

the Code of Federal Regulations or by invoking its general legislative authority under Part II of the FPA. Finally, the May 15 order does not constitute an amendment of a prior legislative rule. We conclude, therefore, that the May 15 order is an interpretative rule.

Moreover, in this regard, the May 15 order did not set a depreciation rate for accounting purposes for Southern (or any public utility or licensee).²⁴ It merely reminded all public utilities and licensees of the need to obtain Commission authorization for changes in their depreciation rates for accounting purposes.

We also are not persuaded by Southern's arguments that changes in the electric utility industry somehow warrant allowing entities not to comply with the requirement that we approve their depreciation rates for accounting purposes. While Southern suggests that the movement to market-based power sales rates warrants our relieving public utilities and licensees of the requirement that they file, the fact is that there yet remain many cost-based power sales rates, as well as cost-based transmission rates, that reflect the companies' depreciation rates.²⁵ Nevertheless, we have strived to comply with our statutory responsibilities in the least burdensome, and the most expeditious, manner possible. Our intent is not to unduly burden the industry, but to fulfill our statutory responsibilities. Thus, we have allowed an amnesty period until the end of the year for these filings. Additionally, we allow these filings to be made under Rule 204 of the Commission's Rules of Practice and Procedure, 18 CFR § 285.204 (1996), which does not require payment of a filing fee. We also expect that the vast majority of these filings can be processed expeditiously by the Office of the Chief Accountant.²⁶

Finally, we disagree with Southern's contention that this Commission should regulate depreciation accounting practices of jurisdictional public

utilities only to the extent that the underlying capital is dedicated to jurisdictional service. The Commission's authority to prescribe a uniform system of accounts and to require a public utility to keep accounts accordingly is not open to doubt.²⁷ If a state desires a utility to keep a separate set of books for retail ratemaking purposes, however, the state is free to direct the utility to do so.²⁸

The Commission orders

(A) Southern's motion to intervene out of time is hereby granted, as discussed in the body of this order.

(B) Southern's request for rehearing is hereby denied, as discussed in the body of this order.

(C) The Secretary shall promptly publish a copy of this order in the **Federal Register**.

(D) The Secretary shall promptly serve copies of this order on all State commissions, as defined in section 3(15) of the Federal Power Act.

By the Commission.

Lois D. Cashell,
Secretary.

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP98-29-000, CP98-30-000, CP98-31-000, and CP98-32-000]

North Atlantic Pipeline Partners, L.P.; Notice of Applications for Certificates of Public Convenience and Necessity, and for a Presidential Permit and Section 3 Authorization

October 22, 1997.

Take notice that on October 15, 1997, North Atlantic Pipeline Partners, L.P. (North Atlantic), 7500 Texas Commerce Tower, 600 Travis, Houston, Texas 77002, filed applications pursuant to Sections 3 and 7(c) of the Natural Gas Act (NGA). In Docket No. CP98-29-000, North Atlantic seeks a Presidential Permit and Section 3 authorization pursuant to Part 153 of the Commission's Regulations. In Docket No. CP98-30-000, North Atlantic seeks a Certificate of Public Convenience And Necessity to construct and operate natural gas pipeline facilities under Part 157, Subpart E of the Commission's

Regulations.¹ In Docket No. CP98-31-000, North Atlantic seeks a Certificate of Public Convenience And Necessity for the transportation of natural gas under Part 284, Subpart G of the Commission's Regulations. Finally, in Docket No. CP98-32-000, North Atlantic seeks a Certificate of Public Convenience And Necessity for certain blanket construction and operation authorization under Part 157, Subpart F of the Commission's Regulations. North Atlantic's proposal is more fully set forth in the applications which are on file with the Commission and open to public inspection.

North Atlantic is a limited partnership formed under the laws of the State of Delaware. North Atlantic's general partner is North Atlantic Pipeline Company, L.L.C., a Delaware limited liability company, and North Atlantic's limited partner is Tatham Offshore, Inc. North Atlantic anticipates admitting additional limited partners.

In Docket No. CP98-30-000, North Atlantic wants authority to construct, own, operate and maintain about 190 miles of 42-inch diameter pipeline under Section 7(c) of the NGA and the Commission's optional certificate procedure under Part 157, Subpart E of the Commission's Regulations. The pipeline will extend from the United States-Canada International Boundary in the Gulf of Maine to a proposed point of interconnection in East Kingston, New Hampshire with the Joint Pipeline currently authorized to be owned by Maritimes & Northeast Pipeline, L.L.C. and Portland Natural Gas Transmission System. About 179 miles of the pipeline will be offshore and about 11 miles will be onshore. The total estimated cost of the United States portion of the project is \$472 million. (The Canadian portion of the project will initially go from Country Harbor, Nova Scotia to the United States-Canadian Boundary.)

North Atlantic says the initial design capacity of the pipeline is 590,000 Mcf per day or 615,370 dekatherms per day, which is currently limited due to pressure limitations on interconnecting upstream and downstream facilities; but ultimately, as upstream offshore Atlantic Canada gas fields are further developed, North Atlantic's facilities will have the capacity to deliver up to 2,200,000 Mcf of natural gas per day on a firm basis. North Atlantic says that its project will meet a growing demand for

¹ These are the Commission's Optional Certificate procedures. In the alternative, North Atlantic seeks the same natural gas facilities construction and operation certificate under Part 157, Subpart A of the Commission's Regulations. North Atlantic filed executed Letters of Interests with 6 shippers for 269,000 MMBtu per day of capacity.

²⁴ Indeed, even Midwest Power's request for a declaratory order was dismissed, as Midwest Power's depreciation rate change for accounting purposes was effective prior to *Midwest Power* and was based on sound depreciation accounting practices. 70 FERC at 61,793.

²⁵ See, e.g., *American Municipal Power-Ohio, Inc., et al.*, 57 FERC ¶ 61,358 at 62,161 & n.5 (1991), *reh'g denied*, 58 FERC ¶ 61,182 (1992). For power marketers or other entities that only sell at market-based rates, the Commission does not prescribe depreciation rates for accounting purposes. Indeed, the Commission's accounting requirements under Part 101 of its regulations are typically waived for such entities. See, e.g., *PEC Energy Marketing, Inc.*, 79 FERC ¶ 61,329 at 62,433 (1997). Accordingly, those entities would not need to submit any filings pursuant to section 302 of the FPA.

²⁶ See 79 FERC at 61,794 n.8.

²⁷ See *supra* note 15 and accompanying text.

²⁸ *Arkansas Power & Light Co. v. FPC*, 185 F.2d 751, 752 (D.C. Cir. 1950), *cert. denied*, 341 U.S. 909 (1951); *accord*, H.R. Rep. No. 74-1318, at 30-31 (1935); S. Rep. No. 74-621, at 53 (1935).

natural gas in the northeastern United States and will provide an environmentally-sound means of assessing the significant reserves of natural gas in offshore Atlantic Canada.

North Atlantic seeks approval of its initial rates and *pro forma* tariff provisions. North Atlantic proposes to offer a single rate schedule for firm transportation service, Rate Schedule FT-1, and to have the authority to negotiate, on a non-discriminatory basis, with shippers to charge rates for firm service that deviate from the FT-1 maximum rate of \$12.2761, which is a cost-of-service based rate, designed under the straight-fixed variable (SFV) method and based on the design capacity of the pipeline. Rates for authorized overrun and unauthorized overrun service are also stated in North Atlantic's *pro forma* tariff.

North Atlantic has used a capital structure of 50 percent debt, 50 percent equity, an after-tax rate of return on equity of 13.25 percent and cost of debt of 7.5 percent. The initial overall after-tax rate of return under this methodology is 10.38 percent. North Atlantic has also designed its maximum cost-of-service FT-1 rate based on a 25-year plant life using straight-line depreciation.

In addition to the firm rate schedules described above, North Atlantic will offer interruptible service under Rate Schedule IT-1 at a rate of 40.36 cents per dekatherm, which is the 100 percent load factor equivalent of the maximum FT-1 rate. North Atlantic has allocated \$1 million to its IT-1 service and, therefore, North Atlantic proposes to retain its Rate Schedule IT-1 revenues.

North Atlantic also proposes to negotiate, on a non-discriminatory basis, rates that differ from North Atlantic's generally applicable rate schedules. North Atlantic's negotiated rates may be less than, equal to, or greater than its cost-based maximum rates and may also be designed on a basis other than SFV. Pursuant to the Commission's Alternative Ratemaking Policy Statement, shippers unable to negotiate a satisfactory agreement are provided an option to elect the recourse rate, the maximum rate described above.

North Atlantic offers to cap the firm service rate for a long-term commitment made through the close of its open season. North Atlantic intends to negotiate with interested shippers on a non-discriminatory basis to develop agreements pursuant to which rates will automatically decrease as throughput increases over time, as an inducement to the efficient development of the vast

resources to be accessed by North Atlantic.

North Atlantic's *pro forma* Tariff also includes the General Terms and Conditions (GT&C) for all transportation services, designed to meet the applicable requirements of Order No. 636, as well as standards recommended by the Gas Industry Standards Board and accepted by the Commission. North Atlantic's GT&C also include a lateral construction policy which it says is consistent with the Commission's Pricing Policy For New And Existing Facilities Constructed By Interstate Natural Gas Pipelines.

In addition, in Docket No. CP98-29-000, North Atlantic seeks authority to construct, own, operate and maintain 250 feet of 42-inch diameter pipeline at the United States-Canadian Boundary under Section 3 of the NGA and Executive Order No. 10485. At the Boundary, the pipeline will connect with North Atlantic's upstream Canadian affiliate. North Atlantic also seeks Blanket Certificates under Section 7(c) of the NGA pursuant to Part 284, Supart G and Part 157, Supart F., in Docket Nos. CP98-31-000 and CP98-32-000, respectively, to transport natural gas for others, and perform certain routine construction functions.

Finally, North Atlantic requests a preliminary determination with respect to non-environmental issue by March 1, 1998, and a final certificate by December 1, 1998. North Atlantic has a November 1, 1999, target date for being in service.

Any person desiring to be heard or making any protest with reference to said application should on or before November 12, 1997, file with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to take but will not serve to make the protestants parties to the proceeding. The Commission's rules require that protestors provide copies of their protests to the party or person to whom the protests are directed. Any person wishing to become a party to a proceeding or to participating as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

A person obtaining intervenor status will be placed on the service list maintained by the Secretary of the

Commission and will receive copies of all documents issued by the Commission, filed by the applicant, or filed by all other intervenors. An intervenor can file for rehearing of any Commission order and can petition for court review of any such order. However, an intervenor must serve copies of comments or any other filing it makes with the Commission to every other intervenor in the proceeding, as well as filing an original and 14 copies with the Commission.

However, a person, company or organization does not have to intervene in order to have comments on any aspect of the proposal considered by the Commission. Instead, such entity may submit two copies of such comments to the Secretary of the Commission. Commenters who are concerned about environmental or pipeline routing issues will be placed on the Commission's environmental mailing list, will receive copies of environmental documents and will be able to participate in meetings associated with the Commission's environmental review process. Commenters will not be required to serve copies of filed documents on all other parties. However, commenters will not receive copies of all documents filed by the parties or issued by the Commission, and will not have the right to seek rehearing or appeal the Commission's final order to a Federal court.

The Commission will consider all comments and concerns equally, whether filed by commenters or those requesting intervenor status.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 3, 7 and 15 of the NGA and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on these applications if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be

unnecessary for North Atlantic to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 97-28455 Filed 10-27-97; 8:45 am]

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER96-399-000; EL96-35-001]

Northern Indiana Public Service Company and Wabash Valley Power Association, Inc. v. Northern Indiana Public Service Company; Notice of Filing

October 22, 1997.

Please take notice that on August 6, 1997, Northern Indiana Public Service Company (Northern Indiana) filed its refund report in the above captioned case.

Copies of the refund report have been served on all parties and on the Indiana Utility Regulatory Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with the Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions and protests should be filed on or before November 3, 1997. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97-28457 Filed 10-27-97; 8:45 am]

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC98-7-000]

Phibro Inc.; Notice of Application for Authorization Under Federal Power Act Section 203

October 22, 1997.

Take notice that on October 21, 1997, Phibro Inc. (Phibro), tendered for filing

a request that the Commission approve a disposition of facilities and/or grant any other authorization the Commission may deem to be needed under Section 203 of the Federal Power Act as a result of the forthcoming acquisition of Salomon Inc (Salomon), Phibro's parent, by Travelers Group Inc., (Travelers). As explained in the application, the planned acquisition will have no effect on the jurisdictional facilities, rates or services of Phibro and will be consistent with the public interest.

Phibro requests expeditious action on the application in order that there be no delay in the acquisition of Salomon by Travelers.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before November 21, 1997. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97-28539 Filed 10-27-97; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98-39-000]

Tennessee Gas Pipeline Company; Notice of Application

October 22, 1997.

Take notice that on October 20, 1997, Tennessee Gas Pipeline Company (Tennessee), 1001 Louisiana, Houston, Texas 77002, filed an application pursuant to Section 7 of the Natural Gas Act (NGA) and Part 157 of the Commission's Regulations thereunder for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas facilities and an order granting permission and approval to abandon the facilities being replaced, all as more fully set forth in the application on file with the Commission and open to public inspection.

Specifically, Tennessee requests that the Commission issue an order authorizing Tennessee to (1) abandon four 26-inch diameter pipelines which are fastened to the bridge for Highway 82 (Highway 82 Bridge) which crosses the Mississippi River near Greenville, Mississippi; (2) construct, own, and operate one 30-inch diameter pipeline; and (3) reconfigure six existing pipelines near the Mississippi River. Tennessee states that its requests are necessitated by the State of Mississippi Highway Department's (MDOT) plans to build a new bridge and remove the Highway 82 Bridge. Tennessee requests that the Commission grant the requested authorization by March 16, 1998.

Tennessee states that the proposed abandonment and construction are necessary to maintain the integrity of Tennessee's mainline transmission system and to enable Tennessee to continue to provide uninterrupted service for shippers. Tennessee states that the estimated cost for abandoning the segments of pipeline and constructing the proposed segments of pipeline will be approximately \$12,337,000.

Any person desiring to participate in the hearing process or to make any protest with reference to said application should on or before November 12, 1997, file with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to take but will not serve to make the protestants parties to the proceeding. The Commission's rules require that protestors provide copies of their protests to the party or parties directly involved. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

A person obtaining intervenor status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by every one of the intervenors. An intervenor can file for rehearing of any Commission order and can petition for court review of any such order. However, an intervenor must submit copies of comments or any other filing it makes with the Commission to every