

permits needed from State and local agencies for construction and waste discharges. Describe steps which have been taken to secure these permits and any additional efforts still required.

9.1.1 *Authorities consulted.*—List all authorities consulted for obtaining permits, licenses, and certificates, including zoning approvals needed to comply with applicable statutes and regulations.

9.1.2 *Dates of approval.*—Give dates of consultations and of any approvals received.

9.2 *Compliance with health and safety regulations and codes.*—Identify all Federal, regional, State, and local safety and health regulations and codes which must be complied with in the construction, maintenance, and operation of the proposed project. Also identify other health and safety standards and codes that will be complied with, such as underwriter codes and voluntary industry codes.

9.2.1 *Authorities consulted.*—List all authorities and professional organizations consulted in identifying pertinent regulations and codes.

9.2.2 *Procedures to be followed.*—Describe any specific procedures or actions that will be taken to assure compliance with each such regulation and code.

9.3 *Compliance with other regulations and codes.*—Identify all other Federal, regional, State and local regulations and codes which must be complied with in the construction, maintenance, and operation of the proposed project.

9.3.1 *Authorities consulted.*—List all authorities and professional organizations consulted in identifying pertinent regulations and codes.

9.3.2 *Procedures to be followed.*—Explained the specific procedures or actions that will be taken to assure compliance with each such regulation and code.

10. Source of information.

10.1 *Public hearings.*—Describe any public hearings or meetings held, summarize the general tenor of public comments with the proportions of proponents to those in dissent, and include any public records resulting from these meetings. Include a description of the manner in which the public was informed of the time and place of the hearings. Fully discuss efforts made for seeking constructive inputs from affected people and how their concerns were accommodated.

10.2 *Other sources.*—Identify all other sources of information utilized in the preparation of the environmental report, including:

10.2.1 *Meetings with governmental and other entities.*—List meetings held with Federal, regional, State, and local planning, commerce, regulatory, environmental and conservation entities, the subjects discussed (e.g., recreation, fish, wildlife, aesthetics, other natural resources, and values of the area, and eco-

nomics development), and any environmental conclusions reached as a result of the meeting.

10.2.2 *Studies conducted.*—Identify the studies conducted, including those by consultants, the general nature and major findings of those studies, and the title and availability of any reports thereon.

10.2.3 *Consultants.*—Give the names, addresses, and professional vitae of all consultants who contributed to the environmental report.

10.2.4 *Bibliography.*—Provide a bibliography of the books, other publications, reports, documents, maps, and aerial photographs consulted for background information, including county land use and other planning reports. Indicate by some method, as by asterisks or numbers, those bibliographic references specifically cited in the environmental report.

10.3 *Provide copies of supportive reports.*—Supply at least a single copy of all technical reports prepared in conjunction with the preparation of the environmental report, such as model, heat budget, plankton, fish, and benthic sampling studies.

(Federal Power Act, as amended, 16 U.S.C. 792-828c; Public Utility Regulatory Policies Act of 1978, as amended 16 U.S.C. 2601-2645; Dept. of Energy Organization Act, 42 U.S.C. 7101-7352; E.O. 12009, 3 CFR part 142 (1979); 5 U.S.C. 553)

[Order 415-C, 38 FR 15949, June 19, 1973. Re-designated by Order 486, 52 FR 47910, Dec. 17, 1987, and amended by Order 486, 52 FR 47914, Dec. 17, 1987]

PART 381—FEES

Subpart A—General Provisions

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§ 381.101

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- 381.801 Applications for exempt wholesale generator status.

AUTHORITY: 15 U.S.C. 717-717w; 16 U.S.C. 791-828c, 2601-2645; 31 U.S.C. 9701; 42 U.S.C. 7101-7352; 49 U.S.C. 60502; 49 App. U.S.C. 1-85.

SOURCE: Order 360, 49 FR 5081, Feb. 10, 1984, unless otherwise noted.

Subpart A—General Provisions

§ 381.101 Purpose.

The purpose of this part is to set forth the fees charged by the Commission for services and benefits provided by the Commission.

§ 381.102 Definitions.

For purposes of this part, the following definitions apply.

- (a) *Person* means any person, group, association, organization, partnership, corporation, or business, except those authorized to engage in the transaction of official business for the United States Government.
- (b) *Work year cost* means the ratio of the Commission's budgeted expenses

during any given fiscal year to the authorized staff level for that fiscal year.

(c) *Work-month* means the amount of work represented by one employee's devotion of 100 percent of his or her time for one month.

(d) *Filing* means any application, tariff or rate filing, intervention, complaint, petition, request, or motion submitted to the Commission in connection with any of the services or benefits for which a fee is established in this part.

§ 381.103 Filings.

(a) *Submittal of fees.* Except as provided in §§ 274.201(e) and 381.106, a fee in the amount set forth in this part shall accompany each filing for which a fee has been established.

(b) *Deficiencies.* (1) Any filing that is not accompanied by either the fee established for that filing or a petition for waiver in accordance with § 381.106(b) is deficient.

(2) The Secretary will inform any person submitting a deficient filing that:

(i) Such filing will be rejected unless the appropriate fee is submitted within a time specified by the Secretary;

(ii) The Commission will not process any filing that is deficient under this paragraph; and

(iii) The date of filing is the date on which the Commission receives the appropriate fee.

(3) This provision does not preclude a determination that a filing is deficient for any other reason.

(c) *Choice of two or more fees.* If a filing for one service or benefit may be considered as falling within two or more categories or services for which a fee is established, that filing must be accompanied by the higher or highest of the applicable fees.

[Order 360, 49 FR 5081, Feb. 10, 1984, as amended by Order 394, 49 FR 35365, Sept. 7, 1984]

§ 381.104 Annual adjustment of fees.

(a) *Update and publication.* The Commission, by its designee the Executive Director, will update its fees each fiscal year according to the formula in paragraph (c) of this section. The Executive Director will publish the fees in the FEDERAL REGISTER.

(b) *Payment of updated fees.* Any person who submits a filing for which a fee is established in this part must pay the currently effective fee unless a waiver is granted.

(c) *Formula.* (1) Except as provided in paragraph (c)(2) of this section, the formula for determining each fee is the workmonths dedicated to the given fee category for the six fiscal years 1987 through 1992 or all years prior to FY 93 for which data are available divided by the number of actual completions in the six fiscal years 1987 through 1992 or all years prior to FY 93 for which data are available multiplied by the average monthly employee cost in the most recent fiscal year for which data are available.

(2) With respect to the fees charged to pipelines filing pursuant to §381.207(a), the fee for the first year will be \$1,000. The formula for the fee in future years will be the workmonths from the immediately prior year divided by the number of actual completions in that year multiplied by the average monthly employee cost in the most recent fiscal year for which data are available. With the addition of future years, the formula for §381.207(a) fees will be updated to include that year as part of the base period.

(d) *Effective date of fee.* Any fee updated under this section is effective on the thirtieth day after publication in the FEDERAL REGISTER of the revised sections in this part, unless otherwise specified in the FEDERAL REGISTER notice.

[Order 360, 49 FR 5081, Feb. 10, 1984, as amended by Order 494, 53 FR 15382, Apr. 29, 1988; Order 521, 55 FR 12171, Apr. 2, 1990; 58 FR 2975, Jan. 7, 1993]

§ 381.105 Method of payment.

Fee payment shall be made by check or money order payable to the Treasurer of the United States. The check should state the nature of the filing and the docket number where applicable so that the fee category for which the check is being submitted is clearly identifiable.

§ 381.106 Waivers.

(a) *Filing of petition.* If an applicant is suffering from severe economic hardship at the time of filing an application

which makes the applicant economically unable to pay the appropriate fee for the application, rate change, tariff, petition, request or other filing requiring a fee, the applicant may submit an original and two copies of a petition for waiver with the application in lieu of the applicable fee. The petition for waiver must include evidence, such as a financial statement, clearly showing either that the applicant does not have the money to pay all or part of the fee, or that if the applicant does pay the fee, the applicant will be placed in financial distress or emergency.

(b) *Decision on petition.* The Commission or its designee will analyze each petition to determine whether the applicant has met the standards for waiver and then will notify the applicant of its grant or denial, in whole or in part. If the petition is denied, the applicant will have 30 days from the date of notification of the denial to submit the appropriate fee to the Commission.

[Order 360, 49 FR 5081, Feb. 10, 1984, as amended by Order 395, 49 FR 35356, Sept. 7, 1984]

§ 381.107 Direct billing.

(a) *Applicability.* If a filing presents an issue of fact, law, policy, procedural difficulty, or technical complexity that requires an extraordinary amount of expense to process, the Commission may institute a direct billing procedure for the direct and indirect costs of processing that filing. The Commission will make a direct billing determination under this paragraph not later than one year after receiving a complete filing from an applicant.

(b) *Procedures.* (1) Direct billing will not be instituted with respect to any filing until the person who submitted the filing is notified that direct billing will be applied to the filing in lieu of the fees established under this part.

(2) Any fee submitted with the filing will be applied, as a credit, to the amount billed directly for processing costs. The Secretary will thereafter periodically bill the person who submitted the filing for the actual direct and indirect costs of processing the filing.

(3) If the Commission institutes a direct billing for the costs of a hearing and reduces the fee to the applicant to less than full cost recovery due to the

presence of intervenors, the Commission will consider, on a case-by-case basis, direct billing the intervenors for all or part of the reduced portion.

[Order 360, 49 FR 5081, Feb. 10, 1984, as amended by Order 433, 50 FR 40346, Oct. 3, 1985; 58 FR 2975, Jan. 7, 1993]

§ 381.108 Exemptions.

(a) *Filing of petition.* States, municipalities and anyone who is engaged in the official business of the Federal Government are exempt from the fees required by this part and may file a petition for exemption in lieu of the applicable fee.

(b) *Decision on petition.* A petitioner may claim this exemption by filing an original and two copies of a petition for exemption that includes evidence that the petitioner is a State or municipality, or is engaged in the official business of the Federal Government. The Commission or its designee will analyze each petition to determine whether the petition has met the standards for exemption and will notify the petitioner whether it is granted or denied. If the petition is denied, the person will have thirty days from the date of notification of the denial to submit the appropriate fee to the Commission.

[Order 395, 49 FR 35356, Sept. 7, 1984]

§ 381.109 Refunds.

Fees established under this part may be refunded only if the related filing is withdrawn within fifteen (15) days of the date of filing or, if applicable, before the filing is noticed in the FEDERAL REGISTER or, if the fee is inappropriately paid for a filing for which no fee is established. Fees paid in excess of the fees established under this part may be refunded to the extent of the amount paid in excess. To obtain a refund, the applicant must file a motion requesting refund with the Commission.

[Order 433, 50 FR 40346, Oct. 3, 1985, as amended by Order 433-A, 51 FR 43607, Dec. 3, 1986]

§ 381.110 Fees for substantial amendments.

Fees established under this part for any filing will also be charged, as appropriate, for any substantial amendment to a pending filing. An amend-

ment is considered substantial if it changes the character, nature, or the magnitude of the proposed activity or rate in the pending filing. For purposes of this section, an application for a temporary certificate is not considered to be an amendment to a pending certificate application.

[Order 433-A, 51 FR 43607, Dec. 3, 1986]

Subpart B—Fees Applicable to the Natural Gas Act and Related Authorities

§ 381.207 Pipeline certificate applications.

(a) *Definition.* For purposes of this section, “pipeline certificate application” means any application for authorization or exemption, any substantial amendment to such an application, and any application, other than an application for a temporary certificate, for authorization to amend an outstanding authorization or exemption, by any person, made pursuant to section 7(c) of the Natural Gas Act filed in accordance with § 284.224 of this chapter.

(b) *Fee.* Unless the Commission orders direct billing under § 381.107 or otherwise, the fee established for a blanket certificate application is \$1,000. The fee filed under this paragraph must be submitted in accordance with § 284.224 of this chapter.

(c) *Effective date.* Any pipeline certificate application filed with the Commission prior to November 4, 1985, is subject to the fees established by part 159 of this chapter to the extent that part 159 applies to such an application.

[Order 433, 50 FR 40346, Oct. 3, 1985, as amended by Order 433-A, 51 FR 43607, Dec. 3, 1986; 52 FR 10367, Apr. 1, 1987; 53 FR 15384, Apr. 29, 1988; 54 FR 12901, Mar. 29, 1989; 55 FR 13901, Apr. 13, 1990; 56 FR 15497, Apr. 17, 1991; 58 FR 2975, Jan. 7, 1993]

Subpart C—Fees Applicable to General Activities

§ 381.302 Petition for issuance of a declaratory order (except under Part I of the Federal Power Act.)

(a) Except as provided in paragraph (b) of this section, the fee established for filing a petition for issuance of a

declaratory order under §385.207 of this chapter is \$12,790. The fee must be submitted in accordance with subpart A of this part.

(b) No fee is necessary to file a petition for issuance of a declaratory order that solely concerns the investigation, issuance, transfer, renewal, revocation, and enforcement of licenses and permits for the construction, operation, and maintenance of dams, water conduits, reservoirs, powerhouses, transmission lines, or other works for the development and improvement of navigation and for the development and utilization of power across, along, from, or in navigable waters under Part I of the Federal Power Act.

(c) A person claiming the exemption provided in paragraph (b) of this section must file an original and two copies of a petition for exemption in lieu of a fee along with its petition for issuance of a declaratory order. The petition for exemption should summarize the issues raised in the petition for issuance of a declaratory order and explain why the exemption is applicable. The Commission or its designee will analyze each petition to determine whether the petition has met the standards for exemption and will notify the applicant whether it is granted or denied. If the petition is denied, the petitioner will have thirty days from the date of notification of the denial to submit the appropriate fee to the Commission.

[Order 395, 49 FR 35356, Sept. 7, 1984, as amended at 52 FR 10367, Apr. 1, 1987; 53 FR 15382, Apr. 29, 1988; 54 FR 12901, Mar. 29, 1989; 55 FR 13901, Apr. 13, 1990; 56 FR 15497, Apr. 17, 1991; 57 FR 15225, Apr. 27, 1992; 58 FR 26523, May 4, 1993; 59 FR 25563, May 17, 1994; 60 FR 31390, June 15, 1995; 61 FR 40723, Aug. 6, 1996]

§381.303 Review of a Department of Energy remedial order.

(a) Except as provided in §381.303(b), the fee established for an answer to a Department of Energy remedial order under subpart I of the Commission's Rules of Practice and Procedure, 18 CFR part 385, subpart I (1983), is \$18,680. The fee must be submitted in accordance with subpart A of this part.

(b) If the amount in controversy is below \$30,000, then the fee to file a peti-

tion for review of a DOE remedial order is reduced as follows:

	Fee
Amount in controversy:	
\$0 to \$9,999	\$100
\$10,000 to \$29,999	600

(c) In order to qualify for the fees in paragraph (b) of this section, the check must be accompanied by an affidavit by the petitioner that states the amount in controversy.

[Order 395, 49 FR 35356, Sept. 7, 1984, as amended at 49 FR 44275, Nov. 6, 1984; 52 FR 10367, Apr. 1, 1987; 53 FR 15384, Apr. 29, 1988; 54 FR 12901, Mar. 29, 1989; 55 FR 13901, Apr. 13, 1990; 56 FR 15497, Apr. 17, 1991; 57 FR 15225, Apr. 27, 1992; 58 FR 26523, May 4, 1993; 59 FR 25563, May 17, 1994; 60 FR 31390, June 15, 1995; 61 FR 40723, Aug. 6, 1996]

§381.304 Review of Department of Energy denial of adjustment.

(a) Except as provided in §381.304(b), the fee established for filing a petition for review of a Department of Energy denial of an adjustment request under subpart J of the Commission's Rules of Practice and Procedure, 18 CFR part 385, subpart J (1983), is \$9,790. The fee must be submitted in accordance with subpart A of this part.

(b) If the amount in controversy is below \$30,000, then the fee to file a petition for review of a DOE denial of an adjustment is reduced as follows:

	Fee
Amount in controversy:	
\$0 to \$9,999	\$100
\$10,000 to \$29,999	600

(c) In order to qualify for the fees in paragraph (b) of this section, the check must be accompanied by an affidavit by the petitioner that states the amount in controversy.

[Order 395, 49 FR 35356, Sept. 7, 1984, as amended at 49 FR 44275, Nov. 6, 1984; 52 FR 10367, Apr. 1, 1987; 53 FR 15384, Apr. 29, 1988; 54 FR 12901, Mar. 29, 1989; 55 FR 13901, Apr. 13, 1990; 58 FR 26523, May 4, 1993; 59 FR 25563, May 17, 1994; 60 FR 31390, June 15, 1995; 61 FR 40723, Aug. 6, 1996]

§381.305 Interpretations by the Office of the General Counsel.

(a) Except as provided in paragraph (b) of this section, the fee established

for a written interpretation by the Office of the General Counsel of any statute or implementing regulation under the jurisdiction of the Commission is \$3,670. The fee must be submitted in accordance with subpart A of this part and §385.1901 or §388.104 of this chapter.

(b) No fee is necessary to file a request for a written interpretation by the Office of the General Counsel that solely concerns matters under Part I of the Federal Power Act.

(c) A person claiming the exemption provided in paragraph (b) of this section must file an original and two copies of a petition for exemption in lieu of a fee along with the request for a written interpretation. The petition for exemption should summarize the issues raised in the request for a legal opinion and explain why the exemption is applicable. The Commission or its designee will analyze each petition to determine whether the petition has met the standards for exemption and will notify the applicant whether it is granted or denied. If the petition is denied, the applicant will have 30 days from the date of notification of the denial to submit the appropriate fee to the Commission.

[Order 494, 53 FR 15382, Apr. 29, 1988, as amended at 54 FR 12901, Mar. 29, 1989; 55 FR 13901, Apr. 13, 1990; 56 FR 15497, Apr. 17, 1991; 57 FR 15226, Apr. 27, 1992; 58 FR 26523, May 4, 1993; 59 FR 25563, May 17, 1994; 60 FR 31390, June 15, 1995; 61 FR 40723, Aug. 6, 1996]

Subpart D—Fees Applicable to the Natural Gas Policy Act of 1978

§381.402 Review of jurisdictional agency determinations.

The fee established for review of a jurisdictional agency determination is \$100. The fee must be submitted in accordance with subpart A of this part and §274.201(e) of this chapter.

[Order 494, 53 FR 15382, Apr. 29, 1988, as amended at 54 FR 12901, Mar. 29, 1989; 56 FR 15497, Apr. 17, 1991; 58 FR 26523, May 4, 1993]

§381.403 Petitions for rate approval pursuant to §284.123(b)(2).

The fee established for a petition for rate approval pursuant to §284.123(b)(2) is \$6,370. Such fee must be submitted in accordance with subpart A of this part and §284.123(b)(2).

[Order 394, 49 FR 35365, Sept. 7, 1984, as amended at 52 FR 10367, Apr. 1, 1987; 53 FR 15384, Apr. 29, 1988; 54 FR 12901, Mar. 29, 1989; 55 FR 13901, Apr. 13, 1990; 56 FR 15497, Apr. 17, 1991; 57 FR 15226, Apr. 27, 1992; 58 FR 26523, May 4, 1993; 59 FR 25563, May 17, 1994; 60 FR 31391, June 15, 1995; 61 FR 40723, Aug. 6, 1996]

§381.404 [Reserved]

Subpart E—Fees Applicable to Certain Matters Under Parts II and III of the Federal Power Act and the Public Utility Regulatory Policies Act

§381.501 Applicability.

The fees set forth in this subpart apply to filings submitted on or after November 4, 1985.

[Order 435, 50 FR 40358, Oct. 3, 1985]

§381.505 Certification of qualifying status as a small power production facility or cogeneration facility.

(a) Unless the Commission orders direct billing under §381.107 of this chapter or otherwise, the fee established for an application for Commission certification as a qualifying small power production facility, as defined in section 3(17) of the Federal Power Act, is \$11,000 and the fee established for an application for Commission certification as a qualifying cogeneration facility, as defined in section 3(18) of the Federal Power Act, is \$12,450.

(b) The fee filed under this section must be submitted in accordance with subpart A of this part and §292.207(b)(2) of this chapter.

[Order 494, 53 FR 15382, Apr. 29, 1988, as amended at 54 FR 12901, Mar. 29, 1989; 55 FR 13901, Apr. 13, 1990; 56 FR 15497, Apr. 17, 1991; 57 FR 15226, Apr. 27, 1992; 58 FR 26523, May 4, 1993; 59 FR 25563, May 17, 1994; 60 FR 31391, June 15, 1995; 61 FR 40723, Aug. 6, 1996]

Subpart F—[Reserved]

Subpart G—Fees Applicable to the Interstate Commerce Act and Related Authorities [Reserved]

Subpart H—Fees Applicable to the Public Utility Holding Company Act of 1935

§ 381.801 Applications for exempt wholesale generator status.

The fee established for applications for exempt wholesale generator status under section 32 of the Public Utility Holding Company Act of 1935 and subchapter T, part 365 of this chapter, applicable to applicants who will not become public utilities as defined in section 201(e) of the Federal Power Act upon the sale of electric energy at wholesale, is \$1,670. The fee must be submitted in accordance with subpart A of this part.

[Order 550, 58 FR 8907, Feb. 18, 1993, as amended at 59 FR 25563, May 17, 1994; 60 FR 31391, June 15, 1995; 61 FR 40723, Aug. 6, 1996]

PART 382—ANNUAL CHARGES

Subpart A—General Provisions

Sec.

- 382.101 Purpose.
- 382.102 Definitions.
- 382.103 Payment.
- 382.104 Enforcement.
- 382.105 Waiver.
- 382.106 Accounting for annual charges paid under part 382.

Subpart B—Annual Charges

- 382.201 Annual charges under Parts II and III of the Federal Power Act and related statutes.
- 382.202 Annual charges under the Natural Gas Act and Natural Gas Policy Act of 1978 and related statutes.
- 382.203 Annual charges under the Interstate Commerce Act.

AUTHORITY: 5 U.S.C. 551–557; 15 U.S.C. 717–717w, 3301–3432; 16 U.S.C. 791a–825r, 2601–2645; 42 U.S.C. 7101–7352; 49 U.S.C. 60502; 49 App. U.S.C. 1–85.

SOURCE: Order 472, 52 FR 21292, June 5, 1987, unless otherwise noted.

Subpart A—General Provisions

§ 382.101 Purpose.

The purpose of this part is to establish procedures for calculating and assessing annual charges to reimburse the United States for all of the costs incurred by the Commission, other than costs incurred in administering Part I of the Federal Power Act and costs recovered through the Commission's filing fees.

§ 382.102 Definitions.

For the purpose of this part:

(a) *Natural gas pipeline company* means any person:

(1) Engaged in natural gas sales for resale or natural gas transportation subject to the jurisdiction of the Commission under the Natural Gas Act whose sales for resale and transportation exceed 200,000 Mcf at 14.73 psi (60°F) in any of the three calendar years immediately preceding the fiscal year for which the Commission is assessing annual charges; and

(2) Not engaged solely in “first sales” of natural gas as that term is defined in section 2(21) of the Natural Gas Policy Act of 1978; and

(3) To whom the Commission has not issued a Natural Gas Act Section 7(f) declaration; and

(4) Not holding a limited jurisdiction certificate.

(b) *Public utility* means any person who owns or operates facilities subject to the jurisdiction of the Commission under Parts II and III of the Federal Power Act, and who has rate schedule(s) on file with the Commission and who is not a “qualifying small power producer” or a “qualifying cogenerator”, as those terms are defined in section 3 of the Federal Power Act, or the United States or a state, or any political subdivision of the United States or a state, or any agency, authority, or instrumentality of the United States, a state, political subdivision of the United States, or political subdivision of a state.

(c) *Oil pipeline company* means any person engaged in the transportation of crude oil and petroleum products subject to the Commission's jurisdiction under the Interstate Commerce Act with annual operating revenues greater