

Securities and Exchange Commission

§ 250.7

§ 250.6 Termination of exemptions.

If it appears to the Commission (on the basis of statements claiming exemption or otherwise) that a substantial question of law or fact exists as to whether any holding company claiming exemption under § 250.2, § 250.3, § 250.4, § 250.5, or § 250.10 or any other section now or hereafter in force pursuant to section 3(a) of the Act exempting any class of holding companies from the registration requirements of the act, is within the exemption afforded by any such section, or if it appears that any question exists as to whether the exemption of any such company may be detrimental to the public interest or the interest of investors or consumers, the Commission may notify such holding company to that effect by registered mail. Thirty days after such notification, such exemption shall terminate, without prejudice to the right of such holding company to file an application for an order granting such an exemption pursuant to any applicable section of the act, and without prejudice to any temporary exemption provided for by the act if such application is filed in good faith.

[6 FR 5950, Nov. 25, 1941]

§ 250.7 Companies deemed not to be electric or gas utility companies.

(a) Any company which is primarily engaged in one or more businesses other than the business of an electric or gas utility company, shall not be deemed an electric or gas utility company within the meaning of section 2(a)(3) or section 2(a)(4) of the Act if the gross sales of electric energy, or of natural or manufactured gas distributed at retail by means of the facilities owned or operated by such company, did not exceed an average annual amount of \$5,000,000 over the preceding three calendar years. There may be excluded from the gross sales specified:

(1) Sales of electric energy or natural or manufactured gas to tenants or employees of the operating company for their own use and not for resale; and

(2) Sales of gas to industrial consumers or in enclosed portable containers.

(b)(1) Any company whose only connection with the generation, trans-

mission, or distribution of electric energy is the ownership or operation of facilities used for the production of heat or steam from special nuclear material which heat or steam is used in the generation of electric energy shall not be deemed an electric utility company within the meaning of section 2(a)(3) of the Act, if such company is organized not for profit and is engaged primarily in research and development activities.

(2) As a prerequisite to being entitled to the status afforded by paragraph (b)(1) of this section, any such company shall file with this Commission a statement that such company falls within the provisions of that subparagraph, including as exhibits (i) copies of its charter, by-laws and any licenses issued by the Nuclear Regulatory Commission to such company; (ii) a list of its members or stockholders indicating their respective percentages of voting power; and (iii) if such company was in existence at the end of the preceding calendar year, a balance sheet as at the end of the preceding calendar year and an income and surplus statement for such year or a statement of receipts and expenditures for such year and of financial status at its end.

(3) As a prerequisite to retaining the status afforded by paragraph (b)(1) of this section, any such company shall annually on or before May file a statement with this Commission that such company continues to fall within the provisions of that subparagraph, including as exhibits (i) any changes or additions to its charter or by-laws or list of members or stockholders or any licenses issued by the Nuclear Regulatory Commission to such company since the time of the last filing hereunder, and (ii) a balance sheet as at the end of the preceding calendar year and an income and surplus statement for such year or a statement of receipts and expenditures for such year and of financial status at its end.

(4) If it appears to the Commission (on the basis of the aforesaid statements or otherwise) that a substantial question of law or fact exists as to whether any company is entitled to the status afforded by paragraph (b)(1) of this section, the Commission may notify such company to that effect by