

map the points between which connection may be established most economically.

§ 32.3 Other information.

The Commission may require additional information when it appears to be pertinent in a particular case.

§ 32.4 Form and style; number of copies.

An original and six conformed copies of an application under §§ 32.1 to 32.4 must be filed.

[Order 342, 32 FR 6622, Apr. 29, 1967, as amended by Order 225, 47 FR 19056, May 3, 1982]

PART 33—APPLICATION FOR SALE, LEASE, OR OTHER DISPOSITION, MERGER OR CONSOLIDATION OF FACILITIES, OR FOR PURCHASE OR ACQUISITION OF SECURITIES OF A PUBLIC UTILITY

Sec.

- 33.1 Applicability.
- 33.2 Contents of application.
- 33.3 Required exhibits.
- 33.4 Additional information.
- 33.5 [Reserved]
- 33.6 Number of copies.
- 33.7 Verification.
- 33.8 Reports.
- 33.9 Public notice.
- 33.10 Commission action.

AUTHORITY: 16 U.S.C. 791a–825r, 2601–2645; 31 U.S.C. 9701; 42 U.S.C. 7101–7352.

SOURCE: Order 141, 12 FR 8495, Dec. 19, 1947, unless otherwise noted.

CROSS REFERENCES: For rules of practice and procedure, see part 385 of this title. For forms under rules of practice and regulations, Federal Power Act, see part 131 of this chapter.

§ 33.1 Applicability.

(a) The requirements of this part will apply to public utilities seeking authority under section 203 of the Federal Power Act. This authority extends to—

(1) The disposition by sale, lease or otherwise by a public utility of the whole of its electric facilities subject to Commission jurisdiction or any part thereof of a value in excess of \$50,000.

(2) The merger or consolidation, directly or indirectly of the facilities subject to the Commission's jurisdiction with those of any other person having a value in excess of \$50,000. This

includes the acquisition by a public utility of electric facilities used for the transmission or sale at wholesale of electric energy in interstate commerce which, except for ownership, would be subject to Commission's jurisdiction.

(3) The purchase, acquisition or taking by a public utility of any security of any other public utility.

(b) Value in excess of \$50,000 as used in section 203 of the Federal Power Act (16 U.S.C. 824b) shall be the original cost undepreciated as defined in the Commission's uniform system of accounts prescribed for public utilities and licensees.

[Order 397, 35 FR 5321, Mar. 31, 1970]

§ 33.2 Contents of application.

Each such applicant shall set forth in its application to the Commission, in the manner and form and in the order indicated, the following information which should insofar as possible be furnished as to said applicant and each company whose facilities or securities are involved:

(a) The exact name and the address of the principal business office.

(b) Name and address of the person authorized to receive notices and communications in respect to application.

(c) Designation of the territories served, by counties and States.

(d) A general statement briefly describing the facilities owned or operated for transmission of electric energy in interstate commerce or the sale of electric energy at wholesale in interstate commerce.

(e) Whether the application is for disposition of facilities by sale, lease, or otherwise, a merger or consolidation of facilities, or for purchase or acquisition of securities of a public utility, also a description of the consideration, if any, and the method of arriving at the amount thereof.

(f) A statement of facilities to be disposed of, consolidated, or merged, giving a description of their present use and of their proposed use after disposition, consolidation, or merger. State whether the proposed disposition of facilities or plan for consolidation or merger includes all the operating facilities of the parties to the transaction.

(g) A statement (in the form prescribed by the Commission's Uniform System of Accounts for Public Utilities and Licensees) of the cost of the facilities involved in the sale, lease, or other disposition or merger or consolidation. If original cost is not known, an estimate of original cost based, insofar as possible, upon records or data of the applicant or its predecessors must be furnished, together with a full explanation of the manner in which such estimate has been made, and a description and statement of the present custody of all existing pertinent data and records.

(h) A statement as to the effect of the proposed transaction upon any contract for the purchase, sale, or interchange of electric energy.

(i) A statement as to whether or not any application with respect to the transaction or any part thereof is required to be filed with any other Federal or State regulatory body.

(j) The facts relied upon by applicants to show that the proposed disposition, merger, or consolidation of facilities or acquisition of securities will be consistent with the public interest.

(k) A brief statement of franchises held, showing date of expiration if not perpetual.

(l) A form of notice suitable for publication in the FEDERAL REGISTER, as well as a copy of the same notice in electronic format (in either ASCII text, WordPerfect 5.1 for DOS or WordPerfect 5.2 for Windows format) on a 3½' diskette marked with the name of the applicant and the words "Notice of Filing," which will briefly summarize the facts contained in the application

in such way as to acquaint the public with its scope and purpose.

(Secs. 3, 4, 15, 16, 301, 304, 308, and 309; 41 Stat. 1063-1066, 1068, 1072, 1075; 49 Stat. 838, 839, 840, 841, 854-856, 858-859; 82 Stat. 617 (16 U.S.C. 796, 797, 803, 808, 809, 816, 825, 825b, 825c, 825g, 825h, 826i); Natural Gas Act, as amended, particularly secs. 8, 10, and 16; 52 Stat. 825-826, 830 (15 U.S.C. 717g, 717i, 717o))

[Order 141, 12 FR 8495, Dec. 19, 1947, as amended by Order 149, 14 FR 4496, July 19, 1949; 14 FR 4668, July 27, 1949; Order 379, 34 FR 813, Jan. 18, 1969; Order 427, 36 FR 5597, Mar. 25, 1971; Order 567, 42 FR 30613, June 16, 1977; Order 435, 50 FR 40357, Oct. 3, 1985; Order 545, 57 FR 53990, Nov. 16, 1992; Order 593, 62 FR 1283, Jan. 9, 1997]

§ 33.3 Required exhibits.

There shall be filed with the application as part thereof one certified copy and five uncertified copies of exhibit A and one certified copy and five uncertified copies plus one for each State affected of exhibits B, C, D, E, F, G, H and I, described as follows:

Exhibit A. Copies of all resolutions of directors authorizing the proposed disposition, merger, or consolidation of facilities, or acquisition of securities, in respect to which the application is made, and, if approval of stockholders has been obtained, copies of the resolutions of the stockholders should also be furnished.

Exhibit B. A statement of the measure of control or ownership exercised by or over each party to the transaction as to any public utility, or bank, trust company, banking association, or firm that is authorized by law to underwrite or participate in the marketing of securities of a public utility, or any company supplying electric equipment to such party. Where there are any intercorporate relationships through holding companies, ownership of securities or otherwise, the nature and extent of such relationship; also state whether any of the parties to the transaction have officers or directors in common. If not a member of any holding company system, include a statement to that effect.

Exhibit C. Balance sheets and supporting plant schedules for the most recent 12 month period only, on an actual basis and on a pro forma basis in the form prescribed for Statement A and B of the FPC Annual Report

Form No. 1, prescribed by §141.1 of this chapter. The adjustments necessary to arrive at the pro forma statements should be clearly identified.

Exhibit D. A statement of all known contingent liabilities except minor items such as damage claims and similar items involving relatively small amounts, as of the date of the application.

Exhibit E. Income statement for the most recent 12 month period only, on an actual basis and on a pro forma basis in the form prescribed for Statement C of the FPC Annual Report Form No. 1 prescribed by §141.1 of this Chapter. The adjustments necessary to arrive at the pro forma statements should be clearly identified.

Exhibit F. An analysis of retained earnings for the period covered by the income statements referred to in exhibit I.

Exhibit G. A copy of each application and exhibit filed with any other Federal or State regulatory body in connection with the proposed transaction, and if action has been taken thereon, a certified copy of each order relating thereto.

Exhibit H. A copy of all contracts in respect to the sale, lease, or other proposed disposition, merger or consolidation of facilities, or purchase of securities, as the case may be, together with copies of all other written instruments entered into or proposed to be entered into by the parties to the transaction pertaining thereto.

Exhibit I. A general or key map on a scale of not more than 20 miles to the inch showing in separate colors the properties of each party to the transaction, and distinguishing such parts of them as are included in the proposed disposition, consolidation or merger. The map should also clearly indicate all interconnections and the principal cities of the area served. Whenever possible, the map should not be over 30 inches in its largest dimension.

(Secs. 3, 4, 15, 16, 301, 304, 308, and 309; 41 Stat. 1063-1066, 1068, 1072, 1075; 49 Stat. 838, 839, 840, 841, 854-856, 858-859; 82 Stat. 617 (16 U.S.C. 796, 797, 803, 808, 809, 816, 825, 825b, 825c, 825g, 825h, 826i) and of the Natural Gas Act, as amended, particularly secs. 8, 10, and 16; 52 Stat. 825-826, 830 (15 U.S.C. 717g, 717i, 717o))

[Order No. 141, 12 FR 8495, Dec. 19, 1947, as amended by Order 567, 42 FR 30613, June 16, 1977; Order 545, 57 FR 53990, Nov. 16, 1992]

§ 33.4 Additional information.

The Commission may require additional information when it appears to be pertinent in a particular case.

§ 33.5 [Reserved]

§ 33.6 Number of copies.

An original and five copies, plus one copy for each State affected, of applications under this part shall be submitted.

§ 33.7 Verification.

The original application shall be signed by a person or persons having authority with respect thereto and having knowledge of the matters therein set forth, and shall be verified under oath.

§ 33.8 Reports.

Upon the granting of any application under this part by the Commission, applicants shall report to the Commission under oath within 10 days after any sale, lease, or other disposition of facilities, merger or consolidation of facilities, or purchase or acquisition of securities of a public utility, the fact of such sale, lease, or other disposition of facilities, merger or consolidation of facilities, or purchase or acquisition of securities, and the terms and conditions thereof.

§ 33.9 Public notice.

The Commission may require the applicant to give such local notice by publication as the Commission in its discretion may deem proper.

§ 33.10 Commission action.

Application under this part will ordinarily require 45 days after the date of filing before final action can be taken thereon by the Commission, to allow for such preliminary study, investigation, public notice, opportunity for

hearing, and consideration by the Commission, as may be appropriate in the premises.

PART 34—APPLICATION FOR AUTHORIZATION OF THE ISSUANCE OF SECURITIES OR THE ASSUMPTION OF LIABILITIES

Sec.

- 34.1 Applicability; definitions; exemptions in case of certain State regulation, certain short-term issuances and certain qualifying facilities.
- 34.2 Placement of securities.
- 34.3 Contents of application for issuance of securities.
- 34.4 Required exhibits.
- 34.5 Additional information.
- 34.6 Form and style.
- 34.7 Number of copies to be filed.
- 34.8 Verification.
- 34.9 Filing fee.
- 34.10 Reports.

AUTHORITY: 16 U.S.C. 791a-825r, 2601-2645; 31 U.S.C. 9701; 42 U.S.C. 7101-7352.

SOURCE: Order 182, 46 FR 50514, Oct. 14, 1981, unless otherwise noted.

CROSS REFERENCES: For rules of practice and procedure, see part 385 of this chapter. For Approved Forms, Federal Power Act, see part 131 of this chapter.

OMB REFERENCE: "FERC Filing No. 523" is the identification number used by the Commission and the Office of Management and Budget to reference the filing requirements in part 34.

§34.1 Applicability; definitions; exemptions in case of certain State regulation, certain short-term issuances and certain qualifying facilities.

(a) *Applicability.* This part applies to applications for authorization from the Commission to issue securities or assume an obligation or liability which are filed by:

(1) Licensees and other entities pursuant to sections 19 and 20 of the Federal Power Act (41 Stat. 1073, 16 U.S.C. 812, 813) and part 20 of the Commission's regulations; and

(2) Public utilities pursuant to section 204 of the Federal Power Act (49 Stat. 850, 16 U.S.C. 824c).

(b) *Definitions.* For the purpose of this part:

(1) The term *utility* means a licensee, public utility or other entity seeking

authorization under sections 19, 20 or 204 of the Federal Power Act;

(2) The term *securities* includes any note, stock, treasury stock, bond, or debenture or other evidence of interest in or indebtedness of a utility;

(3) The term *issuance or placement of securities* means issuance or placement of securities, or assumption of obligation or liability; and

(4) The term *State* means a State admitted to the Union, the District of Columbia, and any organized Territory of the United States.

(c) *Exemptions.* (1) If an agency of the State in which the utility is organized and operating approves or authorizes, in writing, the issuance of securities prior to their issuance, the utility is exempt from the provisions of sections 19, 20 and 204 of the Federal Power Act and the regulations under this part, with respect to such securities.

(2) This part does not apply to the issue or renewal of, or assumption of liability on, a note or draft maturing one year or less after the date of such issue, renewal, or assumption of liability, if the aggregate of such note or draft and all other then-outstanding notes and drafts of a maturity of one year or less on which the utility is primarily or secondarily liable, is not more than 5 percent of the par value of the other then-outstanding securities of the utility as of the date of issue or renewal of, or assumption of liability on, the note or draft. In the case of securities having no par value, the par value for the purpose of this part is the fair market value, as of the date of issue or renewal of, or assumption of liability on, the note or draft.

(3) *For certain qualifying facilities.* Any cogeneration or small power production facility which is exempt from sections 19, 20 and 204 of the Federal Power Act pursuant to §292.601 of this chapter shall be exempt from the provisions of this part.

[Order 182, 46 FR 50514, Oct. 14, 1981, as amended at 48 FR 9851, Mar. 9, 1983; Order 575, 60 FR 4852, Jan. 25, 1995]

§34.2 Placement of securities.

(a) *Method of issuance.* Upon obtaining authorization from the Commission, utilities may issue securities by