

For additional information, please contact Irene E. Szopo at (202) 208-1602 or Donald Williams at (202) 208-0743.

**Linwood A. Watson, Jr.,**

*Acting Secretary.*

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. PR98-2-000]

#### Magnolia Pipeline Corporation; Notice of Petition for Rate Approval

December 8, 1997.

Take notice that on November 21, 1997, Magnolia Pipeline Corporation (Magnolia), filed a petition for rate approval, pursuant to Section 311 of the Natural Gas Act, Section 284.123(b)(2) of the Commission's Regulations, and the Commission's March 31, 1995 letter order in Docket No. PR95-1-000, requesting that the Commission approve the continued use of Magnolia's current maximum rate of \$0.1621 per Dth, plus reimbursement of actual fuel use up to three percent for Section 311 transportation services performed on Magnolia's system.

Magnolia states that it is an intrastate pipeline within the meaning of Section 2(16) of the NGPA and it owns and operates pipeline facilities within the State of Alabama. Magnolia states that its current maximum transportation unit rate is based on a leveled cost of service. Magnolia states that even if it were able to collect its current maximum rate, Magnolia would not recover its total cost of service. Thus Magnolia only seeks approval to continue to be able to charge up to its existing approved maximum rates. Magnolia proposes an effective date on and after November 22, 1997.

Pursuant to Section 284.123(b)(2)(ii), if the Commission does not act within 150 days of the filing date, the rate will be deemed to be fair and equitable and not in excess of an amount which interstate pipelines would be permitted to charge for similar transportation service. The Commission may, prior to the expiration of the 150-day period, extend the time for action or institute a proceeding to afford parties an opportunity for written comments and for the oral presentation of views, data, and arguments.

Any person desiring to participate in this rate proceeding must file a motion

to intervene in accordance with Sections 385.211 and 385.214 of the Commission's Rules of Practice and Procedures. All motions must be filed with the Secretary of the Commission on or before December 23, 1997. The petition for rate approval is on file with the Commission and is available for public inspection.

**Linwood A. Watson, Jr.,**

*Acting Secretary.*

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. RP98-83-000]

#### Texas Eastern Transmission Corporation; Notice of Petition for Declaratory Order

December 8, 1997.

Take notice that on December 3, 1997, Texas Eastern Transmission Corporation (Texas Eastern) tendered for filing a petition under Rule 207 of the Commission's Rules of Practice and Procedure (18 CFR 385.207) requesting that the Commission determine whether Public Service Electric and Gas Company (Public Service) is permitted to employ the Commission's capacity release regulations to abrogate its long-term contractual obligations to Texas Eastern by assigning those contracts to a wholly-owned, shell subsidiary where the assignment is for the express purpose of avoiding Public Service's contractual obligations.

Texas Eastern states that Public Service recently filed a plan with the New Jersey Board of Public Utilities under which Public Service proposes to set up a new shell subsidiary with no assets and then to permanently assign all of its contracts with Texas Eastern to that subsidiary. Public Service will continue to control all of the activities of its new subsidiary and Public Service employees will perform all of the activities of its subsidiary. Texas Eastern quotes Public Service as having stated that the purpose of the new subsidiary is to "reduce the potential fixed cost responsibility" of Public Service under the contracts. Texas Eastern submits that Public Service has no contractual right to terminate its obligations to Texas Eastern by assigning them to a shell subsidiary.

Texas Eastern states that Public Service's plan is based entirely upon

Public Service's interpretation of the Commission's capacity release regulations, which Public Service alleges limit its obligations to three months worth of demand charges.

Texas Eastern contends that the capacity release by Public Service is a sham transaction to abrogate its Texas Eastern contracts, which still have a total aggregate revenue stream in excess of \$750 million during their remaining primary term. Texas Eastern argues that Public Service's plan will have serious consequences, both of Texas and for the interstate pipeline industry. Texas Eastern alleges that, if Public Service is allowed to avoid its existing obligations, other shippers who find a contract burdensome will assign that contract to an under-capitalized subsidiary and allow the subsidiary to default on the contract.

Texas Eastern states that it is not attempting to preclude Public Service from assigning its contracts to the new subsidiary. Texas Eastern says that it is only seeking to assure that Public Service will not be released from liability as a consequence of such an assignment.

Texas Eastern states that this Commission has jurisdiction to grant this relief first because of the Commission's jurisdiction over capacity release as it applies to Texas Eastern and its tariff and second, because the Commission has direct jurisdiction over Public Service's capacity release activities.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC, 20426 in accordance with Sections 385.214 and 385.211 of the Commission's Regulations. All such motion or protests must be filed on or before January 5, 1998. All protests filed with the Commission will be considered by the Commission in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to this proceeding, must file a motion to intervene. Copies of this filing are on file and are available for public inspection in the Public Reference Room.

**Linwood A. Watson, Jr.,**

*Acting Secretary.*

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