

§ 284.261

18 CFR Ch. I (4-1-02 Edition)

transportation capacity, including contract storage, on all upstream pipelines, whether the firm capacity is authorized under part 284 or part 157. An upstream pipeline is authorized and required to permit a downstream pipeline to assign its firm capacity to the downstream pipeline's firm shippers.

[Order 636, 57 FR 13318, Apr. 16, 1992, as amended by Order 636-A, 57 FR 36217, Aug. 12, 1992]

Subpart I—Emergency Natural Gas Sale, Transportation, and Exchange Transactions

SOURCE: Order 449, 51 FR 9187, Mar. 18, 1986, unless otherwise noted.

§ 284.261 Purpose.

This subpart exempts a person who engages in an emergency natural gas transaction, as defined for purposes of this subpart, in interstate commerce from the certificate requirements of section 7 of the Natural Gas Act and from the conditions of § 284.10, except as provided in § 284.266, and §§ 284.7-284.9 and §§ 284.11-284.13 of subpart A of this chapter.

§ 284.262 Definitions.

For purposes of this subpart:

Emergency means:

(1) Any situation in which an actual or expected shortage of gas supply or capacity would require an interstate pipeline company, intrastate pipeline, local distribution company, or Hinshaw pipeline to curtail deliveries of gas or provide less than the projected level of service to any pipeline customer, including any situation in which additional supplies or capacity are necessary to ensure a pipeline's contracted level of service to any customer, but not including any situation in which additional supplies or capacity are needed to increase the contracted level of service to an existing customer or to provide service to a new customer; or

(2) A sudden unanticipated loss of natural gas supply or capacity; or

(3) An anticipated loss of natural gas supply or capacity due to a foreseeable facility outage resulting from a landslide or riverbed erosion or other natural forces beyond the participant's

control. Participants may seek a temporary certificate under §§ 157.17 of this chapter if the facilities to remedy the emergency cannot be constructed automatically under § 2.55(b) or § 157.208(a) of this chapter.

(4) A situation in which the participant, in good faith, determines that immediate action is required or is reasonably anticipated to be required for protection of life or health or for maintenance of physical property.

Emergency does not mean any situation resulting from a failure by any person to transport natural gas under subpart B, C, or G of this part.

Projected level of service means the level of gas volumes to be delivered by the company for each customer and additional gas volumes needed by a customer due solely to a weather-induced increase in requirements.

Emergency natural gas means natural gas sold, transported, or exchanged in an emergency natural gas transaction.

Emergency natural gas transaction means the sale, transportation, or exchange of natural gas (including the construction and operation of necessary facilities) conducted pursuant to this subpart, that is:

(1) Necessary to alleviate an emergency; and

(2) Not anticipated to extend for more than 60 days in duration.

Emergency facilities means any facilities necessary to alleviate the emergency within the time frame established in § 284.264(b). Participants can seek permanent authority to operate the emergency facilities either under the temporary certificate provisions of § 157.17 of this chapter or the prior notice provisions of § 157.208(b) of this chapter.

Participant means any first seller, interstate pipeline, intrastate pipeline, local distribution company or Hinshaw pipeline that participates in an emergency natural gas transaction under this subpart.

Recipient means:

(1) In the case of a sale of emergency natural gas, the purchaser of such gas; or

(2) In the case of a transportation or exchange of natural gas when there is no sale of emergency natural gas under

this subpart, the participant who receives the gas.

Hinshaw pipeline means a pipeline that is exempt from the Natural Gas Act jurisdiction of the Commission by reason of section 1(c) of the Natural Gas Act.

[Order 603, 64 FR 26610, May 14, 1999]

§ 284.263 Exemption from section 7 of Natural Gas Act and certain regulatory conditions.

Any participant that engages in an emergency natural gas transaction conducted in accordance with this subpart is exempt from the requirements of section 7 of the Natural Gas Act and the conditions of § 284.10, except as provided in § 284.266, and from the requirements of §§ 284.7–284.9 and §§ 284.11–284.13 of subpart A of this part. Participation in any emergency natural gas transaction will not subject any participant to the jurisdiction of the Commission under section 7 of the Natural Gas Act except to the extent such transaction is provided for in this subpart.

§ 284.264 Terms and conditions.

(a) *General conditions.* (1) A participant must make every reasonable attempt to minimize use of emergency natural gas transactions.

(2) Before deliveries of emergency natural gas commence, a responsible official of the recipient must provide any participants in the emergency natural gas transaction sufficient information to enable the participants to form a good faith belief that an emergency exists or is imminent.

(3) No participant may engage in an emergency natural gas transaction if its participation will adversely affect service to its existing customers.

(4) A participant may not sell emergency natural gas if, during the term of the sale, it is also purchasing emergency natural gas under this subpart, except when natural gas is being sold to relieve an emergency on another, separate segment of the participant's system.

(5) An interstate pipeline, acting in an emergency gas transaction as a broker or agent on behalf of another participant or any other person, may not receive compensation for such brokerage or agency service.

(6) A recipient of emergency natural gas that directly benefits from the service must:

(i) Provide line loss and the fuel volumes required to transport the emergency natural gas; and

(ii) Pay for the facilities required to be constructed to conduct the emergency natural gas transaction.

(b) *Duration*—(1) *Emergency sale or transportation.* An emergency natural gas transaction is limited to 60 consecutive calendar days, except that such transaction may be continued for an additional 60 consecutive days if:

(i) Fifteen days prior to the end of the initial 60-day period, the recipient of emergency natural gas files a petition that:

(A) Describes fully the continued emergency,

(B) Requests a waiver of the initial 60-day limitation and permission for an extension of the transaction for an additional 60 days; and

(ii) Within the 15-day period, the Commission does not, by order, prohibit continuation of the emergency natural gas transaction for the additional 60-day period.

(2) *Redelivery in emergency exchange.* The redelivery of emergency natural gas received under an exchange arrangement must occur within 180 consecutive days following the termination of deliveries of the emergency natural gas.

§ 284.265 Cost recovery by interstate pipeline.

(a) Except as provided in paragraph (b), an interstate pipeline that provides emergency natural gas, whether from its system supply or by special purchase, must directly assign the emergency gas costs to the recipient.

(b) If an interstate pipeline cannot identify individual recipients, the interstate pipeline must roll the emergency gas costs into its general system supply costs.

§ 284.266 Rates and charges for interstate pipelines.

(a) *Transportation rates*—(1) *Rate on file.* If an interstate pipeline has on file with the Commission an effective