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1986 JUL -8 PM 3:29

NOTICE OF PUBLIC HEARING OR COMMENT ON PROPOSED RULE

OFFICE OF THE SECRETARY OF STATE
COMMENT PERIOD

AGENCY: Public Service Commission of West Virginia
RULE TYPE: Legislative
RULE TITLE: State Implementation of Natural Gas Transportation
Policies

A COMMENT PERIOD ON THE ABOVE PROPOSED RULE HAS BEEN SCHEDULED AND WILL END ON July 31, 1986 AT 12:00 Noon. * WRITTEN COMMENTS ARE TO BE MAILED TO THE FOLLOWING ADDRESS: Howard M. Cunningham, Executive Secretary, Public Service Commission of West Virginia, Post Office Box 812, Charleston, West Virginia, 25323.

A PUBLIC HEARING ON THE MATTER WILL BE CONDUCTED IN THE COMMISSION'S HEARING ROOM LOCATED AT 201 BROOKS STREET, CHARLESTON, ON WEDNESDAY, AUGUST 20, 1986, BEGINNING AT 9:30 A.M. ANY INQUIRIES CONCERNING THE HEARING CAN BE DIRECTED TO HOWARD M. CUNNINGHAM, AT THE ABOVE ADDRESS.

THE ISSUES TO BE HEARD SHALL BE LIMITED TO THE PROPOSED RULE.

Otis D. Casto

Otis D. Casto, Commissioner

* This is a continuation of the comment period in effect for the proposed rule from June 10, 1986 through July 11, 1986, as published in the June 10, 1986 State Register.

FILED
1985 JUN 10 PM 2:30
OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

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Michael D. Greer, Chairman



KEN HECHLER
Secretary of State

MARY P. RATLIFF
Deputy Secretary of State

BARBARA STARCHER
Deputy Secretary of State

RICHARD S. STEPHENSON
Deputy Secretary of State

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STATE OF WEST VIRGINIA
SECRETARY OF STATE
Charleston 25305

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OFFICE OF THE
SECRETARY OF STATE
WILLIAM H. HARRINGTON
Chief of Staff
RICH O. HARTMAN
Director, Administrative Law
DONALD R. WILKES
Director, Corporations
VIRGINIA SKEEN
Special Assistant
(Plus all the volunteer
help we can get)

PROPOSED RULES

STATE REGISTER FILING

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AGENCY PUBLIC SERVICE COMMISSION OF WEST VIRGINIA

CONTACT PERSON Howard M. Cunningham PHONE 340-0426

TYPE OF RULE Legislative

TITLE OF RULE State Implementation of Natural Gas Transportation Policies

CHAPTER 24 ARTICLE 1 SERIES XVI

AUTHORITY 24-1-7

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CHECK APPLICABLE ITEMS BELOW TO SHOW KIND OF ACTION BEING TAKEN

NEW RULE

NOTICE OF HEARING - COMMENT

AMENDMENTS TO EXISTING RULE

NOTICE OF AGENCY APPROVAL
(legislative rules only)

REPEAL OF EXISTING RULE

NOTICE OF AGENCY ADOPTION
(interpretive & procedural
rules only)

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PSC
Leg. Rule/Adm. Reg. 24-1
Series XVI

GENERAL ORDER NO. 228

State Implementation of
Natural Gas Transportation Policies.

FISCAL NOTE

This is a Fiscal Note issued pursuant to §§29A-3-4, 29A-3-5, 29A-3-9, and 24-1-7 of the West Virginia Code, relating to General Order No. 228, State Implementation of Natural Gas Transportation Policies.

I. OBJECTIVES OF THE RULE

The purpose of these rules and regulations is to provide a flexible framework within which transporters of natural gas can operate to maximize the economic utilization of their pipeline systems, maximize the benefits of open access to local and interstate gas supplies for West Virginia customers and eliminate non-economic bypass of existing pipeline facilities.

II. COST OF IMPLEMENTING THE ATTACHED PROPOSED RULES

A. Cost of Implementation for the State

The administration and enforcement of these rules will require no new personnel, equipment or supplies and will require no substantial changes in work assignments or procedures.

B. Cost of Implementation for Persons Affected by the Proposed Rule

The cost of implementing the proposed rule is difficult to determine at this stage of this rulemaking proceeding, however, it should be minimal.

PSC
Leg. Rule/Adm. Reg. 24-1
Series XVI

III. THE EFFECT THIS MEASURE WILL HAVE ON THE COSTS AND REVENUES OF STATE GOVERNMENT (Information required by fiscal notes for either house of the Legislature)

There will be no effect on the cost and revenues of State Government.

IV. ECONOMIC IMPACT OF THE RULES ON THE STATE OR ITS RESIDENTS

A quantifiable economic impact is difficult to predict at this time. However, the Commission foresees a positive economic impact of the proposed rule as it will allow transporters of natural gas to maximize the economic utilization of their pipeline system, maximize the benefits of open access to local and interstate gas supplies for West Virginia customers and eliminate non-economic bypass of existing pipeline facilities.

DATE June 10, 1986 AGENCY Public Service Commission

SIGNATURE OF AUTHORIZED REPRESENTATIVE

Michael D. Green

1986 JUN 10 PM 2:30
OFFICE OF THE SECRETARY OF STATE

FILED

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
LEGISLATIVE RULE
CHAPTER 24-1
SERIES XVI

TITLE: Rules Governing the Transportation of Natural Gas

- SECTION: 1.0 General
2.0 Transportation
3.0 Tariffs
4.0 Bypass
5.0 Utility to Utility Competition
6.0 Existing Transportation Arrangements
7.0 Priority of Service
8.0 Reporting Requirements

WEST VIRGINIA LEGISLATIVE RULE
PUBLIC SERVICE COMMISSION
CHAPTER 24-1
SERIES XVI

RULES GOVERNING THE TRANSPORTATION OF NATURAL GAS

1.0 GENERAL

1.1 Scope - This legislative rule applies to the transportation of natural gas within the State of West Virginia.

1.2 Authority - West Virginia Code §§24-3-3a, 24-1-1, 24-1-7, 24-2-7, and 24-2-11.

1.3 Filing date - June 10, 1986

1.4 Effective date -

1.5 Definitions

(a) Intrastate Pipeline

The term "intrastate pipeline" means (i) any utility or (ii) any other person, firm or corporation engaged in natural gas transportation in intrastate commerce to or for another person, firm or corporation for compensation.

(b) Interstate Pipeline

The term "interstate pipeline" means any person, firm or corporation engaged in natural gas transportation subject to the jurisdiction of the Federal Energy Regulatory Commission under the Natural Gas Act or the Natural Gas Policy Act of 1978.

(c) Utility

The term "utility" means any person, firm or corporation subject to the Commission's jurisdiction under West Virginia Code §24-2-1.

(d) Benchmark Incremental Rate

The term "benchmark incremental rate" means a rate for a transportation service which represents the short-run variable costs associated with providing the service.

(e) Benchmark Fully Distributed Cost Based Rate

The term "benchmark fully distributed cost based rate" means a rate for a transportation service which represents the full embedded costs associated with providing the service.

(f) Bypass

The term "bypass" means the connection by an end-user to facilities other than facilities owned by a utility for the purpose of receiving natural gas through such alternate facilities.

(g) Public Utility Service Area

The term "public utility service area" includes those present and future end-users located within the communities and environs specified in the utility's tariff sheets.

(h) End-User

The term "end-user" shall mean any person, firm or corporation traditionally served by utilities as customers.

(i) Unbundle

The term "unbundle" shall mean the separation of distinct transportation services, or services associated therewith, which allows an identification of the charge for each component of the service provided.

(j) Full Commodity Service

The term "full commodity service" means the supplying of utility owned natural gas.

2.0. TRANSPORTATION

- 2.1 All natural gas public utilities and intrastate pipelines shall provide non-discriminatory transportation of customer-owned gas, upon request, upon a first come/first served basis, to persons requesting such service over the existing facilities of the utility or intrastate pipeline.
- 2.2 To implement these transportation requirements, all natural gas public utilities and intrastate pipelines shall file proposed transportation tariffs which unbundle transportation services and establish just and reasonable rates for such services.
- 2.3 The obligation to provide transportation service shall be subject to valid capacity restraints.
- (a) A rebuttable presumption shall exist that adequate capacity exists to provide the requested transportation service.
 - (b) In the event of a dispute between an existing or potential transportation customer and a public utility or intrastate pipeline over the adequacy of capacity to provide the requested transportation service, the Commission shall resolve the dispute through its complaint procedures in which the utility or intrastate pipeline will have the initial burden of overcoming a presumption that adequate capacity does exist.
- 2.4 The information required by a utility or intrastate pipeline to process a request for transportation service shall be clearly set forth within an application form which shall be made available, without undue delay, to the person requesting transportation service.
- (a) The application form shall be contained within the utility's or intrastate pipeline's proposed transportation tariffs.
 - (b) The requirements of such forms shall be just and reasonable and shall not be unduly burdensome upon the applicant for transportation services.
- 2.5 All requests for transportation services shall be processed, approved or rejected, by the utility or

intrastate pipeline within ten days following the submission of a completed application form which requests such service. If the request has been rejected, written reasons for such rejection shall be given at the time of the rejection together with an indication of the revisions which would make the application acceptable, if at all.

2.6 All transportation services and policies with respect thereto shall be applied without unjust discrimination or preference, either as to affiliates or nonaffiliates.

3.0 TARIFFS

3.1 No later than the effective date of these rules each gas utility and intrastate pipeline shall file proposed transportation tariffs, to be effective on the date following the filing date, which unbundle the transportation services to be rendered by the transporter, set forth the conditions of service, and establish rates for service. The proposed tariffs may be suspended and will become effective, revised or rejected upon the further order of the Commission.

3.2 Utilities and intrastate pipelines shall offer, at a minimum, separate tariff provisions for both firm and interruptible transportation services. Utilities and intrastate pipelines may further propose to unbundle services associated with both firm and interruptible transportation which may be appropriate to their individual operating capabilities and characteristics.

3.3 Tariffs filed pursuant to these rules must, at a minimum, contain the following provisions:

(a) Tariffs must be flexible, both downward and upward, from a fully distributed cost based rate.

(b) The fully distributed cost based rate shall include an allowance for return on allocated rate base equal to the benchmark pipeline transportation rate of return which shall hereafter be established by Commission order, which order shall not constitute a modification to this rule nor shall it be a rulemaking pursuant to the State's Administrative Procedures Act, West Virginia Code §29A-3-1 et seq.

- (c) The benchmark incremental rate shall consist of the short-run variable costs associated with providing the service.
- (d) Negotiated rates may flex downward from the fully distributed benchmark rate, but not below the incremental benchmark rate. Additionally, negotiated rates may flex upward from the fully distributed benchmark rate, but not above fifty percent (50%) of the difference between the full service tariff rate that would be applicable to the end-user's load if it were a full service commodity customer of the utility and the cost of the end-user's gas supply delivered into the utility's facilities.
- (e) There shall be a provision within the transportation tariffs of utilities which provides for optional standby sales service. Standby sales service shall entitle a transportation service end-user to purchase natural gas at the applicable full service commodity tariff rate, i.e., the utility's retail sales rate applicable to the particular end user. Each transportation service end-user shall be entitled to standby sales service subject to the following conditions:
 - (i) The transportation service end-user must be in compliance with the terms and conditions of the tariff relating to standby sales service, including the payment of fees.
 - (ii) The transportation service end-user and the utility or intrastate pipeline shall agree upon the maximum sales volumes. Volumes taken in excess of this amount will require the payment of a penalty.
 - (iii) The standby sales service shall include all fixed costs, including the fixed costs associated with gas supply, associated with providing standby sales service to the transportation service end-user.
- (f) If transportation service to an end-user requires the capacity of other pipelines, the transportation rate to such end-user shall recover the costs

incurred by the utility or intrastate pipeline in reserving such capacity.

(g) The Commission, on a case-by-case basis, may modify, delete, or add to these provisions.

3.4 All transportation rates and policies with respect thereto shall be applied without unjust discrimination or preference, either as to affiliates or nonaffiliates.

3.5 In the event the person requesting transportation service and the transporter cannot negotiate a mutually agreeable rate the dispute shall be resolved by the Commission.

3.6 Proposed transportation tariffs may include an exit charge or operate, i.e., a charge imposed upon an end-user who ceases to be a full service commodity customer, provided the exit charge is cost justified and does not result in a double recovery of costs.

4.0 BYPASS

4.1 Any person, corporation, or other entity desiring to construct or operate any facilities for the purpose of transporting natural gas to an end-user shall be required to file and apply for a certificate of public convenience and necessity from the Commission.

4.2 If the transportation arrangement uses utility facilities in this State, there shall be a rebuttable presumption that the arrangement is just and reasonable and in the public interest for the purposes of certification.

4.3 A public utility is relieved from its service obligation with respect to any end-user located in its service territory which bypasses the utility's facilities. For a transportation service end-user which is not paying a standby sales service fee, the utility is relieved from its service obligation to provide full commodity service to such end-user.

5.0 UTILITY TO UTILITY COMPETITION

5.1 A public utility shall not provide sales or transportation service to end-users located within the service area

of another utility unless the transportation arrangement meets one of the following exceptions:

- (a) the facilities of the utility whose service area is involved will be used and compensated for in the transportation arrangement; or,
- (b) the end user has requested transportation services from the utility whose service area is involved and has been refused the requested service due to capacity restraints. Prior to service under this exception, the transporting utility must petition for and obtain the approval of the Commission.

5.2 Any dispute regarding utility to utility competition shall be resolved through the Commission's complaint procedures.

6.0 EXISTING TRANSPORTATION ARRANGEMENTS

6.1 All transportation arrangements pursuant to contracts which were executed and made effective prior to the date of issuance of this proposed rule, June 10, 1986, will be exempt from the rate requirements of this rule, unless renegotiated to conform to such requirements, until the expiration of the term of the agreement as it existed on date of issuance of this proposed rule. All other provisions of these transportation rules shall apply to existing transportation arrangements.

6.2 All transportation arrangements pursuant to contracts which were executed and made effective on or after the date of issuance of this proposed rule, June 10, 1986, will be subject to all of the requirements and policies adopted by this rule.

7.0 PRIORITY OF SERVICE

7.1 For the purpose of establishing service priority, the Commission recognizes four categories of service by public utilities: firm and interruptible sales and firm and interruptible transportation. In the event of the need for curtailment, because of utility capacity reasons or utility supply shortages, firm sales and firm transportation shall have a higher priority than interruptible sales and interruptible transportation.

7.2 In the event of future curtailment problems, the Commission, at that time, will establish priorities among customers within the firm and interruptible services; e.g. the priority of firm residential sales as compared to firm industrial sales, the priority of interruptible commercial transportation as compared to interruptible industrial transportation.

8.0 REPORTING REQUIREMENTS

8.1 Every February 1 and August 1, each utility and intrastate pipeline shall file reports with the Commission which shall set forth information relating to volumes of gas transported in a consecutive six-month period commencing seven months prior to the report due date. The report due February 1 will cover volumes transported for the period beginning July 1 through December 31. The report due August 1 will cover volumes transported from January 1 through June 30.

8.2 The semiannual report shall set forth the name of the entity receiving the transportation service from the utility or intrastate pipeline; the name and addresses of the end-user ultimately receiving the benefit of the transportation service; the applicable transportation tariff; the monthly volumes delivered; the monthly transportation revenues received (if less than the fully distributed cost based rate, a brief statement of the justification for such lower rate); an indication of the affiliation, if any, of the transporter to the entity receiving the transportation service, the end-user, and the producer; the name and location of the gas supplier; the name and address of all transportation entities involved and the fees to be received; the date deliveries commenced and projected termination date; the estimated maximum daily quantity; the estimated total quantity to be transported; the locations where the gas is received and delivered and the approximate pipeline distance between such locations.

8.3 The information required by this subsection shall be provided upon PSC Gas Transportation Form No. 1, which will be available from the office of the Executive Secretary, Public Service Commission, P.O. Box 812, Charleston, W.Va. 25323.