

The statutory and regulatory language related to FERC-538 follow.**Natural Gas Act**

Section 7(a) of the Act (15 U.S.C. §717f (a)) provides:

(a) Extension or improvement of facilities on order of court; notice and hearing

Whenever the Commission, after notice and opportunity for hearing, finds such action necessary or desirable in the public interest, it may by order direct a natural-gas company to extend or improve its transportation facilities to establish physical connection of its transportation facilities, to establish physical connection of its transportation facilities with the facilities of, and sell natural gas to, any connection of its transportation facilities with the facilities of, and sell natural gas to, any person or municipality engaged or legally authorized to engage in the local distribution of natural or artificial gas to the public, and for such purpose to extend its transportation facilities to communities immediately adjacent to such facilities or to territory served by such natural-gas company, if the Commission finds that no undue burden will be placed upon such natural gas company thereby: Provided, That the Commission shall have no authority to compel the enlargement of transportation facilities for such purposes, or to compel such natural-gas company to establish physical connection to sell natural gas when to do so would impair its ability to render adequate service to its customers.

Section 10(a) of the Act (15 U.S.C. §717(i)) provides:

§ 717i. periodic and special reports

(a) Form and contents of reports

Every natural-gas company shall file with the Commission such annual and other periodic or special reports as the Commission may by rules and regulations or order prescribed as necessary or appropriate to assist the Commission in the proper administration of this chapter. The Commission may prescribe the manner and form in which such reports shall be made, and require from such natural-gas companies specific answers to all questions upon which the Commission may need information. The Commission may require that such reports shall include, among other things, full information as to assets and liabilities, capitalization, investment and reduction thereof, gross receipts, interest due and paid, depreciation, amortization and other reserves, cost of facilities, cost of maintenance and operation of facilities for the production, transportation, or sale of natural gas, cost of renewal and replacement of such facilities, transportation, delivery, use, and sale of natural gas. The Commission may require any such-natural gas company to make appropriate provision for currently determining such costs and other facts. Such reports shall be made under oath unless the Commission otherwise specifies.

Section 16 of the Act (15 U.S.C. §717o) provides:

§717o. Administrative powers of the Commission; rules, regulations, and orders

The Commission shall have power to perform any and all acts, and to prescribe, issue, make amend, and rescind such orders, rules, and regulations as it may find necessary or appropriate to carry out the provisions of this chapter. Among other things, such rules and regulations may define accounting, technical, and trade terms used in this chapter; and may prescribe the form or

forms of all statements, declarations, applications, and reports to be filed with the Commission, the information which they shall contain, and the time within which they shall be filed. Unless a different date is specified therein, rules and regulations of the Commission shall be effective thirty days after publication in the manner which the Commission shall prescribe. Orders of the Commission shall be effective on the date and in the manner which the Commission shall prescribe. For the purposes of its rules and regulations, the Commission may classify persons and matters within its jurisdiction and prescribe different requirements for different classes of persons or matters. All rules and regulations of the Commission shall be filed with its secretary and shall be kept open in convenient form for public inspection and examination during reasonable business hours.

18 C.F.R. Part 156

§ 156.1 Who may apply.

Any person or municipality as defined in section 2 of the Natural Gas Act engaged or legally authorized to engage in the local distribution of natural or artificial gas to the public may file with the Commission an application pursuant to the provisions of section 7(a) of the Natural Gas Act for an order of the Commission directing a natural gas company to extend or improve its transportation facilities, to establish physical connection of its transportation facilities with the facilities of, and sell natural gas to such person or municipality, and for such purpose to extend its transportation facilities to communities immediately adjacent to such facilities or to territory served by such natural gas company.

§ 156.2 Purpose and intent of rules.

(a) Applications filed pursuant to the provisions of section 7(a) of the Natural Gas Act shall contain all information necessary to advise the Commission fully concerning the applicant, the service which applicant requests the Commission to direct the natural gas company to render together with a description of any improvement or extension of facilities which the natural gas company would be required to make in connection with the rendition of the service, applicant's present and proposed operations, construction, service, and sales together with a description of any extension or improvement of facilities by applicant which would be required to enable applicant to engage in the local distribution of natural gas.

(b) Every requirement of this part shall be considered as an obligation upon the applicant which can be avoided only by a definite and positive showing that the information or data required by the applicable section of the regulations is not necessary to the consideration and ultimate determination of the application.

(c) This part will be strictly applied to all applications as submitted and the burden of adequate presentation in understandable form as well as justification for omitted data or information rests with the applicant.

(d) Under this part, the natural gas company from which applicant is seeking the service is a party respondent to the proceeding.

§ 156.3 Applications; number of copies; general requirements.

(a) *Applicable rules.* An original and 7 conformed copies of an application under this part shall be filed with the Commission. The Commission reserves the right to request additional copies. In

all other respects applications shall conform to the requirements of §§156.1 through 156.5. Amendments to or withdrawals of applications shall be filed in accordance with the requirements of §§385.213 and 385.214 of this chapter.

(b) *General content of application; filing fee.* Except as provided in paragraph (d) of this section, each application shall be accompanied by the fee prescribed in part 159 of this subchapter and shall set forth the following information:

(1) The exact legal name of the applicant; the name of the natural gas company (respondent) from which applicant is seeking an extension or improvement of transportation facilities, physical connection of facilities or service of natural gas together with a concise description of the extension, improvement, physical connection of facilities or service sought from such company including the estimated volumes of natural gas involved to meet annual and maximum day requirements for the estimated first three years of proposed operation.

(2) Applicant's principal place of business; whether applicant is an individual, corporation or municipality as defined in section 2 of the Natural Gas Act; State under the laws of which applicant is incorporated, organized or authorized; and the name, title, and mailing address of the person or persons to whom communications concerning the application are to be addressed.

(3) The facts relied upon by applicant to show that the proposed extension or improvement of transportation facilities, physical connection of facilities or service and sale of natural gas are necessary or desirable in the public interest.

(4) A concise description of applicant's operations, if any, at the time the application is filed.

(5) A concise description of applicant's proposed operations, construction, service and sales together with a description of any extension or improvement of facilities by applicant which would be required to enable applicant to engage in the local distribution of natural gas and including the proposed dates for the beginning and completion of construction and commencement of operations.

(6) A full statement concerning and description of any certificate of public convenience and necessity, franchise or other authorization which applicant has applied for or received from any State commission or municipality covering its proposed operations.

(7) A full statement as to whether any other application must be or is to be filed by applicant with any other Federal or State body, or other political subdivision or agency of a State to enable applicant to engage in the local distribution of natural gas in the territory it proposes to serve.

(8) Each application shall contain a table of contents which shall list all exhibits and documents filed in compliance with §§156.1 through 156.2, as well as other documents and exhibits filed therewith, identifying them by their appropriate titles and alphabetical letter designations specified in §156.5. The alphabetical designation specified in §156.5 must be adhered to strictly and any additional exhibits submitted on applicant's own volition, pursuant to §156.5(b) shall be designated in sequence under the letter designation Z (Z1, Z2, Z3, etc.). Together with each exhibit applicant shall set forth a full and complete explanation of the data submitted, the manner in which it was obtained, and the reasons for the conclusions which are derived therefrom.

(c) *Incorporation by reference.* Any information required by this part which is already on file with the Commission may be incorporated by reference.

(d) *Small distributors.* A distributor requesting natural gas service of less than 2000 Mcf per day to serve a single community may file the information required by the form of application represented in §250.6 of this chapter.

[Order 234, 26 FR 4848, June 1, 1961, as amended by Order 280, 29 FR 4875, Apr. 7, 1964; Order 317, 31 FR 432, Jan. 13, 1966; Order 225, 47 FR 19057, May 3, 1982]

§ 156.4 Form of exhibits to be attached to applications.

(a) *General requirements.* Each exhibit shall contain a title page showing applicant's name, Docket No. CP- ____ (number designation to be left blank), title of exhibit, and if exhibit consists of 10 or more pages a table of contents citing by page, section number or subdivision the component elements or matters contained therein.

(b) *Measurement base.* All gas volumes shall be stated upon a uniform basis of measurement, and, in addition, if the uniform basis of measurement used in any application is other than 14.73 p.s.i.a., then the volume or volumes of natural gas to be received from any source and delivered by applicant shall also be stated upon a basis of 14.73 p.s.i.a. Similarly, total volumes on all summary sheets, as well as grand totals of volumes in any exhibit, shall also be stated upon a basis of 14.73 p.s.i.a. if the basis of measurement used is other than 14.73 p.s.i.a.

§ 156.5 Exhibits.

(a) *Exhibits to be submitted with application.* All of the following exhibits shall be submitted with the application when tendered for filing. Such exhibits may be attached to the application or furnished in a separate volume or separate volumes designated "Exhibits to Application." Such separate volume or volumes shall indicate on the cover thereof applicant's name and bear Docket No. CP- ____ (number designation to be left blank).

(1) *Exhibit A—Articles of incorporation and bylaws.* If applicant is not an individual, a conformed copy of its articles of incorporation and bylaws, or other similar documents. One certified copy shall be submitted with the original application.

(2) *Exhibit B—State and local authorizations.* (i) A copy of any certificate of public convenience and necessity or similar authorization which applicant has obtained from the State commission or commissions of each of the States in which applicant engages or proposes to engage in the local distribution of natural gas; (ii) a copy of any franchise or similar authorization which applicant has obtained from each of the municipalities in which applicant engages or proposes to engage in the local distribution of natural gas; and (iii) a copy of any other authorization or form of consent which applicant has obtained from any State, State commission, municipality or from any agency of the Federal government necessary or incidental to applicant's proposal to engage in the local distribution of natural gas. One certified copy of each of the documents specified in paragraphs (a)(2) (i), (ii), and (iii) of this section shall be submitted as exhibits to the original application.

(3) *Exhibit C—Officials.* A list of the names and business addresses of applicant's officers and directors, or similar officials if applicant is not a corporation.

(4) *Exhibit D—Subsidiaries and affiliation.* If applicant or any of its officers or directors, directly or indirectly, owns, controls, or holds with power to vote, 10 percent or more of the outstanding

voting securities of any other person or organized group of persons engaged in production, transportation, distribution, or sale of natural gas, or of any person or organized group of persons engaged in the construction or financing of such enterprises or operations, a detailed explanation of each such relationship, including the percentage of voting strength represented by such ownership of securities. If any persons or organized group of persons, directly or indirectly, owns, controls, or holds with power to vote, 10 percent or more of the outstanding voting securities of applicant—give a detailed explanation of each such relationship.

(5) *Exhibit F—Location of facilities.* A geographical map of suitable scale and detail showing all of the transmission facilities proposed to be installed and operated by Applicant between distribution systems of Applicant and the transmission pipeline system of the proposed supplier (respondent), and include:

(i) Location, length, and size of applicant's transmission pipelines.

(ii) Location and size (related horsepower) of applicant's transmission compressor stations.

(iii) Location and designation of each point of connection of applicant's proposed transmission facilities with (a) proposed pipeline supplier (respondent) main line industrial customers, gas pipeline or distribution systems, showing towns and communities to be served, and (b) gas producing and storage filed, or other sources of supply.

(iv) Location, length and size of facilities required to be installed by the proposed supplier (respondent) necessary for the rendition of service requested by the applicant.

(6) *Exhibit G—Flow diagram showing daily design capacity and reflecting operation with proposed transmission facilities.* A flow diagram showing daily design capacity of all transmission facilities proposed to be installed and operated by applicant between distribution facilities of applicant and the transmission pipeline system of the proposed supplier (respondent) including the following:

(i) Diameter, wall thickness, and length of pipe to be installed.

(ii) For each transmission compressor station, the size, type, and number of compressor units, horsepower required, horsepower to be installed, volume of gas to be used as fuel, suction and discharge pressures, and compression ratio.

(iii) Pressures and volumes of gas at the main line inlet and outlet connections at each compressor station.

(iv) Pressures and volumes of gas at each intake and takeoff point and at the beginning and terminus of all proposed transmission facilities.

(7) *Exhibit G-I—Flow diagram reflecting maximum capabilities.* If Exhibit G does not reflect the maximum deliveries of all transmission facilities, proposed to be installed and operated by applicant between distribution facilities of applicant and the transmission pipeline system of the proposed supplier (respondent), under most favorable operating conditions, without installation of any facilities in addition to those proposed in the application, include an additional diagram or diagrams to depict such maximum capabilities.

(8) *Exhibit G-II—Flow diagram data.* Exhibits G and G-I shall be accompanied by a statement of engineering design data in explanation and support of the diagrams and the proposed project, setting forth:

(i) Assumption, bases, formulae, and methods used in the development and preparation of such diagrams and accompanying data.

(ii) A description of the transmission pipe and fittings to be installed, specifying the diameter, wall thickness, yield point, ultimate tensile strength, method of fabrication, and methods of testing proposed.

(iii) Type, capacity, and location of each natural gas storage field or facility, or other similar plant or facility directly attached to the applicant's transmission system.

(9) *Exhibit H—Total gas supply data.* A statement of the total gas supply committed to, controlled by, or possessed by an applicant which is available to it for the acts and the services proposed, together with:

(i) The estimated total volume of proven reserves in place for each reservoir in each field from which applicant takes natural gas, giving names and location of fields (state, county, or parish).

(ii) The estimated total volumes of proven reserves available to applicant by fee or under lease, segregated by gas fields and reservoirs thereof, giving names and locations of fields (state, county, or parish).

(iii) The names and addresses of persons with whom applicant has gas purchase contracts, the effective dates and remaining terms in years of such contracts.

(iv) A study, showing the daily volumes of natural gas which can and are proposed to be obtained each year from each source of supply.

(v) Estimate of the Btu content of the gas available to or requested by applicant for proposed service.

(vi) A study of each proposed gas storage field showing: Location; geology; original and present reserves for each reservoir; original and present pressure of each reservoir; proposed top and base storage pressures; proposed top and base gas volumes to be stored; a deliverability study, including daily and annual injection and withdrawal rates and pressures; and maximum daily deliverability and maximum storage capacity under the proposed plan of development.

(10) *Exhibit I—Market data.* An estimate by distribution systems of the volumes of gas to be delivered during the year in which proposed service is estimated to begin and during each of the first 3 full years of operation of the proposed facilities, and actual data of like import for each of the 3 years next preceding the filing of the application, together with:

(i) Names and locations of areas to be served, showing the number of residential, commercial, firm industrial, interruptible industrial, residential space heating, commercial space heating, and other types of customers for each distribution system to be served; and the names and locations of

each firm and interruptible direct industrial customer whose estimated consumption totals 10,000 Mcf or more in any calendar month or 100,000 Mcf or more per year.

(ii) Applicant's total annual and peak day gas requirements by classification of service in paragraph (a)(10)(i) of this section, divided as follows: Gas requirements (*a*) for each distribution area where gas is sold or to be sold by applicant at retail; (*b*) for all main-line direct industrial customers and (*c*) company use and unaccounted-for gas.

(iii) Total past and expected curtailments of service by the applicant in each distribution area proposed to be supplied with gas from the project, all to be listed by the classifications of service as indicated in paragraph (a)(10)(i) of this section.

(iv) Explanation of basic factors used in estimating future requirements, including, for example: Peak day and annual degree day deficiencies, annual load factors of applicant's deliveries to its proposed customers; derivation of numbers of customers proposed to be served; individual consumer peak day and annual consumption factors for each class of consumers, with supporting historical data; forecasted saturation of space heating as related to past experience; and full detail as to all other sources of gas supply available to applicant and to each of its customers, including manufacturing facilities and liquid petroleum gas.

(v) A full description of all facilities, other than transmission facilities, necessary to provide service in the communities to be served.

(vi) A copy of each market survey made within the past 3 years for the markets proposed to be served.

(11) *Exhibit J—Conversion to natural gas.* If it is assumed that proposed customers in new areas or firm and interruptible direct industrial customers whose estimated consumption totals 10,000 Mcf or more in any calendar month or 100,000 Mcf or more in any calendar year will convert from other fuels to natural gas, state the basis for such assumption and include a study showing estimated cost of converting customers' facilities to natural gas. The study should indicate the number of customers of each of the other fuels who applicant anticipates will convert to natural gas and the current cost of fuel to be displaced compared to the cost of natural gas on an equivalent Btu basis.

(12) *Exhibit K—Cost of facilities.* A detailed estimate of total capital cost of the proposed facilities involved in the application, showing cost of construction by operating units such as distribution facilities, compressor stations, transmission pipelines and laterals, measuring and regulating stations, and separately stating the cost of rights-of-way, damages, surveys, materials, labor, engineering and inspection, administrative overhead, fees for legal and other services, allowance for funds used during construction, and contingencies. Detailed estimates of cost of facilities required to be installed by the pipeline supplier shall be separately stated.

(13) *Exhibit L—Financing.* Plans for financing the proposed facilities for which the application is filed, together with:

(i) A detailed description of applicant's outstanding and proposed securities and liabilities, showing amount (face value and number), interest or dividend rate, dates of issue and maturity, voting privileges, and principal terms and conditions applicable to each.

(ii) The manner in which applicant proposes to dispose of securities by private sale, competitive bidding or otherwise; the persons, if known, to whom they will be sold or issued, and evidence that such persons having agreed to purchase the securities, and if not known, the class or classes of such persons.

(iii) A statement showing for each proposed issue, by total amount and by unit, the estimated sale price and estimated net proceeds to the applicant.

(iv) A statement as to the extent to which the applicant will rely on temporary financing in connection with the proposed construction, and statements tending to substantiate the fact that such temporary loans will be made available.

(v) Statement of anticipated cash flow, including provision during the period of construction and the first 3 full years of proposed operation for interest requirements, dividends, and capital retirements.

(vi) Statement showing, over the life of each issue, the annual amount of securities which applicant expects to retire through operation of a sinking fund or other extinguishment of the obligation.

(vii) A balance sheet and income statement (12 months) of most recent date available.

(viii) Comparative pro forma balance sheets and income statements for the period of construction and each of the first 3 full years of operation, giving effect to the proposed construction and proposed financing of the project.

(ix) Any additional data and information upon which applicant proposes to rely in showing the adequacy and availability to it of resources for financing its proposed project.

(14) *Exhibit M—Construction, operation, and management.* A concise statement setting forth arrangements for supervision, management, engineering, accounting, legal, or other similar service to be rendered in connection with the construction or operation of the project if not to be performed by employees of applicant, including reference to any existing or contemplated agreements therefor.

(15) *Exhibit N—Revenues, expenses income.* Applicant shall submit pro forma statements for each of the first 3 full years of operation of all the proposed facilities, showing:

(i) Gas system annual revenues and volumes of natural gas related thereto subdivided by classes of service and further subdivided by sales to direct industrial customers, sales to other utilities (if any), transportation for other gas utilities and other sales.

(ii) Gas system annual operating expenses, cost of gas purchased, depreciation, depletion, taxes, utility income and resulting rate of return on net investment in gas plant, including working capital, or in the case of a municipality applicant similar data and amortization-interest schedule for life of each bond issue related to the proposed project. Cost of gas purchased shall be at the currently effective applicable rate of the pipeline supplier or applicable rate filed by such pipeline supplier, but not effective at date of filing, whichever is the higher.

(iii) The information required by paragraphs (a)(15)(i) and (ii) of this section need not be furnished when the applicant furnishes as a part of its application a pro forma copy of a certificate of convenience and necessity or similar authorization issued to it by the local State commission having jurisdiction over its proposed operations.

(16) *Exhibit P—Rates.* (i) A statement of the rates proposed to be charged for the proposed services to be rendered. Indicate whether rates are subject to regulation by the State or local authorities.

(ii) Identification of the rate schedule of the natural gas company (respondent) under which gas is proposed to be purchased.

(b) *Additional exhibits.* Applicant shall submit additional exhibits necessary to support or clarify its application. Such exhibits shall be identified and designated as provided by §156.3(b)(8).

(c) *Additional information.* Upon request by the Secretary, prior to or during hearing upon the application, applicant shall submit such additional data, information, exhibits, or other detail as may be specified.

[Order 234, 26 FR 4848, June 1, 1961, as amended by Order 280, 29 FR 4876, Apr. 7, 1964; Order 436, 36 FR 15530, Aug. 17, 1971; Order 225, 47 FR 19057, May 3, 1982]

§ 156.6 Acceptance for filing or rejection of application.

Applications will be docketed when received and the applicant so advised. Any application which does not conform to the requirements of §§156.1 through 156.5 will be rejected by the Secretary. All but one copy of a rejected application will be returned. An application which relates to an operation concerning which a prior application has been filed and rejected, shall be docketed as a new application. Such new application shall state the docket number of the prior rejected application.

§ 156.7 Service of application.

After an application has been accepted for filing, the Secretary will cause a copy thereof to be served upon the natural gas company (respondent) against which an order pursuant to section 7(a) of the Natural Gas Act has been requested. The natural gas company shall, within 30 days after the date of service of such application file its answer (an original and 7 conformed copies) to such application in which it shall state whether it has any objection to the grant of the application. If the natural gas company objects to the grant of the relief sought by the application, it shall fully state the grounds and reasons for its objections. The answer shall be verified and shall be signed by an executive of the natural gas company. In the event that the respondent natural gas company fails to file a timely response to the application it shall be deemed to have agreed to the grant thereof.

[Order 302, 30 FR 9302, July 27, 1965, as amended by Order 225, 47 FR 19057, May 3, 1982]

§ 156.8 Notice of application.

Notice of each application filed, except when rejected in accordance with §156.6, will be published in the Federal Register and copies of such notice sent to the State affected thereby via electronic means if practical, otherwise by mail.

[Order 653, 70 FR 8724, Feb. 23, 2005]

§ 156.9 Protests and interventions.

Notices of applications, as provided by §156.8 will fix the time within which any person desiring to participate in the proceeding or to file a protest regarding the application, may file a petition to intervene or protest, and within which any interested regulatory agency desiring to intervene may file its notice of intervention. Failure to make timely filing will constitute ground for denial of participation, in the absence of extraordinary circumstances for good cause shown.

§ 156.10 Hearings.

The Commission will schedule each application for public hearing at the earliest possible date giving due consideration of statutory requirements and other matters pending, with notice thereof as provided by §385.2009 of this chapter: *Provided, however,* That where no protests or petitions to intervene have been received and accepted, the Commission may, after the due date for such protests or petitions to intervene, issue the requested order without hearing.

[Order 234, 26 FR 4848, June 1, 1961, as amended by Order 225, 47 FR 19057, May 3, 1982]

§ 156.11 Dismissal of application.

Except for good cause shown, failure of an applicant to go forward on the date set for hearing and present its full case in support of its application will constitute ground for the summary dismissal of the application and the termination of the proceedings.