

152 FERC ¶ 61,049
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

18 CFR Parts 2 and 157
[Docket No. RM12-11-003; Order No. 790-B]

Revisions to Auxiliary Installations, Replacement Facilities,
and Siting and Maintenance Regulations

(Issued July 16, 2015)

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule, order on clarification.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is amending its regulations to: (1) provide pre-granted authority under new subsection 2.55(a)(3) to abandon or replace auxiliary facilities, subject to certain conditions; (2) permit auxiliary facilities that cannot meet the conditions for the pre-granted abandonment authority in new subsection 2.55(a)(3) to be abandoned under section 157.216 of the blanket certificate regulations, subject to those regulations' requirements; and (3) permit replacement facilities constructed under section 2.55(b) of the regulations to be abandoned under section 157.216 of the Part 157, Subpart F, blanket certificate regulations, subject to those regulations' requirements.

EFFECTIVE DATE: This rule will become effective [**Insert Date 75 days after publication in the FEDERAL REGISTER**].

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SUPPLEMENTARY INFORMATION:

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FEDERAL ENERGY REGULATORY COMMISSION

Revisions to Auxiliary Installations, Replacement
Facilities, and Siting and Maintenance Regulations

Docket No. RM12-11-003

ORDER NO. 790-B

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UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Norman C. Bay, Chairman;
Philip D. Moeller, Cheryl A. LaFleur,
Tony Clark, and Colette D. Honorable.

Revisions to Auxiliary Installations, Replacement
Facilities, and Siting and Maintenance Regulations

Docket No. RM12-11-003

ORDER NO. 790-B

FINAL RULE

ORDER ON REHEARING AND CLARIFICATION

(Issued July 16, 2015)

1. On November 20, 2014, the Federal Energy Regulatory Commission (Commission) issued Order No. 790-A,¹ which affirmed, *inter alia*, the Commission's clarification in Order No. 790² that auxiliary facilities installed under section 2.55(a) of the Commission's regulations³ may only utilize rights-of-way, facility sites, and work spaces authorized for the construction and operation of interstate transmission facilities.

¹ *Revisions to Auxiliary Installations, Replacement Facilities, and Siting and Maintenance Regulations*, Order No. 790-A, 79 FR 70056 (Nov. 25, 2014), FERC Stats. & Regs. ¶ 31,361 (2014) (cross-referenced at 149 FERC ¶ 61,144 (2014)).

² Order No. 790, 78 FR 72794-801 (Dec. 4, 2013), FERC Stats. & Regs. ¶ 31,351 (2013) (cross-referenced at 145 FERC ¶ 61,154 (2013)).

³ 18 CFR 2.55 (2014).

2. On December 22, 2014, National Fuel Gas Supply Corporation and Empire Pipeline, Inc. (collectively, National Fuel) filed a request that the Commission revise its Part 157, Subpart F, blanket certificate regulations to provide a mechanism under those regulations for the abandonment of auxiliary facilities that were constructed under section 2.55(a) and replacement facilities that were constructed under section 2.55(b). National Fuel also requests clarification that in addition to authorizing new auxiliary installations, section 2.55(a) also authorizes the replacement of existing auxiliary facilities without the need for abandonment authority under section 7(b) of the Natural Gas Act (NGA).

3. As discussed below, this order responds to National Fuel's requests by (1) adopting a new subsection 2.55(a)(3) to provide pre-granted authority to abandon or replace auxiliary facilities, subject to certain conditions; (2) amending Part 157 to provide authority, subject to the blanket certificate regulations' conditions, to abandon section 2.55(a) auxiliary facilities that cannot meet the conditions for the pre-granted abandonment authority being added to section 2.55(a) and to abandon section 2.55(b) replacement facilities.

I. Discussion

4. In Order No. 790-A, the Commission explained that section 2.55 facilities are installed under the certificate authority that authorized the interstate transmission pipeline facilities being augmented or replaced. The Commission further explained that because section 2.55 auxiliary and replacement facilities are certificated facilities, a company needs prior authorization under NGA section 7(b) to abandon such facilities. The

Commission stated that in many instances companies should be able to rely on their Part 157, Subpart F, blanket certificate authority to abandon section 2.55 facilities. In view of this statement, National Fuel believes it is the Commission's intent that companies be able to rely on their Part 157 blanket certificate authority to abandon facilities installed under section 2.55.

5. National Fuel points out, however, that section 157.202(b)(3) of the blanket certificate regulations states that a "facility" for purposes of the blanket program does not include a facility "described under section 2.55," and that section 157.216 states that blanket certificate abandonment authority is limited to facilities that "did or could now qualify" for construction authorization under the blanket provisions. National Fuel therefore requests that the Commission revise its blanket certificate regulations to ensure that companies will be able to rely on Part 157 blanket certificate authority to abandon section 2.55 auxiliary and replacement facilities. National Fuel stresses that without clear blanket certificate authority to abandon section 2.55 facilities that did or could now qualify for construction authorization under the blanket provisions, companies will be subject to the burden of having to file an NGA section 7(b) application for abandonment authorization for each individual facility.

6. In view of the Commission's statement in Order No. 790-A that NGA section 7(b) authority is required for the abandonment of section 2.55 facilities, National Fuel also seeks clarification on whether section 7(b) abandonment authority is needed to retire an auxiliary facility that is being replaced.

7. The Commission affirms its statement in Order No. 790-A that NGA section 7(b) authority is required for the abandonment of section 2.55 facilities, which includes the retirement of section 2.55 facilities that will be replaced. However, for the reasons discussed below, the Commission believes section 2.55(a) can be amended to include pre-granted authority to abandon section 2.55 facilities in certain situations and agrees that the blanket certificate regulations should be amended so that companies can rely on their blanket certificate authority to abandon auxiliary and replacement facilities that were or could have been constructed under section 2.55, provided the abandonment facilities meet the blanket program criteria.

8. Therefore, the Commission will amend: (1) section 2.55(a) to provide pre-granted authorization to retire auxiliary facilities that are being replaced or permanently abandon the auxiliary facilities if there will be no need to go outside an authorized right-of-way, facility site, or work space,⁴ and (2) Part 157, Subpart F, to permit the use of blanket

⁴ As the Commission has previously explained in this rulemaking proceeding, the certificate authority for section 2.55 auxiliary and replacement facilities is a type of blanket certificate that was both a precursor of and a complement to Part 157, Subpart F, blanket certificate authority. Order No. 790, FERC Stats. & Regs. ¶ 31,351 at P 16; Order No. 790-A, ¶ 31,361 at P 13. However, unlike activities under section 2.55, which must comply with previously established environmental conditions, activities under Part 157 that will involve ground disturbance or change operational air or noise emissions are subject to a project-specific environmental review in order to comply with the conditions in section 157.206(b). Because of this safeguard, blanket projects are permitted to use new rights-of-way and other previously undisturbed areas. In addition, environmental assessment reports are prepared for companies' larger-scale blanket projects to confirm that section 157.206(b)'s standard conditions will be adequate to ensure that the blanket project will have no significant adverse environmental impacts.

certificate authority, subject to the blanket program's conditions, to abandon section 2.55(a) auxiliary facilities if a company is unable to exercise the new pre-granted abandonment authority in section 2.55(a)(3) and to abandon section 2.55(b) replacement facilities.⁵ In view of the revisions and additions to section 2.55 since its original provisions were proposed in 1948,⁶ the Commission also is changing the current heading for section 2.55, "Definition of terms used in section 7(c)." The revised heading for section 2.55 will read "Auxiliary installations and replacement facilities."

A. Section 2.55(a) Auxiliary Facilities

9. Auxiliary installations under section 2.55(a) are limited to facilities that will serve "only for the purpose of obtaining more efficient operation or more economical operation

⁵ As discussed herein, section 2.55 facilities are jurisdictional, and therefore cannot be abandoned without prior authorization under NGA section 7(b). While the certificate authorization for the transmission facilities being augmented or replaced by section 2.55 facilities is the predicate for the certificate authority to construct section 2.55 facilities, the underlying certificate authorization does not include pre-granted abandonment authority. Note that although a company cannot abandon a newer facility which replaces an older facility without first securing authorization to do so, section 2.55(b) operates to provide pre-granted authority for the older facility. This final rule's regulatory changes are prospective only, and therefore do not operate to retroactively authorize any previous abandonments of section 2.55 facilities. However, consistent with the Commission's prior assurances in this proceeding regarding instances where companies may have mistakenly relied on section 2.55 to install auxiliary facilities that utilized new rights-of-way or other areas that had not been subject to the Commission's prior environmental review and approval, the Commission similarly does not intend to look back to pursue enforcement action with respect to earlier abandonments of auxiliary facilities unless it comes to the Commission's attention that remedial environmental measures need to be taken. See Order No. 790-A at P 42.

⁶ *Filing of Applications for Certificates of Public Convenience and Necessity, Notice of Proposed Rulemaking*, NOPR, [13 FR 6253](#), at 6254 (October 23, 1948).

of the authorized or proposed transmission facilities” (emphasis added).⁷ Further, to add an auxiliary facility to a transmission pipeline system, a company cannot rely on section 2.55(a) unless its activities are confined to the permanent right-of-way, facility site, and temporary work space surveyed and authorized by the Commission in its environmental review of the transmission system.⁸ In addition, because section 2.55 facilities are constructed and operated under the certificate authorization for the transmission facilities being augmented or replaced, section 2.55 activities must not result in a violation of any environmental conditions applicable to the certificate authorizing the transmission facilities. Therefore, to install auxiliary facilities under section 2.55(a), a company must:

conform to the conditions of the certificate authorizing construction of the transmission facilities (e.g., all required mitigation measures, such as erosion control or revegetation protocols, that applied to the case-specific

⁷ As examples of auxiliary facilities that serve only to make pipeline operation more efficient or economical, section 2.55(a) lists “[v]alves; drips; pig launchers/receivers; yard and station piping; cathodic protection equipment; gas cleaning, cooling and dehydration equipment; residual refining equipment; water pumping, treatment and cooling equipment; electrical and communication equipment; and buildings.”

⁸ The Commission acknowledged in Order No. 790 that it was not aware of any section 2.55(a) auxiliary installation activities outside authorized areas that approached the scale of certain section 2.55(b) replacement activities that had taken place outside authorized areas. However, as the Commission explained, section 2.55(a) auxiliary installations also must be restricted to previously authorized areas because “the issues raised for sections 2.55(a) and (b) activities are the same.” Order No. 790, FERC Stats. & Regs. ¶ 31,351 at P 20 (footnotes omitted).

certificate or Part 157 blanket certificate authority under which the transmission facilities were constructed).⁹

10. The Commission believes these limitations will be sufficient to obviate the need for further environmental review if section 2.55(a) is amended to include pre-granted authority for companies to abandon, or to retire and replace, auxiliary facilities “as described in section 2.55(a),” regardless of whether the facilities to be abandoned or replaced were installed under section 2.55. Therefore, the Commission will add a new paragraph to section 2.55(a)(3) to provide pre-granted authority to abandon or replace auxiliary facilities if the auxiliary facilities were or could have been installed under section 2.55(a)¹⁰ and all activities are confined to areas previously reviewed and approved by the Commission in conjunction with its authorization of the augmented transmission facilities.

11. Auxiliary facilities, by definition, serve exclusively to enhance the efficiency or economy of the operation of a transmission system; thus, the abandonment or replacement of auxiliary facilities should not result in a reduction or abandonment of service supplied by that system.¹¹ Nevertheless, the abandonment or replacement of

⁹ Order No. 790, FERC Stats. & ¶ 31,351 at P 33.

¹⁰ Note that auxiliary facilities installed under case-specific or blanket certificate authority can also qualify for the pre-granted authority under section 2.55(a)(3) if such facilities comply with the section 2.55 spatial constraints.

¹¹ Because section 2.55(b) provides authority to abandon the existing facilities being replaced under that subsection, section 2.55(b)(1)(i) provides that a replacement

(continued ...)

auxiliary facilities under new section 2.55(a)(3) will be authorized only if there will be no adverse impact on customers' certificated services.

12. Further, like the section 2.55(a) authority to install auxiliary facilities, the new section 2.55(a)(3) pre-granted authority will be available only if a company's abandonment or replacement activities will not result in a violation of the conditions on the certificate authorizing the augmented transmission facilities, in particular, the environmental mitigation conditions. For example, if the auxiliary facilities a company plans to abandon or replace are cathodic protection equipment located in a pipeline right-of-way, the case-specific or Part 157 blanket certificate authorization for construction of the pipeline generally would have been conditioned on the company's compliance with an *Upland Erosion Control, Revegetation, and Maintenance Plan*¹² and *Wetland and Waterbody Construction and Mitigation Procedures*.¹³ Just as the company would have been required to ensure compliance with these environmental certificate conditions to install the cathodic equipment under section 2.55(a), the company will need to similarly ensure that any exercise of the new section 2.55(a)(3) authority to abandon or replace the

project is authorized only if the abandonment of the existing facilities "will not result in a reduction or abandonment of service."

¹² See <http://www.ferc.gov/industries/gas/enviro/plan.pdf>.

¹³ See <http://www.ferc.gov/industries/gas/enviro/procedures.pdf>.

cathodic protection equipment will also comply with these environmental certificate conditions.¹⁴

13. Accordingly, new subsection 2.55(a)(3) will read as follows:

(3) *Abandonment or replacement of auxiliary installations.* Authorization to abandon or replace auxiliary facilities that were or could be installed under paragraph (a)(1) of this section is granted under section 7(b) of the Natural Gas Act, and no reporting is required, provided that:

(i) All activities will be confined to areas, including temporary work space, previously authorized by the Commission for the construction and operation of facilities at that location;

(ii) All activities will comply with applicable conditions on the certificate authorization for the construction and operation of facilities at that location; and

(iii) The abandonment or replacement will have no adverse impact on customers' certificated services.¹⁵

¹⁴ A company should seek guidance from staff if it is uncertain whether or how an environmental mitigation condition on the construction and operation of transmission facilities at a given location will apply to its abandonment of auxiliary facilities.

¹⁵ The pre-granted abandonment authority provided by new subsection 2.55(a)(3) will satisfy the requirement set forth in NGA section 7(b) that "no natural-gas company shall abandon all or any portion of its facilities subject to the jurisdiction of the Commission, or any service rendered by means of such facilities, without the permission and approval of the Commission first had and obtained."

B. Section 2.55(b) Replacements

14. Replacements under section 2.55(b), like auxiliary facility activities under section 2.55(a), are restricted to areas previously subject to the Commission's environmental review and approval.¹⁶ Also, replacements under section 2.55(b), like auxiliary facility activities under section 2.55(a), must conform to the conditions on the case-specific or Part 157 blanket certificate authorization of the affected transmission facilities.

15. As discussed earlier in this proceeding, replacement projects under section 2.55(b) can be much larger in scale than auxiliary installations under section 2.55(a).¹⁷ Further,

¹⁶ As the Commission explained in Order No. 790, FERC Stats. & Regs. ¶ 31,351 at P 15, “[i]n the case of section 2.55(b) replacement facilities, an environmental review was performed prior to construction of the existing facilities to be replaced.”

¹⁷ *Id.* at P 39. The Commission has explained the original intent for section 2.55(b) as follows:

The types of construction activities being conducted under section 2.55 are replacements that should only involve basic maintenance or repair to relatively minor facilities where the Commission has determined that no significant impact to the environment will occur. The Commission believes that the existing right-of-way that was used to construct the original facilities should be sufficient for these types of activities. Pipelines may use their blanket certificate authority to perform projects involving more extensive work that would need additional workspace, including the use of other unrelated rights-of-way. This would allow for the required additional environmental scrutiny. Therefore, those projects should be done under the pipeline's blanket certificate.

Id. at P 7, *citing* Order No. 603-A, FERC Stats. & Regs. ¶ 31,081 at 31,922 (1999).

section 2.55(b) can be used without prior notice to the Commission and shippers for replacing facilities upon which existing services are dependent,¹⁸ necessitating section 2.55(b)(1)(i)'s condition limiting replacement projects to situations where companies can ensure that the abandonment of existing facilities will not result in a reduction or cessation of service. In view of these considerations, even though activities under section 2.55 are restricted to areas subject to the Commission's prior environmental review and approval, the Commission cannot find, as it has above for section 2.55(a) auxiliary facilities, that it would be consistent with the public interest to provide pre-granted authority to abandon section 2.55(b) replacement facilities. However, abandonment authority for section 2.55(b) replacements can be provided under section 157.216 of the Part 157 blanket certificate regulations, since blanket abandonments provide for environmental review.¹⁹ In addition, the blanket provisions afford an opportunity for public input under the prior notice provisions applicable to

¹⁸ The only notice requirement applicable to replacements under section 2.55(b) is the requirement that a company give the Commission at least 30 days prior notice if the cost of a replacement project will exceed the blanket certificate regulations' current automatic cost limit. *See* section 2.55(b)(1)(iii) and (2). There is no public notice requirement under section 2.55(a).

¹⁹ In general, a facility is replaced as it approaches the end of its useful life, a lifespan which may be measured in decades for cathodically protected pipeline. Given this lifespan, by the time a replaced facility reaches the end of its useful life, there may have been changes in the use of land proximate to the replaced facility that were not contemplated in the Commission's review of the initial project proposal, and thus not accounted for in the certificate conditions. Accordingly, the Commission finds it prudent to revisit potential environmental impacts prior to the abandonment of certain replaced facilities.

larger abandonment projects and also require that a company be able to demonstrate the facility it is planning to abandon (be it original or a replacement) is no longer needed to meet its service obligations.²⁰

16. National Fuel observes that section 157.202(b)(3) states that a “facility,” for the purposes of the blanket program, “does not include the items described” in section 2.55, and section 157.216 states that the blanket abandonment authority described in that section is limited to facilities that “did or could now qualify” for construction under the blanket certificate regulations. Because these sections operate to exclude the items described in section 2.55 from eligibility for blanket certificate abandonment authorization, we will revise the blanket certificate regulations to allow companies to use the automatic and prior notice provisions of section 157.216 to abandon (1) replacement facilities that were or could have been constructed under section 2.55(b); and (2) auxiliary facilities that cannot be abandoned under new subsection 2.55(a)(3)’s pre-granted authority because their abandonment will require going out outside areas previously reviewed and approved by the Commission in authorizing the augmented transmission facilities.

²⁰ Even when a company obtains written consent from all customers whose services during the last year depended on the facilities to be abandoned under section 157.216, the abandonment is subject to the blanket certificate regulations’ prior notice provisions if the current cost of constructing the facilities to be abandoned would exceed the blanket certificate regulations’ current automatic cost limit. 18 CFR 157.216(b)(2) (2014).

17. As a result of these revisions to the blanket certificate regulations, a company will need to file an application for case-specific authority to abandon section 2.55 facilities only when the abandonment cannot qualify under the automatic or prior notice provisions of section 157.216 because the current cost to construct the facilities would exceed the blanket regulations' applicable cost limits, or because the company cannot obtain necessary customer consent as required by section 157.216, or because the project cannot satisfy the section 157.206(b)'s environmental requirements.²¹

II. Information Collection Statement

18. The Paperwork Reduction Act (PRA)²² requires each federal agency to seek and obtain Office of Management and Budget (OMB) approval before undertaking a collection of information directed to ten or more persons or contained in a rule of general

²¹ When a company relies on the automatic or prior notice provisions of section 157.216 to abandon a section 2.55 auxiliary or replacement facility, it will have to identify the abandonment in accordance with section 157.216(d) in the annual report of blanket certificate activities required by section 157.207. Section 157.216(d)(2) requires facilities abandoned under that section to be identified in a company's annual report by the "docket number(s) of the certificate(s) authorizing the construction and operation of the facilities to be abandoned." Since the Commission does not assign docket numbers to facilities put in place under section 2.55, companies' annual reports of blanket certificate activities should identify the docket number(s) associated with the transmission facilities that were augmented or replaced by the section 2.55 facilities abandoned under section 157.216. If section 2.55 facilities are abandoned under section 157.216's prior notice provisions, the company's annual report should also include the docket number that was assigned to its prior notice filing.

²² 44 U.S.C. 3501-3520 (2012).

applicability.²³ The OMB regulations implementing the PRA require approval of certain information collection requirements imposed by agency rules.²⁴ We expect a net decrease in the reporting burden due to this rule's amendment of section 2.55(a) to provide pre-granted authority for companies to abandon or replace auxiliary facilities and amendment of the Part 157 regulations to extend blanket certificate authority to the abandonment of certain section 2.55 auxiliary and replacement facilities. Companies must identify facilities abandoned under section 157.216 in the annual report submitted pursuant to section 157.207. While the expanded authority this rule provides under section 156.216 can be expected to increase the number of facilities abandoned under that section, companies can be expected to account for these additional facilities in the annual report with minimal, ministerial efforts. Consequently, this rule will substantially reduce current burdens on companies by eliminating the additional information that would otherwise need to be submitted in an NGA section 7(b) case-specific abandonment application.²⁵

²³ OMB's regulations provide at 5 CFR 1320.3(c)(4)(i) (2014) that "[a]ny recordkeeping, reporting, or disclosure requirement contained in a rule of general applicability is deemed to involve ten or more persons."

²⁴ 5 CFR 1320 (2014).

²⁵ FERC-537 (Gas Pipeline Certificates: Construction, Acquisition and Abandonment, OMB Control No. 1902-0060) covers both the abandonment application requirements of Part 157 and the annual reports under 18 CFR 157.207. The expanded Part 157 abandonment authority, as well as the new section 2.55(a)(3) pre-granted authority to abandon and replace auxiliary facilities, will be covered under FERC-537.

19. The Commission solicits comments from the public on the Commission's need for this information, whether the information will have practical utility, the accuracy of the burden estimates, recommendations to enhance the quality, utility, and clarity of the information to be collected, and any suggested methods for minimizing respondents' burden, including the use of automated information techniques. The burden estimates are for implementing the information collection requirements of this Final Rule. The Commission asks that any revised burden estimates submitted by commenters include the details and assumptions used to generate the estimates.

20. The collection of information modified by this Final Rule falls under FERC-537 (Gas Pipeline Certificates: Construction, Acquisition, and Abandonment). The following estimates of reporting burden are related only to this Final Rule.

Public Reporting Burden: The estimated average annual burden changes made in Docket RM12-11-003 follow.

RM12-11-003 Final Rule					
	Number of Respondents (1)	Number of Responses per Respondent (2)	Average Burden Hours Per Response (3)	Total Annual Burden Hours (1)x(2)x(3)	Total Annual Cost (\$)²⁶
FERC-537					

²⁶ The estimates for cost per response are derived using the following formula: Average Burden Hours per Response x \$72 per Hour = Average Cost per Response. The cost per hour figure is the FERC average salary plus benefits for Fiscal Year 2015. Subject matter experts found that industry employment costs closely resemble FERC's regarding the FERC-537 information collection.

Pre-Granted Auxiliary Approval (18 CFR 2.55)	3	1	5	15	\$1,080
Additional Blanket Certificate Abandonment Applications	2	1	25	50	\$3,600
Eliminated Blanket Certificate Abandonment Applications	-3	1	25	-75	-\$5,400
Eliminated Case-Specific Abandonment Applications	-2	1	160	-320	-\$23,040
Net Change due to RM12-11-003				-330	-\$23,760

Title: FERC-537 (Gas Pipeline Certificates: Construction, Acquisition and Abandonment)

Action: Proposed revisions to information collection

OMB Control No.: 1902-0060.

Respondents: Business or other for-profit enterprise (Natural Gas Companies).

Frequency of Responses: Ongoing and annual.

Necessity of Information and Internal Review: The Commission has determined that the proposed revisions are necessary to establish more efficient means to abandon auxiliary and replacement facilities. These requirements conform to the Commission's plan for efficient information collection, communication, and management within the natural gas industry. The Commission has assured itself, by means of its internal review, that there is

specific, objective support for the burden estimates associated with the abandonment requirements.

21. Interested persons may obtain information on the reporting requirements by contacting the following: Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426 [Attention: Ellen Brown, Office of the Executive Director, e-mail: DataClearance@ferc.gov, phone: (202) 502-8663, fax: (202) 273-0873].

22. Comments concerning the collection of information and the associated burden estimate should be sent to the Commission and to the Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, DC 20503 [Attention: Desk Officer for the Federal Energy Regulatory Commission, telephone: (202) 395-0710, fax: (202) 395-4718]. For security reasons, comments to OMB should be submitted by e-mail to: oira_submission@omb.eop.gov. Comments submitted to OMB should include OMB Control Number 1902-0060 (FERC-537).

III. Environmental Analysis

23. The Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any action that may have a significant adverse effect on the human environment. The Commission has categorically excluded certain actions from these requirements as not having a significant effect on the human environment. Generally, the regulatory actions taken in this rulemaking proceeding fall within the categorical exclusions in the Commission's regulations for actions that are clarifying, corrective, or procedural, and for information gathering, analysis, and dissemination. Although this rule alters the procedures by which companies may obtain abandonment

authorization for certain types of facilities, it will not result in any additional abandonment activities and therefore will not have a significant adverse effect on the human environment. Accordingly, an environmental review is not necessary and has not been prepared in connection with this rulemaking.

IV. Regulatory Flexibility Act

24. The Regulatory Flexibility Act of 1980 (RFA) generally requires a description and analysis of agency rules that will have a significant economic impact on a substantial number of small entities. The RFA mandates consideration of regulatory alternatives that accomplish the stated objectives of a proposed rule and that minimize any significant economic impact on a substantial number of small entities. The SBA Office of Size Standards develops the numerical definition of a small business. The SBA has established a size standard for companies transporting natural gas, stating that a firm is small if its annual receipts (and the receipts of its affiliates) are less than or equal to \$27.5 million.²⁷

25. The final rule provides less burdensome and less costly options for specified natural gas companies, the majority of which are not small businesses. The reporting requirements, which provide pre-granted abandonment authority under certain conditions and clarify the regulations, will reduce the burden and cost on those companies (large or small). The Commission estimates that an average of five projects per year will benefit

²⁷ See 13 CFR 121.201 for Subsector 486, NAICS code 486210 (Pipeline Transportation of Natural Gas).

from the less burdensome, streamlined requirements. Three of those five projects are expected to save \$1,440 each, by using the new pre-granted approval in 18 CFR 2.55 (rather than the more burdensome blanket certificate abandonment application). In addition, two of those five filers are expected to save \$9,720 each, by using the additional blanket certificate applications (rather than the case-specific abandonment applications). Accordingly, the Commission certifies that this Final Rule should not have a significant economic impact on a substantial number of small entities.

V. Document Availability

26. In addition to publishing the full text of this document in the Federal Register, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the Internet through FERC's Home Page (<http://www.ferc.gov>) and in FERC's Public Reference Room during normal business hours (8:30 a.m. to 5:00 p.m. Eastern time) at 888 First Street, NE, Room 2A, Washington, DC 20426.

27. From FERC's Home Page on the Internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

28. User assistance is available for eLibrary and the FERC's website during normal business hours from FERC Online Support at (202) 502-6652 (toll free at 1-866-208-3676) or email at ferconlinesupport@ferc.gov, or the Public Reference Room at (202)

502-8371, TTY (202) 502-8659. E-mail the Public Reference Room at public.referenceroom@ferc.gov.

VI. Effective Date and Congressional Notification

29. These regulations are effective [**insert date 75 days from publication in *Federal Register***]. The Commission has determined, with the concurrence of the Administrator of the Office of Information and Regulatory Affairs of OMB, that this rule is not a “major rule” as defined in section 351 of the Small Business Regulatory Enforcement Fairness Act of 1996. This final rule is being submitted to the Senate, House, of Representatives, Government Accountability Office, and Small Business Administration.

List of subjects

18 CFR Part 2

Administrative practice and procedure, and Reporting and recordkeeping requirements.

18 CFR Part 157

Administrative practice and procedure, Natural gas, and Reporting and recordkeeping requirements.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

In consideration of the foregoing, the Commission amends Parts 2 and 157, Chapter I, Title 18, *Code of Federal Regulations*, as follows:

PART 2 – GENERAL POLICY AND INTERPRETATIONS

1. The authority citation for Part 2 continues to read as follows:

Authority: 5 U.S.C. 601; 15 U.S.C. 717-717z, 3301-3432; 16 U.S.C. 792-828c, 2601-2645, 42 U.S.C. 4321-4370h, 7101-7352.

2. Amend § 2.55 by revising the section heading and adding paragraph (a)(3) to read as follows:

§ 2.55 Auxiliary installations and replacement facilities.

* * * * *

(a) * * *

(1) * * *

(2) * * *

(3) *Abandonment or replacement of auxiliary installations.* Authorization to abandon or replace auxiliary facilities that were or could be installed under paragraph (a)(1) of this section is pre-granted under section 7(b) of the Natural Gas Act, and no reporting is required, provided that:

(i) All activities will be confined to areas, including temporary work space, previously authorized by the Commission for the construction and operation of facilities at that location;

(ii) All activities will comply with applicable conditions on certificate authorizations for the construction and operation of facilities at that location; and

(iii) The abandonment or replacement will have no adverse impact on customers' certificated services.

PART 157 – APPLICATIONS FOR CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY AND FOR ORDERS PERMITTING AND APPROVING ABANDONMENT UNDER SECTION 7 OF THE NATURAL GAS ACT

1. The authority citation for Part 157 continues to read as follows:

Authority: 15 U.S.C. 717-717w, 3301-3432; 42 U.S.C. 7101-7352.

2. Amend § 157.202 by revising paragraph (b)(2)(i) by adding a sentence at the end and revising paragraph (b)(3) to read as follows:

§ 157.202 Definitions.

* * * * *

(b) * * *

(2)(i) * * *

Finally, for purposes of abandonment under § 157.216 of this subpart, eligible facilities include auxiliary installations that do not qualify for pre-granted abandonment authority under § 2.55(a)(3) of this chapter and replacement facilities constructed under section § 2.55(b).

* * *

(3) For purposes of construction under this subpart, *facility* does not include an auxiliary facility that qualifies for construction under section 2.55(a) or a replacement facility that qualifies for construction under section 2.55(b) of this chapter.

* * * * *

3. Amend § 157.216 by revising paragraph (a)(2) and paragraph (b)(2) to read as follows:

§ 157.216 Abandonment.

(a) *Automatic authorization.*

* * *

(2)(i) An auxiliary facility as described in § 2.55(a) when the abandonment:

(A) Will not exceed the cost limit in § 157.208(d) for activities under the automatic provisions;

(B) Will have no adverse impact on customers' certificated services; and

(C) Cannot satisfy the right-of-way, facility site, and work space limitations for the pre-granted abandonment authority in § 2.55(a)(3);

(ii) A replacement facility that was or could have been constructed under section 2.55(b), provided the current cost to construct the facilities would not exceed the cost limit in § 157.208(d) for activities under the automatic provisions and the certificate holder obtains the written consent of each customer served using the facility during the past 12 months;

(iii) Any other facility that did or could now qualify for automatic authorization as described in § 157.203(b), provided the certificate holder obtains the written

consent of each customer served using the facility during the past 12 months.

(b) *Prior notice.* * * *

(2)(i) An auxiliary facility as described in § 2.55(a) when the abandonment:

(A) Will exceed the cost limit in § 157.208(d) for activities under the prior notice provisions;

(B) Will have no adverse impact on customers' certificated services; and

(C) Cannot satisfy the right-of-way, facility site, and work space limitations for the pre-granted abandonment authority in § 2.55(a)(3).

(ii) A replacement facility that was or could have been constructed under section 2.55(b), provided the current cost to construct the facilities would not exceed the cost limit in § 157.208(d) for activities under the prior notice provisions and the certificate holder obtains the written consent of each customer served using the facility during the past 12 months;

(iii) Any other facility that did or could now qualify for prior notice authorization as described in § 157.203(b), provided the certificate holder obtains the written consent of each customer served using the facility during the past 12 months.

* * * * *