

Supporting Statement for
FERC-576, Report of Service Interruptions
As Proposed In Docket No. RM06-18-000
(Revision of Regulations to Require Reporting of Damage to Natural Gas Facilities)
(Final Rule Issued August 23, 2006)

The Federal Energy Regulatory Commission (Commission) requests Office of Management and Budget (OMB) review and approval of **FERC-576, Report of Service Interruptions**; an existing data collection that amends part 260 of FERC's regulations. These revisions are needed to ensure timely identification of damage to the nation's natural gas infrastructure as the result of hurricanes or other causes.

We estimate that the total reporting-burden related to the subject Final Rule will be 70 hours under FERC-576 (an average of 2 hours per company) if the Commission adopts the changes proposed in the subject final rule. The addition of this requirement will result in increasing the average amount of time to comply with the requirements of section 260.9 to 2.51 hours.

All of the proposed changes in the subject final rule are provided for under sections 4, 7, 10 and 16 of the Natural Gas Act (NGA). The amended regulations also will require a company to submit a copy of a damage report to the relevant state agency and to submit to the Commission any incident report required by the U.S. Department of Transportation pursuant to the Natural Gas Pipeline Safety Act of 1968.¹

Background

The damage done by Hurricanes Katrina and Rita in the Gulf Coast area in late summer 2005 was widespread and severe. Offshore energy production was shut-in; pipelines, power lines, and other means of energy transportation were seriously damaged; and other important parts of the energy infrastructure system, such as natural gas processing plants, were closed. Hurricane recovery efforts are still ongoing.²

1 49 U.S.C. Chapter 601.

2 As of May 3, 2006, shut-in gas production in the Gulf of Mexico from the two hurricanes was equivalent to 12.95% of current daily gas production. Hurricane Katrina/Hurricane Rita Evacuation and Production Shut-in Statistics Report as of Wednesday, May 3, 2006 [Final Report], U.S. Department of the Interior, Minerals Management Service (May 3, 2006).

Before, during, and after the hurricanes, the U.S. Department of Energy led the federal effort to collect energy infrastructure information in accordance with the National Response Plan.³ As a participant in this effort, FERC became aware that, while jurisdictional companies had kept the Commission informed of service interruptions as required by Section 260.9 of the regulations, vital information regarding the physical condition of facilities affecting operation of the pipeline grid remained unknown to the Commission. This was generally attributable to the following factors: (1) only interruptions of firm service lasting more than three hours were required to be reported; (2) service requirements are generally lower during the “shoulder” months of September through November; (3) pipelines and shippers were able to adjust nomination schedules; and (4) pipelines were able to make operational changes to meet firm service obligations, such as by rerouting flows and drawing upon storage volumes. The Commission took ad hoc steps at that time to collect information regarding the operational status of natural gas pipeline facilities, including informally requesting pipeline companies to report on all damaged facilities and service interruptions, and requesting industry groups, such as the Interstate Natural Gas Association of America (INGAA) and the American Gas Association (AGA), to report on the condition of infrastructure.

In order to encourage rapid restoration of service, the Commission took a number of actions, including temporarily raising cost limits and including mainline facilities within the definition of eligible facilities that may be constructed by natural gas companies under their Part 157, Subpart F blanket certificates;⁴ granting waivers on a case-by-case basis⁵ of the 120-day limit and other conditions in the Part 284, Subpart L emergency regulations;⁶ and granting

3 Homeland Security Presidential Directive (HSPD)-5, issued February 28, 2003, directed the Secretary of Homeland Security to develop a National Response Plan (NRP) establishing a comprehensive all-hazards approach to enhance the ability of the United States to manage domestic incidents. The NRP issued in December 2004 includes protocols to help protect and restore critical infrastructure and key resources. Further information is provided on Homeland Security website at http://www.dhs.gov/dhspublic/interapp/editorial/editorial_0566.xml.

4 Expediting Infrastructure Construction to Speed Hurricane Recovery, 113 FERC ¶ 61,169 (2005). On February 22, 2006, the Commission extended until February 28, 2007, the time by which blanket certificate facilities constructed pursuant to these waivers must be placed into service. 114 FERC ¶ 61,186 (2006). The Commission’s regulations governing Part 157 blanket certificate activities are set forth at 18 CFR 157.201 et seq. (2005).

5 See, e.g., Discovery Gas Transmission, LLC, 113 FERC ¶ 61,025 (2005).

6 ? 18 CFR 284.261 et seq. (2005).

waivers of tariff provisions to allow delivery of gas at alternative points when the usual delivery points were out of service from hurricane damage.⁷

RM06-18-000 NOPR

On June 9, 2006, the Federal Energy Regulatory Commission (Commission) issued a Notice of Proposed Rulemaking (NOPR).⁸ In that NOPR, the Commission proposed to revise section 260.9 of its regulations,⁹ to require the reporting of serious service interruptions on interstate natural gas pipeline facilities operated under certificate authority granted by the Commission under the Natural Gas Act.¹⁰

As described above, the Commission has regulations in place and can grant appropriate waivers for natural gas companies to undertake necessary construction activities in crisis situations. However, the Commission's current reporting requirements are not adequate to permit a reliable "snapshot" of the natural gas infrastructure at any given time.¹¹ This inadequacy can be addressed by amending Section 260.9 to require that jurisdictional companies

⁷ Southern Natural Gas Company, 113 FERC ¶ 61,218 (2005).

⁸ 71 FR 35226 (June 19, 2006); FERC Stats. & Regs. ¶ 32,604 (2006).

⁹ 18 CFR 260.9 (2006).

¹⁰ 15 U.S.C. 717-717z (2006).

¹¹ In particular, a pipeline is only required to make an annual report of its construction activities under the automatic provisions of the blanket certificate regulations in Part 157, Subpart F. Section 157.207 of the regulations requires that a pipeline file this annual report on or before May 1 of each year. See 18 CFR 157.207 (2005). Since June 1 is the official start of the hurricane season, almost an entire year can pass before a pipeline is required by Section 157.207 to report construction activities in response to hurricane damage under its Part 157 blanket certificate. Further, the information provided in these annual reports is not sufficient to determine whether a particular blanket certificate construction was undertaken due to damage to facilities resulting from a hurricane or other cause. In addition, while the emergency regulations in Part 284, Subpart, 18 CFR 284.261 et seq., require that the commencement of an emergency transportation, sale or exchange transaction be reported within 48 hours, the emergency regulations do not require the reporting of damage to facilities that may have made the emergency transaction necessary or reporting regarding facilities constructed to address the emergency. Thus, even if permanent authority to operate emergency facilities is later sought either under the temporary certificate provisions of Section 157.17 or under the Part 157 blanket certificate prior notice provisions, as suggested under the definition of "emergency facilities" in Section 284.262, information regarding any damaged facilities may be inadequate or not known for some time.

report any damage to facilities that limits service through those facilities, regardless whether service can be maintained by rerouting gas supplies through other facilities or by other means. The approaching hurricane season or other events such as an earthquake or terrorist attack could result in damage to essential natural gas facilities or make it necessary to evacuate the pipeline personnel essential to the operation of such facilities. The Commission needs to ensure that it will have adequate information to assess the status of the nation's gas infrastructure at any given time and communicate such information to other agencies, such as the U. S. Department of Energy and U. S. Department of Transportation.

RM06-18-000 Final Rule

On August , 2006, the Commission issued a Final Rule that revises section 260.9 largely in the manner described in the NOPR, with certain modifications, as suggested by commenters. The revision to the Commission's regulations ensures that there is adequate and timely information concerning serious damage to jurisdictional pipeline facilities, serious service interruptions, and the restoration of service. The changes are needed to ensure adequate oversight of the interstate pipeline system.

Section 260.9(a) currently requires that natural gas companies report serious service interruptions. The amended regulations add a new requirement to § 260.9 in revised subparagraph (a)(1) that natural gas companies report (i) damage to natural gas facilities from a hurricane or other natural disaster or terrorist activity that results in loss of or reduction in pipeline throughput or storage deliverability, and (ii) when the damaged facilities' pipeline throughput or storage deliverability has been fully restored.

Section 260.9 also is amended, as reflected in revised subparagraph (a)(2), to provide that, in the event of damage to a natural gas company's jurisdictional natural gas facilities by reason other than hurricane, earthquake or other natural disaster or terrorist activity, the natural gas company should report such damage if, in the natural gas company's judgment, such damage creates the potential for serious delivery problems on its own system or the pipeline grid.

Section 260.9(b) is amended to remove the reference to "telegraph" and to require that natural gas companies make required reports of interruptions to service or damage to facilities by e-mail or, as currently provided for in § 260.9(b), facsimile transmission. All reports shall be due at the earliest feasible time after an interruption of service or damage to pipeline facilities for which a report is required pursuant to subparagraph (a)(1) or provided for in subparagraph (a)(2).

The information required by § 260.9(b) is revised to reflect the addition of the proposed new requirement that natural gas companies report damage to facilities and subsequently report when the damaged facilities have been repaired. Revised, § 260.9(b) requires that a report of service interruption or damage to natural gas facilities state:

- (1) The location of the service interruption or damage to natural gas pipeline or storage facilities;
- (2) The nature of any damage to pipeline or storage facilities;
- (3) Specific identification of the facilities damaged;
- (4) The time the service interruption or damage to the facilities occurred;
- (5) The customers affected by the service interruption or damage to the facilities;
- (6) Emergency actions taken to maintain service; and
- (7) Company contact and telephone number.

Section 260.9(b) also is revised to require that a company make a subsequent report stating when pipeline throughput or storage deliverability has been restored.

Section 260.9(d) is be revised to change, from 20 days to 30 days following a service interruption or damage to facilities, the time within which a natural gas pipeline company must furnish to the Commission a copy of any incident report required to be made to the U. S. Department of Transportation under the Natural Gas Pipeline Safety Act of 1968.

Section 260.9(e) currently requires that a company send copies of reports of service interruptions to state commissions. Section 260.9(e) is revised by adding a new requirement that a company also must send state commissions copies of reports of damage to facilities required by revised subparagraph (a)(1)(i) and (ii).

The Commission is also concerned that the reporting requirements of § 260.9 do not presently specifically apply to border crossing facilities authorized under NGA section 3. Such facilities, which are used to import or export gas between the United States and Canada or Mexico, are of national security interest, as evidenced by the requirement, pursuant to Executive [Order Nos. 10485](#) and [12038](#), dated September 3, 1953, and February 3, 1978, respectively, and the Secretary of Energy's Delegation [Order No. 00-004.00A](#), effective May 16, 2006, that applicants for such facilities must accept Presidential Permits granted by the Commission after consultation with the Secretary of State and the Secretary of Defense.¹² Under the conditions of a Presidential Permit, the President of the United States may determine that the safety of the United States demands that the United States take possession and control of any facilities operated under the Presidential Permit.¹³ Section 260.9 is revised to ensure that NGA section 3 non-LNG facilities are subject to the reporting requirements.

12 See, e.g., *Clark Fork & Blackfoot, L.L.C. and EnCana Border Pipelines Limited*, 115 FERC ¶ 61,131 (2006).

13 ? Id., at Appendix, Presidential Permit, Article 10.

A. Justification

Under the Natural Gas Act (NGA) (Public Law 75-688) (15 U.S.C. 717-717w) a natural gas company must obtain Commission authorization to engage in the transportation, sale or exchange of natural gas in interstate commerce. The Commission is also empowered to oversee continuity of service in the transportation of natural gas in interstate commerce. The information collected under FERC-576 notifies the Commission in a timely manner of any interruption to service or possible hazard to public health or safety.

Filings in accordance with the provisions of Section 4(d) of the Natural Gas Act (NGA) (15 U.S.C. § 717c) are to contain information necessary to advise the Commission when a change in service has occurred. Under Section 7(d) of the NGA (15 U.S.C. § 717f) the Commission may issue a temporary certificate in cases of emergency to assure maintenance of adequate service or to serve particular customers, without notice or hearing. Section 10(a) of the NGA, 15 U.S.C. §717i) requires natural gas pipeline companies to file reports with the Commission as prescribed by rules or regulations or by order as appropriate, in order to allow the Commission to perform its regulatory duties. The provisions of Section 16 of the NGA, 15 U.S.C. § 717o) authorize the Commission to prescribe forms, statements, declarations, reports and the information they are to contain plus the time frames as to when the information is to be filed.

The Commission in response to timely notification of a serious interruption may contact other pipelines to determine available supply, and if necessary, authorize transportation or construction of facilities to alleviate the problem. The data collected pertains to serious interruptions of service to any wholesale customer involving facilities operated under certificate authorization from the Commission.

2. The Commission uses the information collected in these filings to provide timely information concerning interruptions to wholesale service. The reporting of these interruptions assist the Commission and the natural gas industry in fulfilling their obligations to the public to provide better service through increased efficiency and reliability of natural gas to the municipality or person and, for such purpose, to extend its transportation facilities to communities immediately adjacent to such facilities or areas served by the natural gas company.

The Commission's Office of Energy Projects (OEP) is responsible for evaluating/processing data related to service interruptions under Section 260.9 of the Commission's regulations. Respondents notify FERC of serious interruptions of service to any wholesale customer involving certificated facilities. An applicant must also file with state commissions in affected states. FERC-576 is usually filed first, followed by FERC-588, which describes incident resolution. FERC-576 filings are analyzed on a case-by-case basis and each may have a different result. Some may result in a Certificate/Prior Notice filing, depending on the cost of resolving the incident and returning affected customers' service. Continuity-of-

service is primary basis for receiving these filings; FERC desires to know about day-to-day operations of pipelines, ability to meet customer requirements, including causes (sabotage etc.) and occurrences of customer interruptions.

Specifically, the data collected may include (1) date of the service interruption, (2) date of reporting of the interruption to the Commission, (3) location, (4) brief description of facility involved and cause of interruption, (5) customers affected, (6) duration of the interruption and (7) volumes of natural gas interrupted.

Failure by the Commission to collect this information would mean that it is unable to monitor and evaluate transactions and operations of interstate pipelines and perform its regulatory functions.

3. There is an ongoing effort to determine the potential and value of improved information technology to reduce burden. The proposed filings may be submitted electronically to the Commission. The current provisions of Section 260.9 provide for reports only by telegraph or facsimile. Telegraph is no longer a feasible option. Therefore, the amended regulations require the companies to provide reports by facsimile or e-mail. Such electronic submission of information will reduce the number of data entry errors, permit Commission staff to conduct analysis in a timely manner, and provide for the storage of information on digital storage media.

Electronic filing saves time and resources for all parties since electronic filings require fewer personnel than paper filings by avoiding the need for paper processing and mailing. The integrity of the information should increase because jurisdictional entities and the Commission will be able to correct errors more promptly.

The Commission also expects that the requirements prescribed here will reduce the burden on the industry of reporting similar or identical information to multiple sources, since information collected by the Commission can be requested from the Commission by other agencies with a need for such information. For example, as discussed above, following Hurricanes Katrina and Rita, the Commission was called upon the U. S. Department of Energy for assistance in collecting energy infrastructure information in accordance with the National Response Plan.

4. Commission filings and data requirements are periodically reviewed in conjunction with OMB clearance expiration dates. This includes a review of the Commission's regulations and data requirements to identify any duplication. The Commission staff reviews its various filings in an effort to alleviate duplication. There are no similar sources of information available that can be used or modified for use for the purpose described in Item A (1.). Commenters raised concerns about duplication with Department of Transportation (DOT) reporting

requirements and the Commission has addressed those concerns in the final rule. (See item no. 8 of this submission for a discussion on duplication.)

5. Few small businesses are impacted under the FERC-576 reporting/data requirements. Under the industry standards used for the RFA, a natural gas pipeline company qualifies as “a small entity” if it has annual receipts of \$6.5 million or less. Most companies regulated by the Commission do not fall within the RFA’s definition of a small entity.¹⁴ Approximately 114 natural gas companies are potentially subject to the additional requirements proposed by this notice. For the year 2004 (the most recent year for which information is available), 32 of these companies had annual revenues of less than \$6.5 million. Of these 32 companies, 23 were non-major gas companies.

If an entity believes that the proposed regulations will have a significant impact on them, they may apply to the Commission for a waiver.

6. The information collection cannot be discontinued nor collected less frequently because of statutory requirements to monitor emergency transactions. Without such information, the Commission staff would be unable to evaluate the data as described in item no. 2 above. The timing and frequency of data filed with the Commission under FERC-576 is event driven and determined by the respondent for when an interruption of service occurs or damage to the facilities.

7. This proposed information collection meets all of OMB’s section 1320.5 requirements. The original is routed to the e-Library for public viewing over the Commission’s web site. One copy is distributed to the Public Reference Room and Files Maintenance Branch for public inspection in the Commission’s Public Reference Room and the remaining copy is sent to the Office of Energy Projects for review, analysis and to be able to respond in a timely fashion.

8. The Commission's procedures require that the rulemaking notice be published in the Federal Register, thereby allowing all pipeline companies, state commissions, federal agencies, and other interested parties an opportunity to submit comments, or suggestions concerning the proposal. The rulemaking procedures also allow for public conferences to be held as required. Comments were due 60 days from publication in the Federal Register.

¹⁴ 5 U.S.C. 601(3), citing section 3 of the Small Business Act, 15 U.S.C. 623. Section 3 of the SBA defines a “small business concern” as a business which is independently owned and operated and which is not dominant in its field of operation. The Small Business Size Standards component of the North American Industry Classification System (NAICS) defines a small natural gas pipeline company as one that transports natural gas and whose annual receipts (total income plus cost of goods sold) did not exceed \$6.5 million for the preceding year. 13 CFR 121.201.

The Commission received nine sets of comments on the NOPR. Comments were filed by American Gas Association (AGA), American Public Gas Association (APGA), Boardwalk Pipeline Partners, LP, Duke Energy Gas Transmission, LLC (Duke Energy), Interstate Natural Gas Association of America (INGAA), National Fuel Gas Distribution Corporation (National Fuel Gas), NiSource Inc., Paiute Pipeline Company, and Williston Basin Interstate Pipeline Company (Williston Basin).

Generally, most comments supported the Commission's efforts to modernize its service interruption reporting requirements.¹⁵ Most commenters wanted the Commission to refine and narrow the definition of "damage" in section 260.9 so that the agency will not be inundated with reports of trivial damage from routine or unimportant occurrences while more important matters may be overlooked. The commenters suggested that the pipeline companies' work of finding and repairing the more serious areas of damage may suffer while employees are busy completing and filing forms on less serious matters. One commenter noted that the less serious damage incidents are currently reported to the Commission under its annual reporting requirements. Most commenters urged the Commission to limit the damage reporting requirement to situations where there is severe damage causing serious disruption of service, and to exclude minor damage resulting from occasional third-party activities and disruptions resulting from routine maintenance.

AGA¹⁶ and National Fuel Gas supported the proposed rule and stated that the new reporting requirement will enhance public information of natural gas infrastructure, thus improving market information and pricing transparency, as well as helping consumers assess the supply and transportation situation following damaging events. National Fuel Gas notes that information on the operating status of the pipelines' facilities "is a critical component of price formation, particularly during periods of infrastructure distress such as that experienced during Hurricanes Katrina and Rita."¹⁷

15 APGA offered comments about specific provisions of the proposed rule, but "supports the Commission's goal of ensuring that the Commission itself has prompt and adequate information regarding damage to natural gas infrastructure." APGA stated that the rule will enable the Commission to take informed preemptive action to lessen the threat of interruptions, without a great increase in reporting burden. It supports the proposal to have pipelines report damage and service interruptions "at the earliest feasible time." APGA is an association of approximately 650 municipal and other publicly-owned local distribution systems in 36 states.

16 AGA represents 197 local energy utility companies delivering natural gas to more than 56 million homes, business and industries in the United States. AGA states that its members account for about 83 percent of all natural gas delivered by LDC's.

17 National Fuel's Comments, p. 2.

The other major theme of the comments is that the Commission should eliminate duplicative filing requirements by harmonizing its incident reporting requirements with those of the U.S. Department of Transportation (DOT) under the Pipeline and Hazardous Materials Safety Administration (PHMSA)¹⁸ and those of the National Response Center (NRC). Some commenters also urged the Commission to develop with these other agencies a single, comprehensive form that could be filed in one place and made available to any agency needing the information. Duke Energy mentioned a “centralized reporting bank” where information could be filed, while INGAA suggested the creation of a “unified database” with consistent terminology among the agencies. Paiute recommended that the rule exempt LNG storage facilities from the provisions of section 260.9 since there are already adequate reporting requirements in effect for them. The few who mentioned eliminating the filing of reports by telegraph supported the proposal to do so.

Reporting Burden (*see also Damage Reporting*)

NiSource suggested that the burden estimates the Commission included in the NOPR indicates some sort of limitation of the reporting requirement to serious damage or incidents must have been intended. Other wise, NiSource believes that the language is too broad and will result in reporting of extensive minor damage incidents while masking the reporting of serious damage, and will impose unnecessary burdens on the pipeline industry. NiSource also urged the Commission to focus on damage that results in a loss of or reduction in capacity for an extended period of time (greater than three days). NiSource would have the new rule exclude situations where damage does not result in a loss of or reduction in firm service exceeding three days, if the firm capacity loss or reduction is inconsequential to the pipeline’s overall throughput. Damage reporting would be limited to situations where severe damage¹⁹ results in firm service capacity losses or reduction greater than three days or reduction in firm capacity in an amount greater than one million Dekatherms per day. Minor losses or reductions in service would not be reported. NiSource suggested language for a new section 260.9 reflecting its comments.

Damage Reporting

Many commenters urged the Commission to refine and narrow the definition of “damage” to facilities so that the Commission is not overwhelmed with reports of minor incidents that do not have any serious effect on the operation of the pipeline system. INGAA pointed out that the proposed definition of reportable damage does not contain any reasonable

18 DOT’s reporting requirements are part of its administration of the Natural Gas Pipeline Safety Act of 1968, 49 U.S.C. 60101 *et seq.*

19 NiSource defined severe damage as damage that results in a sustained and significant loss of or reduction in firm service through damaged facilities.

limitation, while the definition of “interruptions” is limited to those that are serious, and certain interruptions are excluded from the reporting requirement entirely.²⁰ INGAA stated that the Commission will get a large amount of information superfluous to its goals of identifying the physical condition of facilities affecting the grid’s operation and of having a reliable “snapshot” of the pipeline infrastructure to share with other agencies when necessary. INGAA noted that the definition of “damage” proposed in the NOPR would capture many events not necessary for the Commission to be concerned about because they do not affect operations: *e.g.*, accidental backhoe damage from construction, a farmer’s plow hitting a farm tap valve, engine “faults” resulting in short periods of service disruption or reduction, damage revealed by regular inspections and subsequently repaired, and maintenance to replace equipment at the end of its useful life or worn out from wear and tear. INGAA proposed alternative language to encompass the most important kinds of damage situations.²¹

Duke Energy agreed with INGAA that the proposed language in the NOPR is overly broad and burdensome and will result in reporting of routine maintenance and minor incidents that have no serious effect on overall service, although they might temporarily reduce available service through the pertinent facility. Duke Energy stated that such incidents do not affect operation of the pipeline grid. Duke Energy also proposed language that would limit the definition of damage to significant damage from hurricanes, earthquakes, terrorism or sabotage, or other major system failure, resulting in the loss of or reduction of service through the damaged facilities. Regular maintenance and replacement of facilities would be excluded.

Williston Basin urged the Commission to adopt a narrow definition of damage to avoid burdensome reporting of trivial matters. It states that in 2005 it filed two reports under section 260.9, both concerning minor interruptions of service. It listed five activities that were included in its Annual Report of Replacement Facilities pursuant to section 2.55(b) of the regulations that resulted from damage to facilities. In each event, a few feet of pipe were replaced and service was lost through the damaged facilities, but service was still maintained by rerouting or other means. These incidents would be required to be reported under the proposed version of section 260.9. Such damage (two incidents are said to be damage from corrosion or a flash flood, while the others are not described) cannot be considered widespread, severe damage, threatening the stability of the nation’s natural gas infrastructure, according to Williston Basin. Under the proposed rule, Williston Basin would have had to make seven reports under the proposed

²⁰ The current version of § 260.9 states that “[i]nterruptible service interrupted in accordance with the provisions of filed tariffs, interruptions of service resulting from planned maintenance or construction and interruptions of service of less than 3-hours duration need not be reported.” The proposed revision to § 260.9 would not change this.

²¹ Williston Basin agreed with INGAA’s definition of damage and wants the FERC to “narrow the scope of damage that must be reported to damage resulting from significant events that have a substantial impact on the operation of the pipeline grid.”

version of section 260.9, instead of two. Also, the same incidents would have been reported twice, counting the filing in the Annual Report.

Commission Response

As several of the commenters have noted, the Commission in the NOPR recited the recent history of severe weather in the Gulf Coast region of the United States and its effect upon the facilities and operations of the nation's natural gas transportation system, and stressed the need for the Commission to be adequately informed in a timely manner of any damage that would interfere with the delivery of natural gas. It was the Commission's intention, after receiving the comments of the regulated industry members, to modify its reporting rules so that it would be informed quickly of damage having a serious impact upon the normal operations of the pipelines, and of what steps were being taken to remedy what would most likely be extremely difficult situations.

It was not the Commission's intention to create onerous obligations for the pipeline operators to report every minor accident or incident of damage, where there has been no effect, or minimal effect, upon normal operations. These are not things that the Commission needs to know immediately, and in any event, these incidents are generally captured by the annual reporting requirements. As was mentioned in the comments, the Commission's currently effective rule concerning service interruptions requires a report only if the service interruption is more than three hours long, and the rule also exempts some kinds of interruptions of service.

Elimination of Duplicative Reporting Requirements:

The Commission proposed in the NOPR to provide 30 days, instead of the current 20 days, for pipelines to file with the Commission copies of incident reports required to be filed with the U.S. Department of Transportation (DOT).²² Since the information requirements of the DOT incident reports overlap to some extent with the reports required to be filed with the Commission, several commenters have suggested that the Commission coordinate with DOT to standardize the forms and eliminate duplication, to the extent possible.

Duke Energy suggested that standardization would "create a consistent baseline of data among all agencies, increasing [sic] the response time and coordination among government agencies responding to natural disasters."²³ Duke Energy suggested that if the reporting burden were reduced and a pipeline could convey vital information to regulatory agencies more efficiently it could focus its attention and efforts on restoring service and maintaining the

22 DOT's incident reporting requirements are set forth at 49 CFR Part 191.

23 Duke Energy's Comments, p. 5.

integrity of the pipeline grid. Boardwalk wants all incident reporting to be done through one Federal agency.

American Gas Association (AGA) points out that the reports required by DOT focus on issues different from the issues of reduction in throughput and subsequent restoration of service, which are primarily of interest to the Commission. AGA states that the Commission should make sure that the reporting obligation focuses on “the Commission’s core issues.”²⁴ To reduce the reporting burden, AGA states that it would support efforts by the Commission to coordinate information requirements with DOT, with the goal being simplifying and streamlining the industry’s reporting obligations. AGA suggests that the Commission make sure that a unified form incorporates information necessary to the regulatory goals of both agencies. AGA also suggests that the Commission revise Section 260.9 (b) to require that reports of service interruptions and restoration of service be posted on the pipelines’ electronic bulletin boards (EBBs).

INGAA contends that there is much duplication or overlap between the Commission’s reporting requirements and those of the National Response Center and DOT under the Pipeline and Hazardous Materials Safety Administration (PHMSA). INGAA suggests that, for the long term, the Commission should require pipelines to use PHMSA’s “incident” criteria, which include a release of gas or other serious situations, such as a death or serious injury, or an event that is serious in the judgment of the operator.²⁵ The PHMSA regulations require a telephone report “at the earliest practicable moment” and follow-up written reports, which use specific forms required to be filed with PHMSA’s Information Resources Manager by 30 days after the incident. The NRC receives the same initial report that is filed with the PHMSA and uses the same definition of “incident.” There is an online form for reporting of incidents to NRC within two hours of identification. This includes essentially the same information as the immediate reports to DOT.

INGAA suggests that the Commission adapt the requirements of section 260.9 of its regulations to allow pipelines to provide the necessary information through the incident reports currently filed under the NRC/PHMSA regulations. INGAA notes that the PHMSA is currently reviewing its definitions for incidents reportable under the 30-day reportable criteria and urges the Commission to “align these efforts” with its own efforts to improve section 260.9. INGAA supports its position by citing to the Commission’s Order No. 508,²⁶ where the Commission decided that certain proposed changes to section 260.9 were unnecessary in light of the existence of DOT’s incident report mechanism and the burden that would be created by

24 AGA’s Comments, p. 4.

25 49 CFR Part 191.

26 FERC Stats. & Regs. 1986-1990 ¶ 30,838 (November 7, 1988); 53 FR 45899.

duplicative filing requirements, and the Commission retained the requirements regarding notification of state commissions and the filing of copies of the DOT reports with the Commission.

INGAA also contends that the development of what it calls a “unified database” would aid the different federal agencies by lessening the number of input errors, through the use of internet-based forms in the control of the pipeline operators, with reports edited and updated as new information becomes available. INGAA contends that the highly structured format of the data to be included would allow manipulation of the data for other agency purposes, such as handling queries and spotting trends, and also contends that public availability of these forms encourages the correction of errors. Boardwalk Pipeline Partners, LP, agrees with INGAA regarding the use of the DOT reporting form and requirements. Boardwalk cautions that since the criteria for incidents in the proposed rule are different from what is required by DOT, the pipelines will be faced with two different kinds of analysis and will have to file two potentially different reports, leading to inconsistent reporting of data and confusion among the agencies that will be attempting to use the data. Boardwalk states that the Commission “correctly deferred” to DOT Order No. 508 and contends that FERC should continue to “defer” to DOT as the primary office to receive pipeline damage reports. Boardwalk states that if the Commission does not want to rely on DOT for the information, it should adopt DOT’s definitions, anyway. As noted, Boardwalk would have the Commission eliminate reporting of minor damage not reportable under DOT regulations.

NiSource Inc. also supported the comments filed by INGAA and says that the Commission’s use of the NRC/PHMSA mechanism for the reporting of pipeline infrastructure information “would eliminate redundancies and contribute to a central data repository for pipeline information accessible to all interested agencies.”²⁷

Williston Basin agreed with INGAA that the Commission should adapt its damage and service interruption rules to the systems used by the NRC and the PHMSA, stating that definitions used in the DOT regulations would encompass the kinds of events that the Commission wants reported. Although it does not state that the Commission should coordinate with DOT on the development of forms or reporting criteria, National Fuel Gas Distribution Corporation made the point that the ability of the market to function efficiently depends upon critical information, as the status of gas supply or infrastructure, being made available in a timely manner. It “encourages the Commission to work with other federal and state agencies to develop companion gas supply availability reporting procedures consistent with the proposed amendments concerning certificated natural gas facilities.”

27 NiSource’s Comments, p. 2, n. 2.

Commission Response

The Commission recognizes that in many instances reporting by pipeline companies pursuant to the existing and new reporting requirements of § 260.9 will duplicate aspects of the initial telephonic and subsequent written pipeline incident reports required by DOT/Pipeline Safety. However, in view of the timing and format in which such reports are submitted to DOT/Pipeline Safety, the Commission cannot at the present time rely on those reports to meet its goals in monitoring emerging problems with gas infrastructure during and immediately following natural disasters or terrorist events. Further, while the Commission has already initiated consultation with DOT/Pipeline Safety regarding the possible development of a unified reporting system to meet the needs of the Commission, DOT/Pipeline Safety, the National Resource Center and other Federal agencies, such an initiative does not offer an immediate solution to the problem of duplicative reporting requirements, as the commenters acknowledge.

9. There are no payments or gifts to respondents in the proposed rule.

10 and 11. The Commission generally does not consider the data filed to be confidential. There are no questions of a sensitive nature associated with the standardized business procedures proposed in the subject final rule. Specific requests for confidential treatment to the extent permitted by law will be entertained pursuant to 18 C.F.R. Section 388.112.

12. The burden estimate of 70 hours for information requirements/collections under FERC-576 as proposed in the subject final rule is based on the Commission's recent experience with service interruption reports/ filings. Frequently, service interruptions are due to damage to facilities. Thus, the proposed new reporting requirements will only increase the number of reports that a company is required to file to the extent that damage to facilities does not result in a loss of or reduction in service. Further, the required information will already be known and identified by companies and can be submitted either by e-mail or facsimile.

The current provisions of section 260.9 allow for significantly damaged facilities to remain unreported when an interruption to service can be avoided. The Commission estimates that the new reporting requirements to fill this gap will result in 15 companies (respondents) being required to make at least one damage report. The Commission further estimates that the new reporting requirements will result in the submission of 35 damage reports. The Commission estimates that a company will need 75 minutes to prepare and submit a damage report; 15 minutes to submit a copy of the damage report to the relevant state commission; 15 minutes to prepare and submit a follow-up restoration of service report; and 15 minutes to submit a copy of a USDOT incident report. For purposes of preparing burden estimates for this rulemaking, the Commission treats all four of these requirements as one response, with the total time required being two hours.

Data Collection	Number of Respondents	Number of Responses	Hours Per Response	Total Hours
FERC-576	15	35	2	70

DATA REQUIREMENT (FERC-576)	CURRENT OMB INVENTORY*	PROPOSED IN 018 NOPR	NEW OMB INVENTORY
Estimated number of respondents :	22	15	15
Estimated number of responses per respondent:	1	2.3	2.3

Estimated number of responses per year	:	22	35	28.5
Estimated number of hours per response	:	.82	2	2.51
Total estimated burden (hours per year)	:	18	70	88
Program change in industry burden hours	:		+ 70	
Adjustment change in industry burden hours	:		-0-	

*OMB inventory as of 06/02/06.

Three commenters stated that the Commission’s burden estimates in the NOPR were too low,²⁸ and five commenters felt that the requirements were overly broad and burdensome.²⁹ Further, six commenters stated their concerns about the duplication of the information that is provided to the Commission and to the Department of Transportation.³⁰ As discussed above in item number 8, it was not the Commission’s intention to require that natural gas companies report accidents, equipment failures or other occurrences having minimal effect on normal operations. Rather, the Commission’s limited objective in adopting additional reporting requirements is to ensure that natural gas companies report damage as the result of hurricanes or other natural disasters or terrorist activities since these events present the potential for serious destabilization of the nations’ gas infrastructure, as demonstrated following Hurricanes Katrina and Rita. Therefore, the Final Rule revises the proposed regulations to limit the scope of the new reporting requirements accordingly. Further, the Final Rule revises the proposed regulations to exclude LNG facilities from the scope of the reporting requirements under § 260.9, as recommended in the comments. Finally, while the Final Rule clarifies that the § 260.9 reporting requirements cover non-LNG facilities authorized under section 3 of the NGA, the Commission has explained that there are few such facilities and they generally are limited to a few hundred feet of pipeline extending from the international borders. In view of these revisions and clarifications in this Final Rule, the Commission’s finds that the NOPR’s estimates of reporting burden remain appropriate and believe that commenters’ concerns should be assuaged. While the provisions of revised § 260.9 encourage natural gas companies to also report damage to jurisdictional facilities as the result of causes other than natural disasters and terrorist activity, if the natural gas company believes such damage presents the potential for causing serious delivery problems on its system or the pipeline grid, such additional reporting is not mandatory.

13. The estimated average annualized cost to respondents related only to the data collection/requirements as proposed in the subject Final Rule were as follows:

28 ? Boardwalk Pipeline, Williston Basin, and NiSource.

29 ? Duke Energy, Boardwalk Pipeline, Williston Basin, INGAA, and NiSource.

30 ? AGA, INGAA, Duke Energy, Boardwalk Pipeline, Williston Basin, and NiSource.

Because of the regional differences and the various staffing levels that will be involved in preparing the documentation (legal, technical and support) the Commission is using an hourly rate of \$150 to estimate the costs for filing and other administrative processes (reviewing instructions, searching data sources, completing and transmitting the collection of information). The estimated cost is anticipated to be \$10,500 (70 hours X \$150). (Based on the Bureau of Labor Statistics, National Industry-Specific Occupational Employment and Wages estimates, NAICS 486200, Pipeline Transportation of Natural Gas, November 2004.)

The Commission sought comments about the time and corresponding costs needed to comply with this requirement in the NOPR. No comments were received.

14. The estimated annualized cost to the Federal government related only to the data collections/requirements as proposed in the subject Final Rule are shown below:

Data Requirement Number	Analysis of Data (FTEs)	Estimated Salary ³¹ x ³²	FERC Forms Clearance Per Year	Total Cost One Year's (FY '06)	= Operation
FERC-576	.5		\$117,321	\$ -0- ³³	\$ 58,660
Total	.5		\$117,321	\$ -0-	\$58,660

15. See reasons for program change in Final Rule section above.

16. The time schedule for FERC-576, Report of Service Interruptions is initiated after an event occurs. Current

31 2/ "Salary" represents the actual cost per gas program employee at the Commission based on its estimated budget for fiscal year 2006. The \$117,321 "salary" consists of \$96,235 in salaries and benefits and \$21,086 in overhead.

32 2/ An "FTE" is a "Full Time Equivalent" employee that works the equivalent of 2,080 hours per year.

requirements require natural gas pipeline companies to report interruptions (over three-hour duration) as soon as possible following the interruption. Natural Gas companies must notify the Commission 20 days after each interruption to service as a result of failure of facilities a copy of the failure reports required by the Department of Transportation. The Commission proposes to revise section 260.9(d) to change, from 20 days to 30 days following a service interruption or damage to facilities, the time within which a natural gas pipeline company must furnish to the Commission a copy of any incident report required by the U. S. Department of Transportation's reporting requirements under the Natural Gas Pipeline Safety Act of 1968.³⁴ As noted above, this revision is proposed to be in conformance with the U. S. Department of Transportation who provides up to 30 days for incident reports to be made.

17. Not applicable. The data requirements under FERC-576 are based on regulations and not filed on formatted/printed forms. Thus, the subject data requirements do not have an appropriate format to display an OMB expiration date.

18. Not applicable. These are not as noted above, collections of information employing statistical methods.

B. COLLECTION OF INFORMATION EMPLOYING STATISTICAL METHODS

Not applicable.