information could be used to competitive advantage.

Statutory Basis

The Securities and Exchange Commission, acting pursuant to the Act, and particularly Section 15B, 17, and 23 thereof [15 U.S.C. 78*o*-4, 78q, and 78w], hereby adopts § 240.15Bc7-1 of Title 17 of the Code of Federal Regulations. Rule 15Bc7-1 will become effective for all examinations begun on or after December 1, 1979.

17 CFR 240 is amended by adding § 240.15Bc7-1 which reads as follows:

§ 240.15Bc7-1 Availability of examination reports.

(a) Upon written request, copies of any report of an examination of a municipal securities broker or municipal securities dealer made by the Commission or furnished to it by an appropriate regulatory agency pursuant to Section 17(c)(3) of the Act or by a national securities association pursuant to Section 15B(c)(7)(B) of the Act shall be made available to the Municipal Securities Rulemaking Board (the "Board") by the Commission within thirty days after receiving such report, subject to the following limitations:

(1) The Board shall establish by rule and shall maintain adequate procedures for ensuring the confidentiality of any information made available to it by the Commission pursuant to Section 15B(c)(7)(B) of the Act;

(2) Information made available to the Board shall not identify any municipal securities broker, municipal securities dealer, or associated person which is the subject of an examination report;

(3) If information is made available to the Board by the Commission, the Commission may furnish the Board with such information in any manner it deems appropriate, provided that, if the Commission furnishes to the Board a separate form, rather than a copy of any report of an examination, that form shall contain such of the information set forth in paragraph (b) as is available from the examination report;

(4) If information to be made available to the Board is furnished to the Commission on a separate form prepared by an appropriate regulatory agency other than the Commission or by a national securities association, that form, rather than a copy of any report of an examination, will be made available to the Board: provided that (i) two copies of such form are furnished to the Commission, (ii) both copies contain the information set forth in paragraph (b), (iii) one copy of such form, to be furnished to the Board, is completed so that information contained therein does not identify any municipal securities broker, municipal securities dealer, or associated person which is the subject of the examination, and (iv) one copy of such form, to be retained by the Commission, contains the name and registration number of the municipal securities broker or municipal securities dealer which is the subject of the examination.

(b) Separate forms made available to the Board by the Commission pursuant to paragraph (a)(3) of this section, or furnished to the Commission by another appropriate regulatory agency or a national securities association pursuant to paragraph (a)(4) of this section, shall contain the following information:

(1) The name of the agency or association conducting the examination;

(2) The type or scope of the examination;

(3)(i) Appropriate financial data, if available, which indicates the size of the municipal securities broker or municipal securities dealer, such as dollar volume, trading volume, or other revenue data; (ii) If an examination of a municipal securities dealer which is a bank or a separately identifiable department or division of a bank, designation of the appropriate total asset category (under $100,000,000, between $100,000,000 and $300,000,000, between $300,000,000 and $500,000,000, between $500,000,000 and $1,000,000,000, between $1,000,000,000 and $5,000,000,000, in excess of $5,000,000,000) of the bank; and

(iii) If an examination of a broker or dealer, whether the examination is of a main office or a branch office; if an examination of a main office of a broker or dealer, the tentative net capital of the broker or dealer;

(4) If an examination of a broker or dealer, whether or not the broker or dealer engages solely in transactions in municipal securities and other exempted securities;

(5) The number of municipal securities principals, municipal securities representatives, and, if an examination of a broker or dealer, the number of financial and operations principals associated with the broker or dealer;

(6) Observations concerning apparent violations of any applicable provision of the Act and the rules and regulations thereunder, including the rules of the Board, identifying the applicable provision or rule and setting forth a description of the circumstances of the apparent violation, including whether or not the violations appear to be of a continuing nature;

(7) Corrective action taken or recommended, if any; and

(8) Comments, if any, of the examiner concerning questionable practices relating to municipal securities broker or municipal securities dealer activities, whether or not covered by provisions of the Act and the rules and regulations thereunder, including the rules of the Board.

(c) Copies of any report of an examination of a municipal securities broker or municipal securities dealer made by the Commission or furnished to it pursuant to Section 15B(c)(7)(B) or Section 17(c)(3) of the Act, or separate forms made available to the Commission pursuant to paragraph (a)(3) or paragraph (a)(4) of this section will be maintained in a nonpublic file.

By the Commission.

George A. Fitzsimmons,

Secretary.

October 16, 1979.

[FR Doc. 79-33240 Filed 10-26-79; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 2, 3, 4, 141, and 260

[Docket No. RM79-38; Order No. 53]

Discontinuation of the Use of Certain FERC Forms; Final Rule

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final Rule.

SUMMARY: Notice is hereby given that the Federal Energy Regulatory Commission (Commission) is amending its regulations to discontinue the use of fifteen data collection forms no longer needed by the Commission to carry out its regulatory responsibilities.

DATES: Effective October 19, 1979: Forms Nos. 6, 7, 9, 17, 23B, 38, 45, 64, 237A, 237B, and ICC-ARC-41 are discontinued, and the amendments to the Commission's regulations which relate to these forms become effective.

Effective January 1, 1980: Forms Nos. 1M, 13, Unnumbered (RO309), and Unnumbered (RO327) are discontinued, and the amendments to the Commission's regulations which relate to these forms become effective.

FOR FURTHER INFORMATION CONTACT: Barbara K. Christin, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Room 8113, Washington, D.C. 20426, (202) 357-8079.

October 23, 1979.

I. Background

On April 19, 1979, the Federal Energy Regulatory Commission (Commission) issued a Notice of Proposed Rulemaking (44 FR 24577, April 26, 1979) to discontinue the use of fifteen data collection forms no longer needed by the Commission to carry out its regulatory responsibilities. Having reviewed the comments received on the April 19th Notice, the Commission hereby amends its regulations to discontinue the fifteen forms described in that Notice.

In the Notice of Proposed Rulemaking, the Commission stated that, although the Commission was proposing to discontinue the collection of the data in these forms, the Energy Information Administration (EIA) or the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) might wish to continue to collect some of the data elements in order to discharge their respective statutory or delegated responsibilities. In order to assure sufficient time for EIA or ERA to justify the need for and receive OMB approval of the collection of such data, this final rule provides for a delayed effective date for the discontinuation of those forms which EIA or ERA has expressed an interest in collecting.

II. Forms To Be Discontinued

Twenty-five coments were received in this docket. Based upon a review of these comments and its own analysis, the Commission will discontinue collection of the fifteen forms described below.

A. *Forms that serve no regulatory purpose.* The twenty-five comments received in this docket supported the Commission's proposal with respect to discontinuing the following nine forms:

Form No	Title as shown in CFR	18 CFR §§
6	Initial Cost Statement for Licensed Projects.	3.142(a)(23) and 141.11
7	Statement of Actual Legitimate, Original Cost of Construction.	3.142(a)(24) and 141.12
9	Annual Report for Licensees of Privately Owned Major Projects (Utility and Industrial).	3.142(a)(25) and 141.13
238	Quarterly Electric Utility Generation and Fuel Planning Report (Expired 8-31-78).	3.142(a)(42) and 141.300
38	No CFR title. Title of form: Electric Generating Station and Substation Data and Location.	(None—internal use only)
45	Report of New Non-Jurisdictional Sales of Natural Gas.	3.170(a)(30) and 260.20
64	Natural Gas Companies, Annual Report of Producer Expenditures, Exploration and Development Activity, Production, Reserve Additions, and Revenues (Expired 12-31-78).	3.170(a)(27) and 260.21
237A	Weekly Fuel Emergency Report, Revised (Coal).	3.142(a)(45) and 141.60
ICC ARC-41	No CFR title. Title of form: Report of Expenditures for Additions and Betterments—Oil Pipeline Companies.	(None—internal use only)

Several commenters objected to the discontinuation of the following two forms for reasons unrelated to the Commission's regulatory need for the data.

Form No	Title as shown in CFR	18 CFR §§
17	Monthly Report of Natural Gas Pipeline Curtailments.	None
237B	Weekly Fuel Emergency Report, Revised (Oil).	3.142(a)(45) and 141.60

The reasons given for continued collection of these two forms focused on the public's interest in the information. The Commission recognizes that the public might have some interest in the information collected by way of these two forms, but does not believe that this reason by itself justifies continued collection of the information by the Commission. As stated above, the data collected in these forms is not needed by the Commission to perform its regulatory responsibilities.

Since the effect of this final rule is to eliminate a requirement imposed on industries regulated by the Commission, the Commission finds good cause to waive the 30 day requirement set forth in 5 U.S.C. 553(d) and to make this final rule effective immediately. Thus, the eleven forms described above are discontinued as of the date of issuance of this rule.

B. *Forms identified for collection by EIA and ERA.* Several comments expressed a need for some of the information contained in the following four forms and requested that, if the Commission should discontinue these forms, EIA or ERA assume sponsorship of the forms and continue to collect the information.

Form No.	Title as shown in CFR	18 CFR §§
1M	Annual Report for Municipal Electric Utilities Having Annual Electric Operating Revenues of $250,000 or More.	3.142(a)(22) and 141.7
13	Summary for National Electric Rate Book.	3.142(a)(32), 141.26
Unnumbered (GAO authorization No. RO309).	Untitled. Information reported: Reliability and adequacy of electric services—report by regional councils on coordinated regional bulk power supply programs.	2.11 (c), (d)
Unnumbered (GAO authorization No. RO327).	Untitled. Information reported: Actions for minimizing the consequences of bulk power supply interruptions or shortages—report on contingency plans for operating in emergency situations and for possible load reductions or curtailment.	2.10(b)

EIA has indicated to the Commission that it plans to continue to collect from municipalities the information analagous to that requested by Form 1M. In addition, EIA will continue to collect, on behalf of ERA, the data contained in Forms 13, Unnumbered (RO309), and Unnumbered (RO3270.

To allow EIA time to receive OMB approval for collection of the information, the Commission will comply with EIA's request to continue these forms until the end of calendar year 1979. Accordingly, the effective date for discontinuing the above four forms is January 1, 1980.

III. Other Amendments

In the April 19th Notice, the Commission proposed to amend Part 4 of its regulations to eliminate the requirements for filing Forms 6, 7, and 9 with the Commission. As discussed in the April 19th proposal, under Part 4 of the regulations the actual legitimate original cost of and the net investment in a project is determined by the Commission after an audit is conducted by Commission staff. Forms 6, 7, and 9 are unnecessary because the information reported therein is later obtained by Commission audit.

Under the regulations proposed in April, prior to an audit, a licensee of a licensed project would have to file a letter instead of Forms 6, 7, and 9. The letter would have to state that all the information needed for the Commission's determination was contained in the project's books of accounts and was recorded in compliance with the Commission's

Uniform System of Accounts. The final regulations incorporate the letter procedure proposed in April.

Two comments suggested minor alterations in the wording of the proposed regulations. One of these comments suggested a simplification in the wording of the proposed § 4.20. The Commission has incorporated this change in the final regulations.

The other comment expressed concern that the proposed §§ 4.1, 4.10, and 4.20 would require a project to bear the cost of duplication of any records which must be made available to the public under those provisions. The Commission agrees that the person who requests the information should bear the costs of duplication, and the final regulations reflect this change.

The Commission emphasizes that the Part 4 regulations, as amended by this final rule, place no additional burden on projects subject to the regulations. The final regulations do not require projects to keep their books in any greater detail than is presently required under the Uniform System of Accounts.

IV. Effective Date

For the reasons stated above, Forms Nos. 6, 7, 9, 17, 23B, 38, 45, 64, 237A, 237P, and ICC–ARC–41, are discontinued immediately. The amendments to the Commission's regulations which relate to these forms are also made effective immediately.

In addition, for the reasons stated above, Forms Nos. 1M, 13, Unnumbered (R0309), and Unnumbered (R0327), will be discontinued as of January 1, 1980. The amendments to the Commission's regulations related to these forms will become effective January 1, 1980.

(Department of Energy Organization Act, (42 U.S.C. 7101, *et seq.*); E.O. 12009, 42 FR 46267.)

In consideration of the foregoing, Title 18 of the Code of Federal Regulations is amended in Parts 2, 3, 4, 141, and 260 of Chapter I, as set forth below, effective October 19, 1979, except as otherwise indicated.

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 2—GENERAL POLICY AND INTERPRETATIONS

§ 2.10 [Amended]

1. Effective January 1, 1980, § 2.10 is amended by deleting paragraph (b) in its entirety and deleting the designation "(a) *Actions.*" from the remaining paragraph.

§ 2.11 [Amended]

2. Effective January 1, 1980, § 2.11 is amended by deleting paragraphs (c) and (d) and Appendix A–1 in their entirety.

PART 3—ORGANIZATION, OPERATION, INFORMATION AND REQUESTS

§ 3.142 [Amended]

3. Section 3.142 is amended in paragraph (a) by deleting subparagraphs (23), (24), (25), (42), and (45) in their entirety. Effective January 1, 1980, subparagraphs (22) and (32) are deleted in their entirety.

§ 3.170 [Amended]

4. Section 3.170 is amended in paragraph (a) by deleting subparagraphs (27) and (30) in their entirety.

PART 4—LICENSES, PERMITS, AND DETERMINATION OF PROJECT COSTS

5. The table of sections for Part 4 is amended by deleting the entry for § 4.2 and by amending the titles of §§ 4.7 and 4.25 to read: *"Findings."*

6. Section 4.1 is amended to read as follows:

§ 4.1 Initial cost statement.

(a) *Notification of Commission.* When a project is constructed under a license issued under the Federal Power Act, the licensee shall, within one year after the original project is ready for service, file with the Commission a letter, in quadruplicate, declaring that the original costs have been booked in compliance with the Commission's Uniform System of Accounts and that the books of accounts are ready for audit.

(b) *Licensee's books.* The licensee's books of accounts for each project shall be maintained in such a fashion that each year's additions, betterments, and deletions to the project may be readily ascertained.

(c) *Availability of information to the public.* The information made available to the Commission in accordance with this section must be available to the public for inspection and copying when specifically requested.

(d) *Compliance with the Act.* Compliance with the provisions of this section satisfies the filing requirements of section 4(b) of the Federal Power Act (16 U.S.C. 797(b)).

§ 4.2 [Deleted]

7. Section 4.2 is deleted in its entirety.

8. Section 4.3 is amended to read as follows:

§ 4.3 Report on project cost.

(a) *Scheduling an audit.* When the original cost declaration letter, filed in accordance with § 4.1 is received by the Commission, its representative will schedule and conduct an audit of the books, cost records, engineering reports, and other records supporting the project's original cost. The audit may include an inspection of the project works.

(b) *Project records.* The cost records shall be supported by memorandum accounts reflecting the indirect and overhead costs prior to their spread to primary accounts as well as all the details of allocations including formulas utilized to spread the indirect and overhead costs to primary accounts.

(c) *Report by Commission Staff.* Upon completion of the audit, a report will be prepared for the Commission setting forth the audit findings and recommendations with respect to the cost as claimed.

9. Section 4.6 is amended to read as follows:

§ 4.6 Burden of proof.

The burden of proof to sustain each item of claimed cost shall be upon the licensee and only such items as are in the opinion of the Commission supported by satisfactory proof may be entered in the electric plant accounts of the licensee.

10. Section 4.7 is amended to read as follows:

§ 4.7 Findings.

(a) *Commission determination.* Final action by the Commission will be in the form of an order served upon all parties to the proceeding. One copy of the order will be furnished to the Secretary of Treasury by the Commission.

(b) *Adjustments to licensee's books.* The licensee's books of account for the project shall be adjusted to conform to the actual legitimate cost as revised by the order of the Commission. These adjustments and the project may be audited by Commission representatives, as scheduled.

11. Section 4.10 is amended to read as follows:

§ 4.10 Valuation data.

(a) *Notification of Commission.* In every case arising under section 23(a) of the Federal Power Act that requires the determination of the fair value of a project already constructed, the licensee shall, within six months after the date of issuance of a license, file with the Commission a letter, in quadruplicate.

(b) *Contents of letter.* The letter referred to in paragraph (a) shall contain a statement to the effect that an inventory and appraisal in detail, as of the effective date of the license, of all property subject thereto and to be so valued has been completed. The letter shall also include a statement to the effect that the actual legitimate original cost, or if not known, the estimated original cost, and accrued depreciation of the property, classified by prime accounts as prescribed in the Commission's Uniform System of Accounts, have been established.

(c) *Licensee's books.* The licensee's books of account for each project shall be maintained in such a fashion that each year's additions, betterments, and deletions to the projects may be readily ascertained.

(d) *Availability of information to the public.* The information made available to the Commission in accordance with this section must be available for inspection and copying by the public when specifically requested.

12. Section 4.14 is amended to read as follows:

§ 4.14 Hearing upon report.

(a) *Public hearing.* After the expiration of the time within which a protest may be filed, a public hearing will be ordered in accordance with § 1.20 of this chapter.

(b) *Commission determination.* After the conclusion of the hearing, the Commission will make a finding of fair value, accompanied by an order which will be served upon the licensee and all parties to the proceeding. One copy of the order shall be furnished to the Secretary of the Treasury by the Commission.

(c) *Ajustment to licensee's books.* The licensee's books of account for the project shall be adjusted to conform to the fair value of the project as revised by the order of the Commission. These adjustments and the project may be audited by Commission representatives, as scheduled.

13. Section 4.20 is amended to read as follows:

§ 4.20 Initial statement.

(a) *Notification of Commission.* In all cases where licenses are issued for projects already constructed, but which are not subject to the provisions of section 23(a) of the Act (49 Stat. 846; 16 U.S.C. 816), the licensee shall, within 6 months after the date of issuance of license, file with the Commission a letter, in quadruplicate.

(b) *Contents of letter.* The letter referred to in paragraph (a) of this section shall contain a statement to the effect that an inventory in detail of all property included under the license, as of the effective date of such license, has been completed. The letter shall also include a statement to the effect that actual legitimate original cost, or if not known, the estimated original cost, and accrued depreciation of the property, classified by prime accounts as prescribed in the Commission's Uniform System of Accounts, have been established.

(c) *Licensee's books.* The licensee's books of account for each project shall be maintained in such a fashion that each year's additions, betterments, and deletions to the project may be readily ascertained.

(d) *Availability of information to the public.* The information made available to the Commission in accordance with this section must be available for inspection and copying by the public when specifically requested.

(e) *Compliance with the Act.* Compliance with the provisions of this section satisfies the filing requirements of section 4(b) of the Federal Power Act (16 U.S.C. 797(b)).

14. Section 4.25 is amended to read as follows:

§ 4.25 Findings.

(a) *Commission determination.* Final action by the Commission will be in the form of an order served upon all parties to the proceeding. One copy of the order shall be furnished to the Secretary of Treasury by the Commission.

(b) *Adjustment to licensee's books.* The licensee's books of account for the project shall be adjusted to conform to the actual legitimate cost as revised by the order of the Commission. These adjustments and the project may be audited by Commission representatives, as scheduled.

PART 141—STATEMENTS AND REPORTS (SCHEDULES)

15. The table of sections for Part 141 is amended by deleting the entries for §§ 141.11, 141.12, 141.13, 141.60, and 141.300.

16. Effective January 1, 1980, the table of sections for Part 141 is amended by deleting the entries for §§ 141.7 and 141.26.

§ 141.7 [Deleted]

17. Effective January 1, 1980, § 141.7 is deleted in its entirety.

§ 141.11 [Deleted]

18. Section 141.11 is deleted in its entirety.

§ 141.12 [Deleted]

19. Section 141.12 is deleted in its entirety.

§ 141.13 [Deleted]

20. Section 141.13 is deleted in its entirety.

§ 141.26 [Deleted]

21. Effective January 1, 1980, § 141.26 is deleted in its entirety.

§ 141.60 [Deleted]

22. Section 141.60 is deleted in its entirety.

§ 141.300 [Deleted]

23. Section 141.300 is deleted in its entirety.

PART 260—STATEMENTS AND REPORTS (SCHEDULES)

24. The table of sections for Part 260 is amended by deleting the entries for §§ 260.20 and 260.21.

§ 260.20 [Deleted]

25. Section 260.20 is deleted in its entirety.

§ 260.21 [Deleted]

26. Section 260.21 is deleted in its entirety.

[FR Doc. 79-33237 Filed 10-26-79; 8:45 am]
BILLING CODE 6450-01-M

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18 CFR Part 271

[Docket No. RM79-19; Order No. 45]

Treatment of Certain Production-Related Costs of Natural Gas to be Sold and Transported Through the Alaska Natural Gas Transportation System; Erratum Notice; Regulations and Statement of Policy

October 24, 1979.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Erratum Notice to Final Rule.

SUMMARY: In the Federal Energy Regulatory Commission's Order No. 45, issued August 24, 1979 (44 Fed. Reg. 51554;Sept. 4, 1979) and entitled "Treatment of Certain Production-Related Costs for Natural Gas to be Sold and Transported through the Alaska Natural Gas Transportation System", the word "rollover" was inadvertently omitted from regulations prescribing exclusions of certain natural gas from the allowance provisions of section 110 of the NGPA. This notice corrects that omission.

FOR FURTHER INFORMATION CONTACT: John Conway, Office of the General Counsel, Federal Energy Regulatory Commission, Room 8100K, 825 North Capitol Street, N.E., Washington, D.C. 20426, (202) 357-8150.

SUPPLEMENTARY INFORMATION: On August 24, 1979 the Commission issued Order No. 45 which, among other things, amended § 271.1105 of the Commission's regulations issued under the NGPA. The amendment, to be effective December 5, 1979 [1] provides for the treatment of certain production-related costs borne by sellers of natural gas produced at Prudhoe Bay, Alaska for transport through the Alaska Natural Gas Transportation System. In amending § 271.1105 the Order as originally printed, omitted the word "rollover" from the provisions of § 271.1105(b)(2). The second clause of § 271.1105(b) reprinted at page 74 of Order No. 45 (44 Fed. Reg. 51567), should read as follows:

§ 271.1105 [Amended].

(b) * * *

"(2) is subject to an existing intrastate contract, an intrastate rollover contract or a successor to an existing intrastate contract; or"

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-33319 Filed 10-25-79; 8:45 am]

BILLING CODE 6450-01-M

18 CFR Parts 272 and 274

[Docket No. RM79-44]

Interim Rules Defining and Deregulating Certain High-Cost Natural Gas

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Interim rules.

SUMMARY: The Federal Energy Regulatory Commission hereby adopts interim regulations defining and deregulating high-cost gas described in section 107(c) (1), (2), (3) and (4) of the Natural Gas Policy Act of 1978, and prescribing the filing requirements for such gas. Further comments are solicited on the rule.

EFFECTIVE DATE: November 1, 1979.

COMMENT DATE: Additional comments are due November 26, 1979.

ADDRESS: All comments should reference Docket No. RM79-44 and be addressed to: Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Mr. Victor Zabel, Office of Pipeline and Producer Regulation, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, (202) 275-4568. Mr. Phillip Yates, Office of the general Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, (202) 357-8078.

October 24, 1979.

I. Background

On June 13, 1979, the Federal Energy Regulatory Commission (Commission) issued a notice of proposed rulemaking in Docket No. RM79-44 (44 FR 34969, June 18, 1979). In that notice, the Commission promulgated proposed definitions for certain categories of high-cost natural gas as defined in section 107 of the Natural Gas Policy Act of 1978 (15 U.S.C. 3301 *et seq.*) (NGPA). Specifically, the Commission proposed definitions for natural gas produced from geopressured brine (section 107(c)(2)), occluded natural gas produced from coal seams (section 107(c)(3)), and natural gas produced from Devonian shale (section 107(c)(4)). Further, the Commission indicated that it would prescribe filing requirements for these categories of natural gas similar to those established for other categories in Subpart B of Part 274 of our regulations.

Twenty-seven written comments were received in response to the notice, and two parties addressed the definitions in the public hearing held on September 25, 1979 in this docket. Each proposed definition has been changed in response to the comments received.

II. Analysis of Comments and Discussion of Amendments

(A) Section 107(c)(2)—Natural gas Produced From Geopressured Brine.

Five commenters addressed the proposed definition for natural gas produced from geopressured brine. The proposal read as follows:

"Natural gas produced from geopressured brine" means: natural gas dissolved in:subsurface (sic) brine aquifers with reservoir geopressures substantially in excess or normal saltwater hydrostatic pressures, such geopressures being due, in part, to the formation waters bearing a portion of the weight of the sedimentary over (sic) overburden.

Three commenters objected to the use of the phrase "substantially in excess of normal saltwater hydrostatic pressures." The Commission agrees that the phrase should be replaced with a quantifiable standard. As noted in the proposal, the word "geopressured" connotes pressures in excess of normal hydrostatic pressures. Since 0.465 pounds per square inch (psi) per vertical foot is the normal salt water hydrostatic pressure gradient, the Commission has determined pressures in excess of that pressure to be "geopressured".[1] The Commission also agrees with a commenter's suggestion that *initial* reservoir pressures should be used in measuring the hydrostatic pressure gradient because reservoir pressures may change after production begins. Commenters also suggested that we should delete the phrase prescribing the cause for the higher geopressures since the cause of geopressures is not relevant to the statutory definition. We agree; nothing in the statute indicates that the cause of the pressure is relevant to qualification under this category of gas. Therefore, any reservoir with an initial pressure gradient in excess of 0.465 psi per vertical foot will qualify as geopressured, regardless of the cause of the geopressure.

The Commission cannot agree with a suggestion that natural gas production from a "natural gas cap" (i.e., gas which is freed from solution, forming a cap at the top of the reservoir) should qualify as production from geopressured brine. The statute requires that the gas be produced *from* the brine. Gas not dissolved in brine, such as gas caps, may be economically produced through less expensive conventional production techniques and is not a high-cost gas. Therefore, if the gas has broken free from the brine before initial production (before any fluids are withdrawn from the reservoir), it will not qualify under this definition.

Some commenters also suggested that the definition of "geopressured brine" should be expanded to include gas produced from waters that are not "brine". The Commission has no authority to abrogate a statutory requirement. However, the nature of the comment did point out the need to adopt some standard for determining when water is "brine". The commission considers "brine" to be water which contains at least 10,000 parts of Sodium Chloride per million parts of water and has incorporated this standard in the definition.[2]

(B) Section 107(c)(3)—Occluded Natural Gas Produced From Coal Seams

Ten commenters addressed the definition of occluded natural gas produced from coal seams, which read as follows:

"Occluded natural gas produced from coal seams" means: natural gas released during a mechanical degradation process from

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[1] Order Granting Rehearing for the Purpose of Further Consideration and Staying of Order No. 45 and Order No. 31-A, Docket Nos. RM79-19, and RM78-12 (issued October 19, 1979).

[1] National Gas Survey, Sub-Task Force I—Gas Dissolved in Water, DOE/FERC 0029, March 1979, page 13.

[2] See Figure 11, page 43, Potential Supply of Natural Gas in the United States, Potential Gas Committee.

entrapment between the seams and in the micropores of beds of coal.

Several of the written comments objected to the requirement that the gas be released during a "mechanical degradation process" on the grounds that the requirement is too restrictive. We agree that the phrase "mechanical degradation process" may be interpreted to preclude processes such as drilling or fracturing and therefore should be deleted. The definition promulgated herein allows gas produced by processes such as drilling or fracturing to qualify as occluded natural gas. However, we do not intend to include in the definition methane produced by the underground gasification of coal. Such gas is not "natural," and the phrase "naturally occurring natural gas," in the interim rule, is intended to preclude such gas from qualifying.[3]

Further, the Commission cannot exclude from the definition, as one commenter suggested, occluded natural gas from coal seams which may not be particularly expensive to produce. The statute establishes a category for occluded natural gas from coal seams without reference to the actual cost of production. The Commission must follow the statutory guideline.

Several commenters suggested that the definition inadvertently included natural gas which is found in strata *between* seams of coal. In order to avoid such a result, the final rule has been amended to include only gas which is produced from the coal seam.

(C) Section 107(c)(4)—Natural gas Produced From Devonian Shale

The proposed definition of natural gas produced from Devonian shale read as follows:

Natural gas "produced from Devonian shale" means: natural gas produced from the fractures, micropores and bedding planes of shales deposited during the Paleozoic Devonian Period as generally found in the subsurface of the Appalachian Basin and in surface outcrops aroung [sic] its periphery. For the purpose of this definition, Devonian shale is defined as that shale stratigraphic interval that lies between the base on the Mississippian Berea Sand or, if absent, the base of the Osage Series, and the top of the Onondaga limestone formation or its chert equivalent, the top of the Hunton group of carbonates.

Nine parties commented on the proposed definition. Most suggested that it was too limited, because it excluded those Devonian shales not found in the Appalachian basin. The Commission agrees that there is no basis upon which to exclude such Devonian shales from the definition. Consequently, the Commission has expanded the definition to include natural gas produced from *any* shale deposited during the Paleozoic Devonian Period.

Other commenters suggested that the definition should be expanded to include natural gas that is produced from shales other than "Devonian" or from lithologies, other than shales, that were laid down during the Paleozoic Devonian Period. The Commission does not have the authority to expand the definition as these commenters suggest and therefore does not adopt the suggestion.

The Commission is cognizant of the fact that both coal and Devonian shale lithologies may contain "stringers" of potentially gas producing rock between the seams of coal or Devonian shale. If natural gas is produced from one of these stringers it would not qualify under these definitions. Production from these stringers would not be deregulated, and would have to be priced at the maximum lawful price applicable to the well. If such gas and deregulated gas were produced from a single well, pricing for gas from such a partially deregulated well would be based on a reasonable allocation of production from the different producing intervals. The Commission invites comments on how such allocation should be determined.

III. Requirements for Filing With Jurisdictional Agencies

As indicated in the notice issued June 13, 1979, we are promulgating for gas subject to section 107(c)(2) similar to those imposed for other categories of gas. In order for natural gas to qualify as high-cost natural gas under section 107(c) (2), (3) or (4), the gas must be qualified in accordance with the procedures mandated by section 503 of the NGPA. Under Part 274 of our regulations, producers must submit certain information to the appropriate jurisdictional agency. See 18 CFR 270.102(b)(12). After review of this information, the jurisdictional agency determines whether the gas qualifies under the section of the NGPA for which the producer has filed. The jurisdictional agency then submits a notice of the determination to the Commission. If the Commission does not reverse or remand the jurisdictional agency determination within 45 days, that determination becomes "binding with respect to such natural gas." See NGPA section 503(d)(1), and Part 275 of our regulations.

In order to verify the specific geological parameters of the definitions, new filing requirements must be imposed. The gamma ray log was suggested in the comments for identifying gas produced from coal seams and Devonian shales. This test will enable the jurisdictional agency and the Commission to differentiate between those strata that qualify under these definitions and those that do not.

For natural gas produced from geopressured brine, the producer must submit an FERC Form 121, a well completion report, a bottom-hole pressure test report, or other information to establish that the initial reservoir geopressure gradient is in excess of 0.465 pounds per square inch per vertical foot, and evidence [4] to establish that the gas from the well was in solution in a brine before production.

For occluded natural gas produced from coal seams, the producer must submit an FERC Form 121, a gamma ray log, a well completion report, and evidence to establish that the producing interval is a coal seam.

For natural gas produced from Devonian shale, the producer must submit an FERC Form 121, a gamma ray log, a well completion report, and a reference to a standard stratigraphic chart or text establishing that the producing interval is a Devonian shale.

IV. Deregulation Under the Interim Rule

Pursuant to section 121(b) of the NGPA, the first sale price of high-cost natural gas as described in section 107(c) (1), (2), (3) and (4) become deregulated on the effective date of the incremental pricing rule required under section 201 of the NGPA. That rule, issued in Docket No. RM79-14 on September 28, 1979, becomes effective on November 1, 1979; therefore, Part 272 and the amendments to Part 274 becomes effective on November 1, 1979. The proposal issued in this docket did not discuss issues concerning the effective date of deregulation for each qualifying well, interim collection of the deregulated rate pending final determination, and the proper method of treating pipeline passthrough of the costs of its own production of deregulated gas. These issues must be resolved in any final rule; therefore, the Commission issues this rule as an interim rather than a final rule and invites further comments on these issues.

Under the interim rule, the price which may be charged for gas which a jurisdictional agency determines to be

[3] Two comments requested that the Commission include in the definition a reference to the source of the gas. We do not feel that origin of the gas is significant, so long as the gas occurs naturally.

[4] This evidence could be results of a laboratory test of a bottom-hole sample.

high-cost gas defined in this rule becomes deregulated when the jurisdictional agency eligibility determination concerning that gas becomes final; i.e., when the determination is no longer subject to Commission action. See 18 CFR 273.102. Under the interim rule, the Commission will not allow collection of the deregulated rate so long as the final determination is pending. Between the time the application for determination is made, and the time the determination becomes final the gas will continue to be subject to any otherwise applicable maximum lawful price. Once the determination becomes final, the parties to the sale may make retroactive price adjustments for deliveries which took place between the later of November 1, 1979, or the time the application was filed and the time the determination became final. However, such adjustment may be made only if specifically authorized by the contract. Such adjustments may not exceed the aggregate amount by which the deregulated contract price exceeds the price collected between the date the application was filed (or November 1, 1979, if later) and the date the determination became final; plus interest on such aggregate amount (determined at the rate prescribed in § 154.102(d)(2)).

Additionally, § 272.102(c) of the interim rule provides that no portion of the price paid for deregulated gas may represent consideration for gas regulated under Part 271. Section 272.102(c) is designed to preclude circumvention of the Commission's ceiling price regulations under Part 271 of its NGPA regulations, by requiring "unbundling" of gas sales transactions so that regulated and unregulated transactions are separately priced.

Although it has not done so in the interim rule, the Commission is considering allowing interim collection of the lesser of the contract price or the section 102 maximum lawful price under the final rule. Once the determination becomes final, the parties to the contract would be able to make retroactive collections of the amount (if any) by which the contract price exceeds the section 102 maximum lawful price. The Commission is specifically soliciting comments on this proposal.

The Commission also requests comments on the proper way to treat the pass-through in purchased gas adjustment clauses of the first sale acquisition costs of an interstate pipeline affiliate's production of gas deregulated under Part 272. The Commission is also soliciting comments on whether pipeline or affiliate production qualifying under section 107(c)(1) through (4) should receive the deregulated price or be subject to a ceiling price if it is not accorded first sale treatment but is priced by reference to the NGPA under § 2.66a.[5] If it should be subject to a ceiling price, what price should that be?

Finally, the Commission requests comments on all other portions of the interim rule and on all other aspects of the implementation of Subtitle B of Title I of the NGPA.

V. Comment Procedures, Public Hearings and Effective Date

Because section 121(b) of the NGPA deregulates the natural gas described in sections 107(c)(1), (2), (3), and (4) on November 1, 1978, (the effective date of the incremental pricing rule required under section 201) the Commission finds good cause to make this rule effective on November 1, 1979. However, since the public has not had a full opportunity to comment on all aspects of the rule, it is being issued as an interim rule and comments will be accepted through the close of business on November 26, 1979. If the additional comments received convince the Commission that amendments to this rule are appropriate they will be issued in the final rule. If no amendments are adopted this rule will become effective as a final rule and such notice will be published in the **Federal Register.**

Interested persons may submit comments concerning this interim rule by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before November 19, 1979. Each person submitting a comment should include his name and address, identify Docket No. RM79-44, and give reasons for any recommendations. An original and 14 conformed copies should be filed with the Secretary of the Commission. Comments should indicate the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. Written comments will be placed in the Commission's public files and will be available for public inspection at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C. 20426, during regular business hours.

[5] Considered at the Commission's meeting of October 10, 1979 to be issued as a Notice of Proposed Rulemaking (Undocketed).

The Commission intends to hold a public hearing on this interim rule, as required by section 502(c) of the NGPA. The date and location of such hearing will be announced shortly. The regulations proposed in this interim rule shall not become final until the Commission has had an opportunity to receive oral presentation of relevant data, views and arguments.

In consideration of the foregoing, Subchapter H, Chapter I, title 18, Code of Federal Regulations, is amended by adding a new Part 272 and revising Part 274 as set forth below, effective as an interim rule November 1, 1979.

By the Commission. Commissioner Sheldon was present for the quorum and not voting.

Kenneth F. Plumb,

Secretary.

1. Subchapter H is amended by adding a new Part 272 in the Table of Contents to Subchapter H and in the text of the regulations to read as follows:

PART 272—DEREGULATED NATURAL GAS

Authority: (Natural Gas Act, as amended, 15 U.S.C. 717 *et seq.*; Department of Energy Organization Act, (42 U.S.C. 7107, *et seq.*); E.O. 12009, 42 FR. 46267; Natural Gas Policy Act of 1978, (15 U.S.C. 3301 *et seq.*)

§ 272.101 Definitions.

For purposes of this subpart:

(a) *"Natural gas produced from geopressured brine"* means natural gas dissolved before intitial production of natural gas in subsurface brine aquifers with as least 10,000 parts of Sodium Chloride per million parts of water and an initial reservoir geopressure gradient in excess of 0.465 pounds per square inch for each vertical foot of depth.

(b) *"Occluded natural gas produced from coal seams"* means naturally occuring natural gas released from entrapment from the fractures, pores and bedding planes of coal seams.

(c) *"Natural gas produced from Devonian Shale"* means natural gas produced from the fractures, micropores and bedding planes of shales deposited during the Paleozoic Devonian Period.

(d) *"Deep, high-cost natural gas"* means natural gas which meets the definition in § 271.703 of this subchapter.

§ 272.102 Deregulation.

(a) *Final eligibility determination.* No maximum lawful price under this subchapter applies to any first sale of natural gas with respect to which an eligibility determination has become final (within the meaning of § 273.102) that the natural gas qualifies under one of the categories of natural gas defined in § 272.101.

(b) *Retroactive collection.* After the eligibility determination has become final (within the meaning of § 273.102), the seller may retroactively charge and collect the aggregate amount by which the deregulated contract price exceeds the price actually collected for deliveries of natural gas made during the period between the date the application for determination was filed, or November 1, 1979, if later, and the date the eligibility determination became final; plus interest on such aggregate amount (determined at the rate prescribed in § 154.102(d)(2)). Such collections may be made only if specifically authorized by contract.

(c) *Circumvention of maximum lawful prices.* No portion of the price paid for natural gas which qualifies under one of the categories of natural gas defined in § 272.101 may represent consideration for natural gas which is subject to a maximum lawful price under Part 271 of this chapter.

PART 274—DETERMINATIONS BY JURISDICTIONAL AGENCIES

§ 274.205 High-cost natural gas. [Amended]

2. Section 274.205 is amended by inserting the designation "(a) *Deep, high-cost natural gas.*" at the beginning of the text, and by redesignating paragraphs (a), (b), (c), (d), (e), and (f) as subparagraphs (1), (2), (3), (4), (5) and (6), respectively.

3. Section 274.205 is further amended by adding paragraphs (b), (c) and (d) to read as follows:

* * * * *

(b) *Natural gas produced from geopressured brine.* A person seeking a determination for purposes of Part 272 that natural gas is produced from geopressured brine shall file an application with the jurisdictional agency which contains the following items:

(1) FERC Form No. 121;

(2) The well completion report;

(3) A bottom-hole pressure test report and other information establishing the initial reservoir pressure gradient;

(4) Evidence to establish that, before production, the gas from the well was in solution in a brine aquifer with at least 10,000 parts of Sodium Chloride per million parts of water; and

(5) If the jurisdictional agency so requires, certified copies of records relied upon by the applicant including copies of the agency's official files.

(c) *Occluded natural gas produced from coal seams.* A person seeking a determination for purposes of Part 272 of this chapter that natural gas is occluded natural gas produced from coal seams shall file an application with the jurisdictional agency which contains the following items:

(1) FERC Form No. 121;

(2) The well completion report;

(3) A gamma ray log;

(4) Evidence to establish that the natural gas was produced from a coal seam; and

(5) If the jurisdictional agency so requires, certified copies of records relied upon by the applicant including copies of the agency's official files.

(d) *Natural gas produced from Devonian shale.* A person seeking a determination for purposes of Part 272 of this chapter that natural gas is produced from Devonian shale shall file an application with the jurisdictional agency which contains the following items:

(1) FERC Form No. 121;

(2) The well completion report;

(3) A gamma ray log;

(4) A reference to a standard stratigraphic chart or text establishing that the producing interval is a Devonian shale; and

(5) If the jurisdictional agency so requires, certified copies of records relied upon by the applicant including copies of the agency's official files.

[FR Doc. 79-33256 Filed 10-26-79; 8:45 am]
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18 CFR Part 294

[Docket No. RM79-52]

Interim Procedures for Shortages of Electric Energy and Capacity Under Section 206 of the Public Utility Regulatory Policies Act of 1978; Amendment

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Amendment to interim regulations.

SUMMARY: The Federal Energy Regulatory Commission hereby adopts regulations which extend through a period ending April 30, 1980 its interim regulations implementing procedures for shortages of electric energy and capacity under section 206 of the Public Utilities Regulatory Policies Act of 1978. Under the regulations as amended, each public utility now serving firm power wholesale customers must report to the Commission, the utility's customers, and appropriate State authorities any shortages of electric energy or capacity anticipated to occur prior to April 30, 1980. Also, the regulations require each public utility to report any modification of its plans for accommodating shortages anticipated to occur before April 30, 1980.

EFFECTIVE DATE: October 23, 1979.

FOR FURTHER INFORMATION CONTACT:

Adam Wenner, Office of General Counsel, 825 North Capitol Street NE., Room 8104-C, Washington, D.C. 20426, (202) 357-8033.
Susan Tomasky, Office of General Counsel, 825 North Capitol Street NE., Room 8100-E, Washington, D.C. 20426, (202) 357-8033.

October 23, 1979.

On June 15, 1979, the Commission issued interim regulations [1] implementing in part Section 206 of the Public Utilities Regulatory Policies Act of 1978 (PURPA). Section 206 of PURPA amends the Federal Power Act to require public utilities to report to the Commission anticipated shortages of electric energy or capacity and to submit to the Commission and to appropriate State authorities contingency plans to accommodate any shortages which may occur prior to September 30, 1979.

Paragraph (b) of the interim regulations requires each public utility serving firm power wholesale customers to submit by July 23, 1979, a "brief statement indicating how it would accommodate any shortages of electric energy or capacity affecting its firm power customers, should such a shortage occur prior to September 30, 1979." [2]

Paragraph (c) of the interim regulations requires each utility to report immediately any shortage of electric energy or capacity which the utility anticipates will occur. In that report the utility must provide the Commission with certain information, including information regarding any procedures for accommodating a particular shortage, if they differ from the procedure set out in the utility's statement submitted pursuant to paragraph (b) of the interim regulations.

Initially, the interim regulations were intended to deal with shortages anticipated to occur prior to September 30, 1979. For this reason, paragraph (a) provides a limited definition of "anticipated shortages of electric capacity or energy", which includes only those situations which will result in

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[1] Interim Regulations, Docket No. RM79-52 (issued June 15, 1979).

[2] This language was adopted by an Amendment to Interim Regulations, Docket No. RM79-52 (issued August 1, 1979) in order to make clear the Commission's intent that all public utilities serving firm customers must submit plans to accommodate any possible shortages. Before this amendment, the language appeared to suggest that only those utilities which anticipated shortages prior to September 30, 1979, were obliged to file accommodation reports under section 206 of PURPA.