

tion, or order thereunder. Any criminal proceeding shall be brought in the district wherein any act or transaction constituting the violation occurred. Any suit or action to enforce any liability or duty created by, or to enjoin any violation of, this chapter or any rule, regulation, or order thereunder may be brought in any such district or in the district wherein the defendant is an inhabitant, and process in such cases may be served wherever the defendant may be found. Judgments and decrees so rendered shall be subject to review as provided in sections 1254, 1291, and 1292 of title 28. No costs shall be assessed against the Commission in any judicial proceeding by or against the Commission under this chapter.

(June 21, 1938, ch. 556, §24, formerly §22, 52 Stat. 833; June 25, 1948, ch. 646, §1, 62 Stat. 875, 895; renumbered §24, Pub. L. 109-58, title III, §314(b)(1)(A), Aug. 8, 2005, 119 Stat. 690.)

#### CODIFICATION

The words “the District Court of the United States for the District of Columbia” following “The District Courts of the United States” omitted as superfluous in view of section 132(a) of Title 28, Judiciary and Judicial Procedure, which states that “There shall be in each judicial district a district court which shall be a court of record known as the United States District Court for the district” and section 88 of title 28 which states that “The District of Columbia constitutes one judicial district”.

“Sections 1254, 1291, and 1292 of title 28” substituted in text for “sections 128 and 240 of the Judicial Code, as amended [28 U.S.C. 225 and 347]” on authority of act June 25, 1948, ch. 646, 62 Stat. 869, the first section of which enacted Title 28.

#### PRIOR PROVISIONS

A prior section 24 of act June 21, 1938, was renumbered section 26 and is classified to section 717w of this title.

#### § 717v. Separability

If any provision of this chapter, or the application of such provision to any person or circumstance, shall be held invalid, the remainder of the chapter, and the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

(June 21, 1938, ch. 556, §25, formerly §23, 52 Stat. 833; renumbered §25, Pub. L. 109-58, title III, §314(b)(1)(A), Aug. 8, 2005, 119 Stat. 690.)

#### § 717w. Short title

This chapter may be cited as the “Natural Gas Act.”

(June 21, 1938, ch. 556, §26, formerly §24, 52 Stat. 833; renumbered §26, Pub. L. 109-58, title III, §314(b)(1)(A), Aug. 8, 2005, 119 Stat. 690.)

#### SHORT TITLE OF 1988 AMENDMENT

Pub. L. 100-474, §1, Oct. 6, 1988, 102 Stat. 2302, provided that: “This Act [amending section 717f of this title and enacting provisions set out as a note under section 717f of this title] may be cited as the ‘Uniform Regulatory Jurisdiction Act of 1988’.”

#### § 717x. Conserved natural gas

##### (a) Determination of entitlement

(1) For purposes of determining the natural gas entitlement of any local distribution com-

pany under any curtailment plan, if the Commission revises any base period established under such plan, the volumes of natural gas which such local distribution company demonstrates—

(A) were sold by the local distribution company, for a priority use immediately before the implementation of conservation measures, and

(B) were conserved by reason of the implementation of such conservation measures,

shall be treated by the Commission following such revision as continuing to be used for the priority use referred to in subparagraph (A).

(2) The Commission shall, by rule, prescribe methods for measurement of volumes of natural gas to which subparagraphs (A) and (B) of paragraph (1) apply.

##### (b) Conditions, limitations, etc.

Subsection (a) shall not limit or otherwise affect any provision of any curtailment plan, or any other provision of law or regulation, under which natural gas may be diverted or allocated to respond to emergency situations or to protect public health, safety, and welfare.

##### (c) Definitions

For purposes of this section—

(1) The term “conservation measures” means such energy conservation measures, as determined by the Commission, as were implemented after the base period established under the curtailment plan in effect on November 9, 1978.

(2) The term “local distribution company” means any person engaged in the transportation, or local distribution, of natural gas and the sale of natural gas for ultimate consumption.

(3) The term “curtailment plan” means a plan (including any modification of such plan required by the Natural Gas Policy Act of 1978 [15 U.S.C. 3301 et seq.] in effect under the Natural Gas Act [15 U.S.C. 717 et seq.] which provides for recognizing and implementing priorities of service during periods of curtailed deliveries.

(Pub. L. 95-617, title VI, §605, Nov. 9, 1978, 92 Stat. 3167.)

#### REFERENCES IN TEXT

The Natural Gas Policy Act of 1978, referred to in subsec. (c)(3), is Pub. L. 95-621, Nov. 9, 1978, 92 Stat. 3350, as amended, which is classified generally to chapter 60 (§3301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3301 of this title and Tables.

The Natural Gas Act, referred to in subsec. (c)(3), is act June 21, 1938, ch. 556, 52 Stat. 821, as amended, which is classified generally to this chapter (§717 et seq.). For complete classification of this Act to the Code, see section 717w of this title and Tables.

#### CODIFICATION

Section was enacted as part of the Public Utility Regulatory Policies Act of 1978, and not as part of the Natural Gas Act which comprises this chapter.

#### DEFINITIONS

For definitions of terms used in this section, see section 2602 of Title 16, Conservation.

**§ 717y. Voluntary conversion of natural gas users to heavy fuel oil**

**(a) Transfer of contractual interests**

(1) In order to facilitate voluntary conversion of facilities from the use of natural gas to the use of heavy petroleum fuel oil, the Commission shall, by rule, provide a procedure for the approval by the Commission of any transfer to any person described in paragraph 2(B)(i), (ii), or (iii) of contractual interests involving the receipt of natural gas described in paragraph 2(A).

(2)(A) The rule required under paragraph (1) shall apply to—

(i) natural gas—

(I) received by the user pursuant to a contract entered into before September 1, 1977, not including any renewal or extension thereof entered into or on or after such date other than any such extension or renewal pursuant to the exercise by such user of an option to extend or renew such contract;

(II) other than natural gas the sale for resale or the transportation of which was subject to the jurisdiction of the Federal Power Commission under the Natural Gas Act [15 U.S.C. 717 et seq.] as of September 1, 1977;

(III) which was used as a fuel in any facility in existence on September 1, 1977.

(ii) natural gas subject to a prohibition order issued under section 717z of this title.

(B) The rule required under paragraph (1) shall permit the transfer of contractual interests—

(i) to any interstate pipeline;

(ii) to any local distribution company served by an interstate pipeline; and

(iii) to any person served by an interstate pipeline for a high priority use by such person.

(3) The rule required under paragraph (1) shall provide that any transfer of contractual interests pursuant to such rule shall be under such terms and conditions as the Commission may prescribe. Such rule shall include a requirement for refund of any consideration, received by the person transferring contractual interests pursuant to such rule, to the extent such consideration exceeds the amount by which the costs actually incurred, during the remainder of the period of the contract with respect to which such contractual interests are transferred, in direct association with the use of heavy petroleum fuel oil as a fuel in the applicable facility exceeds the price under such contract for natural gas, subject to such contract, delivered during such period.

(4) In prescribing the rule required under paragraph (1), and in determining whether to approve any transfer of contractual interests, the Commission shall consider whether such transfer of contractual interests is likely to increase demand for imported refined petroleum products.

**(b) Commission approval**

(1) No transfer of contractual interests authorized by the rule required under subsection (a)(1) may take effect unless the Commission issues a certificate of public convenience and necessity for such transfer if such natural gas is to be resold by the person to whom such contractual in-

terests are to be transferred. Such certificate shall be issued by the Commission in accordance with the requirements of this subsection and those of section 7 of the Natural Gas Act [15 U.S.C. 717f], and the provisions of such Act [15 U.S.C. 717 et seq.] applicable to the determination of satisfaction of the public convenience and necessity requirements of such section.

(2) The rule required under subsection (a)(1) shall set forth guidelines for the application on a regional or national basis (as the Commission determines appropriate) of the criteria specified in subsection (e)(2) and (3) to determine the maximum consideration permitted as just compensation under this section.

**(c) Restrictions on transfers unenforceable**

Any provision of any contract, which provision prohibits any transfer of any contractual interests thereunder, or any commingling or transportation of natural gas subject to such contract with natural gas the sale for resale or transportation of which is subject to the jurisdiction of the Commission under the Natural Gas Act [15 U.S.C. 717 et seq.], or terminates such contract on the basis of any such transfer, commingling, or transportation, shall be unenforceable in any court of the United States and in any court of any State if applied with respect to any transfer approved under the rule required under subsection (a)(1).

**(d) Contractual obligations unaffected**

The person acquiring contractual interests transferred pursuant to the rule required under subsection (a)(1) shall assume the contractual obligations which the person transferring such contractual interests has under such contract. This section shall not relieve the person transferring such contractual interests from any contractual obligation of such person under such contract if such obligation is not performed by the person acquiring such contractual interests.

**(e) Definitions**

For purposes of this section—

(1) The term “natural gas” has the same meaning as provided by section 2(5) of the Natural Gas Act [15 U.S.C. 717a(5)].

(2) The term “just compensation”, when used with respect to any contractual interests pursuant to the rule required under subsection (a)(1), means the maximum amount of, or method of determining, consideration which does not exceed the amount by which—

(A) the reasonable costs (not including capital costs) incurred, during the remainder of the period of the contract with respect to which contractual interests are transferred pursuant to the rule required under subsection (a)(1), in direct association with the use of heavy petroleum fuel oil as a fuel in the applicable facility, exceeds

(B) the price under such contract for natural gas, subject to such contract, delivered during such period.

For purposes of subparagraph (A), the reasonable costs directly associated with the use of heavy petroleum fuel oil as a fuel shall include an allowance for the amortization, over the remaining useful life, of the undepreciated value of depreciable assets located on the premises