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Title 15 - COMMERCE AND TRADE

CHAPTER 60 - NATURAL GAS POLICY

SUBCHAPTER III - ADDITIONAL AUTHORITIES AND REQUIREMENTS

Part B - Other Authorities and Requirements

Sec. 3371 - Authorization of certain sales and transportation

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§3371. Authorization of certain sales and transportation

(a) Commission approval of transportation

(1) Interstate pipelines

(A) In general

The Commission may, by rule or order, authorize any interstate pipeline to transport natural gas on behalf of—

- (i) any intrastate pipeline; and
- (ii) any local distribution company.

(B) Just and reasonable rates

The rates and charges of any interstate pipeline with respect to any transportation authorized under subparagraph (A) shall be just and reasonable (within the meaning of the Natural Gas Act [15 U.S.C. 717 et seq.]).

(2) Intrastate pipelines

(A) In general

The Commission may, by rule or order, authorize any intrastate pipeline to transport natural gas on behalf of—

- (i) any interstate pipeline; and
- (ii) any local distribution company served by any interstate pipeline.

(B) Rates and charges

(i) Maximum fair and equitable price

The rates and charges of any intrastate pipeline with respect to any transportation authorized under subparagraph (A), including any amount computed in accordance with the rule prescribed under clause (ii), shall be fair and equitable and may not exceed an amount which is reasonably comparable to the rates and charges which interstate pipelines would be permitted to charge for providing similar transportation service.

(ii) Commission rule

The Commission shall, by rule, establish the method for calculating an amount necessary to—

- (I) reasonably compensate any intrastate pipeline for expenses incurred by the pipeline and associated with the providing of any gathering, treatment, processing, transportation, delivery, or similar service provided by such pipeline in connection with any transportation of natural gas authorized under subparagraph (A); and
- (II) provide an opportunity for such pipeline to earn a reasonable profit on such services.

(b) Commission approval of sales

(1) In general

The Commission may, by rule or order, authorize any intrastate pipeline to sell natural gas to—

- (A) any interstate pipeline; and
- (B) any local distribution company served by any interstate pipeline.

(2) Rates and charges

(A) Maximum fair and equitable price

The rates and charges of any intrastate pipeline with respect to any sale of natural gas authorized under paragraph (1) shall be fair and equitable and may not exceed the sum of—

- (i) such intrastate pipeline's weighted average acquisition cost of natural gas;
 - (ii) an amount, computed in accordance with the rule prescribed under subparagraph (B);
- and
- (iii) any adjustment permitted under subparagraph (C).

(B) Commission rule

The Commission shall, by rule, establish the method for calculating an amount necessary to

- (i) reasonably compensate any intrastate pipeline for expenses incurred by the pipeline and associated with the providing of any gathering, treatment, processing, transportation, or delivery service provided by such pipeline in connection with any sale of natural gas authorized under paragraph (1); and
- (ii) provide an opportunity for such pipeline to earn a reasonable profit on such services.

(C) Adjustment

(i) Application

This subparagraph shall apply in any case in which, in order to deliver any volume of natural gas pursuant to any sale authorized under paragraph (1), any intrastate pipeline acquires quantities of natural gas under any existing contract, if—

- (I) such intrastate pipeline acquires any volume of natural gas under such contract in excess of that which such pipeline would otherwise have acquired; and
- (II) the price paid for such additional volume of natural gas acquired under such contract is greater than such pipeline's weighted average acquisition cost of natural gas, computed without regard to the acquisition of such additional volume of natural gas.

(ii) Commission adjustment

In any case to which this subparagraph applies, the Commission shall permit an adjustment to the maximum fair and equitable price provided under subparagraph (A) to increase the revenue to the intrastate pipeline under such sale by an amount determined by the Commission to be adequate to offset the additional cost incurred by such pipeline due to any increase in such pipeline's weighted average acquisition cost of natural gas.

(3) Limitation

(A) Two-year duration

No authorization of any sale (or any extension thereof) under paragraph (1) may be for a period exceeding two years.

(B) Extension

Any authorization of any sale under paragraph (1), and any extension of any such authorization under this subparagraph, may be extended by the Commission if such extension satisfies the requirements of this subsection.

(4) Adequacy of service to intrastate customers

Any sale authorized under paragraph (1) shall be subject to interruption to the extent that natural gas subject to such sale is required to enable the intrastate pipeline involved to provide adequate service to such pipeline's customers at the time of such sale.

(5) Procedural requirements

(A) Affidavit

Any application for authorization of any sale under paragraph (1) shall be accompanied by an affidavit filed by the intrastate pipeline involved and setting forth—

- (i) the identity of the interstate pipeline or local distribution company involved;
- (ii) each point of delivery of the natural gas from the intrastate pipeline;
- (iii) the estimated total and daily volumes of natural gas subject to such sale;
- (iv) the price or prices of such volumes; and
- (v) such other information as the Commission may, by rule, require.

(B) Verification of compliance

Any application for authorization of any sale under paragraph (1) shall be accompanied by a statement by the intrastate pipeline involved verifying by oath or affirmation that such sale, if authorized, would comply with all requirements applicable to such sale under this subsection and all terms and conditions established, by rule or order, by the Commission and applicable to such sale.

(6) Termination of sales

(A) Hearing

Upon complaint of any interested person, or upon the Commission's own motion, the Commission shall, after affording an opportunity for oral presentation of views and arguments, terminate any sale authorized under paragraph (1) if the Commission determines—

- (i) such termination is required to enable the intrastate pipeline involved to provide adequate service to the customers of such pipeline at the time of such sale;
- (ii) such sale involves the sale of natural gas acquired by the intrastate pipeline involved solely or primarily for the purpose of resale of such natural gas pursuant to a sale authorized under paragraph (1);
- (iii) such sale violates any requirement of this subsection or any term or condition established, by rule or order, by the Commission and applicable to such sale; or
- (iv) such sale circumvents or violates any provision of this chapter.

(B) Suspension pending hearing

Prior to any hearing or determination required under subparagraph (A), upon complaint of any interested person or upon the Commission's own motion, the Commission may suspend any sale authorized under paragraph (1) if the Commission finds that it is likely that the determinations described in subparagraph (A) will be made following the hearing required under subparagraph (A).

(C) Determination

The determination of whether any interruption of any sale authorized under paragraph (1) is required under subparagraph (A)(i) shall be made by the Commission without regard to the character of the use of natural gas by any customer of the intrastate pipeline involved.

(D) State intervention

Any interested State may intervene as a matter of right in any proceeding before the Commission relating to any determination under this section.

(7) Disapproval of application

The Commission shall disapprove any application for authorization of any sale under paragraph (1) if the Commission determines—

- (A) such sale would impair the ability of the intrastate pipeline involved to provide adequate service to its customers at the time of such sale (without regard to the character of the use of natural gas by such customer);
- (B) such sale would involve the sale of natural gas acquired by the intrastate pipeline involved solely or primarily for the purpose of resale of such natural gas pursuant to a sale authorized under paragraph (1);
- (C) such sale would violate any requirement of this subsection or any term or condition established, by rule or order, by the Commission and applicable to such sale; or
- (D) such sale would circumvent or violate any provision of this chapter.

(c) Terms and conditions

Any authorization granted under this section shall be under such terms and conditions as the Commission may prescribe.

(Pub. L. 95–621, title III, §311, Nov. 9, 1978, 92 Stat. 3388.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Natural Gas Act, referred to in subsec. (a)(1)(B), is act June 21, 1938, ch. 556, 52 Stat. 821, as amended, which is classified generally to chapter 15B (§717 et seq.) of this title. For complete classification of this act to the Code, see section 717w of this title and Tables.