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UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

18 CFR Part 157

(Docket No. RM06-7-002; Order No. 686-B)

Revisions to the Blanket Certificate Regulations and Clarification Regarding Rates

(Issued September 20, 2007)

AGENCY: Federal Energy Regulatory Commission.

ACTION: Order on Rehearing.

SUMMARY: On June 22, 2007, the Commission issued an Order on Rehearing and Clarification in response to motions seeking rehearing and clarification of an October 19, 2006 Final Rule. The Final Rule expanded the scope and scale of activities that may be undertaken pursuant to blanket certificate authority and clarified Commission rate policy. The revised regulations allow interstate natural gas pipelines to employ the streamlined blanket certificate procedures for larger projects and for a wider variety of projects, thereby increasing efficiencies, and decreasing the time and cost associated with the construction and maintenance of the nation's natural gas infrastructure. This order grants a request for rehearing of the June 22, 2007 Order.

EFFECTIVE DATE: The modifications made in this request for rehearing will become effective [insert date 30 days after publication in the **FEDERAL REGISTER**].

Docket No. RM06-7-002

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SUPPLEMENTARY INFORMATION:

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Sudeen G. Kelly, Marc Spitzer,
Philip D. Moeller, and Jon Wellinghoff.

Revisions to the Blanket Certificate Regulations
and Clarification Regarding Rates

Docket No. RM06-7-002

ORDER ON REHEARING

(Issued September 20, 2007)

I. Introduction

1. On October 19, 2006, the Federal Energy Regulatory Commission (Commission) issued a Final Rule in Order No. 686¹ amending Part 157, Subpart F, of its regulations to expand the scope and scale of activities that may be undertaken pursuant to blanket certificate authority by (1) broadening the types of natural gas projects permitted under blanket certificate authority to include certain mainline, storage, and liquefied natural gas (LNG) and synthetic gas pipeline facilities, and (2) increasing the blanket certificate project cost limits from \$8,200,000 to \$9,600,000 for automatic authorization projects

¹ Order No. 686, Revisions to the Blanket Certificate Regulations and Clarification Regarding Rates, 71 FR 63680 (October 31, 2006), FERC Stats & Regs ¶ 31,231 (2006). This rulemaking proceeding was initiated in response to a petition submitted under 18 CFR 385.207(a) (2007) of the Commission's regulations by the Interstate Natural Gas Association of America jointly with the Natural Gas Supply Association.

and from \$22,700,000 to \$27,400,000 for prior notice projects.² In addition, Order No. 686 clarified that a natural gas company is not necessarily engaged in an unduly discriminatory practice if it charges different customers different rates for the same service when those customers commit to service on different dates. The revised blanket certificate regulations are intended to allow interstate natural gas companies to employ the streamlined blanket certificate procedures for larger projects and additional types of projects, thereby increasing efficiencies and decreasing the time and cost associated with the construction and maintenance of the nation's natural gas infrastructure. On June 22, 2007, the Commission issued an order in response to motions seeking rehearing and clarification of the October 2006 Final Rule.³ In this order, for the reasons discussed below, the Commission grants a request for rehearing of the June 2007 Order.

II. Request for Rehearing

2. New § 157.210 permits companies to rely on blanket certificate authority to “acquire, construct, modify, replace, and operate natural gas mainline facilities, including compression and looping.” Revised § 157.216(b)(2) provides for the abandonment of such facilities. The Interstate Natural Gas Association of America (INGAA) asked the Commission to clarify whether the Final Rule's revised § 157.216(b)(2) abandonment

² These cost limits now stand at \$9,900,000 for an automatic authorization project and \$28,200,000 for a prior notice project. See Natural Gas Pipelines; Project Cost and Annual Limits, 72 FR 5614 (Feb. 7, 2007).

³ Order No. 686-A, Order on Rehearing and Clarification, 72 FR 37431 (July 10, 2007), FERC Statutes and Regulations ¶ 31,249 (2007)(June 2007 Order).

provisions would apply exclusively to mainline facilities put in place under the new § 157.210 or would also apply to mainline facilities already in place.

3. In its June 2007 Order, the Commission stated that facilities which were constructed under case-specific certificate authorization, but which would have met the criteria for construction under the current blanket certificate program, may be abandoned pursuant to the provisions § 157.216(b). The Commission stated that in considering whether existing facilities would have met the criteria for blanket certificate authorization, “the facilities must have been installed subsequent to the Commission’s implementation of the blanket certificate program and the facilities’ original cost must have met the § 157.208 project cost cap in effect at the time of their construction.”

4. INGAA requests rehearing of the June 2007 Order to ask the Commission to remove this qualification because it precludes § 157.216 abandonment of facilities put in place prior to 1982, *i.e.*, the year the blanket certificate program was initiated. INGAA notes that the Commission did not impose the qualification that the project cost not exceed the blanket certificate cost cap in effect at the time of construction with respect to its 1999 expansion of the blanket certificate abandonment provisions to cover gas supply facilities and services.⁴ INGAA contends rather than comparing the per project cost cap in effect at the time a facility was constructed with the facility’s actual original cost, to

⁴ See Order No. 603, Revision of Existing Regulations under the Natural Gas Act, 64 FR 26572 (May 14, 1999), FERC Stats. & Regs. ¶ 31,073 (1999); Order No. 603-A, 64 FR 54522 at 54532-34 (Oct. 7, 1999), FERC Stats. & Regs. ¶ 31,081 at 30,936 (1999), adopting a similar approach with respect to automatic abandonments under 18 CFR 157.216(a) (2007).

determine whether the blanket certificate abandonment provisions might apply to an existing facility, the Commission should compare the per project cost cap currently in effect with the estimated cost to duplicate the facility today. INGAA states this approach will permit facilities put in place prior to the 1982 initiation of the blanket certificate program to qualify for abandonment under the blanket program.

5. The Commission will grant INGAA's request for rehearing. Instead of restricting § 157.216 abandonments to facilities put in place after the effective date of the blanket certificate program and comparing a facility's original cost to the cost cap in effect at the time the facility was placed in service, companies will be required to compare the estimated current cost to replicate an existing facility to the current § 157.208(d) per project cost cap. This will permit companies to employ blanket certificate authority to abandon a facility put in place under case-specific authority, provided the existing facility could qualify for authorization under the current blanket program

6. To effect this expansion of abandonment authority, the Commission will revise §§ 157.216(c)(1) and (d)(1) to specify that a company seeking to rely on its blanket certificate to abandon a facility which was not initially constructed or acquired under blanket certificate authority must estimate the current cost to replicate the facility. Provided the estimated current cost to replicate the facility would not exceed the currently-effective § 157.208(d) project cost cap, and provided the existing facility would qualify for authorization under the currently-effective blanket regulations, the company may rely on abandonment authority under § 157.216. Note that in calculating an estimated cost, the Commission anticipates a company will account for the current values

of a facility's various component costs, such as land acquisition, public outreach, agency involvement, materials, labor, and environmental mitigation and remediation.⁵ In addition, the Commission will revise §§ 157.216(a)(2) and (b)(2) to clarify that any existing facility that could be constructed or acquired under the currently-effective blanket certificate program criteria can be abandoned under blanket certificate authority, provided that, as is currently the case, the blanket certificate holder obtains the written consent of each customer served using the facility during the past 12 months.

7. In view of the above described revisions to the June 2007 order and blanket certificate abandonment regulations, INGAA's request for rehearing is granted.

III. Information Collection Statement

8. The Office of Management and Budget (OMB) regulations require that OMB approve certain information collection requirements imposed by an agency.⁶ The Final Rule's revisions to the information collection requirements for blanket certificate projects were approved under OMB Control Nos. 1902-0128 and 1902-0060. While this order on rehearing clarifies aspects of the existing information collection requirements for the blanket certificate program, it does not add to these requirements. Accordingly, a copy of this order will be sent to OMB for informational purposes only.

⁵ See, e.g., the reporting requirements for describing a project's costs in 18 CFR 157.208(e)(3) (2007). The Commission suggests a blanket certificate holder contemplating action under 18 CFR 157.216 review the record in this proceeding, which includes comments on past and present project cost comparisons.

⁶ 5 CFR 1320.11 (2007).

IV. Document Availability

9. In addition to publishing the full text of this document in the Federal Register, the Commission provides all interested persons an opportunity to view and print the contents of this document via the Internet through FERC's website (<http://www.ferc.gov>) and in FERC's Public Reference Room during normal business hours (8:30 a.m. to 5:00 p.m. Eastern time) at 888 First Street, N.E., Room 2A, Washington D.C. 20426. User assistance is available for FERC's web site during normal business hours (8:30 a.m. to 5 p.m. Eastern time, Monday to Friday) from FERC's Online Support at 202-502-6652, toll free at 1-866-208-3676, or by e-mail at ferconlinesupport@ferc.gov, and from the Public Reference Room at 202-502-8371, TTY at 202-502-8659, or by e-mail at public.referenceroom@ferc.gov.

V. Effective Date and Congressional Notification

10. The modifications made in this request for rehearing will become effective [insert date 30 days after publication in the **FEDERAL REGISTER**]. The provisions of 5 U.S.C. 801 regarding Congressional review of rulemaking do not apply to this order on rehearing, since it clarifies agency procedure and practice.

List of subjects in 18 CFR Part 157

Administrative practice and procedure, Natural gas, Reporting and recordkeeping requirements

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.

In consideration of the foregoing, the Commission amends part 157, Chapter I, Title 18, Code of Federal Regulations, as follows:

PART 157--APPLICATIONS FOR CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY AND FOR ORDERS PERMITTING AND APPROVING ABANDONMENT UNDER SECTION 7 OF THE NATURAL GAS ACT

1. The authority citation for part 157 continues to read as follows:

Authority: 15 U.S.C. 717-717w.

2. In § 157.216, paragraphs (a)(2), (b)(2), (c)(1), and (d)(1) are revised to read as follows:

§ 157.216 Abandonment.

(a) * * *

(2) A facility that did or could now qualify for automatic authorization as described in § 157.203(b), provided the certificate holder obtains the written consent of each customer served using the facility during the past 12 months.

(b) * * *

(2) Any other facility that did or could now qualify for prior notice authorization as described in § 157.203(c), provided the certificate holder obtains the written consent of each customer served using the facility during the past 12 months.

(c) * * *

(1) The location, type, size, and length of the subject facilities. For facilities not constructed or acquired under blanket certificate authority, an estimate of the current cost to replicate such facilities;

* * * * *

(d) * * *

(1) A description of the facilities abandoned under this section. For facilities not constructed or acquired under blanket certificate authority, an estimate of the current cost to replicate such facilities;

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