

Supporting Statement for
FERC-538, Gas Pipeline Certificate: Section 7(a) Mandatory Initial Service
(Three-Year Extension Requested Through May 31, 2010)

The Federal Energy Regulatory Commission (Commission or FERC) requests the Office of Management and Budget (OMB) extend its approval of **FERC-538, Gas Pipeline Certificate: Section 7(a) Mandatory Initial Service**, for three years (through May 31, 2010). FERC-538 (OMB Control No. 1902-0061) is an existing information collection (filing requirements) required under 18 CFR Part 156) Total reporting burden under FERC-538 is expected to be 240 hours per year during the next three years. This represents no change from the reporting burden that is reflected in OMB's inventory. OMB approval of FERC-538 expires May 31, 2007.

A. Justification

1. Under the Natural Gas Act (NGA) (Public Law 75-688) (15 U.S.C. 717-717w), upon application by a local distribution company or municipality, a natural gas pipeline company may be ordered by the Commission to extend or improve transportation facilities, to establish physical connections to serve, and sell natural gas to the applicant.

Filings pursuant to the provisions of Section 7(a) of the NGA are to contain all information necessary to advise the Commission fully concerning the service which the applicant has requested the Commission to direct the natural gas pipeline company to render. Included in the information to be provided should be a description of any improvement or extension of facilities which the natural gas pipeline company will be required to make in connection with the requested rendition of the service, the applicant's present and proposed operations, construction, service, and sales together with a description of any extension or improvement of facilities by the applicant which will be required in order to enable applicant to engage in the local distribution of natural gas.

Section 7(a) of the Act (15 U.S.C. 717f (a)) provides:

(a) Extension or improvement of facilities on order of court; notice and hearing

Whenever the Commission, after notice and opportunity for hearing, finds such action necessary or desirable in the public interest, it may by order direct a natural-gas company to extend or improve its transportation facilities to establish physical connection of its transportation facilities, to establish physical connection of its transportation facilities with the facilities of, and sell natural gas to, any connection of its transportation facilities with the facilities of, and sell natural gas

to, any person or municipality engaged or legally authorized to engage in the local distribution of natural or artificial gas to the public, and for such purpose to extend its transportation facilities to communities immediately adjacent to such facilities or to territory served by such natural-gas company, if the Commission finds that no undue burden will be placed upon such natural gas company thereby: Provided, That the Commission shall have no authority to compel the enlargement of transportation facilities for such purposes, or to compel such natural-gas company to establish physical connection to sell natural gas when to do so would impair its ability to render adequate service to its customers.

Section 10(a) of the Act (15 U.S.C. §717(i) provides:

§ 717i. periodic and special reports

(a) Form and contents of reports

Every natural-gas company shall file with the Commission such annual and other periodic or special reports as the Commission may by rules and regulations or order prescribed as necessary or appropriate to assist the Commission in the proper administration of this chapter. The Commission may prescribe the manner and form in which such reports shall be made, and require from such natural-gas companies specific answers to all questions upon which the Commission may need information. The Commission may require that such reports shall include, among other things, full information as to assets and liabilities, capitalization, investment and reduction thereof, gross receipts, interest due and paid, depreciation, amortization and other reserves, cost of facilities, cost of maintenance and operation of facilities for the production, transportation , or sale of natural gas, cost of renewal and replacement of such facilities, transportation, delivery, use, and sale of natural gas. The Commission may require any such-natural gas company to make appropriate provision for currently determining such costs and other facts. Such reports shall be made under oath unless the Commission otherwise specifies.

Section 16 of the Act (15 U.S.C. §717o) provides:

§717o. Administrative powers of the Commission; rules, regulations, and orders

The Commission shall have power to perform any and all acts, and to prescribe, issue, make amend, and rescind such orders, rules, and regulations as it may find necessary or appropriate to carry out the provisions of this chapter. Among other things, such rules and regulations may define accounting, technical, and trade terms used in this chapter; and may prescribe the form or forms of all statements, declarations, applications, and reports to be filed with the Commission, the

information which they shall contain, and the time within which they shall be filed. Unless a different date is specified therein, rules and regulations of the Commission shall be effective thirty days after publication in the manner which the Commission shall prescribe. Orders of the Commission shall be effective on the date and in the manner which the Commission shall prescribe. For the purposes of its rules and regulations, the Commission may classify persons and matters within its jurisdiction and prescribe different requirements for different classes of persons or matters. All rules and regulations of the Commission shall be filed with its secretary and shall be kept open in convenient form for public inspection and examination during reasonable business hours.

If the authorization is granted, the natural gas pipeline company must extend or improve transportation facilities and establish physical connection to serve the local distribution companies.

2. Data filed pursuant to the initial service filing requirements are used by the Commission in performing its regulatory functions. It must be determined whether the distributor applicant can economically construct and manage its facilities. A request is made by a person or municipality to have the Commission, by order, direct a natural gas company to extend or improve its transportation facilities, and sell natural gas to the municipality or person and, for such purpose, to extend its transportation facilities to communities immediately adjacent to such facilities or to territories served by the natural gas pipeline company.

In addition, as part of the Commission's review, the flow data and market data are used to evaluate existing and future customer requirements on the system in order to find if sufficient capacity will be available. Likewise, the cost of facilities and the rate data are used to evaluate the financial impact of the cost of the project to both the pipeline company and its customers.

The information collection cannot be discontinued nor collected less frequently because of statutory requirements. The Commission is required to review applications concerning improvement or extensions of facilities and services for local distributors of natural gas. The consequences of not collecting this information are that the Commission would be unable to fulfill its statutory mandate under the NGA and its Rules of Practice and Procedure, and the distribution companies would be unable to request the Commission that it directs pipelines to serve them.

3. There is an ongoing effort to determine the potential and value of improved information technology to reduce the burden. As the Commission increases its use of electronic media for filing, storage, retrieval, and tracking of information and documents, greater uniformity in filing procedures, where

practical, will greatly expedite and simplify conversion to electronic media. At present, the majority of the application filings made in accordance with sections 7(a) and 7(c) are filed electronically. However, due to the complexity of the exhibits such as maps that are submitted with an application, the exhibits may not readily lend themselves to the use of electronic media. However, as noted above greater uses of information technology including geospatial information systems will assist in making these documents conversions possible.

4. Filing requirements are periodically reviewed as OMB review dates arise or as the Commission may deem necessary in carrying out its regulatory responsibilities under the NGA in an effort to alleviate duplication. All Commission information collections are subject to analysis by Commission staff and are examined for redundancy. There is no other source of this information.

5. FERC-538 is a regulatory filing requirement implementing a statutory provision concerned with initial service as stated above in item no. 2. Small businesses and other small entities seeking initial natural gas service while not the subject of these regulations may still be impacted by the filing requirements under FERC-538. The data required are the minimum necessary to evaluate filing irrespective of company size. The information is readily available to respondents.

6. Without the data filed under FERC-538 the Commission would be unable to evaluate the merits of respondents seeking initial gas service and provide a forum for discussion by all interested/affected parties. The timing and frequency of data filed under FERC-538 is determined by the respondent and the respondent's need for the natural gas service. Also, see response to Item no. 2 above.

7. This proposed program meets all of OMB's section 1320.5 requirements with an exception to 1320.5(d) (2) (iii). Section 156.3 of the Commission's regulations (18 C.F.R. 156.3) requires original and 7 confirmed copies for the Commission to conduct the regulatory review. The original is routed to the eLibrary System for public viewing over the Commission's web site. One copy is distributed to the Public Reference and Files Maintenance Branch for public inspection in the Commission's Public Reference Room. The remaining copies are distributed within the Office of Energy Projects to ensure that each Division(s)/Office(s) involved in processing the case can review, analyze and respond in a timely fashion. Fewer copies would result in delay and reproduction requirements. As noted above, the majority of filings under sections 7(a) and 7(c) of the Natural Gas Act are filed electronically and it is only the exhibits will differ in complexity that may have to be filed as hardcopy.

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. Additionally, as part of the renewal process of its information collections, a notice seeking public comment on the continued use of the information was published in the Federal Register.

This filing requirement was established through a formal rulemaking route. The Commission issued a Notice of Proposed Rulemaking on August 26, 1959 (24 FR 6915). The Public was given an opportunity to file comments which were considered by the Commission prior to issuance of the final order on June 1, 1961, (FPC Order No. 234, 26 FR 4847).

In accordance with the requirements of the Paperwork Reduction Act of 1995,¹ the Commission on October 12, 2006 issued a request for comments on the information collected under FERC-538. The proposed information collection and request for comments was published in the Federal Register on October 19, 2006 (71 FR 61736), with comments due on or before December 21, 2006. The Commission received comments from only one commenter.

Dr. Daniel Kerlinsky² is a former member of the Secretary of Energy's Advisory Board (SEAB) Task Force on Alternative Futures for the National Laboratories. Dr. Kerlinsky believes there are many illegal activities occurring at the DOE's national laboratories including the contamination of sites. In addition, Dr. Kerlinsky believes there is insufficient security at laboratory sites and this makes the sites vulnerable to attack and creates significant occupational risks and environmental exposure because of contamination.

SEAB was chartered in January 1990, to provide the Secretary of Energy with timely, balanced, external advice on issues of importance to the Secretary. SEAB's mission is to provide advice and recommendations on the Department's basic and applied research activities, economic and national security policy, educational issues, laboratory management. Much of its work is conducted through subcommittees. Among the subcommittees is the Laboratory Operations Board whose fundamental goal is to help facilitate productive and cost-effective utilization of the Department of Energy's laboratory system. The principal focus of

1?/ 44 U.S.C. §3501-3520; 5 C.F.R. Part 1320.

2 Dr. Kerlinsky was formerly associated with the staff of the University of New Mexico. However, a review of the University's website found no mention of Dr. Kerlinsky. In addition, Dr. Kerlinsky did not provide a point of contact in his comments.

the Board is on the Department's multi-program laboratories and major program-dedicated laboratories.

In their 1995 Report “Alternative Futures for the Department of Energy National Laboratories” the SEAB task force for Alternative Futures of which Dr. Kerlinsky was a member, was asked to propose alternate futures for the Department of Energy laboratories. The task force’s mission and to quote from the report was “an intensive ten months’ study that revealed multiple missions and sub-missions – traditional missions and new missions – programs and projects.”³

Dr. Kerlinsky’s comments would appear to be in response to a recent Department of Energy report issued on October 23, 2006 entitled “Complex 2030, An Infrastructure Planning Scenario for a Nuclear Weapons Complex able to meet the Threats of the 21st Century”, prepared by the Office of Defense Programs, National Nuclear Security Administration, U.S. Department of Energy⁴. A review of the report could find no reference to the natural gas industry and more specifically with regard to providing initial service to an applicant or municipality.

While we do not believe that Dr. Kerlinsky’s comments are applicable to FERC-538 we will nevertheless forward his comments to the Department of Energy for their consideration.

As we have indicated in item nos. 1 and 2 of this submission, the information collected under the requirements of FERC-538 is used to document a potential market transaction between a natural gas pipeline company and an applicant, whether it’s a local distribution company or a municipality. The intent is to ensure that a natural gas pipeline company will extend or improve transportation facilities, establish physical connections to serve, and sell natural gas to the applicant.

9. There are no payments or gifts to respondents in this information collection.

3/ Alternative Futures for the Department of Energy National Laboratories, February 1995, Page 1.

4 As stated in the Executive Summary “NNSA has developed a planning scenario that sets out our vision for the nuclear weapons complex of 2030. This scenario consists of four over-arching, long-term strategies:

- (1) In partnership with the Department of Defense, transform the nuclear stockpile through development of Reliable Replacement Warheads, refurbishment of limited numbers of legacy designs, and accelerated dismantlement of the Cold War stockpile;
- (2) Transform to a modernized, cost-effective nuclear weapons complex;
- (3) Create a fully integrated and interdependent nuclear weapons complex; and,
- (4) Drive the science and technology base essential for long-term national security.”

10 and 11. The Commission generally does not consider the data filed under FERC-538 to require confidentiality. There are no items of confidentiality or questions of a sensitive nature associated with the data requirements under FERC-538. Specific requests for confidential treatment to the extent permitted by law will be entertained pursuant to 18 C.F.R Section 388.110. Each request for confidential treatment will be reviewed by FERC on a case-by-case basis.

12. Based on the Commission's previous experience, total reporting burden under FERC-538 is estimated to average 240 hours per year over the next three years. This estimate is the same as the reporting burden previously reflected in OMB's inventory for FERC-538. The number of Section 7(a) filings (one) is expected to remain the same. Since most areas within the vicinity of an interstate pipeline company are already receiving natural gas service, Section 7(a) filings are expected to remain stable or decrease. Therefore, with approximately one filing per year, the total annual burden will be 240 hours. (One filing per year x 240 hours per filing = 240 hours.)

INVENTORY	CURRENT OMB	PROPOSED	NEW OMB
	SUBMISSION		
Estimated number of respondents:	1	1	1
Estimated number of responses per respondent:	1	1	1
Estimated number of responses per year:	1	1	1
Estimated number of hours per response:	240	240	240
Total estimated burden (hours per year):	240	240	240
Program change in industry burden hours :			-0-
Adjustment change in industry burden hours :			-0-

13. The total estimated annualized filing cost to respondents related for filing under FERC-538 is \$12,367 (total respondent reporting burden is 240 hours per year x 2,080 hours per employee-year) x (estimated FY 2007 cost of \$122,137 per employee per year ⁵ = \$14,367

14. The estimated annualized cost to the Federal government for **FERC-538, Gas Pipeline Certificate: Initial Service, is as**

5 ?/ The Gas Industry "Employee Cost" is based on the estimated cost per OEP employee at the Commission and based on the Commission's appropriated budget for fiscal year 2001. The \$115,357 "employee cost" consists of approximately \$92,286 in salaries and benefits \$23,071 in overhead and represents an hourly rate of \$55.46 per hour.

follows:

FERC-538 data related only to the data collections/requirements as proposed in the subject Final Rule are shown below:

Operation

- | | | |
|---|----|----------|
| a) FERC Forms Clearance (FY 2006) | \$ | 6,053 |
| b) Analysis of Data and Forms Processing
(0.5 FTE's ⁶ x \$122,137) | | \$61,069 |

Total Cost for One Year Of Operation

\$67,122

15. There is a program change to the reporting burden under FERC-538. Because FERC-538 expired April 30, 2004 and must be reinstated, there is an addition of 240 hours to OMB's inventory.

16. There are no tabulation, statistical analysis, or publication plans for the information collected. The data are used for regulatory purposes. The results of this information collection are not published.

Schedule for Data Collection and Analysis⁷

<u>Activity</u>	<u>Estimated Activity Completion Time</u>
Data Collection	Event oriented
Data Review	Event oriented
Preparation and Submission of Technical Report and Draft Report	80

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

7 ?/ Processing time may exceed the average of 181 days for complex or deficient applications.

days	Issued Final Order	31
days		

17. It is not appropriate to display the expiration date for OMB approval of the information collected under FERC-538. The information is not collected on a standard, preprinted form which would avail itself to this display. Rather, respondents must provide the information required in part 156 of the Commission's regulations.

18. For exceptions to the Certification Statement, see item no. 17 above.

B. COLLECTION OF INFORMATION EMPLOYING STATISTICAL METHODS

FERC-538, Gas Pipeline Certificate: Initial Service is not a collection of information employing statistical methods.