Rules and Regulations

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 932

Olives Grown in California Amendment of Subparts-Rules and Regulations and Expenses and Rate of Assessment

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule requires that advertising by handlers under the olive marketing order must include a reference to the California origin of the olives advertised to qualify for credit against a handler's assessment. Also, this rule terminates two provisions concerning size requirements and reserve funds, which are obsolete. This rule also establishes expenses and rate of assessment for the 1984 fiscal year to provide for maintenance and functioning of California Olive Committee.

EFFECTIVE DATE: January 3, 1984.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291 and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities.

A proposed rule was published in the Federal Register on December 2, 1983 (48 FR 54361), which contained the amendment actions established herein with respect to Subpart-Rules and Regulations. That proposed rule provided an opportunity for the public to file comments through December 22, 1983. None were received.

This amendment is issued under the Marketing Order No. 932 (7 CFR Part 932), regulating the handling of olives grown in California. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendations and information submitted by the California Olive Committee and upon other available information. It is found that this amendment will tend to effectuate the declared policy of the Act.

Section 932.140 establishes a reserve in an amount not to exceed approximately one crop year's expenses. That section, however, is now obsolete and should be terminated. Section 932.40 was amended in 1982 (47 FR 32908) and changed the procedures with respect to reserves.

Section 932.45(a)(2) authorizes, and 932.145 implements, procedures whereby handlers may receive credit against their assessment obligations for certain media expenses incurred in placing their paid advertising. To insure that such advertising promotes the sale and consumption of California olives, and applies only to such olives, § 932.145(a) should be amended to provide that creditable advertising must include a verbal or visual reference, acceptable to the Committee, with respect to the California origin of the olives advertised. The change should apply to all olives handled in the 1984 fiscal year, which begins January 1, 1984, and subsequent fiscal years.

Section 932.156 should be terminated. That section established procedures for handler exemption from outgoing size requirements and is no longer applicable.

Finally, § 932.318 should be added to Subpart-Expenses and Rate of Assessment to establish pursuant to §§ 932.38 and 932.39, respectively, the expenses and rate of assessment for the 1984 fiscal year (January 1–December 31, 1984). The committee would use these funds collected from handlers for its maintenance and functioning.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice and engage in public rulemaking with respect to expenses and assessment rate, and good cause exists for not postponing the effective date until 30 days after publication in the Federal Register (5 U.S.C. 553) in that: (1) Some of the changes are deletions of provisions no longer authorized under the order; and (2) the amendment with respect to expenses, assessments and assessment crediting would apply to the 1984 fiscal year which begins January 1, 1984, and handlers are aware of the changes and need no additional time to comply therewith.

List of Subjects in 7 CFR Part 932

Marketing agreements and orders, Olives, California.

PART 932—[AMENDED]

Therefore, Subpart-Rules and Regulations (7 CFR 932.108–932.161) and Subpart-Expenses and Rate of Assessment (7 CFR 932.217) are amended as follows:

§ 932.140 [Removed]

1. Remove § 932.140.

2. Paragraph (a)(5) is added to § 932.145 (48 FR 9633) to read as follows:

§ 932.145 Marketing promotion, including paid advertising and crediting for handler paid advertising.

(a) * * *

* * * * * *

(5) To be creditable, each advertisement must include a visual or verbal reference, acceptable to the Committee, with respect to the California origin of the olives advertised.

* * * * * *

§ 932.156 [Removed]

3. Remove § 932.156.

§ 932.217 [Removed]

4. Section 932.217 is removed and § 932.218 is added to read as follows (this final rule expires December 31, 1984, and will not be published in annual Code of Federal Regulations):

§ 932.218 Expenses and assessment rate.

Expenses of $2,009,518 by the California Olive Committee are authorized for the fiscal year January 1, 1984, through December 31, 1984. The rate of assessment for that period shall be established at $42.76 per ton, less any amount credited pursuant to § 932.45 but not to exceed $16.54 per ton. Unexpended funds may be carried over as a reserve.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: December 28, 1983.

Russell L. Hawes,

Acting Deputy Director, Fruit and Vegetable Division.

[FR Doc. 83-34830 Filed 12-30-83; 8:45 am]

BILLING CODE 3410-02-M

Commodity Credit Corporation

7 CFR Part 1430

1983-84 Milk Price Support Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: This rule sets forth the procedures under which a reduction of 50 cents per hundredweight is to be made in the price received on all milk produced in the United States and marketed by producers for commercial use during the period December 1, 1983 through March 31, 1985. The 50-cent reduction is required to be made by section 201(d)(2) of the Agricultural Act of 1949, as amended by section 102 of the Dairy and Tobacco Adjustment Act of 1983 (Pub. L. 98-180).

EFFECTIVE DATE: This rule is effective with respect to milk marketed after November 30, 1983.

FOR FURTHER INFORMATION CONTACT: Dwight Tayman, Fiscal Division, ASCS-USDA, 6172 South Building, P.O. Box 2415, Washington, D.C. 20013: (202-447-2862).

SUPPLEMENTARY INFORMATION: This rule has been reviewed in accordance with Executive Order 12291 and Secretary's Memorandum 1512-1 and has been classified as "major" since the reduction in milk proceeds required by section 201(d)(2) of the Agricultural Act of 1949, as amended (the 1949 Act), and by this rule will have an effect on the economy exceeding $100 million. The title and number of the federal assistance program to which this notice applies are: Title—Commodity Loans and Purchases; Number—10.051 as found in the Catalog of Federal Domestic Assistance.

The Regulatory Flexibility Act is not applicable to this rule since the Commodity Credit Corporation (CCC) is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule. Section 102(b) of the Dairy and Tobacco Adjustment Act of 1983 (the 1983 Act) specifies that the provisions of section 201(d) of the 1949 Act, as amended by the 1983 Act, shall be implemented without regard to the provisions requiring notice and other procedures for public participation in rulemaking contained in 5 U.S.C. 553, or in any directive of the Secretary.

This notice is not expected to have any significant impact on the quality of the human environment. In addition, this action will not adversely affect environmental factors such as water quality or air quality. Accordingly, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

Section 201(d)(2) of the 1949 Act, as amended by the 1983 Act, requires the Secretary of Agriculture to provide for a reduction of 50 cents per hundredweight from the price received on all milk produced in the United States and marketed by producers for commercial use. For purposes of that portion of section 201(d) of the 1949 Act which relates to the 50-cent reduction, the term "United States" is defined to mean the forty-eight contiguous States in the continental United States. Section 201(d)(2) specifies that the reduction shall apply to milk marketed in the period beginning on the first day of the first calendar month following the date of enactment of the 1983 Act and ending on March 31, 1985. Since the 1983 Act was signed by the President on November 29, 1983, the reduction is required for all milk marketed by producers for commercial use during the period beginning December 1, 1983 and ending March 31, 1985. Section 201(d)(2) further specifies that the funds represented by the reduction shall be collected and remitted to CCC at such time and in such manner as prescribed by the Secretary by each person making payment to a producer for milk purchased from the producer, except that, in the case of a producer who markets milk of the producer's own production directly to consumers, such funds shall be remitted directly to CCC by that producer.

Section 201(d) of the 1949 Act previously provided for two 50-cent deductions to be made with respect to milk marketed commercially by producers. Determinations implementing those deductions were published on March 17, 1983 (48 FR 11253), and August 2, 1983 (48 FR 34933). Regulations governing the collection of the deductions were issued on November 30, 1982 (47 FR 53831). Amended regulations were published on August 1, 1983 (48 FR 34725). These regulations remain applicable for milk marketed prior to December 1, 1983.

The regulations in this Final Rule provide for remittance by "responsible persons" of the funds represented by the 50-cent reduction required by section 201(d) of the 1949 Act, as amended by the 1983 Act. A "responsible person" is defined as any person paying a producer for milk except where the producer markets milk of his own production to consumers either directly or through wholesale or retail outlets in the form of milk and milk products, in which case the producer is considered the "responsible person". "Responsible persons" paying producers for milk must remit the funds represented by the reduction to CCC on the date of final payment to the producers, or by the end of the month following the month in which the milk is marketed, whichever is earlier. Where the producer is the "responsible person", the remittance must be made by the producer to CCC by the end of the month following the month in which the milk is marketed.

The regulations provide that the reduction shall be made and the funds represented by the reduction shall be remitted with respect to all milk marketed in any of the forty-eight contiguous States or the District of Columbia, unless it is established to the satisfaction of CCC that the milk was produced outside the forty-eight contiguous States.

The regulations also provide for certain penalties required by statute. Section 201(d)(5) of the 1949 Act provides for a penalty of up to $1,000 for any program violation. Section 201(d)(5) also provides that any person as to whom there is a failure to make a reduction in the price of milk as required by section 201(d)(2) or who fails to remit to CCC the funds required to be collected and remitted in accordance with section 201(d)(2)(B) shall be liable for a marketing penalty. The marketing penalty shall be equal to the support price for milk in effect at the time the failure occurs multiplied by the quantity of milk involved in such failure. The marketing penalty may be reduced, however, if it is determined that the failure was unintentional or without knowledge on the part of the person concerned.

The regulations also contain various administrative provisions, such as the procedures for assessing penalties and for review of determinations with respect to amounts owed by responsible persons. The manner in which late payment charges shall be applied is also set forth.

The informational collection requirements of the regulations have been reviewed and approved by the Office of Management and Budget for purposes of the Paperwork Reduction Act and, as set forth in § 1430.331, have been assigned OBM number 0581-0132.

List of Subjects in 7 CFR Part 1430

Milk, Agriculture, Price support programs, Dairy products.

Final Rule

Accordingly, 7 CFR Part 1430 is amended as follows:

1. Subpart—Regulations Governing Certain Deductions on Milk Marketings of Producers is amended to read "Regulations Governing Certain Deductions on Milk Marketings of Producers Prior to December 1, 1983".

2. A new subpart entitled "Subpart—Regulations Governing Reduction in the Price of Milk Marketed by Producers, December 1, 1983–March 31, 1985" is added which reads as follows:

PART 1430—[AMENDED]

Subpart—Regulations Governing Reduction in the Price of Milk Marketed by Producers, December 1, 1983–March 31, 1985

Sec.

1430.320 General.
1430.321 Definitions.
1430.322 Responsibility for administration of regulations.
1430.323 Required reductions and remittances.
1430.324 Availability of records and facilities.
1430.325 Adjustment of accounts of responsible persons.
1430.326 Charges and penalties.
1430.327 Scheme or device.
1430.328 Continuing obligations.
1430.329 Administrative review.
1430.330 Setoffs.
1430.331 Paperwork Reduction Act assigned number.

Authority: Section 201(d) of the Agricultural Act of 1949, as amended (7 U.S.C. 1446); Commodity Credit Corporation Charter Act, as amended (15 U.S.C. 714 et seq.).

Subpart—Regulations Governing Reduction in Price of Milk Marketed by Producers, December 1, 1983–March 31, 1985

§ 1430.320 General.

(a) *Purpose*—This subpart implements the provisions of Section 201(d) of the Agricultural Act of 1949, as amended by the Dairy and Tobacco Adjustment Act of 1983, under which the Secretary of Agriculture is required to provide for a reduction of 50 cents per hundredweight in the price received on all milk produced in the United States and marketed by producers for commercial use. The purpose of the reduction is to encourage the adjustment of milk production to levels consistent with national demand for milk and the products of milk. Funds represented by the reduction are to be remitted to the Commodity Credit Corporation (CCC) to offset a portion of the cost of the milk diversion program which is required to be established in accordance with section 201(d) of the 1949 Act.

(b) *Applicability*—The provisions of this subpart shall apply to all milk that is marketed for commercial use by producers during the period beginning December 1, 1983 and ending March 31, 1985, in the forty-eight contiguous States in the continental United States and the District of Columbia, unless it is established, by meeting such requirements as may be specified by CCC, that the milk was not produced in the forty-eight contiguous States.

§ 1430.321 Definitions.

For purpose of this subpart:

(a) "ASCS" means the Department's Agricultural Stabilization and Conservation Service.

(b) "CCC" means the Commodity Credit Corporation.

(c) "Dairy Division" means the Dairy Division of the Department's Agricultural Marketing Service.

(d) "Department" means the United States Department of Agriculture.

(e) "Person" means any individual, partnership, corporation, association or other business or government unit.

(f) "Producer" means any person who produces milk through the milking of cows.

(g) "Reduction" means that amount by which the price received for milk marketed for commercial use by producers is reduced in accordance with the provisions of this subpart.

(h) "Responsible person" means:

(1) Any person who pays a producer for milk marketed by a producer for commercial use, except as otherwise prescribed in paragraph (h)(2) of this section. This shall include a handler regulated under a Federal milk order to the extent of any payments for milk that are transmitted by the handler to the market administrator for transmittal by the market administrator to individual producers; and

(2) Any producer with respect to milk of his own production that he markets for commercial use in the form of milk or milk products to consumers either directly or through retail or wholesale outlets.

(i) "United States" means the forty-eight contiguous States in the continental United States (i.e., all fifty States of the United States, excluding Hawaii and Alaska).

(j) "United States bank" means a bank organized under the laws of the United States, a State of the United States or the District of Columbia.

§ 1430.322 Responsibility for administration of regulations.

The Dairy Division shall have the responsibility for administering the provisions of this subpart which relate to the collection of funds represented by the reductions. Administrative subpoenas as may be determined to be necessary for the administration of this subpart may be issued by the Executive Vice President, CCC, or his designee.

§ 1430.323 Required reductions and remittances.

(a) *Reductions*—A reduction of 50 cents per hundredweight shall be made in the price received on all milk marketed by producers for commercial use.

(b) *Remittances by Responsible Persons Paying for Milk*—Each responsible person who pays a producer for milk marketed for commercial use during any month, or portion thereof, shall remit to CCC by the last day of the following month, or at the time of making final payment to the producer for such milk, whichever is earlier, an amount equal to the number of hundredweight of milk for which payment to the producer is being made multiplied by 50 cents.

(c) *Remittances by Other Responsible Persons*—Each responsible person who markets milk of his own production for commercial use to consumers (either directly or through wholesale or retail outlets) in the form of milk or milk products during any month shall remit to CCC by the last day of the following month an amount equal to the number of hundredweight of such person's own production used in such marketings multiplied by 50 cents.

(d) *Remittance Report*—When remitting funds to CCC in accordance with paragraphs (b) and (c) of this section, each responsible person shall file a report prescribed by the Dairy Division which shall include:

(1) The identity of the responsible person, including such person's business address;

(2) The month, or portion thereof, in which the applicable producer marketings occurred;

(3) The total pounds of milk to which the remittance applies; and

(4) Any additional information required by the Dairy Division.

(e) *Remittance of Funds*—Remittances to CCC shall be made by negotiable instruments payable in United States currency, drawn on a United States bank and made payable to "Commodity Credit Corporation." Remittances and reports required under this subpart shall

be mailed to the location designated by the Dairy Division.

§ 1430.324 Availability of records and facilities.

(a) *Records to be maintained*—Each responsible person shall maintain records in a manner that will demonstrate compliance with the provisions of this subpart.

(b) *Availability of records and facilities*—Each responsible person shall make available to authorized representatives of CCC or the Department all records and facilities pertaining to such person's operations that are necessary to determine compliance with the provisions of this subpart.

(c) *Retention of records*—All records required under this subpart shall be retained by each responsible person for a period of three years beginning at the end of the month to which such records pertain, or for such longer period as the Dairy Division or CCC may require by notice to the responsible person.

§ 1430.325 Adjustment of accounts of responsible persons.

Whenever the Department determines through an audit of a responsible person's reports, records, books or accounts or through any other means that any funds are due CCC, such person shall be notified of the amount due. The responsible person shall then remit any amount due CCC by the next date for remitting reductions as provided in § 1430.323. Overpayments shall be credited to the account of the responsible person remitting the overpayment and shall be applied against amounts due in succeeding months or refunded if this subpart is not applicable to milk marketed in succeeding months.

§ 1430.326 Charges and penalties.

(a) *Charge for dishonored negotiable instruments*—Each responsible person who issues a negotiable instrument to CCC that is not honored because of insufficient funds or any other reason shall be assessed a charge of $25. This charge shall be in addition to any and all other authorized charges and penalties.

(b) *Late payment charge*—Any unpaid obligation due CCC under this subpart shall be increased by a late payment charge. Such charge shall be applied on the first day after the date such obligation was due and on the same day of each succeeding month until such obligation is paid. The charge shall be an amount equal to one-twelfth (rounded to the nearest one-hundreth of one percent) of: (1) the annual rate of interest published as a notice in the **Federal Register** by CCC in accordance with the provisions of 7 CFR Part 1403 or (2) such other annual rate of interest made generally applicable to CCC obligations in substitution for the publication of a rate of interest in accordance with 7 CFR Part 1403. The timeliness of payment to CCC shall be determined based upon the applicable postmark date. Notwithstanding any other provision of this section, the late payment charge shall not apply to any interest previously accrued on the obligation. The late payment charge shall otherwise apply to all amounts which may become due under this subpart.

(c) *Penalties*—(1) Any person as to whom there has been a failure to make a reduction in the price of milk received by such person as required in this subpart or who fails to remit to CCC the funds required to be collected and remitted by this subpart shall be liable, in addition to any other amount due, for a marketing penalty at a rate equal to the support price for milk in effect at the time the failure occurs on the quantity of milk as to which the failure applies. The Executive Vice President, CCC, or his designee, may reduce any such penalty in such amount as is determined equitable in any case in which it is determined that the failure was unintentional or without knowledge on the part of the person concerned.

(2) In addition to the marketing penalty prescribed in paragraph (1), any person who knowingly violates any of the provisions of this subpart shall be liable for a civil penalty of not more than $1,000 for each violation.

(3) The Executive Vice President, CCC, or his designee shall notify any person against whom a penalty is proposed to be assessed under this section of the intention to assess such penalty and provide such person with an opportunity for an administrative hearing.

§ 1430.327 Scheme or device.

Any person who is determined to have knowingly adopted any scheme or device which tends to defeat the implementation of the provisions of this subpart or made any fraudulent representation or misrepresented any fact affecting a determination under this subpart shall be considered to have knowingly violated the provisions of this subpart.

§ 1430.328 Continuing obligations.

The obligations of any person that arise under this subpart shall continue in effect until final payment or other disposition agreed to by CCC even though the reductions provided for in this subpart may no longer be required for current marketings of milk.

§ 1430.329 Administrative review.

Except with respect to the assessment of penalties under § 1430.326(c), any person who is dissatisfied with any determination of an amount determined to be owing under this subpart may obtain reconsideration of such determination by filing a request for reconsideration with the Controller, CCC, within 15 days of the date on which a written demand for payment is made. If the person is dissatisfied with the determination of the Controller upon reconsideration, the person may obtain a review of such determination and an informal hearing by filing an appeal with the Executive Vice President, CCC. Such appeals must be filed within 15 days of the date of the redetermination. Such appeals to the Executive Vice President, CCC, will be conducted in the same manner as administrative appeals which are conducted under 7 CFR Part 780. The decision on such appeal shall constitute the final agency action in the matter.

§ 1430.330 Setoffs.

CCC may set off any amounts due CCC under this subpart in accordance with the provisions of 7 CFR Part 1408, Setoff, Withholding, and Stop Payment Policies of CCC, or any provisions issued in lieu of such provisions.

§ 1430.331 Paperwork Reduction Act assigned number.

The Office of Management and Budget has approved the information collection requirements contained in these regulations under the provisions of 44 U.S.C. Chapter 35 and OMB Number 0581–0132 has been assigned.

Signed at Washington, D.C., on December 28, 1983.

John R. Block,

Secretary of Agriculture.

[FR Doc. 83-34828 Filed 12-30-83; 8:45 am]

BILLING CODE 3410-05-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Part 463

[Docket No. ERA-R-79-19]

Annual Reports From States and Non-Regulated Utilities on Progress in Considering the Ratemaking and Other Regulatory Standards Under the Public Utility Regulatory Policies Act of 1978

AGENCY: Economic Regulatory Administration, Energy.

ACTION: Notice and publication of Form ERA-166.

SUMMARY: Sections 116 and 309 of the Public Utility Regulatory Policies Act of 1978 (PURPA) require State regulatory authorities and certain nonregulated utilities to submit, to the Department of Energy (DOE), annual reports on their progress in considering ratemaking and other regulatory standards established by Titles I and III of PURPA. Under the present DOE regulations (10 CFR Part 463), as amended by revising § 463.3 (a) and (c) (47 FR 33679, August 4, 1982), each of the reporting entities must file an annual report by February 28, 1984, covering the calendar year 1983 reporting period. All reports are to be made on Form ERA-166, a copy of which is appended to this Notice.

DATE: Reports are due by February 28, 1984.

ADDRESS: All completed Forms ERA-166 should be addressed to: Coal and Electricity Division, Economic Regulatory Administration, Department of Energy, Form ERA-166, Room GA-033, 1000 Independence Avenue, SW., Washington, D.C. 20585.

FOR FURTHER INFORMATION CONTACT: Steven Mintz, Coal and Electricity Division, Economic Regulatory Administration, U.S. Department of Energy, 1000 Independence Avenue, SW., Room GA-033, Washington, D.C. 20585, Phone (202) 252-1657.

SUPPLEMENTARY INFORMATION:

I. Background

On August 1, 1979 (44 FR 47264, August 13, 1979), the ERA of the DOE issued a rule (10 CFR Part 463) setting forth the manner in which State regulatory authorities and certain nonregulated gas and electric utilities are required to report on their consideration of the ratemaking and other regulatory standards established by sections 111(d), 113(b), and 303(b) of the Public Utility Regulatory Policies Act of 1978 (PURPA), Pub. L. 95-617, 92 Stat. 3117 *et seq.* (16 U.S.C. 2601 *et seq.*).

On August 4, 1982, DOE published a Final Rule (47 FR 33679), amending Part 463 to Chapter II, Title 10 of the Code of Federal Regulations by revising § 463.3 (a) and (c). The Final Rule requires the reporting entities to file their annual report on February 28 of each year beginning with 1983. Each of these annual reports must cover the immediately preceding calendar year (for example, the report due on February 28, 1984, shall cover the period January 1, 1983–December 31, 1983).

II. The Report Form

The Form ERA-166 is identical to the form published on January 13, 1983 (48 FR 1606) except for date changes. It was approved by the Office of Management and Budget (OMB Control Number 1903-0060), and is being published today as an appendix to this Notice. It will provide reporting entities with the earliest opportunity to prepare their reports for the calendar year.

(Public Utility Regulatory Policies Act of 1978, Pub. L. 95-617, 92 Stat. 3117 *et seq.* (16 U.S.C. 2601 *et seq.*); Department of Energy Organization Act, Pub. L. 95-91 (42 U.S.C. 7101 *et seq.*)

Issued in Washington, D.C. on December 22, 1983.

Robert L. Davies,

Director, Coal and Electricity Division, Economic Regulatory Administration.

BILLING CODE 6450-01-M

Appendix

Form ERA-166 is reproduced below.

Form Approved
OMB No. 1903-0060
(Expires 9-30-84)

PURPA ANNUAL REPORT OF ELECTRIC AND GAS UTILITIES

This report is mandatory under the Public Utilities Regulatory Policies Act of 1978 (P.L. 95-617) sections 116 and 309. Late filing or failure to report may result in criminal fines, civil penalties, and other sanctions as provided by law. See instructions regarding confidentiality.

Blue Section: Instructions

White Section: Questions to be Answered

Name of Regulatory Authority (or covered Nonregulated Utility)	Date (Mo, Da, Yr)

ERA-166 (11-83)

Form Approved
OMB No. 1903-0060
(Expires 9-30-84)

PURPA ANNUAL REPORT OF ELECTRIC AND GAS UTILITIES

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BLUE SECTION

PURPA ANNUAL REPORT ON ELECTRIC AND GAS UTILITIES

SECTION I
PART I

INSTRUCTIONS

GENERAL INFORMATION

I. Purpose

The PURPA Annual Report on Electric and Gas Utilities, Form ERA-166, will be used by the Economic Regulatory Administration (ERA) for annual reporting to the President and Congress on the progress of State regulatory authorities and certain nonregulated electric and gas utilities in considering and making determinations with respect to the standards established by PURPA.

II. When to Submit

A. Submit this report no later than February 28, 1984.

B. This report covers the period of January 1, 1983 to December 31, 1983.

III. What and Where to Submit

A. Submit pages:

27
28
30
31
35 (duplicated for each utility)
36 (duplicated for each utility)
43 (duplicated for each utility)

To:

PURPA Annual Report on Electric and Gas Utilities
Coal and Electricity Division
Economic Regulatory Administration
Department of Energy, Forrestal Building
1000 Independence Avenue, S.W., Room GA-033
Washington, D. C. 20585

B. ERA reserves the right to request any supplementary information from the State regulatory authority or covered nonregulatory utility as needed to fully understand the report.

C. ERA reserves the right to return any incorrectly completed reports. The official submission date will be assigned upon receipt of the correctly completed form.

For information concerning this report call
Steven Mintz
(202) 252-1657

IV. Who must Submit

A. Each State regulatory authority (with respect to each covered electric and gas utility for which it has rate making authority) and each covered nonregulated electric and gas utility must submit this report.

B. Covered Utilities

(1) Electric Utilities. The regulated and nonregulated electric utilities covered by this report are those whose total sales of electric energy (for purposes other than resale) exceeded 500 million kilowatt-hours during any calendar year beginning after December 31, 1975, and before the immediate preceding calendar year.

(2) Gas Utilities. The regulated and nonregulated utilities covered by this report are those whose total sales of natural gas (for purposes other than resale) exceeded 10 billion cubic feet during any calendar year beginning after December 31, 1975, and before the immediate preceding calendar year.

(3) Exclusion of Wholesale Sales. When determining eligibility, do not include regulating sales of electric energy or natural gas for purposes of resale.

(4) Published List. ERA published in the Federal Register a list of utilities covered under PURPA for each reporting year. The inclusion or exclusion of any utility on the list does not affect the legal obligation to report by such utility or the responsible State regulatory authority under PURPA.

V. Provisions of Confidentiality of Information

The information contained on these forms may be (i) information which is exempt from disclosure to the public under the exemption for trade secrets and confidential commercial information specified in the Freedom of Information Act of 5 USC 552(b)(4)(FOIA) or (ii) prohibited from public release by 18 USC 1905. However, before a determination can be made that particular information is within the coverage of either of these statutory provisions, the person submitting the information must make a showing satisfactory to the Department concerning its confidential nature.

Therefore, respondents should state briefly and specifically (on an element-by-element basis, if possible), in a letter accompanying submission of the form, why they consider the information concerned to be a trade secret or other proprietary information, whether such information is customarily treated as confidential information by their companies and the industry, and the type of competitive hardship that would result from disclosure of the information. In accordance with the provisions of 10 CFR 1004.11 of DOE's FOIA regulations, DOE will determine whether any information submitted should be withheld from public disclosure.

If DOE receives a response and does not receive a request, with substantive justification, that the information submitted should be withheld from the public, DOE will assume that the respondent does not object to disclosure to the public of any information submitted on the form.

A new written justification need not be submitted each time the ERA-166 is submitted if:

a. views concerning information items identified as privileged or confidential have not changed; and

b. a written justification setting forth respondent's views in this regard was previously submitted.

In accordance with the cited statutes and other applicable authority, the information must be made available, upon request, to the Congress or any Committee of Congress, and to the General Accounting Office.

GENERAL INSTRUCTIONS

I. The PURPA Annual Report on Electric and Gas Utilities consists of 3 parts (these are included in Section II):

Part I: General Information on the State Regulatory Authority or Covered Nonregulated Utility

Part II: Questions Pertaining to Each of the Eleven Standards

Part III: Standard Specific Questions

II. In Section II, complete Parts II and III for each electric utility listed in Part I. Complete only questions pertaining to the termination of service (TOS) and advertising (ADV) standards for each gas utility listed in Part I. Enter NA for questions that are not applicable to either the electric or gas utility, or state regulatory authority.

III. Enter the electric or gas utility name, as appropriate, in the top right corner of each returned answer sheet from Parts II and III. If the utility provides both services, submit two answer sheets for the utility.

IV. Information regarding the consideration process for each standard must, to the extent practical, be summarized from the written determination and orders issued.

V. To facilitate data collection for this form, utilities which are unable to respond to questions as of the year ending December 1983 may choose to respond on a 1983 fiscal year basis. However, utilities must be consistent throughout the form as to which option is chosen.

(A) Class-With respect to electric and gas consumers, any group of such consumers who have similar characteristics of electric or gas energy use.

(B) Consideration Process-With respect to any of the standards established by sections 111, 113, or 303 of PURPA, the set of appropriate procedures carried out by a State regulatory authority or nonregulated utility culminating in a decision to adopt or reject such standard or in a determination required by PURPA. (See Section I on regulations).

(C) Electric Consumer-Any person, State agency, or Federal agency to which electric energy is sold other than for purposes of resale.

(D) Electric Utility-Any person, State agency, or Federal agency that sells electric energy.

(E) Evidence-Any testimony, data, staff reports, technical analyses, briefs, or any other statements, documents, or information admitted into the record of the proceedings respecting the consideration of the standards.

(F) Federal Agency-An executive agency (as defined in section 105 of the United States Code).

(G) Gas Consumer-Any person, State agency, or Federal agency to which natural gas is sold other than for purposes of resale.

(H) Gas Utility-Any person, State agency, or Federal agency engaged in the local distribution of the sale of natural gas.

(I) Load Management Technique-Any technique (other than a time-of-day or seasonal rate) to reduce the maximum kilowatt demand on the electric utility, including (but not limited to): ripple, radio, or automatic control mechanisms; other types of interruptible electric service, energy storage devices; and load-limiting devices.

(J) Nonregulated Electric Utility-Any electric utility with respect to which no State regulatory authority has rate making authority.

(K) Nonregulated Gas Utility-Any gas utility with respect to which no State regulatory authority has ratemaking authority.

(L) Person-An individual, partnership, corporation, unincorporated association or any group, organization, or entity.

(M) Rate- (1) Any price, rate, charge, or classification made, demanded, observed, or received with respect to the sale of electric energy by an electric utility to an electric consumer or the sale of natural gas to a gas consumer;

(2) Any rule, regulation, or practice respecting any such rate, charge, or classification; and

(3) Any contract pertaining to the sale of electric energy to an electric consumer or the sale of natural gas to a gas consumer.

(N) Ratemaking Authority-Authority to fix, modify, approve, or disapprove rates.

(O) Sale-A transfer to a purchaser for consideration and, when used with respect to electric energy, includes any exchange of electric energy; or, when used with respect to natural gas, includes any exchange of natural gas.

(P) Standard-Refers to either the six ratemaking standards or the five regulatory standards.

The six ratemaking standards and their abbreviations as employed in this report include:

Cost-Of-Service standard	COS
Declining Block Rate standard	DBR
Time-Of-Day rate standard	TOD
SeasonaL Rate standard	SLR
INTerruptible rate standard	INT
Load Management Techniques standard	LMT

The five regulatory standards and their abbreviations as employed in this report include:

Master-Metering standard	MM
Automatic Adjustment Clause standard	AAC
Information To Consumers standard	ITC
Termination Of Service standard	TOS
ADVertising standard	ADV

(Q) State-A State, the District of Columbia, and Puerto Rico.

(R) State Agency-A State, political subdivision thereof, and any agency or instrumentality of either.

(S) State Regulatory Authority-Any State agency that has ratemaking authority with repsect to: the sale of electric energy by an electric utility other than by such State agency (in the case of an electric utility with respect to which the TVA has ratemaking authority, such term means the TVA); or the sale of gas by any gas utility (other than by such State agency).

REGULATIONS APPLICABLE TO THE 6 RATEMAKING STANDARDS: COS, DBR, TOD, SLR, INT, LMT

Section 111(a-c) of PURPA requires consideration of six ratemaking standards, as follows:

"Sec. 111. CONSIDERATION AND DETERMINATION RESPECTING CERTAIN RATEMAKING STANDARDS.

(a) CONSIDERATION AND DETERMINATION - Each State regulatory authority (with respect to each electric utility for which it has ratemaking authority) and each non-regulated electric utility shall consider each standard established by subsection (d) and make a determination concerning whether or not it is appropriate to implement such standard to carry out the purposes of this title. For purposes of such consideration and determination in accordance with subsections (b) and (c), and for purposes of any review of such consideration and determination in any court in accordance with section 123, the purposes of this title supplement otherwise applicable state law. Nothing in this subsection prohibits any State regulatory authority or nonregulated electric utility from making any determination that it is not appropriate to implement any such standard, pursuant to its authority under otherwise applicable State law.

(b) PROCEDURAL REQUIREMENTS FOR CONSIDERATION AND DETERMINATION.

(1) The consideration referred to in sub-section (a) shall be made after public notice and hearing. The determination referred to in subsection (a) shall be:

(A) in writing

(B) based upon findings included in such determination and upon the evidence presented at the hearing, and

(C) available to the public.

(2) Except as otherwise provided in paragraph (1), in the second sentence of section 112(a), and in sections 121 and 122, the procedures for the consideration and determination referred to in sub-sections (a) shall be those established by the State regulatory authority or the nonregulated electric utility.

(c) IMPLEMENTATION.

(1) The State regulatory authority (with respect to each electric utility for which it has ratemaking authority) or non regulated electric utility may, to the extent consistent with otherwise applicable State law:

(A) Implement any such standard determined under subsection (a) to be appropriate to carry out the purposes of this title, or

(B) decline to implement any such standard.

(2) If a State regulatory authority (with respect to such electric utility for which it has ratemaking authority) or nonregulated electric utility declines to implement any standard established by subsection (d) which is determined under subsection (a) to be appropriate to carry out the purposes of this title, such authority or nonregulated electric utility shall state in writing the reasons therefore. Such statement of reasons shall be available to the public.

Sections 112, 121, and 122 of PURPA also establish requirements for this standard.

For the purpose of this report, for consistency with the joint committee managers report, and for consistency with terminology used in the regulatory community, the term "adopt" will be used throughout in the following questions as a synonym for the term "implement".

REGULATIONS APPLICABLE TO THE COS STANDARD

Section 111(d)(1) of PURPA establishes the cost-of-service standard (COS) which states:

"Rates charged by any electric utility for providing electric service to each class of electric consumers shall be designed to the maximum extent practicable, to reflect the costs of providing electric service to such class, as determined under section 115(a)."

Section 115(a) states:

"In undertaking the consideration and making the determination under section 111 with respect to the standard concerning cost of service established by section 111(d)(1), the costs of providing electric service to each class of electric consumers shall, to the maximum extent practicable, be determined on the basis of methods prescribed by the State regulatory authority (in the case of a State regulated electric utility) or by the electric utility (in the case of a nonregulated utility). Such methods shall to the maximum extent practicable:

(1) permit identification of differences in cost-incurrence, for each such class of electric consumers, attributable to daily and seasonal time of use of service and

(2) permit identification of differences in cost-incurrence attributable to differences in customer, demand, and energy components of costs. In prescribing such methods, such State regulatory authority and nonregulated electric

(continued on next page)

FOR PURPOSES OF ANSWERING COS RELATED QUESTIONS

The cost-of-service standard (COS) has been:

A. Adopted by a State regulatory authority, when such authority has:

1. specified methods for a utility covered by the standard to use to determine cost of service, in accordance with section 115(a) above;

2. issued a written policy (or order) that a utility covered by the standard shall provide cost-of-service data or studies in accordance with these methods with each rate application or rate processing, or on a specified regular basis, or both; and

3. issued a written policy that rates charged by a utility covered by the standard for each consumer class shall be designed, to the maximum extent practicable, to reflect the costs of service to such class, as provided in section 111(d)(1).

B. Adopted by a nonregulated utility, when such nonregulated utility has:

1. specified methods that it will use for determining cost of service, in accordance with section 115(a) above;

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REGULATIONS APPLICABLE TO THE COS STANDARD (CONTINUED)

utility shall take into account the extent to which total costs to an electric utility are likely to change if:

(A) additional capacity is added to meet peak demand relative to base demand; and

(B) additional kilowatt-hours of electric energy are delivered to electric consumers."

FOR PURPOSES OF ANSWERING COS RELATED QUESTIONS (CONT)

2. issued a written policy that it will develop cost-of-service data in accordance with these methods with each rate proceeding or on a specified regular basis, or both; and

3. issued a written policy that rates charged for each consumer class will be designed, to the maximum extent practicable, to reflect the costs of service to each class, as provided in section 111(d)(1).

C. Rejected by a State regulatory authority or nonregulated utility when it has issued written policies (or orders) declining to adopt.

REGULATIONS APPLICABLE TO THE DBR STANDARD

Section 111(d)(2) of PURPA establishes the declining block rates standard (DBR) which states:

"The energy component of a rate, or the amount attributable to the energy component in a rate, charged by any electric utility for providing electric service during any period to any class of eletric consumers may not decrease as kilowatt-hour consumption by such class increases during such period except to the extent that such utility demonstrates that the costs to such utility of providing electric service to such class, which costs are attributable to such energy component, decrease as such consumption increases during such period."

FOR PURPOSES OF ANSWERING DBR RELATED QUESTIONS

The declining block rates standard (DBR) has been:

A. Adopted by a State regulatory authority, when such authority had issued written policies (or orders) providing:

1. that rates charged by utility covered by the standard shall not have declining block energy charges except to the extent that the utility has made the required demonstration (as defined in section 111(b)(2)); and

2. that the State regulatory authority will make a written determination of whether the utility has made the required demonstration.

B. Adopted by a nonregulated utility when such nonregulated authority had issued a written policy (or order) that its rates shall not have declining block energy charges except to the extent that it has made in writing the required demonstration, as defined in section 111(b)(2).

C. Rejected by a State regulatory or nonregulated utility when it had issued written policies (or orders) declining to adopt.

REGULATIONS APPLICABLE TO THE TOD STANDARD

Section 111(d)(3) of PURPA establishes the time-of-day rates standard (TOD), which states:

"The rates charged by an electric utility for providing electric service to each class of electric consumers shall be on a time-of-day basis which reflects the costs of providing electric service to such class of electric consumers at different times of the day unless such rates are not cost-effective with respect to such class, as determined under section 115(b)."

Section 115(b) states:

"In undertaking the consideration and making the determination required under section 111 with respect to the standard for time-of-day rates established by section 111(d)(3), a time-of-day rate charged by an electric utility for providing electric service to each class of electric consumers shall be determined to be cost-effective with respect to each class of electric consumers if the long-run benefits of such rate to the electric utility and its electric consumers in the class concerned are likely to exceed the metering costs and other costs associated with the use of such rates."

For the purpose of answering the questions in this schedule, the term "time-of-day rate" means a rate that is on a time-of-day basis and that reflects the costs of providing electric service at different times of the day to the consumer class to whom it is charged.

FOR PURPOSES OF ANSWERING TOD RELATED QUESTIONS

The time-of-day rates standard (TOD) has been:

A. Implemented by a State regulatory authority, when it had issued written policies for orders providing:

1. that a utility covered by the standard shall charge time-of-day rates (as defined above) to each consumer class unless such rates are not cost-effective with respect to such class; and

2. that the State regulatory authority will make a written determination of the cost-effectiveness of such rates in accordance with section 115(b).

B. Implemented by a nonregulated utility when it had issued written policies (or orders) providing:

1. that it shall charge time-of-day rates (as defined above) to each consumer class unless such rates are not cost-effective with respect to such class; and

2. that it will make a written determination of the cost-effectiveness of such rates in accordance with section 115(b).

C. Rejected by State regulatory authority or nonregulated utility when it has issued written policies (or orders) declining to adopt this standard.

REGULATIONS APPLICABLE TO THE SLR STANDARD

Section 111(d)(4) of PURPA establishes the seasonal rates standard (SLR) which states:

"The rates charged by an electric utility for providing electric service to each class of electric consumers shall be on a seasonal basis which reflects the costs of providing service to such class for such utility."

For the purpose of answering the questions in this schedule, the term "seasonal rate" means a rate that varies by season and that reflects the costs of providing electric service at different seasons of the year to the consumer class to whom it is charged.

FOR PURPOSES OF ANSWERING SLR RELATED QUESTIONS

The seasonal rates standard (SLR) has been:

A. Adopted by a state regulatory authority when such authority has issued written policies (or orders) providing:

1. that it will determine the costs of providing electric service to each consumer class at different seasons of the year for each utility covered by the standard; and

2. that a utility covered by the standard shall charge seasonal rates (as defined above) to each consumer class to the extent that such costs vary seasonally.

B. Adopted by a nonregulated utility, when such nonregulated utility has issued written policies (or orders) providing:

1. that it will determine the costs of providing electric service to each consumer class at different seasons of the year; and

2. that it shall charge seasonal rates (as defined above) to each consumer class to the extent that such costs vary seasonally.

C. Rejected by a State regulatory authority or nonregulated utility when it had issued written policies (or orders) declining to adopt this standard.

REGULATIONS APPLICABLE TO THE INT STANDARD

Section 111(d)(5) of PURPA establishes the interruptible rates standard (INT) , which states:

"Each electric utility shall offer each industrial and commercial electric consumer an interruptible rate which reflects the cost of providing interruptible service to the class of which such consumer is a member."

For the purpose of answering the questions in this schedule, the term "interruptible rate" means an interruptible rate that reflects the cost of providing interruptible service to the consumer class to whom it is charged.

FOR PURPOSES OF ANSWERING INT RELATED QUESTIONS

The interruptible rates standard (INT) has been:

A. Adopted by a state regulatory authority when such authority has issued written policies (or orders) providing:

1. that a utility covered by the standard shall offer each industrial and commercial electric consumer an interruptible rate; and

2. that the state regulatory authority will determine the costs of providing interruptible electric service to each consumer class that includes industrial or commercial consumers.

B. Adopted by a nonregulated utility, when such nonregulated utility has issued written policies (or orders) providing that it shall offer each industrial and commercial consumer an interruptible rate that reflects its determination of the costs of providing interruptable service to each consumer class that includes industrial or commercial consumers.

C. Rejected by a State regulatory authority or nonregulated utility when it has issued written policies (or orders) declining to adopt this standard.

REGULATIONS APPLICABLE TO THE LMT STANDARD

Section 111(d)(6) of PURPA establishes the load management techniques standard (LMT) which states:

"Each electric utility shall offer to its electric consumers such load management techniques as the state regulatory authority (or the nonregulated electric utility) has determined will:

(A) be practicable and cost-effective, as determined under section 115(c),

(B) be reliable, and

(C) provide useful energy or capacity management advantages to the electric utility."

Section 115(c) states:

"In undertaking the consideration and making the determination required under section 111 with respect to the standard for load management techniques established by section 111(d)(6), a load management technique shall be determined, by the State regulatory authority or nonregulated eletric utility, to be cost-effective if:

(1) such technique is likely to reduce maximum kilowatt demand on the electric utility, and

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FOR PURPOSES OF ANSWERING LMT RELATED QUESTIONS

The load management techniques standard (LMT) has been:

A. Adopted by a State regulatory authority, when such authority has issued written policies (or orders) providing:

1. that it will make a written determination of the cost-effectiveness of load management techniques relevant to each utility covered by the standard, in accordance with section 115(c);

2. that it will make a written determination of whether each technique will be practicable and cost-effective (as defined above), be reliable, and provide useful energy or capacity management advantages to the electric utility; and

3. that a utility covered by the standard shall offer its electric consumers those load management techniques that the state regulatory authority has determined will meet the criteria above (in A.2).

B. Adopted by a nonregulated utility, when such nonregulated utility had issued written policies (or orders) providing:

1. that it will make a written determination of the cost-effectiveness of relevant load management techniques, in accordance with section 115(c);

(Continued on next page)

REGULATIONS APPLICABLE TO THE LMT STANDARD (CONTINUED)

(2) the long-run cost-savings to the utility of such reduction are likely to exceed the long-run costs to the utility associated with implementation of such technique."

For the purpose of answering the questions in this schedule, the term "load management techniques" means any technique (other than a time-of-day rate or seasonal rate) to reduce the maximum kilowatt demand on the electric utility, including (but not limited to): ripple, radio or automatic control mechanisms; other types of interruptible electric service; energy storage devices; and load-limiting devices.

FOR PURPOSES OF ANSWERING LMT RELATED QUESTIONS (CONT)

2. that it will make a written determination of whether each such technique will be practicable and cost-effective (as defined above), be reliable, and provide useful energy or capacity management advantages to the electric utility; and

3. that it will offer its electric consumers those load management techniques that it has determined will meet the criteria above (in B.2.)

C. Rejected by State regulatory authority or nonregulated utility when it has issued written policies (or orders) declining to adopt this standard.

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REGULATIONS APPLICABLE TO THE FIVE REGULATORY STANDARDS: MM, AAC, ITC, TOS, ADV

Section 113(a) of PURPA requires public notice, hearing(s), and other actions respecting five regulatory standards established for electric utilities covered under Title I of PURPA, and Section 303(a) requires similar actions respecting two of these regulatory standards for gas utilities covered under Title III. With respect to the master metering (MM), automatic adjustment clause (AAC), information to consumer (ITC), termination of service (TOS), and advertising (ADV) standards, these sections establish the following requirements:

"Section 113/303. ADOPTION OF CERTAIN STANDARDS.

(a) Adoption of Standards--Not later than 2 years after the date of the enactment of this Act, each State regulatory authority (with respect to each electric (gas) utility for which it has ratemaking authority), and each nonregulated electric (gas) utility shall provide public notice and conduct a hearing respecting the standards established by subsection (b) and, on the basis of such hearing, shall:

> (1) adopt the standards established by subsection (b) (other than paragraph (4) thereof) if, and to the extent, such authority or nonregulated electric utility determines that such adoption is appropriate to carry out the purposes of this title, is otherwise appropriate, and is consistent with otherwise applicable State law, and
>
> (2) adopt the standard established by subsection (b)(4) if, and to the extent, such authority or nonregulated electric (gas) utility determines that such adoption is appropriate and consistent with otherwise applicable State law.

For purposes of any determination under paragraphs (1) or (2) and any review of such determination in any court in accordance with section 123(307), the purposes of this title supplement otherwise applicable State law. Nothing in this subsection prohibits any State regulatory or nonregulatory electric (gas) utility from making any determination that it is not appropriate to adopt any such standard, pursuant to its authority under otherwise applicable State law."

Sections 121 and 122 of PURPA establish specific procedural requirements for this process with respect to electric utilities, and sections 121 and 305 establish the authority of the Secretary to intervene in appropriate proceedings for electric and gas utilities.

For the purposes of answering the questions on the advertising standard, the term "sufficient criteria" refers to the criteria established in section 113(a)(1), above: "appropriate to carry out the purposes of this title[1], otherwise appropriate, and consistent with otherwise applicable state law."

For the purposes of answering the questions on the termination of service standard the term "sufficient criteria" refers to the criteria established in section 113(a)(2), above: "appropriate and consistent with otherwise applicable State law."

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1 That is, to encourage: the conservation of energy supplied by electric and gas utilities; the optimization of the efficiency of use of facilities and resources by electric and gas utilities; and equitable rates to electric consumers.

REGULATIONS APPLICABLE TO THE MM STANDARD

Section 113(a)(1) states:

"Separate metering shall be determined appropriate for any new building for purposes of section 113(b)(1) if:

(1) there is more than one unit in such building,

(2) the occupant of each such unit has control over a portion of the electric energy used in such unit, and

(3) with respect to such portion of electric energy in such unit, the long-run benefits to the electric consumers in such building exceed the costs of purchasing and installing separate meters in such building."

For the purpose of answering the questions in this schedule:

(A) The term "master metering" (MM) applies to all cases where:

(1) There is more than one unit in the building and the electric metering does not permit identification of the energy consumption in individual units; or

(Continued on next page)

FOR PURPOSES OF ANSWERING MM RELATED QUESTIONS

The master metering standard (MM) has been:

A. Adopted by a State regulatory authority, when such authority has:

1. specified methods and procedures to be used by a utility covered by the standard in evaluating benefits versus costs of separate metering, in accordance with section 115(d)(3), and in determining whether separate metering is appropriate for a new building, in accordance with section 115(d); and

2. issued a written order that a utility covered by the standard shall not provide master metered service to new buildings except to the extent determined appropriate under those methods and procedures specified above.

B. Adopted by a nonregulated utility, when such nonregulated utility has:

1. specified methods and procedures that it will use in evaluating benefits versus costs of separate metering, in accordance with section 115(d)(3), and in determining whether separate metering is appropriate for a new building, in accordance with section 115(d); and

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REGULATIONS APPLICABLE TO THE MM STANDARD (CONTINUED)

(2) More than one such unit is treated as a single account for billing purposes.

(B) The term "separate metering" applies to all other cases.

FOR PURPOSES OF ANSWERING MM RELATED QUESTIONS (CONT)

2. issued a written policy that it will not provide master metered service to new buildings except to the extent determined appropriate under those methods and procedures specified above.

C. Rejected by a State regulatory authority or nonregulated utility when it has issued written policies (or orders) stating that it has determined not to adopt the standard.

REGULATIONS APPLICABLE TO THE AAC STANDARD

Section 13(b)(2) of PURPA establishes the automatic adjustment clauses standard (AAC), which states: "No electric utility may increase any rate pursuant to an automatic adjustment clause unless such clause meets the requirements of section 115(e)."

Section 115(a) states:

"(1) An automatic adjustment clause of an electric utility meets the requirements of this subsection if:

(A) such clause is determined, not less often than every four years, by the State regulatory authority (with respect to an electric utility for which it has ratemaking authority) or by the electric utility (in the case of a nonregulated electric utility), after an evidentiary hearing, to provide incentives for efficient use of resources (including incentives for economical purchase and use of fuel and electric energy) by such electric utility, and

(B) such clause is reviewed not less often than every two years, in the manner described in paragraph (2), by the State regulatory authority having ratemaking authority with respect to each utility (or by the electric utility in the case of a nonregulated electric utility), to insure the maximum economics in those operations and purchases which affect the rates to which such clause applies.

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FOR PURPOSES OF ANSWERING AAC RELATED QUESTIONS

The automatic adjustment clauses standard (AAC) has been:

A. Adopted by a State regulatory authority or nonregulated utility when it has issued written policies (or orders) providing that every automatic adjustment clause in effect at a utility covered by the standard must undergo the quadrennial determination and biannual review specified in section 115(e)(1) and (2) of PURPA.

B. Rejected by a State regulatory authority or non regulated utility when it has issued written policies (or orders) stating that it has determined not to adopt the standard.

REGULATIONS APPLICABLE TO THE AAC STANDARD (CONTINUED)

(2) In making a review under subparagraph (B) of paragraph (1) with respect to an electric utility, the reviewing authority shall examine and, if appropriate, cause to be audited the practices of such electric utility relating to costs subject to an automatic adjustment clause, and shall require such reports as may be necessary to carry out such review (including a disclosure of any ownership or corporate relationship between such electric utility and the seller to such utility of fuel, electric energy, or other item(s).

(3) As used in this subsection and section 113(b), the term 'automatic adjustment clause' means a provision of a rate schedule which provides for increases or decreases (or both), without prior hearing. In rates reflecting increases or decreases (or both) in costs incurred by an electric utility. Such term does not include an interim rate which takes effect subject to a later determination of the appropriate amount of the rate."

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REGULATIONS APPLICABLE TO THE ITC STANDARD

Section 113(b)(3) of PURPA establishes the information to consumers standard (ITC) which states: "Each electric utility shall transmit to each of its electric consumers information regarding rate schedules in accordance with the requirements of section 115(f)."

Section 115(f) states:

"(1) For purposes of the standard for information to consumers established by section 113(b)(3), each electric utility shall transmit to each of its electric consumers a clear and concise explanation of the existing rate schedule and any rate schedule applied for (or proposed by a nonregulated electric utility) applicable to such consumer. Such statement shall be transmitted to each such consumer:

(A) not later than sixty days after the date of commencement of service to such consumer or ninety days after the standard established by section 113(b)(3) is adopted with respect to such electric utility, whichever last occurs, and

(2) For purposes of the standard for information to consumers established by section 113(b)(3), each electric utility shall transmit to each of its electric consumers not less frequently than once each year:

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FOR PURPOSES OF ANSWERING ITC RELATED QUESTIONS

The information to consumers standard (ITC) has been:

A. Adopted by a State regulatory authority when such authority has:

1. ordered that a utility covered by the standard shall transmit rate information to its electric consumers according to certain time requirements, in accordance with sections 115(f)(1) and (2) of PURPA; and

2. specified consumption data to be transmitted upon consumer request, and the conditions under which such data shall be considered to be not reasonably ascertainable by the utility, in accordance with section 115(f)(3) of PURPA.

B. Adopted by a nonregulated utility when such nonregulated utility has:

1. issued a written policy statement that it will transmit rate information to its electric consumers according to certain time requirements, in accordance with sections 115(f)(1) and (2) of PURPA; and

2. specified consumption data to be transmitted upon consumer request, and the conditions under which such data shall be considered to be not reasonably ascertainable by the utility, in accordance with section 115(f)(3) of PURPA.

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REGULATIONS APPLICABLE TO THE ITC STANDARD (CONTINUED)

(A) a clear and concise summary of the existing rate schedules applicable to each of the major classes of its electric consumers for which there is a separate rate, and

(B) An identification of any classes whose rates are not summarized. Such summary may be transmitted together with such consumer's billing or in such other manner as the State regulatory authority or nonregulatory electric utility deems appropriate.

(3) For purposes of the standard for information to consumers established by section 113(b)(3), each electric utility, on request of an electric consumer of such utility, shall transmit to such consumer a clear and concise statement of the actual consumption for degree-day adjusted consumption of electric energy by such consumer for each billing period during the prior year (unless such consumption data is not reasonably ascertainable by the utility)."

FOR PURPOSES OF ANSWERING ITC RELATED QUESTIONS

C. Rejected by a State regulatory authority or nonregulated utility when it has issued written policies (or orders) declining to adopt this standard.

REGULATIONS APPLICABLE TO THE TOS STANDARD

Section 113(b)(4) of PURPA establishes the termination of service standard (TOS) for electric utilities, and section 303(b)(1) establishes the same standard for gas utilities, stating: "No electric (gas) utility may terminate electric (natural gas) service to any electric (gas) consumer except pursuant to procedures described in section 115(g)/304(a)."

Section 115(g)/304(a) state:

"The procedures for termination of service referred to in section 113 (d)(4)/303(b)(1) are procedures prescribed by the State regulatory authority (with respect to electric (gas) utilities for which it has ratemaking authority) or by the nonregulated utility which provide that:

(1) no electric (gas) service to an electric (gas) consumer may be terminated unless reasonable prior notice (including notice of rights and remedies) is given to such consumer and such consumer has a reasonable opportunity to dispute the reasons for such termination, and

(2) during any period when termination of service to an electric (gas) consumer would be especially dangerous to health, as determined by the State regulatory authority (with respect to an electric (gas) utility for which it has ratemaking authority) or nonregulated electric (gas) utility, and such consumer establishes that:

(Continued on next page)

FOR PURPOSES OF ANSWERING TOS RELATED QUESTIONS

The termination of service standard (TOS) has been:

A. Adopted by a State regulatory authority when such authority has:

1. prescribed specific procedures, in accordance with sections 115(g)/304(a) of PURPA;

2. ordered that a utility covered by the standard shall not terminate electric (gas) service to any electric (gas) consumer except pursuant to such procedures.

B. Adopted by a nonregulated utility when such nonregulated utility has:

1. prescribed specific procedures, in accordance with sections 115(g)/304(a) of PURPA;

2. issued a written policy that it shall not terminate electric (gas) service to any electric (gas) consumer except pursuant to such procedures.

C. Rejected by a State regulatory authority or nonregulated utility when it had issued written policies (or orders) stating that it has determined not to adopt the standard.

REGULATIONS APPLICABLE TO THE TOS STANDARD (CONTINUED)

(a) he is unable to pay for such service in accordance with the requirements of the utility's billing, or

(b) he is able to pay for such service but only in installments,

such service may not be terminated.

Such procedures shall take into account the need to include reasonable provisions for elderly and handicapped consumers."

REGULATIONS APPLICABLE TO THE ADV STANDARD

Section 113(b)(5) of PURPA establishes the advertising standard (ADV) for electric utilities, and section 303(b)(2) establishes the same standard for gas utilities, stating: "No electric (gas) utility may recover from any person other than the shareholders (or other owners) of such utility any direct or indirect expenditure by such utility for promotional or political advertising as defined in section 115(h)/304(b)."

Sections 115(h)/304(b) state:

"(1) For purposes of this section and section 113(b)(5)/303(b)(2):

(A) The term "advertising" means the commercial use, by an electric (gas) utility, of any media, including newspaper, printed matter, radio, and television, in order to transmit a message to a substantial number of members of the public or to such utility's electric (gas) consumers.

(B) The term "political advertising" means any advertising for the purpose of influencing public opinion with respect to legislative, administrative, or electoral matters, or with respect to any controversial issue of public importance.

(Continued on next page)

FOR THE PURPOSES OF ANSWERING ADV RELATED QUESTIONS

The advertising standard (ADV) has been:

A. Adopted by a State regulatory authority when such authority has issued a written policy (or order) that it will disallow (for ratemaking purposes) any direct or indirect expenditure by a utility covered by the standard for promotional or political advertising, as defined in accordance with section 115(h)/304(b).

B. Adopted by a nonregulated utility when such nonregulated utility had issued a written policy that it will not recover from any person other than the stockholders (or other owners) any direct or indirect expenditures for promotional or political advertising, as defined in accordance with section 115(h)/304(b).

C. Rejected by a State regulatory authority or nonregulatory utility when it has issued written policies (or orders) stating that it has determined not to adopt the standard.

REGULATIONS APPLICABLE TO THE ADV STANDARD (CONTINUED)

(C) The term "promotional advertising" means any advertising for the purpose of encouraging any person to select or use the service or additional service of an electric (gas) utility or the selection or installation of an appliance or equipment designed to use such utility's service.

(2) For the purposes of this subsection and section 113(b)(5)/303(b)(2), the terms "political advertising" and "promotional advertising" do not include:

(A) advertising which informs electric (natural gas) consumers how they can conserve energy (natural gas) or can reduce peak demand for electric (natural gas) energy.

(B) advertising required by law or regulation, including advertising required under part I of title II of the National Energy Conservation Policy Act.

(C) advertising regarding service interruptions, safety measures, or emergency conditions,

(D) advertising concerning employment opportunities with such utility.

(E) advertising which promotes the use of energy efficient appliances, equipment or services, or

(F) any explanation or justification of existing or proposed rate schedules, or notifications of hearings thereon.

END BLUE SECTION

WHITE SECTION

PURPA ANNUAL REPORT ON ELECTRIC AND GAS UTILITIES

SECTION II

PART I

General Information on State Regulatory Authority or Covered Nonregulated Utility

IDENTIFICATION DATA

1.1 State Regulatory Authority (or Covered Nonregulated Utility)

(a)Name

(b)Street

(c)City (d)State (e)Zip Code

1.2 Designated Point(s) of Contact for the Electric Utility Portion of this Report:

(a)Name	(f)Name
(b)Title	(g)Title
(c)City, State	(h)City, State
(d)Zip (e)Phone ( )	(i)Zip (j)Phone ( )

1.3 Designated point(s) of contact for the gas utility portion of this report: (If same as 1.2, enter "SAME".)

(a)Name	(f)Name
(b)Title	(g)Title
(c)City, State	(h)City, State
(d)Zip (e)Phone ( )	(i)Zip (j)Phone ( )

CERTIFICATION

I certify that I am the chairman of this State regulatory authority or the chief executive officer of this nonregulated utility or another commissioner or officer authorized to file an official report on behalf of this authority or utility. I further certify that the data presented in this report (Section II, Parts I through III and attachments) are true, accurate, and complete to the best of my knowledge, and I hereby authorize its release as an official report on behalf of this authority or utility for the purpose of complying with sections 116 and 309 of the Public Utility Regulatory Policies Act (P.L. 95-617).

1.4 Name 1.5 Title

1.6 Signature 1.7 Date

18 USC 1001 makes it a crime for any person knowingly and willfully to make to any Agency or Department of the United States any false, fictitious, or fraudulent statements as to any matter within his or her jurisdiction.

[THIS SHEET IS TO BE RETURNED]

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FOR ANSWERING 1.8 to 1.10:

Which of the following steps have you taken regarding the requirements of sections 121 and 122 of PURPA?

(If your consideration process for all of the standards was completed before November 9, 1978, check NA. Otherwise, check Yes or No.)

1.8 Established a written policy or order, consistent with section 121 of PURPA, that covers the consideration proceedings and provides for intervention, participation, and access to information.

☐ Yes ☐ No ☐ NA

1.9 Adopted a procedure for compensation to certain intervenors that is consistent with section 122(a)(2) of PURPA.

☐ Yes ☐ No ☐ NA

1.10 Provided an alternative means for providing adequate compensation to certain intervenors that is consistent with section 112(b) of PURPA.

☐ Yes ☐ No ☐ NA

[THIS SHEET IS TO BE RETURNED]

INSTRUCTIONS

I. On pages 30 and 31, column "a", list the covered utilities for which you have ratemaking authority; if none, write "NONE". (For nonregulated utilities, list name.)

For Electric Utilities: Answer question 1.11 on page 30.

For Gas Utilities: Answer question 1.12 on page 31.

II. In the case of utilities that sell both electricity and gas (for regulated and nonregulated utilities), list the utility twice; once in 1.11 and once in 1.12.

III. List utilities in alphabetical order and place an (I) for investor-owned, a (P) for publicly owned, or a (C) for cooperatively-owned after the utility name.

IV. In the space provided next to the utility name, indicate the average number of retail customers, for the year ending December 1983 by: residential class, commercial and industrial class, and all others.

V. In the space provided next to the utility name, indicate total consumption by retail consumers for the year ending December 1983, in GWHR or MMCF by: residential class, commercial and industrial class, and all others. If desired, the utility may answer on a 1983 calendar year or 1983 fiscal year basis. Please see General Instructions on page 4 for more information on this option.

VI. If more space is required, duplicate the form provided and renumber the lines accordingly (for example, E1 will become E16 and G1 will become G16).

IDENTIFICATION OF UTILITIES (CONTINUED)

1.11 Electric Utility Name (a)	(I) (P) (C)	Number of Retail Customers			Consumption (GWH)		
		Residential (b)	Commercial & Industrial (c)	Other (d)	Residential (e)	Commercial & Industrial (f)	Other (g)
(E1)							
(E2)							
(E3)							
(E4)							
(E5)							
(E6)							
(E7)							
(E8)							
(E9)							
(E10)							
(E11)							
(E12)							
(E13)							
(E14)							
(E15)							

[THIS SHEET IS TO BE RETURNED]

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IDENTIFICATION OF UTILITIES (CONTINUED)

1.12 Gas Utility Name (a)	(I) (P) (C)	Number of Retail Customers			Consumption (MMCF)		
		Residential (b)	Commercial & Industrial (c)	Other (d)	Residential (e)	Commercial & Industrial (f)	Other (g)
(G1)							
(G2)							
(G3)							
(G4)							
(G5)							
(G6)							
(G7)							
(G8)							
(G9)							
(G10)							
(G11)							
(G12)							
(G13)							
(G14)							
(G15)							

[THIS SHEET IS TO BE RETURNED]

ERA-16[illegible] (11-83)

PURPA ANNUAL REPORT ON ELECTRIC AND GAS UTILITIES
SECTION II
PART II
Questions Pertaining to each of
the Eleven Standards

INSTRUCTIONS

I. (1) For Electric Utilities: Duplicate the answer sheet on page 35. Prepare one sheet for each electric utility named on page 30.

(2) For Gas Utilities: Duplicate the answer sheet on page 36. Prepare one sheet for each gas utility named on page 31.

II. Enter the utility name in the space provided on the answer sheet. Prepare one answer sheet per utility. For utilities providing both electricity and gas service, you will have one answer sheet for the electric portion of the utility's business and one for the gas portion of the utility's business.

III. (1) For Electric Utilities: Answer all questions for each of the eleven standards.

(2) For Gas Utilities: Answer all questions for only the TOS and ADV standards.

Place all responses on the answer sheets under the abbreviation for that standard and corresponding to the question number.

IV. If the answer box on the answer sheet is shaded, do not answer that question. If instructed to skip a question, leave that answer box blank.

V. Include comments pertaining to a specific utility on the back of that utility's answer sheet. For example, if a ratemaking standard has been adopted, but is still being phased-in, a comment to that effect would be appreciated. General comments are encouraged and should be included on a separate sheet (with appropriate identification).

QUESTION 2.1

2.1 What was the status of the STANDARD as of December 31, 1983?

STATUS CODES

0 - Consideration process has not begun

1 - Hearing has been scheduled or review process has begun

2 - Consideration process has started but hearing has not been completed

3 - Hearing has been completed

4 - Official determination has been made regarding whether or not it is appropriate to adopt this standard to encourage conservation of electric energy, utility efficiency and equitable rates to consumers, but decision regarding adoption or rejection of this standard has not been made for this utility

5 - Standard has been adopted (i.e., put into effect) as defined in the PURPA regulations (pages 7-26)

6 - Standard has been rejected as defined in the PURPA regulations (pages 7-26)

7 - State law has mandated standard

8 - State law has prohibited standard

BEFORE CONTINUING TO ANSWER THIS REPORT READ THE FOLLOWING:

For each utility whose status code in Question 2.1 is:

STATUS CODES

0,1,2,3,8 - Do not complete remaining questions in Parts II or III.

5 - Complete all questions in Parts II and III.

4 or 6 - Answer only questions 2.2 through 2.5 in Part II. Answer all questions in Part III.

7 - Answer only questions 2.6 through 2.12 in Part II and all questions in Part III.

QUESTION 2.2

2.2 Have your proceedings and actions conformed to the requirements of Title I and/or Title III of PURPA for the STANDARD, as defined in the regulations applicable to each standard detailed in pages 7 through 26.

[Enter: Y (Yes)
N (No)]

QUESTIONS 2.3 through 2.5

In your consideration process, have you made written determination that it is (or is not) appropriate to adopt the STANDARD to carry out:

[Enter: Y (Yes it is appropriate);
N (No it is not appropriate;
O (Other, no written determination was made or no conclusions resulted from consideration process).]

2.3 Conservation of energy?
2.4 Optimization of efficiency?
2.5 Equitable rates?

QUESTION 2.6

2.6 Are all consumers in all classes covered by the STANDARD and billed under rate schedules which conform to the adopted or mandated STANDARD?

[Enter: Y (Yes), if Yes, Skip to Part III.
N (No), if No, answer 2.7 through 2.12.]

QUESTIONS 2.7 through 2.9

How many retail consumers who are covered by the STANDARD are billed under rate schedules which conform to the adopted or mandated STANDARD? Report the average number of consumers for the year ending December 1983 for the following "rate schedules":

2.7 Residential class?
2.8 Commercial and industrial class?
2.9 All others?

QUESTIONS 2.10 through 2.12

What were the sales (GWH) to retail consumers who are covered by the STANDARD and are billed under rate schedules that conform to the adopted or mandated STANDARD? Report for the year ending December 1983 for the following rate schedules:

2.10 Residential class?
2.11 Commercial and industrial class?
2.12 All others?

NOTE: If desired, the utility may answer on a 1983 calendar year or 1983 fiscal year basis. Please see General Instructions on page 4 for further information on this option.

ANSWER SHEET FOR PART II

ELECTRIC
UTILITY NAME _____

QUESTIONS	(a) COS	(b) DBR	(c) TOD	(d) SLR,	(e) INT	(f) LMT	(g) MM	(h) AAC	(i) ITC	(j) TOS	(k) ADV
2.1 (Status Code:0-8)											
2.2 (Y or N)											
2,3 (Y, N or O)											
2,4 (Y, N or O)											
2.5 (Y, N or O)											
2,6 (Y or N)											
2,7 (Number of Customers)											
2.8 (Number of Customers)											
2.9 (Number of Customers)											
2.10 (GWH)											
2.11 (GWH)											
2.12 (GWH)											

COS:Cost of service standard
DBR:Declining block rate standard
TOD:Time of day rates standard
SLR:Seasonal rates standard
INT:Interruptible rate standard
LMT:Load management technique standard
MM: Master metering standard
AAC:Automatic adjustment clause standard
ITC:Information to consumers standard
TOS:Termination of service standard
ADV:Advertising standard

[THIS SHEET IS TO BE DUPLICATED AND RETURNED]

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ANSWER SHEET FOR PART II

GAS
UTILITY Name _____

QUESTIONS	(j) TOS	(k) ADV
2.1 (Status) Code:0-8)		
2.2 (Y or N)		
2.3 (Y, N or O)		
2.4 (Y, N or O)		
2.5 (Y, N or O)		
2.6 (Y or N)		

TOS: Termination of Service Standard
ADV: Advertising Standard

[THIS SHEET IS TO BE DUPLICATED AND RETURNED]

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SECTION II
PART III
Standard Specific Questions

INSTRUCTIONS

I. Prepare duplicates of the answer sheet on page 44, as necessary, for each gas utility and electric utility named on pages 30 and 31.

II. Enter the name of each utility in the space provided on the answer sheet. If the utility provides both electric and gas services, prepare two answer sheets for the utility, one for each service.

III. Answer questions 3.1 through 3.34 for each electric utility. When answering questions for a gas utility, answer only questions 3.29 through 3.34.

IV. Include comments pertaining to a specific utility on the back of that utility's answer sheet. General comments are encouraged and should be included on a separate sheet.

QUESTIONS 3.1 through 3.5: COS Standard

- If you have not made a determination on the Cost Of Service standard, go on to question 3.6.

For Questions 3.1 through 3.5:

- If an official determination has been made concerning the Cost of Service standard, if the standard has been adopted or if it has been mandated (status codes 4,5, or 7 for question 2.1), does your standard address the methods described in 3.1 through 3.5?

[Enter: R (Methods are required by standard)
A (Methods are allowed by standard)
F (Methods are forbidden by standard)
NC (Methods are not covered by standard)]

- OR,
If you have REJECTED the Cost of Service standard (status code 6 for question 2.1), had you considered using the methods described in 3.1 through 3.5?

[Enter: Y (Methods were considered)
N (Methods were not considered)]

3.1 Methods that permit identification of customer demand and energy-related cost of service for each class of customer?

3.2 Methods that take into account the change in total costs resulting from adding capacity to meet peak demand?

3.3 Methods that take into account the change in total costs resulting from delivery of additional kWh?

3.4 Methods that permit the use of embedded cost data in setting rates?

3.5 Methods that permit the use of marginal cost data in setting rates?

QUESTIONS 3.6 through 3.7: DBR Standard

- If a determination has not been made concerning the Declining Block Rate standard, go on to question 3.8.

- If a determination has been made concerning the Declining Block Rate or if it has been mandated by state law (status codes 4,5,6 or 7 for Question 2.1), does your declining block rate standard, as adopted, address the following methods:

[Enter: R (Required by standard)
A (Allowed by standard)
F (Forbidden by standard)
NC (Not covered (addressed) by standard
NA (Not applicable, standard not adopted)]

3.6 The use of methods for determining the costs attributable to the energy component of a declining block rate?

3.7 Energy (i.e. kWh) charges that decline only to the extent that energy-related costs of service decline with increases in consumption?

QUESTIONS (CONTINUED)

QUESTIONS 3.8 through 3.11: TOD Standard

- If a determination has not been made concerning the Time-of-Day rate standard, go on to question 3.12.

For Questions 3.8 through 3.11:

- If an official determination has been made concerning the Time-of-Day rate standard, if the standard has been adopted, or if it has been mandated (status codes 4,5, or 7 for Question 2.1), does your standard address the methods described in 3.8 through 3.11?

  [Enter: R (Methods are allowed by standard)
  F (Methods are forbidden by standard)
  NC (Methods are not covered by standard)

- OR,
  If you have REJECTED the Time-of-Day rate standard, had you considered using the methods described in 3.8 through 3.11?

  [Enter: Y (Methods were considered)
  N (Methods were not considered)]

3.8 Methods for determining costs of providing electric service at different times of day?

3.9 Methods that take into account the change in total costs resulting from adding capacity to meet peak demand?

3.10 Methods that take into account the change in total costs resulting from delivery of additional kWh?

3.11 Methods that permit the determination of the cost-effectiveness of time-of-day rates?

QUESTION 3.12: SLR Standard

- If a determination has not been made concerning the Seasonal Rate standard, go on to question 3.13.

- If a determination has been made concerning the Seasonal Rate standard, or if it has been mandated by state law, answer the following:

  [Enter: R (Required by standard)
  A (Allowed by standard)
  F (Forbidden by standard)
  NC (Not covered (addressed) by standard)
  NA (Not applicable, standard not adopted)]

3.12 Does the Seasonal Rate standard, as adopted, address the use of methods prescribed by you for determining cost incurrence by season of the year for each class of customer?

QUESTIONS 3.13 through 3.17: INT Standard

- If a determination has not been made concerning the Interruptible Rate standard, go on to 3.18.

For Questions 3.13 and 3.14:

- If an official determination has been made concerning the Interruptible Rate Standard, if the standard has been adopted, or if it has been mandated (status codes 4,5, or 7 for Question 2.1), does your standard address the methods described in 3.13 through 3.14 for determining costs of providing interruptible electrical power service to the industrial and commercial class:

[Enter:
R (Methods are required by standard)
A (Methods are allowed by standard)
F (Methods are forbidden by standard)
NC (Methods are not covered by standard)]

• OR,
If you have REJECTED the Interruptible Rate standard (status code 6 for question 2.1), had you considered using the methods described in 3.13 and 3.14?

[Enter: Y (Methods were considered)
N (Methods were not considered)]

3.13 Methods that take into account the change in total costs resulting from adding capacity to meet peak demand?

3.14 Methods that take into account the change in total costs resulting from the delivery of additional kWh?

For rate schedules in effect as of December 31, 1983 and that complied with your interruptible rates standard:

3.15 How many commercial and industrial consumers were eligible to be billed under interruptible rates? Report the average number of consumers for the month ending December 1983.

3.16 How many commercial and industrial consumers were actually billed under interruptible rates? Report the average number of consumers for the month ending December 1983.

3.17 What is the number of megawatts of interruptible load contracted for from such interruptible consumers? Report as of December 31, 1983.

QUESTIONS 3.18 through 3.21 LMT Standard

• If a determination has not been made concerning the Load Management Technique standard, go on to 3.22.

For Questions 3.18 through 3.21:

• If an official determination has been made concerning the Load Management Technique standard, if the standard has been adopted, or if it has been mandated (status codes 4,5, or 7 for Question 2.1) does your standard address the methods described in 3.18 through 3.21?

[Enter: R (Methods are required by standard)
A (Methods are allowed by standard)
F (Methods are forbidden by standard)
NC (Methods are not covered by standard)]

• OR,
If you have REJECTED the Load Management Technique standard (status code 6 for Question 2.1), had you considered using the methods described in 3.18 through 3.21?

[Enter: Y (Methods were considered)
N (Methods were not considered)]

3.18 Methods that take into account the change in total costs resulting from adding capacity to meet peak demand?

3.19 Methods that permit a determination of a likely reduction in maximum kilowatt demand on the electric utility from utilization of available load management techniques?

3.20 Methods that permit a determination of likely long run cost savings to the utility of reductions in maximum KW demand?

3.21 Methods that permit a determination of whether an available technique is practicable, cost-effective, reliable, and provides useful energy or capacity management advantages to the electric utility?

QUESTIONS 3.22 through 3.23: MM Standard

- If a determination has not been made concerning the Master Metering standard, go on to question 3.24.

- If a determination has been made concerning the Master Metering standard or if it has been mandated by state law, does your Master Metering standard require specific criteria for separate metering, including:

[Enter: Y (Criteria required)
N (Criteria not required)
NA (Not applicable, standard not adopted)]

3.22 The occupant of each unit having control over a portion of the electric energy used in such unit?

3.23 The long-run benefits to the electric consumer in the building exceeding the costs of purchasing and installing separate meters?

QUESTIONS 3.24 through 3.25: AAC Standard

- If a determination has not been made concerning the Automatic Adjustment Clause standard, go on to 3.26.

- If a determination has been made concerning the Automatic Adjustment Clause or if it has been mandated by state law, does the Automatic Adjustment Clauses standard, as adopted, require the following or, if the standard was not adopted, did you consider the following in your hearing process:

[Enter: Y (Yes)
N (No)]

3.24 Evidentiary hearings to be held not less often than every 4 years to determine whether each clause covered by the standard provides incentives for efficient use of resources by the electric utility?

3.25 Is your review of each covered clause not less often than every 2 years to ensure maximum economies in operations and purchases that affect automatic adjustment clause rates?

QUESTIONS 3.26 through 3.28: ITC Standard

- If a determination has not been made concerning the Information to Consumers standard, go on to 3.29.

- If an official determination has been made or if the standard was mandated by state law, does the Information to Consumers standard, as adopted, require the following:

QUESTIONS (CONTINUED)

[Enter: Y (Yes)
N (No)
NA (Not applicable, standard not adopted)]

3.26 Transmittal of information to consumers of existing rate schedule and any rate schedule applied for as specified in PURPA?

3.27 Transmittal of a summary of the existing rate schedules applicable to each of the major consumer classes for which there is a separate rate to consumers, not less frequently than once each year?

3.28 Transmittal of the identification of any classes whose rates are not summarized, not less frequently than once each year?

QUESTIONS 3.29 through 3.32: TOS Standard

- If a determination has not been made concerning the Termination of Service standard, go on to question 3.33.

- If an offical determination has been made concerning the Termination of Service standard or if it is mandated by state law, does the Termination of Service standard, as adopted, require the following:

[Enter: Y (Yes)
N (No)
NA (Not applicable, standard not adopted)]

3.29 Prior notice of termination?

3.30 Prior notice to include third party notification, or other special procedures for notifying elderly and handicapped consumers?

3.31 A notice of rights and remedies to be provided to the consumer with all termination notices?

3.32 Service not to be terminated when:
(a) Consumer's health is in danger and;
(b) he is unable to pay in accordance with the utility's billing practices and;
(c) he has established that he can only afford to pay in installments?

QUESTIONS 3.33 through 3.34: ADV Standard

- Answer questions 3.33 and 3.34 if an official determination has been made concerning the Advertising Standard or if it has been mandated by state law.

[Enter: Y (Yes)
N (No)
NA (Not applicable, standard not adopted)]

3.33 Definitions of political and promotional advertising which conform to those given in sections 115(h)(1) and (2) or 304(b)(1) and (2) of PURPA (see pages 25 and 26)?

3.34 Prohibitions on the recovery of political and promotional advertising expenses from rate-payers or any persons other than shareholdes (or other owners)?

ANSWER SHEET FOR PART III

ELECTRIC UTILITY NAME _____
OR
GAS UTILITY NAME _____

(If answering questions for an electric utility, answer questions 3.1 through 3.34; If answering questions for a gas utility, answer only questions 3.29 through 3.34.)

COS

3.1	
3.2	
3.3	
3.4	
3.5	

SLR

3.12	

INT

3.13	
3.14	
3.15	
3.16	
3.17	

MM

3.22	
3.23	

DBR

3.6	
3.7	

AAC

3.24	
3.25	

TOS

3.29	
3.30	
3.31	
3.32	

TOD

3.8	
3.9	
3.10	
3.11	

LMT

3.18	
3.19	
3.20	
3.21	

ITC

3.26	
3.27	
3.28	

ADV

3.33	
3.34	

COS:Cost of service standard
DBR:Declining block rate standard
TOD:Time of day rates standard
SLR:Seasonal rates standard
INT:Interruptible rate standard
LMT:Load management technique standard
MM: Master metering standard
AAC:Automatic adjustment clause standard
ITC:Information to consumers standard
TOS:Termination of service standard
ADV:Advertising standard

[THIS SHEET IS TO BE DUPLICATED AND RETURNED]

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[FR Doc. 83-34769 Filed 12-30-83; 8:45 am]
BILLING CODE 6450-01-C

RETURN THE FOLLOWING PAGES:

27
28
30
31
35 (duplicated for each utility)
36 (duplicated for each utility)
43 (duplicated for each utility)

RETURN THEM TO:

PURPA Annual Report on Electric and Gas Utilities
Coal and Electricity Division
Economic Regulatory Administration
Department of Energy, Forrestal Building
1000 Independence Avenue, S.W., Room GA-033
Washington, D.C. 20585

RETURN THEM BY:

February 28, 1984

IF YOU HAVE ANY QUESTIONS CALL:

Steven Mintz
(202) 252-1657

ERA-166 (11-83)

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

12 CFR Part 5

[Docket No. 83-59]

Rules, Policies and Procedures for Corporate Activities; Rules of General Applicability, and Employee Stock Option and Stock Purchase Plans

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Final rule.

SUMMARY: This final rule eliminates the requirement that the Office of the Comptroller of the Currency (Office) approve employee stock option and stock purchase plans. That regulatory requirement is removed because it is burdensome and unnecessary. This final rule will benefit national banks by reducing costs and burdens. Additionally, a clarifying amendment is made to 12 CFR 5.2(b).

EFFECTIVE DATE: February 2, 1984.

FOR FURTHER INFORMATION CONTACT: Randall J. Miller, Manager, Policy, Bank Organization and Structure (202) 447-1184; Robyn Ide, Paralegal Specialist, Securities and Corporate Practices Division (202) 447-1954, Office of the Comptroller of the Currency, 490 L'Enfant Plaza, East, SW., Washington, DC 20219.

SUPPLEMENTARY INFORMATION:

Background

The Office's Corporate Activities Review and Evaluation (CARE) Program, described in 45 FR 68586, dated October 15, 1980, involves a comprehensive review of the Office's rules, policies, procedures and forms governing filings for corporate expansion and structural changes for national banks. The goals of the CARE Program are to minimize costs and burdens on applicants, the agency and the public; to provide a better understanding of policies; to modify or eliminate rules, policies, procedures and forms which are unnecessary or lead to inefficiencies; and to remove barriers to competition.

As part of that ongoing program, on September 9, 1983, the Office issued for public comment a notice of proposed rulemaking (48 FR 40735) that proposed elimination of the requirement that national banks receive prior approval of this Office for employee stock option and stock purchase plans ("employee compensation plan") (12 CFR 5.51). In proposing elimination of the rule, this Office requested comments on whether its prior approval of stock option and stock purchase plans was necessary, in light of the safeguards afforded under existing laws and through the bank examination process. The proposal cited, among other things, protection provided by the tax laws governing employee compensation plans, corporate procedures requiring shareholder approval of plans, the fiduciary obligations of bank directors to bank shareholders and the disclosure obligations to such shareholders under the federal securities laws. As a general matter, employee compensation plans must be approved by shareholders after receiving adequate disclosure of the terms of the plan and all material facts relating to such plan.

Summary of Comments

A total of 11 comments were received concerning the notice of proposed rulemaking. Ten comments were from national banks and one was from a bank trade association. All commenters supported the proposal and raised no additional considerations.

Recision of 12 CFR 5.51

After careful consideration of the comments received in response to the proposal, the Office has determined to rescind 12 CFR 5.51, as proposed. It believes that existing legal requirements applicable to employee compensation plans currently serve to protect shareholders against potential abuses. In addition, the bank examination process is designed to promote a high degree of compliance by banks, bank officers and directors with applicable laws and regulations. Accordingly, we believe it unnecessary to require national banks to receive the prior approval of this Office before adopting employee compensation plans.

Clarifying Amendment to Rules of General Applicability (12 CFR 5.2(b))

The clarifying amendment to § 5.2(b) was not addressed in the notice of proposed rulemaking pertaining to employee compensation plans. The amendment only clarifies a matter of office procedure and, therefore, is not subject to the notice and comment requirements of 5 U.S.C. 553.

Section 5.2(b) currently states:

> The Office reserves the right to adopt different procedures when it deems it necessary and reasonable in acting upon any particular application or filing.

The quoted language in § 5.2(b) applies to all the procedures set forth in 12 CFR Part 5. However, that language, when read in conjunction with § 5.2(a), could possibly be misinterpreted as applying to only those procedures set forth in Subpart A of Part 5. To remove any ambiguity, § 5.2(b) is amended to read:

> The Office reserves the right to adopt procedures different from those described in this Part when it deems such action appropriate in acting on any particular application or filing.

Regulatory Flexibility Analysis

Pursuant to section 605(b) of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Secretary of the Treasury certifies that the elimination of 12 CFR 5.51 will not have a significant economic impact on a substantial number of small entities.

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The Office has determined that this final rule is not a "major rule" and, therefore, does not require a regulatory flexibility analysis.

List of Subjects in 12 CFR Part 5

National banks, Employee stock option plan, Employee stock purchase plan.

Authority and Issuance

PART 5—[AMENDED]

For the reasons set out in the preamble, 12 CFR Part 5 is amended as follows:

1. The authority citation for Part 5—Rules, Policies, and Procedures for Corporate Activities reads as follows:

Authority: 12 U.S.C. 1 *et seq.*

2. Section 5.2(b) is revised to read as follows:

§ 5.2 Rules of general applicability.

* * * * *

(b) The Office reserves the right to adopt procedures different from those described in this Part (5) when it deems such action appropriate in acting on any particular application or filing.

* * * * *

§ 5.51 [Removed]

3. Section 5.51 is removed.

Dated: December 9, 1983.

C. T. Conover

Comptroller of the Currency.

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