

(2) Any person filing a petition to intervene, notice of intervention, or protest in a proceeding initiated by a certificate application under this subpart must:

(i) Comply with § 157.10; and
 (ii) Provide in its filing a statement of all genuine issues of fact raised by such person, identifying those alleged to be material to a determination of whether the applicant's requested certificate is or will be required by the present or future public convenience and necessity.

(c) *Transportation for others.* If the application requests a certificate to provide transportation service under this subpart, the applicant must state that it has filed for and will accept a blanket transportation certificate under § 284.221 of this chapter, identify the docket number assigned to that filing, and state that it will comply with the conditions in subpart A of part 284.

[Order 436, 50 FR 42488, Oct. 18, 1985; 50 FR 45908, Nov. 5, 1985, as amended at 50 FR 52274, Dec. 23, 1985; Order 486, 52 FR 47910, Dec. 17, 1987; Order 493, 53 FR 15030, Apr. 27, 1988; Order 603, 64 FR 26606, May 14, 1999]

§ 157.103 Terms and conditions; other requirements.

(a) *Non-exclusivity of certificates issued under this subpart.* A certificate issued pursuant to this subpart must be non-exclusive and must provide that it in no way prejudices any application for any other certificate under the Natural Gas Act or for authorization under the Natural Gas Policy Act.

(b) *Certificate limited to qualifying facilities and new service.* A certificate issued under this subpart provides only for authorization to construct or acquire and operate qualifying facilities and to provide new service.

(c) *Allocation of joint costs.* To the extent the service proposed will utilize existing facilities, the cost of those facilities will be allocated among the services provided under this subpart and other services provided.

(d) *Rates—(1) General.* Any rate filed for new service under this subpart must comply with the conditions of this paragraph.

(2) *Rate objectives.* Maximum rates for both peak and off-peak periods must be designed, to the maximum extent pos-

sible, to achieve the following three objectives:

(i) Rates for service during peak periods should ration capacity;

(ii) Rates for firm service during off-peak periods and for interruptible service during all periods should maximize through-put; and

(iii) The certificate holder's revenue requirement allocated to firm and interruptible services should be attained by providing the projected units of service in peak and off-peak periods at the maximum rate for each service.

(3) *Volumetric rates.* Except for a reservation charge for firm transportation service consistent with the conditions in § 284.8(d), any rate filed for new service must be a one-part rate that recovers the costs allocated to the new service to the extent that the projected units of that service are actually purchased and may not include a demand charge, a minimum bill or minimum take provision or any other provision that has the effect of guaranteeing revenue.

(4) *Based on projected units of service.* Any rate filed for new service must be designed to recover costs on the basis of projected units of service. The units projected for the new service in the initial rates filed under this subpart may be increased in a subsequent rate filing but may not be decreased.

(5) *Differentiation due to time and distance.* Any rate filed for new service must reasonably reflect any material variation in the cost of providing the service due to:

(i) Whether the new service is provided during a peak or an off-peak period; and

(ii) The distance over which the new service is provided.

(6) *Cost basis for rates.* (i) Any maximum rate filed for new service must be designed to recover, on a unit basis, solely those costs which are properly allocated to that service.

(ii) Any minimum rate for new service must be based on the average variable costs which are properly allocated to that service.

(7) *Rate flexibility.* (i) Any rate schedule filed for new service must state a maximum rate and a minimum rate.

(ii) The certificate holder may charge an individual customer for new service

any rate that is neither greater than the maximum rate nor less than the minimum rate on file for that service.

(iii) The certificate holder may not file a revised or new rate designed to recover costs not recovered under rates previously in effect.

(iv) If, during any billing period, a certificate holder charges a rate or collects a reservation fee that is less than the maximum rate or fee that could be charged, the certificate holder must, within 45 days of the close of the billing period, file a report with the Commission identifying:

(A) The maximum rate or fee and the rate or fee actually charged during the billing period;

(B) The customer; and

(C) Any corporate affiliation between the customer and the certificate holder.

(8) Prohibitions against cost shifting. No costs originally allocated to a new service may subsequently be allocated to any other services without a filing under subpart D of part 154 and a determination by the Commission that the costs sought to be reallocated are in fact being incurred for the benefit of the other services.

(e) *No revenue guarantees for new sales service.* No demand charge, reservation fee, minimum bill provision, minimum take provision, or any other provision that has effect of guaranteeing revenue may be imposed for firm or interruptible sales service provided under this subpart.

(f) *Conditional pre-granted abandonment authority.* (1) Subject to paragraph (f)(2) and (f)(3) of this section, if requested by the applicant in its application, any order issuing a certificate under this subpart must provide conditional pre-granted authority to abandon the proposed new service and qualifying facilities at the expiration of the contracts underlying the new service.

(2) At least forty-five days prior to the expiration of any contractual agreement with a customer to provide new service, a certificate holder that intends to abandon any part of the new service upon expiration of the contractual agreement for that service must provide the customer and the Commission with written notice of the proposed abandonment.

(3) A customer receiving notice of a proposed abandonment of new service to it may file a protest under §157.106 of this subpart.

(g) *Flexible receipt point authority.* (1) A certificate holder authorized to transport gas under a certificate issued pursuant to this subpart may at the request of the shipper and without prior notice:

(i) Reduce or discontinue receipts of natural gas at a particular point from a supplier, and

(ii) Commence or increase receipts at a particular point from that supplier or any other supplier. The total natural gas volumes received by the interstate pipeline following any such reassignment must not exceed the total volume of natural gas that the certificate holder is authorized under the certificate issued pursuant to this subpart to transport on behalf of the shipper.

(2) The receipt points to which natural gas volumes may be reassigned under this paragraph include eligible facilities under §157.208 of this part which are authorized to be constructed and operated pursuant to a certificate issued under subpart F of this part.

(h) *Flexible delivery point authority.* (1) A certificate holder authorized to transport gas under a certificate issued pursuant to this subpart may at the request of the shipper and without prior notice:

(i) Reduce or discontinue deliveries of natural gas to a particular delivery point; and

(ii) Commence or increase deliveries to a particular delivery point.

(2) The total natural gas volumes delivered by the certificate holder following any such reassignment must not exceed the total amount of natural gas that the certificate holder is authorized under the certificate issued pursuant to this section to transport on behalf of the shipper.

(3) The delivery points to which natural gas volumes may be reassigned under this paragraph include facilities authorized to be constructed and operated pursuant to a certificate issued under subpart F of this part.

(i) *Environmental compliance.* Any certificate issued under this subpart is subject to the terms and conditions of §157.206(b) of this chapter.

(j) *Commencement of new service.* Any authorized construction, extension, or acquisition of qualifying facilities must be completed and in actual operation by the applicant and any authorized operation, service, or sale must be actually undertaken and regularly performed by the applicant (within a period of time to be specified by the Commission in each order) from the issue date of the order issuing the certificate. The certificate holder may apply to the Director of the Office of Pipeline Regulation for an extension of this deadline.

(k) Applications filed under this section are subject to the landowner notification requirements described in § 157.6(d).

[Order 436, 50 FR 42488, Oct. 18, 1985, as amended at 61 FR 13421, Mar. 27, 1996; Order 603, 64 FR 26606, May 14, 1999; Order 603-A, 64 FR 54536, Oct. 7, 1999; Order 609, 64 FR 57391, Oct. 25, 1999]

§ 157.104 Hearings.

(a) *General.* The Commission will schedule each application for public hearing at the earliest possible date giving due consideration to statutory requirements and other matters pending, with notice thereof as provided by § 157.9 and § 385.2009 of this chapter.

(b) *Shortened procedure.* If no protest or petition to intervene raises a genuine issue of material fact, the Commission may upon request of the applicant dispose of an application in accordance with the provisions of § 385.802 of this chapter.

(c) *Presumption.* If an application complies fully with the requirements of § 157.102 and § 157.103, it is presumed, subject to rebuttal that:

(1) The applicant is qualified to perform all the activities for which certificate authorization is requested;

(2) The applicant is willing and able to perform acts and provide service, as proposed, and to comply with the Natural Gas Act and any applicable regulations thereunder; and

(3) The proposed new service is or will be required by the present or future public convenience and necessity.

§ 157.105 Issuance of certificate.

A certificate requested under this subpart will be issued if:

(a) The application for the certificate complies fully with §§ 157.102 and 157.103; and

(b) The presumptions established under § 157.104 are not rebutted.

§ 157.106 Protests to abandonment of new service.

(a) *Notice by certificate holder under § 157.103(f).* Any authority pre-granted to a certificate holder to abandon any new service or qualifying facilities authorized by a certificate issued under this subpart upon the expiration of any contract for such new service, is conditional and subject to protest by any customer to which the new service is provided.

(b) *Protest procedure.* (1) If a new service customer received notice of a proposed abandonment from a certificate holder in accordance with § 157.103(f), the customer may, within 30 days prior to such expiration date, file a petition under § 385.207 of this chapter to protest the abandonment and request the Commission to direct the certificate holder to continue the new service in accordance with the expired contractual agreement.

(2) The Commission may require the certificate holder to continue to provide the new service described in the abandonment notice under § 157.103(f) where the Commission determines that:

(i) Continuation of the new service is necessary because the customer is unable, after having made all reasonable efforts, to arrange for alternative service, and

(ii) The customer will pay the rate on file for the new service.

Subpart F—Interstate Pipeline Blanket Certificates and Authorization Under Section 7 of the Natural Gas Act for Certain Transactions and Abandonment

§ 157.201 Applicability.

(a) *Scope.* This subpart establishes a procedure whereby an interstate pipeline may obtain a blanket certificate authorizing certain construction and