

PART 284—CERTAIN SALES AND TRANSPORTATION OF NATURAL GAS UNDER THE NATURAL GAS POLICY ACT OF 1978 AND RELATED AUTHORITIES

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Federal Energy Regulatory Commission

§ 284.6

AUTHORITY: 15 U.S.C. 717-717w, 3301-3432; 42 U.S.C. 7101-7352; 43 U.S.C. 1331-1356.

SOURCE: 44 FR 52184, Sept. 7, 1979, unless otherwise noted.

Subpart A—General Provisions and Conditions

§ 284.1 Definitions.

(a) *Transportation* includes storage, exchange, backhaul, displacement, or other methods of transportation.

(b) *Appropriate state regulatory agency* means a state agency which regulates intrastate pipelines and local distribution companies within such state. When used in reference to rates and charges, the term includes only those agencies which set rates and charges on a cost-of-service basis.

(c) *Market center* means an area where gas purchases and sales occur at the intersection of different pipelines.

[44 FR 52184, Sept. 7, 1989, as amended by Order 636, 57 FR 13315, Apr. 16, 1992]

§ 284.2 Refunds and interest.

(a) *Refunds*. Any rate or charge collected for any sale, transportation, or assignment conducted pursuant to this part which exceeds the rates or charges authorized by this part shall be refunded.

(b) *Interest*. All refunds made pursuant to this section must include interest at an amount determined in accordance with §154.501(d) of this chapter.

[44 FR 52184, Sept. 7, 1979, as amended at 44 FR 53505, Sept. 14, 1979; Order 273, 48 FR 1288; Jan. 12, 1983; Order 581, 60 FR 53072, Oct. 11, 1995]

§ 284.3 Jurisdiction under the Natural Gas Act.

(a) For purposes of section 1(b) of the Natural Gas Act, the provisions of such Act and the jurisdiction of the Commission under such Act shall not apply to any transportation or sale in interstate commerce of natural gas if such a transaction is authorized pursuant to section 311 or 312 of the NGPA.

(b) For purposes of the Natural Gas Act, the term "natural gas company" (as defined by section 2(6) of such Act) shall not include any person by reason of, or with respect to, any transaction involving natural gas if the provisions

of the Natural Gas Act do not apply to such transaction by reason of paragraph (a) of this section.

(c) The Natural Gas Act shall not apply to facilities utilized solely for transportation authorized by section 311(a) of the NGPA.

[44 FR 52184, Sept. 7, 1979, as amended by Order 581, 60 FR 53072, Oct. 11, 1995]

§ 284.4 Reporting.

(a) *Reports in MMBtu*. All reports filed pursuant to this part must indicate quantities of natural gas in MMBtu's. An MMBtu means a million British thermal units. A British thermal unit or Btu means the quantity of heat required to raise the temperature of one pound avoirdupois of pure water from 58.5 degrees to 59.5 degrees Fahrenheit, determined in accordance with paragraphs (b) and (c) of this section.

(b) *Measurement*. The Btu content of one cubic foot of natural gas under the standard conditions specified in paragraph (c) of this section is the number of Btu's produced by the complete combustion of such cubic foot of gas, at constant pressure with air of the same temperature and pressure as the gas, when the products of combustion are cooled to the initial temperature of the gas and air and when the water formed by such combustion is condensed to a liquid state.

(c) *Standard conditions*. The standard conditions for purposes of paragraph (b) of this section are as follows: The gas is saturated with water vapor at 60 degrees Fahrenheit under a pressure equivalent to that of 30.00 inches of mercury at 32 degrees Fahrenheit, under standard gravitational force (980.665 centimeters per second squared).

[Order 581, 60 FR 53072, Oct. 11, 1995]

§ 284.5 Further terms and conditions.

The Commission may prospectively, by rule or order, impose such further terms and conditions as it deems appropriate on transactions authorized by this part.

§ 284.6 Rate interpretations.

(a) *Procedure*. A pipeline may obtain an interpretation pursuant to subpart L of part 385 of this chapter concerning

whether particular rates and charges comply with the requirements of this part.

(b) *Address.* Requests for interpretations should be addressed to: FERC Part 284 Interpretations, Office of General Counsel, Federal Energy Regulatory Commission, Washington, DC 20426.

[44 FR 66791, Nov. 21, 1979; 44 FR 75383, Dec. 20, 1979, as amended by Order 225, 47 FR 19058, May 3, 1982; Order 581, 60 FR 53072, Oct. 11, 1995]

§ 284.7 Rates.

(a) *Applicability.* Any rate charged for transportation service under subparts B and G of this part must be established under a rate schedule that is filed with the Commission prior to commencement of such service and that conforms to the requirements of this section.

(b) *Rate objectives.* Maximum rates for both peak and offpeak periods must be designed to achieve the following three objectives:

(1) Rates for service during peak periods should ration capacity;

(2) Rates for firm service during off-peak periods and for interruptible service during all periods should maximize throughput; and

(3) The pipeline's revenue requirement allocated to firm and interruptible services should be attained by providing the projected units of service in peak and off-peak periods at the maximum rate for each service.

(c) *Rate design—(1) Volumetric rates.* Except as provided in § 284.8(d), any rate filed for service subject to this section must be a one-part rate that recovers the costs allocated to the service to the extent that the projected units of that service are actually purchased and may not include a demand charge, a minimum bill or minimum take provision or any other provision that has the effect of guaranteeing revenue. Such rate must separately identify cost components attributable to transportation, storage, and gathering costs.

(2) *Based on projected units of service.* Any rate filed for service subject to this section must be designed to recover costs on the basis of projected units of service. The fixed costs allo-

cated to capacity reservations, as determined in accordance with § 284.8(d), should be used along with the projected nominations accepted by the pipeline to compute the unit reservation fee. The remaining fixed costs and all variable costs should be used to determine the volumetric rate computed on the basis of projected volumes to be transported. The units projected for the service in rates filed under this section may be changed only in a subsequent rate filing under section 4 of the Natural Gas Act.

(3) *Differentiation due to time and distance.* Any rate filed for service subject to this section must reasonably reflect any material variation in the cost of providing the service due to:

(i) Whether the service is provided during a peak or an off-peak period; and

(ii) The distance over which the transportation is provided.

(4) *Cost basis for rates.* (i) Any maximum rate filed under this section must be designed to recover on a unit basis, solely those costs which are properly allocated to the service to which the rate applies.

(ii) Any minimum rate filed under this section must be based on the average variable costs which are properly allocated to the service to which the rate applies.

(5) *Rate flexibility.* (i) Any rate schedule filed under this section must state a maximum rate and a minimum rate.

(ii)(A) Except as provided in paragraph (d)(5)(ii)(B) of this section the pipeline may charge an individual customer any rate that is neither greater than the maximum rate nor less than the minimum rate on file for that service.

(B) If a pipeline does not hold a blanket certificate under Subpart G of this part, it may not charge, in a transaction involving its marketing affiliate, a rate that is lower than the highest rate it charges in any transaction not involving its marketing affiliate.

(iii) The pipeline may not file a revised or new rate designed to recover costs not recovered under rates previously in effect.

(6) *Discount reports.* (i) A pipeline that provides either firm or interruptible transportation service at a discounted

rate must file within 15 days of the close of the billing period a report containing the following information:

(A) The full legal name of the shipper being provided the discount;

(B) Any corporate affiliation between the transporting pipeline and the shipper;

(C) The maximum rate or fee; and

(D) The rate or fee actually charged during the billing period.

(ii) The requirements of this section do not apply to discounts relating to the release of capacity under §284.243, unless the release is permanent.

(iii) The discount report information must be provided in electronic format according to specifications that can be obtained at the Federal Energy Regulatory Commission, Division of Information Services, Public Reference and Files Maintenance Branch, Washington, DC 20426.

[Order 436, 50 FR 42493, Oct. 18, 1985, as amended at 50 FR 52274, Dec. 23, 1985; 53 FR 22163, June 14, 1988; Order 522, 55 FR 12169, Apr. 2, 1990; Order 581, 60 FR 53072, Oct. 11, 1995]

§284.8 Firm transportation service.

(a) *Firm transportation availability.* (1) An interstate pipeline that provides transportation service under subpart B or G of this part must offer such transportation service on a firm basis and separately from any sales service.

(2) An intrastate pipeline that provides transportation service under Subpart C may offer such transportation service on a firm basis.

(3) *Service on a firm basis* means that the service is not subject to a prior claim by another customer or another class of service and receives the same priority as any other class of firm service.

(4) An interstate pipeline that provided a firm sales service on May 18, 1992, and that offers transportation service on a firm basis under subpart B or G of this part, must offer a firm transportation service under which firm shippers may receive delivery up to their firm entitlements on a daily basis without penalty.

(b) *Non-discriminatory access.* (1) An interstate pipeline or intrastate pipeline that offers transportation service on a firm basis under subpart B, C or G

must provide such service without undue discrimination, or preference, including undue discrimination or preference in the quality of service provided, the duration of service, the categories, prices, or volumes of natural gas to be transported, customer classification, or undue discrimination or preference of any kind.

(2) An interstate pipeline that offers transportation service on a firm basis under subpart B or G of this part must provide each service on a basis that is equal in quality for all gas supplies transported under that service, whether purchased from the pipeline or another seller.

(3) An interstate pipeline that offers transportation service on a firm basis under subpart B or G of this part must provide all shippers with equal and timely access to information relevant to the availability of such service, including, but not limited to, the availability of capacity at receipt points, on the mainline, at delivery points, and in storage fields, and whether the capacity is available directly from the pipeline or through capacity release. The information must be provided on an Electronic Bulletin Board with the features prescribed in §284.10(a) and as required by §284.10(b).

(4) An interstate pipeline that offers transportation service on a firm basis under subpart B or G of this part may not include in its tariff any provision that inhibits the development of market centers.

(c) *Reasonable operational conditions.* Consistent with paragraph (b) of this section, a pipeline may impose reasonable operational conditions on any service provided under this part. Such conditions must be filed by the pipeline as part of its transportation tariff.

(d) *Reservation fee.* Where the customer purchases firm service, a pipeline may impose a reservation fee or charge on a shipper as a condition for providing such service. Except for pipelines subject to subpart C of this part, if a reservation fee is charged, it must recover all fixed costs attributable to the firm transportation service, unless the Commission permits the pipeline to recover some of the fixed costs in the volumetric portion of a two-part rate. A reservation fee may not recover any

variable costs or fixed costs not attributable to the firm transportation service. Except as provided in this paragraph, the pipeline may not include in a rate for any transportation provided under subpart B, C or G of this part any minimum bill or minimum take provision, or any other provision that has the effect of guaranteeing revenue.

(e) *Limitation.* A person providing service under Subpart B, C or G of this part is not required to provide any requested transportation service for which capacity is not available or that would require the construction or acquisition of any new facilities.

[Order 436, 50 FR 42493, Oct. 18, 1985]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 284.8, see the List of CFR Sections Affected in the Finding Aids section of this volume.

§ 284.9 Interruptible transportation service.

(a) *Interruptible transportation availability.* (1) An interstate pipeline that provides firm transportation service under subpart B or G of this part must also offer transportation service on an interruptible basis under that subpart or subparts and separately from any sales service.

(2) An intrastate pipeline that provides transportation service under Subpart C may offer such transportation service on an interruptible basis.

(3) *Service on an interruptible basis* means that the capacity used to provide the service is subject to a prior claim by another customer or another class of service and receives a lower priority than such other classes of service.

(b) *Non-discriminatory access.* (1) An interstate or intrastate pipeline that offers interruptible service under subpart B, C or G must provide such service without undue discrimination, or preference, including undue discrimination or preference in the quality of service provided, the duration of service, the categories, prices, or volumes of natural gas to be transported, customer classification, or undue discrimination or preference of any kind.

(2) An interstate pipeline that offers transportation service on an interruptible basis under subpart B or G of this part must provide each service on a

basis that is equal in quality for all gas supplies transported under that service, whether purchased from the pipeline or another seller.

(3) An interstate pipeline that offers transportation service on an interruptible basis under subpart B or G of this part must provide all shippers with equal and timely access to information relevant to the availability of such service. The information must be provided on an Electronic Bulletin Board with the features prescribed in § 284.10(a) and as required by § 284.10(b).

(4) An interstate pipeline that offers transportation service on an interruptible basis under subpart B or G of this part may not include in its tariff any provision that inhibits the development of market centers.

(c) *Reasonable operational conditions.* Consistent with paragraph (b) of this section, a pipeline may impose reasonable operational conditions on any service provided under this part. Such conditions must be filed by the pipeline as part of its transportation tariff.

(d) *Reservation fee.* No reservation fee may be imposed for interruptible service. A pipeline's rate for any transportation service provided under this section may not include any minimum bill provision, minimum take provision, or any other provision that has the effect of guaranteeing revenue.

(e) *Limitation.* A person providing service under subparts B, C or G of this part is not required to provide any requested transportation service for which capacity is not available or that would require the construction or acquisition of any new facilities.

[Order 436, 50 FR 42494, Oct. 18, 1985]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 284.9, see the List of CFR Sections Affected in the Finding Aids section of this volume.

§ 284.10 Standards for pipeline business operations and communications.

(a) *Electronic Bulletin Boards.* An interstate pipeline that is required by this chapter or by its tariff to display information on an Electronic Bulletin Board must provide for the following features on its board:

(1) Downloading by users;

(2) Daily back-up of information displayed on the board, which must be available for user review for at least three years;

(3) Purging of information on completed transactions from current files;

(4) Display of most recent entries ahead of information posted earlier; and

(5) On-line help, a search function that permits users to locate all information concerning a specific transaction, and a menu that permits users to separately access the notices of available capacity, the marketing affiliate discount information, the marketing affiliate capacity allocation log, and the standards of conduct information.

(6) A pipeline's obligation to provide information pursuant to this paragraph will terminate when all relevant information is provided pursuant to paragraph (c)(3)(i) of this section.

(b) *Incorporation by reference of GISB standards.* (1) An interstate pipeline that transports gas under subparts B or G of this part must comply with the following business practice and electronic communication standards promulgated by the Gas Industry Standards Board, which are incorporated herein by reference:

(i) Nominations Related Standards (Version 1.2, July 31, 1997), with the addition of standards 1.1.17 through 1.1.19, 1.2.8 through 1.2.12, 1.3.39 through 1.3.44 (as approved March 12, 1998), the modification of standards 1.3.2, 1.3.20, 1.3.22, 1.3.32 (as approved March 12, 1998), and the deletion of standards 1.2.7, 1.3.10, and 1.3.12;

(ii) Flowing Gas Related Standards (Version 1.2, July 31, 1997), with the exception of Standards 2.3.29 and 2.3.30;

(iii) Invoicing Related Standards (Version 1.2, July 31, 1997);

(iv) Electronic Delivery Mechanism Related Standards (Version 1.2, July 31, 1997), with the exception of 4.3.4; and

(v) Capacity Release Related Standards (Version 1.2, July 31, 1997).

(2) This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of these standards may be obtained from the Gas Industry Standards Board, 1100 Louisiana, Suite 4925, Hous-

ton, TX 77002. Copies may be inspected at the Federal Energy Regulatory Commission, Public Reference and Files Maintenance Branch, 888 First Street, NE., Washington, DC 20426 and at the Office of the Federal Register, 800 North Capitol St., NW., Suite 700, Washington, DC.

(c) *Business practices and electronic communication requirements.* An interstate pipeline that transports gas under subparts B or G of this part must comply with the following requirements. The regulations in this paragraph adopt the abbreviations and definitions contained in the Gas Industry Standards Board standards incorporated by reference in paragraph (b)(1) of this section.

(1) Nominations.

(i) Intra-day nominations.

(A) A pipeline must give scheduling priority to an intra-day nomination submitted by a firm shipper over nominated and scheduled volumes for interruptible shippers. When an interruptible shipper's scheduled volumes are to be reduced as a result of an intra-day nomination by a firm shipper, the interruptible shipper must be provided with advance notice of such reduction and must be notified whether penalties will apply on the day its volumes are reduced.

(B) An intra-day nomination submitted on the day prior to gas flow will take effect at the start of the gas day at 9 a.m. CCT.

(2) Flowing gas.

(i) Operational balancing agreements. A pipeline must enter into Operational Balancing Agreements at all points of interconnection between its system and the system of another interstate or intrastate pipeline.

(ii) Netting and trading of imbalances. A pipeline must establish provisions permitting shippers and their agents to offset imbalances accruing on different contracts held by the shipper with the pipeline and to trade imbalances with other shippers where such imbalances have similar operational impact on the pipeline's system.

(3) Communication protocols.

(i)(A) All electronic information provided and electronic transactions conducted by a pipeline must be provided on the public Internet. A pipeline must

provide, upon request, private network connections using internet tools, internet directory services, and internet communication protocols and must provide these networks with non-discriminatory access to all electronic information. A pipeline may charge a reasonable fee to recover the costs of providing such an interconnection.

(B) A pipeline must implement this requirement no later than June 1, 2000.

(ii) A pipeline must comply with the following requirements for documents constituting public information posted on the pipeline web site:

(A) The documents must be accessible to the public over the public Internet using commercially available web browsers, without imposition of a password or other access requirement;

(B) Users must be able to search an entire document online for selected words, and must be able to copy selected portions of the documents; and

(C) Documents on the web site should be directly downloadable without the need for users to first view the documents on the web site.

(iii) If a pipeline uses a numeric or other designation to represent information, an electronic cross-reference table between the numeric or other designation and the information represented must be available to users, at a cost not to exceed reasonable shipping and handling.

(iv) A pipeline must provide the same content for all information regardless of the electronic format in which it is provided.

(v) A pipeline must maintain, for a period of three years, all information displayed and transactions conducted electronically under this section and be able to recover and regenerate all such electronic information and documents. The pipeline must make this archived information available in electronic form for a reasonable fee.

(vi) A pipeline must post notices of operational flow orders, critical periods, and other critical notices on its Internet web site and must notify affected parties of such notices in either of the following ways to be chosen by the affected party: Internet E-Mail or

direct notification to the party's Internet URL address.

[Order 587, 61 FR 39068, July 26, 1996, as amended by Order 587-B, 62 FR 5525, Feb. 6, 1997; Order 587-C, 62 FR 10690, Mar. 10, 1997; Order 587-G, 63 FR 20095, Apr. 23, 1998; Order 587-H, 63 FR 39514, July 23, 1998; Order 587-I, 63 FR 53576, Oct. 6, 1998]

§ 284.11 Environmental compliance.

(a) Any activity involving the construction of, or the abandonment with removal of, facilities that is authorized pursuant to § 284.3(c) and Subpart B or C of this part is subject to the terms and conditions of § 157.206(d) of this chapter.

(b) *Advance notification*—(1) *General rule*. Except as provided in paragraph (b)(2) of this section, at least 30 days prior to commencing construction a company must file notification with the Commission of any activity described in paragraph (a) of this section.

(2) *Exception*. The advance notification described in paragraph (b)(1) of this section is not required if the cost of the project does not exceed the cost limit specified in Column 1 of Table I of § 157.208(d) of this chapter.

(c) *Contents of advance notification*. The advance notification described in paragraph (b)(1) of this section must include the following information:

(1) A brief description of the facilities to be constructed or abandoned with removal of facilities (including pipeline size and length, compression horsepower, design capacity, and cost of construction);

(2) Evidence of having complied with each provision of § 157.206(d) of this chapter;

(3) Current U.S. Geological Survey 7.5-minute series topographical maps showing the location of the facilities; and

(4) A description of the procedures to be used for erosion control, revegetation and maintenance, and stream and wetland crossings.

(d) *Reporting requirements*. On or before May 1 of each year, a company must file (on electronic media pursuant to § 385.2011 of this chapter, accompanied by 7 paper copies) an annual report that lists for the previous calendar year each activity that is described in paragraph (a) of this section,

and which was completed during the previous calendar year and exempt from the advance notification requirement pursuant to paragraph (b)(2) of this section. For each such activity, the company must include all of the information described in paragraph (c) of this section.

[Order 544, 57 FR 46495, Oct. 9, 1992, as amended by Order 581, 60 FR 53072, Oct. 11, 1995]

§ 284.12 Filing of capacity.

Each interstate pipeline that provides transportation subject to the provisions of subpart A of this part must make an annual filing by March 1 of each year showing the estimated peak day capacity of the pipeline's system, and the estimated storage capacity and maximum daily delivery capability of storage facilities under reasonably representative operating assumptions and the respective assignments of that capacity to the various firm services provided by the pipeline.

[Order 436, 50 FR 42495, Oct. 18, 1985, as amended by Order 636, 57 FR 13315, Apr. 16, 1992]

§§ 284.13–284.14 [Reserved]

Subpart B—Certain Transportation by Interstate Pipelines

§ 284.101 Applicability.

This subpart implements section 311(a)(1) of the NGPA and applies to the transportation of natural gas by any interstate pipeline on behalf of:

- (a) Any intrastate pipeline; or
- (b) Any local distribution company.

§ 284.102 Transportation by interstate pipelines.

(a) Subject to paragraphs (d) and (e) of this section, other provisions of this subpart, and the conditions of subpart A of this part, any interstate pipeline is authorized without prior Commission approval, to transport natural gas on behalf of:

- (1) Any intrastate pipeline; or
- (2) Any local distribution company.

(b) Any rates charged for transportation under this subpart may not exceed the just and reasonable rates established under subpart A of this part.

(c) Any interstate pipeline that engages in transportation arrangements under this subpart must file reports in accordance with § 284.106 of this chapter.

(d) Transportation of natural gas is not on behalf of an intrastate pipeline or local distribution company or authorized under this section unless:

(1) The intrastate pipeline or local distribution company has physical custody of and transports the natural gas at some point; or

(2) The intrastate pipeline or local distribution company holds title to the natural gas at some point, which may occur prior to, during, or after the time that the gas is being transported by the interstate pipeline, for a purpose related to its status and functions as an intrastate pipeline or its status and functions as a local distribution company; or

(3) The gas is delivered at some point to a customer that either is located in a local distribution company's service area or is physically able to receive direct deliveries of gas from an intrastate pipeline, and that local distribution company or intrastate pipeline certifies that it is on its behalf that the interstate pipeline is providing transportation service.

(e) An interstate pipeline must obtain from its shippers certifications including sufficient information to verify that their services qualify under this section. Prior to commencing transportation service described in paragraph (d)(3) of this section, an interstate pipeline must receive the certification required from a local distribution company or an intrastate pipeline pursuant to paragraph (d)(3) of this section.

[Order 436, 50 FR 42495, Oct. 18, 1985, as amended by Order 526, 55 FR 33011, Aug. 13, 1990; Order 537, 56 FR 50245, Oct. 4, 1991; Order 581, 60 FR 53072, Oct. 11, 1995]

§§ 284.103–284.105 [Reserved]

§ 284.106 Reporting requirements.

(a) *Notice of bypass.* An interstate pipeline that provides transportation (except storage) under § 284.102 to a customer that is located in the service area of a local distribution company and will not be delivering the customer's gas to that local distribution

company, must file with the Commission, within thirty days after commencing such transportation, a statement that the interstate pipeline has notified the local distribution company and the local distribution company's appropriate regulatory agency in writing of the proposed transportation prior to commencement.

(b) *Semi-annual storage report.* Within 30 days of the end of each complete storage injection and withdrawal season, the interstate pipeline must file with the Commission a report of storage activity provided under the authority of either § 284.102 or § 284.223, as applicable. The report must be signed under oath by a senior official, consist of an original and five conformed copies, and contain a summary of storage injection and withdrawal activities to include the following:

(1) The identify of each customer injecting gas into storage and/or withdrawing gas from storage, identifying any affiliation with the interstate pipeline;

(2) The rate schedule under which the storage injection or withdrawal service was performed;

(3) The maximum storage quantity and maximum daily withdrawal quantity applicable to each storage customer;

(4) For each storage customer, the volume of gas (in dekatherms) injected into and/or withdrawn from storage during the period;

(5) The unit charge and total revenues received during the injection/withdrawal period from each storage customer, noting the extent of any discounts permitted during the period; and

(6) The related docket numbers in which the interstate pipeline reported storage related injection/withdrawal transportation services.

(c) *Index of customers.* (1) On the first business day of each calendar quarter, subsequent to the initial implementation of this provision, an interstate pipeline must provide for electronic dissemination of an index of all its firm transportation and storage customers under contract as of the first day of the calendar quarter. Electronic dissemination will be by placing a file, adhering to the requirements set forth

by the Commission, on the pipeline's electronic bulletin board in a format which can be downloaded from the electronic bulletin board. The pipeline must also submit the electronic file to the Commission.

(2) Until an interstate pipeline is in compliance with the reporting requirements of this paragraph, the pipeline must comply with the index of customer requirements applicable to transportation and sales under Part 157, set forth under § 154.111 (b) and (c) of this chapter.

(3) For each customer receiving firm transportation or storage service, the index must include the information listed below:

(i) the full legal name of the customer;

(ii) the rate schedule number of the service being provided;

(iii) the contract effective date;

(iv) the contract expiration date;

(v) for transportation service, maximum daily contract quantity (specify unit of measurement);

(vi) for storage service, maximum storage quantity (specify unit of measurement).

(4) The information included in the quarterly index must be available on the electronic bulletin board until the next quarterly index is established. The electronic files must be archived for at least three years.

(5) The requirements of this section do not apply to contracts which relate solely to the release of capacity under § 284.243, unless the release is permanent.

(6) The requirements for the electronic index can be obtained at the Federal Energy Regulatory Commission, Division of Information Services, Public Reference and Files Maintenance Branch, Washington, DC 20426.

[Order 436, 50 FR 42495, Oct. 18, 1985, as amended at 50 FR 52276, Dec. 23, 1985; Order 636, 57 FR 13317, Apr. 16, 1992; Order 581, 60 FR 53072, Oct. 11, 1995; Order 581-A, 61 FR 8870, Mar. 6, 1996]

Subpart C—Certain Transportation by Intrastate Pipelines

§ 284.121 Applicability.

This subpart implements section 311(a)(2) of the NGPA and applies to the

transportation of natural gas by any intrastate pipeline on behalf of:

- (a) Any interstate pipeline, or
- (b) Any local distribution company served by any interstate pipeline.

§284.122 Transportation by intrastate pipelines.

(a) Subject to paragraphs (d) and (e) of this section, other provisions of this subpart, and the applicable conditions of Subpart A of this part, any intrastate pipeline may, without prior Commission approval, transport natural gas on behalf of:

- (1) Any interstate pipeline; or
- (2) Any local distribution company served by an interstate pipeline.

(b) No rate charged for transportation authorized under this subpart may exceed a fair and equitable rate under §284.123.

(c) Any intrastate pipeline engaged in transportation arrangements authorized under this section must file reports as required by §284.126.

(d) Transportation of natural gas is not on behalf of an interstate pipeline or local distribution company served by an interstate pipeline or authorized under this section unless:

(1) The interstate pipeline or local distribution company has physical custody of and transports the natural gas at some point; or

(2) The interstate pipeline or local distribution company holds title to the natural gas at some point, which may occur prior to, during, or after the time that the gas is being transported by the intrastate pipeline, for a purpose related to its status and functions as an interstate pipeline or its status and functions as a local distribution company.

[Order 436, 50 FR 42495, Oct. 18, 1985, as amended by Order 537, 56 FR 50245, Oct. 4, 1991; Order 537-A, 57 FR 46501, Oct. 9, 1992; Order 581, 60 FR 53073, Oct. 11, 1995]

§284.123 Rates and charges.

(a) *General rule.* Rates and charges for transportation of natural gas authorized under §284.122(a) shall be fair and equitable as determined in accordance with paragraph (b) of this section.

(b) *Election of rates.* (1) Subject to the conditions in §§284.8 and 284.9 of this

chapter, an intrastate pipeline may elect to:

(i) Base its rates upon the methodology used:

(A) In designing rates to recover the cost of gathering, treatment, processing, transportation, delivery or similar service (including storage service) included in one of its then effective firm sales rate schedules for city-gate service on file with the appropriate state regulatory agency; or

(B) In determining the allowance permitted by the appropriate state regulatory agency to be included in a natural gas distributor's rates for city-gate natural gas service; or

(ii) To use the rates contained in one of its then effective transportation rate schedules for intrastate service on file with the appropriate state regulatory agency which the intrastate pipeline determines covers service comparable to service under this subpart.

(2)(i) If an intrastate pipeline does not choose to make any election under paragraph (b)(1) of this section, it shall apply for Commission approval, by order, of the proposed rates and charges by filing with the Commission the proposed rates and charges, and information showing the proposed rates and charges are fair and equitable. Each petition for approval filed under this paragraph must be accompanied by the fee set forth in §381.403 or by a petition for waiver pursuant to §384.106 of this chapter. Upon filing the petition for approval, the intrastate pipeline may commence the transportation service and charge and collect the proposed rate, subject to refund.

(ii) 150 days after the date on which the Commission received an application filed pursuant to paragraph (b)(2)(i) of this section, the rate proposed in the application will be deemed to be fair and equitable and not in excess of an amount which interstate pipelines would be permitted to charge for providing similar transportation service, unless within the 150 day period, the Commission either extends the time for action, or institutes a proceeding in which all interested parties will be afforded an opportunity for written comments and for the oral

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presentation of views, data and arguments. In such proceeding, the Commission either will approve the rate or disapprove the rate and order refund, with interest, of any amount which has been determined to be in excess of those shown to be fair and equitable or in excess of the rates and charges which interstate pipelines would be permitted to charge for providing similar transportation service.

(iii) A Commission order approving or disapproving a transportation rate under this paragraph supersedes a rate determined in accordance with paragraph (b)(1) of this section.

(c) *Treatment of revenues.* The Commission presumes that all revenues received by an intrastate pipeline in connection with transportation authorized under §284.122(a) and computed in accordance with paragraph (b)(1) of this section have been or will be taken into account by the appropriate state regulatory agency for purposes of establishing transportation charges by the intrastate pipeline for service to intrastate customers.

(d) *Presumptions.* If the intrastate pipeline is charging a rate computed pursuant to §284.123(b)(1), the rate charged is presumed to be:

(1) Fair and equitable; and

(2) Not in excess of the rates and charges which interstate pipelines would be permitted to charge for providing similar transportation service.

(e) *Filing requirements.* Within 30 days of commencement of new service, any intrastate pipeline that engages in transportation arrangements under this subpart must file with the Commission a statement that describes how the pipeline will engage in these transportation arrangements, including operating conditions, such as, quality standards and financial viability of the shipper. The statement must also include the rate election made by the intrastate pipeline pursuant to paragraph (b) of this section. If the pipeline changes its operations or rate election under this subpart, it must amend the statement and file such amendments not later than 30 days after commence-

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ment of the change in operations or the change in rate election.

[44 FR 52184, Sept. 7, 1979, as amended at 44 FR 66791, Nov. 21, 1979; Order 394, 49 FR 35364, Sept. 7, 1984; Order 436, 50 FR 42496, Oct. 18, 1985; 50 FR 52276, Dec. 23, 1985; Order 581, 60 FR 53073, Oct. 11, 1995]

§284.124 Terms and conditions.

Contracts for the transportation of natural gas authorized under this subpart shall provide that the transportation arrangement is subject to the provisions of this subpart.

§284.125 [Reserved]

§284.126 Reporting requirements.

(a) *Notice of bypass.* An intrastate pipeline that provides transportation (except storage) under §284.122 to a customer that is located in the service area of a local distribution company and will not be delivering the customer's gas to that local distribution company, must file with the Commission within thirty days after commencing such transportation, a statement that the interstate pipeline has notified the local distribution and the local distribution company's appropriate state regulatory agency in writing of the proposed transportation prior to commencement.

(b) *Annual report.* Not later than March 31 of each year, each intrastate pipeline must file an annual report with the Commission and the appropriate state regulatory agency that contains, for each transportation service (except storage) provided during the preceding calendar year under §284.122, the following information:

(1) The name of the shipper receiving the transportation service;

(2) The type of service performed (*i.e.*, firm or interruptible);

(3) Total volumes transported for the shipper. If it is firm service, the report should separately state reservation and usage quantities; and

(4) Total revenues received for the shipper. If it is firm service, the report should separately state reservation and usage revenues.

(c) *Semi-annual storage report.* Within 30 days of the end of each complete

storage injection and withdrawal season, the intrastate pipeline shall file with the Commission a report of storage activity provided under the authority of §284.122. The report must be signed under oath by a senior official, consist of an original and five conformed copies, and contain a summary of storage injection and withdrawal activities to include the following:

(1) The identity of each customer injecting gas into storage and/or withdrawing gas from storage;

(2) The docket where the storage injection or withdrawal rates were approved;

(3) The maximum storage quantity and maximum daily withdrawal quantity applicable to each storage customer;

(4) For each storage customer, the volume of gas (in dekatherms) injected into and/or withdrawn from storage during the period;

(5) The unit charge and total revenues received during the injection/withdrawal period from each storage customer; and

(6) The related docket numbers in which the intrastate pipeline reported storage related injection/withdrawal transportation services.

(d) *Notification of termination.* Not later than thirty days after the termination of any transportation arrangement (except storage) authorized under §284.122, the intrastate pipeline must file with the Commission and with the appropriate state regulatory agency a statement, consisting of an original and five conformed copies to the Commission, including the following information:

(1) The docket number assigned to the transaction and the date the transaction was terminated;

(2) The total volumes transported under the arrangement;

(3) The total revenues received; and

(4) A statement certifying that the service was provided under the terms and conditions previously reported in that docket.

[Order 436, 50 FR 42496, Oct. 18, 1985, as amended at 50 FR 52276, Dec. 23, 1985; Order 636, 57 FR 13317, Apr. 16, 1992; Order 581, 60 FR 53073, Oct. 11, 1995]

Subpart D—Certain Sales by Intrastate Pipelines

SOURCE: 44 FR 12409, Mar. 7, 1979, unless otherwise noted. Redesignated at 44 FR 52184, Sept. 7, 1979.

§284.141 Applicability.

This subpart implements section 311(b) of the NGPA and applies to certain sales of natural gas by intrastate pipelines to:

(a) Interstate pipelines; and

(b) Local distribution companies served by interstate pipelines.

§284.142 Sales by intrastate pipelines.

Any intrastate pipeline may, without prior Commission approval, sell natural gas to any interstate pipeline or any local distribution company served by an interstate pipeline. The rates charged by an intrastate pipeline pursuant to this subpart may not exceed the price for gas as negotiated in the contract, plus a fair and equitable transportation rate as determined in accordance with §284.123.

[Order 581, 60 FR 53073, Oct. 11, 1995]

§§ 284.143–284.148 [Reserved]

Subparts E–F [Reserved]

Subpart G—Blanket Certificates Authorizing Certain Transportation by Interstate Pipelines on Behalf of Others and Services by Local Distribution Companies

§284.221 General rule; transportation by interstate pipelines on behalf of others.

(a) *Blanket certificate.* Any interstate pipeline may apply under this section for a single blanket certificate authorizing the transportation of natural gas on behalf of others in accordance with this subpart. A certificate of public convenience and necessity under this section is granted pursuant to section 7 of the Natural Gas Act.

(b) *Application procedure.* (1) An application for a blanket certificate under this section must be filed electronically. The format for the electronic application filing can be obtained at the

Federal Energy Regulatory Commission, Division of Information Services, Public Reference and Files Maintenance Branch, Washington, DC 20426, and must include:

(i) The name of the interstate pipeline; and

(ii) A statement by the interstate pipeline that it will comply with the conditions in paragraph (c) of this section.

(2) Upon receipt of an application under this section, the Commission will conduct a hearing pursuant to section 7(c) of the Natural Gas Act and §157.11 of this chapter and, if required by the public convenience and necessity, will issue to the interstate pipeline a blanket certificate authorizing such pipeline company to transport natural gas, as provided under this subpart.

(c) *General conditions.* Any blanket certificate under this subpart is subject to the conditions of subpart A of this part.

(d) *Pre-grant of abandonment.* (1) Except as provided in paragraphs (d)(2) and (d)(3) of this section, abandonment of transportation services is authorized pursuant to section 7(b) of the Natural Gas Act upon the expiration of the contractual term or upon termination of each individual transportation arrangement authorized under a certificate granted under this section.

(2) Paragraph (d)(1) of this section does not apply if the individual transportation arrangement is for firm transportation under a contract with a term of one year or more, and the firm shipper:

(i) Exercises any contractual right to continue such service; or

(ii) Gives notice that it wants to continue its transportation arrangement and will match the longest term and highest rate for its firm service, up to the maximum rate under §284.7, offered to the pipeline during the period established in the pipeline's tariff for receiving such offers by any other person desiring firm capacity, and executes a contract matching the terms of any such offer.

(3) Paragraph (d)(1) of this section does not apply where, after February 13, 1991, and before May 18, 1992, a shipper converted from sales service to

firm transportation service under the provisions of §284.10 or under a separate agreement (to the extent of conversion of pre-existing sales volumes).

(e) *Availability of regular certificates.* This subpart does not preclude an interstate pipeline from applying for an individual certificate of public convenience and necessity for any particular transportation service.

(f) *Cross references.* (1) Any local distribution company served by an interstate pipeline may apply for a blanket certificate to perform certain services under §284.224 of this chapter.

(2) Any interstate pipeline may apply under subpart F of part 157 of this chapter for a blanket certificate to construct or acquire and operate certain natural gas facilities that are necessary to provide transportation under §284.223.

(3) Section 157.208 of this chapter provides automatic authorization for the construction, acquisition, operation, and miscellaneous rearrangement of certain eligible facilities, as defined in §157.202 of this chapter, subject to limits specified in §157.208(d) of this chapter and §284.11.

(4) Authorization for sales taps is subject to the prior notice procedures under §§157.211(b) and 157.205.

(g) *Flexible receipt point authority*—(1) An interstate pipeline authorized to transport gas under a certificate granted under this section may, at the request of the shipper and without prior notice:

(i) Reduce or discontinue receipts of natural gas at a particular receipt point from a supplier; and

(ii) Commence or increase receipts at a particular receipt point from that supplier or any other supplier.

(2) The total natural gas volumes received by the interstate pipeline following any such reassignment under this paragraph must not exceed the total volume of natural gas that the interstate pipeline may transport on behalf of the shipper under a certificate granted under this section.

(3) The receipt points to which natural gas volumes may be reassigned under this paragraph include eligible facilities under §157.208 which are authorized to be constructed and operated pursuant to a certificate issued

under subpart F of part 157 of this chapter.

(h) *Flexible delivery point authority*—

(1) An interstate pipeline authorized to transport gas under a certificate issued pursuant to this section may at the request of the shipper and without prior notice:

(i) Reduce or discontinue deliveries of natural gas to a particular delivery point; and

(ii) Commence or increase deliveries at a particular delivery point.

(2) The total natural gas volumes delivered by the interstate pipeline following any such reassignment must not exceed the total amount of natural gas that the interstate pipeline is authorized under a certificate issued pursuant to this section to transport on behalf of the shipper.

(3) The delivery points to which natural gas volumes may be reassigned under this paragraph include facilities authorized to be constructed and operated only under §§ 157.211 and 157.212 and the prior notice conditions of § 157.205 of this chapter.

[Order 436, 50 FR 42496, Oct. 18, 1985, as amended by Order 433-A, 51 FR 43607, Dec. 3, 1986; Order 636, 57 FR 13317, Apr. 16, 1992; Order 636-A, 57 FR 36217, Aug. 12, 1992; Order 581, 60 FR 53073, Oct. 11, 1995]

§ 284.222 [Reserved]

§ 284.223 Transportation by interstate pipelines on behalf of shippers.

(a) Subject to the provisions of this subpart and the conditions of Subpart A of this part, any interstate pipeline issued a certificate under § 284.221 is authorized, without prior notice to or approval by the Commission, to transport natural gas for any duration for any shipper for any end-use by that shipper or any other person.

(b) *Reporting requirements.* Any interstate pipeline transporting gas under this section must comply with each of the reporting requirements specified in § 284.106.

[Order 436, 50 FR 42497, Oct. 18, 1985; 50 FR 45908, Nov. 5, 1985, as amended at 50 FR 52276, Dec. 23, 1985; Order 537, 56 FR 50245, Oct. 4, 1991; Order 581, 60 FR 53074, Oct. 11, 1995]

§ 284.224 Certain transportation and sales by local distribution companies.

(a) *Applicability.* This section applies to local distribution companies served by interstate pipelines, including persons who are not subject to the jurisdiction of the Commission, by reason of section 1(c) of the Natural Gas Act.

(b) *Blanket certificate*—(1) Any local distribution company served by an interstate pipeline or any Hinshaw pipeline may apply for a blanket certificate under this section.

(2) Upon application for a certificate under this section, a hearing will be conducted under section 7(c) of the Natural Gas Act, § 157.11 of this chapter, and subpart H of part 385 of this chapter.

(3) The Commission will grant a blanket certificate to such local distribution company or Hinshaw pipeline under this section, if required by the present or future public convenience and necessity. Such certificate will authorize the local distribution company to engage in the sale or transportation of natural gas that is subject to the Commission's jurisdiction under the Natural Gas Act, to the same extent that and in the same manner that intrastate pipelines are authorized to engage in such activities by subparts C and D of this part, except as otherwise provided in paragraph (e)(2) of this section.

(c) *Application procedure.* Applications for blanket certificates must be accompanied by the fee prescribed in § 381.207 of this chapter or a petition for waiver pursuant to § 381.106 of this chapter, and shall state:

(1) The exact legal name of applicant; its principal place of business; whether an individual, partnership, corporation or otherwise; the state under the laws of which it is organized or authorized; the agency having jurisdiction over rates and tariffs; and the name, title, and mailing address of the person or persons to whom communications concerning the application are to be addressed;

(2) The volumes of natural gas which:

(i) Were received during the most recent 12-month period by the applicant within or at the boundary of a state, and

(ii) Were exempt from the Natural Gas Act jurisdiction of the Commission by reason of section 1(c) of the Natural Gas Act, if any;

(3) The total volume of natural gas received by the applicant from all sources during the same time period;

(4) Citation to all currently valid declarations of exemption issued by the Commission under section 1(c) of the Natural Gas Act if any;

(5) A statement that the applicant will comply with the conditions in paragraph (e) of this section;

(6) A form of notice suitable for publication in the FEDERAL REGISTER, as contemplated by §157.9 of this chapter, which will briefly summarize the facts contained in the application in such way as to acquaint the public with its scope and purpose; and

(7) A statement of the methodology to be used in calculating rates for services to be rendered, setting forth any elections under §284.123 or paragraph (e)(2) of this section and a sample calculation employing the methodology using current data. If a rate election is made under paragraph (e)(2) of this section, this statement shall contain the following items (reflecting the 12-month period used to justify costs in the most recently approved rate case conducted by an appropriate state regulatory agency):

(i) Total operating revenues,

(ii) Purchase gas costs,

(iii) Distribution costs (which include that portion of the common costs allocated to the distribution function),

(iv) The volume throughput of the system categorized by sales, transportation and exchange service, and

(v) A study which determines transportation costs on a unit revenue basis in accordance with paragraph (e)(2) of this section, including any supporting work papers.

(d) *Effect of certificate.* (1) Any certificate granted under this section will authorize the certificate holder to engage in transactions of the type authorized by subparts C and D of this part.

(2) Acceptance of a certificate or conduct of an activity authorized thereunder will:

(i) Not impair the continued validity of any exclusion under section 1(c) of

the Natural Gas Act which may be applicable to the certificate holder, and

(ii) Not subject the certificate holder to the Natural Gas Act jurisdiction to the Commission except to the extent necessary to enforce the terms and conditions of the certificate.

(e) *General conditions.* (1) Except as provided in paragraph (e)(2) of this section, any transaction authorized under a blanket certificate is subject to the same rates and charges, terms and conditions, and reporting requirements that apply to a transaction authorized for an intrastate pipeline under subparts C and D of this part.

(2) *Rate election.* If the certificate holder does not have any existing rates on file with the appropriate state regulatory agency for city-gate service, the certificate holder may make the rate election specified in §284.123(b)(1) only if:

(i) The certificate holder's existing rates are approved by an appropriate state regulatory agency,

(ii) The rates and charges for any transportation are computed by using the portion of the certificate holder weighted average annual unit revenue (per MMBtu) generated by existing rates which is attributable to the cost of gathering, treatment, processing, transportation, delivery or similar service (including storage service), and

(iii) The Commission has approved the method for computing rates and charges specified in paragraph (e)(2)(ii) of this section.

(3) *Volumetric test.* The volumes of natural gas sold or assigned under the blanket certificate may not exceed the volumes obtained from sources other than interstate supplies.

(4) *Filings.* Any filings made with the Commission that report individual transactions shall reference the docket number of the proceeding in which the blanket certificate was granted.

(5) *Tariff filings.* The tariff filing requirements of part 154 of this chapter shall not apply to transactions authorized by the blanket certificate.

(f) *Pregrant of abandonment.* Abandonment of transportation services or sales, pursuant to section 7(b) of the Natural Gas Act, is authorized upon the expiration of the contractual term

of each individual arrangement authorized by a blanket certificate under this section.

(g) *Hinshaw pipeline without blanket certificate.* A Hinshaw pipeline that does not obtain a blanket certificate under this section is not authorized to sell or transport natural gas as an intrastate pipeline under subparts C and D of this part.

(h) *Definitions.* For the purposes of this section:

(1) A *Hinshaw pipeline* means any person engaged in the transportation of natural gas which is not subject to the jurisdiction of the Commission under the Natural Gas Act solely by reason of section 1(c) of the Natural Gas Act.

(2) *Interstate supplies* means any natural gas obtained, either directly or indirectly, from:

(i) The system supplies of an interstate pipeline, or

(ii) Natural gas reserves which were committed or dedicated to interstate commerce on November 8, 1978.

[45 FR 1875, Jan. 9, 1980, as amended by Order 319, 48 FR 34891, Aug. 1, 1983; 48 FR 35635, Aug. 5, 1983; Order 433, 50 FR 40346, Oct. 3, 1985. Redesignated and amended by Order 436, 50 FR 42497, 42498, Oct. 18, 1985; Order 478, 52 FR 28467, July 30, 1987; Order 581, 60 FR 53074, Oct. 11, 1995]

§ 284.225-284.226 [Reserved]

§ 284.227 Certain transportation by intrastate pipelines.

(a) *Blanket certificate.* A blanket certificate shall issue under this section to any intrastate pipeline that receives natural gas produced in adjacent Federal waters or onshore or offshore in an adjacent state, *provided that:*

(1) The gas must be received by the intrastate pipeline from a gatherer or other intrastate pipeline;

(2) The intrastate pipeline delivers the gas in the intrastate pipeline's state of operation to an end user or another intrastate pipeline; and

(3) The gas ultimately used by an end user in the same state.

(b) *Effective date.* If an intrastate pipeline is providing a transportation service described in paragraph (a) of this section as of February 1, 1992, and the service is not a qualifying service under § 284.122 of subpart C of this part,

a blanket certificate shall issue under paragraph (a) of this section and become effective as of February 1, 1992. If an intrastate pipeline is not providing a transportation service described in paragraph (a) of this section as of February 1, 1992 the blanket certificate shall issue and become effective on the date that the intrastate pipeline commences such a service that is not a qualifying service under § 284.122 of subpart C of this part.

(c) *Acceptance of certificate.* An intrastate pipeline shall be deemed to have accepted a blanket certificate under this section if it continues after February 1, 1992, a service described in paragraph (a) of this section that is not a qualifying service under § 284.122 of subpart C or commences such a service after November 4, 1991.

(d) *Terms and conditions.* An intrastate pipeline's blanket certificate transportation authority under this section is subject to its compliance with all terms and conditions of subpart C of this part, except that service under this section does not have to be on behalf of an interstate pipeline or local distribution company served by an interstate pipeline.

(e) *Pregrant of abandonment.* Abandonment of transportation services, pursuant to section 7(b) of the Natural Gas Act, is authorized upon the expiration of the contractual term of each individual arrangement authorized by a blanket certificate under this section.

(f) *Effect of certificate.* Acceptance of a certificate issued under this section or conduct of activity authorized under this section will not subject the certificate holder to the Natural Gas Act jurisdiction of the Commission except to the extent necessary to enforce the terms and conditions of the certificate.

[Order 537, 56 FR 50246, Oct. 4, 1991, as amended by Order 544, 57 FR 46501, Oct. 9, 1992; Order 581, 60 FR 53074, Oct. 11, 1995]

Subpart H—Assignment of Capacity on Interstate Pipelines

SOURCE: Order 636, 57 FR 13318, Apr. 16, 1992, unless otherwise noted.

§ 284.241 Applicability.

This subpart applies to any interstate pipeline that offers transportation service under subpart B or G of this part.

§ 284.242 Assignment of firm capacity on upstream pipelines.

An interstate pipeline that offers transportation service on a firm basis under subpart B or G of this part must offer without undue discrimination to assign to its firm shippers its firm transportation capacity, including contract storage, on all upstream pipelines, whether the firm capacity is authorized under part 284 or part 157. An upstream pipeline is authorized and required to permit a downstream pipeline to assign its firm capacity to the downstream pipeline's firm shippers.

[Order 636, 57 FR 13318, Apr. 16, 1992, as amended by Order 636-A, 57 FR 36217, Aug. 12, 1992]

§ 284.243 Release of firm capacity on interstate pipelines.

(a) An interstate pipeline that offers transportation service on a firm basis under subpart B or G of this part must include in its tariff a mechanism for firm shippers to release firm capacity to the pipeline for resale by the pipeline on a firm basis under this section.

(b) Firm shippers must be permitted to release their capacity, in whole or in part, on a permanent or short-term basis, without restriction on the terms or conditions of the release. A firm shipper may arrange for a replacement shipper to obtain its released capacity from the pipeline. A replacement shipper is any shipper that obtains released capacity.

(c) Except as provided in paragraph (h) of this section, a firm shipper that wants to release any or all of its firm capacity must notify the pipeline of the terms and conditions under which the shipper will release its capacity. The firm shipper must also notify the pipeline of any replacement shipper designated to obtain the released capacity under the terms and conditions specified by the firm shipper.

(d) The pipeline must provide notice of offers to release or to purchase capacity, the terms and conditions of such offers, and the name of any re-

placement shipper designated in paragraph (b) of this section, on an electronic bulletin board, for a reasonable period.

(e) The pipeline must allocate released capacity to the person offering the highest rate (not over the maximum rate) and offering to meet any other terms and conditions of the release. If more than one person offers the highest rate and meets the terms and conditions of the release, the released capacity may be allocated on a basis provided in the pipeline's tariff, provided however, if the replacement shipper designated in paragraph (b) of this section offers the highest rate, the capacity must be allocated to the designated replacement shipper.

(f) Unless otherwise agreed by the pipeline, the contract of the shipper releasing capacity will remain in full force and effect, with the net proceeds from any resale to a replacement shipper credited to the releasing shipper's reservation charge.

(g) To the extent necessary, a firm shipper on an interstate pipeline that offers transportation service on a firm basis under subpart B or G of this part is granted a limited-jurisdiction blanket certificate of public convenience and necessity pursuant to section 7 of the Natural Gas Act solely for the purpose of releasing firm capacity pursuant to this section.

(h)(1) A release of capacity by a firm shipper to a replacement shipper for any period of 31 days or less, or for any term at the maximum tariff rate applicable to the release, need not comply with the notification and bidding requirements of paragraphs (c) through (e) of this section. A release under this paragraph may not exceed the maximum rate. Notice of a firm release under this paragraph must be provided on the pipeline's electronic bulletin board as soon as possible, but not later than forty-eight hours, after the release transaction commences.

(2) When a release under paragraph (h)(1) of this section is at less than the maximum tariff rate, a firm shipper may not roll-over, extend, or in any way continue the release at less than the maximum tariff rate without complying with the requirements of paragraphs (c) through (e) of this section,

and may not re-release to the same replacement shipper under this paragraph at less than the maximum tariff rate until twenty-eight days after the first release period has ended.

[Order 636, 57 FR 13318, Apr. 16, 1992, as amended by Order 636-A, 57 FR 36217, Aug. 12, 1992; Order 577, 60 FR 16983, Apr. 4, 1995; Order 577-A, 60 FR 30187, June 8, 1995]

Subpart I—Emergency Natural Gas Sale, Transportation, and Exchange Transactions

SOURCE: Order 449, 51 FR 9187, Mar. 18, 1986, unless otherwise noted.

§ 284.261 Purpose.

This subpart exempts a person who engages in an emergency natural gas transaction, as defined for purposes of this subpart, in interstate commerce from the certificate requirements of section 7 of the Natural Gas Act and from the conditions of § 284.7, except as provided in § 284.266, and §§ 284.8–284.13 of subpart A of this chapter.

§ 284.262 Definitions.

For purposes of this subpart:

(a)(1) *Emergency* means, except as provided in paragraph (a)(2):

(i) Any situation in which an actual or expected shortage of gas supply would require an interstate pipeline company, intrastate pipeline, local distribution company, or Hinshaw pipeline to curtail deliveries of gas or provide less than the projected level of service to any customer, including any situation in which additional supplies are necessary to maintain levels of natural gas storage inventories sufficient to ensure a pipeline's projected level of service to any customer, but not including any situation in which additional supplies are needed to increase the projected level of service to an existing customer or to provide service to new customers; or

(ii) A sudden unanticipated loss of natural gas supply or a sudden unanticipated increase in demand; or

(iii) Any situation in which the participant, in good faith, determines that immediate action is required or is reasonably anticipated to be required for

protection of life or health or for maintenance of physical property.

(2) *Emergency* does not mean any situation under paragraph (a)(1) resulting solely from a failure by any person to transport natural gas under subpart B, C or G of this part.

(b) *Projected level of service* means the level of gas volumes to be delivered by the company for each customer and additional gas volumes needed by a customer due solely to a weather-induced increase in requirements.

(c) *Emergency natural gas* means natural gas sold, transported, or exchanged in an emergency natural gas transaction.

(d) *Emergency natural gas transaction* means the sale, transportation, or exchange of natural gas (including the construction and operation of necessary facilities) conducted pursuant to this subpart that is:

(1) Necessary to alleviate an emergency; and

(2) Not anticipated to extend for more than 60 days in duration.

(e) *Emergency costs* means the amount paid by a recipient of emergency natural gas and all associated costs, including all transportation costs.

(f) *Participant* means any first seller, interstate pipeline, intrastate pipeline, local distribution company or Hinshaw pipeline that participates in an emergency natural gas transaction under this subpart.

(g) *Recipient* means:

(1) In the case of the sale of emergency natural gas, the purchaser of such gas; or

(2) In the case of a transportation or exchange of emergency natural gas when there is no sale of emergency natural gas under this subpart, the participant who receives the gas.

(h) *Hinshaw pipeline* means a pipeline that is exempt from the Natural Gas Act jurisdiction of the Commission by reason of section 1(c) of the Natural Gas Act.

[Order 449, 51 FR 9187, Mar. 18, 1986, as amended by Order 522, 55 FR 12169, Apr. 2, 1990; Order 554, 58 FR 38528, July 19, 1993]

§ 284.263 Exemption from section 7 of Natural Gas Act and certain regulatory conditions.

Any participant that engages in an emergency natural gas transaction conducted in accordance with this subpart is exempt from the requirements of section 7 of the Natural Gas Act and the conditions of § 284.7, except as provided in § 284.266, and from the requirements of §§ 284.8-284.13 of subpart A of this part. Participation in any emergency natural gas transaction will not subject any participant to the jurisdiction of the Commission under section 7 of the Natural Gas Act except to the extent such transaction is provided for in this subpart.

§ 284.264 Terms and conditions.

(a) *General conditions.* (1) A participant must make every reasonable attempt to minimize use of emergency natural gas transactions.

(2) Before deliveries of emergency natural gas commence, a responsible official of the recipient must provide any participants in the emergency natural gas transaction sufficient information to enable the participants to form a good faith belief that an emergency exists or is imminent.

(3) No participant may engage in an emergency natural gas transaction if its participation will adversely affect service to its existing customers.

(4) A participant may not sell emergency natural gas if, during the term of the sale, it is also purchasing emergency natural gas under this subpart, except when natural gas is being sold to relieve an emergency on another, separate segment of the participant's system.

(5) An interstate pipeline, acting in an emergency gas transaction as a broker or agent on behalf of another participant or any other person, may not receive compensation for such brokerage or agency service.

(6) A recipient of emergency natural gas that directly benefits from the service must:

(i) Provide line loss and the fuel volumes required to transport the emergency natural gas; and

(ii) Pay for the facilities required to be constructed to conduct the emergency natural gas transaction.

(b) *Duration*—(1) *Emergency sale or transportation.* An emergency natural gas transaction is limited to 60 consecutive calendar days, except that such transaction may be continued for an additional 60 consecutive days if:

(i) Fifteen days prior to the end of the initial 60-day period, the recipient of emergency natural gas files a petition that:

(A) Describes fully the continued emergency,

(B) Requests a waiver of the initial 60-day limitation and permission for an extension of the transaction for an additional 60 days; and

(ii) Within the 15-day period, the Commission does not, by order, prohibit continuation of the emergency natural gas transaction for the additional 60-day period.

(2) *Redelivery in emergency exchange.* The redelivery of emergency natural gas received under an exchange arrangement must occur within 180 consecutive days following the termination of deliveries of the emergency natural gas.

§ 284.265 Cost recovery by interstate pipeline.

(a) Except as provided in paragraph (b), an interstate pipeline that provides emergency natural gas, whether from its system supply or by special purchase, must directly assign the emergency gas costs to the recipient.

(b) If an interstate pipeline cannot identify individual recipients, the interstate pipeline must roll the emergency gas costs into its general system supply costs.

§ 284.266 Rates and charges for interstate pipelines.

(a) *Transportation rates*—(1) *Rate on file.* If an interstate pipeline has on file with the Commission an effective transportation rate schedule that conforms to § 284.7, it must use volumetric rates based upon fully-allocated costs and adjusted only for time and distance.

(2) *Rate not on file.* If an interstate pipeline does not have on file with the Commission a transportation rate schedule that conforms to § 284.7, it may:

(i) Base its rates upon the methodology used in designing rates to recover the transmission and related storage costs included in one of its then-effective sales rates schedules; or

(ii) Use the rates contained in one of its transportation rate schedules on file with the Commission which the interstate pipeline determines covers service comparable to transportation service authorized under this subpart.

(b) *Interstate pipeline costs excluded from rate base.* An interstate pipeline may not include in its jurisdictional rate base any cost associated with facilities installed and operated in connection with an emergency natural gas transaction unless a certificate of public convenience and necessity has been issued authorizing the costs. Absent a certificate, such facilities may only be used to conduct emergency natural gas transactions or transactions authorized under section 311 of the NGPA.

[Order 449, 51 FR 9187, Mar. 18, 1986, as amended by Order 581, 60 FR 53074, Oct. 11, 1995]

§ 284.267 Intrastate pipeline emergency transportation rates.

General rule. Rates and charges for transportation of emergency gas by intrastate pipelines authorized under this subpart must be determined in accordance with § 284.123 of this chapter.

§ 284.268 Local distribution company emergency transportation rates.

(a) *Rate on file.* A local distribution company that has a rate on file with an appropriate state regulatory agency for city-gate transportation services must determine its rates and charges for transportation of emergency natural gas in accordance with § 284.123 of this chapter.

(b) *Rate not on file.* A local distribution company that does not have a rate on file with an appropriate state regulatory agency for city-gate transportation services must determine its rates and charges for transportation of emergency natural gas (per unit volume of emergency natural gas transported) in accordance with § 284.224(e)(2)(ii) of this chapter.

§ 284.269 Intrastate pipeline and local distribution company emergency sales rates.

An intrastate pipeline or local distribution company must determine its rates for sales of emergency natural gas under this subpart in accordance with § 284.142.

[Order 449, 51 FR 9187, Mar. 18, 1986, as amended by Order 581, 60 FR 53074, Oct. 11, 1995]

§ 284.270 Reporting requirements.

(a) *Forty-eight hour report for sales transactions.* Within 48 hours after deliveries of emergency natural gas commence, the purchasing participant must notify the Commission by telegraph or other written report of the sale, stating, in the following sequences:

(1) That the report is submitted pursuant to § 284.270 for an emergency natural gas transaction;

(2) The date deliveries commenced;

(3) The specific nature of the situation, explained in sufficient detail to demonstrate how the situation qualifies as an emergency under § 284.262 and under the conditions of § 284.264, and anticipated duration of the emergency;

(4) The estimated total amount and average daily amount of emergency natural gas to be purchased during the term of the transaction;

(5) The purchase price of the emergency natural gas;

(6) The transportation rate; and

(7) The identity of all participants involved in the transaction, including any customers to whom the emergency natural gas is to be assigned.

(b) *Forty-eight hour report for transportation (excluding exchanges).* Within 48 hours after deliveries commence in an emergency natural gas transaction which does not involve the sale of emergency natural gas, the recipient of emergency natural gas shall notify the Commission by telegram or other written report of the transportation, stating, in the following sequence:

(1) That the report is submitted pursuant to § 284.270 for an emergency transaction;

(2) The date deliveries commenced;

(3) The specific nature of the situation, explained in sufficient detail to

demonstrate how the situation qualifies as an emergency under § 284.262 and under the conditions of § 284.264, and anticipated duration of the emergency;

(4) The estimated total amount and average daily amount of emergency natural gas to be transported during the term of the transaction;

(5) The transportation rate; and

(6) The identity of all the participants involved in the transaction.

(c) *Forty-eight hour report for exchanges.* Within 48 hours after an exchange transaction for emergency natural gas commences, the initial recipient of the exchange volumes must notify the Commission by telegram or other written report of the exchange, stating, in the following sequence:

(1) That the report is for and submitted pursuant to § 284.270 for an emergency transaction;

(2) The date the exchange commenced;

(3) The specific nature of the situation, explained in sufficient detail to clearly demonstrate how the situation qualifies as an emergency under § 284.262 and under the conditions of § 284.264, and anticipated duration of the emergency;

(4) The estimated total amount and average daily amount of emergency natural gas to be exchanged during the term of the transaction;

(5) The identity of all participants involved in the transaction;

(6) Whether the exchange is simultaneous or deferred, or any imbalances in the volumes;

(7) Whether the exchange is on a thermal or volumetric basis; and

(8) The rates or charges, if any, for the exchange service.

(d) *Termination report.* Within thirty days after the emergency natural gas transaction ends, the participant that received the emergency natural gas shall file with the Commission a sworn statement and two conformed copies thereof, which must include the following information in the following sequence:

(1) A description of the emergency natural gas transaction, including sufficient information to clearly demonstrate how the situation qualifies as an emergency under § 284.262 and under the conditions of § 284.264; the com-

mencement and termination dates; the date of the 48-hour report, and the method of resolving the emergency;

(2) Any corrections to the 48-hour report information supplied to the Commission under paragraphs (a) through (c) of this section or a statement that the information was correct;

(3) The volumes of the emergency natural gas delivered during the transaction;

(4) The total compensation received by the seller for the emergency sale;

(5) The total compensation paid for the emergency natural gas transportation or exchange service, if any;

(6) The methods by which such compensation was derived;

(7) The total volumes of natural gas whose cost was assigned to specific customers, and the total volumes whose cost was included in system supply;

(8) The information supplied to any other participant pursuant to § 284.264(a)(2); and

(9) A statement that the emergency natural gas transaction was carried out in accordance with this subpart, and that identifies the circumstances demonstrating an emergency existed or was imminent so as to require an emergency natural gas transaction.

§ 284.271 Waiver.

The Commission may, by order, waive the requirements of this subpart in connection with any emergency natural gas transaction to the extent required by the public interest.

Subpart J—Blanket Certificates Authorizing Certain Natural Gas Sales by Interstate Pipelines

SOURCE: Order 636, 57 FR 13318, Apr. 16, 1992, unless otherwise noted.

§ 284.281 Applicability.

This subpart applies to any interstate pipeline that offers transportation service under subpart B or G of this part.

§ 284.282 Definitions.

(a) *Bundled sales service* is gas sales service that is not sold separately from transportation service.

(b) *Sales service* includes firm or interruptible gas sales.

(c) *Unbundled sales service* is gas sales service that is sold separately from transportation service.

(d) *Small customer* is a customer that purchases gas from a pipeline under the pipeline's one-part imputed load factor rate schedule on the effective date of the blanket certificate.

[Order 636, 57 FR 13318, Apr. 16, 1992, as amended by Order 636-A, 57 FR 36218, Aug. 12, 1992]

§ 284.283 Point of unbundling.

A sales service is unbundled when gas is sold at a point before it enters a mainline system, at an entry point to a mainline system from a production area, or at an intersection with another pipeline system.

§ 284.284 Blanket certificates for unbundled sales services.

(a) *Authorization.* An interstate pipeline that offers transportation service under subpart B or G of this part is granted a blanket certificate of public convenience and necessity pursuant to section 7 of the Natural Gas Act authorizing it to provide unbundled firm or interruptible sales in accordance with the provisions of this section.

(b) *Conversion to unbundled firm sales service and firm transportation service.* On the effective date of the pipeline's blanket certificate for unbundled sales services under paragraph (a) of this section, firm sales entitlements under any firm sales service agreement for a bundled sales service are converted to an equivalent amount of unbundled firm sales service and an equivalent amount of unbundled firm transportation service.

(c) *Conversion to unbundled interruptible sales service and interruptible transportation service.* On the effective date of the pipeline's blanket certificate for unbundled sales services under paragraph (a) of this section, interruptible sales volumes under any interruptible sales service agreement for a bundled sales service are converted to an equivalent amount of unbundled sales service and an equivalent amount of unbundled interruptible transportation service.

(d) A pipeline that provides unbundled sales service under this section may serve as an agent of the sales customer to arrange for any pipeline-provided service necessary to deliver gas to the customer.

(e) *Small customer cost-based rate.* A pipeline that provided bundled sales service to a small customer before the effective date of the blanket certificate granted in paragraph (a) of this section is required to offer a sales service to that customer at a cost-based rate for one year from the effective date of the certificate. The obligation to sell at the cost-based rate expires one year after the effective date of the certificate.

[Order 636, 57 FR 13318, Apr. 16, 1992, as amended by Order 636-A, 57 FR 36218, Aug. 12, 1992; Order 581, 60 FR 53074, Oct. 11, 1995]

§ 284.285 Pregrant of abandonment of unbundled sales services.

Abandonment of unbundled sales services is authorized pursuant to section 7(b) of the Natural Gas Act upon the expiration of the contractual term or upon termination of each individual sales arrangement authorized under § 284.284.

§ 284.286 Standards of conduct for unbundled sales service.

(a) To the maximum extent practicable, the pipeline must organize its unbundled sales and transportation operating employees so that they function independently of each other.

(b) The pipeline must conduct its business to conform to the requirements set forth in § 284.8(b)(2) and § 284.9(b)(2) with respect to the equality of service by not giving shippers of gas sold by the pipeline any preference over shippers of gas sold by any other merchant in matters relating to part 284 transportation.

(c) The pipeline must comply with §§ 161.3 (a), (b), (d), and (k) of this chapter and comply with §§ 161.3 (c), (e), (f), (g), and (h) of this chapter by considering its unbundled sales operating employees as an operational unit which is the functional equivalent of a marketing affiliate.

(d) The pipeline must comply with § 250.16 of this chapter by considering

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its unbundled sales operating employees as an operational unit which is the functional equivalent of a marketing affiliate.

(e) A pipeline that provides unbundled sales service under § 284.284 must have tariff provisions on file with the Commission indicating how the pipeline is complying with the standards of this section.

[Order 636, 57 FR 13318, Apr. 16, 1992, as amended by Order 566, 59 FR 32899, June 27, 1994; Order 581, 60 FR 53074, Oct. 11, 1995]

§ 284.287 Implementation and effective date.

(a) Prior to offering any sales service under this subpart J, a pipeline must file revised tariff sheets incorporating the provisions of this subpart J.

(b) A blanket certificate issued under § 284.284 will be effective on the effective date (as approved by the Commission) of the tariff sheets implementing service under that certificate.

[Order 581, 60 FR 53074, Oct. 11, 1995]

§ 284.288 Reporting requirements.

Interstate pipelines engaging in sales under a certificate granted under § 284.284 must file with the Commission by March 1 of each year, an annual report for the preceding calendar year describing for each transaction the identities of the parties, the type of service provided (firm or interruptible), the total volumes sold, and the total revenues received. The report must be signed under oath by a senior official of the company.

Subpart K—Transportation of Natural Gas on the Outer Continental Shelf by Interstate Natural Gas Pipelines on Behalf of Others

SOURCE: Order 509, 53 FR 50938, Dec. 19, 1988, unless otherwise noted.

§ 284.301 Applicability.

This subpart implements section 5 of the Outer Continental Shelf Land Act (OCSLA) and applies to any jurisdictional interstate natural gas pipeline that holds a certificate under section 7 of the Natural Gas Act (NGA) authorizing the construction and operation of

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facilities on the Outer Continental Shelf (OCS).

§ 284.302 Definitions.

For the purposes of this subpart, the term:

(a) *Outer Continental Shelf* (OCS) has the same meaning as found in section 2(a) of the OCSLA (43 U.S.C. 1331(a)); and

(b) *OCS pipeline* means an interstate natural gas pipeline that holds a certificate under section 7 of the NGA authorizing the construction and operation of facilities on the OCS, and includes all of the OCS pipeline's facilities that fall within the scope of the Commission's jurisdiction under section 7 of the NGA to the full extent that such facilities are used or necessary to transport natural gas on or across the OCS between:

(1) Any locations on the OCS (if the pipeline does not have an interconnection off the OCS), or

(2) The OCS and the first point of interconnection on the shoreward side of the OCS where the pipeline delivers or receives natural gas to or from either:

(i) A natural gas conditioning or processing facility, or

(ii) Another pipeline, or

(iii) A distributor or end user of natural gas.

[Order 509, 53 FR 50938, Dec. 19, 1988, as amended by Order 509-A, 54 FR 8313, Feb. 28, 1989]

§ 284.303 OCS blanket certificates.

Every OCS pipeline [as that term is defined in § 284.302(b)] is required to provide open-access, nondiscriminatory transportation service pursuant to a blanket transportation certificate issued under subpart G of this part.

[Order 559, 58 FR 52663, Oct. 12, 1993]

Subpart L—Certain Sales for Resale by Non-interstate Pipelines

§ 284.401 Definitions.

Affiliated marketer. For purposes of this subpart, an "affiliated marketer" is a person engaged in the "marketing" of natural gas that is an "affiliate" of

an interstate pipeline as those terms are defined in §161.2 of this chapter.

[Order 547, 57 FR 57959, Dec. 8, 1992]

§284.402 Blanket marketing certificates.

(a) *Authorization.* Any person who is not an interstate pipeline is granted a blanket certificate of public convenience and necessity pursuant to section 7 of the Natural Gas Act authorizing the certificate holder to make sales for resale at negotiated rates in interstate commerce of any category of gas that is subject to the Commission's Natural Gas Act jurisdiction. A blanket certificate issued under Subpart L is a certificate of limited jurisdiction which will not subject the certificate holder to any other regulation under the Natural Gas Act jurisdiction of the Commission by virtue of transactions under the certificate.

(b) The authorization granted in paragraph (a) of this section will become effective on January 7, 1993 except as otherwise provided in paragraph (c) of this section.

(c)(1) The authorization granted in paragraph (a) of this section will become effective for an affiliated marketer with respect to transactions involving affiliated pipelines when an affiliated pipeline receives its blanket certificate pursuant to §284.284.

(2) Should a marketer be affiliated with more than one pipeline, the authorization granted in paragraph (a) of this section will not be effective for transactions involving other affiliated interstate pipelines until such other pipelines' meet the criterion set forth in paragraph (c)(1) of this section. The authorization granted in paragraph (a) of this section is not extended to affiliates of persons who transport gas in interstate commerce and who do not have a tariff on file with the Commission under part 284 of this subchapter with respect to transactions involving that person.

(d) Abandonment of the sales service authorized in paragraph (a) of this section is authorized pursuant to section 7(b) of the Natural Gas Act upon the expiration of the contractual term or

upon termination of each individual sales arrangement.

[Order 547, 57 FR 57959, Dec. 8, 1992, as amended by Order 581, 60 FR 53074, Oct. 11, 1995]

PART 286—ADMINISTRATIVE PROCEDURES

Sec.

286.101 Application for stay.

286.102 Application for rehearing.

AUTHORITY: Administrative Procedure Act, 5 U.S.C. 551 *et seq.*, Natural Gas Policy Act of 1978, Pub. L. 95-621, 92 Stat. 3350, Department of Energy Organization Act, Pub. L. 95-91, E.O. 12009, 42 FR 46267.

§286.101 Application for stay.

(a) *General rule.* Any person who believes that any provision of a final or interim regulation issued under the Natural Gas Policy Act of 1978 is unlawful as applied to such person may file an application for stay.

(b) *Content of application.* The application shall state, clearly and concisely:

(1) The provision of the regulation, by section, paragraph, subparagraph and clause, as appropriate, which applicant seeks to have stayed;

(2) The conditions which the applicant believes require the stay, including the irreparable injury which the applicant believes will result if the stay is not granted; and

(3) The factual and legal basis for applicant's contention that the final or interim regulation is unlawful.

(c) *Filing requirements.* The application shall be under oath. An original and three conformed copies shall be filed with the Secretary of the Commission.

(d) *Commission action.* The Commission may grant the application, in whole or in part, by issuing an order specifying the scope of the stay granted and the effective dates of the stay.

[43 FR 57599, Dec. 8, 1978, as amended at 44 FR 13473, Mar. 12, 1979]

§286.102 Application for rehearing.

(a) *General rule.* Any person aggrieved by any order or regulation or any amendment to a regulation issued under the NGPA and subject to judicial