To the extent, if any, that it is not possible to explore and address all cumulative impacts at relicensing, the Commission will reserve authority to examine and address such impacts after the new license has been issued, but will define that reserved authority as narrowly and with as much specificity as possible, particularly with respect to the purpose of reserving that authority. The Commission intends that such articles will describe, to the maximum extent possible, reasonably foreseeable future resource concerns that may warrant modifications of the licensed project. Before taking any action pursuant to such reserved authority, the Commission will publish notice of its proposed action and will provide an opportunity for hearing by the licensee and all interested parties. Hydropower licenses also contain standard ''reopener'' articles (see §2.9 of this part) which reserve authority to the Commission to require, among other things, licensees of projects located in the same river basin to mitigate the cumulative impacts of those projects on the river basin. In light of the policy described above, the Commission will use the standard ''reopener'' articles to explore and address cumulative impacts only (except in extraordinary circumstances) where such impacts were not known at the time of licensing or are the result of changed circumstances. The Commission has authority under the Federal Power Act to require licensees, during the term of the license, to develop and provide data to the Commission on the cumulative impacts of licensed projects located in the same river basin. In issuing both new and original licenses, the Commission will coordinate the expiration dates of the licenses to the maximum extent possible, to maximize future consideration of cumulative impacts at the same time in contemporaneous proceedings at relicensing. The Commission's intention is to consider to the extent practicable cumulative impacts at the time of licensing and relicensing, and to eliminate the need to resort to the use of reserved authority.

[59 FR 66718, Dec. 28, 1994]

§ 2.24 Project decommissioning at relicensing.

The Commission issued a statement of policy on project decommissioning at relicensing in Docket No. RM93–23–000 on December 14, 1994.

[60 FR 347, Jan. 4, 1995]

§ 2.25 Ratemaking treatment of the cost of emissions allowances in coordination transactions.

(a) *General Policy*. This Statement of Policy is adopted in furtherance of the goals of Title IV of the Clean Air Act Amendments of 1990, Pub. L. 101–549, Title IV, 104 Stat. 2399, 2584 (1990).

(b) *Costing Emissions Allowances in Coordination Sales*. If a public utility's coordination rate on file with the Commission provides for recovery of variable costs on an incremental basis, the Commission will allow recovery of the incremental costs of emissions allowances associated with a coordination sale. If a coordination rate does not reflect incremental costs, the public utility should propose alternative allowance costing methods or demonstrate that the coordination rate does not produce unreasonable results. The Commission finds that the cost to replace an allowance is an appropriate basis to establish the incremental cost.

(c) *Use of Indices*. The Commission will allow public utilities to determine emissions allowance costs on the basis of an index or combination of indices of the current price of emissions allowances, provided that the public utility affords purchasing utilities the option of providing emissions allowances. Public utilities should explain and justify any use of different incremental cost indices for pricing coordination sales and making dispatch decisions.

(d) *Calculation of Amount of Emissions Allowances Associated With Coordination Transactions*. Public utilities should explain the methods used to compute the amount of emissions allowances included in coordination transactions.

(e) *Timing*. (1) Public utilities should provide information to purchasing utilities regarding the timing of opportunities for purchasers to stipulate whether they will purchase or return emissions allowances. A public utility may require a purchasing utility to declare,

no later than the beginning of the coordination transaction:

(i) Whether it will purchase or return emissions allowances; and

(ii) If it will return emissions allowances, the date on which those allowances will be returned.

(2) Public utilities may include in agreements with purchasing utilities non-discriminatory provisions for indemnification if the purchasing utility fails to provide emissions allowances by the date on which it declares that the allowances will be returned.

(f) *Other Costing Methods Not Precluded.* The ratemaking treatment of emissions allowance costs endorsed in this Policy Statement does not preclude other approaches proposed by individual utilities on a case-by-case basis.

[59 FR 65938, Dec. 22, 1994, as amended by Order 579, 60 FR 22261, May 5, 1995]

§ 2.26 Policies concerning review of applications under section 203.

(a) The Commission has adopted a Policy Statement on its policies for reviewing transactions subject to section 203. That Policy Statement can be found at 77 FERC ¶61,263 (1996). The Policy Statement is a complete description of the relevant guidelines. Paragraphs (b)–(e) of this section are only a brief summary of the Policy Statement.

(b) *Factors Commission will generally consider.* In determining whether a proposed transaction subject to section 203 is consistent with the public interest, the Commission will generally consider the following factors; it may also consider other factors:

(1) The effect on competition;

(2) The effect on rates; and

(3) The effect on regulation.

(c) *Effect on competition.* Applicants should provide data adequate to allow analysis under the Department of Justice/Federal Trade Commission Merger Guidelines, as described in the Policy Statement and Appendix A to the Policy Statement.

(d) *Effect on rates.* Applicants should propose mechanisms to protect customers from costs due to the merger. If the proposal raises substantial issues of relevant fact, the Commission may set this issue for hearing.

(e) *Effect on regulation.* (1) Where the affected state commissions have authority to act on the transaction, the Commission will not set for hearing whether the transaction would impair effective regulation by the state commissions. The application should state whether the state commissions have this authority.

(2) Where the affected state commissions do not have authority to act on the transaction, the Commission may set for hearing the issue of whether the transaction would impair effective state regulation.

(f) Under section 203(a)(4) of the Federal Power Act (16 U.S.C. 824b), in reviewing a proposed transaction subject to section 203, the Commission will also consider whether the proposed transaction will result in cross-subsidization of a non-utility associate company or pledge or encumbrance of utility assets for the benefit of an associate company, unless that cross-subsidization, pledge, or encumbrance will be consistent with the public interest.

[Order 592, 61 FR 68606, Dec. 30, 1996, as amended by Order 669–A, 71 FR 28443, May 16, 2006]

STATEMENTS OF GENERAL POLICY AND INTERPRETATIONS UNDER THE NATURAL GAS ACT

§ 2.51 [Reserved]

§ 2.52 Suspension of rate schedules.

The interpretation stated in § 2.4 applies as well to the suspension of rate schedules under section 4 of the Natural Gas Act.

(Natural Gas Act, 15 U.S.C. 717–717w (1976 & Supp. IV 1980); Federal Power Act, 16 U.S.C. 791a–828c (1976 & Supp. IV 1980); Dept. of Energy Organization Act, 42 U.S.C. 7101–7352 (Supp. IV 1980); E.O. 12009, 3 CFR part 142 (1978); 5 U.S.C. 553 (1976))

[Order 303, 48 FR 24361, June 1, 1983]

§ 2.55 Definition of terms used in section 7(c).

For the purposes of section 7(c) of the Natural Gas Act, as amended, the word *facilities* as used therein shall be interpreted to exclude:

(a) *Auxiliary installations.* (1) Installations (excluding gas compressors)