

Federal Energy Regulatory Commission

§ 381.104

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

Subpart F [Reserved]

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

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

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

Subpart A—General Provisions

§ 381.101 Purpose.

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

§ 381.102 Definitions.

For purposes of this part, the following definitions apply.

(a) *Person* means any person, group, association, organization, partnership, corporation, or business, except those authorized to engage in the transaction of official business for the United States Government.

(b) *Work year cost* means the ratio of the Commission's budgeted expenses during any given fiscal year to the authorized staff level for that fiscal year.

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

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

§ 381.103 Filings.

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

(b) *Deficiencies.* (1) Any filing that is not accompanied by either the fee established for that filing or a petition

for waiver in accordance with § 381.106(b) is deficient.

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

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

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

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

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

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

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

§ 381.104 Annual adjustment of fees.

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

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

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

(2) With respect to the fees charged to pipelines filing pursuant to § 381.207(a), the fee for the first year will be \$1,000. The formula for the fee

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in future years will be the work months from the immediately prior year divided by the number of actual completions in that year multiplied by the average monthly employee cost in the most recent fiscal year for which data are available. With the addition of future years, the formula for § 381.207(a) fees will be updated to include that year as part of the base period.

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

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

§ 381.105 Method of payment.

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

§ 381.106 Waivers.

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

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

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fication of the denial to submit the appropriate fee to the Commission.

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

§ 381.107 Direct billing.

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

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

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

(3) If the Commission institutes a direct billing for the costs of a hearing and reduces the fee to the applicant to less than full cost recovery due to the presence of intervenors, the Commission will consider, on a case-by-case basis, direct billing the intervenors for all or part of the reduced portion.

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

§ 381.108 Exemptions.

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

(b) *Decision on petition.* A petitioner may claim this exemption by filing an original and two copies of a petition for exemption that includes evidence that the petitioner is a State or municipality, or is engaged in the official