

29, 1983, were accepted for filing and suspended until January 1, 1984. The expiration of the suspension period has brought about National's request.

National proposes to implement the results of a settlement reached with all the parties to this proceeding. The Settlement Rates reached by the parties (Docket No. RP83-105), according to National, are set forth in the above listed revised tariff sheets. National seeks immediate implementation of these rates to enable its customers to take full advantage of the reduced rates provided by the Settlement.

National also proposes the establishment of a surcharge mechanism to prevent prejudice to both itself and its customers in the event that the above mentioned settlement is rejected by the Commission. Their proposal provides, in the event of such a rejection, that a surcharge procedure shall be implemented which would give to National the difference between the revenues actually collected under the above mentioned Settlement Rates and the amount of revenues that would have been collected if the rates ultimately approved by the Commission were put into effect. The surcharge would include interest computed in accordance with Section 154.67(c) of the Commission's Regulations from the effective date of the receipt of revenues under the Settlement Rates until the date on which the revenue difference and related interest are recovered by National.

This surcharge procedure is to be implemented only if the current settlement agreement is rejected, and if the subsequently approved rates result in revenues that, if they were implemented, would produce revenues that are less than those actually collected under the current settlement agreement. Furthermore, the time period to compute the revenues under the current settlement rates and any subsequent rates which displace the current rates is to be a 12 month period.

To the extent possible, National requests that the Commission grant such waivers as may be necessary for the acceptance and approval of their proposals.

National states that copies of this filing have been served on each person designated on the official service list compiled by the Secretary in this proceeding.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211,

385.214). All such petitions or protests should be filed on or before January 18, 1984. 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 proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 84-1159 Filed 1-16-84; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. CP84-124-000]

United Gas Pipe Line Co.; Request Under Blanket Authorization

January 11, 1984.

Take notice that on December 9, 1983, United Gas Pipe Line Company (United), Post Office Box 1478, Houston, Texas 77001, filed in Docket No. CP84-124-000 a request pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that United proposes to construct and operate a sales tap for the delivery of gas to Louisiana Gas Service Company (Louisiana Gas) to serve a residential subdivision under the authorization issued in Docket No. CP82-430-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

United states that the sales tap would be located on its 4-inch lateral line in Hancock County, Mississippi, and would enable Entex to provide up to 1400 Mcf per day of natural gas for boiler fuel (end-use), under United's Rate Schedule DG-N. It is stated that the sales tap would not cause an increase in the customer's contractual maximum daily quantity nor its entitlements under United's effective curtailment plan.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall

be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,
Secretary.

[FR Doc. 84-1160 Filed 1-16-84; 8:45 am]
BILLING CODE 6717-01-M

[Project Nos. 5248-999, et al.]

West Slope Power Co., et al.; Public Meeting

January 11, 1984.

Pursuant to Section 306 of the Energy and Water Appropriation Act (Pub. L. 98-50), the Federal Energy Regulatory Commission will be updating a comprehensive water resources analysis covering Merced, Manpos, Madera and Fresno counties in California. This analysis will concentrate, in accordance with Section 306, on hydroelectric development proposed for Whiskey Creek, Nelder Creek and the Lewis Fork of the Fresno River, and immediately related areas.

Public meetings will be held by Commission staff at 8:30 am on January 23, 1984 in the City Council Chambers of Fresno, and at 7:00 p.m. at the North Fork Elementary School Multipurpose Hall in North Fork, for the purpose of informing the public of the intended scope of the analysis, the target resources to be evaluated, the methodology to be employed and the schedule for completion. Input from the public will be welcome.

For further information please contact Joseph Vasapoli (202) 357-8483 or Tom Russo (202) 376-9255.

Kenneth F. Plumb,
Secretary.

[FR Doc. 84-1161 Filed 1-16-84; 8:45 am]
BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-42029A; BH FRL 2483-6]

Isophorone; Decision To Adopt Negotiated Testing Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In response to the Interagency Testing Committee's (ITC) designation of isophorone for priority consideration of health effects testing, EPA announced in the Federal Register of January 6, 1983, a preliminary decision not to initiate rulemaking under the Toxic Substances Control Act

(TSCA) based on the Agency's tentative acceptance of a program submitted to EPA by the Ketones Program Panel of the Chemical Manufacturers Association (CMA) and on the National Toxicology Program's (NTP) initiation of a long-term bioassay for isophorone. After review and consideration of public comments received, the Agency finds no reason to alter its preliminary decision and has concluded that the CMA testing program, together with the NTP bioassay results, will provide sufficient data to reasonably determine or predict those health effects of isophorone identified by the ITC as being of concern. Therefore, EPA is not proposing a section 4(a) rule at this time to require health effects testing of isophorone.

FOR FURTHER INFORMATION CONTACT:

Jack P. McCarthy, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Room E-543, Washington, D.C. 20460, Toll Free: (800-424-9065), In Washington, D.C.: (554-1404), Outside the USA: (Operator-202-554-1404).

SUPPLEMENTARY INFORMATION:

I. Introduction

Section 4(a) of the Toxic Substances Control Act (TSCA) (Pub. L. 94-469, 90 Stat. 2003 *et seq.*; 15 U.S.C. 2601 *et seq.*) authorizes to EPA to promulgate regulations requiring testing of chemical substances and mixtures in order to develop data relevant to determining the risks that such chemicals may present to health and the environment. Section 4(e) of TSCA established an Interagency Testing Committee (ITC) to recommend to the EPA a list of chemicals to be considered for promulgation of testing rules under section 4(a) of the Act. The ITC placed isophorone on its priority testing list, as published in the *Federal Register* of June 1, 1979 (44 FR 31867). It recommended that isophorone be considered for testing for carcinogenicity, mutagenicity, teratogenicity, and other chronic effects and that an epidemiology study be performed.

EPA issued a notice published in the *Federal Register* of January 6, 1983 (48 FR 727), which announced the Agency's preliminary decision not to propose a rule under section 4(a) of the Toxic Substances Control Act (TSCA) to require health effects testing of isophorone. This decision was based on the Agency's evaluation of a testing proposal submitted by the Ketones Program Panel of the Chemical Manufacturers Association (CMA) and

the initiation of a long-term bioassay by the National Toxicology Program (NTP).

A draft of the Ketones Panel proposal was included in the public record (docket number OPTS-42029). The Agency requested comments on its preliminary decision not to develop a test rule for isophorone and on the proposed testing scheme.

This notice responds to public comments and announces the Agency's final decision not to initiate rulemaking at this time to require testing of isophorone pursuant to TSCA section 4(a).

II. EPA's Response to Public Comments

The Agency received comments from the Natural Resources Defense Council (NRDC) and from the Ketones Program Panel of CMA; no other comments were received. The Ketones Program Panel advocated acceptance of the program submitted to EPA and mentioned its intent to meet with EPA scientists at key decision points to discuss proper interpretation of the test data and possible further activities. The Panel's comments also discussed the alterations to be made in the mouse micronucleus study to make it acceptable to the Agency and its agreement with EPA's decision not to require that an epidemiology study be conducted this time.

The January 6 notice had requested comments on EPA's consideration and rejection of toxicokinetics testing at this time; such testing was not recommended by the ITC. The Ketones Program Panel agreed that toxicokinetic studies were not warranted at present.

NRDC raised various legal issues about EPA's acceptance of a negotiated testing agreement. NRDC was also concerned about the setting of schedules for testing. Its basic concerns, along with EPA's response to each, are discussed below in this unit. NRDC did not raise any concerns about the substance of the testing program proposed by the Ketones Program Panel, and NRDC did not comment on EPA's decision not to require an epidemiology study or toxicokinetics testing.

NRDC criticized EPA's policy of accepting negotiated testing agreements in lieu of rulemaking to require testing under section 4 of TSCA. NRDC argued that the "plain language" of TSCA mandates that testing of section 4(e) chemicals must be accomplished by rule. In addition, NRDC contended that negotiated testing has procedural and legal deficiencies. NRDC particularly cited the lack of enforceability of negotiated testing agreements and their failure to encompass other provisions of

TSCA which would be triggered by a section 4 rule.

EPA has previously addressed NRDC's general concern about negotiated testing a *Federal Register* notice published on January 5, 1982 (47 FR 335), discussing the negotiated testing program for alkyl phthalates. A more detailed analysis of NRDC's arguments was prepared for inclusion in the public record of that action (docket number OPTS-42005). As was indicated in that notice, EPA believes that neither TSCA nor its legislative history support NRDC's contention that the Congress established rules as the exclusive means for accomplishing testing. EPA believes that negotiated testing is consistent with the statutory purpose that adequate data on chemicals be developed expeditiously by the involved companies.

EPA agrees that negotiated testing is not legally enforceable, but as the Agency previously indicated (47 FR 335), there are compelling practical reasons why it expects that the involved companies will follow their agreements in the vast majority of cases. Furthermore, the Agency disagrees with NRDC's contention that if EPA is forced to develop a rule because of failure of a negotiated program, the entire program will take substantially longer than if EPA had pursued rulemaking from the beginning. Rather, EPA believes that it could conduct an expedited rulemaking which, in many cases, would not substantially lengthen the entire process.

NRDC is correct in asserting that acceptance of a negotiated testing program will not trigger certain other statutory provisions that would have been brought into play if the Agency proposed, and then promulgated, a testing rule for these substances. But, EPA believes that NRDC has considerably exaggerated the practical impact of this difference. Although a negotiated testing program does not trigger the obligation of a manufacturer of a new substance subject to a section 4 rule to submit test data under section 5(b)(1), and to delay manufacturing; that particular requirement only relates to EPA actions under section 4 concerning categories of chemical substances and would not be applicable to isophorone which was nominated as an individual chemical substance by the ITC.

In addition, contrary to NRDC's claim, EPA has the same authority to disclose health and safety data generated from negotiated testing as it would if the testing were conducted under a rule. Section 14(b)(1)(A)(i) concerns data from any health and safety study on a

chemical in "commercial distribution" (which includes all non-category chemical designated by the ITC) and makes no distinction based upon how the Agency receives the data.

EPA's position that negotiated testing is a legally sufficient alternative to section 4 rulemaking was examined by the General Accounting Office (GAO) during 1982. The GAO concluded that "neither section 4(a) nor 4(e) compels the promulgation of a test rule proceeding where adequate test data may be developed pursuant to voluntary testing agreements. We [GAO] further conclude that since voluntary testing agreements are consistent with the significant purposes of section 4, implied authority exists for EPA to negotiate such agreements." (GAO 1982, EPA Implementation of Selected Aspects of the Toxic Substances Control Act. General Accounting Office, December 7, 1982. GAO/RCED-83-62, p. 15).

On the above basis, EPA continues to believe that, where appropriate testing is being undertaken, negotiated testing agreements are an appropriate alternative to rulemaking under section 4 of TSCA.

As discussed in the January 6 notice, the Agency is not requiring the epidemiologic studies recommended by the ITC because there are no documentable health hazards reported for isophorone, and a suitable cohort cannot be identified. Thus, EPA cannot, at this time, design a study which is expected to produce information about the human health effects of isophorone. There were no comments objecting to this decision.

No new substantive issues have arisen during the comment period and consequently the Agency believes that the final study plan submitted by the Ketones Program Panel of CMA and the NTP bioassay are the best means of meeting all the remaining testing needs for isophorone.

III. Testing

1. *Study Plans.* The CMA's proposed testing program for isophorone is described in the *Federal Register* of January 6, 1983 (48 FR 727). As discussed in the January 6 notice, the mouse micronucleus cytogenetic assay protocol submitted earlier was inconsistent with TSCA and OECD test guidelines. On June 10, 1983, the Ketones Program Panel submitted its final study plan which includes a revised protocol for the mouse micronucleus study which conforms with the OECD test guidelines and is acceptable to the Agency. The final study plans for CMA's testing program for isophorone are in the public

record (docket number OPTS-42029) and include:

a. An inhalation teratology study in rats and mice to be conducted in early 1984 (including a range-finding study to be performed in fall of 1983).

b. Mutagenicity studies to be initiated within 60 days of publication of this notice in the *Federal Register*.

2. *Conclusions on the Study Plans.*

EPA has reviewed the study plans on isophorone and has concluded that:

a. The teratology study will provide sufficient data to reasonably determine or predict the potential toxic effects on the fetus as a result of isophorone exposure.

b. The mutagenicity studies will provide sufficient data to establish the potential mutagenic effects of isophorone.

The Agency has concluded that this testing program, together with the NTP bioassay results, will provide an adequate basis to evaluate the health effects of isophorone of concern to the ITC. Since no comments suggested otherwise, EPA continues to believe that epidemiologic studies should not be required at this time. Therefore, EPA has determined not to propose, at this time, a section 4(a) rule to require health effects testing of isophorone.

IV. Public Record

EPA has established a public record for this testing decision, docket number [OPTS-42029]. This record includes:

- (1) *Federal Register* notice containing the designation of isophorone to the priority list and all comments on isophorone received in response to that notice.
- (2) Communications with industry.
- (3) Letters.
- (4) Contact reports of telephone conversations.
- (5) Summaries of EPA's meetings with industry and the public.
- (6) Testing proposal and modified protocols.
- (7) Published and unpublished data.
- (8) *Federal Register* notice requesting comments on the Negotiated Testing Proposal and all comments received in response to the notice.

This record contains the basic information which was considered by EPA in developing this decision, and is available for inspection in the OPTS Reading Room from 8:00 to 4:00 p.m., Monday through Friday (except legal holidays) in Room E-107, 401 M Street, SW., Washington, D.C. 20460. The Agency will supplement this record periodically with additional relevant information as it is received.

(Sec. 4, Pub. L. 94-469, 90 Stat. 2003; (15 U.S.C. 2061))

Dated: January 9, 1984.

William D. Ruckelshaus,
Administrator.

[FR Doc. 84-1167 Filed 1-16-84; 8:45 am]
BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

[MM Docket No. 83-1370 et al; File No. BPCT-830223KH]

Henry C. McCall et al.; Hearing Designation Order

In the matter of Applications of Henry C. McCall, Erie, Pennsylvania (MM Docket No. 83-1370; File No. BPCT-830223KH), Seneca Broadcasting Corp., Erie, Pennsylvania (MM Docket No. 83-1371; File No. BPCT-830428KP), Gannon University Broadcasting, Inc., Erie, Pennsylvania (MM Docket No. 83-1372; File No. BPCT-830429KG) for construction permit.

Adopted: December 19, 1983.

Released: January 9, 1984.

By the Chief, Mass Media Bureau.

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has before it the above-captioned mutually exclusive applications of Henry C. McCall (McCall),¹ Seneca Broadcasting Corp. (Seneca) and Gannon University Broadcasting, Inc. (Gannon) for authority to construct a new commercial television broadcast station on Channel 66, Erie, Pennsylvania.

2. No determination has been reached that the tower height and location proposed by McCall² would not constitute a hazard to air navigation. Accordingly, an issue regarding this matter will be specified.

3. Section II, Item 9, FCC Form 301, inquires whether there are any documents, instruments, contracts or understandings relating to ownership or future ownership rights, including, but not limited to non-voting stock interests, beneficial stock ownership interests, options, warrants, or debentures. A positive response to this question must be accompanied by particulars as exhibits. McCall answered "yes" to Item 9; however, he did not submit the required exhibits. McCall will be required to submit his exhibits in the form of an amendment to the presiding Administrative Law Judge within 20 days after this Order is released.

¹ An amendment received June 23, 1983 changed the name from American Cellular System, Inc. to Henry C. McCall.

² The Commission is not in receipt of FAA's determination for the tower proposed by McCall.