

on automatic authorization for emergency activities report to the Commission their preparations and plans before breaking ground for reconstruction. Therefore, we propose to amend § 157.207, which provides for an annual retrospective report, listing all blanket projects completed in the prior year. We propose to modify this to require prospective reporting for activities intended to restore service in response to an emergency, with the pipeline company informing the Commission of its intended activities in advance of reconstruction.

32. We propose to include an emergency reporting requirement in § 157.207 by revising the introductory paragraph of that section to read as follows: "In the case of an emergency due to a sudden unanticipated loss of natural gas supply or capacity, the certificate holder must file, in the manner prescribed in §§ 157.6(a) and 385.2011 of this chapter, a report describing activity to be undertaken to restore service in advance of such activity in accordance with paragraph (i) of this section. In addition, on or before May 1 of each year, the certificate holder must file, in the manner prescribed in §§ 157.6(a) and 385.2011 of this chapter, an annual report of all blanket certificate activities, including all activities undertaken to restore service following a sudden unanticipated loss of natural gas supply or capacity."

33. We recognize that in filing a report of an intended emergency activity, a company will be unable to supply all the information routinely set forth in a standard annual blanket report. For example, although it will not be possible to provide, before the fact, the § 157.208(e)(3) statement of the "actual installed cost of each facility item," a company planning to proceed under blanket emergency authorization should nevertheless be able to provide projected costs. Thus, a proposed new paragraph (i) of § 157.207 would require companies' reports of intended emergency activities to provide to the extent practicable the information required by the regulations cross-referenced by § 157.207 for the type of facilities involved. We do not expect this reporting requirement will retard efforts to restore interrupted service, since the report can be prepared coincident with a company's compliance with landowner notification and environmental requirements. Note that the advance report to the Commission is not an application awaiting a Commission response or a prior notice type of proceeding with a requisite waiting period. The report

serves only to apprise the Commission of pending activity, and the submission of the description of the intended activity and location constitutes satisfaction of this reporting requirement.

34. We do not view the proposed amendments to our regulations as a significant departure from our past practices. We routinely receive requests for exceptions from full regulatory compliance, and we routinely grant such requests when a company demonstrates good cause therefor. Further, implicit in the NGA section 7 temporary certificate, the section 2.55 replacement and repair regulations, and the part 284 emergency provision, is the presumption that certain categories of equipment failure, human error, and natural disaster require immediate action. The Commission stands willing to grant pipeline companies latitude to construct, reconstruct, and rearrange facilities in an emergency due to a sudden unanticipated loss of gas or capacity that threatens life, health, or property. Finally, we do not expect the proposed amended provisions will be put to use with any regularity, since unlike the standard part 157 regulations, which are employed for routine or relatively minor system modifications, the emergency blanket provisions, by their nature, are only applicable in unexpected and atypical events.

35. Although the Commission can determine that in certain circumstances the public convenience and necessity favor construction and transportation without full adherence to each existing certificate condition, the Commission cannot compromise compliance with statutory or regulatory requirements over which it has no jurisdictional authority. For example, regardless of any circumstances or any Commission finding, the environmental provisions of the National Environmental Policy Act (NEPA) and the safety provisions of DOT must be met. Thus, here, as in our 2001 temporary modification of part 157, "[w]e emphasize that projects under the expanded blanket authority will remain subject to our existing environmental regulations and compliance provisions"²⁴ as set forth in § 157.206(d) of our regulations.

36. In an emergency, in addition to the need to identify and resolve environmental and safety issues promptly, easements for a new right-of-way may be needed promptly. If affected landowners agree, it may be possible to obtain the right-of-way without undue delay. Otherwise, even with the right to exercise eminent

domain that is available to a pipeline company acting under part 157 blanket certificate authority, securing land rights may extend the duration of the service interruption.

37. Since the Commission lacks the authority to modify certain environmental, safety, and land acquisition procedures, we will, as noted, compile and maintain a list of agencies that hold relevant permitting authorities. (A state's governor, for example, may have the authority to acquire easements expeditiously in the case of a state-declared emergency.) Promptly alerting entities that will be involved in an emergency response should speed the planning, permissions, and reconstruction process.

38. We expect these proposed amendments to part 157 will provide pipeline companies confronting an emergency outage with the flexibility to act on their own initiative, without the delay inherent in the process of applying for case specific authorizations from the Commission. At the same time, the Commission will retain regulatory oversight through the existing blanket certificate procedures sufficient to safeguard the public interest by ensuring pipelines respect landowner property rights and adhere to environmental and safety requirements. Any waiver of the regulatory requirements to restore service in an emergency will be subject to review by the Commission or its delegated agent.

39. Finally, despite the advance report we are proposing in new subparagraph (i) of § 157.207, we are concerned that emergency projects under expanded blanket authority should not proceed without Commission awareness of the details of the project as it goes forward. Accordingly, we will also propose to require any pipeline company that undertakes to replace facilities under the expanded blanket certificate authority proposed herein to consult with Commission staff during the period that the facilities are under construction and we shall require the Director of the Office of Energy Projects (OEP) to designate a staff member to be available to advise and consult on any such project. A staff member designated by the Director of OEP shall be present on the construction site as necessary or appropriate based on the nature of the project and shall have delegated authority to take whatever steps are necessary to insure the protection of all environmental resources during activities associated with construction of the project. This authority shall allow the design and implementation of any additional measures deemed necessary (including stop work authority) to

²⁴ *Id.*, 95 FERC ¶ 61,225, at 61,776.