



WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

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Office of West Virginia
Secretary Of State

NOTICE OF PUBLIC COMMENT PERIOD

AGENCY: Public Service Commission

TITLE-SERIES: 150-16

RULE TYPE: Legislative Exempt Amendment to Existing Rule: Yes Repeal of existing rule: No

RULE NAME: Rules Governing the Transportation of Natural Gas

CITE STATUTORY AUTHORITY: W. Va. Code §§24-3-3a, 24-1-1, 24-1-7, 24-2-7, and 24-2-11, and 24-2-20

COMMENTS LIMITED TO:

Written

DATE OF PUBLIC HEARING:

LOCATION OF PUBLIC HEARING:

DATE WRITTEN COMMENT PERIOD ENDS: 11/16/2020 4:00 PM

COMMENTS MAY BE MAILED OR EMAILED TO:

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PLEASE INDICATE IF THIS FILING INCLUDES:

RELEVANT FEDERAL STATUTES OR REGULATIONS: No

(IF YES, PLEASE UPLOAD IN THE SUPPORTING DOCUMENTS FIELD)

INCORPORATED BY REFERENCE: No

(IF YES, PLEASE UPLOAD IN THE SUPPORTING DOCUMENTS FIELD)

PROVIDE A BRIEF SUMMARY OF THE CONTENT OF THE RULE:

The proposed amendments add the alternative process for end-users of large volumes of natural gas produced in West Virginia to bypass the facilities of a natural gas utility, pursuant to West Virginia Code § 24-2-20.

SUMMARIZE IN A CLEAR AND CONCISE MANNER CONTENTS OF CHANGES IN THE RULE AND A STATEMENT OF CIRCUMSTANCES REQUIRING THE RULE:

The Public Service Commission of West Virginia proposed revisions to the Rules Governing the Transportation of Natural Gas, 150 C.S.R. Series 16, to add the alternate bypass procedure for large volume users of natural gas produced in West Virginia in W. Va. Code § 24-2-20, enacted March 7, 2020, and effective 90 days from passage, or on June 5, 2020.

SUMMARIZE IN A CLEAR AND CONCISE MANNER THE OVERALL ECONOMIC IMPACT OF THE PROPOSED RULE:

A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:

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.

B. ECONOMIC IMPACT ON SPECIAL REVENUE ACCOUNTS:

N/A

C. ECONOMIC IMPACT OF THE RULE ON THE STATE OR ITS RESIDENTS:

N/A

D. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2020 Increase/Decrease (use "-")	2021 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost			N/A
Personal Services			
Current Expenses			
Repairs and Alterations			
Assets			
Other			
2. Estimated Total Revenues			N/A

E. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT):

N/A

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.

Yes

Janet A Terry -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.

TITLE 150
LEGISLATIVE RULE
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,~~ and 24-2-20.

1.3. Filing Date. -- ~~October 3, 2000.~~

1.4. Effective Date. -- ~~December 4, 2000.~~

~~1.5. Definitions.~~

§150-16-2. Definitions ~~Transportation Obligations.~~

2.1. ~~1.5.a.~~ Aggregation.

See Pooling.

2.2. ~~1.5.b.~~ Aggregation Pool.

See Pool.

2.3. ~~1.5.c.~~ Aggregator.

See Pool Operator.

2.4. ~~1.5.d.~~ Balancing.

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

2.5. ~~1.5.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.

2.6. ~~1.5.f.~~ 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.

2.7. ~~1.5.g.~~ 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.

2.8. ~~4.5.h.~~ End-user.

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

2.9. ~~4.5.i.~~ Full commodity service.

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

2.10. ~~4.5.j.~~ 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.

2.11. ~~4.5.k.~~ 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.

2.12. ~~4.5.l.~~ 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.

2.13. ~~4.5.m.~~ Marketer.

An entity that obtains gas supply and offers that supply to one or more end users.

2.14. ~~4.5.n.~~ 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).

2.15. ~~4.5.o.~~ 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.

2.16. ~~4.5.p.~~ Pool.

An aggregation of multiple accounts of one or more natural gas end users which have

assigned natural gas nomination, balancing and other transportation requirements to a pool operator. If a pool is made up solely of multiple delivery points of one customer, it is referred to as an individual member pool, whereas a pool made up of two (2) or more customers is referred to as a multiple member pool.

2.17. ~~4.5.q.~~ Pool member.

An individual end user that belongs to a pool.

2.18. ~~4.5.r.~~ Pool Operator.

The individual or entity which has entered into a pooling agreement with a utility or intrastate pipeline. A single end user with multiple delivery points may be a pool operator.

2.19. ~~4.5.s.~~ Pooler.

See pool operator.

2.20. ~~4.5.t.~~ 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.

2.21. ~~4.5.u.~~ 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.

2.22. ~~4.5.v.~~ Receipt Point.

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

2.23. ~~4.5.w.~~ Supplier.

See marketer.

2.24. ~~4.5.x.~~ 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.

2.25. ~~4.5.y.~~ Utility.

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

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

3.1. ~~4.6.~~ 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.

§150-16-4. ~~§150-16-2.~~ Transportation Obligations.

4.1. ~~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. Transportation service shall include service to a pool, provided, however, that pool membership shall be made available only to interruptible transportation customers. Pooling shall be made available to human needs customers only as set forth in these Gas Transportation Rules.

4.2. ~~2.2.~~ Conditions -

The obligation to provide transportation services shall be subject to valid capacity restraints. 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.

4.2.1. ~~2.2.a.~~ A rebuttable presumption shall exist that adequate capacity exists to provide the requested transportation service.

4.2.2. ~~2.2.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.

4.3. ~~2.3.~~ Application forms -

The information required by a utility or intrastate pipeline to process a request for transportation service shall be clearly set forth on an application form which shall be made available upon request.

4.3.1. ~~2.3.a.~~ The application form shall be contained within the utility's or intrastate pipeline's transportation tariffs.

4.3.2. ~~2.3.b.~~ The requirements of such forms shall be just and reasonable and shall not be unduly burdensome upon the applicant for transportation services.

4.4. ~~2.4.~~ Processing of applications -

All requests for transportation services shall be approved or rejected by the utility or intrastate pipeline within twenty (20) working days following receipt of a completed application form. If the request is rejected, a written reason 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.

4.5. 2-5. Discrimination prohibited -

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.

4.6. 2-6. Creditworthiness -

The utility or intrastate pipeline shall establish creditworthiness standards for pool operators that are not unduly discriminatory, and that shall consider, among other factors, the past payment history of the applicant with the utility. The utility or intrastate pipeline may consider 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 amount or financial assurance amount shall not exceed that permitted at ~~Section Rule~~ Rule 4.2.1 of the Commission's Gas Rules Rules for the Government of Gas Utilities and Gas Pipeline Safety, 150 C.S.R. Series 4 (Gas Utility Rules).

§150-16-5. §150-16-3. Transportation Rates, Practices and Services.5.1. 3-1. Interim Transportation Tariffs -

No later than fifteen (15) days after 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.

5.1.1. 3-1.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.

5.1.2. 3-1.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.

5.1.3. 3-1.e. 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.

5.2. 3-2. Services provided -5.2.1. 3-2.a. Mandatory services.

All natural gas utilities and intrastate pipelines shall offer firm and interruptible transportation service. Pooling shall be made available to interruptible transportation service customers, subject to the human needs limitation set forth in these Gas Transportation Rules.

5.2.2. ~~3.2.b.~~ Optional services.

All local distribution companies shall develop some method which ensures that all interruptible transportation customers, whether they are members of a pool or not, pay for all the costs they impose on the system including any balancing penalties. 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.

5.2.3. ~~3.2.e.~~ Discrimination prohibited.

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

5.2.4. ~~3.2.f.~~ Recourse to the Commission.

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 upon a petition by either party.

5.3. ~~3.3.~~ Tariff Requirements -

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

5.3.1. ~~3.3.a.~~ Transportation tariffs.

5.3.1.a. ~~3.3.a.1.~~ 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.

5.3.1.b. ~~3.3.a.2.~~ 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.

5.3.1.c. ~~3.3.a.3.~~ For natural gas produced within West Virginia, the transportation rate may not flex upward from the benchmark fully distributed cost based rate.

5.3.1.d. ~~3.3.a.4.~~ 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.

5.3.1.e. ~~3.3.a.5.~~ The flexibility of transportation rates for each entity subject to this rule must be determined according to the following standards:

5.3.1.e.1. ~~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~~ Rule 2.6 ~~4.5.2.~~

5.3.1.e.2. B. The provisions of this Rule 5.3.1.e. ~~subsection 3.3.5.b.~~ shall apply to utilities which provide, in addition to transportation services, full commodity service to non-transportation customers.

5.3.1.e.2.A. 4. 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.

5.3.1.e.2.B. 2. 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

~~5.3.2.c. 3.3.b.3.~~ 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.

~~5.3.2.d. 3.3.b.4.~~ 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:

~~5.3.2.d.1. A.~~ Rates including any billing and payment requirements, and/or late payment penalty clauses.

~~5.3.2.d.2. B.~~ Eligibility for pooling service. Human needs customers who have selected interruptible transportation service, including residences, schools, hospitals, nursing homes and other types of health care facilities, are not eligible for pooling unless they purchase stand-by service or have demonstrated that they have the existing ability to switch to alternative fuels which would meet the human needs customers' energy requirements that were provided by the interrupted gas supply.

~~5.3.2.d.3. C.~~ Responsibility for any unpaid purchased gas cost arising from prior utility or intrastate pipeline service.

~~5.3.2.d.4. D.~~ Provisions for balancing the pool and the transfer of gas supplies from one pool to another.

~~5.3.2.d.5. E.~~ Pool membership requirements, include at a minimum, proof that all end users are interruptible transportation customers, are not subject to this rule's human needs limitation, and have knowingly selected the option of pooling and the potential ramifications of selecting pooling. Such proof must be clear and unambiguous and to the satisfaction of the utility or intrastate pipeline. The primary responsibility for payment for the transportation service is that of the pool operator. Equitable distribution of end user payments to the pool operator shall be a matter of contractual rights between the end user and the pool operator. When a transporter has not received adequate, timely payment from a pool operator, the transporter may initiate collection activities, including termination action, against the entity contracting transportation service, even if such entity is a pool operator and is not an end user, provided that the transporter provide notification to each member of the pool regarding such non-payment and termination actions. Individual members of a pool that is delinquent in its payments to a transporter shall not be precluded from obtaining service in their own right solely because of the delinquency of their former pool. If the transporter is an LDC, it must comply with the Commission's rules on terminations. Further, if applicable to any individual member of such pool, an LDC shall comply with Gas Utility Rule ~~4.8.2.b.13~~ ~~4.8.1.a.J~~.

~~5.3.2.e. 3.3.b.5.~~ Utilities and intrastate pipelines may provide for the following operational considerations within their individual pooling tariffs, for example, but not limited to:

~~5.3.2.e.1. A.~~ Limitations, if any, due to upstream and/or downstream contractual agreements with interstate and intrastate pipelines.

~~5.3.2.e.2. B.~~ Limitations, if any, on the number of pools from which an individual end-user can be served at any one time.

~~5.3.2.e.3. C.~~ 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).

~~5.3.2.e.4. D.~~ Any provisions related to withdrawals from pool participation. Such provision should provide for time frames for proper notice and appropriate forms for such notice.

~~5.3.2.e.5. E.~~ 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.

§150-16-6. ~~§150-16-4.~~ Bypass.

~~6.1. 4.1.~~ Except for a new large-volume user of West Virginia-produced natural gas that meets the requirements of W. Va. Code § 24-2-20 and complies with the requirements in Rule 6.2 below, any ~~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.

~~6.1.1. 4.1.a.~~ Ordinary extensions of existing utility systems in the usual course of business are exempt from the certificate requirements of this section.

~~4.1.b. Exemptions.~~

~~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.~~

~~6.1.2. 4.1.e.~~ In the case of an application pursuant to this section, the Commission intends to apply the following procedure:

~~6.1.2.a. 1.~~ The thirty (30) day prefiling notice provided for in ~~West Virginia~~ W. Va. Code §24-2-11(a) is waived.

~~6.1.2.b. 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~~ W. Va. 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.

~~6.1.2.c. 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.

6.1.2.d. 4- Upon the receipt of a bona-fide protest, the Commission will proceed with a disposition of the application in an expeditious manner.

6.2. In lieu of complying with the bypass provisions set forth above, a new large-volume user of West Virginia-produced natural gas that meets the requirements of W. Va. Code § 24-2-20 may bypass the utility facilities and receive service from a non-utility so long as the

6.2.1. person, entity or facility has not previously been a natural gas utility customer,

6.2.2. person or entity notifies the utility serving the area at least sixty (60) days prior to receiving natural gas pursuant to W. Va. Code § 24-2-20 that the person or entity plans to receive service from a non-utility,

6.2.3. person or entity certifies in a sworn statement to the Commission at least sixty (60) days prior to receiving natural gas pursuant to W. Va. Code § 24-2-20 that the

6.2.3.a. utility was notified,

6.2.3.b. projected annual usage will be at least 100,000 Mcf.

6.2.3.c. person or entity desires to receive natural gas from a supplier(s) other than a public utility, and

6.2.3.d. person or entity will receive natural gas produced in West Virginia.

6.2.4. certification provides the name and tax identification number of each supplier.

6.2.5. natural gas supplier(s) bills the user and the user pays for at least 100,000 Mcf during each full calendar year after the utility was notified, with exceptions for force majeure and conditions beyond the reasonable control for either the user or supplier(s).

6.3. 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.

§150-16-7. §150-16-5. Utility to Utility Competition.

7.1. 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:

~~7.1.1. 5-1.a.~~ the facilities of the utility whose service area is involved will be used and compensated for transportation; or,

~~7.1.2. 5-1.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.

~~7.2. 5-2.~~ Any dispute regarding utility to utility competition shall be resolved through the Commission's complaint procedures.

§150-16-8. ~~§150-16-6.~~ Existing Transportation Arrangements.

~~8.1. 6-1.~~ All transportation arrangements pursuant to contracts which were executed and made effective prior to May 11, 1987, ~~the effective date of this rule, will be~~ are 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 May 11, 1987 ~~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.

§150-16-9. ~~§150-16-7.~~ Priority of Service.

~~9.1. 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.

~~9.2. 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.

§150-16-10. ~~§150-16-8.~~ Reporting Requirements.

~~10.1. 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.

~~10.2. 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.~~

§150-16-11. ~~§150-16-9.~~ Pooling Requirements.

~~11.1. 9-1.~~ These rules apply to public utilities, intrastate pipelines, pool operators, marketers and end users as defined in these Gas Transportation Rules and the Commission's Gas Utility Rules and Regulations for the Government of Gas Utilities and Gas Pipeline Safety.

~~11.2. 9-2.~~ A pool operator shall provide verification to the utility or intrastate pipeline of the pool

operator's compliance with these rules. 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 shall require proof of the pool operator's legal status within the State.

~~11.3. 9.3.~~ At a minimum, all entities proposing to be operators of pools for interruptible transportation customers must comply with the utility's or intrastate pipeline's tariff filings and applicable Commission rules. Operators of multiple member pools must be certificated by the Public Service Commission of West Virginia. Operators of individual members pools do not have to obtain a certificate. The certificate application form for operators of multiple member pools is attached as PSC Gas Transportation Form No. 2.

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

- ~~a. The pool operator's name and business address.~~
- ~~b. The name(s) and telephone number(s) of the designated contact person(s) for the pool operator.~~
- ~~c. The name, address and telephone number of the resident agent registered with the Commission or with the West Virginia Secretary of State to receive service of process.~~

~~11.4. 9.5.~~ Pool operators have the obligation to provide gas supply to pool members pursuant to the terms and conditions of their contracts. Those contracts shall also govern the equitable disposition of an individual end user's payment to the pool operator.

~~11.5. 9.6.~~ The Commission may revoke the authority of multiple member pool operators who do not comply with Commission rules or state law.

§150-16-12. ~~§150-16-10.~~ Implementation of Pooling.

~~12.1. 10.1.~~ To orderly and effectively implement pooling, the following transition and timetable will be observed:

~~12.1.1. 10.1.a.~~ After a final Commission order approving each utility's or intrastate pipeline's tariff filing required by this rule, pooling will become available to the following groups and/or classes:

- ~~12.1.1.a. 1.~~ All current and previous interruptible transportation service customers; and
- ~~12.1.1.b. 2.~~ All utility defined industrial and commercial customers that request and are eligible to receive interruptible transportation service for new or incremental load.

~~12.1.2. 10.1.b.~~ No later than twelve (12) months after pooling is available under ~~section 10.1.a~~ Rule 12.1.1 above, pooling will become available to all other utility defined industrial customers who request and are eligible to receive interruptible transportation service.

~~12.1.3. 10.1.c.~~ No later than twenty-four (24) months after pooling is available under Rule 12.1.1 ~~section 10.1.a~~ above, pooling will become available to all other utility defined commercial customers who request and are eligible to receive interruptible transportation service.

**PSC Gas Transportation Form No. 1
Summary Information**

This information must be filed by all transportation entities subject to General Order No. 228.

Annual report of Year ended June 30

Address of respondent.....

<u>Name of Transportation Customer</u>	<u>Average Rate</u>	<u>Volumes Transported This Period</u>
.....
.....
.....
.....
.....
.....
.....
.....
.....
.....

**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

PSC Gas Transportation Form No. 1A

Detail Page 2 of 3

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:

Received

Delivered

Distance

12. Notes to Report:

Explanation

Reference

PSC Gas Transportation Form No. 2

State of West Virginia
Public Service Commission
Charleston

APPLICATION FOR CERTIFICATION AS A NATURAL GAS
POOL OPERATOR FOR MULTIPLE END USERS

Case No. _____

Application _____ of

_____ for certification as an operator of natural gas pools for multiple end users in the State of West Virginia filed in accordance with the provisions of the Rule 11 of the Public Service Commission *Rules Governing the Transportation of Natural Gas*, 150 C.S.R. Series 16.

Name _____ of _____ the _____ Pool _____ Operator:

Address _____ of _____ the _____ Pool _____ Operator:

Name(s) _____ of _____ the _____ Pool Operator's _____ designated _____ contact _____ person(s):

Telephone Number(s) _____ of _____ the _____ Pool Operator's _____ designated _____ contact _____ person(s):

Fax Number(s) _____ of _____ the _____ Pool Operator's _____ designated _____ contact _____ person(s):

Email Address(es) _____ of _____ the _____ Pool Operator's _____ designated _____ contact _____ person(s):

Name of the Pool Operator's designated agent for receipt of legal service of process:

=

Address of the Pool Operator's designated agent for the receipt of legal service of process:

=

=

=

Telephone Number of the Pool Operator’s designated agent for the receipt of legal service of process:

=

Form No. 2, continued.

The Applicant agrees to comply with all applicable West Virginia statutory law and the Public Service Commission’s rules, regulations and orders.

Dated this _____ day of _____, _____.

(Signed)

Signature of authorized representative of applicant

Title _____ of _____ Signer:

Address _____ of _____ Signer:

_____, Attorney

W. Va. State Bar I.D. No.: _____

Subscribed and sworn before me this _____ day of _____, 20____.

(Official signature and official seal of notary)

(If Applicant is signing out-of-state, please use verification Form No. 12 from the Commission Rules of Practice and Procedure, 150 C.S.R. Series 1.)