

WEST VIRGINIA  
SECRETARY OF STATE

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #5

FILED

JAN 19 10 16 AM '95

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

NOTICE OF AGENCY ADOPTION OF A PROCEDURAL OR INTERPRETIVE RULE  
OR A LEGISLATIVE RULE EXEMPT FROM LEGISLATIVE REVIEW

AGENCY: Public Service Commission TITLE NUMBER: 150

CITE AUTHORITY: W.Va. Code §§24-2-2, 24-2-7

RULE TYPE: PROCEDURAL \_\_\_\_\_ INTERPRETIVE \_\_\_\_\_

EXEMPT LEGISLATIVE RULE X

CITE STATUTE(S) GRANTING EXEMPTION FROM LEGISLATIVE REVIEW

W.Va. Code §§24-2-2, 24-1-7

AMENDMENT TO AN EXISTING RULE: YES X, NO \_\_\_\_\_

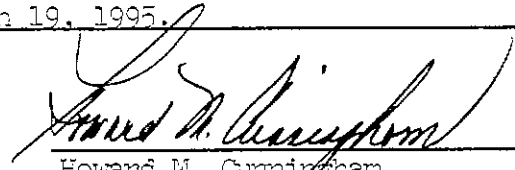
IF YES, SERIES NUMBER OF RULE BEING AMENDED: 16

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

IF NO, SERIES NUMBER OF NEW RULE BEING ADOPTED: \_\_\_\_\_

TITLE OF RULE BEING ADOPTED: \_\_\_\_\_

THE ABOVE RULE IS HEREBY ADOPTED AND FILED WITH THE SECRETARY OF STATE. THE  
EFFECTIVE DATE OF THIS RULE IS March 19, 1995.

  
Howard M. Cunningham  
Executive Secretary

FISCAL NOTE

This is a fiscal note issued pursuant to West Virginia Code §§29A-3-4, 5 and 9 and West Virginia Code §24-1-7, relating to the Commission's General Order No. 228.1.

I. OBJECTIVES OF THE RULE

The objective of this rulemaking is to amend the Commission's Rules Governing the Transportation of Natural Gas in order to reflect the restructuring of the industry caused by the Federal Energy Regulatory Commission Order 636 and related orders.

II. COST OF IMPLEMENTING THE PROPOSED RULES

There will be no significant implementation cost relating to the rulemaking for the State of West Virginia.

III. THE EFFECT OF 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 administrative costs of the Public Service Commission. Its impact on other agencies of the State is not quantifiable at this time. It should only impact other agencies to the extent that the agencies are interruptible transportation customers of local distribution companies.

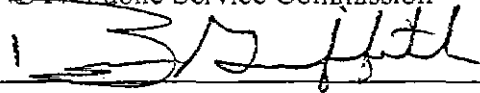
IV. ECONOMIC IMPACT OF THE RULE ON THE STATE OR ITS RESIDENTS

A quantifiable economic impact on the State and its residents is difficult to predict at this time. However, this rulemaking will assist the natural gas industry in the state to appropriately respond to federally mandated restructuring.

DATE: January 18, 1995

AGENCY: Public Service Commission

SIGNATURE OF AUTHORIZED REPRESENTATIVE: \_\_\_\_\_



TITLE 150  
LEGISLATIVE RULES  
PUBLIC SERVICE COMMISSION

SERIES 16  
RULES GOVERNING THE TRANSPORTATION OF  
NATURAL GAS

150-16-1. General

1.1. Scope. -- This legislative rule applies to the transportation 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.

(a) 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.

(b) 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.

(c) 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.

(d) End-user.

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

(e) Full commodity service.

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

(f) 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.

(g) 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, 15 U.S.C. §717.

(h) Intrastate pipeline.

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

(i) 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.

(j) Unbundle.

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

(k) 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.

**§150-16-2. Transportation Obligations.**

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. 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.

2.3. 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, at the time of the request, 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.

2.4. All requests for transportation services shall be processed, approved or rejected, by the utility or intrastate pipeline within ~~ten (10)~~ twenty (20) working 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~~ if at all.

2.5. All transportation 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.

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

3.1. No later than the effective date of these rules 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.

(a) 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.

(b) 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.

(c) 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.

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

(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.

(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.

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

(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.

(e) The flexibility of transportation rates for each entity subject to this rule must be determined according to the following standards:

(1) 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(b).

(2) The provisions of this subsection 3.3(e)(2) shall apply to utilities which provide, in addition to transportation services, full commodity service to non-transportation customers.

i) 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.

ii) 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 Costs . . . . . .85 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

iii) 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.

(3) 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.

(e) 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:

(1) 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.

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

(3) 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.

(4) The rate for standby sales service shall not be flexible.

(5) 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.

~~(f)~~ 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.

3.4. 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 and/or terms of service, the dispute shall be resolved by the Commission ~~through its complaint procedures~~ upon a petition by either party.

#### §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.

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

(b)

(1) 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.

(2) 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.

(c) In the case of an application pursuant to this section, the Commission intends to apply the following procedure:

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

(2) 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.

(3) 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. a protest must include an affidavit that the protestant, in good faith, can provide the proposed transportation service more economically.

(4) 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 service to end-users located within the service area of another utility unless the proposed sales or transportation service meets one (1) of the following exceptions:

(a) the facilities of the utility whose service area is involved will be used and compensated for transportation; 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.

#### **§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.

6.2. 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.**

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.



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 of ..... Year 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. ....

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:

<u>Reference</u>	<u>Explanation</u>
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