

groupings such as office space, warehouses, other structure, office furniture, fixtures, computers, data processing equipment, microwave and telecommunication equipment, airplanes, automobiles, and other similar groupings of property. The cost, when incurred by the lessee, of operating and maintaining leased property, must be charged to the accounts appropriate for the expense as if the property were owned.

**§ 367.9350 Account 935, Maintenance of structures and equipment.**

This account must include materials used and expenses incurred in the maintenance of property owned, the cost of which is included in accounts 390 through 399 (§§ 367.3900 through 367.3990), and of property leased from others. Provide subaccounts by major classes of structures and equipment, owned and leased.

**PART 368—PRESERVATION OF RECORDS OF HOLDING COMPANIES AND SERVICE COMPANIES**

Sec.

368.1 Promulgation.

368.2 General instructions.

368.3 Schedule of records and periods of retention.

AUTHORITY: 42 U.S.C. 16451-16463.

SOURCE: Order 684, 71 FR 65262, Nov. 7, 2006, unless otherwise note.

**§ 368.1 Promulgation.**

This part is prescribed and promulgated as the regulations governing the preservation of records by any holding company and by any service company within a holding company system subject to the jurisdiction of the Commission under the Public Utility Holding Company Act of 2005 (42 U.S.C. §§ 16451 *et seq.*).

**§ 368.2 General instructions.**

(a) *Scope of this part.* (1) The regulations in this part apply to all books of account and other records prepared, maintained or held by any agent or employee on behalf of the company. The specification in the schedule in § 368.3 of a record related to a type of transaction includes all documents and cor-

respondence, not redundant or duplicative of other records retained, needed to explain or verify the transaction.

(2) Company means a service company or a holding company as defined in § 367.1 of this chapter. Public utilities, licensees, and natural gas companies must continue to use parts 125 and 225 of this chapter.

(3) Any company subject to this regulation, that, as agent, operator, lessor or otherwise, maintains or has possession of any records relating to the operation, property or obligations of a public utility, licensee, or natural gas company, as defined in the Federal Power Act (16 U.S.C. §§ 824 *et seq.*), the Natural Gas Act (15 U.S.C. §§ 717 *et seq.*), or the laws of any state within which the public utility, licensee, or natural gas company operates, must comply with the laws or regulations as to record retention and destruction which would apply to the records if they were records of the public utility, licensee, or natural gas company as codified in parts 125 and 225 of this chapter.

(4) The regulations in this part should not be construed as excusing compliance with other lawful requirements of any other governmental body, Federal or State, prescribing other record keeping requirements or for preservation of records longer than those prescribed in this part.

(5) To the extent that any Commission regulations may provide for a different record retention period, the records must be retained for the longer of the retention periods.

(6) Records, other than those listed in the schedule, may be destroyed at the option of the company. However, records that are used in lieu of those listed must be preserved for the periods prescribed for the records used for substantially similar purposes. Additionally, retention of records pertaining to added services, functions, plant, and other similar service, the establishment of which cannot be presently foreseen, must conform to the principles embodied in this section.

(7) Notwithstanding the provisions of the records retention schedule in this section, the Commission may, upon the request of the company, authorize a shorter period of retention for any record listed in the schedule upon a

showing by the company that preservation of the record for a longer period is not necessary or appropriate, in the public interest or for the protection of investors or consumers.

(b) *Designation of supervisory official.* Each company subject to these record retention regulations must designate one or more officials to supervise the preservation or authorized destruction of its records.

(c) *Protection and storage of records.* The company must provide reasonable protection from damage by fire, flood, and other hazards for records required by these record retention regulations to be preserved and, in the selection of storage space, safeguard such records from unnecessary exposure to deterioration from excessive humidity, dryness, or lack of proper ventilation.

(d) *Index of records.* At each site or location where company records are kept or stored, the records must be arranged, filed, and currently indexed so that records may be readily identified and made available for inspection by authorized representatives of any regulatory agency concerned, including the Commission.

(e) *Record storage media.* Each company has the flexibility to select its own storage media subject to the following conditions.

(1) The storage media must have a life expectancy at least equal to the applicable record retention period provided in §368.3 of this chapter unless there is a quality transfer from one media to another with no loss of data.

(2) Each company is required to implement internal control procedures that assure the reliability of, and ready access to, data stored on machine readable media. Internal control procedures must be documented by a responsible supervisory official.

(3) Each transfer of data from one media to another must be verified for accuracy and documented. Software and hardware required to produce readable records must be retained for the same period the media format is used.

(f) *Destruction of records.* At the expiration of the retention period, the company may use any appropriate method to destroy records. Precautions should be taken, however, to macerate or otherwise destroy the legibility of records,

the content of which is forbidden by law to be divulged to unauthorized persons.

(g) *Premature destruction or loss of records.* When records are destroyed or lost before the expiration of the prescribed period of retention, a certified statement listing, as far as may be determined, the records destroyed and describing the circumstances of accidental or other premature destruction or loss must be filed with the Commission within 90 days from the date of discovery of the destruction.

(h) *Schedule of records and periods of retention.* The schedule of records retention periods constitutes a part of these records retention regulations. The schedule prescribes the periods of time that designated records must be preserved. Plant records related to public utilities and licensees and natural gas companies must be retained in accordance with §§125.3 and 225.3 of this chapter.

(i) *Retention periods designated "Destroy at option."* "Destroy at option" constitutes authorization for destruction of records at managements' discretion if the destruction does not conflict with other legal retention requirements or usefulness of the records in satisfying pending regulatory actions or directives. "Destroy at option after audit" requires retention until the company has received an opinion from its independent accountants with respect to the financial statements including the transactions to which the records relate.

(j) *Records of services performed by associate companies.* Holding companies and service companies must assure the availability of records of services performed by and for public utilities and licensees and natural gas companies with supporting cost information for the periods indicated in §§125.3 and 225.3 of this chapter as necessary to be able to readily furnish detailed information as to the nature of the transaction, the amounts involved, and the accounts used to record the transactions.

(k) *Rate case.* Notwithstanding the minimum retention periods provided in these regulations, the company must

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retain the appropriate records to support the costs and adjustments proposed in any rate case.

(1) *Pending complaint litigation or governmental proceedings.* Notwithstanding the minimum requirements, if a company is involved in pending litigation, complaint procedures, proceedings remanded by the court, or governmental

proceedings, it must retain all relevant records.

(m) *Life or mortality study data.* Life or mortality study data for depreciation purposes must be retained for 25 years or for 10 years after property is retired, whichever is longer.

**§ 368.3 Schedule of records and periods of retention.**

**SCHEDULE OF RECORDS AND PERIODS OF RETENTION**

Item No. and description	Retention period
<b>Corporate and General</b>	
1. Reports to stockholders: Annual reports or statements to stockholders.	5 years.
2. Organizational documents:	
(a) Minute books of stockholders, directors' and directors' committee meetings.	5 years or termination of the corporation's existence, whichever occurs first.
(b) Title, franchises, and licenses: Copies of formal orders of regulatory commissions served upon the company.	6 years after final non-appealable order.
(1) Certificates of incorporation, or equivalent agreements and amendments thereto.	Life of corporation.
(2) Deeds, leases and other title papers (including abstracts of title and supporting data), and contracts and agreements related to the acquisition or disposition of property or investments.	6 years after property or investment is disposed of unless delivered to transferee.
3. Contracts and agreements: Contracts, including amendments and agreements (except contracts provided for elsewhere):	
(a) Service contracts, such as for management, consulting, accounting, legal, financial or engineering services.	All contracts, related memoranda, and revisions should be retained for 4 years after expiration or until the conclusion of any contract disputes pertaining to such contracts, whichever is later.
(b) Memoranda essential to clarify or explain provisions of contracts and agreements.	For same period as contract to which they relate.
(c) Card or book records of contracts, leases, and agreements made, showing dates of expirations and of renewals, memoranda of receipts, and payments under such contracts.	For the same periods as contracts to which they relate.
(d) Contracts and other agreements relating to services performed in connection with construction of property (including contracts for the construction of property by others for the company and for supervision and engineering relating to construction work).	All contracts, related memoranda, and revisions should be retained for 4 years after expiration or until the conclusion of any contract disputes or governmental proceedings pertaining to such contracts, whichever is later.
4. Accountants' and auditors' reports:	
(a) Reports of examinations and audits by accountants and auditors not in the regular employ of the company (such as reports of public accounting firms and commission accountants).	5 years after the date of the report.
(b) Internal audit reports and working papers .....	5 years after the date of the report.
<b>Information Technology Management</b>	
5. Automatic data processing records (retain original source data used as input for data processing and data processing report printouts for the applicable periods prescribed elsewhere in the schedule): Software program documentation and revisions thereto.	Retain as long as it represents an active viable program or for periods prescribed for related output data, whichever is shorter.
<b>General Accounting Records</b>	
6. General and subsidiary ledgers:	
(a) Ledgers:	
(1) General ledgers .....	10 years.
(2) Ledgers subsidiary or auxiliary to general ledgers except ledgers provided for elsewhere.	10 years.
(b) Indexes:	