

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #1

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OFFICE OF THE SECRETARY OF STATE
STATE OF WEST VIRGINIA

NOTICE OF PUBLIC HEARING ON A PROPOSED RULE

AGENCY: Public Service Commission TITLE NUMBER: 150

RULE TYPE: Legislative Exempt; CITE AUTHORITY WV 24-1-1 et seq.

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 16

TITLE OF RULE BEING AMENDED: Rules Governing the Transportation of
Natural Gas

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: N/A

TITLE OF RULE BEING PROPOSED: N/A

DATE OF PUBLIC HEARING: October 26, 1999 TIME: 9:30 a.m.

LOCATION OF PUBLIC HEARING: H. M. Cunningham Hearing Room

Public Service Commission

201 Brooks Street

Charleston, WV

COMMENTS LIMITED TO: ORAL , WRITTEN , BOTH

Initial written comment due
Sept. 30, 1999. Reply written
comments due Oct. 14, 1999.

COMMENTS MAY ALSO BE MAILED TO THE FOLLOWING ADDRESS:

Sandra Squire, Exec. Sec.

Public Service Commission

P. O. Box 812

Charleston, WV 25323

The Department requests that persons wishing to make
comments at the hearing make an effort to submit written
comments in order to facilitate the review of these comments.

The issues to be heard shall be limited to the proposed rule.

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

38.00

FISCAL NOTE

**P.S.C.
Series 16**

IN THE MATTER OF the amendment of the Rules Governing the Transportation of Natural Gas, 150 C.S.R. Series 16.

I. OBJECTIVES OF THE RULE

This rulemaking is to amend the Commission's Rules Governing the Transportation of Natural Gas, 150 C.S.R. Series 16, by adding rules to govern the pooling of customer accounts for balancing and other related transportation issues.

II. COST OF IMPLEMENTING THE PROPOSED RULES

There will be no significant implementation cost relating to this rulemaking for the State of West Virginia. The Commission does not anticipate additional costs to be incurred as a result of this rulemaking.

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

This rulemaking will have no effect on the costs or revenues of state government.

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

This rulemaking will have no significant economic impact on the state or its residents.

DATE: 8-27-99

AGENCY: **Public Service Commission**

SIGNATURE OF AUTHORIZED REPRESENTATIVE:


Charlotte R. Lane, Chairman

Summary of Proposed Rule

The Commission is proposing to revise its Rules Governing the Transportation of Natural Gas by adding rules to govern the pooling of customer accounts for balancing and other related transportation issues. A task force has proposed that pooling begin with interruptible transportation service customers, then possibly be expanded to firm transportation service customers. The Commission has promulgated the task force's proposed rules. The task force, though, did not have a unanimous recommendation. The Commission gives notice that it will consider, and may ultimately adopt, an alternate position, including that pooling begin with firm transportation service customers, and then possibly be expanded to interruptible transportation service customers.

Statement of Circumstances Which Require the Proposed Rule

Following the receipt of comments and proposed rules in a general investigation proceeding in which most of the state's gas utilities participated, Case No. 96-0241-G-GI, the Commission has concluded that new rules should be implemented to govern the pooling of customer accounts for balancing and other related transportation purposes.

In recent years, the natural gas utility industry has experienced considerable deregulation. Previously, natural gas customers needed only contact the utility to secure gas supplies, as well as gas transportation services. Now, it is possible for customers to purchase their natural gas supplies from the utility or from someone else. For delivery, the customer may continue to rely on the gas utility, or may also contract separately for gas transportation service with interstate pipeline companies. Previously, only the utilities were able to contract with the interstate pipeline companies. Thus, as a result of deregulation, natural gas customers now may be subject to unfamiliar charges associated with gas transportation, such as balancing or storage. Previously, these types of charges were handled, on the customers' behalf, by the utility. This rulemaking sets forth guidelines for new transportation services and charges.

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

At a session of the Public Service Commission of West Virginia, in the City of Charleston, on the 27th day of August, 1999.

CASE NO. 96-0241-G-GI

GENERAL INVESTIGATION into whether marketers should be permitted to pool various Interruptible Transportation Customers for the purpose of balancing.

GENERAL ORDER NO. 228.2

IN THE MATTER OF the amendment of the Rules Governing the Transportation of Natural Gas, 150 C.S.R. Series 16.

COMMISSION ORDER

On February 29, 1996, the Commission instituted a general investigation into whether natural gas marketers should be permitted to pool the accounts, for the purpose of balancing and other related transportation issues, of various customers who purchase interruptible transportation (IT) service. Comm'n Order pp. 1-2. The Commission authorized a task force, made up of volunteers and chaired by a Commission staff member, to draft proposed rules. Id. The Commission asked that, at least, these questions be addressed:

1. Should gas marketers be permitted to pool various IT customers for the purpose of balancing?
2. If gas marketers are permitted to pool various IT customers, which entity has the obligation to serve the customer?
3. How does the Commission safeguard traditional health and safety concerns if marketers are permitted to pool IT customers?
4. If gas marketers are permitted to pool IT customers, have they become public utilities with a utility/customer relationship to their clients under West Virginia law?

5. If gas marketers are permitted to pool IT customers, which customers are terminated by the local distribution company (LDC) when bills are not paid? Should the LDC be able to terminate service for all customers in a pool if one customer fails to pay its bill?

On September 27, 1996, members of the task force advised the Commission that they were not unanimous in their recommendations. Generally speaking, there were two groups -- poolers and non-poolers.

On March 13, 1998, the Commission ordered the poolers to submit proposed rules by June 22, 1998, and the non-poolers to submit comments or responses by September 20, 1998. The poolers timely filed proposed rules to allow pooling, or aggregation, of the accounts of interruptible transportation customers. The Consumer Advocate Division (CAD) responded to the proposed rules on September 18, 1998.

On March 18 and March 19, 1999, Staff responded and proposed its own rules. Staff's rules contemplated that pooling would begin with customers who purchase firm transportation service, then expand to interruptible transportation customers.

On April 23, 1999, the Commission invited responses to Staff's rules by May 28, 1999. Bluefield Gas Company, the CAD, Weirton Steel Corporation, the Independent Oil and Gas Association, WV Power Gas Service & UtiliCorp United, Inc., Hope Gas, Inc., and Equitable Gas Company responded. Several of the commentors expressed concern that Staff's proposal was quite different from the compromise rules proposed by the task force. On June 8, 1999, the CAD filed reply comments.

DISCUSSION

The Commission wishes to begin a rulemaking. The two sets of rules which have been proposed are vastly different. Upon review, the Commission chooses to promulgate the compromise task force rules which contemplate pooling by interruptible transportation customers. Those rules represent considerable compromises among members of the task force. And, those rules are in accord with the initial spirit of the Commission's general investigation, which is captioned: GENERAL INVESTIGATION into whether marketers should be permitted to pool various Interruptible Transportation Customers for the purpose of balancing.

In deciding to promulgate the task force's compromise rules, the Commission is not prejudging the arguments of the CAD and Staff that pooling ought to begin with firm customers. The Commission gives notice that it will consider, and may ultimately adopt, a

position other than that set forth in the task force rules, including the proposal to implement pooling first with firm transportation customers.

The following procedural schedule is established:

Deadline for written initial comments	September 30, 1999, 4 p.m.
Deadline for written reply comments	October 14, 1999, 4 p.m.
Public hearing	October 26, 1999, 9:30 a.m., Howard M. Cunningham Hearing Room, continuing on October 27, 1999, if necessary

The Commission's Executive Secretary shall cause statewide publication, one time, of the notice attached as Exhibit A. The Executive Secretary shall file the affidavits of publication as soon as they are received.

The case file in the general investigation evidences substantial preliminary efforts by the parties. The Commission expects that it will be beneficial to refer to the general investigation comments and the task force report, so it will consolidate the general investigation case with this new General Order proceeding.

FINDINGS OF FACT

1. On February 29, 1996, the Commission instituted a general investigation into whether natural gas marketers should be permitted to pool the accounts of various customers who purchase interruptible transportation service for the purpose of balancing and other related issues. Comm'n Order pp. 1-2.
2. On September 27, 1996, members of the task force advised the Commission that they were not unanimous in their recommendations. Generally speaking, there were two groups -- poolers and non-poolers.
3. On March 13, 1998, the Commission ordered the poolers to submit proposed rules by June 22, 1998, and the non-poolers to submit comments or responses by September 20, 1998.
4. The poolers filed proposed rules, and the CAD responded.

5. On March 18 and March 19, 1999, Staff proposed different rules. Staff's rules contemplated that pooling would begin with customers who purchase firm transportation service, then expand to interruptible transportation customers.

6. Bluefield Gas Company, the CAD, Weirton Steel Corporation, the Independent Oil and Gas Association, WV Power Gas Service & UtiliCorp United, Inc., Hope Gas, Inc., and Equitable Gas Company responded to Staff's proposed rules.

CONCLUSIONS OF LAW

1. The Commission should promulgate the compromise task force rules which contemplate pooling by interruptible transportation customers. Those rules represent considerable compromises among members of the task force. And, those rules are in accord with the initial spirit of the Commission's general investigation, which is captioned: GENERAL INVESTIGATION into whether marketers should be permitted to pool various Interruptible Transportation Customers for the purpose of balancing.

2. In deciding to promulgate the task force's compromise rules, the Commission is not prejudging the arguments of the CAD and Staff that pooling ought to begin with firm customers. The Commission gives notice that it will consider, and may ultimately adopt, a position other than that set forth in the task force rules, including the CAD's and the Staff's proposal to implement pooling first with firm transportation customers.

3. The case file in the general investigation evidences substantial preliminary efforts by the parties. The Commission expects that it will be beneficial to refer to the general investigation comments and the task force report, so the general investigation case should be consolidated with this new General Order proceeding.

ORDER

IT IS THEREFORE ORDERED that the task force's compromise pooling rules, attached as Exhibit B, are promulgated for public comment.

IT IS FURTHER ORDERED that the Commission will consider, and may ultimately adopt, a position other than that set forth in the task force rules, including the CAD's and the Staff's proposal to implement pooling first with firm transportation customers.

IT IS FURTHER ORDERED that the general investigation case, Case No. 96-0241-G-GI, and this new General Order proceeding, General Order 228.2, are consolidated.

IT IS FURTHER ORDERED that the Commission's Executive Secretary shall file a copy of 1) the notice of a comment period on a proposed rules, 2) the text of the proposed rules, and 3) the fiscal note, all attached, with the Office of the Secretary of State.

IT IS FURTHER ORDERED that the following procedural schedule is adopted:

Deadline for written initial comments	September 30, 1999, 4 p.m.
Deadline for written reply comments	October 14, 1999, 4 p.m.
Public hearing	October 26, 1999, 9:30 a.m., Howard M. Cunningham Hearing Room, continuing on October 27, 1999, if necessary

IT IS FURTHER ORDERED that all persons must set forth specific comments regarding the proposed amendments to the Commission's Rules Governing the Transportation of Natural Gas. All comments should be addressed to Sandra Squire, Executive Secretary, Public Service Commission of West Virginia, P.O. Box 812, Charleston, W. Va. 25323.

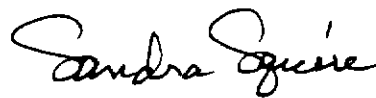
IT IS FURTHER ORDERED that the Commission's Executive Secretary shall cause publication, one time, of the notice attached as Exhibit A in a newspaper, duly qualified by the Secretary of State, published and of general circulation in each of the following cities: Beckley, Bluefield, Charleston, Clarksburg, Elkins, Fairmont, Huntington, Keyser, Lewisburg, Logan, Martinsburg, Morgantown, Moundsville, Parkersburg, Point Pleasant, Weirton, Welch, Wheeling and Williamson. The Executive Secretary shall file the affidavits of publication as soon as they are received.

IT IS FURTHER ORDERED that the Commission's Executive Secretary shall provide a copy of these proposed rules to any person upon request.

IT IS FURTHER ORDERED that the Commission's Executive Secretary shall serve a copy of this order upon all parties of record and all gas companies operating in West Virginia by United States First Class Mail, and upon Commission Staff by hand delivery.

A True Copy, Teste:

ARC
CLW/jaf
960241c.sca


Sandra Squire
Executive Secretary

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

At a session of the Public Service Commission of West Virginia, in the City of Charleston, on the day of July, 1999.

CASE NO. 96-0241-G-GI

GENERAL INVESTIGATION into whether marketers should be permitted to pool various Interruptible Transportation Customers for the purpose of balancing.

GENERAL ORDER NO. 228.2

IN THE MATTER OF the amendment of the Rules Governing the Transportation of Natural Gas, 150 C.S.R. Series 16.

NOTICE OF OPPORTUNITY TO COMMENT
ON PROPOSED POOLING RULES FOR GAS TRANSPORTATION

The Public Service Commission of West Virginia began a general investigation into whether natural gas marketers should be permitted, for the purpose of balancing and other related transportation issues, to pool, or aggregate, the accounts of various customers who purchase interruptible transportation service. The Commission authorized a task force to draft proposed rules. The members of the task force were not unanimous in their recommendations. Several task force members compromised and filed proposed rules that would allow the pooling of the accounts of interruptible transportation customers. Thereafter, the Commission's Staff filed proposed rules that would permit pooling of the accounts of firm transportation service customers first, and then possibly expand pooling to interruptible transportation service customers.

The Commission chose to promulgate the compromise task force rules which contemplate pooling by interruptible transportation customers first. Those rules represent considerable compromises among members of the task force. And, those rules are in accord with the initial spirit of the Commission's general investigation, which is captioned: GENERAL INVESTIGATION into whether marketers should be permitted to pool various Interruptible Transportation Customers for the purpose of balancing.

In deciding to promulgate the task force's compromise rules, the Commission is not prejudging the arguments of the CAD and Staff that pooling ought to begin with firm customers. The Commission gives notice that it will consider, and may ultimately adopt, a position other than that set forth in the task force rules, including the proposal to implement pooling first with firm transportation customers.

The Commission invites written initial comments to be filed by 4 p.m. September 30, 1999. Reply comments may be filed by 4 p.m. October 14. In addition, the Commission will conduct a public hearing at 9:30 a.m. October 26, in the Howard M. Cunningham Hearing Room, 201 Brooks Street, Charleston, WV 25314, to take oral comments.

To file written comments, or to request a copy of the proposed rules, contact the Commission's Executive Secretary, Sandra Squire, P.O. Box 812, Charleston, WV 25323. To make sure that your comments are properly filed, be sure that all written materials contain the case numbers listed above.

16-proposed
8/23/99

TITLE 150
LEGISLATIVE RULES
PUBLIC SERVICE COMMISSION

SERIES 16
RULES GOVERNING THE TRANSPORTATION
OF NATURAL GAS

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OFFICE OF
SECRETARY

§150-16-1. General

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

1.2. Authority -- W. Va. Code §§24-3-3a, 24-1-1, 24-1-7, 24-2-7, and 24-2-11.

1.3. Filing Date -- ~~January 18, 1995~~

1.4. Effective Date -- ~~March 19, 1995~~

1.5. Definitions.

1.5.1. Aggregation .

See Pooling.

1.5.2. Aggregation Pool .

See Pool.

1.5.3. Aggregator .

See Pool Operator.

1.5.4. Balancing .

A process by which receipts and deliveries of natural gas volumes are equalized.

1.5.5.† Benchmark fully distributed cost based rate.

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

1.5.6.‡ Benchmark incremental rate.

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

1.5.7.3 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.

1.5.8.4 End-user.

The term "end-user" shall mean any person, firm or corporation which is the ultimate consumer of natural gas.

1.5.9.5 Full commodity service.

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

1.5.10.6 Gathering facilities.

The term "gathering facilities" shall include all pipelines and related facilities used to collect the gas production of one (1) or more wells for the purpose of moving such production from the well(s) into the facilities of an interstate pipeline, a utility, or an intrastate pipeline. For the purposes of these rules, gathering facilities shall not be considered either public utilities or intrastate pipelines.

1.5.11.7 Interstate pipeline

The term "Interstate Pipeline" means any person, firm or corporation engaged in natural gas transportation and pooling subject to the jurisdiction of the Federal Energy Regulatory Commission under the Natural Gas Act, 15 U.S.C §717.

1.5.12.8 Intrastate pipeline.

The term "Intrastate Pipeline" means any person, firm or corporation engaged in natural gas transportation and pooling in intrastate commerce to or for another person, firm or corporation for compensation.

1.5.13. Nomination .

The customer's request of a utility or intrastate pipeline to receive quantities of natural gas for the customer's account at specified receipt point(s) and for delivery of quantities of natural gas to specified delivery point(s).

1.5.14. Nomination Requirement .

The quantity of gas required to be delivered to the utility or intrastate pipeline at receipt point(s) for the account of a customer in order to meet (1) the customer's requirement for flowing gas (gas physically delivered to end-user), (2) losses, and (3) correction of a customer's out-of-balance condition existing at the end of the preceding nomination period.

1.5.15. Pool .

An aggregation of end-users that have assigned their responsibility for obtaining gas supply to a pool operator.

1.5.16. Pool Operator .

An individual or entity, which has entered into a pooling agreement with a utility or intrastate pipeline.

1.5.17. Pooling .

A service, whereby the pool operator aggregates natural gas supplies delivered to satisfy the pool requirements of end-users which have assigned their nomination and balancing responsibilities.

1.5.18.9 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.

1.5.19. Receipt Point .

The location point at which natural gas is physically received into a utility's or intrastate pipeline's facilities.

1.5.20.†0 Unbundle.

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

1.5.21. †† Utility

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

1.6. Waiver -

If hardship results from the application of any rule herein prescribed, or if

unusual difficulty is involved in immediately complying with any rule, application may be made to the Commission for the modification of the rule or for temporary or permanent exemption from its provisions: Provided, that the application for such modification or exemption must be submitted with a full and complete justification for such action.

§150-16-2. Transportation and Pooling Obligations.

2.1. Obligations -

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 pipelines. All natural gas utilities and intrastate pipelines also shall provide non-discriminatory pooling, upon request, upon a first come/first served basis, to individuals and other entities utilizing the facilities of the utility or intrastate pipelines for interruptible transportation and pooling service

2.2. Conditions -

The obligation to provide transportation and pooling services shall be subject to valid capacity restraints. The obligation to provide pooling service also shall be subject to valid operational characteristics of the utility or intrastate pipeline, satisfactory proof that the pool operator is qualified under the provisions of these regulations and/or other Commission consideration(s) and all other laws of the State.

2.2.1. A rebuttable presumption shall exist that adequate capacity exists to provide the requested transportation or pooling service.

2.2.2. 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 or pooling 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

2.3. Application forms -

The information required by a utility or intrastate pipeline to process a request for transportation or pooling service shall be clearly set forth within on an application form which shall be made available, ~~at the time of the upon request to the person requesting transportation service.~~

2.3.1. The application form shall be contained within the utility's or intrastate pipeline's ~~proposed~~ transportation and pooling tariffs.

2.3.2. The requirements of such forms shall be just and reasonable and shall not be unduly burdensome upon the applicant for transportation and pooling services.

2.4. Procession of applications -

All requests for transportation and pooling services shall be ~~processed~~, approved or rejected by the utility or intrastate pipeline within twenty (20) working days following the submission receipt of a completed application form ~~which requests such service~~. If the request ~~has been is~~ rejected, a written reasons for such rejection shall must be given at the time of the rejection together with an indication of the revisions which would make the application acceptable, if at all.

2.5. Discrimination prohibited -

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

2.6. Creditworthiness -

The utility or intrastate pipeline shall establish creditworthiness standards that are not unduly discriminatory, and that shall consider, among other factors, the past payment history of the applicant with the utility, as well as the total potential monetary loss to the utility or intrastate pipeline in the event of a default on the part of the pool operator. Where such standards result in a requirement for a deposit or other financial assurance, such deposit or financial assurance shall not exceed that permitted at Section 4.2.1 of the Commission's Gas Rules.

§150-16-3. Transportation and Pooling Rates, Practices and Services.

3.1. Interim Transportation Tariffs -

No later than ~~the effective date of these rules~~ March 19, 1995, each gas utility shall file proposed transportation tariffs, to be effective within fifteen (15) days following the filing date, which unbundle the transportation services to be rendered by the utility, set forth the conditions of service, and establish just and reasonable rates for service. The proposed tariffs may be suspended and will become effective, revised or rejected upon the further order of the Commission.

3.1.1. Unless otherwise acted upon by the Commission, the tariffs filed pursuant to this section shall be considered interim provisions with respect to transportation which will be reviewed by the Commission in the entity's next general rate filing or upon complaint or the Commission's own motion.

3.1.2. All workpapers, data, and calculations which support and demonstrate the proposed rates and any other calculated numbers in the filed tariffs shall be filed with the proposed tariffs.

3.1.3. Small utilities whose total annual throughput is less than five hundred

thousand (500,000) Mcf, excluding residential sales, and intrastate pipelines are exempt from the tariff filing requirements of this section. However, although exempt, such entities must offer services and charge rates with respect thereto in accordance with the provisions of this rule. This exemption is subject to future modification by the Commission. Additionally, the Commission's complaint procedure is available for the purpose of reviewing any service, practice, or policy of an entity claiming exemption under this section. Specific exemptions may be revoked by the Commission on a case by case basis for good cause shown.

~~3.2. Utilities and intrastate pipelines shall offer, at a minimum, both firm and interruptible transportation services. All local distribution companies shall develop some method which ensures that all interruptible transportation customers pay for all the costs they impose on the system including any balancing penalties. The LDCs shall file appropriate tariff applications no later than July 1, 1995, with the Commission for its consideration. 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.~~

3.2. Services provided

3.2.1. Mandatory services .

All natural gas utilities and intrastate pipelines shall offer firm and interruptible transportation service, as well as pooling ancillary to interruptible transportation service. For customers who do not request pooling, some method must be developed which ensures that those interruptible transportation customers pay for all the costs they impose on the system, including any balancing penalties.

3.2.2. Optional 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.

3.2.3. Discrimination prohibited -

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

3.2.4. Recourse to the Commission -

In the event the person requesting transportation and pooling service and the transporter cannot negotiate a mutually agreeable rate and/or terms of service, the dispute shall be resolved by the Commission upon a petition by either party.

3.3. Tariff Requirements -

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

3.3.1. Transportation tariffs

~~3.3.1~~ 3.3.1.a. Rates must be flexible, both downward and upward, from a benchmark fully distributed cost based rate. The Commission will review flexible pricing practices in rate cases, complaint cases, or in cases initiated upon its own motion.

~~3.3.2~~ 3.3.1.b. Generally, the benchmark fully distributed cost based rate should be the rate imposed upon a transportation service, however, flexibility, at the discretion of the transporter, is provided in order to reflect market conditions on a case by case basis.

~~3.3.3~~ 3.3.1.c. For natural gas produced within West Virginia, the transportation rate may not flex upward from the benchmark fully distributed cost based rate.

~~3.3.4~~ 3.3.1.d. The benchmark fully distributed cost based rate shall include an allowance for return on allocated rate base equal to the last rate of return authorized by the Commission for the particular utility. For entities which do not have an authorized rate of return, the benchmark fully distributed cost based rate shall include a reasonable return, which shall be documented and supported by sufficient information and data at the time of the filing, until modified by the Commission.

~~3.3.5~~ 3.3.1.e. The flexibility of transportation rates for each entity subject to this rule must be determined according to the following standards:

a Negotiated rates for services provided under this rule may flex downward from the benchmark fully distributed cost based rate but not below the benchmark incremental rate, as defined in Section 1.5.2

b. The provisions of this subsection 3.3.5.b. shall apply to utilities which provide, in addition to transportation services, full commodity service to non-transportation customers.

A. Negotiated rates for services provided under this rule by a utility may flex upward from the benchmark fully distributed cost based rate but not above the utility's otherwise applicable sales tariff rate excluding the utility's avoidable purchased gas commodity costs. For the purpose of calculating this maximum rate, the "utility's otherwise applicable sales tariff rate" shall be the average per unit rate computed on the basis of the utility's tariff that would apply to the volumes of throughput contemplated in the transportation agreement.

B. To the extent standby sales service is contracted for, the maximum provided in this subsection shall be calculated by deducting all of the utility's purchased gas costs from the utility's otherwise applicable sales tariff rate.

EXAMPLE

The following calculations provide an example of a maximum rate determination, which has flexed upward from the benchmark fully distributed cost based rate. The example assumes a customer requesting transportation for 500 Mcf per month. To calculate the maximum transportation rate you first determine the average rate under the serving utility's applicable rate schedule. A typical rate schedule may appear as follows:

Customer Charge	\$34.00
First Mcf	6.00 per Mcf
Next 49 Mcf	5.00 per Mcf
Over 50 Mcf	4.70 per Mcf

The above rates include a PGA of \$4.30 per Mcf.

Under this rate schedule the total bill for 500 Mcf would be \$2,400 and the average per unit rate is \$4.80.

Avoidable purchased gas commodity costs are deducted from the average tariff rate to arrive at the maximum transportation rate for non-standby customers. For standby customers all purchased gas costs are deducted from the average tariff rate. Typical purchased gas costs may be made up of the following components:

Avoidable Commodity	
Costs	\$3.45 per Mcf
All Other Purchased	
Gas Costs85 per Mcf
Total PGA	\$4.30 per Mcf

Given the above assumed tariff rates and purchased gas costs the maximum transportation rate is determined as follows:

Non-Standby Customers:	
Average Tariff Rate	\$4.80
Less Avoidable Purchased	
Gas Costs	(3.45)
Maximum Transportation Rate	\$1.35

Standby Customers:	
Average Tariff Rate	\$4.80
Less Total Purchased	
Gas Costs	(4.30)
Maximum Transportation Rate	\$.50

C. In the event the maximum flex rate calculated under this

subsection is less than the total benchmark fully distributed cost based rate for the transportation services to be provided, the total benchmark fully distributed cost based rate shall be the maximum rate that may be charged.

c. Nothing within these rules regarding rate flexibility should be construed as allowing, or Commission authorization for, an elimination of a reasonable differential between rates for firm and interruptible service.

~~3.3.6~~ **3.3.1.f.** Utilities shall provide 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:

a. 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.

b. The transportation service end-user and the utility shall agree upon the maximum sales volumes. Volumes taken in excess of this amount may require the payment of a penalty.

c. 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.

d. The rate for standby sales service shall not be flexible.

e. 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.

~~3.3.7~~ **3.3.1.g.** 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.

3.3.2. Pooling tariffs

3.3.2.a. No later than fifteen (15) days after the effective date of these rules, any entity with natural gas transportation tariffs on file with the Commission shall file proposed pooling tariffs. Any entity subsequently filing transportation tariffs with the Commission shall file pooling tariffs at that time.

3.3.2.b. Work papers, data and calculations which support and demonstrate the proposed rates and any other calculated numbers in the filed tariffs shall be filed with proposed tariffs.

3.3.2.c Small utilities whose total annual throughput is less than five hundred thousand (500,000) Mcf, excluding residential sales, and intrastate pipelines who have no transportation tariff on file with this Commission, are exempt from the initial tariff filing requirements of these rules. However, although exempt, such entities must offer services and charge rates with respect thereto in accordance with the provisions of these rules. The exemption is subject to future modification by the Commission. Additionally, the Commission's complaint procedure is available for the purpose of reviewing any service, practice, or policy of an entity claiming exemption under this section. Specific exemptions may be revoked by the Commission on a case by case basis for good cause shown.

3.3.2.d. Tariff and/or rates developed, after consultation with interested parties, and subsequently filed pursuant to these rules must, at a minimum, address the following items:

(1) Rates including any billing and payment requirements, and/or late payment penalty clauses.

(2) Eligibility for pooling service.

(3) Responsibility for any unpaid purchased gas cost arising from prior utility or intrastate pipeline service.

(4) Provisions for balancing the pool and the transfer of gas supplies from one pool to another.

(5) The utility's or intrastate pipeline's pool membership requirements, including at a minimum, proof that all end users knowingly have selected the option of pooling and the potential ramifications of that act of selecting pooling. Such proof must be clear and unambiguous and to the satisfaction of the utility or intrastate pipeline. The proof provided must acknowledge that the primary responsibility for payment for the pooling service is that of the pool operator. The proof provided must also contain clear and unambiguous language acknowledging the fact that each enduser is ultimately responsible for payment for services provided by the utility or intrastate pipeline. Such service must also be acknowledged to include any penalties and/or interest charges resulting from any and all services provided to the pool operator or end-user.

3.3.2.e. Utilities and intrastate pipelines may provide for the following operational considerations within their individual pooling tariffs, for example, but not limited to:

(1) Limitations, if any, due to upstream and/or downstream contractual agreements with interstate and intrastate pipelines.

(2) Limitations, if any, on the number of pools from which an individual end-user can be served at any one time

(3) Limitations, if any, on the timing of commencement of service. Any requirements for notification to the utility or intrastate pipeline required for making additions to the

pool participant listing(s).

(4) Any provisions related to withdrawals from pool participation. Such provision should provide for time frames for proper notice and appropriate forms for such notice.

(5) Any volumetric restrictions limiting the eligibility of end-users for the pooling service and the time frame, if applicable, of the phase-in or implementation of pooling service for interruptible transportation end-users.

3.3.2.f. Transition costs, if any, shall be charged to and collected from end-users and/or pool operators that cause such costs.

§150-16-4. 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 is required to file for and obtain a certificate of public convenience and necessity from the Commission prior to such construction or operation.

4.1.1. Ordinary extensions of existing utility systems in the usual course of business are exempt from the certificate requirements of this section.

4.1.2. Exemptions.

a. Except for pending cases before the Commission, all persons operating facilities engaged in flowing gas transportation arrangements to specific end-users as of June 10, 1986 are exempt from the certificate filing requirements of this section. However, within ninety (90) days from the issuance of these final rules, the entities operating such facilities shall register with the Commission by filing PSC Gas Transportation Form No. 1, provided for in Section 8.0, for the twelve (12) month period ending December 31, 1986.

b. The Commission intends to proceed on a case by case basis regarding the construction or operation of facilities in gas transportation arrangements after June 10, 1986 and prior to the effective date of these rules. Such transportation arrangements shall be subject to the reporting requirements of Section 8.0.

4.1.3. In the case of an application pursuant to this section, the Commission intends to apply the following procedure:

a. The thirty (30) day prefiling notice provided for in West Virginia Code §24-2-11(a) is waived.

b. The certificate applied for will be granted unless otherwise ordered by the Commission, on the thirty-first (31) day following the notice required by West Virginia Code §24-2-11(a), i.e., a Class I legal advertisement, unless a bona-fide protest is received by the Commission within the thirty (30) day notice period, a petition is filed by Commission Staff, or upon

the Commission's own motion the application is set for further examination, review or hearing.

c. In order to constitute a bona-fide protest, the protestant, if providing a service, must indicate an initial willingness to reduce its rates in light of the proposed alternative. After a discovery period of ninety (90) days, the protestant must present to the Commission an affidavit that the protestant in good faith can provide the proposed transportation service more economically.

d. Upon the receipt of a bona-fide protest, the Commission will proceed with a disposition of the application in an expeditious manner.

4.2. 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. In the event an end-user bypasses a utility's facilities and subsequently decides to reestablish service from the utility, the rate at which the end-user will receive such service must be approved by the Commission prior to the reestablishment of service. For good cause shown, upon the petition of a utility or end-user, the Commission will consider allowing the service and establishing rates and fees for the service on an interim basis pending final Commission decision. The interim rates and fees will be subject to true up based on the Commission's final order. Any such end-user is not automatically entitled to average cost pricing of any service. Upon the end-user's agreement to pay the fees and rates established in the Commission's order, the utility shall provide the service.

§150-16-5. Utility to Utility Competition.

5.1. A public utility shall not provide sales or transportation and pooling service to end-users located within the service area of another utility unless the proposed sales or transportation and pooling service meets one (1) of the following exceptions:

5.1.1. the facilities of the utility whose service area is involved will be used and compensated for transportation and pooling; or,

5.1.2. the end user has requested transportation and pooling 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.

§150-16-6. Existing Transportation Arrangements.

6.1. All transportation arrangements pursuant to contracts which were executed and made effective prior to the effective date of this rule, 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 final rule. Except as otherwise specifically exempted by these

rules, all other provisions of these transportation rules shall apply to existing transportation arrangements.

§150-16-7. Priority of Service.

7.1. For the purpose of establishing service priority, the Commission recognizes four (4) 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.

§150-16-8. Reporting Requirements.

8.1. Every 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 twelve (12) month period commencing thirteen (13) months prior to the report due date. The report due on August 1 will cover volumes transported for the period beginning July 1 of the previous year through June 30 of the current year.

8.2. 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.

§150-16-9. Modifications: Pooling Requirements.

~~9.1. For good cause shown in instances when the provisions of this rule adversely affect the public interest, the Commission may modify the application of these provisions on a case-by-case basis. These rules apply to public utilities, intrastate pipelines, pool operators and end-users as defined in these Gas Transportation Rules and the Commission's Rules and Regulations for the Government of Gas Utilities and Gas Pipeline Safety.~~

9.2. A pool operator shall provide verification to the utility or intrastate pipeline of the pool operator's compliance with the Commission's Rules and Regulations. The pool operator shall also affirm its acceptance of responsibility to satisfy the utility's or intrastate pipeline's pool balancing requirements. The utility or intrastate pipeline may also require deposits per these regulations and may require proof of financial status of such pool operator as well as the pool operator's legal status within the State.

9.3. At a minimum, all entities proposing to be operators of pools for interruptible transportation and pooling customers must comply with any Commission rules relating to marketer

certification and must register with the Public Service Commission of West Virginia.

9.4. The Commission will provide a form for such registration, which shall contain at least the following information:

(1) The pool operator's name and business address.

(2) The name(s) and telephone number(s) of the designated contact person(s) for the pool operator.

§150-16-10. Implementation of Pooling.

10.1. To orderly and effectively implement pooling, the following transition and timetable will be observed:

10.1.1. No later than ninety (90) days after a final Commission order in each utility's or intrastate pipeline's tariff filing required by this rule, pooling will become available to the following groups and/or classes:

(1) All current and previous interruptible transportation and pooling service customers; and

(2) All utility defined industrial and commercial customers that request and are eligible to receive interruptible transportation and pooling service for new or incremental load.

10.1.2. No later than twelve (12) months after pooling is available under section 10.1.1 above, pooling will become available to all other utility defined industrial customers who request and are eligible to receive interruptible transportation and pooling service.

10.1.3. No later than twenty-four (24) months after pooling is available under section 10.1.1. above, pooling will become available to all other utility defined commercial customers who request and are eligible for interruptible transportation and pooling service.

10.1.4. No later than thirty-six (36) months after pooling is available under section 10.1.1. above, pooling will become available to all other customers who request and are eligible for interruptible transportation and pooling service.

10.1.5. No later than forty-eight (48) months after pooling is available under section 10.1.1. above, each utility shall file a tariff proposing pooling service for all customers not covered above. This tariff filing shall make pooling service available for both firm and interruptible transportation and pooling service.

PSC Gas Transportation Form No. 1A
Detail Information

Detail Page 1 of 3

This information must be filed by all Class A or B Natural Gas Utilities. For all other transportation entities subject to General Order No. 228 this information is not required unless specifically requested by the Commission.

Annual report of Year ended June 30

Address of respondent

(Complete one form for each transportation contract. Add pages as needed.)

1. Name of the entity receiving the transportation service from respondent.
2. Name and addresses of the end-user ultimately receiving the benefit of the transportation service.
3. Applicable transportation tariff
4. Monthly transportation revenues received: (If less than the fully distributed cost based rate, add a brief statement of the justification for such lower rate.)

	<u>Per Unit Transp. Rate</u>	<u>Revenues Received</u>	<u>Volume Delivered</u>	<u>If Explanation Required See Note</u>
July	()
August	()
September	()
October	()
November	()
December	()
January	()
February	()
March	()
April	()
May	()
June	()
TOTAL	()

If Standby Service is Contracted:

Volumes Contracted

Revenues Received

Annual report ofYear ended June 30.....

5. Disclose the affiliation, if any, of the respondent to: the entity receiving the transportation service, the end-user, and the producer

Entity Receiving Transportation.....
.....
End User
.....
Producer
.....

6. Gas Supplier(s):

Name Location

7. Other transportation entities involved:

Name Address Fees to be Received

8. Date deliveries commenced Projected termination date.....

9. Estimated maximum daily quantity

10. Estimated total quantity to be transported

PSC Gas Transportation Form No. 1A

Detail Page 3 of 3

Annual report of.....Year ended June 30.....

11. Location where the gas is received and delivered and the approximate pipeline distance between such locations:

<u>Received</u>	<u>Delivered</u>	<u>Distance</u>
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12. Notes to Report:

Explanation

Reference

Public Service Commission

Richard E. Hitt, General Counsel



201 Brooks Street, P.O. Box 812
Charleston, West Virginia 25323

Phone: (304) 340-0317
FAX: (304) 340-0372

August 27, 1999

Judy Cooper, Director
Administrative Law Division
Secretary of State's Office
Building 1, Suite 157K
1900 Kanawha Blvd. E.
Charleston, WV 25305-0771

Re: Rules Governing the Transportation of Natural Gas
Series 16

Dear Judy:

Enclosed for filing is the proposed rulemaking regarding
Governing the Transportation of Natural Gas

In addition, I have enclosed a fiscal note, a summary of
proposed rules, a statement of circumstances and a notice of
comment period on proposed rules.

If you have any questions or concerns, please do not hesitate
to bring them to my attention as soon as possible.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Hitt", written over a large, stylized circular flourish.

Richard E. Hitt
General Counsel

REH/cbd
Enclosures
rickmisc/cooper23.wpd