

**Subpart B—Annual Charges**

382.201 Annual charges under Parts II and III of the Federal Power Act and related statutes.

382.202 Annual charges under the Natural Gas Act and Natural Gas Policy Act of 1978 and related statutes.

382.203 Annual charges under the Interstate Commerce Act.

AUTHORITY: 5 U.S.C. 551-557; 15 U.S.C. 717-717w, 3301-3432; 16 U.S.C. 791a-825r, 2601-2645; 42 U.S.C. 7101-7352; 49 U.S.C. 60502; 49 App. U.S.C. 1-85.

SOURCE: Order 472, 52 FR 21292, June 5, 1987, unless otherwise noted.

**Subpart A—General Provisions****§ 382.101 Purpose.**

The purpose of this part is to establish procedures for calculating and assessing annual charges to reimburse the United States for all of the costs incurred by the Commission, other than costs incurred in administering Part I of the Federal Power Act and costs recovered through the Commission's filing fees.

**§ 382.102 Definitions.**

For the purpose of this part:

(a) *Natural gas pipeline company* means any person:

(1) Engaged in natural gas sales for resale or natural gas transportation subject to the jurisdiction of the Commission under the Natural Gas Act whose sales for resale and transportation exceed 200,000 Mcf at 14.73 psi (60°F) in any of the three calendar years immediately preceding the fiscal year for which the Commission is assessing annual charges; and

(2) Not engaged solely in "first sales" of natural gas as that term is defined in section 2(21) of the Natural Gas Policy Act of 1978; and

(3) To whom the Commission has not issued a Natural Gas Act Section 7(f) declaration; and

(4) Not holding a limited jurisdiction certificate.

(b) *Public utility* means any person who owns or operates facilities subject to the jurisdiction of the Commission under Parts II and III of the Federal Power Act, and who has rate schedule(s) on file with the Commission and who is not a "qualifying small power

producer" or a "qualifying cogenerator", as those terms are defined in section 3 of the Federal Power Act, or the United States or a state, or any political subdivision of the United States or a state, or any agency, authority, or instrumentality of the United States, a state, political subdivision of the United States, or political subdivision of a state.

(c) *Oil pipeline company* means any person engaged in the transportation of crude oil and petroleum products subject to the Commission's jurisdiction under the Interstate Commerce Act with annual operating revenues greater than \$350,000 in any of the three calendar years immediately preceding the fiscal year for which the Commission is assessing annual charges.

(d) *Natural gas regulatory program* is the Commission's regulation of the natural gas industry under the Natural Gas Act; Natural Gas Policy Act of 1978; Alaska Natural Gas Transportation Act; Public Utility Regulatory Policies Act; Department of Energy Organization Act; Outer Continental Shelf Lands Act; Energy Security Act; Regulatory Flexibility Act; Crude Oil Windfall Profit Tax Act; National Environmental Policy Act; National Historic Preservation Act.

(e) *Electric regulatory program* is the Commission's regulation of the electric industry under Parts II and III of the Federal Power Act; Public Utility Regulatory Policies Act; Powerplant and Industrial Fuel Use Act; Department of Energy Organization Act; Energy Security Act; Regulatory Flexibility Act; Pacific Northwest Electric Power Planning and Conservation Act; Flood Control and River and Harbor Acts; Bonneville Project Act; Federal Columbia River Transmission Act; Reclamation Project Act; Nuclear Waste Policy Act; National Environmental Policy Act; and the Public Utility Holding Company Act.

(f) *Oil regulatory program* is the Commission's regulation of the oil pipeline industry under the Interstate Commerce Act; Department of Energy Organization Act; Regulatory Flexibility Act; Outer Continental Shelf Lands Act; and the Crude Oil Windfall Profit Tax Act.

(g) *Person* means an individual, partnership, corporation, association, joint stock company, public trust, or organized group of persons, whether incorporated or not.

(h) *Long-term firm sales and transmission activities* means the portion of the Commission's electric regulatory program devoted to the regulation of long-term firm sales and transmission.

(1) *Long-term firm sales* are the jurisdictional sales of capacity and energy under contracts that do not anticipate service interruptions, and are of five years or more duration. The capacity and energy must be available to a resale customer at all times during the period covered by a commitment, even under adverse conditions. This includes sales supplying the full requirements or partial requirements of a customer, and sales of energy from unit or system capacity of a long-term duration (five years or more) under contracts that do not anticipate service interruptions when capacity is operationally available. These sales are those reported in the FERC Form No. 1 in Account 447 as Sales-for-Resale transactions with statistical classifications of RQ, LF or LU or sales determined on a basis consistent with FERC Form No. 1 reporting for those public utilities exempt from § 141.1 of this chapter.

(2) *Long-term firm transmission* is jurisdictional transmission of capacity and energy under contracts that do not anticipate service interruptions, and are of one year or more duration. This transmission is that reported in the FERC Form No. 1 in Account 456 as Transmission for Others transactions with the statistical classification of LF or transmission for others determined on a basis consistent with FERC Form No. 1 reporting for those public utilities exempt from § 141.1 of this chapter. All MWhs attributable to sales and transmission transactions are to be reported in their respective accounts on the FERC Form No. 1 irrespective of the method of billing.

(i) *Short-term sales and transmission and exchange activities* means the portion of the Commission's electric regulatory program consisting of the regulation of all jurisdictional sales, exchange and transmission of capacity and energy except those described in

paragraph (h) of this section. This includes exchange delivered as reported in the FERC Form No. 1 in Account 555 as Gross Exchange Delivered transactions with the statistical classification of EX or gross exchange delivered determined on a basis consistent with FERC Form No. 1 reporting for those public utilities exempt from § 141.1 of this chapter. All MWhs attributable to sales and transmission transactions are to be reported in their respective accounts in the FERC Form No. 1 irrespective of the method of billing.

(j) *Long-term firm sales and transmission megawatt-hours* means the number of megawatt-hours of electrical energy associated with the transactions described in paragraph (h) of this section, and the rates, charges, terms and conditions of which are regulated by the Commission.

(k) *Short-term sales and transmission and exchange megawatt-hours* means the number of megawatt-hours of electrical energy associated with the transactions described in paragraph (i) of this section, the rates, charges, terms and conditions of which are regulated by the Commission.

(l) *Operating revenues* means the monies:

(1) Received by an oil pipeline company for providing interstate common carrier services regulated by the Commission, and

(2) Included in FERC Account No. 200, 210, or 220 in FERC Annual Report Form No. 6, page 301, lines 1, 2 and 3, column d, under part 352 of the Commission's regulations.

(m) *Fiscal year* means the twelve-month period that begins on the first day of October and ends on the last day of September.

(n) *Preceding calendar year* means the twelve-month period that begins on the first day of January and ends the last day of December and immediately precedes the end of the fiscal year for which the Commission is assessing annual charges.

(o) *Adjusted costs of administration* means the difference between the estimated costs of administering a regulatory program for each fiscal year adjusted to reflect any overcollection or undercollection of cost attributable to that regulatory program in the annual

charge assessment for the preceding fiscal year, and the estimated amount of filing fees collected during that fiscal year under the provisions of parts 346 and 381 of the Commission's regulations for activities that relate to that regulatory program.

(p) *Power Marketing Agencies* means the Bonneville Power Administration, the Alaska Power Administration, the Southeastern Power Administration, the Southwestern Power Administration, and the Western Area Power Administration.

[Order 472, 52 FR 21292, June 5, 1987, as amended by Order 472-B, 52 FR 36022, Sept. 25, 1987; Order 529, 55 FR 47321, Nov. 13, 1990; Order 575, 60 FR 4859, Jan. 25, 1995; Order 583, 60 FR 53117, Oct. 12, 1995]

#### § 382.103 Payment.

(a) Annual charges assessed under this part must be paid within 45 days of the issuance of the bill by the Commission, unless a petition for waiver has been filed under § 382.105 of this part.

(b) Payment must be made by check, draft, or money order, payable to the United States Treasury.

(c) If payment is not made within 45 days of issuance of a bill, interest will be assessed. Interest will be computed in accordance with § 154.501(d) of this chapter, from the date on which the bill becomes delinquent.

[Order 472, 52 FR 21292, June 5, 1987, as amended at 61 FR 13421, Mar. 27, 1996]

#### § 382.104 Enforcement.

The Commission may refuse to process any petition, application, or other filing submitted by or on the behalf of any person that does not pay the annual charge assessed when due, or may take any other appropriate action permitted by law.

#### § 382.105 Waiver.

(a) *Filing of petition.* Any annual charges bill recipient may submit a petition for waiver of the regulations in this part. An original and two copies of a petition for waiver must include evidence, such as a financial statement, clearly showing either that the petitioner does not have the money to pay all or part of the annual charge, or, if the petitioner does pay the annual charge, that the petitioner will be

placed in financial distress or emergency. Petitions for waiver must be filed with the Office of the Secretary of the Commission within 15 days of issuance of the bill.

(b) *Decision on petition.* The Commission or its designee will review the petition for waiver and then will notify the applicant of its grant or denial, in whole or in part. If the petition is denied in whole or in part, the annual charge becomes due 30 days from the date of notification of the denial.

#### § 382.106 Accounting for annual charges paid under part 382.

(a) Any natural gas pipeline company subject to the provisions of this part must account for annual charges paid by charging the account to Account No. 928, Regulatory Commission Expenses, of the Commission's Uniform System of Accounts.

(b) Any public utility subject to the provisions of this part must account for annual charges paid by charging the amount to Account No. 928, Regulatory Commission Expenses, of the Commission's Uniform System Accounts.

(c) Any oil pipeline company subject to the provisions of this part must account for annual charges paid by charging the amount to Account No. 510, Supplies and Expenses, of the Commission's Uniform System of Accounts.

[Order 472, 52 FR 21292, June 5, 1987, as amended by Order 472-B, 52 FR 36022, Sept. 25, 1987]

### Subpart B—Annual Charges

#### § 382.201 Annual charges under Parts II and III of the Federal Power Act and related statutes.

(a) *Determination of costs to be assessed against public utilities.* The adjusted costs of administration of the electric regulatory program, excluding the costs of regulating the Power Marketing Agencies and any electrical programs for which separate application fees are collected, will be apportioned between long-term firm sales and transmission activities and short-term sales and transmission and exchange activities in proportion to the total staff time dedicated to each. The amount apportioned to long-term firm