Supporting Statement for

FERC-549C, Standards for Business Practices of Interstate Natural Gas Pipelines, FERC-717, Standards for Business Practices and Communication Protocols For Public Utilities

As Proposed In Docket No. RM96-1-027 & RM05-5-001
(Final Rule Issued June 25, 2007)

The Federal Energy Regulatory Commission (Commission) requests Office of Management and Budget (OMB) review and approval of **FERC-549C, Standards for Business Practices of Interstate Natural Gas Pipelines and FERC-717, Standards for Business Practices and Communication Protocols for Public Utilities** are existing data requirements that amend Parts 38 and 284 of the Commission regulations governing standards for conducting business practices with interstate pipelines in a Final Rule. The Final Rule was issued on June 25, 2006, in Docket No. RM96-1-027. FERC-549C (OMB Control No. 1902-0174) is currently approved through June 30, 2008 and FERC-717 (OMB Control No. 1902-0173) is currently approved by OMB through June 30, 2009.

The subject data collections will be affected because the proposed regulations will require interstate pipelines and public utilities to amend their standards to establish communication protocols between interstate pipelines and power plant operators and transmission owners and operators.

We estimate that the total one-time annual reporting-burden related to the subject Final Rule will be 9,120 hours (under FERC-549C, 1,860 hours and under FERC-717, 7,260 hours). This is equal to an average of 20 hours per company under FERC-549C and 33 hours per company under FERC-717 as the Commission adopts the changes in the subject Final Rule. These estimates remain unchanged from what the Commission submitted in the NOPR. After the final rule's issuance and the affected pipelines have conformed their operations to reflect compliance with the standards, the total burden under FERC-549C would be reduced by 1,860 hours and for FERC-717 by 7,260 hours.

All of the proposed changes in the subject Final Rule are provided for under sections 4, 5, 8, 10, and 16 of the Natural Gas Act (NGA), and Title III, section 311, of the Natural Gas Policy Act (NGPA) and in Sections 309 and 311, of the Federal Power Act of 1935 (FPA) (16 U.S.C. 825h) and 16 U.S.C. 825j.

Background

Before the industry restructuring was initiated by the Commission in Order No. 636, natural gas pipelines primarily provided a merchant service. A typical pipeline company purchased gas from producers or other suppliers, transported the gas from the supply area to storage fields or sales delivery points, and sold the gas on a "bundled" basis. Now, pipelines are primarily transporters of natural gas.

The physical operation of a pipeline for open-access transportation is much the same as for a bundled service. However, in the Commission's view, the change in the primary role of the pipeline from merchant to transporter requires there be standards/business practices to establish a more efficient and integrated pipeline grid. The subject NOPR contains proposed amendments to regulations that reflect the current restructured industry and would require certain standardize business practices to facilitate the efficient development of a national pipeline grid system.

The process of standardizing business practices in the natural gas industry began with a Commission initiative to standardize electronic communication of capacity release transactions. [1] The outgrowth of the initial Commission standardization efforts produced working groups composed of all segments of the industry and ultimately, the Gas Industry Standards Board (GISB), a consensus organization open to all members of the gas industry. (GISB was succeeded by the North American Energy Standards Board (NAESB)).

On March 16, 1996, GISB filed 140 standards covering five major business areas. The GISB Executive Committee, through its consensus voting procedures, approved these standards. In addition, on April 12, 1996, GISB filed data elements describing the specific information that would be used by industry to conduct the 10 high priority business transactions.

On April 24, 1996, the Commission issued a NOPR in Docket No. RM96-1-000, Standards for Business Practices of Interstate Natural Gas Pipelines. The NOPR proposed to revise the Commission's regulations to require interstate natural gas pipelines to follow standardized procedures for critical business practices -- nominations; allocations, balancing, and measurement; invoicing; and capacity release -- and to standardize mechanisms for electronic communication between pipelines and those with whom they do business. The proposed revisions included amending Parts 161, 250, and 284 and adding a new section 284.10, Standards for Pipeline Business Operations and Communications, to the Commission's regulations.

Section 284.10 - Standards for Pipeline Business Operations and Communications - of the Commission's regulations was divided into the following subsections[2]:

Subsection (a) - Electronic Bulletin Boards; and
Subsection (b) - Incorporation by Reference of Business Practice and Electronic Communication Standards

The proposed regulations incorporated by reference the standards submitted by GISB in response to the Commission's October 25, 1995, Advance Notice of Proposed Rulemaking

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1 ?/ Standards for Electronic Bulletin Boards Required under Part 284 of the Commission's Regulations, Order No. 563, 59 FR 516 (January 5, 1994).

2 ?/ Redesignated and amended as 284.12 by Order No. 637, 65 FR 10220, and (February 25, 2000).

(ANOPR). (60 FR 55504 (Nov. 1, 1995))

On July 17, 1996, the Commission issued a final rule (Order No. 587) in Docket No. RM96-1-000 and, with minor exception, adopted the standards proposed in the NOPR issued April 24, 1996. In subsequent Order Nos. 587-B and 587-C, 587-G, 587-H, 587-K, 587-M, 587-N and 587-R the Commission further standardized the business practices and communication methodologies of interstate pipelines to create a more integrated and efficient pipeline grid.

Since 1995, NAESB and its predecessor, the Gas Industry Standards Board, have been accredited members of the American National Standards Institute (ANSI), complying with ANSI's requirements that its standards reflect a consensus of the affected industries. NAESB is a non-profit, private standards development organization established in January 2002 to propose and adopt voluntary standards and model business practices designed to promote more competitive and efficient natural gas and electric service. (See http://www.naesb.org)

NAESB's standards include business practices that streamline the transactional processes of the natural gas and electric industries, as well as communication protocols and related standards designed to improve the efficiency of communication within each industry. NAESB supports all four quadrants of the gas and electric industries—wholesale gas, wholesale electricity, retail gas, and retail electricity—and recognizes the ongoing convergence of the gas and electric businesses by ensuring that its standards receive the input of all industry quadrants when appropriate. All participants in the gas and electric industries are eligible to join NAESB, belong to one or more quadrant(s), and participate in standards development.

NAESB's wholesale gas quadrant (WGQ) is composed of five industry segments: pipelines, producers, local distribution companies, end users, and services (including marketers and computer service companies). NAESB's wholesale electric quadrant similarly includes five industry segments: transmission, generation, marketer/brokers, distribution/load serving entities, and end users. NAESB's procedures ensure that all industry members can have input into the development of a standard, whether or not they are members of NAESB, and each standard NAESB adopts is supported by a consensus of the relevant industry segments.

Since 1996 as noted above, in Order No. 587 and subsequent orders, the Commission, through its notice-and-comment rulemaking process, adopted relevant gas standards by incorporating these standards by reference into its regulations.[3] On April 25, 2006, the Commission by a similar process incorporated by reference the first set of NAESB electric standards.[4]

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3 Standards for Business Practices of Interstate Natural Gas Pipelines, Order No. 587, 61 FR 39053 (July 26, 1996), FERC Stats. & Regs. Regulations Preambles [July 1996-December 2000] ¶ 31,038 (July 17, 1996).

4 Standards for Business Practices and Communication Protocols for Public Utilities, 71 FR 26199 (May 4, 2006), FERC Stats. & Regs. Regulations Preambles ¶ 31,216 (Apr. 25, 2006).

Subject NOPR (Docket No. RM96-1-027)

On October 25, 2006, the Commission issued a Notice of Proposed Rulemaking, proposing to incorporate by reference certain standards promulgated by the Wholesale Gas Quadrant (WGQ) and the Wholesale Electric Quadrant (WEQ) of the North American Energy Standards Board (NAESB). These standards are to establish communication protocols between interstate pipelines and power plant operators and transmission owners and operators. Through this rulemaking, the Commission sought to improve coordination between the gas and electric industries in order to limit miscommunications about scheduling of gas-fired generators. Improved communications should ensure reliability in both industries. The NOPR was in response to the events cited below.

In January 2004, a cold snap highlighted the need for better coordination and communication between the gas and electric industries as coincident peaks occurred in both industries making the acquisition of gas and transportation by power plant operators more difficult. In response to this need, in early 2004, NAESB established a Gas-Electric Coordination Task Force to examine issues related to the interrelationship of the gas and electric industries and identify potential areas for improved coordination through standardization. Because of the importance of such coordination, the NAESB Board of Directors established a Gas-Electric Interdependency Committee in September 2004 to review coordination issues and identify potential areas for standards development.

As a result of these efforts, on June 27, 2005, NAESB filed a status report with the Commission. The report included ten business practice standards jointly developed by the wholesale gas and electric quadrants, the first such collaboration between the two quadrants. The standards, in general, address communication processes between pipelines, power plant operators, and transmission operators.[5]

Additionally, the report highlights 13 issues involving gas and electric interdependency. These issues relate to fundamental differences between the two industries, including differences in lead time to prepare for load fluctuations, differences in the precision of instrumentation, and differences in the “utility model” used in the electric industry (in which generating capacity is planned for and built for anticipated future requirements) and the gas industry’s “market-driven model” (in which gas capacity is built only for those contracting for such capacity).

On February 24, 2006, NAESB filed a final report with the Commission on the efforts of the Gas-Electric Interdependency Committee. Based on the 13 issues, the final report identified six potential areas where existing standards should be reexamined to determine whether new or updated business practices could improve communications between the gas and electric

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5 On June 28, 2006, NAESB filed a report advising that the following permanent numbers have been assigned to these standards. The standards for the Wholesale Electric Quadrant are Gas/Electric Coordination Standards WEQ-011-0.1 through WEQ-011-0.3 and WEQ-011-1.1 through WEQ-011-1.6. The standards for the Wholesale Gas Quadrant are: Additional Standards, Definitions 0.2.1 through 0.2.3 and Standards 0.3.11 through 0.3.15.

industries. In six areas, the report makes requests to the Commission to clarify existing policies or identifies areas for standards development. It should be noted that not all the standards development was supported by every segment of each industry. The Commission received requests for clarification to include:

- Clarification of Commission orders regarding pipeline discounts and negotiated rates as relevant to the ability of shippers releasing capacity to price released capacity using gas price indices.
- Clarification of Commission orders regarding the ability of pipelines to shift gas with primary firm transportation within a pipeline path without having to re-offer as secondary firm transportation service.

Potential areas for standards development include:

- Adding an additional gas intraday nomination cycle with bumping rights to provide more flexibility to shippers, including power generators, with firm transportation rights such that they can nominate for natural gas supporting their market clearing times.
- Modifying the requirements for organized electric markets so that the markets clear in sufficient time to nominate within the existing gas nomination timelines.
- Requiring gas-fired generators that bid into the day-ahead market to have the appropriate gas commercial arrangements to fulfill an accepted bid.
- Developing the appropriate supporting definitions for new business practices for the Wholesale Electric Quadrant, including but not limited to definitions for: alternate fuel capability, usable alternate fuel capability, firm, transportation service, firm sales service, firm supply, and "must run" generator.

Subject Final Rule (Docket No. RM96-1-027)

On June 25, 2007 the Commission amended its open access regulations governing standards for business practices and electronic communications with interstate natural gas pipelines and public utilities. The Commission is incorporating by reference certain standards promulgated by the Wholesale Gas Quadrant (WGQ) and the Wholesale Electric Quadrant (WEQ) of the North American Energy Standards Board (NAESB). Through the Final Rule, the Commission is seeking to improve coordination between the gas and electric industries in order to improve communications about scheduling of gas-fired generators.

The coordination and communication required by these standards will help improve the reliability of both the gas and electric industries by ensuring that all parties have information necessary for the scheduling and dispatch of natural gas-fired generation, and for the scheduling of the natural gas transportation necessary to supply fuel to these generators. The standards, for example, would require gas-fired power plant operators and pipelines to establish procedures to communicate material changes in circumstances that may affect hourly flow rates. These standards ensure that pipelines have relevant planning information that will assist in maintaining the operational integrity and reliability of pipeline service, as well as providing gas-fired power plant operators with information as to whether hourly flow deviations can be honored.

The standards further improve communication by requiring electric transmission operators and power plant operators to sign up to receive from connecting pipelines operational flow orders and other critical notices. These standards ensure that operators of the electric grid can stay abreast of developments on gas pipelines that can affect the reliability of electric service. The standards require that, upon request, a gas-fired power plant operator must provide to the appropriate independent electric balancing authority or electric reliability coordinator pertinent information regarding its service levels for gas transportation (firm or interruptible) and for gas supply (firm, fixed or variable quantity, or interruptible). This information should assist reliability coordinators in assessing the relative reliability of various gas-fired generators.

A. Justification

1. CIRCUMSTANCES THAT MAKE THE COLLECTION OF INFORMATION NECESSARY

FERC-549C

Pursuant to sections 4, 5, and 16 of the NGA, (15 USC 717c - 717o, P.L. 75-688, 52 Stat. 822 and 830), and Title III of the NGPA, (15 USC 3301-3432, P.L. 95-621), a natural gas company must obtain Commission authorization for all rates and charges made, demanded, or received in connection with the transportation or sale of natural gas in interstate commerce. The Commission is authorized to investigate the rates charged by natural gas pipeline companies subject to its jurisdiction. If, after the investigation, the Commission is of the opinion that the rates are "unjust or unreasonable or unjustly discriminatory or unduly preferential," it is authorized to determine and prescribe just and reasonable rates. The NGA also provides the Commission with a means for considering the reasonableness of rates through settlement conferences or hearings.

FERC-549C was created in Order No. 587 (July 26, 1996, 61 FR 39053) because interstate pipelines were required to adopt certain standards for business practices that required changes in day-to day operations.   In addition, these standards required these pipelines to adopt certain mechanisms for electronic communication between the pipelines and those doing business with the pipelines.

The standards contained in this Final Rule as adopted, require gas-fired power plant operators and pipelines to establish procedures to communicate material changes in circumstances that may affect hourly flow rates. These standards are to ensure that pipelines have relevant planning information that will assist in maintaining the operational integrity and reliability of pipeline service, as well as providing gas-fired power plant operators with information as to whether hourly flow deviations can be honored. The standards will further improve communication by requiring pipelines to provide electric transmission operators, including RTOs and ISOs, and power plant operators the ability to sign up to receive from connecting pipelines operational flow orders and other critical notices.

The proposed business and communications standards under FERC-549C are required to carry out the Commission's policies in accordance with the general authority in Sections 4, 5, 7, 8, 10, 14, 16, and 20 of the Natural Gas Act (NGA) (15 U.S.C. 717-717-w), and Sections 311, 501, and 504 of the Natural Gas Policy Act of 1978 (NGPA) (15 U.S.C. 3301-3432).

FERC-717

In its Final Rule Order No. 888: "Promoting Wholesale Competition through Open Access Nondiscriminatory Transmission Services by Public Utilities; Recovery of Stranded Costs by Public Utilities and Transmitting Utilities" issued on April 24, 1996, (Docket No. RM95-8/RM94-7), the Commission required that all public utilities that own, control or operate facilities used for transmitting electric energy in interstate commerce to have on file open access nondiscriminatory transmission tariffs that contain minimum terms and conditions of nondiscriminatory service.

By its Final Rule issued April 24, 1996, in Docket No. RM95-9-000, the Commission proposed to adopt certain standards/information requirements for Open Access Same-Time Information System (OASIS) to be maintained by Public Utilities. More specifically, the Commission proposed to add Part 37 of Title 18, Code of Federal regulations (CFR). The Standards of Conduct were designed to prevent employees of a public utility (or any of its affiliates) engaged in marketing functions from preferential access to OASIS-related information or from engaging in unduly discriminatory business practices. Companies were required to separate their transmission operations/reliability functions from their marketing/ merchant functions and prevent system operators from providing merchant employees and employees of affiliates with transmission-related information not available to all customers at the same time through public posting on the OASIS.

In addition, the Commission required public utilities to establish OASIS sites to provide transmission customers with equal and timely access to information about transmission and ancillary services provided in the tariffs. The Commission does not believe that open-access nondiscriminatory transmission services can be completely realized until it removes real-world obstacles that prevent transmission customers from competing effectively with the Transmission Provider. One of the obstacles is unequal access to transmission information. The Commission believes that transmission customers must have simultaneous access to the same information available to the Transmission Provider if truly nondiscriminatory transmission services are to be a reality.

The WEQ’s OASIS standards are based on the Commission’s existing standards. However, the WEQ modified its baseline OASIS standards to facilitate the redirect of transmission reservations to alternate receipt and delivery points, to address multiple submissions of multiple identical transmission requests and queuing issues, and to address OASIS posting requirements under FERC’s Order No. 2003 based on industry requests for enhancements to the OASIS standards. The WEQ also performed maintenance on the baseline OASIS standards to improve their format, organization and clarity.

Standardization of business practices and communication processes benefit the electric industry by providing for uniform methods of doing business with different transmission providers. Many participants in electric markets conduct business transactions involving a number of different transmission providers and establishing a uniform set of procedures and communication protocols helps to make such transactions more efficient. Moreover, having the industry consider business practice standards through a consensus process results in the industry devising ways to improve and make business practices more efficient.

The standards adopted in this Final Rule will ensure that operators of the electric grid can stay abreast of developments on gas pipelines that can affect the reliability of electric service. The standards require that, upon request, a gas-fired power plant operator must provide to the appropriate electric balancing authority or electric reliability coordinator pertinent information regarding its service levels for gas transportation (firm or interruptible) and for gas supply (firm, fixed or variable quantity, or interruptible). This information should assist reliability coordinators in assessing the relative reliability of various gas-fired generators.

The final rule upgrades the Commission's current business practice and communication standards to include standardized communication protocols between interstate pipelines and power plant operators and transmission owners and operators. The implementation of these standards and regulations is necessary to improve coordination between the gas and electric industries, to improve communications about scheduling of gas-fired generators and to improve the reliability in both industries.

2. HOW, BY WHOME, AND FOR WHAT PURPOSE THE INFORMATION IS TO BE USED AND THE CONSEQUENCES OF NOT COLLECTING THE INFORMATION

The primary objective of the changes adopted in the Final Rule is to promote coordination
and to help improve the reliability of both the gas and electric industries by ensuring that all parties have information relevant to their scheduling and dispatch. The Commission is incorporating by reference the NAESB WEQ and NAESB WGQ definitions and business practice standards providing for coordination and communication between natural gas pipelines and the various electric industry operators, including RTOs, ISOs and gas-fired power generators.

The Commission's ongoing work with the WGQ and WEQ is aimed at simplifying the process of transacting business across the interstate natural gas pipeline and transmission grids. If transactions are easier and less costly, customers should have greater flexibility. The proposed revisions to the standards and data sets reflects an attempt to improve and restructure services and operations and further streamline the way pipelines, public utilities and transmission operators receive and send important information.

The Commission's Office of Energy Markets and Reliability (OEMR) uses the information in rate and proceedings to review rate and tariff changes by public utilities, for general industry oversight, and to supplement the documentation used during the Commission's audit process. In addition, OEMR and the Office of the General Counsel will use the data in rate proceedings to review rate and tariff changes by natural gas companies for the transportation of gas, for reliability of the transmission system, for general industry oversight, and to supplement the documentation used during the Commission's audit process.

This Final Rule upgrades the Commission's current business practice and communication standards to include standardized communication protocols between interstate pipelines and power plant operators and transmission owners and operators. The implementation of these standards and regulations is necessary to improve coordination between the gas and electric industries, to limit miscommunications about scheduling of gas-fired generators and to improve the reliability in both industries. In addition, the implementation of these data requirements will help the Commission carry out its responsibilities under the Federal Power Act and Natural Gas Act of promoting the efficiency and reliability of the electric and gas industries' operations. The Commission's Office of Energy Markets and Reliability will use the data for general industry oversight.

The Commission's regulations adopted in this rule are necessary to further the process begun in Order No. 587 of creating a more efficient and integrated pipeline grid by standardizing the business practices and electronic communication of interstate pipelines and expanded in Order No. 676 to create a more efficient and integrated electric transmission grid by standardizing the business practices and electronic communication of public utilities. The Commission has reviewed the requirements pertaining to business practices and electronic communication of public utilities and natural gas pipelines and made a preliminary determination that the proposed revisions are necessary to establish more efficient coordination between the gas and electric industries. Requiring such information ensures both a common means of communication and common business practices to improve communications for participants engaged in the sale of electric energy at wholesale and the transportation of natural gas. Further, the collection of this information is necessary to meet the legal requirements, namely the statutory obligations under section 205 and 206 of the FPA, to prevent unduly discriminatory practices.

Failure by the Commission to collect this information would mean that it is unable to monitor and evaluate transactions and operations of interstate pipelines, public utilities and transmission operators and perform its regulator functions.

3. DESCRIBE ANY CONSIDERATION OF THE USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE REPORTING BURDEN AND TECHNICAL OR LEGAL OBSTACLES TO REDUCING BURDEN

There is an ongoing effort to determine the potential and value of improved information technology to reduce burden. As noted above, the Commission does not receive any of the information under FERC-549C and FERC717 data requirements as information required due to the revised standards and data sets are posted on pipelines' Internet sites and public utilities' OASIS sites.

The data filed under FERC-549C is based on rate change applications for all rates, and charges made, demanded, or received in connection with the transportation of natural gas. To ensure that pipelines have the appropriate information and can communicate this information, FERC-549C as noted above, was created to implement standards that would have mechanisms in place for electronic communication as well as standards governing business practices in day-to-day operations. The information required under FERC-549C is not filed with the Commission but instead posted on the pipelines' Web sites.

The data filed under FERC-717 applies to all Public Utilities owning and/or controlling facilities used for the transmission of electricity in interstate commerce. These procedures enable the Commission to ensure compliance with the functional unbundling established in the Commission's Open Access rulemaking. The information required under FERC-717 is not filed with the Commission but instead posted on the utilities' OASIS sites.

4. DESCRIBE EFFORTS TO IDENTIFY DUPLICATOIN AND SHOW SPECIFICALLY WHY ANY SIMILAR INFORMATION ALREADY AVAILABLE CANNOT BE USED OR MODIFIED FOR USE FOR THE PURPOSE(S) DESCRIBED IN INSTRUCTION 2.

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. To date, no duplication of the proposed data requirements has been found. The Commission staff is continuously reviewing 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.).

5. METHODS USED TO MINIMIZE BURDEN IN COLLECTION OF INFORMATION INVOLVING SMALL ENTITIES

There are no small businesses that are impacted under the FERC-549C & FERC-717 reporting/data requirements. The proposed business standards, practices, and procedures will impact the day-to-day operations of major and non-major natural gas companies, public utilities and transmission operators whose operational thresholds are above the small business standards. Specific efforts have been made by industry working groups and the Commission to minimize the burden imposed on the affected companies. The proposed data requirements would impose the least possible burden on companies, in light of the fact that such requirements were agreed to by a broad consensus of industry representatives. The Commission's proposal is designed so as not to cause operational problems for pipelines, public utilities and transmission operators. 6. The proposed changes in business practices under Section 284.12(a)(1)(i) and 38.1 of the Commission's regulations would require interstate pipelines and public utilities to adopt the most recent and up-to-date WEQ and WGQ standards governing business practices and electronic communication.

The regulations adopted here impose requirements only on interstate pipelines and public utilities, the majority of which are not small businesses, and would not have a significant economic impact. These requirements are, in fact, designed to benefit all customers, including small businesses. Accordingly, pursuant to section 605(b) of the RFA, the Commission hereby certifies that the regulations adopted herein will not have a significant adverse impact on a substantial number of small entities.

6. CONSEQUENCE TO FEDERAL PROGRAM IF COLLECTION WERE CONDUCTED LESS FREQUENTLY

The proposed changes in business practices under Section 284.12(c)(1)(ii)(B) of the Commission's regulations would require interstate pipelines to adopt certain standards promulgated by the Wholesale Gas Quadrant (WGQ) and the Wholesale Electric Quadrant (WEQ) of the North American Energy Standards Board (NAESB). These standards will establish communication protocols between interstate pipelines and power plant operators and transmission owners and operators.

The standards, for example, would require gas-fired power plant operators and pipelines to establish procedures to communicate material changes in circumstances that may affect hourly flow rates. These standards would ensure that pipelines have relevant planning information that will assist in maintaining the operational integrity and reliability of pipeline service, as well as providing gas-fired power plant operators with information as to whether hourly flow deviations can be honored. They would further improve communication by requiring pipelines to provide electric transmission operators, including ISOs and RTOs, and power plant operators to sign up to receive from connecting pipelines operational flow orders and other critical notices. These standards will ensure that operators of the electric grid can stay abreast of developments on gas pipelines that can affect the reliability of electric service. The standards require that, upon request, a gas-fired power plant operator must provide to the appropriate electric balancing authority or electric reliability coordinator pertinent information regarding its service levels for gas transportation (firm or interruptible) and for gas supply (firm, fixed or variable quantity, or interruptible). This information should assist reliability coordinators in assessing the relative reliability of various gas-fired generators. While the Commission is seeking to standardize the business practices and the communication protocols, it is not specifying the frequency with which the information should be communicated. The information is generated on an event basis only.

7. EXPLAIN ANY SPECIAL CIRCUMSTANCES RELATING TO THE INFORMATION COLLECTION

This proposed program meets all of OMB's section 1320.5 requirements. The Commission is not proposing that pipelines and public utilities make tariff filings to include these standards in their tariffs in this rulemaking which would require additional copies and exceed the guidelines of 5 CFR 1320.5. These standards if adopted will be included in later standard versions when NAESB updates its wholesale gas and electric standards and, if the Commission decides to incorporate these later standard versions into its regulations, pipelines and public utilities will then be required to include these standards in their tariffs. Consequently, no information is proposed to be collected by the Commission in this rulemaking.

8. DESCRIBE EFFORTS TO CONSULT OUTSIDE THE AGENCY: SUMMARIZE PUBLIC COMMENTS AND THE AGENCY'S RESPONSE TO THESE COMMENTS

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.

As noted above, the Commission is proposing to adopt the standards developed NAESB, specifically the NAESB WEQ and NAESB WGQ definitions and business practice standards providing for coordination and communication between natural gas pipelines and the various electric industry operators, including RTOs, ISOs and gas-fired power generators.

In section 12(d) of the National Technology Transfer and Advancement Act of 1995, Congress affirmatively requires federal agencies to use technical standards developed by voluntary consensus standards organizations, like NAESB, as the means to carry out policy objectives or activities unless use of such standards would be inconsistent with applicable law or otherwise impractical.[6] NAESB approved the standards under its consensus procedures. Office of Management and Budget Circular A-119 (§ 11) (February 10, 1998) provides that federal agencies should publish a request for comment in a NOPR when the agency is seeking to issue or revise a regulation proposing to adopt a voluntary consensus standard or a government-unique standard. In this Final Rule, the Commission is incorporating by reference voluntary consensus standards developed by the WGQ and WEQ.

On October 25, 2006, the Commission issued a Notice of Proposed Rulemaking (NOPR)[7] that proposed to incorporate by reference the WEQ's standards, Gas/Electric Coordination Standards WEQ-011-0.1 through WEQ-011-0.3 and WEQ-011-1.1 through WEQ-011.1.6 and the WGQ's standards, Additional Standards, Definitions 0.2.1 through 0.2.3 and Standards 0.3.11 through 0.3.15. The Commission also provided guidance on the six areas of potential

6 Pub L. No. 104-113, §12(d), 110 Stat. 775 (1996), 15 U.S.C. §272 note (1997).

7 Standards for Business Practices for Interstate Natural Gas Pipelines; Standards for Business Practices for Public Utilities, 71 Fed. Reg. 64,655 (Nov. 3, 2006).

standards development addressed by NAESB. Fifteen comments[8] and one reply comment were filed.[9]

A majority of commenters supported the Commission's goal of increased communication between the gas and electric industries, and therefore did not object to incorporation of the standards into the Commission's regulations.[10] Dominion stated that the communication requirements are important, and asked that the Commission continue to develop policies that provide for even greater levels of gas-electric coordination. Some participants, while not objecting to the standards, raised concerns and suggested changes to the language. These issues are addressed below.

WEQ Standard 011-1.3/WGQ Standard 0.3.13

WEQ Standard 011-1.3/WGQ Standard 0.3.13 states that power plant operators should not operate without an approved scheduled quantity pursuant to the NAESB WGQ standard nomination timeline and scheduling processes or as permitted by the transportation service provider's tariff, general terms and conditions, and/or contract provisions. The standard further states that if the power plant operator reasonably determines it has circumstances requiring the need to request gas scheduling changes outside the WGQ nomination and scheduling processes, and the transportation service provider supports the processing of such changes, the power plant operator may request daily flow rates as established by either the communication procedures established in the standards or as specified in the transportation service provider's tariff or general terms and conditions. The standard states that the power plant operator and all affected transportation service providers should work to resolve the power plant operator's request if it can be accommodated 1) in accordance with the appropriate application of the affected transportation service provider's tariff requirement, contract provisions, business practices, or other similar provisions, and 2) without adversely impacting other scheduled services, anticipated flows, no-notice services, firm contract requirements and/or general system operations.

Comments

8 Those filing comments were: the ISO/RTO Council (IRC), the Interstate Natural Gas Association of America (INGAA), ISO New England (ISO-NE), NiSource Gas Transmission and Storage (NiSource), FPL Energy, LLC (FPL Energy), Electric Power Supply Association (EPSA), Tennessee Valley Authority (TVA), Florida Cities, El Paso Corporation Pipeline Group (El Paso), Salt River Project Agricultural Improvement and Power District (Salt River), Natural Gas Supply Association (NGSA), Duke Energy Gas Transmission, LLC (Duke), American Gas Association (AGA), the Carolina Gas Transmission Corporation (Carolina Gas), and Dominion Resources, Inc. (Dominion).

9 AGA filed reply comments.

10 E.g., AGA, Carolina Gas, Dominion, Duke, El Paso, EPSA, Florida Cities, FPL Energy, INGAA, IRC, NiSource, Salt River, and TVA.

IRC commented that the standard suggests that transportation service providers may be granting service to power plant operators outside of normal Open Access Same-Time Information Systems (OASIS) posting requirements. IRC submitted that, in order to ensure transparency and compliance with the Commission's rules, any communications between the transportation service provider and power plant operator must also adhere to the Commission's OASIS posting requirements and its Standards of Conduct regulations.

ISO-NE asserted that the standard states in part that a power plant operator should not operate without an approved schedule, and suggested that, in order to avoid confusion with the electric scheduling process, this standard be modified to specify that it is referring to the "approved gas schedule" and "gas scheduling processes". ISO-NE also recommended that the directly-connected transportation service provider is the party intended to receive hourly flow rates from the power plant operator.

NiSource commented that the type of procedure to be established between a pipeline and a power plant operator to communicate hourly flow rate information is not clear, and that it wishes to preserve its ability to object to any power plant operator requests for unreasonable communications procedures.[11] NiSource also stated that the standard does not unambiguously state that a pipeline that does not provide for a special nomination cycle in its tariff does not have to accommodate such a request.

Commission Determination

The purpose of this standard is to provide for greater flexibility in scheduling pipeline transportation in circumstances in which the pipeline is able to accommodate such flexibility. Regarding IRC's concern about compliance with Commission regulations, nothing in this standard grants a waiver from the Commission's standards of conduct or other regulations. The IRC's reference to the OASIS is not clear, since these are gas transactions between the power plant operator and the pipeline, not OASIS scheduling requests.

The Commission disagrees with ISO-NE's argument that the standard is ambiguous or confusing. The standard's language regarding scheduling clearly concerns scheduled quantities of gas pursuant to the NAESB WGQ standard nomination timeline.

With respect to NiSource's concern about communication details, the Commission finds it more appropriate for the pipeline and the power plant operator to work out the most efficient method for communicating any such scheduling requests. With respect to NiSource's concern about its obligations, the standard clearly states that, if the pipeline supports the processing of such special requests, it must work to resolve such requests if they can be accommodated in accordance with the appropriate application of the affected pipeline's tariff requirement, contract provisions, business practices, or other similar provisions, and without adversely impacting other scheduled services, anticipated flows, no-notice services, firm contract requirements and/or general system operations. The Commission finds that these conditions provide reasonable and appropriate protections for the pipelines.

11 NiSource Comments at 9.

Pipelines' Ability to Permit Shippers to Choose Alternate Delivery Points

In its Final Report, NAESB requested clarification regarding the ability of pipelines to permit shippers to shift gas deliveries from a primary to a secondary delivery point when a pipeline constraint occurs upstream of both points. Such changes would make it easier for shippers to redirect gas supplies to generators during periods when capacity is scarce. NAESB provided, as an example, that a customer has 100 dekatherms scheduled to flow from a primary receipt point through the posted point of restriction to a primary delivery point. Under the same contract, the customer then requests a nomination change to move 50 of the 100 dekatherms to a secondary delivery point that is outside its transportation path but still through the posted point of restriction.

In the NOPR, the Commission discussed Order No. 637-B, which provided that pipelines must implement within-the-path scheduling under which a shipper seeking to use a secondary delivery point within its scheduling path has priority over another shipper seeking to use the same delivery point but that point is outside of its transportation path.[12] In addition, it stated that the scenario posed by NAESB was a slight variation of the within-the-path scheduling, and clarified that it would be reasonable to permit the reassignment as posited in most cases.

Comments

Salt River supported the ability of a gas shipper to make changes to its delivery point (from primary to alternate) once it has been confirmed through a constraint point without having it be treated as a new nomination. It argued that this ability better enables the electric industry to ensure that gas can move to the facilities that require it on an intra-day basis without having to be concerned about pro-rata curtailments or scheduled quantity cuts.[13]

Dominion agreed with the determination of shipper priority in the Commission's example, it is concerned that there may be other caveats beyond the one posited in which the Commission's specific "clarification" may not be appropriate. Florida Cities had no objection to the Commission's proposed clarification, but stated that the Commission should not require all pipelines to require this accommodation without exception. It stated that any prior arrangements concerning delivery point nominations are preserved. For example, Florida Cities contends that Florida Gas Transmission Company, LLC has a system in which secondary delivery point nominations are considered on a "jump ball basis", meaning the ability of a shipper to move its nomination from the primary delivery point to the secondary delivery point will be contingent upon whether secondary point nominations for that flow day create a need for the allocation of capacity instead of by virtue of pathing rights.[14]

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12 Regulation of Short-Term Natural Gas Transportation Services, 92 FERC ¶61,062 at 61,168-70 (2000).

13 Salt River Comments at 3.

INGAA requested that the Commission clarify in the Final Rule that its proposed clarification is not intended to revise its policies concerning capacity allocation or to broaden shippers' flexible point rights beyond those set out in Order Nos. 637.[15] El Paso further requested that the Commission state that the normal processes for new standards development apply to any new standards proposed relating to this issue.[16]

Commission Determination

The Commission is not modifying its requirement for within-the-path scheduling as adopted in Order No. 637. The example posited by NAESB appears consistent with the within-the-path scheduling concept and with pipeline proposals that have been accepted.[17] It would not be appropriate for the Commission here to try to provide generic clarification to cover all possible proposals by pipelines for according flexibility to shippers. These proposals will have to be judged on an individual basis. In addition, NAESB can consider through its consensus process possible standards for according increased receipt and delivery point flexibility.

9. EXPLAIN ANY PAYMENT OR GIFTS TO RESPONDENTS

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

10. DESCRIBE ANY ASSURANCE OF CONFIDENTIALITY PROVIDED TO RESPONDENTS

The Commission generally does not consider the data posted concerning standardized business procedures to be confidential.

11. PROVIDE ADDITIONAL JUSTIFICATION FOR ANY QUESTIONS OF A SENSITIVE NATURE THAT ARE CONSIDERED PRIVATE

There are no questions of a sensitive nature associated with the standardized business procedures to be adopted 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 388.110.

12. ESTIMATED BURDEN OF COLLECTION OF INFORMATION

The annual (one-time) burden estimate of 1,860 hours (an average of 20 hours per company) for information requirements/collections under FERC-549C, as proposed in the subject NOPR, is Final Rule is based d on the Commission's recent experience with establishing the standards in previous GISB/NAESB rulemaking dockets. Following the one-time implementation of the proposed standards and practices the burden under FERC-549C would be reduced by 1,860 hours.

The annual (one-time) burden estimate of 7,260 hours (an average of 33 hours per company) for information requirements/collections under FERC-717, as proposed in the subject Final Rule, is based on the Commission's recent experience with establishing the standards in previous NAESB rulemaking dockets. Following the one-time implementation of the proposed standards and practices the burden under FERC-717 would be reduced by 7,260 hours.

On an annual basis, the total estimated reporting burden under FERC-549C (including the estimated burden of 1,860 hours for the subject proposed data collection/requirement) for an estimated 544 responses/filings per year is expected to total 857,087 hours or approximately 1,576 hours per filing (rounded off). Following the one-time implementation of the proposed standards and practices, the burden under FERC-549C would be reduced by 1,860. The Commission in a separate proceeding is reducing the total hours by 243,102 hours due to the implementation of version 1.7 of the standards. The Commission sought comments to comply with these requirements. Comments were received from sixteen entities. No comments addressed the reporting burden imposed by these requirements and therefore the Commission will use the same estimates in the final rule. A detailed summary of FERC-545 and FERC-549C burden estimates is shown below:

DATA REQUIREMENT (FERC-549C)		**CURRENT OMB INVENTORY***	**PROPOSED IN NOPR**	**PROPOSED IN FINAL**	**NEW OMB RULE INV.**
Estimated number of respondents	:	93	93	93	93
Estimated number of responses per respondent	:	4.85	1	1	5.8495
Estimated number of responses per year	:	451	93	544	544
Estimated number of hours per response	:	1,896.3	20	20	1,575.5276
Total estimated burden (hours per year)	:	855,227	1,860	1,860	857,087

Program change in industry burden hours	:	+1,860
Adjustment change in industry burden hours	;	-0-

*OMB Inventory as of 06/27/07

DATA REQUIREMENT (FERC-717)		**CURRENT OMB INVENTORY***	**PROPOSED IN NOPR**	**PROPOSED IN FINAL**	**NEW OMB INVENTORY**
Estimated number of respondents	:	220	220	220	220
Estimated number of responses per respondent	:	1	1	1	1

Estimated number of responses per year	:	220	220	220	220
Estimated number of hours per response	:	980.43	33	33	1013.43
Total estimated burden (hours per year)	:	215,695	7,260	7,260	222,955
Program change in industry burden hours	:		+ 7,260		
Adjustment change in industry burden hours	:		-0-		

*OMB Inventory as of 06/27/07

13. ESTIMATE OF THE TOTAL ANNUAL COST BURDEN TO RESPONDENTS

The estimated annualized one-time filing/start-up cost to respondents related only to the data collection/requirements as proposed in the subject Final Rule are as follows:

	FERC-549C	FERC-717
Annualized Capital/Startup Costs	$279,000	$1,089,000
Annualized Costs (Operations & Maintenance)	N/A	N/A
Total Annualized Costs	$279,000	$ 1,089,000

The total annualized cost for the two information collections is $ 1,368,000. This number is reached by multiplying the total hours to prepare a response (hours) by an hourly wage estimate of $150 (a composite estimate that includes legal, technical and support staff rates). $1,368,000= $150 x 1,860 hours + $150 x 7,620hours or 9,120 hours. These costs are determined an estimation of staffing time to implement the procedures described above. It should be a one-time cost to put these standards and protocols into operation.

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14 Florida Cities Comments at 8.

15 INGAA Comments at 8.

16 El Paso Comments at 4.

17 Algonquin Gas Transmission Co., Director Letter Order, Docket No. RP06-69-000 (November 22, 2005); Texas Eastern Transmission, LP, Director Letter Order, Docket No. RP06-70-000 (November 22, 2005).

These costs include the implementation of the WEQ's and WGQ's definitions and business practice standards providing for coordination and the establishment of communication protocols between interstate natural gas pipelines and power plant operators and transmission owners and the various electric industry operators. The implementation of these data requirements will help the Commission carry out its responsibilities under the Federal Power Act and Natural Gas Act of promoting the efficiency and reliability of the electric and gas industries' operations.

Because there are no reoccurring year-to-year operation/ maintenance and record keeping costs related to the proposed changes in the subject Final Rule, the total annualized costs to respondents are the estimated one-time start-up costs for FERC-549C and FERC-717 shown above.

14. ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT

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) [19]	x	Estimated Salary [18] Per Year	+	FERC Forms Clearance (FY '06)	=	Total Cost One Year's Operation
FERC-549C	-.25-		$122,137		$ -0-		$ 30,534
FERC-717	- .75-		$122,137		-0-		91,603
Total	1.00		$122,137#		$ -0-		$122,137

18 ?/ "Salary" represents the allocated cost per gas program employee at the Commission based on its appropriated budget for fiscal year 2007. The $122,137 "salary" consists of $98,877 in salaries and $22,261 in benefits.

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

#Reflects cost of living adjustment in salary rate from what was reported in the NOPR.

(As noted in response to item #6 above of this justification, this information is not collected by the Commission. Instead, Commission staff review pipeline websites to ensure that information required by the standard has been posted to the website.)

15. REASONS FOR CHANGES IN BURDEN INCLUDING THE NEED FOR ANY INCREASE

As noted in the Background section above, the reasons for the issuance of the Final Rule and resulting program changes are necessary to further the process begun in Order No. 587 of creating a more efficient and integrated pipeline grid by standardizing the business practices and electronic communication of interstate pipelines and expanded in Order No. 676 to create a more efficient and integrated electric transmission grid by standardizing the business practices and electronic communication of public utilities. FERC has reviewed the requirements pertaining to business practices and electronic communication of public utilities and natural gas pipelines and made a preliminary determination that the proposed revisions are necessary to establish more efficient coordination between the gas and electric industries. Requiring such information ensures both a common means of communication and common business practices to improve communications for participants engaged in the sale of electric energy at wholesale and the transportation of natural gas.

16. TIME SCHEDULE FOR PUBLICATION OF THE DATA

The time schedule for FERC-549C, Standards for Business Practices of Interstate Natural Gas Pipelines and Standards for Business Practices and Communication Protocols for Public Utilities and related activities is shown below.

Schedule for Data Collection and Analysis

Activity	Estimated Completion Time

To incorporate these standards by reference, the Commission is amending parts 38 and 284 of its regulations to include the appropriate standards.[20] The Commission is also amending section 38.1 so that it applies to gas-fired power plant owners and operators and to public utilities that own, operate or control facilities used to effectuate wholesale power sales.

The Commission is not proposing as noted above, that pipelines and public utilities make tariff filings to include these standards in their tariffs in this rulemaking. These standards would be included in later standard versions when NAESB updates its wholesale gas and electric standards and, if the Commission decides to incorporate these later standard versions into its regulations, pipelines and public utilities will then be required to include these standards in their tariffs.

Four of the standards require pipelines, RTOs/ISOs and/or gas-fired power plant operators to establish procedures to communicate information with each other.[21] For instance, standard WEQ-011-1.2 requires pipelines and gas-fired power plant operators to establish procedures to communicate hourly gas-flow information. With respect to these standards, the Commission proposes to require each pipeline and relevant public utility to demonstrate compliance by filing a statement as to whether it has established the required procedures with each relevant entity on its system or taken appropriate action, as required by the standards. While the Commission expects that the parties would be able to negotiate acceptable provisions, if an intractable dispute should arise, the parties can submit the dispute to the Commission for resolution. This is similar to what the Commission has required in previous rulemaking proceedings.[22]

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20 The standards for the Wholesale Electric Quadrant are: Gas/Electric Coordination Standards WEQ-011-0.1 through WEQ-011-0.3 and WEQ-011-1.1 through WEQ-011-1.6. The standards for the Wholesale Gas Quadrant are: Additional Standards, Definitions 0.2.1 through 0.2.3 and Standards 0.3.11 through 0.3.15.

21These standards are WEQ-011-1.2 and WGQ Standard 0.3.12; WEQ-011-1.4; WEQ-011-1.5; and WEQ-011-1.6 and WGQ Standard 0.3.15.

22 See Standards for Business Practices of Interstate Natural Gas Pipelines, 85 FERC ¶ 61,371 (1998). In a similar situation (a requirement that pipelines enter into operation balancing agreements (OBAs) with interconnecting pipelines), rather than requiring pipelines to file their OBAs, the Commission required the pipelines to file a statement with the Commission certifying that they have complied with the requirement to enter into OBAs.

The time schedule for FERC-549C and FERC-717 would be to have the proposed business standards/procedures in place on or about the Commission's target implementation date of the first of the month occurring 60 days after publication of the final rule in the Federal Register.

Pipelines and public utilities are required to implement the standards the Commission is incorporating by reference in this Final Rule by November 1, 2007. In addition, pipelines and public utilities are required to file a statement by November 1, 2007 as to whether they have established the required procedures in WEQ Standard 011-1.2/WGQ Standard 0.3.12 and WEQ Standard 011-1.6/WGQ Standard 0.3.15. To reduce the burden on filers, the Commission is not requiring pipelines and public utilities to make filings to include these standards in their tariffs at this time. These standards will be included in tariffs when the pipelines and public utilities file to incorporate in their tariffs the next revised version of the NAESB standards.

17. DISPLAY OF EXPIRATION DATE

Not applicable. The data requirements under FERC-549C and FERC-717 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. EXCEPTIONS TO THE CERTIFICATION STATEMENT

There is an exception to the Paperwork Reduction Act Submission Certification. The Commission does not use statistical methodology for either FERC-549C or FERC-717.

B. COLLECTION OF INFORMATION EMPLOYING STATISTICAL METHODS

Not applicable to either FERC-549C or FERC-717.