

SUBCHAPTER W—REVISED GENERAL RULES

PART 375—THE COMMISSION

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AUTHORITY: 5 U.S.C. 551-557; 15 U.S.C. 717-717w, 3301-3432; 16 U.S.C. 791-825r, 2601-2645; 42 U.S.C. 7101-7352.

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Subpart A—General Provisions

§ 375.101 The Commission.

(a) *Establishment.* The Federal Energy Regulatory Commission is an independent regulatory commission within the

Department of Energy established by section 401 of the DOE Act.

(b) *Offices.* The principal office of the Commission is at 825 North Capitol Street, NE., Washington, D.C. 20426. Regional offices are maintained at Atlanta, Ga., Chicago, Ill., Fort Worth, Texas, New York, N.Y., and San Francisco, Calif.

(c) *Hours.* Unless the Chairman otherwise directs, the offices of the Commission are open each day, except Saturdays, Sundays, and Holidays, from 8:30 a.m. to 5:00 p.m.

(d) *Sessions.* The Commission may meet and exercise its powers at any place in the United States. The time and place of meetings of the Commission are announced in advance as provided in § 375.204.

(e) *Quorum.* A quorum for the transaction of business consists of at least three members present.

(f) *Action by Commissioners or representatives.* The Commission may, by one or more of its members or by such agents as it may designate, conduct any hearing, or other inquiry necessary or appropriate to its functions, except that nothing in this paragraph supercedes the provisions of section 556, of Title 5, United States Code relating to Administrative Law Judges.

§ 375.102 Custody and authentication of Commission records.

(a) *Custody of official records.* (1) The Secretary shall have custody of the Commission's seal, the minutes of all action taken by the Commission, the transcripts, electronic recordings, or minutes of meetings closed to public observation, its rules and regulations, and its administrative orders.

(2) The Executive Director shall have custody of records of the Commission except records designated in paragraph (a)(1) of this section.

(b) *Authentication of Commission action.* All orders and other actions of the Commission shall be authenticated or signed by the Secretary or the Secretary's designee.

§ 375.103 Official seal.

The Commission hereby prescribes as its official seal, judicial notice of which shall be taken pursuant to section 401(e) of the DOE Act, the imprint illustrated below and described as follows:

A circle, the outside border of which shall consist of two concentric circles enclosing the words "Department of Energy" and "Federal Energy Regulatory Commission." Within the inner circle shall appear a stylized eagle with head facing to its right. Its body shall be in the shape of a tapered shield, widest at the top, consisting of nine vertical stripes. The top of the shield contains five equally-spaced light color stars representing the five members of the Commission appointed by the President under Title IV of the DOE Act. Identical stylized wings appear on either side of the shield, each incorporating twenty stylized feathers protruding from a solid color wing-like shape. Below the eagle shall appear five squares, arranged in a horizontal line. Each of these squares shall contain a circle representing an area of the Commission's responsibility. The first square at the left of the line shall include a stylized representation of a pipeline; the second square shall represent a hydroelectric power facility; the third, and center square, shall represent a natural gas flame; the fourth square shall represent a drilling rig; the fifth square shall represent a stylized lightning bolt.



§ 375.104 Transfer of proceedings from other agencies to the Commission.

(a) *Transfer of pending proceedings.* Pursuant to the authorization provided in section 705(b)(2), and the provisions of section 705(b)(1) of the DOE Act, all proceedings and applications pending

at the time such Act took effect, before any department, agency, commission, or component thereof, the functions of which have been transferred to the Commission by the Act, have been transferred in accordance with the joint regulations issued by the Commission and the Secretary of Energy on October 1, 1977. Those joint regulations appear as an appendix to this section.

(b) *Substitution of Commission for other agencies in court proceedings.* Pursuant to section 705(e) of the DOE Act, the Commission authorizes the Solicitor of the Commission to file the appropriate pleadings to substitute the Commission for the Interstate Commerce Commission or the Federal Power Commission as necessary in any pending court litigation, responsibility for which is transferred to the Commission.

APPENDIX TO § 375.104

PART 1000—TRANSFER OF PROCEEDINGS TO THE SECRETARY OF ENERGY AND THE FEDERAL ENERGY REGULATORY COMMISSION

§ 1000.1 Transfer of proceedings.

(a) *Scope.* This part establishes the transfer of proceedings pending with regard to those functions of various agencies which have been consolidated in the Department of Energy and identifies those proceedings which are transferred into the jurisdiction of the Secretary and those which are transferred into the jurisdiction of the Federal Energy Regulatory Commission.

(b) *Proceedings transferred to the Secretary.* The following proceedings are transferred to the Secretary:

- (1) All Notices of Proposed Rulemaking, pending and outstanding, which have been proposed by the Department of Energy;
- (2) All Notices of Inquiry which have been issued by the Department of Energy;
- (3) All Requests for Interpretations which have been filed pursuant to 10 CFR part 205, subpart F, and on which no interpretation has been issued, with the Office of General Counsel of the Department of Energy;
- (4) All Applications for Exception Relief which have been filed pursuant to 10 CFR part 205, subpart D, and on which no final decision and order has been issued, with the Office of Exceptions and Appeals of the Department of Energy;
- (5) All petitions for special redress, relief or other extraordinary assistance which have been filed pursuant to 10 CFR part 205, subpart R, and on which no order has been issued, with the Office of Private Grievances and Redress of the Department of Energy;

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(6) All appeals from Remedial Orders, Exception Decisions and Orders, Interpretations issued by the Office of General Counsel, and other agency orders which have been filed pursuant to 10 CFR part 205, subpart H, and on which no order has been issued prior to October 1, 1977, with the Office of Exceptions and Appeals of the Department of Energy;

(7) All applications for modification or rescission of any DOE order or interpretation which have been filed pursuant to 10 CFR part 205, subpart J, and on which no order has been issued prior to October 1, 1977, with the Office of Exceptions and Appeals of the Federal Energy Administration;

NOTE: For a document relating to procedures for natural gas import and export proceedings see 42 FR 61856, Dec. 7, 1977.

(8) All applications for temporary stays and stays which have been filed pursuant to 10 CFR part 205, subpart I, and on which no order has been issued, with the Office of Exceptions and Appeals of the Department of Energy;

(9) All applications which have been filed with the Office of Regulatory Programs of the Department of Energy and on which no final order has been issued;

(10) All investigations which have been instituted and have not been resolved by the Office of Compliance of the Department of Energy;

(11) All Notices of Probable Violation which have been issued prior to October 1, 1977, by the Office of Compliance of Department of Energy;

(12) All Notices of Proposed Disallowance which have been issued prior to October 1, 1977, by the Office of Compliance of Department of Energy;

(13) All Prohibition Orders which have been issued pursuant to 10 CFR part 303 and as to which no Notice of Effectiveness has been issued;

(14) From the Department of the Interior:

(i) The tentative power rate adjustments for the Central Valley Project, California, proposed on September 12, 1977 (42 FR 46619, September 16, 1977).

(15) From the Interstate Commerce Commission:

(i) Ex Parte No. 308 (Sub-No. 1)—Investigation of Common Carrier Pipelines.

(16) From the Federal Power Commission:

(i) Cases:

(A) Northwest Pipeline Corporation, Docket No. CP75-340.

(B) Midwestern Gas Transmission Co., Docket No. CP77-458, *et al.*

(C) St. Lawrence Gas Company, Docket No. G-17500.

(D) U.S.D.I. Bonneville Power Administration, Docket No. E-9563.

(E) U.S.D.I. Southwestern Power Administration, Docket No. E-7201.

(F) U.S.D.I. Southeastern Power Administration, Docket No. E-6957.

(G) Tenneco InterAmerica, Inc., Docket No. CP77-561.

(ii) Applications:

(A) Maine Public Service Co., Docket No. E-6751, (ERA Docket No. IE-78-1).

(B) Northern States Power Co., Docket No. E-9589, (ERA Docket No. IE-78-2).

(C) Arizona Public Service Co., Docket No. IT-5331, (ERA Docket No. IE-78-3).

(D) Niagara Mohawk Power Corp., Docket No. E-7022, (ERA Docket No. IE-77-6).

(E) Maine Public Service Co., Docket No. IT-6027, (ERA Docket No. PP-12).

(F) Boise Cascade, Docket No. E-7765, (ERA Docket No. PP-52).

(G) Bonneville Power Administration, Docket No. IT-5959, (ERA Docket No. PP-10).

(H) EPR—Oregon (Geothermal Steam Leases).

(I) EPR—Utah (Geothermal Steam Leases).

(J) EPR—Idaho (Geothermal Steam Leases).

(K) EPR—Oregon (Geothermal Steam Leases).

(L) EPR—Idaho (Geothermal Steam Leases).

(iii) Rulemakings:

(A) Implementation of sections 382(b) and 382(c) of the Energy Policy and Conservation Act of 1971. Docket No. RM77-3.

(B) New Form Nos:

151, Docket No. RM76-19.

153, Docket No. RM76-27.

154, Docket No. RM36-33.

156, Docket No. RM76-32.

157, Docket No. RM76-21.

158, Docket No. RM76-31.

159, Docket No. RM76-23.

160, Docket No. RM76-20.

161, Docket No. RM76-26.

162, Docket No. RM76-34.

155, Docket No. RM76-28.

163, Docket No. RM76-30.

164, Docket No. RM76-25.

(C) Procedures for the Filing of Federal Rate Schedules Docket No. RM77-9.

(iv) Project withdrawals and power site revocations:

(A) Project 1021, 1226, 1606, and 1772—(Wyoming)—U.S. Forest Service (Applicant).

(B) Project Nos. 1021, 1226, 1606, and 1772—(Wyoming)—U.S. Forest Service (Applicant).

(C) Project Nos. 220 and 691—(Wyoming)—Cliff Gold Mining Co. (Applicant for P-691) The Colowyo Gold Mining Co. (Applicant for P-220).

(D) Project No. 1203—(Wyoming)—F. D. Foster (Applicant).

(E) Project No. 1241—(Wyoming)—F. B. Hommel (Applicant).

(F) Project No. 847—(Oregon)—H. L. Vorse (Applicant).

(G) Project No. 907—(Colorado)—S. B. Collins (Applicant).

(H) Project No. 941—(Colorado)—Marian Mining Company (Applicant).

(I) Project Nos. 347 and 418—(Colorado)—Jones Brothers (Applicant for P-347) Frank Gay et al. (Applicant for P-418).

(J) Project Nos. 373, 521, 937, 1024, 1415, 1546, 1547, and 1025—()—U.S. Forest (Applicant).

(K) Project No. 163—(Colorado)—James F. Meyser and Edward E. Drach (Applicants).

(L) Project Nos. 385, 445, 506, 519, 1220, 1296, 1418, 1519, 1576, 1615, 1616, 1618, 1678, 1682, and 1750—(Colorado)—U.S. Forest Service (Applicant).

(M) DA-117—(Alaska)—Bureau of Land Management (Applicant).

(N) Project No. 114—(Alaska)—Elizabeth H. Graff et al. (Applicant).

(O) DA-222—(Washington)—Bureau of Land Management (Applicant).

(P) DA-562—(Oregon)—U.S. Geological Survey (Applicant).

(Q) DA-601—(Idaho)—Bureau of Land Management (Applicant).

(R) DA-509—(Colorado)—Fed. Highway Admin. (Applicant).

(S) DA-616—(Idaho)—U.S. Forest Service (Applicant).

(T) DA-1—(South Carolina)—U.S. Forest Service (Applicant).

(U) DA-1116—(California)—U.S. Geological Survey (Applicant).

(V) DA-154—(Arizona)—U.S. Geological Survey (Applicant).

(W) DA-1098—(California)—Merced Irrigation District (Applicant).

(c) *Proceedings transferred to the Commission.* There are hereby transferred to the jurisdiction of the Federal Energy Regulatory Commission the following proceedings:

(1) From the Interstate Commerce Commission:

(i) Ex Parte No. 308—Valuation of Common Carrier Pipelines.

(ii) I&S 9164—Trans Alaska Pipeline System—Rate Filings (including I&S 9164 (Sub-No. 1), NOR 36611, NOR 36611 (Sub-No. 1), NOR 36611 (Sub-No. 2), NOR 36611 (Sub-No. 3), NOR 36611 (Sub-No. 4)).

(iii) I&S 9089—General Increase, December 1975, Williams Pipeline Company.

(iv) I&S 9128—Anhydrous Ammonia, Gulf Central Pipeline Company.

(v) NOR 35533 (Sub-No. 3)—Petroleum Products, Southwest & Midwest Williams Pipeline.

(vi) NOR 35794—Northville Dock Pipeline Corp. et al.

(vii) NOR 35895—Inexco Oil Company v. Belle Fourche Pipeline Co. et al.

(viii) NOR 36217—Department of Defense v. Interstate Storage & Pipeline Corp.

(ix) NOR 36423—Petroleum Products Southwest to Midwest Points.

(x) NOR 36520—Williams Pipeline Company—Petroleum Products Midwest.

(xi) NOR 36553—Kerr-McGee Refining Corporation v. Texoma Pipeline Co.

(xii) Suspension Docket 67124—Williams Pipeline Co.—General Increase.

(xiii) Valuation Docket 1423—Williams Pipeline Company (1971-1974 inclusive).

(2) To remain with the Commission until forwarding to the Secretary:

The following proceedings will continue in effect under the jurisdiction of the Commission until the timely filing of all briefs on and opposing exceptions to the initial decision of the presiding Administrative Law Judge, at which time the Commission shall forward the record of the proceeding to the Secretary for decision on those matters within his jurisdiction:

(i) *El Paso Eastern Co., et al.*, Docket No. CP 77-330, *et al.*

(ii) *Tenneco Atlantic Pipeline Co., et al.*, Docket No. CP 77-100, *et al.*

(iii) *Distrigas of Massachusetts Corp., et al.*, Docket No. CP 70-196, *et al.*

(iv) *Distrigas of Massachusetts Corp., et al.*, Docket No. CP 77-216, *et al.*

(v) *Eascogas LNG, Inc., et al.*, Docket No. CP 73-47, *et al.*

(vi) *Pacific Indonesia LNG Co., et al.*, Docket No. CP74-160, *et al.*, (except as provided in paragraph (c)(3) of this section).

(3) The Amendment to Application of Western LNG Terminal Associates, filed on November 11, 1977, in *Pacific Indonesia LNG Co., et al.*, FPC Docket No. CP74-160, *et al.*, ERA Docket No. 77-001-LNG, is transferred to the jurisdiction of the Commission until timely filing of all briefs on and opposing exceptions to the Initial Decision of the presiding Administrative Law Judge on that Amendment, at which time the Commission shall forward a copy of the record of that proceeding to the Secretary of Energy for decision on those matters within his jurisdiction. (If the Commission waives the preparation of an initial decision, the Commission will forward a copy of the record after completion of the hearing, or after the timely filing of any briefs submitted to the Commission, whichever occurs later.)

(d) *Residual clause.* All proceedings (other than proceedings described in paragraphs (b) and (c) of this section) pending with regard to any function of the Department of Energy, the Department of Energy, Department of the Interior, the Department of Commerce, the Department of Housing and Urban Development, the Department of Navy, and the Naval Reactor and Military Applications Programs which is transferred to the Department of Energy (DOE) by the DOE Organization Act, will be conducted by the Secretary. All proceedings (other than proceedings described in paragraphs (b) and (c) of this section) before the Federal Power

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Commission or Interstate Commerce Commission will be conducted by the Federal Energy Regulatory Commission.

(Department of Energy Organization Act, Pub. L. 95-91; EO 12009, 42 FR 46267)

[42 FR 55534, Oct. 17, 1977, as amended at 43 FR 21434, May 18, 1978; 43 FR 21658, May 19, 1978]

§ 375.105 Filings.

(a) *Filings in pending proceedings.* All filings in proceedings referred to in § 375.104 shall be made with the Secretary.

(b) *Filings in connection with functions transferred to the Commission.* All persons required to file periodic or other reports with any agency or commission whose functions are transferred under such Act to the Commission shall file such reports which relate to those transferred functions with the Secretary. The Commission hereby continues in effect all previously-approved forms for making periodic or other reports.

(c) *Where to make filings.* All filings of documents with the Commission shall be made with the Secretary. The address for filings to be made with the Secretary is: Secretary, Federal Energy Regulatory Commission, 825 N. Capitol St., NE., Washington, DC 20426. Where a document to be filed with the Secretary is hand-delivered, it shall be submitted to room 3110, 825 North Capitol Street, NE., Washington, DC 20426. Documents received after regular business hours are deemed to have been filed on the next regular business day.

Subpart B—Procedures Under the Government in the Sunshine Act

§ 375.201 Purpose.

The purpose of this subpart is to set forth the Commission procedures for conduct of its official business in accordance with the provisions of 5 U.S.C. 552b. The Commission may waive the provisions set forth in this subpart to the extent authorized by law.

§ 375.202 Definitions and limitations on definitions.

(a) *Definitions.* For purposes of this subpart:

(1) *Meeting* means the deliberations of at least a quorum of the Commission where such deliberations determine or result in the joint conduct of official Commission business, except that such term does not include deliberations to determine whether to conduct a closed meeting.

(2) *Portion of a meeting* means the consideration during a meeting of a particular topic or item separately identified in the notice of Commission meeting described in § 375.204.

(3) *Open* when used in the context of a Commission meeting or a portion thereof, means the public may attend and observe the deliberations of the Commission during such meeting or portion of a meeting consistent with the provisions of § 375.203.

(4) *Closed* when used in the context of a Commission meeting or a portion thereof, means that the public may not attend or observe the deliberations of the Commission during such meeting or portion of such meeting.

(b) *Limitations on other definitions in this chapter.* For purposes of this subpart:

(1) Transcripts, minutes and electronic recordings of Commission meetings (whether or not prepared at the direction of the Commission) are not part of the “formal record” as defined in § 388.101(c) of this chapter; and

(2) Transcripts, minutes and electronic recordings of Commission meetings (whether or not prepared at the direction of the Commission) are not part of the “public record” of the Commission as defined in § 388.105(b) of this chapter.

[45 FR 21217, Apr. 1, 1980, as amended by Order 225, 47 FR 19058, May 3, 1982]

§ 375.203 Open meetings.

(a) *General rule.* Except as provided in § 375.206, meetings of the Commission will be open meetings.

(b) *Public participation in open meetings.* (1) Members of the public are invited to listen and observe at open meetings.

(2)(i) Subject to the provisions of paragraphs (b)(2) (ii), (iii), and (iv) of this section, members of the public may record discussions at Commission meetings by means of electronic or other devices (including tape recorders,

stenotype, stenomask, or shorthand). The photographing of Commission meetings by still or movie camera, or by video taping without lighting aids, is permitted.

(ii) Due to the limited space of the Commission meeting room, use of recording or photographic equipment which would require the user to move about the room during the meeting is not allowed. Recording and photographic equipment may be set up and used only in the public areas of the Commission meeting room as designated by the Commission.

(iii) Except for portable equipment which is used at an individual's seat in the audience, equipment must be in place and ready to use prior to the start of the meeting or set up during a recess of the meeting. Such equipment may be removed only at the conclusion of the meeting or during a recess. A pre-arranged recess for the set up or removal of equipment may be requested through the Commission's Director of the Division of Public Information.

(iv) No microphones may be placed on the tables used by the Commissioners and Staff.

(c) *Physical arrangements.* The Secretary shall be responsible for seeing that ample space, sufficient visibility, and adequate acoustics are provided for public observation of open meetings.

§ 375.204 Notice of meetings.

(a) *Public announcements of meetings—*
(1) *General rule.* Except to the extent that information described in § 375.205(a) (involving closed meetings) is exempt from disclosure, the Secretary shall announce at least one week before each Commission meeting, the time, place, and subject matter of the meeting, whether it is an open meeting or closed meeting, and the name and telephone number of the official designated by the Commission to respond to requests for information about the meeting.

(2) *Abbreviated notice.* If the Commission determines by a majority of its members by a recorded vote that Commission business requires that a Commission meeting be called with less than one week's notice as prescribed in paragraph (a)(1) of this section, the Secretary shall make public announce-

ments of the time, place, and subject matter of such meeting and whether open or closed to the public, at the earliest practicable time.

(3) *Change in the time or place.* If there is a change in time or place of a meeting following the public announcement prescribed in paragraph (a)(1) or (2) of this section the Secretary shall publicly announce such change at the earliest practicable time.

(4) *Change in the subject matter or the determination to open or close a meeting.* The subject matter of a meeting, or the determination of the Commission to open or close a meeting or a portion of a meeting, may be changed following the public announcement prescribed in paragraph (a) (1) or (2) of this section only if:

(i) The Commission determines by a recorded vote by a majority of the membership that Commission business so requires and that no earlier announcement of the change is possible; and

(ii) The Secretary publicly announces such change and the vote of each member upon such change at the earliest practicable time.

(b) *Stricken items.* Notwithstanding the provisions of paragraph (a) of this section, individual items that have been announced for consideration at Commission meetings may be deleted without vote or notice.

(c) *Definitions.* For the purpose of this section, *earliest practicable time*, means as soon as practicable, which should in few, if any, instances be later than the commencement of the meeting or portion of the meeting in question.

(d) *Informing public of meeting announcements.* (1) The Secretary shall use reasonable means to assure that the public is fully informed of the public announcements required by this section. For example, such announcements may be posted on the Commission's public notice boards, published in official Commission publications, or sent to the persons on a mailing list maintained for those who want to receive such material.

(2) Immediately following each public announcement required by this section, notice of the time, place, and subject matter of a meeting, whether the meeting is open or closed, any change in a

preceding announcement, and the name and telephone number of the official designated by the Commission to respond to requests for information about the meeting shall also be submitted by the Secretary for publication in the FEDERAL REGISTER.

(e) *Issuance of list of Commission actions.* Following each Commission meeting, the Secretary shall issue a list of Commission actions taken which shall become effective as of the date of issuance of the related order (or date designated therein) or other document, which the Secretary shall issue in due course, in the manner prescribed by the Commission.

§ 375.205 Closed meetings.

(a) Meetings will be closed to public observation where the Commission properly determines, according to the procedures set forth in § 375.206, that such meeting or portion of the meeting or disclosure of information to be considered at the meeting is likely to:

(1) Disclose matters that are (i) specifically authorized under criteria established by an Executive order to be kept secret in the interests of national defense or foreign policy and are (ii) in fact properly classified pursuant to such Executive order;

(2) Relate solely to the internal personnel rules and practices of the Commission;

(3) Disclose matters specifically exempted from disclosure by statute (other than 5 U.S.C. 552): *Provided*, That such statute:

(i) Requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or

(ii) Establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(4) Disclose the trade secrets and commercial or financial information obtained from a person and privileged or confidential, which may include geological or geophysical information and data, including maps, concerning wells;

(5) Involve accusing any person of a crime, or formally censuring any person;

(6) Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion

of personal privacy, including personnel and medical files and similar files;

(7) Disclose investigatory records compiled for law enforcement purposes, or information which if written would be contained in such records, but only to the extent that the production of such records or information would:

(i) Interfere with enforcement proceedings;

(ii) Deprive a person of a right to a fair trial or an impartial adjudication;

(iii) Constitute an unwarranted invasion of personal privacy;

(iv) Disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source;

(v) Disclose investigative techniques and procedures, or;

(vi) Endanger the life or physical safety of law enforcement personnel.

(8) Disclose information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions;

(9) Disclose information the premature disclosure of which would be:

(i) In the case of an agency which regulates currencies, securities, commodities, or financial institutions, likely to:

(A) Lead to significant financial speculation in currencies, securities, or commodities, or

(B) Significantly endanger the stability of any financial institution; or

(ii) Likely to frustrate significantly implementation of a proposed Commission action, except that paragraph (a)(9)(i) of this section shall not apply where the Commission has already disclosed to the public the content or nature of such proposed action, or where the Commission is required by law to make such disclosure on its own initiative prior to taking final agency action on such proposal; or

(10) Specifically concern the Commission's issuance of a subpoena, or the Commission's participation in a civil action or proceeding, an action in a

foreign court or international tribunal, or an arbitration, or the initiation, conduct, or disposition by the Commission of a particular case:

(i) Of formal Commission adjudication pursuant to the procedures in 5 U.S.C. 554; or

(ii) Otherwise involving a determination on the record after opportunity for a hearing.

(b) Commission meetings shall not be closed pursuant to paragraph (a) of this section when the Commission finds that the public interest requires that they be open.

§ 375.206 Procedures to close meetings.

(a) *General rule.* A meeting or a portion of a meeting may be closed only when the Commission votes by a majority of the membership to close the meeting. A separate vote shall be taken with respect to each Commission meeting or portion of a meeting which is proposed to be closed to the public or with respect to any information which is proposed to be withheld. A single vote may be taken with respect to a series of meetings, a portion or portions of which are proposed to be closed to the public, or with respect to any information concerning such series of meetings, so long as each meeting in such series involves the same particular matters and is scheduled to be held no more than thirty days after the initial meeting in such series. The vote of each Commission member participating in such vote shall be recorded and no proxies shall be allowed.

(b) *Request for closed meeting.* Whenever any person whose interests may be directly affected by a meeting or a portion of a meeting requests that the Commission close such portion to the public for any of the reasons referred to in paragraph (a) (5), (6), or (7) of § 375.205, the Commission, upon request of any one of its members, shall vote by recorded vote whether to close such meeting.

(c) *Release of vote.* Within one day of any vote taken pursuant to paragraph (a) or (b) of this section, the Secretary of the Commission shall make publicly available a written copy of such vote reflecting the vote of each member. If a portion of a meeting is to be closed to the public, the Secretary shall, within

one day of the vote taken pursuant to paragraph (a) or (b) of this section, make publicly available a full written explanation of the Commission's action closing the portion together with a list of all persons expected to attend the meeting and their affiliation. The information required by this paragraph shall be disclosed except to the extent that it is exempt from disclosure under the provisions of § 375.205(a).

(d) *Certification.* Prior to a determination that a meeting should be closed pursuant to paragraph (a) or (b) of this section, the General Counsel of the Commission shall publicly certify that, in his opinion, the meeting may be closed to the public and shall state each relevant exemptive provision. A copy of such certification, together with a statement from the presiding officer of the meeting setting forth the time and place of the meeting, and the persons present, shall be retained by the Secretary of the Commission as part of the transcript, recording, or minutes required by paragraph (e) of this section.

(e) *Transcripts, recordings, minutes.* (1) The Secretary shall maintain a complete transcript or electronic recording adequate to record fully the proceedings of each meeting, or portion of a meeting, closed to the public, except that in the case of a meeting, or portion of a meeting, closed to the public pursuant to § 375.205(a)(8), (9)(i), or (10), the Secretary shall maintain either a transcript or recording, or a set of minutes. Any such minutes shall fully and clearly describe all matters discussed and shall provide a full and accurate summary of any actions taken, and the reasons therefor, including a description of each of the views expressed on any item and the record of any rollcall vote (reflecting the vote of each member on the question). All agenda documents considered in connection with any Commission action shall be identified in such minutes.

(2) The Secretary shall maintain a complete verbatim copy of the transcript, a complete copy of the minutes, or a complete electronic recording of each meeting, or portion of a meeting, closed to the public, for a period of at least two years after such meeting, or until one year after the conclusion of

any Commission proceeding with respect to which the meeting or portion was held, whichever occurs later.

(f) *Public availability of transcripts, records, minutes.* (1) Within a reasonable time after the adjournment of a meeting closed to the public, the Commission shall make available to the public, in the Division of Public Information of the Commission, Washington, DC, the transcript, electronic recording, or minutes of the discussion of any item on the agenda, or of any item of the testimony of any witness received at the meeting, except for such item or items of such discussion or testimony as the Director of Public Information determines may be withheld under §375.204. Copies of such transcript, or minutes, or a transcription of such recording shall be furnished to any person at the actual cost of duplication or transcription.

(2) The determination of the Director of the Division of Public Information to withhold information pursuant to paragraph (f)(1) of this section may be appealed to the General Counsel or the General Counsel's designee, in accordance with §388.107 of this chapter.

[45 FR 21217, Apr. 1, 1980, as amended at 52 FR 7825, Mar. 13, 1987]

Subpart C—Delegations

§375.301 Purpose and subdelegations.

(a) The purpose of this subpart is to set forth the authorities that the Commission has delegated to staff officials. Any action by a staff official under the authority of this subpart may be appealed to the Commission in accordance with §385.1902 of this chapter.

(b) Where the Commission, in delegating functions to specified Commission officials, permits an official to further delegate those functions to a designee of such official, *designee* shall mean the deputy of such official, the head of a division, or a comparable official as designated by the official to whom the direct delegation is made.

(c) For purposes of Subpart C, *uncontested* and *in uncontested cases* mean that no motion to intervene, or notice of intervention, in opposition to the pending matter made under §385.214

(intervention) has been received by the Commission.

[Order 112, 45 FR 79025, Nov. 28, 1980, as amended by Order 225, 47 FR 19058, May 3, 1982; Order 492, 53 FR 16062, May 5, 1988]

§375.302 Delegations to the Secretary.

The Commission authorizes the Secretary, or the Secretary's designee to:

(a) Sign official general correspondence on behalf of the Commission, except as otherwise provided in this section.

(b) Except as provided in §385.213 of this chapter, prescribe, for good cause, a different time than that required by the Commission's Rules of Practice and Procedure for filing by public utilities, licensees, natural gas companies, and other persons of answers to complaints, petitions, motions, and other documents. Absent a waiver, no answers will be required to be filed by a party within less than ten days after the date of service of the document.

(c) Schedule hearings and issue notices thereof.

(d) Accept for filing notices of intervention and petitions to intervene by commissions and agencies of the States and the Federal government.

(e) Pass upon motions to intervene before a presiding administrative law judge is designated. If a presiding administrative law judge has been designated, the provisions of §385.504(b)(12) of this chapter are controlling.

(f) Deny motions for extensions of time (other than motions made while a proceeding is pending before a presiding officer as defined in §385.102(e)), except that such motions may be granted in accordance with §385.2008 of this chapter.

(g) Reject any documents filed later than the time prescribed by an order or rule of the Commission, except that such documents may be accepted in accordance with §385.2008 of this chapter.

(h) Reject any documents filed that do not meet the requirements of the Commission's rules which govern matters of form, except that such documents may be accepted in accordance with §385.2001 of this chapter for good cause shown.

(i) Waive requirements of the Commission's rules which govern matters

of form, when consistent with the public interest in a particular case.

(j) Pass upon, in contested proceedings, questions of extending time for electric public utilities, licensees, natural gas companies, and other persons to file required reports, data, and information and to do other acts required to be done at or within a specific time by any rule, regulation, license, permit, certificate, or order of the Commission.

(k) Accept service of process on behalf of the Commission.

(l) Accept for filing bonds or agreements and undertakings submitted in rate suspension proceedings.

(m) Issue notices or orders instituting procedures to be followed concerning contested audit issues under part 41 or 158 of this chapter either when the utility:

(1) Initially notifies the Commission that it requests disposition of a contested issue pursuant to §41.7 or 158.7 of this chapter; or

(2) Requests disposition of a contested issue pursuant to the shortened procedures provided in §41.3 or 158.3 of this chapter.

(n) Publish notice of land withdrawals under section 24 of the Federal Power Act.

(o) Issue notices of applications filed under the Federal Power Act and the Natural Gas Act, fixing the time for filing comments, protests or petitions to intervene and schedule hearings on such applications when appropriate or required by law.

(p) Accept for filing amendments to agreements and contracts or rate schedules submitted in compliance with Commission orders accepting offers of rate settlements if such filings are in satisfactory compliance with such orders.

(q) Grant authorizations, pursuant to the provisions of §35.1(a) of this chapter for a designated representative to post and file rate schedules of public utilities which are parties to the same rate schedule.

(r) Redesignate proceedings, licenses, certificates, rate schedules, and other authorizations and filing to reflect changes in the names of persons and municipalities subject to or invoking Commission jurisdiction under the Federal Power Act or the Natural Gas

Act, where no substantive changes in ownership, corporate structure or domicile, or jurisdictional operation are involved.

(s) Change the appropriate hydroelectric project license article upon application by the licensee to reflect the specified reasonable rate of return as provided in §2.15 of this chapter.

(t) Reject without prejudice all requests for rehearing and requests for modification of a proposed order issued in a proceeding under section 210 or section 211 of the Federal Power Act, 16 U.S.C. 824i, 824j.

(u) Reject without prejudice all motions for clarification that are combined with requests for rehearing and/or requests for modification of a proposed order issued in a proceeding under section 210 or section 211 of the Federal Power Act, 16 U.S.C. 824i, 824j.

(v) Toll the time for action on requests for rehearing.

(w) Issue notices in compliance with section 206(b) of the Federal Power Act.

[43 FR 36435, Aug. 17, 1978. Redesignated and amended at 45 FR 21224, 21225, Apr. 1, 1980; Order 112, 45 FR 79025, Nov. 28, 1980; Order 147, 46 FR 29702, June 3, 1981; Order 224, 47 FR 17809, Apr. 26, 1982; Order 225, 47 FR 19058, May 3, 1982; Order 492, 53 FR 16062, May 5, 1988; Order 570, 59 FR 53351, Oct. 24, 1994; Order 585, 60 FR 62328, Dec. 6, 1995]

§375.303 Delegations to the Chief Accountant.

The Commission authorizes the Chief Accountant or the Chief Accountant's designee to:

(a) Issue interpretations of the Uniform System of Accounts for public utilities, licensees, natural gas companies and oil pipeline companies.

(b) Pass upon any proposed accounting matters submitted by or on behalf of public utilities, licensees, natural gas companies, and oil pipeline companies, that require Commission approval under the Uniform System of Accounts, except that if the proposed accounting matters involve unusually large transactions or unique or controversial features, the Chief Accountant must present the matters to the Commission for consideration.

(c) Pass upon applications to increase the size or combine property units of public utilities, licensees, natural gas companies and oil pipeline companies.

(d) Sign all correspondence on behalf of the Commission:

(1) Relating to Annual Report Nos. 1, 1F, 2, 2A, and 6; and

(2) With State regulatory commissions and agencies relating to accounting and auditing matters.

(e) Pass upon any uncontested application for authorization to issue securities or to assume obligations and liabilities, filed by public utilities and licensees pursuant to part 34 of this chapter.

(f) Pass upon actual legitimate original cost and depreciation thereon and the net investment in jurisdictional companies and revisions thereof, and sign audit reports resulting from the examination of the books and records of jurisdictional companies,

(1) If the company agrees with the audit report, or

(2) If the company does not agree with the audit report, provided that notification of the opportunity for a hearing under Section 301(a) of the Federal Power Act or Section 8(a) of the Natural Gas Act accompanies the audit report.

(g) Deny or grant, in whole or in part, petitions for waiver of the fees prescribed in §§ 381.301, 381.506, 381.507, and 381.508 of this chapter in accordance with § 381.106(b) of this chapter.

(h) Pass upon and approve requests by state and federal agencies to review staff audit working papers if the company agrees to the release of the audit working papers provided:

(1) The papers are examined at the Commission; and

(2) The requester

(i) Only makes general notes concerning the contents of the audit working papers,

(ii) Does not make copies of the audit working papers, and

(iii) Does not remove the audit working papers from the area designated by the Chief Accountant.

(i) With regard to billing errors noted as a result of Commission staff's examination of automatic adjustment tariffs approved by the Commission, approve corrective measures, including recomputation of billing and refunds, to the extent the company agrees.

(j) Deny or grant, in whole or part, requests for waiver of the requirements

for special or periodic reports under § 357.2 of this chapter, Annual Report of Oil Pipeline Companies.

(k) Deny or grant, in whole or part, requests for waiver of the requirements of parts 352 and 356 of this chapter, except if the matters involve unusually large transactions or unique or controversial features, the Chief Accountant must present the matters to the Commission for consideration.

(l) Deny or grant, in whole or part, requests for waiver of the requirements for statements or reports under § 141.1 of this chapter (FERC Form No. 1, Annual Report of Major electric utilities, licensees and others) and § 141.2 of this chapter (FERC Form No. 1-F, Annual report for Nonmajor public utilities and licensees), and of the filing of FERC Form No. 1 on electronic media (§ 385.2011 of this chapter, Procedures for filing on electronic media, paragraphs (a)(6), (c), and (e)).

[43 FR 36435, Aug. 17, 1978, as amended by Order 38, 44 FR 46452, Aug. 8, 1979. Redesignated and amended at 45 FR 21224, 21225, Apr. 1, 1980; Order 112, 45 FR 79025, Nov. 28, 1980; Order 147, 46 FR 29702, June 3, 1981; Order 224, 47 FR 17809, Apr. 26, 1982; Order 435, 50 FR 40358, Oct. 3, 1985; Order 492, 53 FR 16062, May 5, 1988; Order 561, 58 FR 58779, Nov. 4, 1993; Order 564, 59 FR 1918, Jan. 13, 1994; Order 574, 60 FR 1718, Jan. 5, 1995]

§ 375.304 Delegations to the Chief Administrative Law Judge.

(a) The Commission authorizes the Chief Administrative Law Judge and the Administrative Law Judge designated by the Chief Administrative Law Judge to exercise the power granted to a Presiding Officer by part 385, particularly § 385.504 of this chapter.

(b) The Commission authorizes the Chief Administrative Law Judge to

(1) For those proceedings pending under subpart E of part 385 of this chapter:

(i) Consolidate for hearing two or more proceedings on any or all issues,

(ii) Sever two or more proceedings or issues in a proceeding,

(iii) Designate and substitute presiding officers, and

(iv) Extend any close or record date ordered by the Commission in a proceeding for good cause.

(2) For proceedings under subparts I and J of part 385 of this chapter, designate presiding officers who will have all the authorities and duties vested in presiding officers by those rules and other applicable rules in conducting proceedings pursuant to sections 503(c) and 504(b)(1) of the Department of Energy Organization Act, 42 U.S.C. 7193(c) and 7194(b)(1) (1982).

(3) Deny or grant, in whole or in part, petitions for waivers of fees prescribed in §§ 381.303 and 381.304 of this chapter in accordance with § 381.106 of this chapter.

[Order 492, 53 FR 16063, May 5, 1988]

§ 375.305 Delegations to the Solicitor.

The Commission authorizes the Solicitor, or the Solicitor's designee to:

(a) File with the appropriate court of the United States a certified list of the materials comprising the record of any proceeding which involves the Commission;

(b) Retain appropriate materials; and

(c) Deliver such materials to the court as required.

[43 FR 36435, Aug. 17, 1978. Redesignated and amended at 45 FR 21224, 21225, Apr. 1, 1980; Order 112, 45 FR 79025, Nov. 28, 1980]

§ 375.307 Delegations to the Director of the Office of Pipeline Regulation.

The Commission authorizes the Director or the Director's designee to:

(a) Take appropriate action on the following types of uncontested applications for authorizations and uncontested amendments to applications and authorizations and impose appropriate conditions:

(1) Applications or amendments requesting authorization for the construction or acquisition and operation of facilities that have a construction or acquisition cost of less than \$5,000,000;

(2) Abbreviated applications and amendments thereto, pursuant to § 157.7 (b), (c), (d), (e), and (g) of this chapter, including requests for waiver of single project and annual cost limits as prescribed in § 157.7(b)(1), (c) (d), and (g) of this chapter;

(3) Applications by a pipeline for the abandonment of pipeline gas purchase facilities with a construction cost of less than \$1,000,000 or for the deletion of delivery points. This authority shall

be exercised only if the producer servicing the jurisdictional pipeline has received Commission approval to abandon service to the pipeline or if the producer servicing the jurisdictional pipeline has demonstrated that the gas involved is not subject to section 7(b) of the Natural Gas Act by operation of section 601(a)(1) (A) or (B) of the Natural Gas Policy Act of 1978;

(4) Applications to abandon pipeline or producer facilities or services (other than budget applications) involving a specific customer or customers, if such customer or customers have agreed to the abandonment;

(5) Applications for temporary and permanent certificates (and for amendments thereto) for the transportation, exchange or storage of natural gas, provided that the estimated cost of construction of the certificate applicant's related facility is less than \$5,000,000 as provided in § 375.307(a)(3) of this chapter;

(6) Blanket certificate applications by interstate pipelines and local distribution companies served by interstate pipelines filed pursuant to §§ 284.221 and 284.224 of this chapter;

(7) Applications for temporary certificates pursuant to § 157.17 of this chapter;

(8) Applications for temporary and permanent certificates of public convenience and necessity by independent producers pursuant to §§ 157.23, 157.28, and 157.40 of this chapter;

(9) Applications to take the following actions pursuant to section 7(c) of the Natural Gas Act, if such applications provide that the sales volumes remain within total existing contract demand and certificate levels:

(i) Change delivery points for existing sales customers,

(ii) Add new delivery points for existing sales customers, and

(iii) Change volumes of gas to be delivered from one to another of an existing sales customer's delivery points;

(10) Petitions to amend certificates to conform to actual construction;

(11) Applications and amendments requesting authorizations filed pursuant to section 7(c) of the Natural Gas Act for new or additional service to right-of-way grantors either directly or through a distributor, where partial

consideration for the granting of the right-of-way was the receipt of gas service pursuant to section 7(c) of the Natural Gas Act;

(12) Applications for blanket certificates of public convenience and necessity pursuant to subpart F of part 157 of this chapter, including waiver of project cost limitations on §§ 157.208 and 157.215 of this chapter, and the convening of informal conferences during the 30-day reconciliation period pursuant to the procedures in § 157.205(f) of this chapter;

(13) [Reserved]

(14) Applications pertaining to approval of changes in customer names where there is no change in rate schedule, rate or other incident of service;

(15) Applications for approval of customers rate schedule shifts;

(16) Applications filed under section 1(c) of the Natural Gas Act and part 152 of this chapter, for declaration of exemption from the provisions of the Natural Gas Act and certificates held by the applicant;

(17) Certificates and related rate schedules of an independent producer, to the extent the service is no longer subject to Commission jurisdiction under the Natural Gas Act including:

(i) Vacating the order previously issued granting a certificate of public convenience and necessity; and

(ii) Cancelling the prior acceptance of, and permitting withdrawal of, the related rate schedule upon request of the filing party or if the certificate or application is currently being or has been previously withdrawn; and

(18) Offers of settlement in the Independent Oil and Gas Association of West Virginia proceedings in Docket Nos. RI74-188 and RI75-21, that are substantially similar to settlements previously approved by the Commissions therein.

(b) Act upon filings for all initial rate schedules, rate schedule changes and notices of changes in rates submitted by gas companies and impose such appropriate conditions to the following extent, in uncontested cases:

(1) Accept a tariff or rate schedule filing, except a major pipeline rate increase under section 4(e) of the Natural Gas Act and under subpart D of part 154, if it complies with all applicable

statutory requirements, and with all applicable Commission rules, regulations, and orders for which a waiver has not been granted, or if a waiver has been granted by the Commission, if it complies with the terms of such waiver;

(2) Reject a tariff or rate schedule filing, if it patently fails to comply with applicable statutory requirements and with all applicable Commission rules, regulations and orders for which a waiver has not been granted;

(3) Advise the filing party of any actions taken under paragraphs (b)(1) or (b)(2) of this section and designate rate schedules, rate schedule changes, and notices of changes in rates, and the effective date thereof;

(4) Accept rate filings of jurisdictional natural gas companies which involve replacement and rollover contracts; and

(5) Accept statements of eligibility filed under § 2.56(p) of this chapter by producers of natural gas, as defined in § 157.40 of this chapter.

(c) Take the following actions under the Natural Gas Policy Act of 1978:

(1) Compute, for each month, pursuant to section 101(b)(6) of the Natural Gas Policy Act of 1978, the maximum lawful prices prescribed under Title I of the act and the monthly equivalent of the annual inflation adjustment factor for each such month, and publish as soon as possible thereafter such prices and such factor for such month in the FEDERAL REGISTER;

(2) Notify jurisdictional agencies within 45 days after the date on which the Commission receives notice pursuant to § 274.104 of this chapter of a well category determination by a jurisdictional agency that the notice is incomplete, in accordance with § 275.202(b)(2) of this chapter; and

(3) Pass upon an uncontested request for extension of time to file a report for an extension of authorization to sell natural gas under section 311(b) of the Natural Gas Policy Act of 1978 when such report must be filed pursuant to § 284.148(c) of this chapter. If such report for which an extension of time has been granted by the Director under

this paragraph is filed late, the Director will notify the one making such filing that there will be 90 days for Commission consideration of extension of authorization requested by the report, after which time an extension of authorization is deemed granted if the Commission has not acted.

(d) Take appropriate action on the following:

(1) Any notice of intervention or petition to intervene, filed in an uncontested application or an uncontested rate schedule proceeding;

(2) An uncontested request from one holding an authorization, granted pursuant to the Director's delegated authority, to vacate all or part of such authorization;

(3) Petitions to permit after an initial 60-day period one additional 60-day period of exemption pursuant to § 284.264(b) of this chapter where the application or extension arrives at the Commission later than 45 days after the commencement of the initial period of exemption; and

(4) Applications for extensions of time to file required reports, data, and information and to perform other acts required at or within a specific time by any rule, regulation, license, permit, certificate, or order by the Commission.

(e) Undertake the following actions:

(1) Compute, for each calendar year, the project limits specified in Table I of § 157.208 and Table II of § 157.215(a) of this chapter, adjusted for inflation, and publish such limits as soon as possible thereafter in the FEDERAL REGISTER;

(2) Issue reports for public information purposes. Any report issued without Commission approval must:

(i) Be of a noncontroversial nature, and

(ii) Contain the statement, "This report does not necessarily reflect the view of the Commission," in bold face type on the cover;

(3) Initiate an annual survey of the impact of winter gas supply (Omnibus Report);

(4) Issue and sign deficiency letters regarding natural gas applications;

(5) Accept for filing, data and reports required by Commission orders, or presiding officers' initial decisions upon

which the Commission has taken no further action, if such filings are in compliance with such orders or decisions and, when appropriate, notify the filing party of such acceptance;

(6) Reject requests which patently fail to comply with the provisions of § 157.205(b) of this chapter; and

(7) Grant any producer's uncontested application for abandonment, in accordance with § 2.77 of this chapter.

(f) Take appropriate action on requests or petitions for waivers of:

(1) Any action incidental to the exercise of delegated authority, including waiver of notice as provided in section 4(d) of the Natural Gas Act, provided the request conforms to the requirements of § 385.2001 of this chapter;

(2) Filing requirements for statements and reports under part 260 of this chapter;

(3) Fees prescribed in §§ 381.207, 381.402, and 381.403 of this chapter in accordance with § 381.106(b) of this chapter;

(4) Annual charges prescribed in § 382.202 of this chapter in accordance with the standard set forth in § 382.106 of this chapter.

(5) Section 154.403 of this chapter, as necessary, in order to rule on out-of-cycle purchased gas adjustment filings.

(g) Take the following actions relating to the regulation of oil pipelines under the Interstate Commerce Act:

(1) Accept any uncontested item which has been filed consistent with Commission regulations and policy;

(2) Reject any filing which patently fails to comply with applicable statutory requirements and with all applicable Commission rules, regulations and orders for which a waiver has not been granted;

(3) Prescribe for carriers the classes of property for which depreciation charges may be properly included under operating expenses, review the fully documented depreciation studies filed by the carriers, and authorize or revise the depreciation rates reflected in the depreciation study with respect to each of the designated classes of property; and

(4) Refer any matter to the Commission which the Director believes should be acted upon by the Commission.

[Order 492, 53 FR 16063, May 5, 1988, as amended by Order 542, 57 FR 21894, May 26, 1992; Order 546, 57 FR 55087, Nov. 24, 1992; Order 561, 58 FR 58783, Nov. 4, 1993; 61 FR 13421, Mar. 27, 1996]

§ 375.308 Delegations to the Director of the Office of Electric Power Regulation.

The Commission authorizes the Director of the Office of Electric Power Regulation or the Director's designee to:

(a) Take the following actions with respect to rates, rate schedules, and rate filings:

(1) Accept for filing all uncontested initial rate schedules and uncontested rate schedule changes submitted by public utilities, including changes which would result in rate increases; waive the requirement of statutory notice for good cause shown; advise the filing party of such acceptances; and designate rate schedules and the effective dates thereof;

(2) Approve uncontested rates and rate schedules filed by the Secretary of Energy, or his designee, for power developed at projects owned and operated by the Federal government and for services provided by Federal power marketing agencies;

(3) Reject a rate filing, unless accompanied by a request for waiver in conformity with § 385.2001 of this chapter, if it fails patently to comply with applicable statutory requirements or Commission rules, regulations, and orders.

(4) Take appropriate action on uncontested interim electric rate motions that would result in lower rates, pending Commission action on settlement agreements.

(b) Take appropriate action on uncontested applications for:

(1) The sale or lease or other disposition of facilities, consolidation of facilities, and acquisition of securities of public utilities under section 203 of the Federal Power Act;

(2) Interlocking positions under section 305(b) of the Federal Power Act;

(3) Exemptions pursuant to § 290.601 of this chapter, extensions pursuant to

§ 290.602 of this chapter, and withdrawals of exemptions and extensions pursuant to § 290.603 of this chapter;

(4) Certification of the qualifying status for small power production and cogeneration facilities under § 292.207 of this chapter; and

(5) The extension of time for public utilities to file required reports, data, and information and to do other acts required to be done within a specific time period by any rule, regulation, or order of the commission.

(c) Take appropriate action on:

(1) Notices of intervention or petitions to intervene in an uncontested rate schedule proceeding;

(2) Requests for authorization for a designated representative to post and file rate schedules of public utilities which are parties to the same rate schedule; and

(3) Filings relating to uncontested nonexempt qualifying small power production facilities, including action on requests for waivers of the Commission's regulations under the Federal Power Act and related authorizations consistent with *Massachusetts Refusetech, Inc.*, 31 FERC ¶ 61, 048 (1985), and the orders cited therein without limitation as to whether qualifying status is by Commission certification or notice of qualifying status, provided that in the case of a notice of qualifying status, any waiver is granted on condition that the filing party has correctly noticed the facility as a qualifying facility.

(d) Undertake the following actions:

(1) Redesignate proceedings, rate schedules, and other authorizations and filings to reflect changes in the names of persons and municipalities subject to invoking Commission jurisdiction under the Federal Power Act, where no substantive changes in ownership, corporate structure or domicile, or jurisdictional operation are involved;

(2) Issue deficiency letters regarding electric rate schedule filings, refund reports, corporate applications for the sale, lease or disposition of property, consolidation of facilities, acquisition of securities of public utilities and applications to hold interlocking positions;

(3) With respect to amendments to agreements, contracts, and rate schedules (including approved rate settlements), and data and reports submitted by public utilities pursuant to Commission opinions, orders, decisions or other actions or presiding officers' initial decisions:

(i) Accept for filing any amendment, contract, rate schedule, data and reports which are in compliance and, when appropriate, notify the filing party of such acceptance; or

(ii) Reject for filing any amendment, contract, rate schedule, data, and reports which are not in compliance or not required and, when appropriate, notify the filing party of such rejection; and

(4) Adopt final allocations of costs for Federal multiple-purpose reservoir projects for which the Commission has statutory responsibility, and review and comment on cost allocations prepared by others.

(e) Take appropriate action on requests or petitions for waivers of:

(1) Filing requirements for matters which are the subject of delegated authority, provided the request conforms to the requirement of §385.2001 of this chapter;

(2) Fees prescribed in §§381.502, 381.505, 381.509, 381.510, 381.511, and 381.512 of this chapter in accordance with §381.106(b) of this chapter;

(3) The requirements of subpart C of part 292 of this chapter governing cogeneration and small power production facilities made by any state regulatory authority or nonregulated electric utility pursuant to §292.403 of this chapter; and

(4) Annual charges prescribed in §382.201 of this chapter in accordance with the standard set forth in §382.105 of this chapter.

[Order 492, 53 FR 16064, May 5, 1988; 53 FR 21992, June 13, 1988, as amended by Order 585, 60 FR 62328, Dec. 6, 1995]

§375.309 Delegations to the General Counsel.

The Commission authorizes the General Counsel or the General Counsel's designee to:

(a) Designate officers empowered to administer oaths and affirmations, subpoena witnesses, compel their attendance and testimony, take evidence, compel the filing of special reports and interrogatories, gather information, and require the production of any books, papers, correspondence, memoranda, contracts, agreements, or other records, in the course of formal investigations conducted by the Office of the General Counsel to the extent the Commission's order of investigation expressly provides for the exercise of such investigative powers.

(b) Grant or deny requests of persons pursuant to §1b.12 of this chapter to procure copies of the transcripts of their testimony taken during non-public investigations conducted by the Office of the General Counsel.

(c) Terminate any informal non-public investigation conducted by the Office of the General Counsel.

(d) Terminate the authority of officers to administer oaths and affirmations, subpoena witnesses, compel their attendance and testimony, take evidence, compel the filing of special reports and interrogatories, gather information, and require the production of any books, papers, correspondence, memoranda, contracts, agreements or other records in the course of formal investigations conducted by the Office of the General Counsel.

(e) Designate presiding officers for proceedings under §385.1110, who will have all the authorities and duties vested in presiding officers by that section and other applicable rules in conducting proceedings pursuant to section 502(c) of the Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3432 (1982).

(f) Deny or grant, in whole or in part, petitions for waivers of fees prescribed in §381.305 of this chapter in accordance with §381.106 of this chapter.

(g) Grant uncontested applications for exempt wholesale generator status that do not involve unusual or interpretation issues; to act on uncontested motions to withdraw such applications; and to act on uncontested amendments to applications for EWG status that do

not present unusual or interpretation issues.

[Order No. 38, 44 FR 46453, Aug. 8, 1979. Redesignated and amended at 45 FR 21224, 21225, Apr. 1, 1980; Order 112, 45 FR 79025, Nov. 28, 1980; Order 224, 47 FR 17810, Apr. 24, 1982; Order 225, 47 FR 19058, May 3, 1982; Order 396, 49 FR 36829, Sept. 20, 1984; Order 417, 50 FR 15731, Apr. 22, 1985; Order 421, 50 FR 21427, May 24, 1985; 50 FR 47532, Nov. 19, 1985; Order 494, 53 FR 15382, Apr. 29, 1988; Order 585, 60 FR 62329, Dec. 6, 1995; Order 591, 61 FR 57328, Nov. 6, 1996]

§ 375.310 Delegations to the Director of the Office of Economic Policy.

The Commission authorizes the Director of the Office of Economic Policy, or the Director's designee, to issue quarterly updates of the benchmark rate of return on common equity for the jurisdictional operations of public utilities under part 37 of this chapter.

[Order 492, 53 FR 16065, May 5, 1988]

§ 375.311 Delegations during emergency conditions.

For delegations of Commission authority during emergency conditions, see subpart B of part 376 of this chapter.

§ 375.312 Delegations to the Director, Office of External Affairs.

The Commission authorizes the Director, Office of External Affairs to waive or reduce fees in accordance with §§ 388.108 through 388.110 of this chapter.

[Order 562, 58 FR 62521, Nov. 29, 1993]

§ 375.313 Delegations to the Executive Director.

The Commission authorizes the Executive Director or the Executive Director's designee to:

- (a) Prescribe the updated fees for part 381 of this chapter in accordance with § 381.104 of this chapter.
- (b) Prescribe the updated fees for part 381 of this chapter in accordance with § 388.109(b)(2) of this chapter.
- (c) Deny or grant, in whole or in part, petitions for waiver of fees prescribed in § 381.302 of this chapter in accordance with § 381.106(b) of this chapter.
- (d) Deny or grant, in whole or in part, petitions for exemption from fees pre-

scribed in part 381 of this chapter in accordance with § 381.108 of this chapter.

(e) Determine the annual charges for administrative costs, for use of United States lands, and for use of Government dams or other structures.

(f) Grant or deny waiver of penalty charges for late payment of annual charges.

(g) Give credit for overpayment of annual charges.

(h) Deny or grant, in whole or in part, petitions for exemption from annual charges under § 11.6 of this chapter for state and municipal licensees.

(i) Grant or deny petition for waiver of annual charges for oil pipelines.

[Order 395, 49 FR 35356, Sept. 7, 1984, as amended by Order 488, 53 FR 1472, Jan. 20, 1988; Order 492, 53 FR 16065, May 5, 1988]

§ 375.314 Delegations to the Director of the Office of Hydropower Licensing.

The Commission authorizes the Director of the Office of Hydropower Licensing or the Director's designee to:

(a) Take appropriate action on uncontested applications and on applications for which the only motion or notice of intervention is filed by a competing preliminary permit or exemption applicant that does not propose and substantiate materially different plans to develop, conserve, and utilize the water resources of the region for the following:

(1) Licenses (including original, new, and transmission line licenses) under part I of the Federal Power Act;

(2) Exemptions from all or part of the licensing requirements of part I of the Federal Power Act; and

(3) Preliminary permits for proposed projects.

(b) Take appropriate action on uncontested applications for:

(1) Amendments (including changes in the use or disposal of water power project lands or waters or in the boundaries of water power projects) to licenses (including original, new, and transmission line licenses) under part I of the Federal Power Act, exemptions from all or part of the requirements of part I of the Federal Power Act, and preliminary permits; and

(2) Surrenders of licenses (including original and new), exemptions, and preliminary permits.

(c) Take appropriate action on the following:

(1) Determinations or vacations with respect to lands of the United States reserved from entry, location, or other disposal under section 24 of the Federal Power Act;

(2) Transfer of a license under section 8 of the Federal Power Act;

(3) Applications for the surrender of transmission line licenses pursuant to part 6 of this chapter;

(4) Motions filed by licensees, permittees, exemptees, applicants, and others requesting an extension of time to file required submittals, reports, data, and information and to do other acts required to be done at or within a specific time period by any rule, regulation, license, exemption, permit, notice, letter, or order of the Commission in accordance with §385.2008 of this chapter;

(5) Declarations of intent and petitions for declaratory orders concerning the Commission's jurisdiction over a hydropower project under the Federal Power Act;

(6) New or revised exhibits, studies, plans, reports, maps, drawings, or specifications, or other such filings made voluntarily or in response to a term or condition in a preliminary permit, license, or exemption issued for a hydro-power project, or in response to the requirements of an order of the Commission or presiding officer's initial decision concerning a hydropower project;

(7) Requests by applicants to withdraw, pursuant to §385.216 of this chapter, any pleadings under part I of the Federal Power Act and any pleadings related to exemptions from all or part of part I of the Federal Power Act;

(8) Requests by licensees for exemption from:

(i) The requirement of filing FERC Form No. 80, Licensed Projects Recreation, under §8.11 of this chapter; and

(ii) The fees prescribed in §381.302(a) of this chapter in accordance with §381.302(c) of this chapter and the fees in §381.601 of this chapter, in accordance with §381.106 of this chapter;

(9) Requests for waivers incidental to the exercise of delegated authority pro-

vided the request conforms to the requirements of §385.2001 of this chapter;

(10) Proposals for the development of water resources projects submitted by other agencies of the Federal government for Commission review or comment. The Director shall direct comments, when necessary, to the sponsoring agency on matters including, but not limited to, the need for, and appropriate size of, any hydroelectric power installation proposed by any other agency of the Federal government;

(11) The reasonableness of disputed agency cost statements pursuant to §4.303(d) of this chapter.

(d) Issue an order pursuant to section 5 of the Federal Power Act to cancel a preliminary permit if the permittee fails to comply with the specific terms and conditions of the permit; provided:

(1) The Director gives notice to the permittee of probable cancellation no less than 30 days prior to the issuance of the cancellation order, and

(2) The permittee does not oppose the issuance of the cancellation order.

(e) Issue an order to revoke an exemption of a small conduit hydroelectric facility from the licensing provisions of part I of the Federal Power Act granted pursuant to §4.93 of this chapter, or an exemption of a small hydroelectric power project from the licensing provisions of part I of the Federal Power Act granted pursuant to §4.105 of this chapter if the exemption holder fails to begin or complete actual construction of the exempted facility or project within the time specified in the order granting the exemption or in Commission regulations at §4.94(c) or §4.106(c) of this chapter, provided:

(1) The Director gives notice to the exemption holder by certified mail of probable revocation no less than 30 days prior to the issuance of the revocation order, and

(2) The holder of the exemption does not oppose the issuance of the revocation order.

(f) Issue an order pursuant to section 13 of the Federal Power Act to terminate a license granted under part I of the Federal Power Act if the licensee fails to commence actual construction of the project works within the time prescribed in the license, provided:

(1) The Director gives notice by certified mail to the licensee of probable termination no less than 30 days prior to the issuance of the termination order, and

(2) The licensee does not oppose the issuance of the termination order.

(g) Require licensees and applicants for water power projects to make repairs to project works, take any related actions for the purpose of maintaining the safety and adequacy of such works, make or modify emergency action plans, have inspections by independent consultants, and perform other actions necessary to comply with part 12 of this chapter or otherwise protect human life, health, property, or the environment.

(h) For any unlicensed or unexempted hydropower project, take the following actions:

(1) Conduct investigations to ascertain the Commission's jurisdiction,

(2) Make preliminary jurisdictional determinations, and

(3) If a project has been preliminarily determined to require a license, issue notification of the Commission's jurisdiction; require the filing of a license application; and require that actions necessary to comply with part 12 of this chapter or otherwise protect human life, health, property, or the environment are taken.

(i) Take appropriate action on uncontested settlements among non-Federal parties involving headwater benefits.

(j) Dismiss applications for licenses and approve the withdrawal of applications for hydropower project licenses, in instances where no petition for or notice of intervention contending that licensing is required under part I of the Federal Power Act has been filed and the Director determines that licensing is not required by such Part I.

(k) Reject or dismiss an application filed under Part I of the Federal Power Act or an application for an exemption from some or all of the requirements of Part I of the Federal Power Act if:

(1) An application is patently deficient under § 4.32(d)(2)(i);

(2) A revised application

(i) Does not conform to the requirements of §§ 4.32(a), 4.32(b), or 4.38, under § 4.32(d)(1) or

(ii) If revisions to an application are not timely submitted under § 4.32(d)(1); or

(3) The applicant fails to provide timely additional information, documents, or copies of submitted materials under § 4.32(f).

(l) Redesignate proceedings, licenses, and other authorizations and filings to reflect changes in the names of persons and municipalities subject to or invoking Commission jurisdiction under the Federal Power Act, where no substantive changes in ownership, corporate structure or domicile, or jurisdictional operation are involved.

(m) Determine payments for headwater benefits from the operation of Federal reservoir projects.

(n) Determine whether to allow a credit against annual charges for the use of government dams or other structures billed to licensees each year for contractual payments for the construction, operation, and maintenance of a Federal dam.

(o) Prepare and issue comments on general water policy and planning issues for the use of the Director of the Water Resources Council or the Assistant Secretaries of the Department of Energy.

(p) Prepare and transmit letters concerning power site lands to the Bureau of Land Management and the U.S. Geological Survey; respond to routine requests for information and any non-docketed correspondence; prepare and transmit letters requesting comments or additional information on applications for hydropower project licenses, preliminary permits, exemptions, amendments of licenses, permits, or exemptions, and other similar matters from Federal, state, and local agencies, from applicants, and from other appropriate persons; and prepare and transmit letters regarding whether transmission lines are works of a hydropower project and are required to be licensed.

(q) Reject an application or other filing under Section 405 of the Public Utility Regulatory Policies Act of 1978, unless accompanied by a request for waiver in conformity with § 385.2001 of

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this chapter, if it fails patently to comply with applicable statutory requirements or Commission rules, regulations, and orders.

(r) Pass upon petitions filed under §§ 292.210 and 292.211 of this chapter.

(s) Make any preliminary determination of inconsistency between a fish and wildlife agency’s fish and wildlife recommendation and applicable law, and conduct through staff whatever consultation with the agency that is necessary or appropriate in order to attempt to resolve any inconsistency, under section 10(j) of the Federal Power Act, and to take such related actions as are required under that section.

(t) Waive the pre-filing consultation requirements in §§ 4.38 and 16.8 of this title whenever the Director, in his discretion, determines that an emergency so requires, or that the potential benefit of expeditiously considering a proposed improvement in safety, environmental protection, efficiency, or capacity outweighs the potential benefit of requiring completion of the consultation process prior to the filing of an application.

[Order 492, 53 FR 16065, May 5, 1988; 53 FR 21992, June 13, 1988, as amended by Order 499, 53 FR 27005, July 18, 1988; Order 533, 56 FR 23154, May 20, 1991; Order 556, 58 FR 51223, Oct. 1, 1993]

PART 376—ORGANIZATION, MISSION, AND FUNCTIONS; OPERATIONS DURING EMERGENCY CONDITIONS

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AUTHORITY: Dept. of Energy Organization Act, (42 U.S.C. 7101-7352); E.O. 12009, 3 CFR 142 (1978); Administrative Procedure Act, (5 U.S.C. 553 (1977)).

SOURCE: 45 FR 21222, Apr. 1, 1980, unless otherwise noted.

Subpart A—Organization, Mission, and Functions

§ 376.101 Purpose.

This subpart sets forth the organization, mission and functions of the Commission, and its offices and divisions.

§ 376.102 Organization.

The Commission is established as an independent regulatory Commission within the DOE by the DOE Act. The Commission is composed of five members appointed by the President, by and with the advice and consent of the Senate. One of the members is designated by the President as the Chairman. To carry out its mission and functions, the Chairman has organized the Commission into a number of major offices, some of which are further organized into divisions and lower units. The organization of the Commission staff structure may be obtained from the Division of Public Information.

§ 376.103 Mission.

The Commission is responsible for developing, managing, and directing energy regulatory programs and activities assigned to it by statute, executive orders, or by the Secretary, DOE. The Chairman serves as the chief executive officer of the Commission and is responsible for the conduct of all Commission executive and administrative functions. In carrying out its mission, the Commission and its employees are not subject to the supervision or direction of any other official of DOE.

§ 376.104 Functions.

The functions of the Commission include: