedule.**

(a) When the filing is to initiate a new service authorized under a blanket authority in part 284 of this chapter, the filing must comply with the requirements of this paragraph.

(1) Filings under this paragraph must:

(i) Adhere to the requirements of subparts A, B, and C of this part;

(ii) Contain a description of the new service, including, but not limited to, the proposed effective date for commencement of service, applicability, whether the service is interruptible or firm, and the necessity for the service;

(iii) Explain how the new service will differ from existing services, including a concise description of the natural gas company's existing operations;

(iv) Explain the impact of the new service on existing firm and interruptible customers, including but not limited to:

(A) The adequacy of existing capacity, if the proposed service is a firm service, and

(B) The effect on receipt and delivery point flexibility, nominating and scheduling priorities, allocation of capacity, operating conditions, and curtailment, for any new service;

(v) Include workpapers that detail the computations underlying the proposed rate under the new rate schedule; or, if the rate is a currently effective rate, include the appropriate reference and an explanation of why the rate is appropriate;

(vi) Give a justification, similar in form to filed testimony in a general section 4 rate case, explaining why the proposed rate design and proposed allocation of costs are just and reasonable;

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(vii) If the costs relating to existing services are reallocated to new services, explain the method for allocating the costs and the impact on the existing customers;

(viii) Include workpapers showing the estimated effect on revenue and costs over the twelve-month period commencing on the proposed effective date of the filing.

(ix) List other filings pending before the Commission at the time of the filing which may significantly affect the filing. Explain how the instant filing would be affected by the outcome of each related pending filing;

(2) Any interdependent filings must be filed concurrently and contain a notice of the interdependence.

(b) If a new service, facility, or rate is specifically authorized by a Commission order pursuant to section 7 of the Natural Gas Act, with the filing of tariff sheets or sections to implement the new rate schedule, the natural gas company must:

(1) Comply with the requirements of § 154.203; and

(2) Where the rate or charge proposed differs from the rate or charge approved in the certificate order, the natural gas company must: Show that the change is due to a rate adjustment under a periodic rate change mechanism previously accepted under § 154.403 which has taken effect since the certificate order was issued; or, show that the rate change is in accordance with the terms of the certificate, and provide workpapers justifying the change.

[Order 582, 60 FR 52996, Oct. 11, 1995, as amended by Order 714, 73 FR 57535, Oct. 3, 2008]

### § 154.203 Compliance filings.

(a) In addition to the requirements of subparts A, B, and C of this part, filings made to comply with orders issued by the Commission, including those issued under delegated authority, must contain the following:

(1) A list of the directives with which the company is complying;

(2) Revised workpapers, data, or summaries with cross-references to the originally filed workpapers, data, or summaries;

(b) Filings made to comply with Commission orders must include only

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those changes required to comply with the order. Such compliance filings may not be combined with other rate or tariff change filings. A compliance filing that includes other changes or that does not comply with the applicable order in every respect may be rejected.

### § 154.204 Changes in rate schedules, forms of service agreements, or the general terms and conditions.

A filing to revise rate schedules, forms of service agreements, or the general terms and conditions, must:

(a) Adhere to the requirements of subparts A, B, and C, of this part;

(b) Contain a description of the change in service, including, but not limited to, applicability, necessity for the change, identification of services and types of customers that will be affected by the change;

(c) Explain how the proposed tariff provisions differ from those currently in effect, including an example showing how the existing and proposed tariff provisions operate. Explain why the change is being proposed at this time;

(d) Explain the impact of the proposed revision on firm and interruptible customers, including any changes in a customer's rights to capacity in the manner in which a customer is able to use such capacity, receipt or delivery point flexibility, nominating and scheduling, curtailment, capacity release;

(e) Include workpapers showing the estimated effect on revenues and costs over the 12-month period commencing on the proposed effective date of the filing. If the filing proposes to change an existing penalty provision, provide workpapers showing the penalty revenues and associated quantities under the existing penalty provision during the latest 12-month period; and

(f) List other filings pending before the Commission which may significantly affect the filing.

### § 154.205 Withdrawals and amendments of tariff filings and executed service agreements.

(a) *Withdrawals of tariff filings or service agreements prior to Commission action.*

(1) A natural gas company may withdraw in its entirety a tariff filing or executed service agreement that has not

become effective and upon which no Commission or delegated order has been issued by filing a withdrawal motion with the Commission. Upon the filing of such motion, the proposed tariff sheets, sections or service agreements will not become effective under section 4(d) of the Natural Gas Act in the absence of Commission action making the rate schedule or tariff filing effective.

(2) The withdrawal motion will become effective, and the rate schedule or tariff filing will be deemed withdrawn, at the end of 15 days from the date of filing of the withdrawal motion, if no answer in opposition to the withdrawal motion is filed within that period and if no order disallowing the withdrawal is issued within that period. If an answer in opposition is filed within the 15 day period, the withdrawal is not effective until an order accepting the withdrawal is issued.

(b) *Amendments or modifications to tariff sheets, sections or service agreements prior to Commission action on a tariff filing.* A natural gas company may file to amend or modify a tariff or service agreement contained in a tariff filing upon which no Commission or delegated order has yet been issued. Such filing will toll the notice period in section 4(d) of the Natural Gas Act for the original filing, and establish a new date on which the entire filing will become effective, in the absence of Commission action, no earlier than 31 days from the date of the filing of the amendment or modification.

(c) *Withdrawal of suspended tariffs, executed service agreements, or parts thereof.* A natural gas company may not, within the period of suspension, withdraw a proposed tariff, executed service agreement, or part thereof, that has been suspended by order of the Commission, except by special permission of the Commission granted upon application therefor and for good cause shown.

(d) *Changes in suspended tariffs, executed service agreements, or parts thereof.* A natural gas company may not, within the period of suspension, file any change in a proposed tariff, executed service agreement, or part thereof, that has been suspended by order of the Commission, except by special permis-

sion of the Commission granted upon application therefor and for good cause shown.

(e) *Changes in tariffs, executed service agreements, or parts thereof continued in effect, and which were to be changed by the suspended filing.* A natural gas company may not, within the period of suspension, file any change in a tariff, executed service agreement, or part thereof, that is continued in effect by operation of the order of suspension, and that was proposed to be changed by the suspended filing, except:

(1) Under a previously approved tariff provision permitting a limited rate change, or

(2) By special permission of the Commission.

[Order 582, 60 FR 52996, Oct. 11, 1995, as amended by Order 714, 73 FR 57534, Oct. 3, 2008]

**§154.206 Motion to place suspended rates into effect.**

(a) If, prior to the end of the suspension period, the Commission has issued an order requiring changes in the filed rates, or the filed rates recover costs for facilities not certificated and in service as of the proposed effective date, in order to place the suspended rates into effect, the pipeline must file a motion at least one day prior to the effective date requested by the pipeline. The motion must be accompanied by revised tariff sheets or sections reflecting any changes ordered by the Commission or modifications approved by the Commission during the suspension period under §154.205. The filing of the revised tariff sheets or sections must:

(1) Comply with the requirements of subparts A, B, and C of this part;

(2) Identify the Commission order directing the revision;

(3) List the modifications made to the currently effective rate during the suspension period, the docket number in which the modifications were filed, and identify the order permitting the modifications.

(b) Where the Commission has suspended the effective date of a change of rate, charge, classification, or service for a minimal period and the pipeline has not included a motion in its transmittal letter, or has specified in its



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transmittal letter pursuant to §154.7(a)(9), that it reserves its right to file motion to place the proposed change of rate, charge, classification, or service into effect at the end of the suspension period, the change will go into effect, subject to refund, upon motion of the pipeline.

(c) Where the Commission has suspended the effective date of a change of rate, charge, classification, or service for a minimal period and the pipeline has included, in its transmittal letter pursuant to §154.7(a)(9), a motion to place the proposed change of rate, charge, classification, or service into effect at the end of the suspension period, the change will go into effect, subject to refund, on the authorized effective date.

[Order 582, 60 FR 52996, Oct. 11, 1995, as amended by Order 714, 73 FR 57535, Oct. 3, 2008]

### § 154.207 Notice requirements.

All proposed changes in tariffs, contracts, or any parts thereof must be filed with the Commission and posted not less than 30 days nor more than 60 days prior to the proposed effective date thereof, unless a waiver of the time periods is granted by the Commission.

### § 154.208 Service of tariff filings on customers and other parties.

(a) On or before the filing date, the company must serve, upon all customers as of the date of the filing and all affected state regulatory commissions, an abbreviated form of the filing consisting of: The Letter of Transmittal; the Statement of Nature, Reason, and Basis; the changed tariff sheets or sections; a summary of the cost-of-service and rate base; and, summary of the magnitude of the change.

(b) On or before the filing date, the company must serve a full copy of the filing upon all customers and state regulatory commissions that have made a standing request for such service.

(c) Within two business days of receiving a request for a complete copy from any customer or state commission that has not made a standing request, the company must serve a full copy of any filing.

(d) A customer or other party may designate a recipient of service. The filing company must serve the designated recipient, in accordance with this section, instead of the customer or other party. For the purposes of this section, service upon the designated recipient will be deemed service upon the customer or other party.

(e) The company may choose to effect service either electronically or by paper. Such service must be made in accordance with the requirements of Part 385 of this chapter.

(f) Unless it seeks a waiver of electronic service, each customer or party entitled to service of initial tariff filings under this section must notify the company of the e-mail address to which service should be directed. A customer or party may seek a waiver of electronic service by filing a waiver request under Part 390 of this chapter, providing good cause for its inability to accept electronic service.

[Order 582, 60 FR 52996, Oct. 11, 1995, as amended by Order 582A, 61 FR 9628, Mar. 11, 1996; Order 714, 73 FR 57535, Oct. 3, 2008]

### § 154.209 [Reserved]

### § 154.210 Protests, interventions, and comments.

(a) Unless the notice issued by the Commission provides otherwise, any protest, intervention or comment to a tariff filing made pursuant to this part must be filed in accordance with §385.211 of this chapter, not later than 12 days after the subject tariff filing. A protest must state the basis for the objection. A protest will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestant a party to the proceeding. A person wishing to become a party to the proceeding must file a motion to intervene.

(b) Any motion to intervene must be filed not later than 12 days after the subject tariff filing in accordance with §385.214 of this chapter.

### Subpart D—Material To Be Filed With Changes

#### § 154.301 Changes in rates.

(a) Except for changes in rates pursuant to subparts E, F and G, of this part, any natural gas company filing for a change in rates or charges, except for a minor rate change, must submit, in addition to the material required by subparts A, B, and C of this part, the Statements and Schedules described in §154.312.

(b) A natural gas company filing for a minor rate change must file the Statements and Schedules described in §154.313.

(c) A natural gas company filing for a change in rates or charges must be prepared to go forward at a hearing and sustain, solely on the material submitted with its filing, the burden of proving that the proposed changes are just and reasonable. The filing and supporting workpapers must be of such composition, scope, and format as to comprise the company's complete case-in-chief in the event that the change is suspended and the matter is set for hearing. If the change in rates or charges presented are not in full accord with any prior Commission decision directly involving the filing company, the company must include in its working papers alternate material reflecting the effect of such prior decision.

[Order 582, 60 FR 52996, Oct. 11, 1995, as amended by Order 582-A, 61 FR 9628, Mar. 11, 1996]

#### § 154.302 Previously submitted material.

(a) If all, or any portion, of the information called for by this part has already been submitted to the Commission within six months of the filing date of this application, or is included in other data filed pursuant to this part, specific reference thereto may be made in lieu of resubmission.

(b) If a new FERC Form No. 2 or 2-A is required to be filed within 60 days from the end of the base period, the new FERC Form No. 2 or 2-A must be filed concurrently with the rate change filing. There must be furnished to the Director, Office of Energy Market Regulation, with the rate change filing,

one copy of the FERC Form No. 2 or 2-A.

[Order 582, 60 FR 52996, Oct. 11, 1995, as amended by Order 699, 72 FR 45325, Aug. 14, 2007; Order 701, 72 FR 61054, Oct. 29, 2007]

#### § 154.303 Test periods.

Statements A through M, O, P, and supporting schedules, in §154.312 and §154.313, must be based upon a test period.

(a) If the natural gas company has been in operation for 12 months on the filing date, then the test period consists of a base period followed by an adjustment period.

(1) The base period consists of 12 consecutive months of the most recently available actual experience. The last day of the base period may not be more than 4 months prior to the filing date.

(2) The adjustment period is a period of up to 9 months immediately following the base period.

(3) The test period may not extend more than 9 months beyond the filing date.

(4) The rate factors (volumes, costs, and billing determinants) established during the base period may be adjusted for changes in revenues and costs which are known and measurable with reasonable accuracy at the time of the filing and which will become effective within the adjustment period. The base period factors must be adjusted to eliminate nonrecurring items. The company may adjust its base period factors to normalize items eliminated as nonrecurring.

(b) If the natural gas company has not been in operation for 12 months on the filing date, then the test period must consist of 12 consecutive months ending not more than one year after the filing date. Rate factors may be adjusted as in paragraph (a)(4) of this section but must not be adjusted for occurrences anticipated after the 12-month period.

(c)(1) Adjustments to base period experience, or to estimates where 12 months' experience is not available, may include the costs for facilities for which either a permanent or temporary certificate has been granted, provided such facilities will be in service within

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the test period; or a certificate application is pending. The filing must identify facilities, related costs and the docket number of each such outstanding certificate. Subject to paragraph (c)(2) of this section, adjustments to base period experience, or to estimates where 12 months' experience is not available, may include any amounts for facilities that require a certificate of public convenience and necessity, where a certificate has not been issued by the filing date but is expected to be issued before the end of the test period. Adjustments to base period may include costs for facilities that do not require a certificate and are in service by the end of the test period.

(2) When a pipeline files a motion to place the rates into effect, the filing must be revised to exclude the costs associated with any facilities that will not be in service as of the end of the test period, or for which certificate authorization is required but will not be granted as of the end of the test period. At the end of the test period, the pipeline must remove from its rates costs associated with any facility that is not in service or for which certificate authority is required but has not been granted.

(d) The Commission may allow reasonable deviation from the prescribed test period.

[Order 582, 60 FR 52996, Oct. 11, 1995, as amended by Order 582-A, 61 FR 9629, Mar. 11, 1996]

### § 154.304 **Format of statements, schedules, workpapers and supporting data.**

(a) All statements, schedules, and workpapers must be prepared in accordance with the Commission's Uniform System of Accounts.

(b) The data in support of the proposed rate change must include the required particulars of book data, adjustments, and other computations and information on which the company relies, including a detailed narrative explanation placed at the beginning of the specific statement or schedule to which they apply, explaining each proposed adjustment to base period actual volumes and costs.

(c) Book data included in statements and schedules required to be prepared or submitted as part of the filing must be reported in a separate column or columns. All adjustments to book data must also be reported in a separate column or columns so that book amounts, adjustments thereto, and adjusted amounts will be clearly disclosed. All adjustments must be supported by a narrative explanation placed at the beginning of the specific statement or schedule to which they apply.

(d) Certain of the statements and schedules of §154.313 are workpapers. Any data or summaries reflecting the books of account must be supported by accounting workpapers setting forth all necessary particulars from which an auditor may readily identify the book data included in the filing and verify that such data are in agreement with the company's books of account.

[Order 582, 60 FR 52996, Oct. 11, 1995, as amended by Order 582-A, 61 FR 9629, Mar. 11, 1996]

### § 154.305 **Tax normalization.**

(a) *Applicability.* An interstate pipeline must compute the income tax component of its cost-of-service by using tax normalization for all transactions.

(b) *Definitions.* (1) *Tax normalization* means computing the income tax component as if transactions recognized in each period for ratemaking purposes are also recognized in the same amount and in the same period for income tax purposes.

(2) *Commission-approved ratemaking method* means a ratemaking method approved by the Commission in a final decision. This includes a ratemaking method that is part of an approved settlement or arbitration providing that the ratemaking method is to be effective beyond the term of the settlement or arbitration.

(3) *Income tax purposes* means for the purpose of computing actual income tax under the provisions of the Internal Revenue Code or the income tax provisions of the laws of a State or political subdivision of a State (including franchise taxes).

(4) *Income tax component* means that part of the cost-of-service that covers

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## § 154.307

income tax expenses allowable by the Commission.

(5) *Ratemaking purposes* means for the purpose of fixing, modifying, accepting, approving, disapproving, or rejecting rates under the Natural Gas Act.

(6) *Tax effect* means the tax reduction or addition associated with a specific expense or revenue transaction.

(7) *Transaction* means an activity or event that gives rise to an accounting entry.

(c) *Reduction of, and addition to, Rate Base.* (1) The rate base of an interstate pipeline using tax normalization under this section must be reduced by the balances that are properly recordable in Account 281, "Accumulated deferred income taxes—accelerated amortization property"; Account 282, "Accumulated deferred income taxes—other property"; and Account 283, "Accumulated deferred income taxes—other." Balances that are properly recordable in Account 190, "Accumulated deferred income taxes," must be treated as an addition to rate base. Include, as an addition or reduction, as appropriate, amounts in Account 182.3, Other regulatory assets, and Account 254, Other regulatory liabilities, that result from a deficiency or excess in the deferred tax accounts (see paragraph (d) of this section) and which have been, or are soon expected to be, authorized for recovery or refund through rates.

(2) Such rate base reductions or additions must be limited to deferred taxes related to rate base, construction, or other costs and revenues affecting jurisdictional cost-of-service.

(d) *Special rules.* (1) This paragraph applies:

(i) If the rate applicant has not provided deferred taxes in the same amount that would have accrued had tax normalization always been applied; or

(ii) If, as a result of changes in tax rates, the accumulated provision for deferred taxes becomes deficient in, or in excess of, amounts necessary to meet future tax liabilities.

(2) The interstate pipeline must compute the income tax component in its cost-of-service by making provision for any excess or deficiency in deferred taxes.

(3) The interstate pipeline must apply a Commission-approved ratemaking method made specifically applicable to the interstate pipeline for determining the cost-of-service provision described in paragraph (d)(2) of this section. If no Commission-approved ratemaking method has been made specifically applicable to the interstate pipeline, then the interstate pipeline must use some ratemaking method for making such provision, and the appropriateness of such method will be subject to case-by-case determination.

(4) An interstate pipeline must continue to include, as an addition or reduction to rate base, any deficiency or excess attributable to prior flow-through or changes in tax rates (paragraphs (d)(1)(i) and (d)(1)(ii) of this section), until such deficiency or excess is fully amortized in accordance with a Commission approved ratemaking method.

### § 154.306 Cash working capital.

A natural gas company that files a tariff change under this part may not receive a cash working capital adjustment to its rate base unless the company or other participant in a rate proceeding under this part demonstrates, with a fully developed and reliable lead-lag study, a net revenue receipt lag or a net expense payment lag (revenue lead). Any demonstrated net revenue receipt lag will be credited to rate base; and, any demonstrated net expense payment lag will be deducted from rate base.

### § 154.307 Joint facilities.

The Statements required by § 154.312 must show all costs (investment, operation, maintenance, depreciation, taxes) that have been allocated to the natural gas operations involved in the subject rate change and are associated with joint facilities. The methods used in making such allocations must be provided.

## § 154.308

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### § 154.308 Representation of chief accounting officer.

The filing must include a statement executed by the chief accounting officer or other authorized accounting representative of the filing company representing that the cost statements, supporting data, and workpapers, that purport to reflect the books of the company do, in fact, set forth the results shown by such books.

### § 154.309 Incremental expansions.

(a) For every expansion for which incremental rates are charged, the company must provide a summary with applicable cross-references to §154.312 and §154.313, of the costs and revenues associated with the expansion, until the Commission authorizes the costs of the incremental facilities to be rolled-in to the pipeline's rates. For every expansion that has an at-risk provision in the certificate authorization, the costs and revenues associated with the facility must be shown in summary format with applicable cross-references to §154.312 and §154.313, until the Commission removes the at-risk condition.

(b) The summary statements must provide the formulae and explain the bases used in the allocation of common costs to each incremental facility.

### § 154.310 Zones.

If the company maintains records of costs by zone, and proposes a zone rate methodology based on these costs, the statements and schedules in §154.312 and §154.313 must reflect costs detailed by zone.

### § 154.311 Updating of statements.

(a) Certain statements and schedules in §154.312, that include test period data, must be updated with actual data by month and must be resubmitted in the same format and with consecutive monthly totals for each month of the adjustment period with a single set of updates encompassing a 12-month period. The updated statements or schedules must be filed 45 days after the end of the test period. The updated filing must be provided to parties specifically requesting them. The updated filing must reference the associated docket number and must be filed in the same

format, form, and number as the original filing.

(b) The statements and schedules in §154.312 to be updated are: Statements C, D and H-4; Schedules B-1, B-2, C-3, D-2, E-2, E-4, G-1, G-4, G-5, G-6, H-1 (1)(a), H-1 (1)(b), H-1 (1)(c), H-1 (2)(a) through H-1 (2)(k), H-2 (1), H-3 (3), I-4, and I-6.

(c) This requirement to file updates may be extended by the Secretary pursuant to §375.302 of this chapter.

[Order 582-A, 61 FR 9629, Mar. 11, 1996]

### § 154.312 Composition of Statements.

(a) *Statement A. Cost-of-service Summary.* Summarize the overall gas utility cost-of-service: operation and maintenance expenses, depreciation, taxes, credits to cost-of-service, and return as developed in other statements and schedules.

(b) *Statement B. Rate Base and Return Summary.* Summarize the overall gas utility rate base shown in Statements C, D, E, and Schedules B-1 and B-2. Show the application of the claimed rate of return to the overall rate base.

(1) *Schedule B-1. Accumulated Deferred Income Taxes* (Account Nos. 190, 282, and 283). Show monthly book balances of accumulated deferred income taxes for each of the 12 months during the base period. List all items for which the accumulated deferred income taxes are calculated. In adjoining columns, show additions and reductions for the adjustment period balance and the total adjusted balance. Separately identify the individual components and the amounts in these accounts that the company seeks to include in its rate base.

(2) *Schedule B-2. Regulatory Asset and Liability.* If the pipeline seeks recovery of such balances in rate base, show monthly book balances of regulatory assets (Account 182.3) and liabilities (Account 254) for each of the 12 months during the base period. In adjoining columns, show additions and reductions for the adjustment period balance and the total adjusted balance.

Separately identify the individual components and the amounts in these accounts that the company seeks to include in its rate base. Identify any specific Commission authority that required the establishment of these amounts. Regulatory asset or liability net of deferred tax amounts should be included. Also, separately state the gross amounts of the regulatory asset and liability.

(c) *Statement C. Cost of Plant Summary.* Show the amounts of gas utility plant classified by Accounts 101, 102, 103, 104, 105, 106, 107, 117.1, and 117.2 as of the beginning of the 12 months of actual experience, the book additions and reductions (in separate columns) during the 12 months, and the book balances at the end of the 12-month period. In adjoining columns, show the claimed adjustments, if any, to the book balances and the total cost of plant to be included in rate base. For Account 117, also provide the volumes by subaccount. State the method used for accounting for system gas recorded in Account 117.2. Explain all adjustments in the following schedules.

(1) *Schedule C-1. End of Base and Test Period Plant Functionalized.* Demonstrate the ending base and test period balances for Plant in Service, in columnar form, by detailed plant account prescribed by the Commission's Uniform System of Accounts for Natural Gas Companies (part 201 of this chapter) with subtotals by functional classifications, e.g., Intangible Plant, Manufactured Gas Production Plant, Natural Gas Production and Gathering Plant, Products Extraction Plant, Storage Plant, Transmission Plant, Distribution Plant, and General Plant. Show zones, to the extent required by §154.310, and expansions, to the extent required by §154.309. Separately identify those facilities and associated costs claimed for the test period that require certificate authority but such authority has not been obtained at the time of filing. Give the docket number of the certificate proceeding.

(2) *Schedule C-2.* Show, for Accounts 106 and 107, a list of work orders claimed in the rate base. Give the work order number, docket number, description, amount of each work order, and the amounts of each type of undistrib-

uted construction overhead. Work orders amounting to \$500,000 or less may be grouped by category of items.

(3) *Schedule C-3.* A cross-reference to updated information in the company's FERC Form No. 2 may be substituted for this Schedule. Give details of each storage project owned and storage projects under contract to the company, showing cost by major functions. Show base and system gas storage quantities and associated costs by account for the test period and for the 12 months of actual experience with monthly inputs and outputs to system gas.

(4) *Schedule C-4.* This schedule is part of the workpapers. State the methods and procedures followed in capitalizing the allowance for funds used during construction and other construction overheads. This schedule must be provided only in situations when the pipeline has changed any of its procedures since the last filed FERC Forms No. 2 or 2-A.

(5) *Schedule C-5.* This schedule is part of the workpapers. Set forth the cost of Plant in Service carried on the company's books as gas utility plant which was not being used in rendering gas service. Describe the plant. This schedule must be provided only if there is a significant change of \$500,000 or more since the end of the year reported in the company's last FERC Form No. 2 or 2-A.

(d) *Statement D. Accumulated Provisions for Depreciation, Depletion, and Amortization.* Show the accumulated provisions for depreciation, depletion, amortization, and abandonment (Account 108, detailed by functional plant classification, and Account 111), as of the beginning of the 12 months of actual experience, the book additions and reductions during the 12 months, and the balances at the end of the 12-month period. In adjoining columns, show adjustments to these ending book balances and the total adjusted balances. All adjustments must be explained in the supporting material. Any authorized negative salvage must be maintained in a separate subaccount of account 108, and shall not include any amounts related to asset retirement obligations. For each functional plant

classification, show depreciation reserve associated with offshore and onshore plant separately. The following schedules and additional material must be submitted as part of Statement D:

(1) *Schedule D-1*. This schedule is part of the workpapers. Show the depreciation reserve book balance applicable to that portion of the depreciation rate not yet approved by the Commission, the depreciation rates, the docket number of the order approving such rate, and an explanation of any difference. Reflect actual end of base period depreciation reserve functionalized and test period depreciation reserve functionalized. Show accumulated depreciation and amortization, in columnar form, for the ending base and test period balances by functional classifications of Accumulated Depreciation reserve. (Examples are provided in Schedule C-1). For each functional plant classification, show depreciation reserve associated with offshore and onshore plant separately.

(2) *Schedule D-2*. This schedule is part of the workpapers. Give a description of the methods and procedures used in depreciating, depleting, and amortizing plant and in recording abandonments. This schedule must be filed only if a policy change has been made effective since the period covered by the last annual report on FERC Form No. 2 or 2-A was filed with the Commission.

(e) *Statement E*. Working Capital. Show the components of working capital in sufficient detail to explain how the amount of each component was computed. Components of working capital, other than cash working capital, may include an allowance for the average of 13 monthly balances of materials and supplies and prepayments actually expended and gas for resale. To the extent the applicant files to adjust the average of any 13 monthly balances, workpapers must be submitted that support the adjustment(s). Show the computations, cross-references, and sources from which the data used in computing claimed working capital are derived. The following schedules and material must be submitted as part of Statement E:

(1) *Schedule E-1*. Show the computation of cash working capital claimed as an adjustment to the gas company's

rate base. Any adjustment to rate base requested must be based on a fully-developed and reliable lead-lag study. The components of the lead-lag study must include actual total company revenues, purchased gas costs, storage expense, transportation and compression of gas by others, salaries and wages, administrative and general expenses, income taxes payable, taxes other than income taxes, and any other operating and maintenance expenses for the base period. Cash working capital allowances in the form of additions to rate base may not exceed one-eighth of the annual operating expenses, as adjusted, net of non-cash items.

(2) *Schedule E-2*. Set forth monthly balances for materials, supplies, and prepayments in such detail as to disclose, either by subaccounts regularly maintained on the books or by analysis of the principal items included in the main account, the nature of such charges.

(3) *Schedule E-3*. For FERC Accounts 117.3, 164.1, 164.2 and 164.3, show the quantities and the respective costs of natural gas stored at the beginning of the test period, the input, output and balance remaining in Dth and associated costs by months. The method of pricing input, output and balance, and the claimed adjustments shall be disclosed and clearly and fully explained. Pipelines using the inventory method for system gas should not include any system gas inventory balances in this schedule.

(f) *Statement F-1*. Rate of Return Claimed. Show the percentage rate of return claimed and the general reasons therefor. Where any component of the capital of the filing company is not primarily obtained through its own financing, but is primarily obtained from a company by which the filing company is controlled, as defined in the Commission's Uniform System of Accounts, then the data required by these statements must be submitted with respect to the debt capital, preferred stock capital, and common stock capital of such controlling company or any intermediate company through which such funds have been secured. Furnish the Commission staff a copy of the latest prospectus issued by

the filing natural gas company, any superimposed holding company, or subsidiary companies.

(g) *Statement F-2.* Show

(1) The capitalization, capital structure, cost of debt capital, preferred stock capital, and the claimed return on stockholders' equity;

(2) The weighted cost of each capital class based on the capital structure; and,

(3) The overall rate of return claimed.

(h) *Statement F-3. Debt Capital.* Show the weighted average cost of debt capital based upon the following data for each class and series of long-term debt outstanding according to the balance sheet, as of the end of the 12-month base period of actual experience and as of the end of the 9-month test period.

(1) Title.

(2) Date of issuance and date of maturity.

(3) Interest rate.

(4) Principal amount of issue: Gross proceeds; Underwriters' discount or commission: Amount; Percent gross proceeds; Issuance expense: Amount; Percent gross proceeds; Net proceeds; Net proceeds per unit.

(5) Cost of money: Yield to maturity based on the interest rate and net proceeds per unit outstanding determined by reference to any generally accepted table of bond yields. The yield to maturity is to be expressed as a nominal annual interest rate. For example, for bonds having semiannual payments, the yield to maturity is twice the semiannual rate.

(6) If the issue is owned by an affiliate, state the name and relationship of the owner.

(7) If the filing company has acquired, at a discount or premium, some part of its outstanding debt which could be used in meeting sinking fund requirements, or for other reasons, separately show: The annual amortization of the discount or premium for each series of debt from the date of reacquisition over the remaining life of the debt being retired; and, the total discount and premium, as a result of such amortization, applicable to the test period.

(i) *Statement F-4. Preferred Stock Capital.* Show the weighted average cost of preferred stock capital based

upon the following data for each class and series of preferred stock outstanding according to the balance sheet, as of the end of the 12-month base period of actual experience and as of the end of the nine-month test period.

(1) Title.

(2) Date of issuance.

(3) If callable, call price.

(4) If convertible, terms of conversion.

(5) Dividend rate.

(6) Par or stated amount of issue: Gross proceeds; Underwriters' discount or commission: Amount; Percent gross proceeds; Issuance expenses: Amount; Percent gross proceeds; Net proceeds; Net proceeds per unit.

(7) Cost of money: Annual dividend rate divided by net proceeds per unit.

(8) State whether the issue was offered to stockholders through subscription rights or to the public.

(9) If the issue is owned by an affiliate, state the name and relationship of the owner.

(j) *Statement G. Revenues, Credits, and Billing Determinants.*

(1) Show in summary format the information requested below on revenues, credits and billing determinants for the base period and the base period as adjusted. Explain the basis for adjustment to the base period. The level of billing determinants should not be adjusted for discounting.

(i) *Revenues.* Provide the total revenues, from jurisdictional and non-jurisdictional services, classified in accordance with the Commission's Uniform System of Accounts for the base period and for the base period as adjusted. Separate operating revenues by major rate component (e.g., reservation charges, demand charges, usage charges, commodity charges, injection charges, withdrawal charges, etc.) from revenues received from penalties, surcharges or other sources (e.g., ACA, GRI, transition costs). Show revenues by rate schedule and by receipt and delivery rate zones, if applicable. Show separately the revenues for firm services under contracts with a primary term of less than one year. For services provided through released capacity,



identify total revenues by rate schedule and by receipt and delivery rate zones, if applicable.

(ii) *Credits*. Show the principal components comprising each of the various items which are reflected as credits to the cost-of-service in preparing Statement A, Overall Cost-of-service for the base period and the base period as adjusted. Any transition cost component of interruptible transportation revenue must not be treated as operating revenues as defined above.

(iii) *Billing Determinants*. Show total reservation and usage billing determinants for the base period and the base period as adjusted, by rate schedule by receipt and delivery rate zones, if applicable. Show separately the billing determinants for firm services under contracts with a primary term of less than one year. For services provided through released capacity, identify billing determinants by rate schedule and by receipt and delivery rate zones, if applicable.

(2) The Schedules G-1 through G-6 must be filed at the FERC and served on all state commissions having jurisdiction over the affected customers within fifteen days after the rate case is filed. Schedules G-1 through G-6 must also be served on parties that request such service within 15 days of the filing of the rate case.

(i) *Schedule G-1*. Base Period Revenues. For the base period, show total actual revenues and billing determinants by month by customer name, by rate schedule, by receipt and delivery zone, if applicable, by major rate component (e.g., reservation charges) and totals. Billing determinants must not be adjusted for discounting. Provide actual throughput (i.e., usage or commodity quantities, unadjusted for discounting) and actual contract demand levels (unadjusted for discounting). Provide this information separately for firm service under contracts with a primary term of less than one year. Separate operating revenues from revenues received from surcharges or other sources (e.g., ACA, GRI, transition costs). Identify customers who are affiliates. Identify rate schedules under which costs are allocated and rate schedules under which revenues are credited for the base pe-

riod with cross-references to the other filed statements and schedules.

(ii) *Schedule G-2*. Adjustment Period Revenues.

(A) Show revenues and billing determinants by month, by customer name, by rate schedule, by receipt and delivery zone, if applicable, by major rate component (e.g., reservation charges) and totals for the base period adjusted for known and measurable changes which are expected to occur within the adjustment period computed under the rates expected to be charged. Billing determinants must not be adjusted for discounting. Provide projected throughput (i.e., usage or commodity quantities, unadjusted for discounting) and projected contract demand levels (unadjusted for discounting). Provide this information separately for firm service under contracts with a primary term of less than one year. Separate operating revenues from revenues received from surcharges or other sources (e.g., ACA, GRI, transition costs). Identify customers who are affiliates. Identify rate schedules under which costs are allocated and rate schedules under which revenues are credited for the adjustment period with cross-references to the other filed statements and schedules.

(B) Provide a reconciliation of the base period revenues and billing determinants and the revenues and billing determinants for the base period as adjusted.

(iii) *Schedule G-3*. Specify, quantify, and justify each proposed adjustment (capacity release, plant closure, contract termination, etc.) to base period actual billing determinants, and provide a detailed explanation for each factor contributing to the adjustment. Include references to any certificate docket authorizing changes. Submit workpapers with all formulae.

(iv) *Schedule G-4*. At-Risk Revenue. For each instance where there is a separate cost-of-service associated with facilities for which the applicant is "at risk," show the base period and adjustment period revenue by customer or customer code, by rate schedule, by receipt and delivery zone, if applicable, and as 12-month totals. Provide this information by month unless otherwise agreed to by interested parties and if

monthly reporting is consistent with past practice of the pipeline. However, if seasonal services are involved, or if billing determinants vary from month to month, the information must be provided monthly. Provide projected throughput (i.e., usage or commodity quantities, unadjusted for discounting) and projected contract demand levels (unadjusted for discounting).

(v) *Schedule G-5. Other Revenues.*

(A) Describe and quantify, by month, the types of revenue included in Account Nos. 490-495 for the base and test periods. Show revenues applicable to the sale of products. Show the principal components comprising each of the various items which are reflected as credits to cost-of-service in Statement A.

(B) To the extent the credits to the cost-of-service reflected in Statement A differ from the amounts shown on Schedule G-5, compare and reconcile the two statements. Quantify and explain each proposed adjustment to base period actuals. For Account No. 490, show the name and location of each product extraction plant processing gas for the applicant, and the inlet and outlet monthly dth of the pipeline's gas at each plant. Show the revenues received by the applicant by product by month for each extraction plant for the base period and proposed for the test period.

(C) Separately state each item and revenue received for the transportation of liquids, liquefiable hydrocarbon, or nonhydrocarbon constituents owned by shippers. For both the base and test periods, indicate by shipper contract: The quantity transported and the revenues received.

(D) Separately state the revenues received from the release by the pipeline of transportation and compression capacity it holds on other pipeline systems. The revenues must equal the revenues reflected on Schedule I-4(iv).

(vi) *Schedule G-6. Miscellaneous Revenues.* Separately state by month the base and adjustment period revenues and the associated quantities received as penalties from jurisdictional customers; the revenues received from cash outs and other imbalance adjustments; and, the revenues received from exit fees.

(k) *Statement H-1. Operation and Maintenance Expenses.* Show the gas operation and maintenance expenses according to each applicable account of the Commission's Uniform System of Accounts for Natural Gas Companies. Show the expenses under columnar headings, with subtotals for each functional classification, as follows: Operation and maintenance expense by months, as booked, for the 12 months of actual experience, and the 12-month total; adjustments, if any, to expenses as booked; and, total adjusted operation and maintenance expenses. Provide a detailed narrative explanation of, and the basis and supporting workpapers for, each adjustment. The following schedules and additional material must be submitted as part of Statement H-1:

(1) *Schedule H-1 (1).* This schedule is part of the workpapers. Show the labor costs, materials and other charges (excluding purchased gas costs) and expenses associated with Accounts 810, 811, and 812 recorded in each gas operation and maintenance expense account of the Uniform System of Accounts. Show these expenses, under the columnar headings, with subtotals for each functional classification, as follows: operation and maintenance expenses by months, as booked, for the 12 months of actual experience, and the 12-month total; adjustments, if any, to expenses as booked; and total adjusted operation and maintenance expenses. Disclose and explain all accrual on the books at the end of the base period or other normalizing accounting entries for internal purposes reflected in the monthly expenses presented per book. Explain any amounts not currently payable, except depreciation charged through clearing accounts, included in operation and maintenance expenses.

(2) *Schedule H-1 (1)(a).* Labor Costs.

(3) *Schedule H-1 (1)(b).* Materials and Other Charges (Excluding Purchased Gas Costs and items shown in Schedule H-1 (1)(c)).

(4) *Schedule H-1 (1)(c).* Quantities Applicable to Accounts Nos. 810, 811, and 812. Show the quantities for each of the contra-accounts for both base and test periods.

(5) *Schedule H-1 (2).* This schedule is part of the workpapers. Show, for the

12 months of actual experience and claimed adjustments: A classification of principal charges, credits and volumes; particulars of supporting computations and accounting bases; a description of services and related dollar amounts for which liability is incurred or accrued; and, the name of the firm or individual rendering such services. Expenses reported in Schedules H-1 (2)(a) through H-1 (2)(k) of \$100,000 or less per type of service may be grouped.

(6) *Schedule H-1 (2)(a)*. Accounts 806, 808.1, 808.2, 809.1, 809.2, 813, 823, and any other account used to record fuel use or gas losses. Provide details of each type of expense.

(7) *Schedule H-1 (2)(b)*. Accounts 913 and 930.1. Advertising Expenses. Disclose principal types of advertising such as TV, newspaper, etc.

(8) *Schedule H-1 (2)(c)*. Account 921. Office Supplies and Expenses.

(9) *Schedule H-1 (2)(d)*. Account 922. Administrative Expenses Transferred Credit.

(10) *Schedule H-1 (2)(e)*. Account 923. Outside Services Employed.

(11) *Schedule H-1 (2)(f)*. Account 926. Employee Pensions and Benefits.

(12) *Schedule H-1 (2)(g)*. Account 928. Regulatory Commission Expenses.

(13) *Schedule H-1 (2)(h)*. Account 929. Duplicate Charges. Credit.

(14) *Schedule H-1 (2)(i)*. Account 930.2. Miscellaneous General Expenses.

(15) *Schedule H-1 (2)(j)*. Intercompany and Interdepartmental Transactions. Provide a complete disclosure of all corporate overhead allocated to the company. If the expense accounts contain charges or credits to and from associated or affiliated companies or nonutility departments of the company, submit a schedule, or schedules, as to each associated or affiliated company or nonutility department showing:

(i) The amount of the charges, or credits, during each month and in total for the base period and the adjustment period.

(ii) The FERC Account No. charged (or credited).

(iii) Descriptions of the specific services performed for, or by, the associated/affiliated company or nonutility department.

(iv) The bases used in determining the amounts of the charges (credits). Explain and demonstrate the derivation of the allocation bases with underlying calculations used to allocate costs among affiliated companies, and identify (by account number) all costs paid to, or received from affiliated companies which are included in a pipeline's cost-of-service for both the base and test periods.

(16) *Schedule H-1 (2)(k)*. Show all lease payments applicable to gas operation contained in the operation and maintenance accounts. Leases of \$500,000 or less may be grouped by type of lease.

(1) *Statement H-2*. Depreciation, Depletion, Amortization and Negative Salvage Expenses. Show, separately, the gas plant depreciation, depletion, amortization, and negative salvage expenses by functional classifications. For each functional plant classification, show depreciation reserve associated with offshore and onshore plant separately. Show, in separate columns: expenses for the 12 months of actual experience; adjustments, if any, to such expense; and, the total adjusted expense claimed. Explain the bases, methods, essential computations, and derivation of unit rates for the calculation of depreciation, depletion, and amortization expense for the 12 months of actual experience and for the adjustments. The amounts of depreciable plant must be shown by the functions specified in paragraph C of Account 108, Accumulated Provisions for Depreciation of Gas Utility Plant, and Account 111, Accumulated Provision for Amortization and Depletion of Gas Utility Plant, of the Commission's Uniform System of Accounts for Natural Gas Companies, and, if available, for each detailed plant account (300 Series) together with the rates used in computing such expenses. Explain any deviation from the rates determined to be just and reasonable by the Commission. Show the rate or rates previously used together with supporting data for the new rate or rates used for this filing. The following schedule and additional material must be submitted as a part of Statement H-2:

(1) *Schedule H-2 (1)*. Depreciable Plant.

(i) Reconcile the depreciable plant shown in Statement H-2 with the aggregate investment in gas plant shown in Statement C, and the expense charged to other than prescribed depreciation, depletion, amortization, and negative salvage expense accounts. Identify the amounts of plant costs and associated plant accounts used as the bases for depreciation expense charged to clearing accounts. For each functional plant classification, show depreciation reserve associated with offshore and onshore plant separately.

(ii) Schedule H-2 (1) must be updated, as set forth in §154.310, with actual depreciable plant and reconciled with updated Statement C.

(m) *Statement H-3. Income Taxes.* Show the computation of allowances for Federal and State income taxes for the test period based on the claimed return applied to the overall gas utility rate base. To indicate the accounting classification applicable to the amount claimed, the computation of the Federal income tax allowance must show, separately, the amounts designated as current tax and deferred tax. Section 154.306, Tax Normalization, is incorporated in these instructions by reference. All the requirements of this section apply to Schedule H-3. The following schedules and additional material must be submitted as a part of Statement H-3:

(1) *Schedule H-3 (1).* This schedule is part of the workpapers. Show the income tax paid each State in the current and/or previous year covered by the test period.

(2) *Schedule H-3 (2).* This schedule is part of the workpapers. Show the computation of an updated reconciliation between book depreciable plant and tax depreciable plant and accumulated provision for deferred income taxes, for the base period or latest calendar or fiscal year (depending on the company's reporting period). Regulatory asset or liability net of deferred tax amounts should be included in this reconciliation. Also, separately state the gross amounts of the regulatory asset and liability.

(n) *Statement H-4. Other Taxes.* Show the gas utility taxes, other than Federal or state income taxes, in separate columns, as follows: Tax expense per

books for the 12 months of actual experience (separately identify the amounts expensed or accrued during the period); adjustments, if any, to amounts booked; and, the total adjusted taxes claimed. Show the kind and amount of taxes paid under protest or in connection with taxes under litigation. Show taxes by state and by type of tax. The following schedules and additional material must be submitted as a part of Statement H-4:

(1) *Schedule H-4.* This schedule is part of the workpapers. Show the computations of adjusted taxes claimed in Statement H(4).

(o) *Statement I.* Statement I consists of the following Schedules:

(1) *Schedule I-1. Functionalization of Cost-of-service.* Show the overall cost-of-service contained in Statement A as supported by Statements B, C, D, E, G (revenue credits), and H:

(i) *Schedule I-1(a).* Separate overall cost-of-service by function of facility.

(ii) *Schedule I-1(b).* Separate the transmission, storage, and gathering facilities between incremental and non-incremental facilities. If the pipeline proposes to directly assign the costs of specific facilities, it must provide a separate cost-of-service for every directly assigned facility (e.g., lateral or storage field).

(iii) *Schedule I-1(c).* If the pipeline maintains records of costs by zone and proposes a zone rate methodology based on those costs separately state transmission, storage, and gathering costs, for each zone.

(iv) *Schedule I-1(d).* Show the method used to allocate common and joint costs to various functions including the allocation of A&G. Provide the factors underlying the allocation of general costs (e.g., miles of pipe, cost of plant, labor). Show the formulae used and explain the bases for the allocation of common and joint costs.

(2) *Schedule I-2. Classification of Cost-of-service.*

(i) For each functionalized cost-of-service provided in Schedule I-1 (a), (b), and (c), show the classification of costs between fixed costs and variable costs and between reservation costs and usage costs. The classification must be for each element of the cost-of-service

(e.g., depreciation expenses, state income taxes, revenue credits). For operation and maintenance expenses and revenue credits, the classification must be provided by account and by total.

(ii) Explain the basis for the classification of costs.

(iii) Explain any difference between the method for classifying costs and the classification method underlying the pipeline's currently effective rates.

(3) *Schedule I-3*. Allocation of Cost-of-service.

(i) If the company provides gas sales and transportation as a bundled service, show the allocation of costs between direct sales or distribution sales and the other services. If the company provides unbundled transportation, show the allocation of costs between services with cost-of-service rates and services with market-based rates, including products extraction, sales, and company-owned production. If the cost-of-service is allocated among rate zones, show how the classified cost-of-service is allocated among rate zones by function. If the pipeline proposes to establish rate zones for the first time, or to change existing rate zone boundaries, explain how the rate zone boundaries are established.

(ii) Show how the classified costs of service provided in Schedule I-2 or Schedule I-3 (i) are allocated among the pipeline's services and rate schedules.

(iii) Provide the formulae used in the allocation of the cost-of-service. Provide the factors underlying the allocation of the cost-of-service (e.g., contract demand, annual billing determinants, three-day peak). Provide the load factor or other basis for any imputed demand quantities.

(iv) Explain any changes in the basis for the allocation of the cost-of-service from the allocation methodologies underlying the currently effective rates.

(4) *Schedule I-4*. Transmission and Compression of Gas by Others (Account 858). Provide the following information for each transaction for the base and adjustment period:

(i) The name of the transporter.

(ii) The name of the rate schedule under which service is provided, and the expiration date of the contract.

(iii) Monthly usage volumes.

(iv) Monthly costs.

(v) The monthly revenues for volumes flowing under released capacity. The revenues in Schedule I-4 (iv) must also be reflected, separately, as a credit in Schedule G-5.

(5) *Schedule I-5*. Gas Balance. Show by months and total, for the 12 months of actual experience, the company's Gas Account, in the form required by FERC Form No. 2 pages 520 and 521. Show corresponding estimated data, if claimed to be different from actual experience. Provide the basis for any variation between estimated and actual base period data.

(p) *Statement J*. Comparison and Reconciliation of Estimated Operating Revenues With Cost-of-service. Compare the total revenues by rate schedule (Schedule G-2) to the allocated cost-of-service (Statement I). Identify any surcharges that are reflected in Statement N or in Statement I.

(1) *Schedule J-1*. Summary of Billing Determinants. Provide a summary of all billing determinants used to derive rates. Provide a reconciliation of customers' total billing determinants as shown on Schedule G-2 with those used to derive rates in Schedule J-2. Provide an explanation of how any discount adjustment is developed. If billing determinants are imputed for interruptible service, explain the method for calculating the billing determinants.

(2) *Schedule J-2*. Derivation of Rates. Show the derivation of each rate component of each rate. For each rate component of each rate schedule, include:

(i) A reference (by page, line, and column) to the allocated cost-of-service in Statement I.

(ii) A reference to the appropriate billing determinants in Schedule J-1.

(iii) Explain any changes in the method used for the derivation of rates from the method used in developing the underlying rates.

(q) *Statement K*. [Reserved]

(r) *Statement L*. Balance Sheet. Provide a balance sheet in the form prescribed by the Commission's Uniform System of Accounts for Natural Gas Companies as of the beginning and end of the base period. Include any notes. If the natural gas company is a member of a group of companies, also provide a balance sheet on a consolidated basis.

(s) *Statement M. Income Statement.* Provide an income statement, including a section on earnings, in the form prescribed by the Commission's Uniform System of Accounts for Natural Gas Companies for the base period. Include any notes. If the natural gas company is a member of a system group of companies, provide an income statement on a consolidated basis.

(t) *Statement N.* [Reserved]

(u) *Statement O. Description of Company Operations.* Provide a description of the company's service area and diversity of operations. Include the following:

(1) Only if significant changes have occurred since the filing of the last FERC Form No. 2 or 2-A, provide a detailed system map.

(2) A list of each major expansion and abandonment since the company's last general rate case. Provide brief descriptions, approximate dates of operation or retirement from service, and costs classified by functions.

(3) A detailed description of how the company designs and operates its systems. Include design temperature.

(v) *Statement P. Explanatory Text and Prepared Testimony.* Provide copies of prepared testimony indicating the line of proof which the company would offer for its case-in-chief in the event that the rates are suspended and the matter set for hearing. Name the sponsoring witness of all text and testimony. Statement P must be filed concurrently with the other schedules.

[Order 582, 60 FR 52996, Oct. 11, 1995, as amended by Order 582-A, 61 FR 9629, Mar. 11, 1996; Order 631, 68 FR 19622, Apr. 21, 2003]

**§ 154.313 Schedules for minor rate changes.**

(a) A change in a rate or charge that, for the test period, does not increase the company's revenues by the smaller of \$1,000,000 or 5 percent is a minor rate change. A change in a rate level that does not directly or indirectly result in an increased rate or charge to any customer or class of customers is a minor rate change.

(b) In addition to the schedules in this section, filings for minor rate changes must include Statements L, M, O, P, I-1 through I-4, and J of § 154.312.

(c) The schedules of this section must contain the principal determinants essential to test the reasonableness of the proposed minor rate change. Any adjustments to book figures must be separately stated and the basis for the adjustment must be explained.

(d) Schedules B-1, B-2, C, D, E, H, H-2, and H-4 of § 154.313, must be updated with actual data by month and must be resubmitted in the same format and with consecutive 12 month running totals, for each month of the adjustment period. The updated statements or schedules must be filed 45 days after the end of the test period. The updated filing must reference the associated docket number and must be filed in the same format, form, and number as the original filing.

(e) Composition of schedules for minor rate changes.

(1) *Schedule A. Overall Cost-of-service by Function.* Summarize the overall cost-of-service (operation and maintenance expenses, depreciation, taxes, return, and credits to cost-of-service) developed from the supporting schedules below.

(2) *Schedule B. Overall Rate Base and Return.* Summarize the overall gas utility rate base by function. Include the claimed rate of return and show the application of the claimed rate of return to the overall rate base.

(3) *Schedule B-1. Accumulated Deferred Income Taxes* (Account Nos. 190, 281, 282, and 283). Show monthly book balances of accumulated deferred income taxes for each of the 12 months during the base period. In adjoining columns, show additions and reductions for the adjustment period balance and the total adjusted balance.

(4) *Schedule B-2. Regulatory Asset and Liability.* Show monthly book balances of regulatory asset (Account 182.3) and liability (Account 254) for each of the 12 months during the base period. In adjoining columns, show additions and reductions for the adjustment period balance and the total adjusted balance. Only include these accounts if recovery of these balances are reflected in the company's costs. Identify the specific Commission authority which required the establishment of these accounts.

(5) *Schedule C*. Cost of Plant by Functional Classification as of the End of the Base and Adjustment Periods.

(6) *Schedule D*. Accumulated Provisions for Depreciation, Depletion, Amortization, and Abandonment by Functional Classifications as of the Beginning and as of the End of the Test Period.

(7) *Schedule E*. Working Capital. Show the various components provided for in § 154.312, Statement E.

(8) *Schedule F*. Show the rate of return claimed with a brief explanation of the basis.

(9) *Schedule G*. Revenues and Billing Determinants.

(i) Show in summary format the information requested below on revenues and billing determinants for the base period and the base period as adjusted. Schedule G must be submitted to all customers of the pipeline that received service during the base period or are expected to receive service during the base period as adjusted and on State commissions having jurisdiction over the affected customers.

(A) *Revenues*. Provide the total revenues by rate schedule from jurisdictional services, classified in accordance with the Commission's Uniform System of Accounts for the base period and for the base period as adjusted. Separate operating revenues by major rate component (e.g., reservation charges, demand charges, usage charges, commodity charges, injection charges, withdrawal charges, etc.) from revenues received from penalties, surcharges or other sources (e.g., ACA, GRI, transition costs). For services provided through released capacity, identify total revenues by rate schedule and by receipt and delivery rate zones, if applicable.

(B) *Billing Determinants*. Show total reservation and usage billing determinants by rate schedule for the base period and the base period as adjusted. For services provided through released capacity, identify total billing determinants by rate schedule and by receipt and delivery rate zones, if applicable.

(ii) Schedule G-1 must be filed at the Commission and on all state commissions having jurisdiction over the affected customers within 15 days after

the rate case is filed. Schedule G-1 must also be served on parties that request such service within 15 days of the filing of the rate case.

(A) *Schedule G-1*. Adjustment Period Revenues.

(1) Show revenues and billing determinants by month, by customer name, by rate schedule, by major rate component (e.g., reservation charges) and totals for the base period adjusted for known and measurable changes which are expected to occur within the adjustment period computed under the rates expected to be charged. Show commodity billing determinants by rate schedule. Billing determinants must not be adjusted for discounting. Provide projected throughput (i.e., usage or commodity quantities, unadjusted for discounting) and projected contract demand levels (unadjusted for discounting). Separate operating revenues from revenues received from surcharges or other sources (e.g., ACA, GRI, transition costs). Identify customers who are affiliates. Identify rate schedules under which costs are allocated and rate schedules under which revenues are credited for the adjustment period with cross-references to the other filed statements and schedules.

(2) Provide a reconciliation of the base period revenues and billing determinants and the revenues and billing determinants for the base period as adjusted.

(10) *Schedule H*. Operation and Maintenance Expenses. Show the gas operation and maintenance expenses according to each applicable account of the Commission's Uniform System of Accounts for Natural Gas Companies. The expenses must be shown under appropriate columnar-headings, by labor, materials and other charges, and purchased gas costs, with subtotals for each functional classification: Operation and maintenance expense by months, as booked, for the 12 months of actual experience, and the total thereof; adjustments, if any, to expenses as booked; and, total adjusted operation and maintenance expenses claimed. Explain all adjustments. Specify the month or months during which the adjustments would be applicable.

(11) *Schedule H-1*. Workpapers for Expense Accounts. Furnish workpapers for the 12 months of actual experience and claimed adjustments and analytical details as set forth in §154.312, Schedule H-1 (3).

(12) *Schedule H-2*. Depreciation, Depletion, Amortization and Negative Salvage Expenses. Show, separately, the gas plant depreciation, depletion, amortization, and negative salvage expenses by functional classifications. For each functional plant classification, show depreciation reserve associated with offshore and onshore plant separately. The bases, methods, essential computations, and derivation of unit rates for the calculation of depreciation, depletion, amortization, and negative salvage expenses for actual experience must be explained.

(13) *Schedule H-3*. Income Tax Allowances Computed on the Basis of the Rate of Return Claimed. Show the computation of allowances for Federal and State income taxes based on the claimed return applied to the overall gas utility rate base.

(14) *Schedule H-3 (1)*. This schedule is part of the workpapers. Show the computation of an updated reconciliation between book depreciable plant and tax depreciable plant and accumulated provision for deferred income taxes, for the base period or latest calendar or fiscal year (depending on the company's reporting period).

(15) *Schedule H-4*. Other Taxes. Show the gas utility taxes, other than Federal or state income taxes in separate columns, as follows: Tax expense per books for the 12 months of actual experience;) adjustments, if any, to amounts booked; and, the total adjusted taxes claimed. Provide the details of the kind and amount of taxes paid under protest or in connection with taxes under litigation. The taxes must be shown by states and by kind of taxes. Explain all adjustments.

**§ 154.314 Other support for a filing.**

(a) Any company filing for a rate change is responsible for preparing prior to filing, and maintaining, workpapers sufficient to support the filing.

(b) If the natural gas company has relied upon data other than those in

Statements A through P in §154.312 in support of its general rate change, such other data must be identified and submitted.

**§ 154.315 Asset retirement obligations.**

(a) A natural gas company that files a tariff change under this part and has recorded an asset retirement obligation on its books must provide a schedule, as part of the supporting workpapers, identifying all cost components related to the asset retirement obligations that are included in the book balances of all accounts reflected in the cost of service computation supporting the proposed rates. However, all cost components related to asset retirement obligations that would impact the calculation of rate base, such as gas plant and related accumulated depreciation and accumulated deferred income taxes, may not be reflected in rates and must be removed from the rate base calculation through a single adjustment.

(b) A natural gas company seeking to recover nonrate base costs related to asset retirement obligations in rates must provide, with its filing under §154.312 or §154.313, a detailed study supporting the amounts proposed to be collected in rates.

(c) A natural gas company who has recorded asset retirement obligations on its books but is not seeking recovery of the asset retirement costs in rates, must remove all asset retirement obligations related cost components from the cost of service supporting its proposed rates.

[Order 631, 68 FR 19622, Apr. 21, 2003]

**Subpart E—Limited Rate Changes**

**§ 154.400 Additional requirements.**

In addition to the requirements of subparts A, B, and C of this part, any proposal to implement a limited rate change must comply with this subpart.

**§ 154.401 RD&D expenditures.**

(a) *Requirements*. Upon approval by the Commission, a natural gas company may file to recover research, development, and demonstration (RD&D) expenditures in its rates under this subpart.



(b) *Applications for rate treatment approval.* (1) An application for advance approval of rate treatment may be filed by a natural gas company for RD&D expenditures related to a project or group of projects undertaken by the company or as part of a project undertaken by others. When more than one company supports an RD&D organization, the RD&D organization may submit an application that covers the organization's RD&D program. Approval by the Commission of such an RD&D application and program will constitute approval of the individual companies' contributions to the RD&D organization.

(2) An application for advance approval of rate treatment must include a 5-year program plan and must be filed at least 180 days prior to the commencement of the 5-year period of the plan.

(3) A 5-year program plan must include at a minimum:

(i) A statement of the objectives for the 5-year period that relates the objectives to the interests of ratepayers, the public, and the industry and to the objectives of other major research organizations.

(ii) Budget, technical, and schedule information in sufficient detail to explain the work to be performed and allow an assessment of the probability of success and a comparison with other organizations' research plans.

(iii) The commencement date, expected termination date, and expected annual costs for individual RD&D projects to be initiated during the first year of the plan.

(iv) A discussion of the RD&D efforts and progress since the preparation of the program plan submitted the previous year and an explanation of any changes that have been made in objectives, priorities, or budgets since the plan of the previous year.

(v) A statement identifying all jurisdictional natural gas companies that will support the program and specifying the amounts of their budgeted support.

(vi) A statement identifying those persons involved in the development, review, and approval of the plan and specifying the amount of effort con-

tributed and the degree of control exercised by each.

(c) Applications must describe the RD&D projects in such detail as to satisfy the Commission that the RD&D expenditures qualify as valid, justifiable, and reasonable.

(d) Within 120 days of the filing of an application for rate treatment approval and a 5-year program plan, the Commission will state its decision with respect to acceptance, partial acceptance, or rejection of the plan, or, when the complexity of issues in the plan so requires, will set a date certain by which a final decision will be made, or will order the matter set for hearing. Partial rejection of a plan by the Commission will be accompanied by a decision as to the partial level of acceptance which will be proportionally applied to all contributions listed for jurisdictional companies in the plan. Approval by the Commission of a 5-year plan constitutes approval for rate treatment of all projects identified as starting during the first year of the approved plan. Continued rate treatment will depend upon review and evaluation of subsequent annual applications and 5-year program plans.

#### § 154.402 ACA expenditures.

(a) *Requirements.* Upon approval by the Commission, a natural gas pipeline company may adjust its rates, annually, to recover from its customers annual charges assessed by the Commission under part 382 of this chapter pursuant to an annual charge adjustment clause (ACA clause). Prior to the start of each fiscal year, the Commission will post on its Web site the amount of annual charges to be flowed through per unit of energy sold or transported (ACA unit charge) for that fiscal year. A company's ACA clause must be filed with the Commission and must incorporate by reference the ACA unit charge for the upcoming fiscal year as posted on the Commission's Web site. A company must incorporate by reference the ACA unit charge posted on the Commission's Web site in each of its rate schedules applicable to sales or transportation deliveries. The company must apply the ACA unit charge posted on the Commission's Web site to the usage component of rate schedules

with two-part rates. A company may recover annual charges through an ACA unit charge only if its rates do not otherwise reflect the costs of annual charges assessed by the Commission under §382.106(a) of this chapter. The applicable annual charge, required by §382.103 of this chapter, must be paid before the company applies the ACA unit charge. Upon payment to the Commission of its annual charges, the ACA unit charge for that fiscal year will be incorporated by reference into the company's tariff, effective throughout that fiscal year.

(b) *Application for rate treatment authorization.* A company seeking authorization to use an ACA unit charge must file with the Commission a separate ACA tariff record containing:

(1) A statement that the company is collecting an ACA unit charge, as calculated by the Commission, applicable to all the pipeline's sales and transportation rate schedules,

(2) A statement that the ACA unit charge, as revised annually and posted on the Commission's Web site, is incorporated by reference into the company's tariff,

(3) For companies with existing ACA clauses, a proposed effective date of the tariff change of October 1 of the fiscal year; for companies seeking to utilize an ACA clause after October 1 of the fiscal year, a proposed effective date 30 days after the filing of the tariff record, unless a shorter period is specifically requested in a waiver petition and approved), and

(4) A statement that the pipeline will not recover any annual charges recorded in FERC Account 928 in a proceeding under subpart D of this part.

(c) Changes to the ACA unit charge must be filed annually, to reflect the annual charge unit rate authorized by the Commission each fiscal year.

[Order 582, 60 FR 52996, Oct. 11, 1995, as amended by Order 714, 73 FR 57535, Oct. 3, 2008; Order 776, 78 FR 19412, Apr. 1, 2013]

#### § 154.403 Periodic rate adjustments.

(a) This section applies to the passthrough, on a periodic basis, of a single cost item or revenue item for which passthrough is not regulated under another section of this subpart, and to re-

visions on a periodic basis of a gas reimbursement percentage.

(b) Where a pipeline recovers fuel use and unaccounted-for natural gas in kind, the fuel reimbursement percentage must be stated in the tariff either on the tariff sheet stating the currently effective rate or on a separate tariff sheet or section in such a way that it is clear what amount of natural gas must be tendered in kind for each service rendered.

(c) A natural gas company that passes through a cost or revenue item or adjusts its fuel reimbursement percentage under this section, must state within the general terms and conditions of its tariff, the methodology and timing of any adjustments. The following must be included in the general terms and conditions:

(1) A statement of the nature of the revenue or costs to be flowed through to the customer;

(2) A statement of the manner in which the cost or revenue will be collected or returned, whether through a surcharge, offset, or otherwise;

(3) A statement of which customers are recipients of the revenue credit and which rate schedules are subject to the cost or fuel reimbursement percentage;

(4) A statement of the frequency of the adjustment and the dates on which the adjustment will become effective;

(5) A step-by-step description of the manner in which the amount to be flowed through is calculated and a step-by-step description of the flowthrough mechanism, including how the costs are classified and allocated. Where the adjustment modifies a rate established under subpart D of this part, the methodology must be consistent with the methodology used in the proceeding under subpart D of this part;

(6) Where costs or revenue credits are accumulated over a past period for periodic recovery or return, the past period must be defined and the mechanism for the recovery or return must be detailed on a step-by-step basis. Where the natural gas company proposes to use a surcharge to clear an account in which the difference between costs or revenues, recovered through rates, and actual costs and revenues

accumulate, a statement must be included detailing, on a step-by-step basis, the mechanism for calculating the entries to the account and for passing through the account balance.

(7) Where carrying charges are computed, the calculations must be consistent with the methodology and reporting requirements set forth in §154.501 using the carrying charge rate required by that section. A natural gas company must normalize all income tax timing differences which are the result of differences between the period in which expense or revenue enters into the determination of taxable income and the period in which the expense or revenue enters into the determination of pre-tax book income. Any balance upon which the natural gas company calculates carrying charges must be adjusted for any recorded deferred income taxes.

(8) Where the natural gas company discounts the rate component calculated pursuant to this section, explain on a step-by-step basis how the natural gas company will adjust for rate discounts in its methodology to reflect changes in costs under this section.

(9) If the costs passed through under a mechanism approved under this section are billed by an upstream natural gas company, explain how refunds received from upstream natural gas companies will be passed through to the natural gas company's customers, including the allocation and classification of such refunds;

(10) A step-by-step explanation of the methodology used to reflect changes in the fuel reimbursement percentage, including the allocation and classification of the fuel use and unaccounted-for natural gas. Where the adjustment modifies a fuel reimbursement percentage established under subpart D of this part, the methodology must be consistent with the methodology used in the proceeding under subpart D of this part;

(11) A statement of whether the difference between quantities actually used or lost and the quantities retained from the customers for fuel use and loss will be recovered or returned in a future surcharge. Include a step-by-step explanation of the methodology

used to calculate such surcharge. Any period during which these differences accumulate must be defined.

(d) *Filing requirements.* (1) Filings under this section must include:

(i) A summary statement showing the rate component added to each rate schedule with workpapers showing all mathematical calculations.

(ii) If the filing establishes a new fuel reimbursement percentage or surcharge, include computations for each fuel reimbursement or surcharge calculated, broken out by service, classification, area, zone, or other subcategory.

(iii) Workpapers showing the allocation of costs or revenue credits by rate schedule and step-by-step computations supporting the allocation, segregated into reservation and usage amounts, where appropriate.

(iv) Where the costs, revenues, rates, quantities, indices, load factors, percentages, or other numbers used in the calculations are publicly available, include references by source.

(v) Where a rate or quantity underlying the costs or revenue credits is supported by publicly available data (such as another natural gas company's tariff or EBB), the source must be referenced to allow the Commission and interested parties to review the source. If the rate or quantity does not match the rate or quantity from the source referenced, provide step-by-step instructions to tie the rate in the referenced source to the rate in the filing.

(vi) Where a number is derived from another number by applying a load factor, percentage, or other adjusting factor not referenced in paragraph (d)(1)(i) of this section, include workpapers and a narrative to explain the calculation of the adjusting factor.

(2) If the natural gas company is adjusting its rates to reflect changes in transportation and compression costs paid to others:

(i) The changes in transportation and compression costs must be based on the rate on file with the Commission. If the rate is not on file with the Commission or a discounted rate is paid, the rate reflected in the filing must be the rate the natural gas company is contractually obligated to pay;

(ii) The filing must include appropriate credits for capacity released under §284.243 of this chapter with workpapers showing the quantity released, the revenues received from the release, the time period of the release, and the natural gas pipeline on which the release took place; and,

(iii) The filing must include a statement of the refunds received from each upstream natural gas company which are included in the rate adjustment. The statement must conform to the requirements set forth in §154.501.

(3) If the natural gas company is reflecting changes in its fuel reimbursement percentage, the filing must include:

(i) A summary statement of actual gas inflows and outflows for each month used to calculate the fuel reimbursement percentage or surcharge. For purposes of establishing the surcharge, the summary statement must be included for each month of the period over which the differences defined in paragraph (c) of this section accumulate.

(ii) Where the fuel reimbursement percentage is calculated based on estimated activity over a future period, the period must be defined and the estimates used in the calculation must be justified. If any of the estimates are publicly available, include a reference to the source.

(4) The natural gas company must not recover costs and is not obligated to return revenues which are applicable to the period pre-dating the effectiveness of the tariff language setting forth the periodic rate change mechanism, unless permitted or required to do so by the Commission.

[Order 582, 60 FR 52996, Oct. 11, 1995, as amended by Order 714, 73 FR 57535, Oct. 3, 2008]

## Subpart F—Refunds and Reports

### § 154.501 Refunds.

(a) *Refund Obligation.* (1) Any natural gas company that collects rates or charges pursuant to this chapter must refund that portion of any increased rates or charges either found by the Commission not to be justified, or approved for refund by the Commission as part of a settlement, together with in-

terest as required in paragraph (d) of this section. The refund plus interest must be distributed as specified in the Commission order requiring or approving the refund, or if no date is specified, within 60 days of a final order. For purposes of this paragraph, a final order is an order no longer subject to rehearing. The pipeline is not required to make any refund until it has collected the refundable money through its rates.

(2) Any natural gas company must refund to its jurisdictional customers the jurisdictional portion of any refund it receives which is required by prior Commission order to be flowed through to its jurisdictional customers or represents the refund of an amount previously included in a filing under §154.403 and charged and collected from jurisdictional customers within thirty days of receipt or other time period established by the Commission or as established in the pipeline's tariff.

(b) *Costs of Refunding.* Any natural gas company required to make refunds pursuant to this section must bear all costs of such refunding.

(c) *Supplier Refunds.* The jurisdictional portion of supplier refunds (including interest received), applicable to periods in which a purchased gas adjustment clause was in effect, must be flowed through to the natural gas company's jurisdictional gas sales customers during that period with interest as computed in paragraph (d) of this section.

(d) *Interest on Refunds.* Interest on the refund balance must be computed from the date of collection from the customer until the date refunds are made as follows:

(1) At an average prime rate for each calendar quarter on all excessive rates or charges held (including all interest applicable to such rates and charges) on or after October 1, 1979. The applicable average prime rate for each calendar quarter must be the arithmetic mean, to the nearest one-hundredth of one percent, of the prime rate values published in the Federal Reserve Bulletin, or in the Federal Reserve's "Selected Interest Rates" (Statistical Release G, 13), for the fourth, third, and second months preceding the first month of the calendar quarter.

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(2) The interest required to be paid under paragraph (d)(1) of this section must be compounded quarterly.

(3) The refund balance must be either:

(i) The revenues resulting from the collection of the portion of any increased rates or charges found by the Commission not to be justified; or

(ii) An amount agreed upon in a settlement approved by the Commission; or

(iii) The jurisdictional portion of a refund the natural gas company receives.

(e) Unless otherwise provided by the order, settlement or tariff provision requiring the refund, the natural gas company must file a report of refunds, within 30 days of the date the refund was made, which complies with § 154.502 and includes the following:

(1) Workpapers and a narrative sufficient to show how the refunds for jurisdictional services were calculated;

(2) Workpapers and a narrative sufficient to determine the origin of the refund, including step-by-step calculations showing the derivation of the refund amount described in paragraph (d)(3) of this section, if necessary;

(3) References to any publicly available sources which confirm the rates, quantities, or costs, which are used to calculate the refund balance or which confirm the refund amount itself. If the rate, quantity, cost or refund does not directly tie to the source, a workpaper must be included to show the reconciliation between the rate, quantity, cost, or refund in the natural gas company's report and the corresponding rate, quantity, cost or refund in the source document;

(4) Workpapers showing the calculation of interest on a monthly basis, including how the carrying charges were compounded quarterly;

(5) Workpapers and a narrative explaining how the refund was allocated to each jurisdictional customer. Where the numbers used to support the allocation are publicly available, a reference to the source must be included. Where the allocation methodology has been approved previously, a reference to the order or tariff provision approving the allocation methodology must be included.

(6) A letter of transmittal containing:

(i) A list of the material enclosed;

(ii) The name and telephone number of a company official who can answer questions regarding the filing;

(iii) A statement of the date the refund was disbursed;

(iv) A reference to the authority by which the refund is made, including the specific subpart of these regulations, an order of the Commission, a provision of the company's tariff, or any other appropriate authority. If a Commission order is referenced, include the citation to the FERC Reports, the date of issuance, and the docket number;

(v) Any requests for waiver. Requests must include a reference to the specific section of the statute, regulations, or the company's tariff from which waiver is sought, and a justification for the waiver.

(7) A certification of service to all affected customers and interested state commissions.

(f) Each report filed under paragraph (e) of this section must be posted no later than the date of filing. Each report must be posted to all recipients of a share of the refund and all state commissions whose jurisdiction includes the location of any recipient of a refund share that have made a standing request for such full report.

(g) Recipients of refunds and state commissions that have not made a standing request for such full report shall receive an abbreviated report consisting of the items listed in § 154.501 (e)(5) and (e)(6).

[Order 582, 60 FR 52996, Oct. 11, 1995, as amended by Order 582-A, 61 FR 9629, Mar. 11, 1996]

**§ 154.502 Reports.**

(a) When the natural gas company is required, either by a Commission order or as a part of a settlement in a proceeding initiated under this part 154 or part 284 of this chapter, to make a report on a periodic basis, details about the nature and contents of the report must be provided in an appropriate section of the general terms and conditions of its tariff.

(b) The details in the general terms and conditions of the tariff must include the frequency and timing of the

report. Explain whether the report is filed annually, semi-annually, monthly, or is triggered by an event. If triggered by an event, explain how soon after the event the report must be filed. If the report is periodic, state the dates on which the report must be filed.

(c) Each report must include:

(1) A letter of transmittal containing:

(i) A list of the material enclosed;

(ii) The name and telephone number of a company official who can answer questions regarding the filing;

(iii) A reference to the authority by which the report is made, including the specific subpart of these regulations, an order of the Commission, a provision of the company's tariff, or any other appropriate authority. If a Commission order is referenced, include the citation to the FERC Reports, the date of issuance, and the docket number;

(iv) Any requests for waiver. Requests must include a reference to the specific section of the statute, regulations, or the company's tariff from which waiver is sought, and a justification for the waiver.

(2) A certification of service to all affected customers and interested state commissions.

(d) Each report filed under paragraph (b) of this section must be posted no later than the date of filing.

### Subpart G—Other Tariff Changes

#### § 154.600 Compliance with other subparts.

Any proposal to implement a tariff change other than in rate level must comply with subparts A, B, and C of this part.

#### § 154.601 Change in executed service agreement.

Agreements intended to effect a change or revision of an executed service agreement on file with the Commission must be in the form of a superseding executed service agreement only. Service agreements may not contain any supplements, but may contain exhibits which may be separately superseded. The exhibits may show, among other things, contract demand delivery points, delivery pressures,

names of industrial customers of the distributor-customer, or names of distributors (with one distributor named as agent where delivery to several distributors is effected at the same delivery points).

#### § 154.602 Cancellation or termination of a tariff, executed service agreement or part thereof.

When an effective tariff, contract, or part thereof on file with the Commission, is proposed to be canceled or is to terminate by its own terms and no new tariff, executed service agreement, or part thereof, is to be filed in its place, the natural gas company must notify the Commission of the proposed cancellation or termination, at least 30 days prior to the proposed effective date of such cancellation or termination. With such notice, the company must submit a statement showing the reasons for the cancellation or termination, a list of the affected customers and the contract demand provided to the customers under the service to be canceled. A copy of the notice must be duly posted tariff filing in the electronic format required by § 154.4.

[Order 582, 60 FR 52996, Oct. 11, 1995, as amended by Order 714, 73 FR 57535, Oct. 3, 2008]

#### § 154.603 Adoption of the tariff by a successor.

Whenever the tariff or contracts of a natural gas company on file with the Commission is to be adopted by another company or person as a result of an acquisition, or merger, authorized by a certificate of public convenience and necessity, or for any other reason, the succeeding company must file with the Commission, and post within 30 days after such succession, a tariff filing in the electronic format required by § 154.4 bearing the name of the successor company.

[Order 714, 73 FR 57535, Oct. 3, 2008]

### PART 156—APPLICATIONS FOR ORDERS UNDER SECTION 7(a) OF THE NATURAL GAS ACT

Sec.

156.1 Who may apply.

156.2 Purpose and intent of rules.

156.3 Applications; general requirements.

## § 156.1

- 156.4 Form of exhibits to be attached to applications.
- 156.5 Exhibits.
- 156.6 Acceptance for filing or rejection of application.
- 156.7 Service of application.
- 156.8 Notice of application.
- 156.9 Protests and interventions.
- 156.10 Hearings.
- 156.11 Dismissal of application.

AUTHORITY: 52 Stat. 824, 829, 830; 56 Stat. 83, 84; 15 U.S.C. 717f, 717f(a), 717n, 717o.

SOURCE: Order 234, 26 FR 4848, June 1, 1961, unless otherwise noted.

### § 156.1 Who may apply.

Any person or municipality as defined in section 2 of the Natural Gas Act engaged or legally authorized to engage in the local distribution of natural or artificial gas to the public may file with the Commission an application pursuant to the provisions of section 7(a) of the Natural Gas Act for an order of the Commission directing a natural gas company to extend or improve its transportation facilities, to establish physical connection of its transportation facilities with the facilities of, and sell natural gas to such person or municipality, and for such purpose to extend its transportation facilities to communities immediately adjacent to such facilities or to territory served by such natural gas company.

### § 156.2 Purpose and intent of rules.

(a) Applications filed pursuant to the provisions of section 7(a) of the Natural Gas Act shall contain all information necessary to advise the Commission fully concerning the applicant, the service which applicant requests the Commission to direct the natural gas company to render together with a description of any improvement or extension of facilities which the natural gas company would be required to make in connection with the rendition of the service, applicant's present and proposed operations, construction, service, and sales together with a description of any extension or improvement of facilities by applicant which would be required to enable applicant to engage in the local distribution of natural gas.

(b) Every requirement of this part shall be considered as an obligation upon the applicant which can be avoid-

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ed only by a definite and positive showing that the information or data required by the applicable section of the regulations is not necessary to the consideration and ultimate determination of the application.

(c) This part will be strictly applied to all applications as submitted and the burden of adequate presentation in understandable form as well as justification for omitted data or information rests with the applicant.

(d) Under this part, the natural gas company from which applicant is seeking the service is a party respondent to the proceeding.

### § 156.3 Applications; general requirements.

(a) Applicable rules. The application must be filed with the Secretary of the Commission in accordance with filing procedures posted on the Commission's Web site at <http://www.ferc.gov>. In all other respects applications shall conform to the requirements of §§156.1 through 156.5. Amendments to or withdrawals of applications shall be filed in accordance with the requirements of §§385.213 and 385.214 of this chapter.

(b) *General content of application; filing fee.* Except as provided in paragraph (d) of this section, each application shall set forth the following information:

(1) The exact legal name of the applicant; the name of the natural gas company (respondent) from which applicant is seeking an extension or improvement of transportation facilities, physical connection of facilities or service of natural gas together with a concise description of the extension, improvement, physical connection of facilities or service sought from such company including the estimated volumes of natural gas involved to meet annual and maximum day requirements for the estimated first three years of proposed operation.

(2) Applicant's principal place of business; whether applicant is an individual, corporation or municipality as defined in section 2 of the Natural Gas Act; State under the laws of which applicant is incorporated, organized or authorized; and the name, title, and

mailing address of the person or persons to whom communications concerning the application are to be addressed.

(3) The facts relied upon by applicant to show that the proposed extension or improvement of transportation facilities, physical connection of facilities or service and sale of natural gas are necessary or desirable in the public interest.

(4) A concise description of applicant's operations, if any, at the time the application is filed.

(5) A concise description of applicant's proposed operations, construction, service and sales together with a description of any extension or improvement of facilities by applicant which would be required to enable applicant to engage in the local distribution of natural gas and including the proposed dates for the beginning and completion of construction and commencement of operations.

(6) A full statement concerning and description of any certificate of public convenience and necessity, franchise or other authorization which applicant has applied for or received from any State commission or municipality covering its proposed operations.

(7) A full statement as to whether any other application must be or is to be filed by applicant with any other Federal or State body, or other political subdivision or agency of a State to enable applicant to engage in the local distribution of natural gas in the territory it proposes to serve.

(8) Each application shall contain a table of contents which shall list all exhibits and documents filed in compliance with §§ 156.1 through 156.2, as well as other documents and exhibits filed therewith, identifying them by their appropriate titles and alphabetical letter designations specified in § 156.5. The alphabetical designation specified in § 156.5 must be adhered to strictly and any additional exhibits submitted on applicant's own volition, pursuant to § 156.5(b) shall be designated in sequence under the letter designation Z (Z1, Z2, Z3, etc.). Together with each exhibit applicant shall set forth a full and complete explanation of the data submitted, the manner in which it was

obtained, and the reasons for the conclusions which are derived therefrom.

(c) *Incorporation by reference.* Any information required by this part which is already on file with the Commission may be incorporated by reference.

(d) *Small distributors.* A distributor requesting natural gas service of less than 2000 Mcf per day to serve a single community may file the information required by the form of application represented in § 250.6 of this chapter.

[Order 234, 26 FR 4848, June 1, 1961, as amended by Order 280, 29 FR 4875, Apr. 7, 1964; Order 317, 31 FR 432, Jan. 13, 1966; Order 225, 47 FR 19057, May 3, 1982; Order 737, 75 FR 43404, July 26, 2010]

#### § 156.4 Form of exhibits to be attached to applications.

(a) *General requirements.* Each exhibit shall contain a title page showing applicant's name, Docket No. CP- \_\_\_\_\_ (number designation to be left blank), title of exhibit, and if exhibit consists of 10 or more pages a table of contents citing by page, section number or subdivision the component elements or matters contained therein.

(b) *Measurement base.* All gas volumes shall be stated upon a uniform basis of measurement, and, in addition, if the uniform basis of measurement used in any application is other than 14.73 p.s.i.a., then the volume or volumes of natural gas to be received from any source and delivered by applicant shall also be stated upon a basis of 14.73 p.s.i.a. Similarly, total volumes on all summary sheets, as well as grand totals of volumes in any exhibit, shall also be stated upon a basis of 14.73 p.s.i.a. if the basis of measurement used is other than 14.73 p.s.i.a.

#### § 156.5 Exhibits.

(a) *Exhibits to be submitted with application.* All of the following exhibits shall be submitted with the application when tendered for filing. Such exhibits may be attached to the application or furnished in a separate volume or separate volumes designated "Exhibits to Application." Such separate volume or volumes shall indicate on the cover thereof applicant's name and bear Docket No. CP- \_\_\_\_\_ (number designation to be left blank).



(1) *Exhibit A—Articles of incorporation and bylaws.* If applicant is not an individual, a conformed copy of its articles of incorporation and bylaws, or other similar documents. One certified copy shall be submitted with the original application.

(2) *Exhibit B—State and local authorizations.* (i) A copy of any certificate of public convenience and necessity or similar authorization which applicant has obtained from the State commission or commissions of each of the States in which applicant engages or proposes to engage in the local distribution of natural gas; (ii) a copy of any franchise or similar authorization which applicant has obtained from each of the municipalities in which applicant engages or proposes to engage in the local distribution of natural gas; and (iii) a copy of any other authorization or form of consent which applicant has obtained from any State, State commission, municipality or from any agency of the Federal government necessary or incidental to applicant's proposal to engage in the local distribution of natural gas. One certified copy of each of the documents specified in paragraphs (a)(2) (i), (ii), and (iii) of this section shall be submitted as exhibits to the original application.

(3) *Exhibit C—Officials.* A list of the names and business addresses of applicant's officers and directors, or similar officials if applicant is not a corporation.

(4) *Exhibit D—Subsidiaries and affiliation.* If applicant or any of its officers or directors, directly or indirectly, owns, controls, or holds with power to vote, 10 percent or more of the outstanding voting securities of any other person or organized group of persons engaged in production, transportation, distribution, or sale of natural gas, or of any person or organized group of persons engaged in the construction or financing of such enterprises or operations, a detailed explanation of each such relationship, including the percentage of voting strength represented by such ownership of securities. If any persons or organized group of persons, directly or indirectly, owns, controls, or holds with power to vote, 10 percent or more of the outstanding voting secu-

rities of applicant—give a detailed explanation of each such relationship.

(5) *Exhibit F—Location of facilities.* A geographical map of suitable scale and detail showing all of the transmission facilities proposed to be installed and operated by Applicant between distribution systems of Applicant and the transmission pipeline system of the proposed supplier (respondent), and include:

(i) Location, length, and size of applicant's transmission pipelines.

(ii) Location and size (related horsepower) of applicant's transmission compressor stations.

(iii) Location and designation of each point of connection of applicant's proposed transmission facilities with (a) proposed pipeline supplier (respondent) main line industrial customers, gas pipeline or distribution systems, showing towns and communities to be served, and (b) gas producing and storage filed, or other sources of supply.

(iv) Location, length and size of facilities required to be installed by the proposed supplier (respondent) necessary for the rendition of service requested by the applicant.

(6) *Exhibit G—Flow diagram showing daily design capacity and reflecting operation with proposed transmission facilities.* A flow diagram showing daily design capacity of all transmission facilities proposed to be installed and operated by applicant between distribution facilities of applicant and the transmission pipeline system of the proposed supplier (respondent) including the following:

(i) Diameter, wall thickness, and length of pipe to be installed.

(ii) For each transmission compressor station, the size, type, and number of compressor units, horsepower required, horsepower to be installed, volume of gas to be used as fuel, suction and discharge pressures, and compression ratio.

(iii) Pressures and volumes of gas at the main line inlet and outlet connections at each compressor station.

(iv) Pressures and volumes of gas at each intake and takeoff point and at the beginning and terminus of all proposed transmission facilities.

(7) *Exhibit G-I—Flow diagram reflecting maximum capabilities.* If Exhibit G does

not reflect the maximum deliveries of all transmission facilities, proposed to be installed and operated by applicant between distribution facilities of applicant and the transmission pipeline system of the proposed supplier (respondent), under most favorable operating conditions, without installation of any facilities in addition to those proposed in the application, include an additional diagram or diagrams to depict such maximum capabilities.

(8) *Exhibit G-II—Flow diagram data.* Exhibits G and G-I shall be accompanied by a statement of engineering design data in explanation and support of the diagrams and the proposed project, setting forth:

(i) Assumption, bases, formulae, and methods used in the development and preparation of such diagrams and accompanying data.

(ii) A description of the transmission pipe and fittings to be installed, specifying the diameter, wall thickness, yield point, ultimate tensile strength, method of fabrication, and methods of testing proposed.

(iii) Type, capacity, and location of each natural gas storage field or facility, or other similar plant or facility directly attached to the applicant's transmission system.

(9) *Exhibit H—Total gas supply data.* A statement of the total gas supply committed to, controlled by, or possessed by an applicant which is available to it for the acts and the services proposed, together with:

(i) The estimated total volume of proven reserves in place for each reservoir in each field from which applicant takes natural gas, giving names and location of fields (state, county, or parish).

(ii) The estimated total volumes of proven reserves available to applicant by fee or under lease, segregated by gas fields and reservoirs thereof, giving names and locations of fields (state, county, or parish).

(iii) The names and addresses of persons with whom applicant has gas purchase contracts, the effective dates and remaining terms in years of such contracts.

(iv) A study, showing the daily volumes of natural gas which can and are

proposed to be obtained each year from each source of supply.

(v) Estimate of the Btu content of the gas available to or requested by applicant for proposed service.

(vi) A study of each proposed gas storage field showing: Location; geology; original and present reserves for each reservoir; original and present pressure of each reservoir; proposed top and base storage pressures; proposed top and base gas volumes to be stored; a deliverability study, including daily and annual injection and withdrawal rates and pressures; and maximum daily deliverability and maximum storage capacity under the proposed plan of development.

(10) *Exhibit I—Market data.* An estimate by distribution systems of the volumes of gas to be delivered during the year in which proposed service is estimated to begin and during each of the first 3 full years of operation of the proposed facilities, and actual data of like import for each of the 3 years next preceding the filing of the application, together with:

(i) Names and locations of areas to be served, showing the number of residential, commercial, firm industrial, interruptible industrial, residential space heating, commercial space heating, and other types of customers for each distribution system to be served; and the names and locations of each firm and interruptible direct industrial customer whose estimated consumption totals 10,000 Mcf or more in any calendar month or 100,000 Mcf or more per year.

(ii) Applicant's total annual and peak day gas requirements by classification of service in paragraph (a)(10)(i) of this section, divided as follows: Gas requirements (a) for each distribution area where gas is sold or to be sold by applicant at retail; (b) for all main-line direct industrial customers and (c) company use and unaccounted-for gas.

(iii) Total past and expected curtailments of service by the applicant in each distribution area proposed to be supplied with gas from the project, all to be listed by the classifications of service as indicated in paragraph (a)(10)(i) of this section.

(iv) Explanation of basic factors used in estimating future requirements, including, for example: Peak day and annual degree day deficiencies, annual load factors of applicant's deliveries to its proposed customers; derivation of numbers of customers proposed to be served; individual consumer peak day and annual consumption factors for each class of consumers, with supporting historical data; forecasted saturation of space heating as related to past experience; and full detail as to all other sources of gas supply available to applicant and to each of its customers, including manufacturing facilities and liquid petroleum gas.

(v) A full description of all facilities, other than transmission facilities, necessary to provide service in the communities to be served.

(vi) A copy of each market survey made within the past 3 years for the markets proposed to be served.

(11) *Exhibit J—Conversion to natural gas.* If it is assumed that proposed customers in new areas or firm and interruptible direct industrial customers whose estimated consumption totals 10,000 Mcf or more in any calendar month or 100,000 Mcf or more in any calendar year will convert from other fuels to natural gas, state the basis for such assumption and include a study showing estimated cost of converting customers' facilities to natural gas. The study should indicate the number of customers of each of the other fuels who applicant anticipates will convert to natural gas and the current cost of fuel to be displaced compared to the cost of natural gas on an equivalent Btu basis.

(12) *Exhibit K—Cost of facilities.* A detailed estimate of total capital cost of the proposed facilities involved in the application, showing cost of construction by operating units such as distribution facilities, compressor stations, transmission pipelines and laterals, measuring and regulating stations, and separately stating the cost of rights-of-way, damages, surveys, materials, labor, engineering and inspection, administrative overhead, fees for legal and other services, allowance for funds used during construction, and contingencies. Detailed estimates of cost of facilities required to be in-

stalled by the pipeline supplier shall be separately stated.

(13) *Exhibit L—Financing.* Plans for financing the proposed facilities for which the application is filed, together with:

(i) A detailed description of applicant's outstanding and proposed securities and liabilities, showing amount (face value and number), interest or dividend rate, dates of issue and maturity, voting privileges, and principal terms and conditions applicable to each.

(ii) The manner in which applicant proposes to dispose of securities by private sale, competitive bidding or otherwise; the persons, if known, to whom they will be sold or issued, and evidence that such persons having agreed to purchase the securities, and if not known, the class or classes of such persons.

(iii) A statement showing for each proposed issue, by total amount and by unit, the estimated sale price and estimated net proceeds to the applicant.

(iv) A statement as to the extent to which the applicant will rely on temporary financing in connection with the proposed construction, and statements tending to substantiate the fact that such temporary loans will be made available.

(v) Statement of anticipated cash flow, including provision during the period of construction and the first 3 full years of proposed operation for interest requirements, dividends, and capital retirements.

(vi) Statement showing, over the life of each issue, the annual amount of securities which applicant expects to retire through operation of a sinking fund or other extinguishment of the obligation.

(vii) A balance sheet and income statement (12 months) of most recent date available.

(viii) Comparative pro forma balance sheets and income statements for the period of construction and each of the first 3 full years of operation, giving effect to the proposed construction and proposed financing of the project.

(ix) Any additional data and information upon which applicant proposes to rely in showing the adequacy and

availability to it of resources for financing its proposed project.

(14) *Exhibit M—Construction, operation, and management.* A concise statement setting forth arrangements for supervision, management, engineering, accounting, legal, or other similar service to be rendered in connection with the construction or operation of the project if not to be performed by employees of applicant, including reference to any existing or contemplated agreements therefor.

(15) *Exhibit N—Revenues, expenses income.* Applicant shall submit pro forma statements for each of the first 3 full years of operation of all the proposed facilities, showing:

(i) Gas system annual revenues and volumes of natural gas related thereto subdivided by classes of service and further subdivided by sales to direct industrial customers, sales to other utilities (if any), transportation for other gas utilities and other sales.

(ii) Gas system annual operating expenses, cost of gas purchased, depreciation, depletion, taxes, utility income and resulting rate of return on net investment in gas plant, including working capital, or in the case of a municipality applicant similar data and amortization-interest schedule for life of each bond issue related to the proposed project. Cost of gas purchased shall be at the currently effective applicable rate of the pipeline supplier or applicable rate filed by such pipeline supplier, but not effective at date of filing, whichever is the higher.

(iii) The information required by paragraphs (a)(15)(i) and (ii) of this section need not be furnished when the applicant furnishes as a part of its application a pro forma copy of a certificate of convenience and necessity or similar authorization issued to it by the local State commission having jurisdiction over its proposed operations.

(16) *Exhibit P—Rates.* (i) A statement of the rates proposed to be charged for the proposed services to be rendered. Indicate whether rates are subject to regulation by the State or local authorities.

(ii) Identification of the rate schedule of the natural gas company (respondent) under which gas is proposed to be purchased.

(b) *Additional exhibits.* Applicant shall submit additional exhibits necessary to support or clarify its application. Such exhibits shall be identified and designated as provided by §156.3(b)(8).

(c) *Additional information.* Upon request by the Secretary, prior to or during hearing upon the application, applicant shall submit such additional data, information, exhibits, or other detail as may be specified.

[Order 234, 26 FR 4848, June 1, 1961, as amended by Order 280, 29 FR 4876, Apr. 7, 1964; Order 436, 36 FR 15530, Aug. 17, 1971; Order 225, 47 FR 19057, May 3, 1982]

#### § 156.6 Acceptance for filing or rejection of application.

Applications will be docketed when received and the applicant so advised. Any application which does not conform to the requirements of §§156.1 through 156.5 will be rejected by the Secretary. All but one copy of a rejected application will be returned. An application which relates to an operation concerning which a prior application has been filed and rejected, shall be docketed as a new application. Such new application shall state the docket number of the prior rejected application.

#### § 156.7 Service of application.

After an application has been accepted for filing, the Secretary will cause a copy thereof to be served upon the natural gas company (respondent) against which an order pursuant to section 7(a) of the Natural Gas Act has been requested. The natural gas company shall, within 30 days after the date of service of such application file its answer (an original and 7 conformed copies) to such application in which it shall state whether it has any objection to the grant of the application. If the natural gas company objects to the grant of the relief sought by the application, it shall fully state the grounds and reasons for its objections. The answer shall be verified and shall be signed by an executive of the natural gas company. In the event that the respondent natural gas company fails to

## § 156.8

file a timely response to the application it shall be deemed to have agreed to the grant thereof.

[Order 302, 30 FR 9302, July 27, 1965, as amended by Order 225, 47 FR 19057, May 3, 1982]

### § 156.8 Notice of application.

Notice of each application filed, except when rejected in accordance with § 156.6, will be published in the FEDERAL REGISTER and copies of such notice sent to the State affected thereby via electronic means if practical, otherwise by mail.

[Order 653, 70 FR 8724, Feb. 23, 2005]

### § 156.9 Protests and interventions.

Notices of applications, as provided by § 156.8 will fix the time within which any person desiring to participate in the proceeding or to file a protest regarding the application, may file a petition to intervene or protest, and within which any interested regulatory agency desiring to intervene may file its notice of intervention. Failure to make timely filing will constitute ground for denial of participation, in the absence of extraordinary circumstances for good cause shown.

### § 156.10 Hearings.

The Commission will schedule each application for public hearing at the earliest possible date giving due consideration of statutory requirements and other matters pending, with notice thereof as provided by § 385.2009 of this chapter: *Provided, however,* That where no protests or petitions to intervene have been received and accepted, the Commission may, after the due date for such protests or petitions to intervene, issue the requested order without hearing.

[Order 234, 26 FR 4848, June 1, 1961, as amended by Order 225, 47 FR 19057, May 3, 1982]

### § 156.11 Dismissal of application.

Except for good cause shown, failure of an applicant to go forward on the date set for hearing and present its full case in support of its application will constitute ground for the summary dismissal of the application and the termination of the proceedings.

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### PART 157—APPLICATIONS FOR CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY AND FOR ORDERS PERMITTING AND APPROVING ABANDONMENT UNDER SECTION 7 OF THE NATURAL GAS ACT

#### Subpart A—Applications for Certificates of Public Convenience and Necessity and for Orders Permitting and Approving Abandonment Under Section 7 of the Natural Gas Act, as Amended, Concerning Any Operation, Sales, Service, Construction, Extension, Acquisition or Abandonment

##### Sec.

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- 157.5 Purpose and intent of rules.
- 157.6 Applications; general requirements.
- 157.7 Abbreviated applications.
- 157.8 Acceptance for filing or rejection of applications.
- 157.9 Notice of application and notice of schedule for environmental review.
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**Federal Energy Regulatory Commission**

**§ 157.5**

**Subpart C [Reserved]**

**Subpart D—Exemption of Natural Gas Service for Drilling, Testing, or Purging from Certificate Requirements**

157.53 Testing.

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APPENDIX I TO SUBPART F—PROCEDURES FOR COMPLIANCE WITH THE ENDANGERED SPECIES ACT OF 1973 UNDER §157.206(b)(3)(i)

APPENDIX II TO SUBPART F—PROCEDURES FOR COMPLIANCE WITH THE NATIONAL HISTORIC PRESERVATION ACT OF 1966 UNDER §157.206(b)(3)(ii)

**Subpart G—Natural Gas Producer Blanket Authorization for Sales and Abandonment [Reserved]**

AUTHORITY: 15 U.S.C. 717–717z.

**Subpart A—Applications for Certificates of Public Convenience and Necessity and for Orders Permitting and Approving Abandonment under Section 7 of the Natural Gas Act, as Amended, Concerning Any Operation, Sales, Service, Construction, Extension, Acquisition or Abandonment**

**§ 157.1 Definitions.**

For the purposes of this part—

For the purposes of §157.21 of this part, *Director* means the Director of the Commission's Office of Energy Projects.

*Indian tribe* means, in reference to a proposal or application for a certificate or abandonment, an Indian tribe which is recognized by treaty with the United States, by federal statute, or by the U.S. Department of the Interior in its periodic listing of tribal governments in the FEDERAL REGISTER in accordance with 25 CFR 83.6(b), and whose legal rights as a tribe may be affected by the proposed construction, operation or abandonment of facilities or services (as where the construction or operation of the proposed facilities could interfere with the tribe's hunting or fishing rights or where the proposed facilities would be located within the tribe's reservation).

*Resource agency* means a Federal, state, or interstate agency exercising administration over the areas of recreation, fish and wildlife, water resource management, or cultural or other relevant resources of the state or states in which the facilities or services for which a certificate or abandonment is proposed are or will be located.

[Order 608, 64 FR 51220, Sept. 22, 1999, as amended by Order 665, 70 FR 60440, Oct. 18, 2005]

**§ 157.5 Purpose and intent of rules.**

(a) Applications under section 7 of the Natural Gas Act shall set forth all information necessary to advise the

Commission fully concerning the operation, sales, service, construction, extension, or acquisition for which a certificate is requested or the abandonment for which permission and approval is requested. Some applications may be of such character that an abbreviated application may be justified under the provisions of §157.7. Applications for permission and approval to abandon pursuant to section 7(b) of the Act shall conform to §157.18 and to such other requirements of this part as may be pertinent. However, every applicant shall file all pertinent data and information necessary for a full and complete understanding of the proposed project, including its effect upon applicant's present and future operations and whether, and at what docket, applicant has previously applied for authorization to serve any portion of the market contemplated by the proposed project and the nature and disposition of such other project.

(b) Every requirement of this part shall be considered as a forthright obligation of the applicant which can only be avoided by a definite and positive showing that the information or data called for by the applicable rules is not necessary for the consideration and ultimate determination of the application.

(c) This part will be strictly applied to all applications as submitted and the burden of adequate presentation in intelligible form as well as justification for omitted data or information rests with the applicant.

[17 FR 7386, Aug. 14, 1952, as amended by Order 280, 29 FR 4876, Apr. 7, 1964]

**§157.6 Applications; general requirements.**

(a) *Applicable rules*—(1) *Submission required to be furnished by applicant under this subpart.* Applications, amendments thereto, and all exhibits and other submissions required to be furnished by an applicant to the Commission under this subpart must be submitted in an original and 7 conformed copies. To the extent that data required under this subpart has been provided to the Commission, this data need not be duplicated. The applicant must, however, include a statement identifying the forms and records containing the required infor-

mation and when that form or record was submitted.

(2) *Maps and diagrams.* An applicant required to submit a map or diagram under this subpart must submit one paper copy of the map or diagram.

(3) The following must be submitted in electronic format as prescribed by the Commission:

(i) Applications filed under this part 157 and all attached exhibits;

(ii) Applications covering acquisitions and all attached exhibits;

(iii) Applications for temporary certificates and all attached exhibits;

(iv) Applications to abandon facilities or services and all attached exhibits;

(v) The progress reports required under §157.20(c) and (d);

(vi) Applications submitted under subpart E of this part and all attached exhibits;

(vii) Applications submitted under subpart F of this part and all attached exhibits;

(viii) Requests for authorization under the notice procedures established in §157.205 and all attached exhibits;

(ix) The annual report required by §157.207;

(x) The report required under §157.214 when storage capacity is increased;

(xi) Amendments to any of the foregoing.

(4) All filings must be signed in compliance with the following.

(i) The signature on a filing constitutes a certification that: The signer has read the filing signed and knows the contents of the paper copies and electronic filing; the paper copies contain the same information as contained in the electronic filing; the contents as stated in the copies and in the electronic filing are true to the best knowledge and belief of the signer; and the signer possesses full power and authority to sign the filing.

(ii) A filing must be signed by one of the following:

(A) The person on behalf of whom the filing is made;

(B) An officer, agent, or employee of the governmental authority, agency, or instrumentality on behalf of which the filing is made; or,

(C) A representative qualified to practice before the Commission under

§ 385.2101 of this chapter who possesses authority to sign.

(5) *Other requirements.* Applications under section 7 of the Natural Gas Act must conform to the requirements of §§ 157.5 through 157.14. Amendments to or withdrawals of applications must conform to the requirements of §§ 385.215 and 385.216 of this chapter. If the application involves an acquisition of facilities, it must conform to the additional requirements prescribed in §§ 157.15 and 157.16. If the application involves an abandonment of facilities or service, it must conform to the additional requirements prescribed in § 157.18.

(b) *General content of application.* Each application filed other than an application for permission and approval to abandon pursuant to section 7(b) shall set forth the following information:

(1) The exact legal name of applicant; its principal place of business; whether an individual, partnership, corporation, or otherwise; State under the laws of which organized or authorized; and the name, title, and mailing address of the person or persons to whom communications concerning the application are to be addressed.

(2) The facts relied upon by applicant to show that the proposed service, sale, operation, construction, extension, or acquisition is or will be required by the present or future public convenience and necessity.

(3) A concise description of applicant's existing operations.

(4) A concise description of the proposed service, sale, operation, construction, extension, or acquisition, including the proposed dates for the beginning and completion of construction, the commencement of operations and of acquisition, where involved.

(5) A full statement as to whether any other application to supplement or effectuate applicant's proposals must be or is to be filed by applicant, any of applicant's customers, or any other person, with any other Federal, State, or other regulatory body; and if so, the nature and status of each such application.

(6) A table of contents which shall list all exhibits and documents filed in compliance with §§ 157.5 through 157.18,

as well as all other documents and exhibits otherwise filed, identifying them by their appropriate titles and alphabetical letter designations. The alphabetical letter designations specified in §§ 157.14, 157.16, and 157.18 must be strictly adhered to and extra exhibits submitted at the volition of applicant shall be designated in sequence under the letter Z (Z1, Z2, Z3, etc.).

(7) A form of notice of the application suitable for publication in the FEDERAL REGISTER in accordance with the specifications in § 385.203(d) of this chapter.

(8) For applications to construct new facilities, detailed cost-of-service data supporting the cost of the expansion project, a detailed study showing the revenue responsibility for each firm rate schedule under the pipeline's currently effective rate design and under the pipeline's proposed rates, a detailed rate impact analysis by rate schedule (including by zone, if applicable), and an analysis reflecting the impact of the fuel usage resulting from the proposed expansion project (including by zone, if applicable).

(c) *Requests for shortened procedure.* If shortened procedure is desired a request therefor shall be made in conformity with § 385.802 of this chapter and may be included in the application or filed separately.

(d) *Landowner notification.* (1) For all applications filed under this subpart which include construction of facilities or abandonment of facilities (except for abandonment by sale or transfer where the easement will continue to be used for transportation of natural gas), the applicant shall make a good faith effort to notify all affected landowners and towns, communities, and local, state and federal governments and agencies involved in the project:

(i) By certified or first class mail, sent within 3 business days following the date the Commission issues a notice of the application; or

(ii) By hand, within the same time period; and

(iii) By publishing notice twice of the filing of the application, no later than 14 days after the date that a docket number is assigned to the application, in a daily or weekly newspaper of general circulation in each county in which the project is located.



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(2) All affected landowners includes owners of property interests, as noted in the most recent county/city tax records as receiving the tax notice, whose property:

(i) Is directly affected (*i.e.*, crossed or used) by the proposed activity, including all facility sites (including compressor stations, well sites, and all above-ground facilities), rights of way, access roads, pipe and contractor yards, and temporary workspace;

(ii) Abuts either side of an existing right-of-way or facility site owned in fee by any utility company, or abuts the edge of a proposed facility site or right-of-way which runs along a property line in the area in which the facilities would be constructed, or contains a residence within 50 feet of the proposed construction work area;

(iii) Is within one-half mile of proposed compressors or their enclosures or LNG facilities; or

(iv) Is within the area of proposed new storage fields or proposed expansions of storage fields, including any applicable buffer zone.

(3) The notice shall include:

(i) The docket number of the filing;

(ii) The most recent edition of the Commission's pamphlet that explains the Commission's certificate process and addresses the basic concerns of landowners. Except: pipelines are not required to include the pamphlet in notifications of abandonments or in the published newspaper notice. Instead, they should provide the title of the pamphlet and indicate its availability at the Commission's Internet address;

(iii) A description of the applicant and the proposed project, its location (including a general location map), its purpose, and the timing of the project;

(iv) A general description of what the applicant will need from the landowner if the project is approved, and how the landowner may contact the applicant, including a local or toll-free phone number and a name of a specific person to contact who is knowledgeable about the project;

(v) A brief summary of what rights the landowner has at the Commission and in proceedings under the eminent domain rules of the relevant state. Except: pipelines are not required to include this information in the published

newspaper notice. Instead, the newspaper notice should provide the Commission's Internet address and the telephone number for the Commission's Office of External Affairs; and

(vi) Information on how the landowner can get a copy of the application from the company or the location(s) where a copy of the application may be found as specified in §157.10.

(vii) A copy of the Commission's notice of application, specifically stating the date by which timely motions to intervene are due, together with the Commission's information sheet on how to intervene in Commission proceedings. Except: pipelines are not required to include the notice of application and information sheet in the published newspaper notice. Instead, the newspaper notice should indicate that a separate notice is to be mailed to affected landowners and governmental entities.

(4) If the notice is returned as undeliverable, the applicant will make a reasonable attempt to find the correct address and notify the landowner.

(5) Within 30 days of the date the application was filed, applicant shall file an updated list of affected landowners, including information concerning notices that were returned as undeliverable.

(6) If paragraph (d)(3) of this section requires an applicant to reveal Critical Energy Infrastructure Information (CEII), as defined by §388.113(c) of this chapter, to any person, the applicant shall follow the procedures set out in §157.10(d).

[17 FR 7386, Aug. 14, 1952]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting §157.6, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at [www.fdsys.gov](http://www.fdsys.gov).

### § 157.7 Abbreviated applications.

(a) *General.* When the operations sales, service, construction, extensions, acquisitions or abandonment proposed by an application do not require all the data and information specified by this part to disclose fully the nature and extent of the proposed undertaking, an abbreviated application may be filed in the manner prescribed in §385.2011 of this chapter, provided it contains all

information and supporting data necessary to explain fully the proposed project, its economic justification, its effect upon applicant's present and future operations and upon the public proposed to be served, and is otherwise in conformity with the applicable requirements of this part regarding form, manner of presentation, and filing. Such an application shall (1) state that it is an abbreviated application; (2) specify which of the data and information required by this part are omitted; and (3) relate the facts relied upon to justify separately each such omission.

[Order 280, 29 FR 4876, Apr. 7, 1964]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting §157.7, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at [www.fdsys.gov](http://www.fdsys.gov).

**§ 157.8 Acceptance for filing or rejection of applications.**

Applications will be docketed when received and the applicant so advised.

(a) If an application patently fails to comply with applicable statutory requirements or with applicable Commission rules, regulations, and orders for which a waiver has not been granted, the Director of the Office of Energy Projects or the Director of the Office of Energy Market Regulation may reject the application within 10 business days of filing as provided by §385.2001(b) of this chapter. This rejection is without prejudice to an applicant's refiling a complete application. However, an application will not be rejected solely on the basis of:

(1) Environmental reports that are incomplete because the company has not been granted access by the affected landowner(s) to perform required surveys; or,

(2) Environmental reports that are incomplete, but where the minimum checklist requirements of part 380, appendix A of this chapter have been met.

(b) An application which relates to an operation, sale, service, construction, extension, acquisition, or abandonment concerning which a prior application has been filed and rejected, shall be docketed as a new application. Such new application shall state the docket number of the prior rejected application.

(c) The Director of the Office of Energy Projects or the Director of the Office of Energy Market Regulation may also reject an application after it has been noticed, at any time, if it is determined that such application does not conform to the requirements of this part.

[Order 603-A, 64 FR 54536, Oct. 7, 1999, as amended by Order 699, 72 FR 45325, Aug. 14, 2007; Order 701, 72 FR 61054, Oct. 29, 2007]

**§ 157.9 Notice of application and notice of schedule for environmental review.**

(a) Notice of each application filed, except when rejected in accordance with §157.8, will be issued within 10 business days of filing, and subsequently will be published in the FEDERAL REGISTER and copies of such notice sent to States affected thereby, by electronic means if practical, otherwise by mail. Persons desiring to receive a copy of the notice of every application shall so advise the Secretary.

(b) For each application that will require an environmental assessment or an environmental impact statement, notice of a schedule for the environmental review will be issued within 90 days of the notice of the application, and subsequently will be published in the FEDERAL REGISTER.

[Order 653, 70 FR 8724, Feb. 23, 2005, as amended by Order 687, 71 FR 62920, Oct. 27, 2006]

**§ 157.10 Interventions and protests.**

(a) Notices of applications, as provided by §157.9, will fix the time within which any person desiring to participate in the proceeding may file a petition to intervene, and within which any interested regulatory agency, as provided by §385.214 of this chapter, desiring to intervene may file its notice of intervention.

(1) Any person filing a petition to intervene or notice of intervention shall state specifically whether he seeks formal hearing on the application.

(2) Any person may file to intervene on environmental grounds based on the draft environmental impact statement as stated at §380.10(a)(1)(i) of this chapter. In accordance with that section,

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such intervention will be deemed timely as long as it is filed within the comment period for the draft environmental impact statement.

(3) Failure to make timely filing will constitute grounds for denial of participation in the absence of extraordinary circumstances or good cause shown.

(4) Protests may be filed in accordance with §385.211 of this chapter within the time permitted by any person who does not seek to participate in the proceeding.

(b) A copy of each application, supplement and amendment thereto, including exhibits required by §§157.14, 157.16, and 157.18, shall upon request be promptly supplied by the applicant to anyone who has filed a petition for leave to intervene or given notice of intervention.

(1) An applicant is not required to serve voluminous or difficult to reproduce material, such as copies of certain environmental information, to all parties, as long as such material is publicly available in an accessible central location in each county throughout the project area.

(2) An applicant shall make a good faith effort to place the materials in a public location that provides maximum accessibility to the public.

(c) Complete copies of the application must be available in accessible central locations in each county throughout the project area, either in paper or electronic format, within three business days of the date a filing is issued a docket number. Within five business days of receiving a request for a complete copy from any party, the applicant must serve a full copy of any filing on the requesting party. Such copy may exclude voluminous or difficult to reproduce material that is publicly available. Pipelines must keep all voluminous material on file with the Commission and make such information available for inspection at buildings with public access preferably with evening and weekend business hours, such as libraries located in central locations in each county throughout the project area.

(d) *Critical Energy Infrastructure Information.* (1) If this section requires an applicant to reveal Critical Energy In-

frastructure Information (CEII), as defined in §388.113(c) of this chapter, to the public, the applicant shall omit the CEII from the information made available and insert the following in its place:

(i) A statement that CEII is being withheld;

(ii) A brief description of the omitted information that does not reveal any CEII; and

(iii) This statement: “Procedures for obtaining access to Critical Energy Infrastructure Information (CEII) may be found at 18 CFR 388.113. Requests for access to CEII should be made to the Commission’s CEII Coordinator.”

(2) The applicant, in determining whether information constitutes CEII, shall treat the information in a manner consistent with any filings that applicant has made with the Commission and shall to the extent practicable adhere to any previous determinations by the Commission or the CEII Coordinator involving the same or like information.

(3) The procedures contained in §§388.112 and 388.113 of this chapter regarding designation of, and access to, CEII, shall apply in the event of a challenge to a CEII designation or a request for access to CEII. If it is determined that information is not CEII or that a requester should be granted access to CEII, the applicant will be directed to make the information available to the requester.

(4) Nothing in this section shall be construed to prohibit any persons from voluntarily reaching arrangements or agreements calling for the disclosure of CEII.

[Order 603-A, 64 FR 54536, Oct. 7, 1999, as amended by Order 643, 68 FR 52095, Sept. 2, 2003]

### § 157.11 Hearings.

(a) *General.* The Commission will schedule each application for public hearing at the earliest date possible giving due consideration to statutory requirements and other matters pending, with notice thereof as provided by §1.19(b) of this chapter: *Provided, however,* That when an application is filed less than fifteen days prior to the commencement of a hearing theretofore ordered on a pending application and

seeks authority to serve some or all of the markets sought in such pending application or is otherwise competitive with such pending application, the Commission will not schedule the new application for hearing until it has rendered its final decision on such pending application, except when, on its own motion, or on appropriate application, it finds that the public interest requires otherwise.

(b) *Shortened procedure.* If no protest or petition to intervene raises an issue of substance, the Commission may upon request of the applicant dispose of an application in accordance with the provisions of § 385.802 of this chapter.

[17 FR 7386, Aug. 14, 1952, as amended by Order 225, 47 FR 19057, May 3, 1982]

#### § 157.12 Dismissal of application.

Except for good cause shown, failure of an applicant to go forward on the date set for hearing and present its full case in support of its application will constitute ground for the summary dismissal of the application and the termination of the proceedings.

[17 FR 7386, Aug. 14, 1952]

#### § 157.13 Form of exhibits to be attached to applications.

Each exhibit attached to an application must conform to the following requirements:

(a) *General requirements.* Each exhibit must be submitted in the manner prescribed in §§ 157.6(a) and 385.2011 of this chapter and contain a title page showing applicant's name, docket number (to be left blank), title of the exhibit, the proper letter designation of the exhibit, and, if of 10 or more pages, a table of contents, citing by page, section number or subdivision, the component elements or matters therein contained.

(b) *Reference to annual reports and previous applications.* An application may refer to annual reports and previous applications filed with the Commission and shall specify the exact pages or exhibit numbers of the filing to which reference is made, including the page numbers in any exhibit to which reference is made. When reference is made to a previous application the docket number shall be stated. No part of a re-

jected application may be incorporated by reference.

(c) *Interdependent applications.* When an application considered alone is incomplete and depends vitally upon information in another application, it will not be accepted for filing until the supporting application has been filed. When applications are interdependent, they shall be filed concurrently.

(d) *Measurement base.* All gas volumes, including gas purchased from producers, shall be stated upon a uniform basis of measurement, and, in addition, if the uniform basis of measurement used in any application is other than 14.73 p.s.i.a., then any volume or volumes delivered to or received from any interstate natural-gas pipeline company shall also be stated upon a basis of 14.73 p.s.i.a.; similarly, total volumes on all summary sheets, as well as grand totals of volumes in any exhibit, shall also be stated upon a basis of 14.73 p.s.i.a. if the uniform basis of measurement used is other than 14.73 p.s.i.a.

[17 FR 7387, Aug. 14, 1952, as amended by Order 185, 21 FR 1486, Mar. 8, 1956; Order 280, 29 FR 4877, Apr. 7, 1964; Order 493, 53 FR 15029, Apr. 27, 1988]

#### § 157.14 Exhibits.

(a) *To be attached to each application.* All exhibits specified must accompany each application when tendered for filing. Together with each exhibit applicant must provide a full and complete explanation of the data submitted, the manner in which it was obtained, and the reasons for the conclusions derived from the exhibits. If the Commission determines that a formal hearing upon the application is required or that testimony and hearing exhibits should be filed, the Secretary will promptly notify the applicant that submittal of all exhibits and testimony of all witnesses to be sponsored by the applicant in support of his case-in-chief is required. Submittal of these exhibits and testimony must be within 20 days from the date of the Secretary's notice, or any other time as the Secretary will specify. Exhibits, except exhibits F, F-1, G, G-1, and G-II, must be submitted to the Commission on electronic media as prescribed in § 385.2011 of this chapter. Interveners and persons becoming

interveners after the date of the Secretary's notice must be advised by the applicant of the afore-specified exhibits and testimony, and must be furnished with copies upon request. If this section requires an applicant to reveal Critical Energy Infrastructure Information (CEII), as defined by § 388.113(c) of this chapter, to any person, the applicant shall follow the procedures set out in § 157.10(d).

(1) *Exhibit A—Articles of incorporation and bylaws.* If applicant is not an individual, a conformed copy of its articles of incorporation and bylaws, or other similar documents.

(2) *Exhibit B—State authorization.* For each State where applicant is authorized to do business, a statement showing the date of authorization, the scope of the business applicant is authorized to carry on and all limitations, if any, including expiration dates and renewal obligations. A conformed copy of applicant's authorization to do business in each State affected shall be supplied upon request.

(3) *Exhibit C—Company officials.* A list of the names and business addresses of applicant's officers and directors, or similar officials if applicant is not a corporation.

(4) *Exhibit D—Subsidiaries and affiliation.* If applicant or any of its officers or directors, directly or indirectly, owns, controls, or holds with power to vote, 10 percent or more of the outstanding voting securities of any other person or organized group of persons engaged in production, transportation, distribution, or sale of natural gas, or of any person or organized group of persons engaged in the construction or financing of such enterprises or operations, a detailed explanation of each such relationship, including the percentage of voting strength represented by such ownership of securities. If any person or organized group of persons, directly or indirectly, owns, controls, or holds with power to vote, 10 percent or more of the outstanding voting securities of applicant—a detailed explanation of each such relationship.

(5) *Exhibit E—Other pending applications and filings.* A list of other applications and filings under sections 1, 3, 4 and 7 of the Natural Gas Act filed by the applicant which are pending before

the Commission at the time of the filing of an application and which directly and significantly affect the application filed, including an explanation of any material effect the grant or denial of those other applications and filings will have on the application and of any material effect the grant or denial of the application will have on those other applications and filings.

(6) *Exhibit F—Location of facilities.* Unless shown on Exhibit G or elsewhere, a geographical map of suitable scale and detail showing, and appropriately differentiating between all of the facilities proposed to be constructed, acquired or abandoned and existing facilities of applicant, the operation or capacity of which will be directly affected by the proposed facilities or the facilities proposed to be abandoned. This map, or an additional map, shall clearly show the relationship of the new facilities to the applicant's overall system and shall include:

(i) Location, length, and size of pipelines.

(ii) Location and size (rated horsepower) of compressor stations.

(iii) Location and designation of each point of connection of existing and proposed facilities with (a) main-line industrial customers, gas pipeline or distribution systems, showing towns and communities served and to be served at wholesale and retail, and (b) gas-producing and storage fields, or other sources of gas supply.

(6-a) *Exhibit F-I—Environmental report.* An environmental report as specified in §§ 380.3 and 380.12 of this chapter. Applicant must submit all appropriate revisions to Exhibit F-I whenever route or site changes are filed. These revisions should identify the locations by mile post and describe all other specific differences resulting from the route or site changes, and should not simply provide revised totals for the resources affected.

(7) *Exhibit G—Flow diagrams showing daily design capacity and reflecting operation with and without proposed facilities added.* A flow diagram showing daily design capacity and reflecting operating conditions with only existing facilities in operation. A second flow diagram showing daily design capacity and reflecting operating conditions

with both proposed and existing facilities in operation. Both flow diagrams shall include the following for the portion of the system affected:

(i) Diameter, wall thickness, and length of pipe installed and proposed to be installed and the diameter and wall thickness of the installed pipe to which connection is proposed.

(ii) For each proposed new compressor station and existing station, the size, type and number of compressor units, horsepower required, horsepower installed and proposed to be installed, volume of gas to be used as fuel, suction and discharge pressures, and compression ratio.

(iii) Pressures and volumes of gas at the main line inlet and outlet connections at each compressor station.

(iv) Pressures and volumes of gas at each intake and take-off point and at the beginning and terminus of the existing and proposed facilities and at the intake or take-off point of the existing facilities to which the proposed facilities are to be connected.

(8) *Exhibit G-I—Flow diagrams reflecting maximum capabilities.* If Exhibit G does not reflect the maximum deliveries which applicant's existing and proposed facilities would be capable of achieving under most favorable operating conditions with utilization of all facilities, include an additional diagram or diagrams to depict such maximum capabilities. If the horsepower, pipelines, or other facilities on the segment of applicant's system under consideration are not being fully utilized due, e.g., to capacity limitation of connecting facilities or because of the need for standby or spare equipment, the reason for such nonutilization shall be stated.

(9) *Exhibit G-II—Flow diagram data.* Exhibits G and G-I shall be accompanied by a statement of engineering design data in explanation and support of the diagrams and the proposed project, setting forth:

(i) Assumptions, bases, formulae, and methods used in the development and preparation of such diagrams and accompanying data.

(ii) A description of the pipe and fittings to be installed, specifying the diameter, wall thickness, yield point, ultimate tensile strength, method of fab-

rication, and methods of testing proposed.

(iii) When lines are looped, the length and size of the pipe in each loop.

(iv) Type, capacity, and location of each natural gas storage field or facility, and of each dehydration, desulphurization, natural gas liquefaction, hydrocarbon extraction, or other similar plant or facility directly attached to the applicant's system, indicating which of such plants are owned or operated by applicant, and which by others, giving their names and addresses.

(v) If the daily design capacity shown in *Exhibit G* is predicated upon an ability to meet each customer's maximum contract quantity on the same day, explain the reason for such coincidental peak-day design. If the design day capacity shown in *Exhibit G* is predicated upon an assumed diversity factor, state that factor and explain its derivation.

(vi) The maximum allowable operating pressure of each proposed facility for which a certificate is requested, as permitted by the Department of Transportation's safety standards. The applicant shall certify that it will design, install, inspect, test, construct, operate, replace, and maintain the facilities for which a certificate is requested in accordance with Federal safety standards and plans for maintenance and inspection or shall certify that it has been granted a waiver of the requirements of the safety standards by the Department of Transportation in accordance with the provisions of section 3(e) of the Natural Gas Pipeline Safety Act of 1968. Pertinent details concerning the waiver shall be set forth.

(10) *Exhibit H—Total gas supply data.* A statement by applicant describing:

(i) Those production areas accessible to the proposed construction that contain sufficient existing or potential gas supplies for the proposed project; and

(ii) How those production areas are connected to the proposed construction.

(11) *Exhibit I—Market data.* A system-wide estimate of the volumes of gas to be delivered during each of the first 3 full years of operation of the proposed service, sale, or facilities and during the years when the proposed facilities

are under construction, and actual data of like import for each of the 3 years next preceding the filing of the application, together with:

(i) Names and locations of customer companies and municipalities, showing the number of residential, commercial, firm industrial, interruptible industrial, residential space-heating, commercial space-heating, and other types of customers for each distribution system to be served at retail or wholesale; and the names and locations of each firm and interruptible direct industrial customer whose estimated consumption totals 10,000 Mcf or more in any calendar month or 100,000 Mcf or more per year together with an explanation of the end use to which each of these industrial customers will put the gas.

(ii) Applicant's total annual and peak day gas requirements by classification of service in paragraph (a)(11)(i) of this section, divided as follows: Gas requirements (a) for each distribution area where gas is sold by applicant at retail; (b) for each wholesale customer; (c) for all main line direct industrial customers; and (d) company use and unaccounted-for gas, for both the applicant and each wholesale customer.

(iii) Total past and expected curtailments of service by the applicant and each wholesale customer proposing to receive new or additional supplies of gas from the project, all to be listed by the classifications of service in paragraph (a)(11)(i) of this section.

(iv) Explanation and derivation of basic factors used in estimating future requirements, including, for example: Peak-day and annual degree-day deficiencies, annual load factors of applicant's system and of its deliveries to its proposed customers; individual consumer peak-day and annual consumption factors for each class of consumers, with supporting historical data; forecasted saturation of space-heating as related to past experience; and full detail as to all other sources of gas supply available to applicant and to each of its customers, including manufacturing facilities and liquid petroleum gas.

(v) Conformed copy of each contract, letter of intent or other agreement for sale or transportation of natural gas proposed by the application. Indicate

the rate to be charged. If no agreements have been made, indicate the basis for assuming that contracts will be consummated and that service will be rendered under the terms contemplated in the application.

(vi) A full description of all facilities, other than those covered by the application, necessary to provide service in the communities to be served, the estimated cost of such facilities, by whom they are to be constructed, and evidence of economic feasibility.

(vii) A copy of each market survey made within the past three years for such markets as are to receive new or increased service from the project applied for.

(viii) A statement showing the franchise rights of applicant or other person to distribute gas in each community in which service is proposed.

(ix) When an application requires a statement of total peak-day or annual market requirements of affiliates, whose operations are integrated with those of applicant, to demonstrate applicant's ability to provide the service proposed or to establish a gas supply, estimates and data required by this subparagraph shall also be stated in like detail for such affiliates.

(x) When the proposed project is for service which would not decrease the life index of the total system gas supply by more than one year, the data required in paragraphs (a)(11)(i) to (ix), inclusive, of this section need be submitted only as to the particular market to receive new or additional service.

(12) *Exhibit J—Federal authorizations.* A statement identifying each Federal authorization that the proposal will require; the Federal agency or officer, or State agency or officer acting pursuant to delegated Federal authority, that will issue each required authorization; the date each request for authorization was submitted; why any request was not submitted and the date submission is expected; and the date by which final action on each Federal authorization has been requested or is expected.

(13) *Exhibit K—Cost of facilities.* A detailed estimate of total capital cost of the proposed facilities for which application is made, showing cost of construction by operating units such as

compressor stations, main pipelines, laterals, measuring and regulating stations, and separately stating the cost of right-of-way, damages, surveys, materials, labor, engineering and inspection, administrative overhead, fees for legal and other services, allowance for funds used during construction, and contingencies. Include a brief statement indicating the source of information used as the basis for the above estimate. If not otherwise set forth, submit data on preliminary bids, if any, for the proposed facilities and recent experienced cost data for facilities of similar character.

(14) *Exhibit L—Financing.* Plans for financing the proposed facilities for which the application is filed, together with:

(i) A description of the class (e.g., commercial paper, long-term debt, preferred stock) and cost rates for securities expected to be issued with construction period and post-operational sources of financing separately identified.

(ii) Statement of anticipated cash flow, including provision during the period of construction and the first 3 full years of operation of proposed facilities for interest requirements, dividends, and capital requirements.

(iii) A balance sheet and income statement (12 months) of most recent data available.

(iv) Comparative pro forma balance sheets and income statements for the period of construction and each of the first 3 full years of operation, giving effect to the proposed construction and proposed financing of the project.

(v) Any additional data and information upon which applicant proposes to rely in showing the adequacy and availability of resources for financing its proposed project.

(vi) In instances for which principal operations of the company have not commenced or where proposed rates for services are developed on an incremental basis, a brief statement explaining how the applicant will determine the actual allowance for funds used during construction (AFUDC) rate, or if a rate is not to be used, how the applicant will determine the actual amount of AFUDC to be capitalized as a component of construction cost, and

why the method is appropriate under the circumstances.

(15) *Exhibit M—Construction, operation, and management.* A concise statement setting forth arrangements for supervision, management, engineering, accounting, legal, or other similar service to be rendered in connection with the construction or operation of the project, if not to be performed by employees of applicant, including reference to any existing or contemplated agreements therefor, together with:

(i) A statement showing affiliation between applicant and any parties to such agreements or arrangements. See Exhibit D, paragraph (a)(4) of this section.

(ii) Conformed copies of all construction, engineering, management, and other similar service agreements or contracts in any way operative with respect to construction, operation, or financing of facilities which are the subject of the application or will be applicable under system operations.

(16) *Exhibit N—Revenues—Expenses—Income.* When the estimated revenues and expenses related to a proposed facility will significantly affect the operating revenues or operating expenses of an applicant, there shall be submitted a system-wide statement for the last year preceding the proposed construction or service and pro forma system-wide and incremental statements for each of the first three full years of operation of the proposed facilities, showing:

(i) Gas system annual revenues and volumes of natural gas related thereto, subdivided by classes of service, and further subdivided by sales to direct industrial customers, sales to other gas utilities, and other sales, indicating billing quantities used for computing charges, e. g., actual demands, billing demands, volumes, heat-content adjustment or other determinants. In addition, if enlargement or extension of facilities is involved, the revenues attributable solely to the proposed facilities shall be stated separately, and the basis and data used in such computation shall be clearly shown.

(ii) Gas system annual operating expenses classified in accordance with the Commission's Uniform System of Accounts for Natural Gas Companies;



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the annual depreciation, depletion, taxes, utility income, and resulting rate of return on net investment in gas plant including working capital. In addition if enlargement or extension of facilities is involved, the cost of service attributable solely to the proposed facilities shall be stated separately with supporting data.

(iii) When the data required in paragraphs (a)(16)(i) and (ii) of this section is not submitted, applicant shall provide in lieu thereof a statement in sufficient detail to show clearly the effect on the operating revenues and operating expenses of the estimated revenues and expenses related to the proposed facility.

(17) *Exhibit O—Depreciation and depletion.* Depreciation and depletion rates to be established, the method of determination and the justification therefor.

(18) *Exhibit P—Tariff.* (i) A statement of the rates to be charged for the proposed sales or service, including:

(a) Identification of the applicable presently effective rate schedules, when no additional tariff filings will be required, or

(b) When changes are required in applicant's presently effective tariff, or if applicant has no tariff, pro forma copies of appropriate changes in or additions to the effective tariff or a pro forma copy of the new gas tariff proposed, or

(c) When a new rate is proposed, a statement explaining the basis used in arriving at the proposed rate. Such statement shall clearly show whether such rate results from negotiation, cost-of-service determination, competitive factors or others, and shall give the nature of any studies which have been made in connection therewith.

(ii) When new rates or changes in present rates are proposed or when the proposed facilities will result in a material change in applicant's average cost of service, such statement shall be accompanied by supporting data showing:

(a) System cost of service for the first calendar year of operation after the proposed facilities are placed in service.

(b) An allocation of such costs to each particular service classification,

with the basis for each allocation clearly stated.

(c) The proposed rate base and rate of return.

(d) Gas operating expenses, segregated functionally by accounts.

(e) Depletion and depreciation.

(f) Taxes with the basis upon which computed.

(b) *Additional exhibits.* Applicant shall submit additional exhibits necessary to support or clarify its application. Such exhibits shall be identified and designated as provided by §157.6(b)(6).

(c) *Additional information.* Upon request by the Secretary, prior to or during hearing upon the application, applicant shall submit such additional data, information, exhibits, or other detail as may be specified. An original and 7 conformed copies of such additional information shall be furnished to the Commission. The Commission reserves the right to request additional copies.

(d) *Availability of Commission staff for advice prior to formal filing.* Prior to filing an application, any person may informally confer with the staff of the Commission to obtain advice on any problem of statement or presentation of an application or any part thereof.

(Secs. 3(e), 7, 8, 82 Stat. 721, 725 (49 U.S.C. 1672, 1676, 1677; Natural Gas Act (15 U.S.C. 717-717w); Natural Gas Policy Act (15 U.S.C. 3301-3432); Department of Energy Organization Act (42 U.S.C. 7101-7352); E.O. 12009, 3 CFR 142)

[17 FR 7387, Aug. 14, 1952]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting §157.14, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at [www.fdsys.gov](http://www.fdsys.gov).

### § 157.15 Requirements for applications covering acquisitions.

An application for a certificate authorizing acquisition of facilities, in addition to complying with the applicable provisions of §§157.5 through 157.14, shall include a statement showing:

(a) The exact legal name of the vendor, lessor, or other party in interest (hereinafter referred to as "vendor") the State or other laws under which vendor was organized, location of vendor's principal place of business, and a description of the business, operation

or property of vendor covered by the application.

(b) Any certificate from the Commission, held by vendor, relating directly to the facilities which applicant seeks to acquire, citing the order, date thereof, docket designation, and title of the proceeding; reference to and designation of any companion applications by vendor for permission and approval pursuant to section 7(b) of the Natural Gas Act.

(c) The manner in which the facilities are to be acquired, the consideration to be paid, the method of arriving at the amount thereof, and anticipated expenses in addition to the consideration.

(d) The facilities to be acquired, their present use, their proposed use after acquisition, and whether they constitute all of vendor's facilities.

(e) Any franchise, license, or permit respecting the facilities involved, showing expiration date thereof, and the effect of the proposed acquisition thereon.

[17 FR 7389, Aug. 14, 1952]

#### § 157.16 Exhibits relating to acquisitions.

In addition to the exhibits required by § 157.14, every application involving acquisition of facilities must be accompanied by the exhibits listed below. Together with each exhibit applicant must provide a full and complete explanation of the data submitted, the manner in which it was obtained, and the reasons for the conclusions derived from the exhibits, unless the applicant includes a statement identifying the schedule and rate containing the required information and data filed as prescribed in § 385.2011 of this chapter. If the Commission determines that a formal hearing upon the application is required or that testimony and hearing exhibits should be filed, the Secretary will promptly notify the applicant that submittal of all the exhibits and testimony of all witnesses to be sponsored by the applicant in support of his case-in-chief is required. Submittal of these exhibits and testimony must be within 20 days from the date of the Secretary's notice, or any other time specified by the Secretary in the notice. Sections 157.6(a) and 385.2011 of this

chapter will govern the submissions required to be furnished to the Commission. Interveners and persons becoming interveners after the date of the Secretary's notice must be advised by the applicant of the afore-specified exhibits and testimony, and must be furnished with copies upon request. If this section requires an applicant to reveal Critical Energy Infrastructure Information (CEII), as defined by § 388.113(c) of this chapter, to any person, the applicant shall follow the procedures set out in § 157.10(d).

(a) *Exhibit Q—Effect of acquisition on existing contracts and tariffs.* A statement showing the effect of the proposed transaction upon any agreements for the purchase, sale, or interchange of natural gas, and upon any rate schedules or tariffs on file with this Commission, together with pro forma rate schedule sheets, notices of cancellation, or other tariff filings required to be made with this Commission.

(b) *Exhibit R—Acquisition contracts.* A summary statement of all contracts, agreements or undertakings relating to the proposed acquisition, including:

(1) A conformed copy of each contract or other agreement covering or relating to the acquisition of the facilities.

(2) The names and addresses of all persons employed or to be employed concerning the transaction, including engineering, financial accounting, legal, or other services, and the compensation, fees, or other payments, paid or payable, to such persons.

(3) A disclosure of affiliation between applicant and vendor or between either of them and any other party in interest in the proposed acquisition. See Exhibit D, § 157.14(a)(4).

(c) *Exhibit S—Accounting.* A statement showing:

(1) The amounts recorded upon the books of the vendor, as being applicable to the facilities to be acquired, and the related depreciation, depletion, and amortization reserves. Include a brief statement explaining the basis or methods used to derive the related depreciation, depletion and amortization reserves.

(2) The original cost of the facilities to be acquired, segregated by accounts

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prescribed in the Commission's Uniform System of Accounts for Natural Gas Companies; the method by which the original cost was determined; and whether such statement of original cost has been approved by any regulatory body.

(3) If the original cost has not been determined, an estimate thereof, based upon records or data of vendor or its predecessors, together with an explanation of the manner in which such estimate was made and the name and address of the present custodian of all existing pertinent records and data.

(4) The depreciation, depletion, and amortization reserve requirements applicable to the original cost of the facilities to be acquired, estimated service lives, the approximate average age of the facilities to which the depreciation reserve applies, the amortization period, and the depletion rates and estimated gas reserves upon which accruals to the depletion reserve are based.

(5) The amount at which applicant proposes to record the facilities upon its books; the amount of the original cost to be recorded, the depreciation, depletion, and amortization reserves; and the acquisition adjustments, if any, together with applicant's proposed disposition of all adjustments.

(6) Duplicate facilities to be acquired and retired, property which must be extensively rehabilitated, including a clear description of such property, the additional costs to be incurred, and the accounting therefor proposed.

(7) A balance sheet of the company to be acquired as of the most recent date available, if the acquisition involved is by purchase of capital stock and liquidation of the acquired company.

(8) A pro forma consolidating balance sheet, as of the date of the merger if the acquisition is by merger, showing the merging of the accounts and the adjustments relating thereto.

[17 FR 7389, Aug. 14, 1952, as amended by Order 493, 53 FR 15029, Apr. 27, 1988; Order 603, 64 FR 26605, May 14, 1999; Order 643, 68 FR 52096, Sept. 2, 2003]

### **§ 157.17 Applications for temporary certificates in cases of emergency.**

In cases of emergency and pending the determination of any application on file with the Commission for a cer-

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tificate of public convenience and necessity pursuant to section 7 of the Natural Gas Act, application may be made for a temporary certificate authorizing the construction and operation of extensions of existing facilities, interconnections of pipeline systems, or sales of natural gas that may be required to assure maintenance of adequate service, or to service particular customers. This application must be submitted in the manner prescribed in §§ 157.6(a) and 385.2011 of this chapter.

(a) Whenever the waiver provisions of § 385.2011 of this chapter apply, the application must be submitted in writing, must be subscribed and verified by a responsible officer of applicant having knowledge of the facts, and must state clearly and specifically the exact character of the emergency, the proposed method of meeting it, and the facts claimed to warrant issuance of a temporary certificate.

(b) The application must be submitted on electronic media as prescribed in § 385.2011 of this chapter, must be subscribed and verified by a responsible officer of applicant having knowledge of the facts, and must state clearly and specifically the exact character of the emergency, the proposed method of meeting it, and the facts claimed to warrant issuance of a temporary certificate.

[Order 493, 53 FR 15029, Apr. 27, 1988, as amended by Order 493-B, 53 FR 49653, Dec. 9, 1988; Order 603, 64 FR 26606, May 14, 1999]

### **§ 157.18 Applications to abandon facilities or service; exhibits.**

Applications for an order authorizing abandonment of facilities or service pursuant to section 7(b) of the Natural Gas Act must contain a statement providing in detail the reasons for the abandonment and must contain the exhibits listed below, unless the applicant includes a statement identifying the schedule and rate containing the required information and data filed as prescribed in § 385.2011 of this chapter. Any application for an abandonment that is not excluded by § 380.4(a)(28) or

(29), must include an environmental report as specified by § 380.3(c)(2). Sections 157.6(a) and 385.2011 of this chapter will govern the submission of applications and exhibits required to be furnished. Together with each exhibit, applicant must provide a full and complete explanation of the data submitted, the manner in which it was obtained, and the reasons for the conclusions derived from the data. The Secretary may, in addition, require that the testimony of all witnesses to be presented by the applicant be filed together with all exhibits upon which applicant will base its case-in-chief.

(a) *Exhibit T—Related applications.* A statement showing:

(1) The docket numbers of the prior proceedings in which the facilities or services sought to be abandoned were certificated.

(2) The docket numbers of related applications pending before or which have been authorized by the Commission with an explanation of the interrelationship of those applications with the instant application.

(b) *Exhibit U—Contracts and other agreements.* A conformed copy of each contract or other agreement pertaining directly or indirectly to the abandonment of facilities or service, including all agreements which influenced applicant to seek the abandonment and all agreements which are dependent upon the approval of the proposed abandonment.

(c) *Exhibit V—Flow diagram showing daily design capacity and reflecting operation of applicant's system after abandonment.* A flow diagram showing daily design capacity and reflecting operating conditions of applicant's system after abandonment of facilities on that segment of the system affected by the abandonment, including the following:

(1) Diameter, wall thickness, and length of pipe remaining.

(2) For each remaining compressor station, the size, type and number of compressor units, horsepower required, horsepower installed, volume of gas to be used as fuel, suction and discharge pressures, and compression ratio.

(3) Pressures and volumes of gas at the main line inlet and outlet connections at each compressor station.

(4) Pressures and volumes of gas at each intake and takeoff point and at the beginning and terminus of all remaining facilities.

(d) *Exhibit W—Impact on customers whose service will be terminated.* A statement indicating the availability of natural gas from other sources to applicant's customers whose service will be terminated by the abandonment and a statement showing the economic effect of the abandonment on applicant's customers. If no other natural gas is available, indicate the availability of other fuels to those customers and explain why the abandonment of service to each customer is permitted by the public convenience and necessity.

(e) *Exhibit X—Effect of the abandonment on existing tariffs.* A statement showing the effect of the proposed abandonment upon any rate schedules or tariffs on file with this Commission, together with pro forma rate schedule sheets, notices of cancellation, or other tariff filings required to be made with this Commission.

(f) *Exhibit Y—Accounting treatment of abandonment.* Concisely describe the changes of property, indicating the cost of property to be abandoned in place, the cost of property to be removed and salvaged, the proposed disposition of salvaged material, and a description of equipment to be relocated setting forth its cost, its proposed new location, and the extent of rehabilitation required. Include the information required below.

(1) State the proposed accounting treatment for property changes, showing, for example, retirements by primary plant accounts, cost of removal, salvage realized for materials and equipment sold, original cost of reusable materials and equipment recovered (see Account 154 of the Uniform System of Accounts), and maintenance costs for reconditioning of reusable materials and equipment.

(2) If the abandonment will be by sale of property, describe the property to be sold, together with the proposed accounting treatment as required by paragraph F of Gas Plant Instruction 5 of the Uniform System of Accounts. Include a brief statement explaining the basis or methods used to derive the accumulated depreciation related to the

property to be disposed of. Applicant may use pro forma accounting entries based on estimated amounts, provided that upon consummation of the sale he must file proposed accounting entries in conformity with the requirements of the Uniform System of Accounts. If the proposed sale will result in a taxable gain to the applicant, indicate the amount of federal and state income taxes to be allocated to the gain. If no allocation is to be made, explain the reasons.

(3) State the amount of accumulated deferred income taxes attributable to the property to be abandoned and the tax basis of the property. Indicate the proposed accounting treatment of those accumulated deferred taxes.

(g) *Exhibit Z—Location of facilities.* Unless shown on Exhibit V or elsewhere, a geographic map of suitable scale and detail showing, and appropriately differentiating between, all of the facilities proposed to be abandoned and the other existing facilities of applicant, the operation or capacity of which will be directly affected by the facilities to be abandoned. This map shall clearly show the relationship of the facilities to be abandoned to the applicant's overall system and shall include:

(1) Location, length and size of pipelines.

(2) Location and size (rated horsepower) of compressor stations.

(3) Location and designation of each point of connection of existing facilities with (i) main line industrial and other consumers, pipeline or distribution companies and municipalities, indicating towns and communities served at wholesale or retail and (ii) gas-producing and storage fields, or other sources of gas supply. Designate on the map those facilities and services proposed to be abandoned.

[Order 280, 29 FR 4879, Apr. 7, 1964, as amended by Order 295, 30 FR 4130, Mar. 30, 1965; Order 493, 53 FR 15029, Apr. 27, 1988; Order 603, 64 FR 26606, May 14, 1999]

**§ 157.20 General conditions applicable to certificates.**

Such of the following terms and conditions, among others, as the Commission shall find is required by the public convenience and necessity, shall attach

to the issuance of each certificate and to the exercise of the rights granted thereunder.

(a) The certificate shall be void and without force or effect unless accepted in writing by applicant within 30 days from the issue date of the order issuing such certificate: *Provided, however,* That when an application for rehearing of such order is filed in accordance with section 19 of the Natural Gas Act, such acceptance shall be filed within 30 days from the issue date of the order of the Commission upon the application for rehearing or within 30 days from the date on which such application may be deemed to have been denied when the Commission has not acted on such application within 30 days after it has been filed: *Provided further,* That when a petition for review is filed in accordance with the provisions of section 19 of the Natural Gas Act, such acceptance shall be filed within 30 days after final disposition of the judicial review proceedings thus initiated.

(b) Any authorized construction, extension, or acquisition shall be completed and made available for service by applicant and any authorized operation, service, or sale shall be available for regular performance by applicant within (period of time to be specified by the Commission in each order) from the issue date of the Commission's order issuing the certificate. Applicant shall notify the Commission in writing no later than 10 days after expiration of this time period that the end-user/shipper is unable to meet the imposed timetable to commence service.

(c) Applicant must file with the Commission, in writing and under oath, an original and four conformed copies, as prescribed in §385.2011 of this chapter and, upon request must furnish an intervener with a single copy, of the following:

(1) Within ten days after the bona fide beginning of construction, notice of the date of such beginning;

(2) Within ten days after authorized facilities have been constructed and placed in service or any authorized operation, sale, or service has commenced, notice of the date of such placement and commencement and

(3) Within six months after authorized facilities have been constructed, a

statement showing, on the basis of all costs incurred to that date and estimated to be incurred for final completion of the project, the cost of constructing authorized facilities, such total costs to be classified according to the estimates submitted in the certificate proceeding and compared therewith and any significant differences explained.

(d) With respect to an acquisition authorized by the certificate, applicant must file with the Commission, in writing and under oath, an original and four conformed copies as prescribed in §385.2011 of this chapter the following:

(1) Within 10 days after acquisition and the beginning of authorized operations, notice of the dates of acquisition and the beginning of operations; and

(2) Within 10 days after authorized facilities have been constructed and within 10 days after such facilities have been placed in service or any authorized operation, sale, or service has commenced, notice of the date of such completion, placement, and commencement, and

(e) The certificate issued to applicant is not transferable in any manner and shall be effective only so long as applicant continues the operations authorized by the order issuing such certificate and in accordance with the provisions of the Natural Gas Act, as well as applicable rules, regulations, and orders of the Commission.

(f) In the interest of safety and reliability of service, facilities authorized by the certificate shall not be operated at pressures exceeding the maximum operating pressure set forth in Exhibit G-II to the application as it may be amended prior to issuance of the certificate. In the event the applicant thereafter wishes to change such maximum operating pressure it shall file an appropriate petition for amendment of the certificate. Such petition shall include the reasons for the proposed change. Nothing contained herein authorizes a natural gas company to operate any facility at a pressure above the maximum prescribed by state law,

if such law requires a lower pressure than authorized hereby.

(Sec. 20, 52 Stat. 832; 15 U.S.C. 717s)

[17 FR 7389, Aug. 14, 1952, as amended by Order 280, 29 FR 4879, Apr. 7, 1964; Order 317, 31 FR 432, Jan. 13, 1966; Order 324, 31 FR 9348, July 8, 1966; Order 493, 53 FR 15030, Apr. 27, 1988; Order 493-B, 53 FR 49653, Dec. 9, 1988; Order 603, 64 FR 26606, May 14, 1999]

**§ 157.21 Pre-filing procedures and review process for LNG terminal facilities and other natural gas facilities prior to filing of applications.**

(a) *LNG terminal facilities and related jurisdictional natural gas facilities.* A prospective applicant for authorization to site, construct and operate facilities included within the definition of "LNG terminal," as defined in §153.2(d), and any prospective applicant for related jurisdictional natural gas facilities must comply with this section's pre-filing procedures and review process. These mandatory pre-filing procedures also shall apply when the Director finds in accordance with paragraph (e)(2) of this section that prospective modifications to an existing LNG terminal are modifications that involve significant state and local safety considerations that have not been previously addressed. Examples of such modifications include, but are not limited to, the addition of LNG storage tanks; increasing throughput requiring additional tanker arrivals or the use of larger vessels; or changing the purpose of the facility from peaking to base load. When a prospective applicant is required by this paragraph to comply with this section's pre-filing procedures:

(1) The prospective applicant must make a filing containing the material identified in paragraph (d) of this section and concurrently file a Letter of Intent pursuant to 33 CFR 127.007, and a Preliminary Waterway Suitability Assessment (WSA) with the U.S. Coast Guard (Captain of the Port/Federal Maritime Security Coordinator). The latest information concerning the documents to be filed with the Coast Guard should be requested from the U.S. Coast Guard. For modifications to an existing or approved LNG terminal, this requirement can be satisfied by the prospective applicant's certifying

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that the U.S. Coast Guard did not require such information.

(2) An application:

(i) Shall not be filed until at least 180 days after the date that the Director issues notice pursuant to paragraph (e) of this section of the commencement of the prospective applicant's pre-filing process; and

(ii) Shall contain all the information specified by the Commission staff after reviewing the draft materials filed by the prospective applicant during the pre-filing process, including required environmental material in accordance with the provisions of part 380 of this chapter, "Regulations Implementing the National Environmental Policy Act."

(3) The prospective applicant must provide sufficient information for the pre-filing review of any pipeline or other natural gas facilities, including facilities not subject to the Commission's Natural Gas Act jurisdiction, which are necessary to transport regassified LNG from the subject LNG terminal facilities to the existing natural gas pipeline infrastructure.

(b) *Other natural gas facilities.* When a prospective applicant for authorization for natural gas facilities is not required by paragraph (a) of this section to comply with this section's pre-filing procedures, the prospective applicant may file a request seeking approval to use the pre-filing procedures.

(1) A request to use the pre-filing procedures must contain the material identified in paragraph (d) of this section unless otherwise specified by the Director as a result of the Initial Consultation required pursuant to paragraph (c) of this subsection; and

(2) If a prospective applicant for non-LNG terminal facilities is approved to use this section's pre-filing procedures:

(i) The application will normally not be filed until at least 180 days after the date that the Director issues notice pursuant to paragraph (e)(3) of this section approving the prospective applicant's request to use the pre-filing procedures under this section and commencing the prospective applicant's pre-filing process. However, a prospective applicant approved by the Director pursuant to paragraph (e)(3) of this section to undertake the pre-filing process

is not prohibited from filing an application at an earlier date, if necessary; and

(ii) The application shall contain all the information specified by the Commission staff after reviewing the draft materials filed by the prospective applicant during the pre-filing process, including required environmental material in accordance with the provisions of part 380 of this chapter, "Regulations Implementing the National Environmental Policy Act."

(c) *Initial consultation.* A prospective applicant required or potentially required or requesting to use the pre-filing process must first consult with the Director on the nature of the project, the content of the pre-filing request, and the status of the prospective applicant's progress toward obtaining the information required for the pre-filing request described in paragraph (d) of this section. This consultation will also include discussion of the specifications for the applicant's solicitation for prospective third-party contractors to prepare the environmental documentation for the project, and whether a third-party contractor is likely to be needed for the project.

(d) *Contents of the initial filing.* A prospective applicant's initial filing pursuant to paragraph (a)(1) of the section for LNG terminal facilities and related jurisdictional natural gas facilities or paragraph (b)(1) of this section for other natural gas facilities shall include the following information:

(1) A description of the schedule desired for the project including the expected application filing date and the desired date for Commission approval.

(2) For LNG terminal facilities, a description of the zoning and availability of the proposed site and marine facility location.

(3) For natural gas facilities other than LNG terminal facilities and related jurisdictional natural gas facilities, an explanation of why the prospective applicant is requesting to use the pre-filing process under this section.

(4) A detailed description of the project, including location maps and plot plans to scale showing all major plant components, that will serve as

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the initial discussion point for stakeholder review.

(5) A list of the relevant federal and state agencies in the project area with permitting requirements. For LNG terminal facilities, the list shall identify the agency designated by the governor of the state in which the project will be located to consult with the Commission regarding state and local safety considerations. The filing shall include a statement indicating:

(i) That those agencies are aware of the prospective applicant's intention to use the pre-filing process (including contact names and telephone numbers);

(ii) Whether the agencies have agreed to participate in the process;

(iii) How the applicant has accounted for agency schedules for issuance of federal authorizations; and

(iv) When the applicant proposes to file with these agencies for their respective permits or other authorizations.

(6) A list and description of the interest of other persons and organizations who have been contacted about the project (including contact names and telephone numbers).

(7) A description of what work has already been done, *e.g.*, contacting stakeholders, agency consultations, project engineering, route planning, environmental and engineering contractor engagement, environmental surveys/studies, and open houses. This description shall also include the identification of the environmental and engineering firms and sub-contractors under contract to develop the project.

(8) For LNG terminal projects, proposals for at least three prospective third-party contractors from which Commission staff may make a selection to assist in the preparation of the requisite NEPA document.

(9) For natural gas facilities other than LNG terminal facilities and related jurisdictional natural gas facilities, proposals for at least three prospective third-party contractors from which Commission staff may make a selection to assist in the preparation of the requisite NEPA document, or a proposal for the submission of an applicant-prepared draft Environmental Assessment as determined during the ini-

tial consultation described in paragraph (c) of this section.

(10) Acknowledgement that a complete Environmental Report and complete application are required at the time of filing.

(11) A description of a Public Participation Plan which identifies specific tools and actions to facilitate stakeholder communications and public information, including a project website and a single point of contact. This plan shall also describe how the applicant intends to respond to requests for information from federal and state permitting agencies, including, if applicable, the governor's designated agency for consultation regarding state and local safety considerations with respect to LNG facilities.

(12) Certification that a Letter of Intent and a Preliminary WSA have been submitted to the U.S. Coast Guard or, for modifications to an existing or approved LNG terminal, that the U.S. Coast Guard did not require such information.

(e) *Director's notices.* (1) When the Director finds that a prospective applicant for authority to site and construct a new LNG terminal has adequately addressed the requirements of paragraphs (a), (c) and (d) of this section, the Director shall issue a notice of such finding. Such notice shall designate the third-party contractor. The pre-filing process shall be deemed to have commenced on the date of the Director's notice, and the date of such notice shall be used in determining whether the date an application is filed is at least 180 days after commencement of the pre-filing process.

(2) When the Director finds that a prospective applicant for authority to make modifications to an existing or approved LNG terminal has adequately addressed the requirements of paragraphs (a), (c) and (d) of this section, the Director shall issue a notice making a determination whether prospective modifications to an existing LNG terminal shall be subject to this section's pre-filing procedures and review process. Such notice shall designate the third-party contractor, if appropriate. If the Director determines that the prospective modifications are significant modifications that involve



state and local safety considerations, the Director's notice will state that the pre-filing procedures shall apply, and the pre-filing process shall be deemed to have commenced on the date of the Director's notice in determining whether the date an application is filed is at least 180 days after commencement of the pre-filing process.

(3) When a prospective applicant requests to use this section's pre-filing procedures and review for facilities not potentially subject to this section's mandatory requirements, the Director shall issue a notice approving or disapproving use of the pre-filing procedures of this section and determining whether the prospective applicant has adequately addressed the requirements of paragraphs (b), (c) and (d) of this section. Such notice shall designate the third-party contractor, if appropriate. The pre-filing process shall be deemed to have commenced on the date of the Director's notice, and the date of such notice shall be used in determining whether the date an application is filed is at least 180 days after commencement of the pre-filing process.

(f) Upon the Director's issuance of a notice commencing a prospective applicant's pre-filing process, the prospective applicant must:

(1) Within seven days and after consultation with Commission staff, establish the dates and locations at which the prospective applicant will conduct open houses and meetings with stakeholders (including agencies) and Commission staff.

(2) Within 14 days, conclude the contract with the selected third-party contractor.

(3) Within 14 days, contact all stakeholders not already informed about the project, including all affected landowners as defined in paragraph §157.6(d)(2) of this section.

(4) Within 30 days, submit a stakeholder mailing list to Commission staff.

(5) Within 30 days, file a draft of Resource Report 1, in accordance with §380.12(c), and a summary of the alternatives considered or under consideration.

(6) On a monthly basis, file status reports detailing the applicant's project activities including surveys, stake-

holder communications, and agency meetings.

(7) Be prepared to provide a description of the proposed project and to answer questions from the public at the scoping meetings held by OEP staff.

(8) Be prepared to attend site visits and other stakeholder and agency meetings arranged by the Commission staff, as required.

(9) Within 14 days of the end of the scoping comment period, respond to issues raised during scoping.

(10) Within 60 days of the end of the scoping comment period, file draft Resource Reports 1 through 12.

(11) At least 60 days prior to filing an application, file revised draft Resource Reports 1 through 12, if requested by Commission staff.

(12) At least 90 days prior to filing an application, file draft Resource Report 13 (for LNG terminal facilities).

(13) Certify that a Follow-on WSA will be submitted to the U.S. Coast Guard no later than the filing of an application with the Commission (for LNG terminal facilities and modifications thereto, if appropriate). The applicant shall certify that the U.S. Coast Guard has indicated that a Follow-On WSA is not required, if appropriate.

(g) Commission staff and third-party contractor involvement during the pre-filing process will be designed to fit each project and will include some or all of the following:

(1) Assisting the prospective applicant in developing initial information about the proposal and identifying affected parties (including landowners, agencies, and other interested parties).

(2) Issuing an environmental scoping notice and conducting such scoping for the proposal.

(3) Facilitating issue identification and resolution.

(4) Conducting site visits, examining alternatives, meeting with agencies and stakeholders, and participating in the prospective applicant's public information meetings.

(5) Reviewing draft Resource Reports.

(6) Initiating the preparation of a preliminary Environmental Assessment or Draft Environmental Impact Statement, the preparation of which

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may involve cooperating agency review.

(h) A prospective applicant using the pre-filing procedures of this section shall comply with the procedures in § 388.112 of this chapter for the submission of documents containing privileged materials or critical energy infrastructure information.

[Order 665, 70 FR 60440, Oct. 18, 2005, as amended by Order 756, 77 FR 4894, Feb. 1, 2012; Order 769, 77 FR 65475, Oct. 29, 2012]

### § 157.22 Schedule for final decisions on a request for a Federal authorization

For an application under section 3 or 7 of the Natural Gas Act that requires a Federal authorization—*i.e.*, a permit, special use authorization, certification, opinion, or other approval—from a Federal agency or officer, or State agency or officer acting pursuant to delegated Federal authority, a final decision on a request for a Federal authorization is due no later than 90 days after the Commission issues its final environmental document, unless a schedule is otherwise established by Federal law.

[Order 687, 71 FR 62921, Oct. 27, 2006]

## Subpart B—Open Seasons for Alaska Natural Gas Transportation Projects

SOURCE: Order 2005, 70 FR 8286, Feb. 18, 2005, unless otherwise noted.

### § 157.30 Purpose.

This subpart establishes the procedures for conducting open seasons for the purpose of making binding commitments for the acquisition of initial or voluntary expansion capacity on Alaska natural gas transportation projects, as defined herein.

### § 157.31 Definitions.

(a) “Alaska natural gas transportation project” means any natural gas pipeline system that carries Alaska natural gas to the international border between Alaska and Canada (including related facilities subject to the jurisdiction of the Commission) that is authorized under the Alaska Natural Gas Transportation Act of 1976 or section

103 of the Alaska Natural Gas Pipeline Act.

(b) “Commission” means the Federal Energy Regulatory Commission.

(c) “Voluntary expansion” means any expansion in capacity of an Alaska natural gas transportation project above the initial certificated capacity, including any increase in mainline capacity, any extension of mainline pipeline facilities, and any lateral pipeline facilities beyond those certificated in the initial certificate order, voluntarily made by the pipeline. An expansion done pursuant to section 105 of the Alaska Natural Gas Pipeline Act is not a voluntary expansion.

### § 157.32 Applicability.

These regulations shall apply to any application to the Commission for a certificate of public convenience and necessity or other authorization for an Alaska natural gas transportation project, whether filed pursuant to the Natural Gas Act, the Alaska Natural Gas Transportation Act of 1976, or the Alaska Natural Gas Pipeline Act, and to applications for expansion of such projects. Absent a Commission order to the contrary, these regulations are not applicable in the case of an expansion ordered by the Commission pursuant to section 105 of the Alaska Natural Gas Pipeline Act.

### § 157.33 Requirement for open season.

(a) Any application for a certificate of public convenience and necessity or other authorization for a proposed Alaska natural gas transportation project must include a demonstration that the applicant has conducted an open season for capacity on its proposed project, in accordance with the requirements of this subpart. Failure to provide the requisite demonstration will result in an application being rejected as incomplete.

(b) Initial capacity on a proposed Alaska natural gas transportation project may be acquired prior to an open season through pre-subscription agreements, provided that in any open season as required in paragraph (a) of this section, capacity is offered to all prospective bidders at the same rates and on the same terms and conditions as contained in the pre-subscription

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agreements. All pre-subscription agreements shall be made public by posting on Internet websites and press releases within ten days of their execution. In the event there is more than one such agreement, all prospective bidders shall be allowed the option of selecting among the several agreements all of the rates, terms and conditions contained in any one such agreement.

[Order 2005, 70 FR 8286, Feb. 18, 2005, as amended by Order 2005-A, 70 FR 35026, June 16, 2005]

§ 157.34 Notice of open season.

(a) *Notice.* A prospective applicant must provide reasonable public notice of an open season through methods including postings on Internet Web sites, press releases, direct mail solicitations, and other advertising. In addition, a prospective applicant must provide actual notice of an open season to the State of Alaska and to the Federal Coordinator for Alaska Natural Gas Transportation Projects.

(b) *In-State Needs Study.* A prospective applicant must conduct or adopt a study of gas consumption needs and prospective points of delivery within the State of Alaska and rely upon such study to develop the contents of the notice required in paragraph (a) of this section. Such study shall be identified in the notice and if practicable, shall include or consist of a study conducted, approved, or otherwise sanctioned by an appropriate governmental agency, office or commission of the State of Alaska. In its open season proposal, a prospective applicant shall include an estimate based upon the study, of how much capacity will be used in-state.

(c) *Contents of notice.* Notice of the open season required in paragraph (a) of this section, shall contain at least the following information; however, to the extent that any item of such information is not known or determined at the time the notice is issued, the prospective applicant shall make a good faith estimate based on the best information available of all such unknown or undetermined items of required information and further, must identify the source of information relied on, explain why such information is not presently known, and update the informa-

tion when and if it is later determined during the open season period:

(1) The general route of the proposed project, including receipt and delivery points, and any alternative routes under consideration; delivery points must include those within the State of Alaska as determined by the In-State Study in paragraph (b) of this section.

(2) Size and design capacity (including proposed certificate capacity at the delivery points named in paragraph (c)(1) of this section to the extent that it differs from design capacity), a description of possible designs for expanded capacity beyond initial capacity, together with any estimated date when such expansions designs may be considered;

(3) Maximum allowable operating pressure and expected actual operating pressure;

(4) Delivery pressure at all delivery points named in paragraph (c)(1) of this section;

(5) Projected in-service date;

(6) An estimated unbundled transportation rate for each delivery point named in paragraph (c)(1) of this section, stated on a volumetric or thermal basis, for each service offered, including reservation rates for pipeline capacity, interruptible transportation rates, usage rates, fuel retention percentages, and other applicable charges, or surcharges, such as the Annual Charge Adjustment (ACA); (if rates are estimated on a volumetric basis then the notice must inform bidders that final pro forma service agreements and the sponsor's proposed FERC tariff will have to be submitted with rates based on a thermal basis.)

(7) The estimated cost of service (*i.e.*, estimated cost of facilities, depreciation, rate of return and capitalization, taxes and operational and maintenance expenses), and estimated cost allocations, rate design volumes and rate design;

(8) Based on the In-State Study and the delivery points within the State of Alaska identified in paragraph (c)(1) of this section, there must be an estimated transportation rate for such deliveries, based on the amount of in-state needs shown in the study. Such estimated transportation rate must be based on the costs to make such in-

state deliveries and shall not include costs to make deliveries outside the State of Alaska;

(9) Negotiated rate and other rate options under consideration, including any rates and terms of any precedent agreements with prospective anchor shippers that have been negotiated or agreed to outside of the open season process prescribed in this section;

(10) Quality specifications and any other requirements applicable to gas to be delivered to the project; provided that a prospective applicant shall not require that potential shippers process or treat their gas at any designated plant or facility;

(11) Terms and conditions for each service offered;

(12) Creditworthiness standards to be applied to, and any collateral requirements for, prospective shippers;

(13) The date, if any, by which potential shippers and the prospective applicant must execute precedent agreements;

(14) A detailed methodology for determining the value of bids for deliveries within the State of Alaska and for deliveries outside the State of Alaska;

(15) The methodology by which capacity will be awarded, in the case of over-subscription, clearly stating all terms that will be considered, except that if any capacity is acquired through pre-subscription agreements as provided in §157.33(b) and the prospective applicant does not redesign the project to accommodate all capacity requests, only that capacity that was acquired through pre-subscription or was bid in the open season on the same rates, terms, and conditions as any one of the pre-subscription agreements shall be allocated on a pro rata basis and no other capacity acquired through the open season shall be allocated.

(16) Required bid information, whether bids are binding or non-binding, receipt and delivery point requirements, the form of a precedent agreement and time of execution of the precedent agreement, definition and treatment of non-conforming bids;

(17) The projected date for filing an application with the Commission;

(18) All information that the prospective applicant has in its possession pertaining to the proposed service to be offered, projected pipeline capacity and design, proposed tariff provisions, and cost projections, or that the prospective applicant has made available to, or obtained from, any potential shipper, including any affiliates of the project sponsor and any shippers with pre-subscribed capacity, prior to the issuance of the public notice of open season;

(19) A list of the names and addresses of the prospective applicant's affiliated sales and marketing units and affiliates involved in the production of natural gas in the State of Alaska. Affiliated unit means "Affiliate" as defined in §358.3(a) of this chapter. Marketing units and or affiliates are those conducting a "marketing function" as defined in §358.3(c) of this chapter, except that the exemption in §358.3(c)(2)(iii) shall not apply;

(20) A comprehensive organizational chart showing:

(i) The organizational structure of the prospective applicant's parent corporation(s) with the relative position in the corporate structure of marketing and sales units and any affiliates involved in the production of natural gas in the State of Alaska.

(ii) The job titles and descriptions, and chain of command for all officers and directors of the prospective applicant's marketing and sales units and any affiliates involved in the production of natural gas in the State of Alaska; and

(21) A statement that any officers and directors of the prospective applicant's affiliated sales and marketing units and affiliates involved in the production of natural gas in the State of Alaska named in paragraph (c)(19) of this section will be prohibited from obtaining information about the conduct of the open season or allocation of capacity that is not posted on the open season Internet Web site or that is otherwise also available to the general public or other participants in the open season.

(d) *Timing.* (1) A prospective applicant must provide prospective shippers at least 90 days from the date on which

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notice of the open season is given within which to submit requests for transportation services. No bid shall be rejected because a prospective shipper has submitted another bid in another open season conducted under this subpart.

(2) A prospective applicant must consider any bids tendered after the expiration of the open season by qualifying bidders and may reject them only if they cannot be accommodated due to economic, engineering, design, capacity or operational constraints, or accommodating the request would otherwise adversely impact the timely development of the project, and a detailed explanation must accompany the rejection. Any bids tendered after the expiration of the open season must contain a good faith showing, including a statement of the circumstances which prevented the late bidder from tendering a timely bid and how those circumstances have changed. If a prospective applicant determines at any time that, based on the criteria stated in this paragraph, no further late bids for capacity can be accommodated, it may request Commission approval to summarily reject any further requests.

(3) Within 10 days after precedent agreements have been executed for capacity allocated in the open season, the prospective applicant shall make public on the Internet and through press releases the results of the open season, at least including the name of the prospective shipper, amount of capacity awarded, and term of agreement.

(4) Within 20 days after precedent agreements have been executed for capacity allocated in the open season, the prospective applicant must submit copies of all such precedent agreements to the Commission and copies of any relevant correspondence with bidders for capacity who were not allocated capacity that identifies why such bids were not accepted (all documents identified in this paragraph (d)(4) may be filed seeking privileged treatment pursuant to §388.112 of this chapter.

[Order 2005, 70 FR 8286, Feb. 18, 2005, as amended by Order 2005-A, 70 FR 35026, June 16, 2005; 75 FR 15342, Mar. 29, 2010; Order 769, 77 FR 65475, Oct. 29, 2012]

**§ 157.35 Undue discrimination or preference.**

(a) All binding open seasons shall be conducted without undue discrimination or preference in the rates, terms or conditions of service and all capacity allocated as a result of any open season shall be awarded without undue discrimination or preference of any kind.

(b) Any complaint filed pursuant to §385.206 of this chapter alleging non-compliance with any of the requirements of this subpart shall be processed under the Commission's Fast Track Processing procedures contained in §385.206(h).

(c) Each prospective applicant conducting an open season under this subpart must function independent of the other divisions of the prospective applicant as well as the prospective applicant's "affiliates" performing a "marketing function" as those terms are defined in §358.3(a) and (c) of the Commission's regulations, except that the exemption in §358.3(c)(2)(iii) shall not apply. In instances in which the prospective applicant is not an entity created specifically to conduct an open season under this subpart, the prospective applicant must create or designate a unit or division to conduct the open season that must function independent of the other divisions of the project applicant as well as the project applicant's "affiliates" performing a "marketing function" as those terms are defined in §358.3(a) of this chapter, except that the exemption in 358.3(c)(2)(iii) shall not apply.

(d) Each project applicant conducting an open season under this subpart that is not otherwise subject to the provisions of part 358 of this chapter must comply with the following sections of that part: §§358.4(c) and (d), 358.5, 358.6, 358.7(a), (b), and (c), and 358.8 (b) and (c) of this chapter.

[Order 2005, 70 FR 8286, Feb. 18, 2005, as amended by Order 2005-A, 70 FR 35026, June 16, 2005; 75 FR 15342, Mar. 29, 2010]

**§ 157.36 Open seasons for expansions.**

Any open season for capacity exceeding the initial capacity of an Alaska natural gas transportation project must provide the opportunity for the transportation of gas other than

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Prudhoe Bay or Point Thomson production. In considering a proposed voluntary expansion of an Alaska natural gas pipeline project, the Commission will consider the extent to which the expansion will be utilized by shippers other than those who are the initial shippers on the project and, in order to promote competition and open access to the project, may require design changes to ensure that some portion of the expansion capacity be allocated to new shippers willing to sign long-term firm transportation contracts, including shippers seeking to transport natural gas from areas other than Prudhoe Bay and Point Thomson.

[Order 2005–A, 70 FR 35026, June 16, 2005]

### § 157.37 Project design.

In reviewing any application for an Alaska natural gas pipeline project, the Commission will consider the extent to which a proposed project has been designed to accommodate the needs of shippers who have made conforming bids during an open season, as well as the extent to which the project can accommodate low-cost expansion, and may require changes in project design necessary to promote competition and offer a reasonable opportunity for access to the project.

[Order 2005, 70 FR 8286, Feb. 18, 2005; Order 756, 77 FR 4894, Feb. 1, 2012]

### § 157.38 Pre-approval procedures.

No later than 90 days prior to providing the notice of open season required by §157.34(a), a prospective applicant must file, for Commission approval, a detailed plan for conducting an open season in conformance with this subpart. The prospective applicant's plan shall include the proposed notice of open season. Upon receipt of a request for such a determination, the Secretary of the Commission shall issue a notice of the request, which will then be published in the FEDERAL REGISTER. The notice shall establish a date on which comments from interested persons are due and a date, which shall be within 60 days of receipt of the prospective applicant's request unless otherwise directed by the Commission, by

which the Commission will act on the proposed plan.

[Order 2005–A, 70 FR 35026, June 16, 2005]

### § 157.39 Rate treatment of pipeline expansions.

There shall be a rebuttable presumption that rates for any expansion of an Alaska natural gas transportation project shall be determined on a rolled-in basis.

## Subpart C [Reserved]

## Subpart D—Exemption of Natural Gas Service for Drilling, Testing, or Purging from Certificate Requirements

AUTHORITY: Natural Gas Act, as amended, 15 U.S.C. 717 *et. seq.*, Energy Supply and Environmental Coordination Act, 15 U.S.C. 791 *et. seq.*, Federal Energy Administration Act, 15 U.S.C. 761 *et. seq.*, Natural Gas Policy Act of 1978, Pub. L. 95–621, 92 Stat. 3350, Department of Energy Organization Act, Pub. L. 95–91, E.O. 12009, 42 FR 46267.

### § 157.53 Testing.

(a) Construction and operation of facilities necessary to render direct natural gas service for use in the testing and purging of new natural gas pipeline facilities are exempted from the certificate requirements of section 7(c) of the Natural Gas Act, when the construction and operation of such facilities are conducted in accordance with paragraph (b) of this section.

(b) Operations undertaken to render direct natural gas service shall be terminated upon the completion of the purging or testing of the pipeline facilities. Persons undertaking any construction or operation of facilities or service under this section shall file an original and two copies of an annual statement, by February 1 of each year, describing their activities hereunder.

[43 FR 56544, Dec. 1, 1978, as amended at 60 FR 53065, Oct. 11, 1995]

## Subpart E [Reserved]

**Subpart F—Interstate Pipeline Blanket Certificates and Authorization Under Section 7 of the Natural Gas Act for Certain Transactions and Abandonment**

**§ 157.201 Applicability.**

(a) *Scope.* This subpart establishes a procedure whereby an interstate pipeline may obtain a blanket certificate authorizing certain construction and operation of facilities and certain certificate amendments and abandonment under section 7 of the Natural Gas Act.

(b) *Who may apply.* This procedure is only applicable to interstate pipelines.

(c) *Cross-reference.* The procedures applicable to transportation by interstate pipelines under blanket certificates are set forth in subpart G of part 284 of this chapter.

(d) *Availability of case-specific certificates.* Nothing in this subpart shall preclude an interstate pipeline from proceeding under any other provision of the Commission's regulations to obtain Commission approval of abandonments or a temporary or permanent certificate of public convenience and necessity.

[Order 234, 47 FR 24266, June 4, 1982, as amended by Order 436, 50 FR 42490, Oct. 18, 1985; Order 603, 64 FR 26606, May 14, 1999]

**§ 157.202 Definitions.**

(a) *General rule.* Terms defined in the Natural Gas Policy Act of 1978 (NGPA) shall have the same meaning for the purposes of this subpart as they have under the Natural Gas Policy Act of 1978.

(b) *Subpart F definitions.* For purposes of this subpart:

(1) *Certificate holder* means any interstate pipeline with an effective blanket certificate issued pursuant to this subpart.

(2)(i) *Eligible facility* means, except as provided in paragraph (b)(2)(ii) of this section, any facility subject to the Natural Gas Act jurisdiction of the Commission that is necessary to provide service within existing certificated levels. Eligible facility also includes any gas supply facility or any facility, including receipt points, needed by the certificate holder to receive

gas into its system for further transport or storage, and interconnecting facilities between transporters that transport natural gas under part 284 of this chapter. Further, eligible facility includes main line, lateral, and compressor replacements that do not qualify under § 2.55(b) of this chapter because they will result in an incidental increase in the capacity of main line facilities, or because they will not satisfy the location or work space requirements of § 2.55(b). Replacements must be done for sound engineering purposes. Replacements for the primary purpose of creating additional main line capacity are not eligible facilities; however, replacements and the modification of facilities to rearrange gas flows or increase compression for the primary purpose of restoring service in an emergency due to sudden unforeseen damage to main line facilities are eligible facilities. Eligible facility also includes auxiliary installations and observation wells which do not qualify under § 2.55(a) of this chapter because they will not satisfy the location or work space requirements of § 2.55(a).

(ii) *Exclusions:* “Eligible facility” does not include:

(A) A main line of a transmission system, except replacement facilities covered under § 157.202(b)(2)(i).

(B) An extension of a main line, except replacement facilities covered under § 157.202(b)(2)(i).

(C) A facility, including compression and looping, that alters the capacity of a main line, except replacement facilities and facility modifications covered under paragraph (b)(2)(i) of this section;

(D) A facility required to test or develop an underground storage field or that alters the certificated capacity, deliverability, or storage boundary, or a facility required to store gas above ground in either a gaseous or liquified state, or a facility used to receive gas from plants manufacturing synthetic gas or from plants gasifying liquefied natural gas, or wells needed to utilize an underground storage field.

(E) Delivery points under § 157.211.

(F) Temporary compression under § 157.209;

(G) A facility that crosses a state line and is constructed for the primary

purpose of transporting gas which is also transported by an intrastate pipeline under section 311(a)(2) of the NGPA;

(3) *Facility* does not include the items described in § 2.55 of this chapter.

(4) *Temporary compression* means compressor facilities installed and operated at existing compressor locations for the limited purpose of temporarily replacing existing permanent compressor facilities that are undergoing maintenance or repair or that are pending permanent replacement.

(5) *Main line* means the principal transmission facilities of a pipeline system extending from supply areas to market areas and does not include small diameter supply or delivery laterals or gathering lines.

(6) *Miscellaneous rearrangement* of any facility means any rearrangement of a facility, excluding underground storage injection/withdrawal wells, that does not result in any change of service rendered by means of the facilities involved, including changes in existing field operations or relocation of existing facilities:

(i) On the same property;

(ii) When required by highway construction, dam construction, encroachment of residential, commercial, or industrial areas, erosion, or the expansion or change of course of rivers, streams or creeks, or

(iii) To respond to other natural forces beyond the certificate holder's control when necessary to ensure safety or maintain the operational integrity of the certificate holder's facilities.

(7) *Project* means a unit of improvement or construction that is used and useful upon completion.

(8) *Project cost* means the total actual cost of constructing the jurisdictional portions of a project. In the case of a project constructed jointly by more than one interstate pipeline, the project cost is the total cost, irrespective of the amount paid by each pipeline.

(9) *Right-of-way grantor* means (i) a person who grants a right-of-way easement to the certificate holder; or (ii) any successor to an interest which is subject to the easement.

(10) *Delivery point* means a tap and/or metering and appurtenant facilities, such as heaters, minor gas conditioning, treatment, odorization, and similar equipment, necessary to enable the certificate holder to deliver gas to any party.

(11) *Sensitive environmental area* means:

(i) The habitats of species which have been identified as endangered or threatened under the Endangered Species Act (Pub. L. 93-205, as amended) and essential fish habitat as identified under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801, *et seq.*);

(ii) National or State Forests or Parks;

(iii) Properties listed on, or eligible for inclusion in, the National Register of Historic Places, or the National Register of Natural Landmarks;

(iv) Floodplains and wetlands;

(v) Designated or proposed wilderness areas, national or state wild and scenic rivers, wildlife refuges and management areas and sanctuaries;

(vi) Prime agricultural lands, designated by the Department of Agriculture; or

(vii) Sites which are subject to use by American Indians and other Native Americans for religious purposes.

(12) *Interconnection facilities* means the interconnecting point, which includes the tap, metering, and M&R facilities and the related interconnecting pipeline.

(13) *Emergency* means a sudden unanticipated loss of gas supply or capacity that requires an immediate restoration of interrupted service for protection of life or health or for maintenance of physical property.

[Order 234, 47 FR 24266, June 4, 1982, as amended by Order 319, 48 FR 34888, Aug. 1, 1983; Order 319-A, 48 FR 51446, Nov. 9, 1983; Order 436, 50 FR 42490, Oct. 18, 1985; Order 603, 64 FR 26606, May 14, 1999; Order 603-A, 64 FR 54536, Oct. 7, 1999; Order 609, 64 FR 57391, Oct. 25, 1999; Order 603-B, 65 FR 11464, Mar. 3, 2000; Order 633, 68 FR 31604, May 28, 2003; Order 790, 78 FR 72812, Dec. 4, 2013]



**§ 157.203 Blanket certification.**

(a) *Effect.* A blanket certificate issued pursuant to this subpart authorizes the certificate holder, in accordance with the provisions of this subpart, to engage in any of the activities specified in § 157.208 through § 157.218 (as may be amended from time to time).

(b) *Automatic authorization.* A blanket certificate issued pursuant to this subpart authorizes the certificate holder to engage in transactions described in § 157.208(a), § 157.209(a), § 157.211(a)(1), § 157.213(a), § 157.215, § 157.216(a), or § 157.218 without further Commission approval.

(c) *Prior notice required.* A blanket certificate issued pursuant to this subpart authorizes the certificate holder to engage in activities described in § 157.208(b), § 157.210, § 157.211(a)(2), § 157.212, § 157.213(b), § 157.214, or § 157.216(b), if the requirements of § 157.205 have been fulfilled.

(d) *Landowner notification.* (1) Except as identified in paragraph (d)(3) of this section, no activity described in paragraph (b) of this section is authorized unless the company makes a good faith effort to notify, in writing all affected landowners, as defined in § 157.6(d)(2), at least 45 days prior to commencing construction or at the time it initiates easement negotiations, whichever is earlier. A landowner may waive the 45-day prior notice requirement in writing as long as the notice has been provided. For activity required to restore service in an emergency, the 45-day prior notice period is satisfied in the event a company obtains all necessary easements. The notification shall include at least:

(i) A brief description of the facilities to be constructed or replaced and the effect the construction activity will have on the landowner's property;

(ii) The name and phone number of a company representative who is knowledgeable about the project;

(iii) A description of the company's environmental complaint resolution procedure that must:

(A) Provide landowners with clear and simple directions for identifying and resolving their environmental mitigation problems and concerns during construction of the project and restoration of the right-of way;

(B) Provide a local or toll-free phone number and a name of a specific person to be contacted by landowners and with responsibility for responding to landowner problems and concerns, and who will indicate when a landowner should expect a response;

(C) Instruct landowners that if they are not satisfied with the response, they may call the company's Hotline; and

(D) Instruct landowners that, if they are still not satisfied with the response, they may contact the Commission's Dispute Resolution Service at the current telephone number and e-mail address, which is to be provided in the notification.

(2) For activities described in paragraph (c) of this section, the company shall make a good faith effort to notify in writing all affected landowners, as defined in § 157.6(d)(2), within at least three business days following the date that a docket number is assigned to the application or at the time it initiates easement negotiations, whichever is earlier. The notice should include at least:

(i) A brief description of the company and the proposed project, including the facilities to be constructed or replaced and the location (including a general location map), the purpose, and the timing of the project and the effect the construction activity will have on the landowner's property;

(ii) A general description of what the company will need from the landowner if the project is approved, and how the landowner may contact the company, including a local or toll-free phone number and a name of a specific person to contact who is knowledgeable about the project;

(iii) The docket number (if assigned) for the company's application;

(iv) A general description of the blanket certificate program and procedures, as posted on the Commission's Web site at the time the landowner notification is prepared, and the link to the information on the Commission's Web site;

(v) A brief summary of the rights the landowner has in Commission proceedings and in proceedings under the relevant eminent domain rules; and

(vi) The following paragraph: This project is being proposed under the prior notice requirements of the blanket certificate program administered by the Federal Energy Regulatory Commission. Under the Commission's regulations, you have the right to protest this project within 60 days of the date the Commission issues a notice of the pipeline's filing. If you file a protest, you should include the docket number listed in this letter and provide the specific reasons for your protest. The protest should be mailed to the Secretary of the Federal Energy Regulatory Commission, 888 First St., NE., Room 1A, Washington, DC 20426. A copy of the protest should be mailed to the pipeline at [pipeline address]. If you have any questions concerning these procedures you can call the Commission's Office of External Affairs at (202) 208-1088; and

(vii) The description of the company's environmental complaint resolution procedure as described in paragraph (d)(1)(iii) of this section.

(3) *Exceptions.* (i) No landowner notice is required for replacements which would have been done under §2.55 of this chapter but for the fact that the replacement facilities are not of the same capacity as long as they meet the location requirements of §2.55(b)(1)(ii) of this chapter and do not cause any ground disturbance; or any replacement done for safety, DOT compliance, environmental, or unplanned maintenance reasons that are not foreseen and that require immediate attention by the certificate holder.

(ii) No landowner notice is required for abandonments which involve only the sale or transfer of the facilities, and the easement will continue to be used for transportation of natural gas.

(iii) No landowner notice is required if there is only one landowner and that landowner has requested the service or facilities.

(iv) No landowner notice is required for activities that do not involve ground disturbance or changes to operational air and noise emissions.

(4) If paragraphs (d)(1) or (d)(2) of this section require an applicant to reveal Critical Energy Infrastructure Information (CEII), as defined by §388.113(c) of this chapter, to any person, the ap-

plicant shall follow the procedures set out in §157.10(d).

[Order 234, 47 FR 24266, June 4, 1982]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting §157.203, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at [www.fdsys.gov](http://www.fdsys.gov).

#### § 157.204 Application procedure.

(a) *Who may apply.* Any interstate pipeline which has been issued a certificate other than a limited-jurisdiction certificate, pursuant to section 7 of the Natural Gas Act and had rates accepted by the Commission may apply for a blanket certificate under this subpart in the manner prescribed in §§157.6(a), 157.14(a) and 385.2011 of this chapter.

(b) *Hearing procedure.* Upon receiving an application for a blanket certificate under this subpart, the Commission will conduct a hearing pursuant to section 7(c) of the Natural Gas Act and §§1.32 and 157.11 of this chapter.

(c) *Issuance.* If required by the present or future public convenience and necessity, the Commission will issue a blanket certificate to the applicant.

(d) *Application contents.* Applications for blanket certificates shall contain:

(1) Information indicating the exact legal name of the applicant; its principal place of business; whether the applicant is an individual, partnership, corporation or otherwise; citation to the certificate proceeding in which the applicant was found to be a natural gas company; the state under the laws of which the applicant is organized or authorized to do business; and the name, title, and mailing address and telephone number of the person or persons to whom communications concerning the application are to be addressed;

(2) A statement that the applicant will comply with the terms, conditions and procedures specified in this subpart.

[Order 234, 47 FR 24266, June 4, 1982, as amended by Order 319, 48 FR 34888, Aug. 1, 1983; Order 433, 50 FR 40345, Oct. 3, 1985; Order 436, 50 FR 42490, Oct. 18, 1985; Order 493, 53 FR 15030, Apr. 27, 1988; Order 603, 64 FR 26607, May 14, 1999]

§ 157.205

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§ 157.205 Notice procedure.

(a) *Applicability.* No activity described in §§ 157.208(b), § 157.210, § 157.211(a)(2), § 157.212, § 157.213(b), 157.214 or 157.216(b), except for activity required to restore service in an emergency, is authorized by a blanket certificate granted under this subpart, unless, prior to undertaking such activity:

(1) The notice requirements have been fulfilled in accordance with the provisions of this section; and

(2) Either (i) no protest has been filed pursuant to paragraph (e) of this section or, (ii) if a protest has been filed, it has been withdrawn or dismissed pursuant to paragraph (g) of this section.

(b) *Contents.* For any activity subject to the requirements of this section, the certificate holder must file with the Secretary of the Commission an original and seven copies, as prescribed in §§ 157.6(a) and 385.2011 of this chapter, a request for authorization under the notice procedures of this section that contains:

(1) The exact legal name of the certificate holder and mailing address and telephone number of the person or persons to whom communications concerning the request are to be addressed;

(2) The docket number in which its blanket certificate was issued;

(3) Any information required in §§ 157.208 through 157.218 of this chapter for the particular activity;

(4) A verified statement that the proposed activity complies with the requirements of this subpart;

(5) A form of notice of the application suitable for publication in the FEDERAL REGISTER in accordance with the specifications in § 385.203(d) of this chapter; and

(6) Identities and docket numbers of other applications related to the transaction. All related filings must be made within 10 days of the first filing. Otherwise the applications on file will be rejected under paragraph (c) of this section without prejudice to refiling when all parties are ready to proceed.

(c) *Rejection of request.* The Director of the Office of Energy Projects shall reject within 10 days of the date of filing a request which patently fails to comply with the provisions of para-

graph (b) of this section, without prejudice to the pipeline's refiling a complete application.

(d) *Publication of notice of request.* (1) Unless the request has been rejected pursuant to paragraph (c) of this section, the Secretary of the Commission shall issue a notice of the request within 10 days of the date of the filing, which will then be published in the FEDERAL REGISTER. The notice shall designate a deadline for filing protests, or interventions to the request. The deadline shall be 60 days after the date of issuance of the notice of the request.

(2) [Reserved]

(e) *Protests.* (1) Any person or the Commission's staff may file a protest prior to the deadline. Copies of the protest must be served on the Secretary of the Commission and the certificate holder.

(2) Protests shall be filed in the following form:

UNITED STATES OF AMERICA BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION  
[Name of pipeline holding the blanket certificate] Docket No. [Include both docket no. of the blanket certificate and the prior notice transaction]

PROTEST TO PROPOSED BLANKET CERTIFICATE  
ACTIVITY

(Name of Protestor) hereby protests the request filed by (Name of pipeline) to conduct a (construction of facilities, abandonment, etc.) under § 157.\_\_\_\_ of the Commission's regulations. Protestor seeks to have this request processed as a separate application.

(Include a detailed statement of Protestor's interest in the activity and the specific reasons and rationale for the objection and whether the protestor seeks to be an intervener.)

(f) *Effect of protest.* If a protest is filed in accordance with paragraph (e) of this section, then the certificate holder, the person who filed the protest, any intervenors, and staff shall have 30 days from the deadline determined in accordance with paragraph (d) of this section, to resolve the protest, and to file a withdrawal of the protest pursuant to paragraph (g) of this section. Informal settlement conferences may be convened by the Director of the Office of Energy Projects or his designee. If a protest is not withdrawn or dismissed pursuant to paragraph (g) of this section, the activity shall not be deemed

authorized by the blanket certificate. Instead, the request filed by the certificate holder shall be treated as an application for section 7 authorization for the particular activity. The FEDERAL REGISTER notice of the request shall be deemed to be notice of the section 7 application sufficient to fulfill the notice requirement of §§ 157.9 and 157.10.

(g) *Withdrawal or dismissal of protests.* The protestor may withdraw a protest within the 30 day period following the deadline determined in accordance with paragraph (d) of this section by submitting written notice of withdrawal to the Secretary of the Commission and serving a copy on the certificate holder, any intervenors and any other party requesting service. The withdrawal must state that the certificate holder and the protestor concur in the withdrawal. Within 10 days of the filing of a protest, the Director of the Office of Energy Projects will dismiss that protest if it does not raise a substantive issue and fails to provide any specific detailed reason or rationale for the objection. If a protest is dismissed, the notice requirements of this section will not be fulfilled until the earlier of: (1) a 30 day period following the deadline determined in paragraph (d) of this section has run; or the dismissed protesting party notifying the Secretary of the Commission that its concerns have been resolved.

(h) *Final authorization.* (1) If no protest is filed within the time allowed by the Secretary, the certificate holder is authorized to conduct the activity under its blanket certificate, effective on the day after time expires for filing protests and interventions unless, during that time, the certificate holder withdraws its application in accordance with § 385.216 of this chapter.

(2) If any protest is filed within the time allowed for protest and interventions and is subsequently withdrawn under paragraph (g) of this section, the certificate holder is authorized to conduct the activity under its blanket certificate, effective upon the day after the withdrawal of all protests, unless the certificate holder withdraws its application in accordance with § 385.216 of this chapter prior to that date.

[Order 234, 47 FR 24266, June 4, 1982]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 157.205, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at [www.fdsys.gov](http://www.fdsys.gov).

#### § 157.206 Standard conditions.

Any activity authorized under a blanket certificate issued under this subpart is subject to the following conditions:

(a) *Revisions.* (1) The Commission reserves the right to amend the requirements of this subpart from time to time.

(2) The blanket certificate is not transferable in any manner and shall be effective only so long as the certificate holder continues the activities authorized by the order issuing such certificate and does so in accordance with the provisions of the Natural Gas Act, as well as applicable rules, regulations, and orders of the Commission.

(b) *Environmental compliance.* This paragraph only applies to activities that involve ground disturbance or changes to operational air and noise emissions.

(1) The certificate holder shall adopt the requirements set forth in § 380.15 of this chapter for all activities authorized by the blanket certificate and shall issue the relevant portions thereof to construction personnel, with instructions to use them.

(2) All activities shall be consistent with all applicable law including the provisions of the following statutes and regulations or compliance plans developed to implement these statutes:

(i) Clean Water Act, as amended (33 U.S.C. 1251 *et seq.*) and the National Pollution Discharge Elimination System Program, 40 CFR part 122 *et seq.*;

(ii) Clean Air Act, as amended (42 U.S.C. 1801 *et seq.*) and air quality regulations and state implementation plans adopted pursuant to 40 CFR parts 50-99;

(iii) National Historic Preservation Act of 1966 (16 U.S.C. 470 *et seq.*);

(iv) Archeological and Historic Preservation Act of 1974 (Pub. L. 93-291);

(v) Coastal Zone Management Act of 1972, as amended (16 U.S.C. 1451 *et seq.*);

(vi) Endangered Species Act of 1973, Pub. L. 93-205, as amended (16 U.S.C. 1531 *et seq.*);

(vii) Executive Order 11988, May 24, 1977 requiring Federal agencies to

evaluate the potential effects of any actions it may take on a floodplain;

(viii) Executive Order 11990, May 24, 1977 requiring an evaluation of the potential effects of construction on wetland;

(ix) Wild and Scenic Rivers Act (16 U.S.C. 1274 *et seq.*);

(x) National Wilderness Act (16 U.S.C. 1133 *et seq.*);

(xi) National Parks and Recreation Act of 1978 (16 U.S.C. 1 and 230 *et seq.*).

(xii) Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801, *et seq.*)

(3) The certificate holder shall be deemed in compliance with:

(i) Paragraph (b)(2)(vi) of this section only if it adheres to the procedures in appendix I of this subpart in which case the Commission finds that endangered species and their critical habitat are protected in accordance with 16 U.S.C. 1536;

(ii) Paragraph (b)(2)(iii) of this section only if it adheres to the procedures in appendix II of this subpart in which case the Commission finds that there is no effect on any property protected by 16 U.S.C. 470f;

(iii) Paragraph (b)(2)(v) of this section only if the appropriate state agency designated to administer the state's coastal zone management plan, prior to construction of the project, waives its right of review or determines that the project complies with the state's coastal zone management plan.

(iv) Paragraphs (b)(2)(i) and (viii) of this section only if it adheres to Commission staff's current "Upland Erosion Control, Revegetation and Maintenance Plan" and "Wetland and Waterbody Construction and Mitigation Procedures" which are available on the Commission Internet home page or from the Commission staff, or gets written approval from the staff or the appropriate Federal or state agency for the use of project-specific alternatives to clearly identified portions of those documents.

(4) Any transaction authorized under a blanket certificate shall not have a significant adverse impact on a sensitive environmental area.

(5)(i) The noise attributable to any new compressor station, compression added to an existing station, or any

modification, upgrade or update of an existing station, must not exceed a day-night level ( $L_{dn}$ ) of 55 dBA at any pre-existing noise-sensitive area (such as schools, hospitals, or residences).

(ii) A compressor facility installed under this section must be designed to meet the following noise emissions criteria. For each new compressor station facility, and for each addition or modification to an existing compression station, the blanket certificate holder must file a noise survey with the Secretary within 60 days of placing the facility in service.

(A) If noise emitted from a new compressor facility operating at full load exceeds an  $L_{dn}$  of 55 dBA at any noise-sensitive area (NSA), or if an addition or modification to an existing compressor station operating at full load at or below an  $L_{dn}$  of 55 dBA at NSAs causes overall noise attributable to the station to exceed an  $L_{dn}$  of 55 dBA at an NSA, the blanket certificate holder must come into compliance with an  $L_{dn}$  of 55 dBA at NSAs within 1 year of placing the facility in service.

(B) If an addition or modification to an existing compressor station operating at full load above an  $L_{dn}$  of 55 dBA at NSAs causes overall noise attributable to the station to increase at an NSA, the blanket certificate holder must act within 1 year of placing the added or modified facility in service to reduce noise at NSAs to the level that existed prior to the addition or modification.

(C) If the initial noise survey demonstrates a need to take action to mitigate noise, within 60 days of completing such action, the blanket certificate holder must file a subsequent noise survey with the Secretary demonstrating that each new compressor station facility, and each addition or modification to an existing compressor station, complies with the noise level limits.

(iii) Any horizontal directional drilling or drilling of wells which will occur between 10 p.m. and 7 a.m. local time must be conducted with the goal of keeping the perceived noise from the drilling at any pre-existing noise-sensitive area (such as schools, hospitals, or residences) at or below a night level ( $L_n$ ) of 55 dBA.

(6)(i) Any activity otherwise subject to authorization under §157.208 shall not be authorized if the activity is located within 0.5 mile of a nuclear power plant which is either operating or under construction, or for which a construction permit has been filed with the Nuclear Regulatory Commission.

(ii) Any activity otherwise subject to authorization under §157.215 shall not be authorized if the activity is located within 2.0 miles of a nuclear power plant which is either operating or under construction, or for which a construction permit has been filed with the Nuclear Regulatory Commission.

(7) The certificate holder shall act as the Commission's non-Federal representative upon acceptance of the blanket certificate for purposes of complying with the Endangered Species Act of 1973.

(c) *Commencement.* Any authorized construction, extension, or acquisition shall be completed and made available for service by the certificate holder and any authorized operation, or service, shall be available within one year of the date the activity is authorized pursuant to §157.205(h). The certificate holder may apply to the Director of the Office of Energy Projects for an extension of this deadline. However, if the request for extension is due to the end-user/shipper not being ready to accept service, the certificate holder must so notify the Commission in writing no later than 10 days after expiration of the one-year period.

(d) *Reports.* The certificate holder shall file reports as required by this subpart.

[Order 234, 47 FR 24266, June 4, 1982, as amended by Order 234-A, 47 FR 38877, Sept. 3, 1982; Order 436, 50 FR 42490, Oct. 18, 1985; Order 603, 64 FR 26607, May 14, 1999; Order 603-A, 64 FR 54536, Oct. 7, 1999; Order 609, 64 FR 57392, Oct. 25, 1999; Order 686, 71 FR 63693, Oct. 31, 2006; Order 686-A, 72 FR 37436, July 10, 2007; Order 699, 72 FR 45325, Aug. 14, 2007; 72 FR 59942, Oct. 23, 2007]

#### § 157.207 General reporting requirements.

On or before May 1, or each year, or in the case of emergency reconstruction activity, prior to any activity, the certificate holder must file, in the manner prescribed in §§157.6(a) and 385.2011 of this chapter, an annual re-

port signed under oath by a senior official of the company, that lists for the previous calendar year:

(a) For each new facility authorized by §§157.208, 157.210, 157.212, or 157.213, the information specified in §157.208(e);

(b) For each delivery point authorized under §157.211(a)(1), the information required by §157.211(c);

(c) for each temporary compressor facility under §157.209, the information required by §157.209(b);

(d) For each storage project tested or developed under §157.215, the information specified in §157.215(b)(1);

(e) For each abandonment authorized under §157.216(a), the information specified in §157.216(d);

(f) For each change in rate schedule authorized under §157.217, the information specified in §157.217(b);

(g) For each change in customer name authorized under §157.218, the information specified in §157.218(b); and

(h) If any activity required to be reported under this section was not undertaken, a statement to that effect.

[Order 436, 50 FR 42490, Oct. 18, 1985, as amended by Order 493, 53 FR 15030, Apr. 27, 1988; Order 603, 64 FR 26607, May 14, 1999; Order 603, 66 FR 15347, Mar. 19, 2001; Order 633, 68 FR 31605, May 28, 2003; Order 686, 71 FR 63693, Oct. 31, 2006; Order 686-A, 72 FR 37436, July 10, 2007]

#### § 157.208 Construction, acquisition, operation, replacement, and miscellaneous rearrangement of facilities.

(a) *Automatic authorization.* If the project cost does not exceed the cost limitations set forth in column 1 of Table I, under paragraph (d) of this section, or if the project is required to restore service in an emergency, the certificate holder is authorized to make miscellaneous rearrangements of any facility, or acquire, construct, replace, or operate any eligible facility. The certificate holder shall not segment projects in order to meet the cost limitations set forth in column 1 of Table I.

(b) *Prior notice.* If the project cost is greater than the amount specified in column 1 of Table I, but less than the amount specified in column 2 of Table I, the certificate holder is authorized to make miscellaneous rearrangements of any facility, or acquire, construct, replace, or operate any eligible facility. The certificate holder shall not

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segment projects in order to meet the cost limitations set forth in column 2 of Table I.

(c) *Contents of request.* In addition to the requirements of §157.205(b), requests filed for activities described under paragraph (b) of this section shall contain:

(1) A description of the purpose of the proposed facilities including their relationship to other existing or planned facilities;

(2) A detailed description of the proposed facilities specifying length, diameter, wall thickness and maximum operating pressure for pipeline; and for compressors, the size, type, and number of compressor units, horsepower required, horsepower existing and proposed, volume of fuel gas, suction and discharge pressure and compression ratio;

(3) A USGS 7½ minute series (scale 1:24000) topographic map (or map of equivalent or greater detail, as appropriate) showing the location of the proposed facilities, and indicating the location of any sensitive environmental areas within one-quarter mile of project-related construction activities;

(4) A map showing the relationship of the proposed facilities to the applicant's existing facilities;

(5) A flow diagram or comparative study showing daily design capacity, daily maximum capacity and operating pressures with and without the proposed facilities for that portion of the certificate holder's system affected by the proposal;

(6) The estimated cost and method of financing the proposed facilities;

(7) A statement explaining how the public convenience and necessity requires the approval of the project;

(8) For acquisitions of facilities:

(i) A statement referencing the date of issuance, docket number and title of the proceeding for any certificate issued by the Commission authorizing the facilities proposed to be acquired; and

(ii) The amounts recorded in the accounts of the vendor (seller or lessor) that apply to the facilities proposed to be acquired and the accumulated provisions for depreciation, depletion, and amortization;

(9) A concise analysis discussing the relevant issues outlined in §380.12 of this chapter. The analysis must identify the existing environmental conditions and the expected significant impacts that the proposed action, including proposed mitigation measures, will cause to the quality of the human environment, including impact expected to occur to sensitive environmental areas. When compressor facilities are proposed, the analysis must also describe how the proposed action will be made to comply with applicable State Implementation Plans developed under the Clean Air Act. The analysis must also include a description of the contacts made, reports produced, and results of consultations which took place to ensure compliance with the Endangered Species Act, National Historic Preservation Act and the Coastal Zone Management Act. Include a copy of the agreements received for compliance with the Endangered Species Act, National Historic Preservation Act, and Coastal Zone Management Act, or if no written concurrence is issued, a description of how the agency relayed its opinion to the company. Describe how drilling for wells or horizontal direction drilling would be designed to meet the goal of limiting the perceived noise at NSAs to an L<sub>dn</sub> of 55 dBA or what mitigation would be offered to landowners.

(10) A commitment to having the Environmental Inspector's report filed every week.

(d) *Limits and inflation adjustment.* The limits specified in Tables I and II shall be adjusted each calendar year to reflect the "GDP implicit price deflator" published by the Department of Commerce for the previous calendar year. The Director of the Office of Energy Projects is authorized to compute and publish limits for future calendar years as a part of Tables I and II, pursuant to §375.308(x)(1) of this chapter.

TABLE I

Year	Limit	
	Auto. proj. cost limit (Col. 1)	Prior notice proj. cost limit (Col. 2)
1982 .....	\$4,200,000	\$12,000,000
1983 .....	4,500,000	12,800,000

TABLE I—Continued

Year	Limit	
	Auto. proj. cost limit (Col. 1)	Prior notice proj. cost limit (Col. 2)
1984	4,700,000	13,300,000
1985	4,900,000	13,800,000
1986	5,100,000	14,300,000
1987	5,200,000	14,700,000
1988	5,400,000	15,100,000
1989	5,600,000	15,600,000
1990	5,800,000	16,000,000
1991	6,000,000	16,700,000
1992	6,200,000	17,300,000
1993	6,400,000	17,700,000
1994	6,600,000	18,100,000
1995	6,700,000	18,400,000
1996	6,900,000	18,800,000
1997	7,000,000	19,200,000
1998	7,100,000	19,600,000
1999	7,200,000	19,800,000
2000	7,300,000	20,200,000
2001	7,400,000	20,600,000
2002	7,500,000	21,000,000
2003	7,600,000	21,200,000
2004	7,800,000	21,600,000
2005	8,000,000	22,000,000
2006	9,600,000	27,400,000
2007	9,900,000	28,200,000
2008	10,200,000	29,000,000
2009	10,400,000	29,600,000
2010	10,500,000	29,900,000
2011	10,600,000	30,200,000
2012	10,800,000	30,800,000
2013	11,000,000	31,400,000
2014	11,200,000	31,900,000

(e) *Reporting requirements.* For each facility completed during the calendar year pursuant to paragraph (a) of this section and §157.213(a), the certificate holder shall file in the manner prescribed in §§157.6(a) and 385.2011 of this chapter as part of the required annual report under §157.207(a) the information described in paragraphs (e)(1)–(5) of this section. For each facility completed during the calendar year pursuant to paragraph (b) of this section, and §§157.210, 157.212, and 157.213(b), the certificate holder shall file in the manner prescribed above only the information described in paragraph (e)(3) of this section.

(1) A description of the facilities installed pursuant to this section, including a description of the length and size of pipelines, compressor horsepower, metering facilities, taps, valves, and any other facilities constructed;

(2) The specific purpose, location, and beginning and completion date of construction of the facilities installed, the date service commenced, and, if applicable, a statement indicating the ex-

tent to which the facilities were jointly constructed;

(3) The actual installed cost of each facility item listed pursuant to paragraph (e)(1), separately stating the cost of materials and labor as well as other costs allocable to the facilities;

(4)(i) A description of the contacts made, reports produced, and results of consultations which took place to ensure compliance with the Endangered Species Act, the National Historic Preservation Act and the Coastal Zone Management Act;

(ii) Documentation, including images, that restoration of work areas is progressing appropriately;

(iii) A discussion of problems or unusual construction issues, including those identified by affected landowners, and corrective actions taken or planned; and

(iv) For new or modified compression, a noise survey verifying compliance with §157.206(b)(5).

(5) For acquisitions of facilities:

(i) A statement referencing the date of issuance, docket number and title of the proceeding for any certificate issued by the Commission authorizing the facilities acquired; and

(ii) The amounts recorded in the accounts of the vendor (seller or lessor) that apply to the facilities acquired and the accumulated provisions for depreciation, depletion, and amortization.

(f) *Special conditions.* (1) For purposes of comparing the project cost of leased facilities with the per-project cost limitations in Table I of this section, the project cost of leased facilities shall be the annual lease charge multiplied by the number of years of the lease.

(2) In the interest of safety and reliability of service, facilities authorized by the certificate shall not be operated at pressures exceeding the maximum operating pressure set forth in the request. In the event that the certificate holder thereafter wishes to change the maximum operating pressure of supply or delivery lateral facilities constructed under section 7(c) of the Natural Gas Act or facilities constructed under this section, it shall file an appropriate request pursuant to the procedures set forth in §157.205(b). Such request shall include the reasons for



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the proposed change. Nothing contained herein authorizes the certificate holder to operate any facility at a pressure above the maximum prescribed by State law, if such law requires a lower pressure than authorized hereby.

(g) If the actual cost of the project exceeds the per-project cost authorized under a blanket certificate in Table I of this section, the certificate holder shall apply to the Director of the Office of Energy Projects for a waiver of those project cost limits.

[Order 234, 47 FR 24266, June 4, 1982]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 157.208, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at [www.fdsys.gov](http://www.fdsys.gov).

## § 157.209 Temporary compression facilities.

(a) *Automatic authorization.* If the cost does not exceed the cost limitations set forth in column 1 of Table I, under § 157.208(d) of this chapter, the certificate holder may install, operate and remove temporary facilities provided that the temporary compressor facilities shall not be used to increase the volume or service above that rendered by the involved existing permanent compressor unit(s).

(b) *Reporting requirements.* As part of the certificate holder's annual report of projects authorized under paragraph (a) of this section, the certificate holder must report the following in the manner prescribed in §§ 157.6(a) and 385.2011 of this chapter;

(1) A description of the temporary compression facility, including the size, type and number of compressor units;

(2) The location at which temporary compression was installed, operated and removed, including its location relative to existing facilities;

(3) A description of the permanent compression facility which was unavailable, and a statement explaining the reason for the temporary compression;

(4) The dates for which the temporary compression was installed, operated and removed; and

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(5) If applicable, the information required in § 157.208(e)(4).

[Order 603, 64 FR 26608, May 14, 1999, as amended by Order 699, 72 FR 45325, Aug. 14, 2007]

## § 157.210 Mainline natural gas facilities.

Subject to the notice requirements of §§ 157.205(b) and 157.208(c), the certificate holder is authorized to acquire, construct, modify, replace, and operate natural gas mainline facilities, including compression and looping, that are not eligible facilities under § 157.202(b)(2)(i). The cost of a project may not exceed the cost limitation provided in column 2 of Table I of § 157.208(d). The certificate holder must not segment projects in order to meet this cost limitation.

[Order 686, 71 FR 63693, Oct. 31, 2006]

## § 157.211 Delivery points.

(a) *Construction and operation—(1) Automatic authorization.* The certificate holder may acquire, construct, replace, modify, or operate any delivery point, excluding the construction of certain delivery points subject to the prior notice provisions in paragraph (a)(2) of this section if:

(i) The natural gas is being delivered to, or for the account of, a shipper for whom the certificate holder is, or will be, authorized to transport gas; and

(ii) The certificate holder's tariff does not prohibit the addition of new delivery points.

(2) *Prior notice.* Subject to the notice procedure in § 157.205, the certificate holder may acquire, construct, replace, modify, or operate any delivery point if:

(i) The natural gas is being delivered to, or for the account of, an end-user that is currently being served by a local distribution company; and

(ii) The natural gas is being delivered to a shipper for whom the certificate holder is, or will be, authorized to transport gas; and

(iii) The certificate holder's tariff does not prohibit the addition of new delivery points.

(b) *Contents of request.* In addition to the requirements of §157.205(b), requests for activities authorized under paragraph (a)(2) must contain:

(1) The name of the end-user, the location of the delivery point, and the distribution company currently serving the end-user;

(2) A description of the facility and any appurtenant facilities;

(3) A USGS 7½-minute series (scale 1:24,000 or 1:25,000) topographic map (or map of equivalent or greater detail, as appropriate) showing the location of the proposed facilities;

(4) The quantity of gas to be delivered through the proposed facility;

(5) A description, with supporting data, of the impact of the service rendered through the proposed delivery tap upon the certificate holder's peak day and annual deliveries.

(c) *Reporting requirements.* As part of the certificate holder's annual report of projects authorized under paragraph (a) of this section, the certificate holder must report in the manner prescribed in §§157.6(a) and 385.2011 of this chapter:

(1) A description of the facilities acquired, constructed, replaced, modified or operated pursuant to this section;

(2) The location and maximum quantities delivered at such delivery point;

(3) The actual cost and the completion date of the delivery point; and

(4) The date of each agreement obtained pursuant to §157.206(b)(3) and the date construction began.

[Order 436, 50 FR 42491, Oct. 18, 1985, as amended by Order 493, 53 FR 15030, Apr. 27, 1988; Order 603, 64 FR 26608, May 14, 1999; Order 603-B, 65 FR 11464, Mar. 3, 2000]

#### §157.212 Synthetic and liquefied natural gas facilities.

Subject to the notice requirements of §§157.205(b) and 157.208(c), the certificate holder is authorized to acquire, construct, modify, replace, and operate natural gas facilities that are used to transport either a mix of synthetic and natural gas or exclusively revaporized liquefied natural gas and that are not "related jurisdictional natural gas facilities" as defined in §153.2(e) of this chapter. The cost of a project may not exceed the cost limitation provided in column 2 of Table I in §157.208(d). The

certificate holder must not segment projects in order to meet this cost limitation.

[Order 686, 71 FR 63693, Oct. 31, 2006]

#### § 157.213 Underground storage field facilities.

(a) *Automatic authorization.* If the project cost does not exceed the cost limitations provided in column 1 of Table I in §157.208(d), the certificate holder may acquire, construct, modify, replace, and operate facilities for the remediation and maintenance of an existing underground storage facility, provided the storage facility's certificated physical parameters—including total inventory, reservoir pressure, reservoir and buffer boundaries, and certificated capacity remain unchanged—and provided compliance with environmental and safety provisions is not affected. The certificate holder must not alter the function of any well that is drilled into or is active in the management of the storage facility. The certificate holder must not segment projects in order to meet this cost limitation.

(b) *Prior Notice.* Subject to the notice requirements of §§157.205(b) and 157.208(c), the certificate holder is authorized to acquire, construct, modify, replace, and operate natural gas underground storage facilities, provided the storage facility's certificated physical parameters—including total inventory, reservoir pressure, reservoir and buffer boundaries, and certificated capacity remain unchanged—and provided compliance with environmental and safety provisions is not affected. The cost of a project may not exceed the cost limitation provided in column 2 of Table I in §157.208(d). The certificate holder must not segment projects in order to meet this cost limitation.

(c) *Contents of request.* In addition to the requirements of §§157.206(b) and 157.208(c), requests for activities authorized under paragraph (b) of this section must contain, to the extent necessary to demonstrate that the proposed project will not alter a storage reservoir's total inventory, reservoir pressure, reservoir or buffer boundaries, or certificated capacity:

(1) A description of the current geological interpretation of the storage

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reservoir, including both the storage formation and the caprock, including summary analysis of any recent cross-sections, well logs, quantitative porosity and permeability data, and any other relevant data for both the storage reservoir and caprock;

(2) The latest isopach and structural maps of the storage field, showing the storage reservoir boundary, as defined by fluid contacts or natural geological barriers; the protective buffer boundary; the surface and bottomhole locations of the existing and proposed injection/withdrawal wells and observation wells; and the lengths of open-hole sections of existing and proposed injection/withdrawal wells;

(3) Isobaric maps (data from the end of each injection and withdrawal cycle) for the last three injection/withdrawal seasons, which include all wells, both inside and outside the storage reservoir and within the buffer area;

(4) A detailed description of present storage operations and how they may change as a result of the new facilities or modifications. Include a detailed discussion of all existing operational problems for the storage field, including but not limited to gas migration and gas loss;

(5) Current and proposed working gas volume, cushion gas volume, native gas volume, deliverability (at maximum and minimum pressure), maximum and minimum storage pressures, at the present certificated maximum capacity or pressure, with volumes and rates in MMcf and pressures in psia;

(6) The latest field injection/withdrawal capability studies including curves at present and proposed working gas capacity, including average field back pressure curves and all other related data;

(7) The latest inventory verification study for the storage field, including methodology, data, and work papers;

(8) The shut-in reservoir pressures (average) and cumulative gas-in-place (including native gas) at the beginning of each injection and withdrawal season for the last 10 years; and

(9) A detailed analysis, including data and work papers, to support the need for additional facilities (wells, gathering lines, headers, compression, dehydration, or other appurtenant fa-

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cilities) for the modification of working gas/cushion gas ratio and/or to improve the capability of the storage field.

[Order 686, 71 FR 63693, Oct. 31, 2006, as amended by Order 686–A, 72 FR 37436, July 10, 2007]

### § 157.214 Increase in storage capacity.

(a) *Prior notice.* Subject to the notice requirements of §157.205, the certificate holder is authorized to increase the maximum volume of natural gas authorized to be stored in a storage field to the extent that geological data and operating experience have demonstrated that a volume of natural gas greater than that currently certificated may be safely stored without the construction of additional facilities.

(b) *Contents of request.* In addition to the requirements of §157.205(b), requests filed for activities described in paragraph (a) shall contain:

(1) Current and requested maximum storage capacity;

(2) Current and requested maximum storage pressure;

(3) Average depth of the storage formation;

(4) Copies of any geological or engineering studies that demonstrate the feasibility of the increase in storage volume; and

(5) A statement setting forth the purpose of the proposed increased capacity.

(c) *Reporting requirements.* For any storage facility whose capacity is increased pursuant to this section, the certificate holder shall submit, in the manner prescribed in §385.2011 of this chapter, semi-annual reports (to coincide with the termination of the injection and withdrawal cycles) containing the information listed in subdivisions (1) through (8) of this paragraph. The certificate holder shall continue to file semi-annual reports until the storage inventory volume has reached, or closely approximates, the maximum specified in the request. Thereafter, the reports shall continue on a semi-annual basis for a period of one year. The filing of reports shall be discontinued thereafter unless otherwise ordered by the Commission. (Volumes shall be stated at 14.73 psia and 60 °F, and pressures shall be stated in psia.)

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(1) The daily volume of natural gas injected into and withdrawn from the storage reservoir.

(2) The volume of natural gas in the reservoir at the end of the reporting period.

(3) The maximum daily injection or withdrawal rate experienced during the reporting period and the average working pressure on such maximum days taken at a central measuring point where the total volume injected or withdrawn is measured.

(4) Results of any tracer program by which the leakage of injected gas may be determined. If the leakage of gas exists, the report should show the estimated total volume of gas leakage, the volume of recycled gas and the remaining inventory of gas in the reservoir at the end of the reporting period.

(5) Any surveys of pressures in gas wells, water levels in observation wells, pump test results for the aquifer-type reservoirs, and the results of back-pressure tests conducted during the reporting period.

(6) The latest revised structure and isopachous contour maps showing the location of the wells, the location and extent of the gas bubble in the storage reservoir for aquifer-type reservoirs and in any other reservoirs of the project in which gas bubbles are known to exist. This map need not be filed if there is no material change from the map previously filed.

(7) Discussion of current operating problems and conclusions.

(8) Such other data or reports which may aid the Commission in the evaluation of the storage project.

[Order 234, 47 FR 24266, June 4, 1982, as amended by Order 493, 53 FR 15030, Apr. 27, 1988]

**§ 157.215 Underground storage testing and development.**

(a) *Automatic authorization.* The certificate holder is authorized to acquire, construct and operate natural gas pipeline and compression facilities, including injection, withdrawal, and observation wells for the testing or development of underground reservoirs for the possible storage of gas, if:

(1) The testing and development of a particular storage project will be completed within a three-year-period;

(2) The quantity of natural gas injected into the prospective storage fields pursuant to the blanket certificate does not exceed a total of 10,000,000 Mcf at any time in all fields with no more than 2,000,000 Mcf injected into any single field;

(3) Gas will be injected for testing purposes only during off-peak periods;

(4) The storage field developed pursuant to this section will not be utilized to render service without further authorization from the Commission, except that gas may be withdrawn on occasion for testing purposes; and

(5) The total expenditures per calendar year pursuant to this section do not exceed the amount specified in Table II as adjusted pursuant to §157.208(d). These costs shall include expenditures for leases, wells, pipeline, compressors, and related facilities, but shall exclude the cost of the natural gas to be used for testing purposes.

TABLE II

Year	Limit
1982	\$2,700,000
1983	2,900,000
1984	3,000,000
1985	3,100,000
1986	3,200,000
1987	3,300,000
1988	3,400,000
1989	3,500,000
1990	3,600,000
1991	3,800,000
1992	3,900,000
1993	4,000,000
1994	4,100,000
1995	4,200,000
1996	4,300,000
1997	4,400,000
1998	4,500,000
1999	4,550,000
2000	4,650,000
2001	4,750,000
2002	4,850,000
2003	4,900,000
2004	5,000,000
2005	5,100,000
2006	5,250,000
2007	5,400,000
2008	5,550,000
2009	5,600,000
2010	5,700,000
2011	5,750,000
2012	5,850,000
2013	6,000,000
2014	6,100,000

(b) *Reporting requirements*—(1) *Annual reports.* For any storage project tested or developed pursuant to this section, the certificate holder shall file, in the manner prescribed in §§157.6(a) and

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385.2011 of this chapter as part of the annual report required under § 157.207(a), the following information:

(i) A description of the facilities constructed and the type of storage reservoir, i.e., gas expansion or dry gas, water-drive or aquifer;

(ii) The location of the facilities;

(iii) The cost of such facilities, the date construction began, and the date they were placed in service;

(iv) The monthly volumes of gas injected into and withdrawn from each reservoir;

(v) An estimate of the storage capacity and daily deliverability of each project; and

(vi) A description of the contacts made, reports produced, and results of consultations which took place to ensure compliance with the Endangered Species Act, the National Historic Preservation Act and the Coastal Zone Management Act.

(2) *Quarterly reports.* If the reservoir to be tested and developed is an aquifer-type reservoir, the certificate holder shall file, in the manner prescribed in §§ 157.6(a) and 385.2011 of this chapter unless otherwise ordered by the commission, for each such project quarterly reports, under oath, until the project is either certificated for regular service or abandoned. The quarterly report shall contain the following information in addition to the data required by paragraph (b)(1) of this section:

(i) The daily volumes of natural gas injected into and withdrawn from the aquifer during the quarter and the volume of gas in the aquifer at the end of each month;

(ii) The maximum daily injection or withdrawal rate experienced during the quarter and the average working pressure on such maximum days taken at a central measuring point where the total volume injected or withdrawn is measured;

(iii) Results of any tracer program by which leakage of gas may be determined;

(iv) Any pressure surveys of gas wells and water levels in observation wells conducted during the quarter by individual well, and copies of any core analyses, gamma ray, neutron or other

electric log surveys and back-pressure tests taken during the quarter;

(v) A map of the storage project showing the location of the wells, the latest revised structure contours, and the location and extent of the gas bubble. This map need not be filed if there is no material change from the map previously filed; and

(vi) Such other data or reports which may aid the Commission in the evaluation of the project.

(c) *Accounting.* The cost of any project ultimately determined to be infeasible for storage shall be charged to Account No. 822 of part 201, Underground Storage Exploration and Development Expenses.

[Order 234, 47 FR 24266, June 4, 1982, as amended by Order 493, 53 FR 15030, Apr. 27, 1988; Order 603, 64 FR 26609, May 14, 1999; 72 FR 5614, Feb. 7, 2007; 73 FR 8191, Feb. 13, 2008; 74 FR 6539, Feb. 10, 2009; 75 FR 8246, Feb. 24, 2010; 76 FR 8294, Feb. 14, 2011; 77 FR 8725, Feb. 15, 2012; 78 FR 8390, Feb. 6, 2013; 79 FR 6808, Feb. 5, 2014]

### § 157.216 Abandonment.

(a) *Automatic authorization.* The certificate holder is authorized pursuant to section 7(b) of the Natural Gas Act to abandon gas supply facilities, and:

(1) A receipt or delivery point, or related supply or delivery lateral, provided the facility has not been used to provide:

(i) Interruptible transportation service during the one year period prior to the effective date of the proposed abandonment, or

(ii) Firm transportation service during the one year period prior to the effective date of the proposed abandonment, provided the point is no longer covered under a firm contract; or

(2) A facility that did or could now qualify for automatic authorization as described in § 157.203(b), provided the certificate holder obtains the written consent of each customer served using the facility during the past 12 months.

(b) *Prior notice.* Subject to the notice requirements of § 157.205, the certificate holder is authorized pursuant to section 7(b) of the Natural Gas Act to abandon:

(1) Any receipt or delivery point if all of the existing customers of the pipeline served through the receipt or delivery point consent in writing to the

abandonment. When filing a request for authorization of the proposed abandonment under the notice procedures of §157.205, the certificate holder shall notify, in writing, the State public service commission having regulatory authority over retail service to the customers served through the delivery point.

(2) Any other facility that did or could now qualify for prior notice authorization as described in §157.203(c), provided the certificate holder obtains the written consent of each customer served using the facility during the past 12 months.

(c) *Contents of request.* In addition to the requirements of §157.205(b), requests filed for activities described under paragraph (b) shall describe:

(1) The location, type, size, and length of the subject facilities. For facilities not constructed or acquired under blanket certificate authority, an estimate of the current cost to replicate such facilities;

(2) The docket authorizing the construction and operation of the facilities to be abandoned;

(3) For each facility an oath statement that all of the customers served during the past year by the subject facilities have consented to the abandonment, or an explanation of why the customers' consent is not available;

(4) A proposed accounting treatment of any facilities to be abandoned.

(5) For any abandonment resulting in earth disturbance, a USGS 7½-minute-series (scale 1:24,000 or 1:25,000) topographic map (or map of equivalent or greater detail, as appropriate) showing the location of the proposed facilities and a concise analysis discussing the relevant issues outlined in §380.12 of this chapter.

(d) *Reporting requirements.* The annual report filed by the certificate holder shall contain, for each abandonment authorized under paragraph (a) of this section:

(1) A description of the facilities abandoned under this section. For facilities not constructed or acquired under blanket certificate authority, an estimate of the current cost to replicate such facilities;

(2) The docket number(s) of the certificate(s) authorizing the construction

and operation of the facilities to be abandoned;

(3) The accounting treatment of the facilities abandoned; and

(4) The date earth disturbance, if any, related to the abandonment began and the date the facilities were abandoned; and

(5) The date of the agreements obtained pursuant to §157.206(b)(3), if earth disturbance was involved.

[Order 234, 47 FR 24266, June 4, 1982, as amended by Order 234-A, 47 FR 38877, Sept. 3, 1982; Order 603, 64 FR 26609, May 14, 1999; Order 603-A, 64 FR 54536, Oct. 7, 1999; Order 686, 71 FR 63694, Oct. 31, 2006; 72 FR 54820, Sept. 27, 2007]

#### § 157.217 Changes in rate schedules.

(a) *Automatic authorization.* The certificate holder is authorized to permit an existing customer, at the customer's request, to change from part 157 individually certificated transportation or storage service to part 284 transportation or storage service, and to abandon the part 157 service, if:

(1) The combined volumetric limitations on deliveries to the customer under both rate schedules are not increased, for either annual or peak day limitations;

(2) The conversion will reflect all the maximum rates and charges associated with the service;

(3) The changes are consistent with the terms of the effective tariffs on file with the Commission. The certificate holder is granted a limited waiver of its tariff requiring posting of available capacity.

(4) The certificate holder shall make a filing to reflect removal of the part 157 rate schedule from its tariff. This tariff filing must be filed in the electronic format required by §154.4 of this chapter.

(b) *Reporting requirements.* In the annual report for any year in which the certificate holder has permitted an existing customer to change from one rate schedule to another pursuant to this section, the certificate holder shall state:

(1) The name of the customer;

(2) The rate schedules and associated rates involved; and

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(3) The effective date of the change.

[Order 234, 47 FR 24266, June 4, 1982, as amended by Order 603, 64 FR 26609, May 14, 1999; Order 603–A, 64 FR 54537, Oct. 7, 1999; Order 714, 73 FR 57535, Oct. 3, 2008]

§ 157.218 Changes in customer name.

(a) Automatic authorization. The effective certificates of the certificate holder may be amended to the extent necessary to reflect the change in the name of an existing customer, if the certificate holder has filed any necessary conforming changes in its Index of Customers, including the customer’s old name.

(b) Reporting requirements. For each customer name change authorized during a calendar year, the certificate holder shall include as a part of its annual report:

(1) The old and new names of the customer; and

(2) A brief explanation of the reason for the name change.

[Order 234, 47 FR 24266, June 4, 1982, as amended by Order 603, 64 FR 26609, May 14, 1999]

APPENDIX I TO SUBPART F OF PART 157— PROCEDURES FOR COMPLIANCE WITH THE ENDANGERED SPECIES ACT OF 1973 UNDER § 157.206(b)(3)(i)

The following procedures apply to any certificate holder which undertakes a project to be authorized under a blanket certificate issued pursuant to subparts E or F of part 157 and to any other service subject to § 157.206(b) of the Federal Energy Regulatory Commission’s (Commission) regulations.

Pursuant to § 157.206(b)(7) of the Commission’s regulations, the certificate holder shall, upon acceptance of its blanket certificate, be designated as the Commission’s non-Federal representative to the U.S. Fish and Wildlife Service (FWS) and the National Marine Fisheries Service (NMFS) in order to conduct informal consultations with those agencies. For purposes of this appendix, “listed species” and “critical habitat” shall have the same meanings as set forth in 50 CFR 402.02. The certificate holder shall be deemed in compliance with § 157.206(b)(2)(vi) of the Commission’s regulations only if, prior to constructing facilities or abandoning facilities by removal under the blanket certificate, it complies with the following procedures:

1. The certificate holder shall contact the appropriate regional office of either the FWS or the NMFS (or both the FWS and the NMFS, if appropriate) as determined pursu-

ant to 50 CFR 402.01 for the purpose of initiating informal consultations.

2. The certificate holder shall be deemed in compliance with § 157.206(b)(2)(vi) of the Commission’s regulations if the consulted agency (either the FWS or NMFS, or both if appropriate) initially determines, pursuant to the informal consultations:

(a) That no listed species or its critical habitat occur in the project area; and

(b) That no species proposed to be listed under 16 U.S.C. 1533 or its critical habitat occur in the project area.

3. If the consulted agency, pursuant to the informal consultations, initially determines that any species proposed to be listed under 16 U.S.C. 1533 or its critical habitat occur in the project area, then the certificate holder shall confer with the consulted agency on how potential impact can be avoided or reduced. Upon completion of the conference and the implementation of any mitigating measures the certificate holder elects to implement, and compliance with paragraph 4 of this Appendix, if applicable, the certificate holder shall be deemed in compliance with § 157.206(b)(2)(vi) of the Commission’s regulations.

4. (a) If the consulted agency initially determines, pursuant to the informal consultations, that a listed species or its critical habitat may occur in the project area, then the certificate holder shall continue informal consultation with the consulted agency to determine if the proposed project may affect such species or habitat. Continued informal consultations may include discussions with experts (including experts provided by the consulted agency), field surveys, biological assessments, and formulation of mitigation measures.

(b) The certificate holder shall be deemed in compliance with § 157.206(b)(2)(vi) of the Commission’s regulations if the consulted agency agrees with the certificate holder’s determination resulting from the continued informal consultations, that the proposed project is not likely to adversely affect a listed species or critical habitat, or that no further consultation is necessary.

(c) If the consulted agency does not agree with such determination by the certificate holder, or if the certificate holder concludes that the proposed project may affect listed species or the critical habitat of such species, then the certificate holder may not proceed with the proposed project under the blanket certificate.

[Order 234, 47 FR 24266, June 4, 1982, as amended by Order 436, 50 FR 42491, Oct. 18, 1985; Order 603, 64 FR 26609, May 14, 1999; Order 603–A, 64 FR 54537, Oct. 7, 1999]

APPENDIX II TO SUBPART F OF PART  
157—PROCEDURES FOR COMPLIANCE  
WITH THE NATIONAL HISTORIC PRES-  
ERVATION ACT OF 1966 UNDER  
§ 157.206(b)(3)(ii)

The following procedures apply to any certificate holder which undertakes a project under the authority of a blanket certificate issued pursuant to subparts E or F of part 157 and to any other service subject to § 157.206(b) of the Federal Energy Regulatory Commission's (Commission) regulations. For the purposes of this appendix, the following definitions apply:

(a) "Listed property" means any district, site, building, structure or object which is listed (1) on the National Register of Historic Places, or (2) in the FEDERAL REGISTER as a property determined to be eligible for inclusion on the National Register.

(b) "SHPO" means the State Historic Preservation Officer or any alternative person duly designated, in accordance with section (1)(b) of Appendix II to Subpart F, to advise on cultural resource matters.

(c) "Unlisted property" means any district, site, building, structure or object which is not a listed property.

(d) "THPO" means the Tribal Historic Preservation Officer, as defined at 36 CFR 800.2(c)(2).

The certificate holder shall be deemed to be in compliance with § 157.206(b)(2)(iii) of the Commission's regulations only if, prior to constructing facilities or abandoning facilities by removal under the blanket certificate, it complies with the following procedures:

(1)(a) If federally administered land would be directly affected by the project, then the procedures used by the appropriate Tribal or Federal land managing agency to comply with section 106 of the National Historic Preservation Act of 1966, 16 U.S.C. 470f, shall take precedence over these procedures. The procedures in this appendix apply to State and private lands, and Federal lands for which there are no other Federal procedures.

(b) If there is no SHPO, or THPO, if appropriate, or if the SHPO, or THPO, as appropriate, declines to consult with the certificate holder, the certificate holder shall so inform the environmental staff of the Office of Energy Projects and shall not proceed with these procedures or the project until an alternate consultant has been duly designated.

(2) It shall be the certificate holder's responsibility to identify or cause to be identified listed properties and unlisted properties that satisfy the National Register Criteria for Evaluation (36 CFR 1202.6), that are located within the area of the project's potential environmental impact and that may be affected by the undertaking.

(3) The certificate holder shall:

(a) Check the National Register of Historic Places and consult with the SHPO, or THPO, as appropriate, to identify all listed properties within the area of the project's potential environmental impact;

(b) Consult with the SHPO, or THPO, as appropriate, and to the extent deemed appropriate by the SHPO, or THPO, as appropriate, check public records and consult with other individuals and organizations with historical and cultural expertise, to determine whether unlisted properties that satisfy the National Register Criteria for Evaluation are known or likely to occur within the area of the project's potential environmental impact; and

(c) Consult with the SHPO, or THPO, as appropriate, to determine the need for surveys to identify unknown unlisted properties. The certificate holder shall evaluate the eligibility of any known unlisted properties located within the area of the project's potential environmental impact according to the National Register Criteria for Evaluation.

(4) The certificate holder shall be deemed in compliance with § 157.206(b)(2)(iii) of the Commission's regulations if the SHPO, or THPO, as appropriate, agrees with the certificate holder that no survey is required, and that no listed properties or unlisted properties that satisfy the National Register Criteria for Evaluation occur in the area of the project's potential environmental impact.

(5) If the SHPO, or THPO, as appropriate, determines that surveys are required to ensure that no listed properties, or unlisted properties that satisfy the National Register Criteria for Evaluation, occur within the area of the project's potential environmental impact, the certificate holder shall perform surveys deemed by the SHPO, or THPO, as appropriate, to be of sufficient scope and intensity to identify and evaluate such properties. The certificate holder shall submit the results of the surveys including a statement as to which unlisted properties satisfy the National Register Criteria for Evaluation, to the SHPO and solicit comments on the surveys and the conclusions.

(6) The certificate holder shall be deemed in compliance with § 157.206(b)(2)(iii) of the Commission's regulations if, upon conclusion of the surveys, the certificate holder and the SHPO, or THPO, as appropriate, agree that no listed properties, and no unlisted properties which satisfy the National Register Criteria for Evaluation, occur in the area of the project's potential environmental impact.

(7) For each listed property, and each unlisted property which satisfies the National Register Criteria for Evaluation, which is located within the area of the project's potential environmental impact, the certificate holder, in consultation with the SHPO, or



THPO, as appropriate, shall apply the Criteria of Effect (36 CFR 800.5) to determine whether the project will have an effect upon the historical, architectural, archeological, or cultural characteristics of the property that qualified it to meet National Register Criteria for Evaluation. The certificate holder shall be deemed in compliance with §157.206(b)(2)(iii) of the Commission's regulations if the certificate holder and the SHPO, or THPO, as appropriate, agree that the project will not affect these characteristics.

(8) If either the certificate holder or the SHPO, or THPO, as appropriate, finds that the project may affect a listed property or an unlisted property which satisfies the National Register Criteria for Evaluation, located within the area of the project's potential environmental impact, then the project shall not be authorized under the blanket certificate unless such properties can be avoided by relocation of the project to an area where the SHPO, or THPO, as appropriate, agrees that no listed properties or unlisted properties that satisfy the National Register Criteria for Evaluation occur. The certificate holder shall be deemed in compliance with §157.206(b)(2)(iii) of the Commission's regulations if the project is relocated as described above.

(9) If the certificate holder and the SHPO, or THPO, as appropriate, are unable to agree upon the need for a survey, the adequacy of a survey, or the results of application of the National Register Criteria for Evaluation to an unlisted property, the project shall not be authorized under the blanket certificate.

[Order 603, 64 FR 26610, May 14, 1999, as amended by Order 603-A, 64 FR 54537, Oct. 7, 1999; Order 699, 72 FR 45325, Aug. 14, 2007]

### Subpart G—Natural Gas Producer Blanket Authorization for Sales and Abandonment [Re- served]

#### PART 158—ACCOUNTS, RECORDS, MEMORANDA AND DISPOSITION OF CONTESTED AUDIT FINDINGS AND PROPOSED REMEDIES

##### DISPOSITION OF CONTESTED AUDIT FINDINGS AND PROPOSED REMEDIES

- Sec.
- 158.1 Notice to audited person.
  - 158.2 Response to notification.
  - 158.3 Shortened procedure.
  - 158.4 Form and style.
  - 158.5 Verification.
  - 158.6 Determination.
  - 158.7 Assignment for oral hearing.
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##### CERTIFICATION OF COMPLIANCE WITH ACCOUNTING REGULATIONS

- 158.10 Examination of accounts.
- 158.11 Report of certification.
- 158.12 Qualifications of accountants.

AUTHORITY: 15 U.S.C. 717–717w, 3301–3432; 42 U.S.C. 7102–7352.

SOURCE: Order 141, 12 FR 8603, Dec. 19, 1947, unless otherwise noted.

##### DISPOSITION OF CONTESTED AUDIT FINDINGS AND PROPOSED REMEDIES

#### § 158.1 Notice to audited person.

An audit conducted by the Commission's staff under authority of the Natural Gas Act may result in a notice of deficiency or audit report or similar document containing a finding or findings that the audited person has not complied with a requirement of the Commission with respect to, but not limited to, the following: A filed tariff or tariffs, contracts, data, records, accounts, books, communications or papers relevant to the audit of the audited person; matters under the Standards of Conduct or the Code of Conduct; and the activities or operations of the audited person. The notice of deficiency, audit report or similar document may also contain one or more proposed remedies that address findings of noncompliance. Where such findings, with or without proposed remedies, appear in a notice of deficiency, audit report or similar document, such document shall be provided to the audited person, and the finding or findings, and any proposed remedies, shall be noted and explained. The audited person shall timely indicate in a written response any and all findings or proposed remedies, or both, in any combination, with which the audited person disagrees. The audited person shall have 15 days from the date it is sent the notice of deficiency, audit report or similar document to provide a written response to the audit staff indicating any and all findings or proposed remedies, or both, in any combination, with which the audited person disagrees, and such further time as the audit staff may provide in writing to the audited person at the time the document is sent to the audited person. The audited person may move the Commission for additional time to provide

a written response to the audit staff and such motion shall be granted for good cause shown. Any initial order that the Commission subsequently may issue with respect to the notice of deficiency, audit report or similar document shall note, but not address on the merits, the finding or findings, or the proposed remedy or remedies, or both, in any combination, with which the audited person disagreed. The Commission shall provide the audited person 30 days to respond to the initial Commission order concerning a notice of deficiency, audit report or similar document with respect to the finding or findings or any proposed remedy or remedies, or both, in any combination, with which it disagreed.

[Order 675-A, 71 FR 29784, May 24, 2006]

#### **§ 158.2 Response to notification.**

Upon issuance of a Commission order that notes a finding or findings, or proposed remedy or remedies, or both, in any combination, with which the audited person has disagreed, the audited person may: Acquiesce in the findings and/or proposed remedies by not timely responding to the Commission order, in which case the Commission may issue an order approving them or taking other action; or challenge the finding or findings and/or any proposed remedies, with which it disagreed by timely notifying the Commission in writing that it requests Commission review by means of a shortened procedure or, if there are material facts in dispute which require cross-examination, a trial-type hearing.

[Order 675, 71 FR 9706, Feb. 27, 2006]

#### **§ 158.3 Shortened procedure.**

If the audited person subject to a Commission order described in §158.1 notifies the Commission that it seeks to challenge one or more audit findings, or proposed remedies, or both, in any combination, by the shortened procedure, the Commission shall thereupon issue a notice setting a schedule for the filing of memoranda. The person electing the use of the shortened procedure, and any other interested entities, including the Commission staff, shall file, within 45 days of the notice, an initial memorandum that addresses

the relevant facts and applicable law that support the position or positions taken regarding the matters at issue. Reply memoranda shall be filed within 20 days of the date by which the initial memoranda are due to be filed. Only participants who filed initial memoranda may file reply memoranda. Subpart T of part 385 of this chapter shall apply to all filings. Within 20 days after the last date that reply memoranda under the shortened procedure may be timely filed, the audited person who elected the shortened procedure may file a motion with the Commission requesting a trial-type hearing if new issues are raised by a party. To prevail in such a motion, the audited person must show that a party to the shortened procedure raised one or more new issues of material fact relevant to resolution of a matter in the shortened procedure such that fundamental fairness requires a trial-type hearing to resolve the new issue or issues so raised. Parties to the shortened procedure and the Commission staff may file responses to the motion. In ruling upon the motion, the Commission may determine that some or all of the issues be litigated in a trial-type hearing.

[Order 675, 71 FR 9706, Feb. 27, 2006]

#### **§ 158.4 Form and style.**

Each memoranda must be complete in itself. All pertinent data should be set forth fully, and each memorandum should set out the facts and argument as prescribed for briefs in §385.706 of this chapter.

[Order 141, 12 FR 8603, Dec. 19, 1947, as amended by Order 225, 47 FR 19057, May 3, 1982]

#### **§ 158.5 Verification.**

The facts stated in the memorandum must be sworn to by persons having knowledge thereof, which latter fact must affirmatively appear in the affidavit. Except under unusual circumstances, such persons should be those who would appear as witnesses if hearing were had to testify as to the facts stated in the memorandum.

#### **§ 158.6 Determination.**

If no formal hearing is had the matter in issue will be determined by the

## § 158.7

Commission on the basis of the facts and arguments submitted.

### § 158.7 Assignment for oral hearing.

In case consent to the shortened procedure is not given, or if at any stage of the proceeding prior to the submission of the case to the Commission any party in interest requests a hearing, the proceeding will be assigned for hearing as provided for by subpart E of part 385 of this chapter. The Commission may also in its discretion set the proceeding for hearing on its own motion at any stage thereof.

[Order 141, 12 FR 8603, Dec. 19, 1947, as amended by Order 225, 47 FR 19057, May 3, 1982]

### § 158.8 Burden of proof.

The burden of proof to justify every accounting entry shall be on the person making, authorizing, or requiring such entry.

#### CERTIFICATION OF COMPLIANCE WITH ACCOUNTING REGULATIONS

### § 158.10 Examination of accounts.

All natural gas companies not classified as Class C or Class D prior to January 1, 1984 shall secure for each year, the services of an independent certified public accountant, or independent licensed public accountant (licensed on or before December 31, 1970), certified or licensed by a regulatory authority of a State or other political subdivision of the United States, to test compliance in all material respects of those schedules that are indicated in the General Instructions set out in the applicable Annual Report, Form No. 2 or Form No. 2-A, with the Commission's Uniform System of Accounts and published accounting releases. The Commission expects that identification of questionable matters by the independent accountant will facilitate their early resolution and that the independent accountant will seek advi-

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sory rulings by the Commission on such items. This examination shall be deemed supplementary to periodic Commission examinations of compliance.

[Order 581, 60 FR 53065, Oct. 11, 1995]

### § 158.11 Report of certification.

Each natural gas company not classified as Class C or Class D prior to January 1, 1984 must file with the Commission by May 18 of the following calendar year, a letter or report of the independent accountant certifying approval, covering the subjects and in the format prescribed in the General Instructions of the applicable Form No. 2 or Form No. 2-A. The letter or report must also identify which, if any, of the examined schedules do not conform to the Commission's requirements and must describe the discrepancies that exist. The Commission will not be bound by the certification of compliance made by an independent accountant under this paragraph.

[Order 710, 73 FR 19399, Apr. 10, 2008]

### § 158.12 Qualifications of accountants.

The Commission will recognize only independent certified public accountants, or independent licensed public accountants who were licensed on or before December 31, 1970, who are in fact independent. For example, an accountant will not be considered independent with respect to any person or any of its parents or subsidiaries in who he has, or had during the period of report, any direct financial interest. The Commission will determine the fact of independence by considering all the relevant circumstances including evidence bearing on the relationships between the accountant and that person or any affiliate thereof.

(Sec. 10, 52 Stat. 826; 15 U.S.C. 717i)

[37 FR 26006, Dec. 7, 1972, as amended at 60 FR 53065, Oct. 11, 1995]