

## Federal Energy Regulatory Commission

## § 2.55

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)

which are merely auxiliary or appurtenant to an authorized or proposed transmission pipeline system and which are installations only for the purpose of obtaining more efficient or more economical operation of the authorized or proposed transmission facilities, such as: Valves; drips; pig launchers/receivers; yard and station piping; cathodic protection equipment; gas cleaning, cooling and dehydration equipment; residual refining equipment; water pumping, treatment and cooling equipment; electrical and communication equipment; and buildings. The auxiliary installations must be located within the existing or proposed certificated permanent right-of-way or authorized facility site and must be constructed using the temporary work space used to construct the existing or proposed facility (see Appendix A to this Part 2 for guidelines on what is considered to be the appropriate work area in this context).

(2) *Advance notification.* One of the following requirements will apply to any specified auxiliary installation. If auxiliary facilities are to be installed:

- (i) On existing transmission facilities, then no notification is required;
- (ii) On, or at the same time as, certificated facilities which are not yet in service (except those authorized under the automatic procedures of part 157 of subpart F of this chapter), then a description of the auxiliary facilities and their locations must be provided to the Commission at least 30 days in advance of their installation; or
- (iii) On, or at the same time as facilities that are proposed, then the auxiliary facilities must be described in the environmental report specified in § 380.12 or in a supplemental filing while the application is pending.

(b) *Replacement of facilities.* (1) Facilities which constitute the replacement of existing facilities that have or will soon become physically deteriorated or obsolete, to the extent that replacement is deemed advisable, if:

- (i) The replacement will not result in a reduction or abandonment of service through the facilities;
- (ii) The replacement facilities will have a substantially equivalent designed delivery capacity, will be located in the same right-of-way or on

the same site as the facilities being replaced, and will be constructed using the temporary work space used to construct the existing facility (see Appendix A to Part 2 for guidelines on what is considered to be the appropriate work area in this context);

(iii) Except as described in paragraph (b)(2) of this section, the company files notification of such activity with the Commission at least 30 days prior to commencing construction.

(2) *Advance notification not required.* The advance notification described in paragraph (b)(1)(iii) of this section is not required if:

- (i) The cost of the replacement project does not exceed the cost limit specified in Column 1 of Table I of § 157.208(d) of this chapter; or
- (ii) U.S. Department of Transportation safety regulations require that the replacement activity be performed immediately;

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

- (i) A brief description of the facilities to be replaced (including pipeline size and length, compression horsepower, design capacity, and cost of construction);
- (ii) Current U.S. Geological Survey 7.5-minute series topographic maps showing the location of the facilities to be replaced; and
- (iii) A description of the procedures to be used for erosion control, revegetation and maintenance, and stream and wetland crossings.

(4) *Annual report.* On or before May 1 of each year, a company must file (in accordance with filing procedures posted on the Commission's Web site at <http://www.ferc.gov>.) an annual report that lists for the previous calendar year each replacement project that was completed pursuant to paragraph (b)(1) of this section and that was exempt from the advance notification requirement pursuant to paragraph (b)(2) of this section. For each such replacement project, the company must include all of the information described in paragraph (b)(3) of this section. *Exception.* A company does not have to include in this annual report any above-

ground replacement project that did not involve compression facilities or the use of earthmoving equipment.

(c) *Landowner notification.* (1) No activity described in paragraphs (a) and (b) of this section that involves ground disturbance is authorized unless a company makes a good faith effort to notify in writing each affected landowner, as noted in the most recent county/city tax records as receiving the tax notice, whose property will be crossed or used as a result of the proposed activity, at least five days prior to commencing any activity under this section. For an activity required to respond to an emergency, the five-day prior notice period does not apply. The notification shall include at least:

(i) A brief description of the facilities to be constructed or replaced and the effect the activity may have on the landowner's property;

(ii) The name and phone number of a company representative who is knowledgeable about the project; and

(iii) A description of the Commission's Dispute Resolution Division Helpline, which an affected person may contact to seek an informal resolution of a dispute as explained in section 1b.21(g) of the Commission's regulations (18 CFR 1b.21(g)) and the Dispute Resolution Division Helpline number.

(2) "Affected landowners" include owners of property interests, as noted in the most recent county/city tax records as receiving tax notice, whose property is directly affected (i.e. crossed or used) by the proposed activity, including all rights-of-way, facility sites (including compressor stations, well sites, and all above-ground facilities), access roads, pipe and contractor yards, and temporary work space.

(d) [Reserved]

(Sec. 7, 52 Stat. 824; 15 U.S.C. 717f)

[Order 148, 14 FR 681, Feb. 16, 1949]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 2.55, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at [www.fdsys.gov](http://www.fdsys.gov).

### § 2.57 Temporary certificates—pipeline companies.

The Federal Energy Regulatory Commission will exercise the emergency powers set forth in the second proviso

of section 7(c) of the Natural Gas Act to authorize in appropriate cases, by issuance of temporary certificates, comparatively minor enlargements or extensions of an existing pipeline system. It will not be the policy of the Commission, however, to proceed summarily, i.e., without notice or hearing, in cases where the proposed construction is of major proportions. Pipeline companies are accordingly urged to conduct their planning and to submit their applications for authority sufficiently early so that compliance with the requirements relating to issuance of permanent certificates of public convenience and necessity (when those requirements are deemed applicable by the Commission) will not cause undue delay in the commencement of necessary construction.

(52 Stat. 824; 56 Stat. 83; 15 U.S.C. 717f)

[Gen. Policy 62-1, 26 FR 10098, Oct. 27, 1961, as amended by Order 737, 75 FR 43402, July 26, 2010]

### § 2.60 Facilities and activities during an emergency—accounting treatment of defense-related expenditures.

The Commission, cognizant of the need of the natural gas industry for advice with respect to the applicability of the Natural Gas Act and the Commission's regulations thereunder regarding activities and operations of natural gas companies taking security measures in preparation for a possible national emergency, sets forth the following interpretation and statement of policy:

(a) *Facilities.* The definition of *auxiliary installations* in § 2.55(a) for which no certificate authority is necessary includes such defense-related facilities as (1) fallout shelters at compressor stations and other operating and maintenance camps; (2) emergency company headquarters or other similar installations; and (3) emergency communication equipment.

(b) The Commission will consider reasonable investment in defense-related facilities, such as those described in paragraph (a) of this section, to be *prudent investment* for ratemaking purposes.