no later than the beginning of the co-
ordination transaction:

(i) Whether it will purchase or return
emissions allowances; and

(ii) If it will return emissions allow-
ances, the date on which those allow-
ances will be returned.

(2) Public utilities may include in
agreements with purchasing utilities
non-discriminatory provisions for in-
demnification if the purchasing utility
fails to provide emissions allowances
by the date on which it declares that
the allowances will be returned.

(f) Other Costing Methods Not Pre-
cluded. The ratemaking treatment of
emissions allowance costs endorsed in
this Policy Statement does not pre-
clude other approaches proposed by in-
dividual utilities on a case-by-case basis.

(59 FR 65938, Dec. 22, 1994, as amended by
Order 579, 60 FR 22261, May 5, 1995)

§ 2.26 Policies concerning review of
applications under section 203.

(a) The Commission has adopted a
Policy Statement on its policies for re-
viewing transactions subject to section
203. That Policy Statement can be
found at 77 FERC ¶ 61,263 (1996). The
Policy Statement is a complete de-
scription of the relevant guidelines.
Paragraphs (b)–(e) of this section are
only a brief summary of the Policy
Statement.

(b) Factors Commission will generally
consider. In determining whether a pro-
posed transaction subject to section 203
is consistent with the public interest,
the Commission will generally consider
the following factors; it may also con-
sider other factors:

(1) The effect on competition;

(2) The effect on rates; and

(3) The effect on regulation.

(c) Effect on competition. Applicants
should provide data adequate to allow
analysis under the Department of Jus-
tice/Federal Trade Commission Merger
Guidelines, as described in the Policy
Statement and Appendix A to the Pol-
icy Statement.

(d) Effect on rates. Applicants should
propose mechanisms to protect cus-
tomers from costs due to the merger. If
the proposal raises substantial issues
of relevant fact, the Commission may
set this issue for hearing.

(e) Effect on regulation. (1) Where the
affected state commissions have au-
thority to act on the transaction, the
Commission will not set for hearing
whether the transaction would impair
effective regulation by the state com-
misions. The application should state
whether the state commissions have
this authority.

(2) Where the affected state com-
misions do not have authority to act on
the transaction, the Commission may
set for hearing the issue of whether the
transaction would impair effective
state regulation.

(f) Under section 203(a)(4) of the Fed-
eral Power Act (16 U.S.C. 824b), in re-
viewing a proposed transaction subject
to section 203, the Commission will
also consider whether the proposed
transaction will result in cross-sub-
sidization of a non-utility associate
company or pledge or encumbrance of
utility assets for the benefit of an asso-
ciate company, unless that cross-sub-
sidization, pledge, or encumbrance will
be consistent with the public interest.

[Order 392, 61 FR 68606, Dec. 30, 1996, as
amended by Order 669–A, 71 FR 28443, May 16,
2006]

STATEMENTS OF GENERAL POLICY AND
INTERPRETATIONS UNDER THE NAT-
URAL GAS ACT

§ 2.51 [Reserved]

§ 2.52 Suspension of rate schedules.

The interpretation stated in §2.4 ap-
plies as well to the suspension of rate
schedules under section 4 of the Nat-
ural Gas Act.

791a–828c (1976 & Supp. IV 1980); Dept. of En-
ergy Organization Act, 42 U.S.C. 7101–7352
(Supp. IV 1980); E.O. 12009, 3 CFR part 142
(1976); 5 U.S.C. 553 (1976))

[Order 303, 48 FR 24361, June 1, 1983]

§ 2.55 Definition of terms used in sec-
tion 7(c).

For the purposes of section 7(c) of the
Natural Gas Act, as amended, the word
facilities as used therein shall be inter-
preted to exclude:

(a) Auxiliary installations. (1) Installa-
tions (excluding gas compressors)