

regulation otherwise applicable to QFs, assuming the non-compliance was not marked by long duration or frequent recurrence. We believe that the prospect of a lower, substitute economy energy rate during a period of non-compliance (in conjunction with whatever contractual remedies are appropriate for non-compliance), or the possibility of case-specific scrutiny to determine a just and reasonable rate where the parties' contract provides for a non-compliance default rate, should provide ample incentive for QFs to retain their QF status. Similarly, these rate remedies also should provide ample incentive for QFs, to the extent uncertain as to their continuing compliance, to take the initiative to seek Commission guidance as soon as possible.

This approach is entirely consistent with the explicit language of PURPA which provides in section 210 that the Commission has the authority to grant such exemptions "in whole or part." 16 U.S.C. § 824a-3(e) (1994). The same section provides that the Commission may grant exemptions from "any combination of" FPA, PUHCA and state regulation "if the Commission determines such exemption is necessary to encourage cogeneration and small power production." *Id.* (emphasis added).

Accordingly, in all cases in which a QF failed to comply with our QF regulations during some past period of time, fails to receive a waiver to excuse such non-compliance, and is now back in compliance, we will continue to grant all of the exemptions otherwise applicable to QFs except for the FPA section 205 exemption.⁶ As explained above, such QFs must commit to FPA section 205 rate regulation for the period of non-compliance.

For pending cases as well as future cases, we will grant all of the regulatory exemptions (other than FPA rate review) unless the non-compliance is marked by long duration or frequent recurrence. In circumstances where the QF has engaged in more than one period of non-compliance, the QF will assume a heavy burden in demonstrating that the non-compliance merits a second waiver.

Determination of Southampton's Rates

Applying this policy to Southampton's circumstances, we will grant its request for continued exemption during calendar year 1992 from regulation under PUHCA and state

⁶We will issue orders in the near future that apply this policy to pending cases raising the non-compliance issues. Of course, we retain the discretion to resolve any individual cases on any peculiar facts presented, such as those resolved through negotiated settlement.

utility laws and most sections of the FPA, consistent with 18 C.F.R. §§ 292.601, 292.602 (1995). However, as explained above, the extension of QF regulatory exemptions is subject to Southampton's obligation to submit for Commission rate review, under section 205 of the FPA, the rates it charged to Virginia Power during calendar year 1992. It also must refund to Virginia Power the difference between the contract rate during that year and the Commission-approved rate, with interest calculated pursuant to the Commission's regulations, see 18 C.F.R. § 35.19a (1995).

We have decided above that the just and reasonable rate for wholesale power service provided during each hour of the period of non-compliance (1992) should be no higher than what Virginia Power would have paid for energy had it made an economic decision to purchase power from Southampton in these hours.⁷ For this reason, we direct Virginia Power to compile data from its dispatch logs showing the highest cost option actually selected by Virginia Power in the hour, e.g., the most expensive energy purchase or unit running cost⁸ for each hour during 1992 and to submit a report of such costs to us within 45 days of the date of this order. To avoid questions about the source of such cost data, we direct personnel from both Southampton and Virginia Power to compile the data jointly from Virginia Power's system dispatch logs. We strongly encourage the parties to reach agreement as to this remaining rate issue. After we receive the required report, we will determine whether further proceedings are necessary.

In light of these procedures, we see no need to undertake additional "settlement judge" procedures as recommended by Southampton.

The Commission Orders

(A) Southampton's request for rehearing is hereby accepted as if it were timely filed.

(B) Southampton's request for rehearing is hereby granted in part and denied in part, as discussed in the body of this order.

(C) Virginia Power is hereby directed to file with the Commission, within 45 days of the date of this order, a report compiling its hourly economy energy costs for 1992, as discussed in the body of this order.

⁷See *supra* at 6 & n. 2.

⁸The highest cost in the hour is the incremental cost for that hour.

(D) The Secretary is hereby directed to publish a copy of this order in the Federal Register.

By the Commission.

Lois D. Cashell,
Secretary.

[FR Doc. 96-20051 Filed 8-6-96; 8:45 am]

BILLING CODE 6717-01-P

[Docket No. RP96-318-000]

Midwestern Gas Transmission Company; Notice of Cashout Report

August 1, 1996.

Take notice that on July 29, 1996, Midwestern Gas Transmission Company (Midwestern) tendered for filing its cashout report for the September 1994 through August 1995 period.

Midwestern states that the cashout report reflects a total cashout loss during this period of \$22,755.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before August 8, 1996. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,
Acting Secretary.

[FR Doc. 96-20046 Filed 8-6-96; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP-96-683-000]

Mississippi River Transmission Corporation; Notice of Application To Abandon

August 2, 1996.

Take notice that on July 30, 1996, Mississippi River Transmission Corporation (Applicant), 1600 Smith Street, Houston Texas 77002, filed pursuant to Section 7(b) of the Natural Gas Act, for authority to abandon, a certificated transportation service with El Paso Natural Gas Company. The service is Applicant's Rate Schedule X-23 in its FERC Gas Tariff, Original Volume No. 2. Applicant's proposal is