

**SUPPORTING STATEMENT FOR FERC-555, PRESERVATION OF RECORD
OF PUBLIC UTILITIES AND LICENSEES, NATURAL GAS
AND OIL PIPELINE COMPANIES**

The Federal Energy Regulatory Commission (FERC) requests Office of Management and Budget (OMB) review and approval of **FERC-555, "Preservation of Records of Public Utilities and Licensees, Natural Gas and Oil Pipeline Companies,"** an existing record keeping requirement, regarding regulations concerning the retention of records by public utilities and licensees, natural gas companies and oil companies (18 CFR Parts 125, 225 and 356) FERC-555 (OMB Control No. 1902-0098) is currently approved by OMB through November 30, 2007.

Background

In response to requests of both industry and OMB during an earlier recertification of the information collection requirements for FERC-555, FERC agreed to review the media and records retention requirements for public utilities and licensees, natural gas companies, and oil pipeline companies. In response, FERC issued on January 8, 1999, AI99-2-000, an Accounting Issuance that provides guidance on records storage media. Specifically, FERC gave each jurisdictional company the flexibility to select its own storage media. The storage media selected must have a life expectancy equal to the applicable record period unless there is a quality transfer from one media to another with no loss of data.

Following the issuance of the Accounting Issuance AI 99-2-000, FERC held technical conferences with representatives of the jurisdictional companies to receive their proposals on revisions to the records retention requirements. As a result of those discussions and a systematic review by FERC staff, FERC issued a Final Rule, Order No. 617 (Docket No. RM99-8-000) on August 7, 2000. In the Final Rule the Commission amended its regulations to "update, reduce and clarify records retention requirements for jurisdictional public utilities and licensees, natural gas companies and oil pipeline companies." Specifically, these changes included revising the general instructions, shortening various records' retention periods, increasing retention periods for several categories of records, and removed all but two retention reserve items.

For a summary of these changes and reductions as applicable see the following table:

Description (Public Utilities)	Original Retention	Proposed Retention
Organizational Documents	50 years	5 yrs or termination of corporation's existence
Contracts and agreements	6 years	(a)3 yrs for service contracts; (b)4 yrs for purchase/sale product
Accountants and Auditor's reports	7 years	5 years
General Ledgers and Indexes	50 years	25 years
Journals	50 years	25 years
Plant Ledgers	50 years	25 years
Maintenance work & job orders	6 years	5 years
Construction work in progress ledgers	10 years	5 years
Retirement work in progress ledgers	10 years	5 years
Income tax returns	7 years	2 years after final tax liability
Annual financial/statistical reports	10 years	5 years
Description (Gas Pipelines)	Original Retention	Proposed Retention
Organizational Document	50 year	5 years or termination of corporation's existence
Contracts and agreements	6 years	4 years for purchase/sale of product
Accountants and Auditor's reports	7 years	5 years
General Ledgers and Indexes	50 years	25 years
Journals	50 years	25 years
Plant Ledgers	50 years	25 years
Construction work in progress ledgers	10 years	5 years
Maintenance work & job orders	6 years	5 years
Retirement work in progress ledgers	10 years	5 years
Income tax returns Income tax returns	7 years	2 years after final tax liability

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Annual financial/statistical reports	10 years	5 years
Description(Oil Pipelines)	Original retention	Proposed retention
Minutes to Directors, Stockholders corporate meetings	Permanently	5 years
Contracts and agreements	10 years	a)4 years, documents subject to Clayton Antitrust Act
General Journals(not ratemaking organizations)	50 years	3 years
Records of accounting codes and instructions	6 years	3 years
Reports to FERC and other regulatory bodies	10 years	5 years

Additions to Public Utilities and Licensees, and Natural Gas Companies records retention periods:

Description(Public Utility & Gas)	Original Retention	Proposed retention
Appraisals and valuations		10 years
originals or reproduction of engineering records, drawings		until retired.
Statement of funds and deposits		until fund is dissolved or terminated

Additions to Oil Pipeline Companies records retention periods

Description (Oil Pipeline)	Original Retention	Proposed retention
Group Method and Depreciation Rate	10 years	3 years after disposition of property
Files of detailed authorizations for expenditures	3 years from acquisition	3 years after disposition

However, the Commission did not propose to further shorten the records retention requirements for public utilities and licensees and natural gas companies in certain areas. Despite a changing environment, many of the companies regulated by FERC still use a cost-based regulatory environment. It is necessary that companies retain certain records

to substantiate the costs that are being passed on to the customer. It is FERC's mission to ensure that the rates, terms and conditions of service for the electric power, natural gas,

and oil industries are just and reasonable and not unduly discriminatory or preferential. Therefore, in order to carry its statutory authorities, it is essential that FERC be able to obtain the appropriate information. Therefore, FERC believes a more prudent course is to defer further reductions until the information needs become more apparent.

FERC estimated a burden reduction of 679,800 hours from the then current OMB inventory of 1,236,000 hours. Based on the Commission's experience with current record keeping requirement practices, it was estimated that about 1,080 hours per respondent would be needed to retain records per year, for a total burden of 556,200 hours.

OMB did not concur with the Commission's estimates in the Final Rule believing instead that the size of reductions (in hours) required additional justification and disapproved FERC's request for this reduction but approved continuance of the requirements. FERC did request additional comment from the trade associations and was informed by one association that while the proposed changes in the retention requirements would be beneficial, the initial impact of the rule would impose additional burden on its members as they would now have to go into their records storage areas and destroy these documents. FERC has sought comment again on subsequent renewals and prior to this submission specifically targeted these estimates noting that sufficient time has passed since these changes were implemented. FERC did not receive any comments in response to its last submission or to this latest notice. The Commission has conducted outreach sessions with industry within the past year on its information collections and in particular financial reports but no comments were generated concerning its records retention requirements. (See item no. 8 of this justification).

A. JUSTIFICATION

1. The Commission may prescribe requirements for the preservation of records of public utilities or licensees and natural gas companies or oil pipeline companies under the Federal Power Act (FPA) (16 U.S.C. 792-828o) pursuant to Sections 301, 304, and 309; the Natural Gas Act (NGA) (15 U.S.C. 717-717w) and pursuant to Sections 8, 10 and 16; and the Interstate Commerce Act (ICA) (49 U.S.C. 20) pursuant to Section 20. In order for the Commission to carry out its responsibilities in implementing the statutory provisions of FPA, Section 301(a) (16 U.S.C. 825(a)) requires:

Every licensee and public utility shall make, keep, and preserve for such periods, such accounts, records, memoranda, papers, books and other records as the Commission may by rules and regulations prescribe as necessary or appropriate for purposes of the administration of this Act ***

FPA Section 304(a) (16 U.S.C. 825(c)) requires:

Every licensee and energy public utility shall file with the Commission such annual and other periodic or special reports as the Commission may by rules and regulations or orders prescribed as necessary or appropriate to assist the Commission in the proper administration of this Act. The Commission may prescribe the manner and form in which such reports shall be made, and require from such persons specific answers to all questions upon which the Commission may need information ***

FPA, Section 309 (16 U.S.C. 825h) requires:

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 Act ***

NGA, Section 8(a) (15 U.S.C. 717g) requires:

Every natural gas company shall make, keep and preserve for such periods, such accounts, records of cost accounting procedures, correspondence, memoranda, papers, books and other records as the Commission may by rules and regulations prescribe as necessary or appropriate for the purpose of the administration of this Act ***

NGA Section 10(a) (15 U.S.C. 717i) requires:

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 prescribe as necessary or appropriate to assist the Commission in the proper administration of this Act. The Commission may prescribe by 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 ***

NGA, Section 16 (15 U.S.C. 171o) requires:

The Commission shall have power to perform any and all acts, and to prescribe, issue, make and amend and rescind such orders, rules and regulations as it may find necessary or appropriate to carry out the provisions of this act ***

ICA, Section 20(5) (49 U.S.C. 20) requires:

The Commission may, in its discretion, prescribe the forms of any and all accounts, records and memoranda to be kept by carriers and their lessors, including the accounts, records and memoranda of the movement of traffic, as well as the receipts and expenditures of moneys, and it shall be unlawful for such carriers or lessors to keep any accounts, records and memoranda contrary to any rules, regulations or orders of the Commission with respect thereto ***

ICA, Section 20(7) (a) (49 U.S.C. 20) requires:

In the case of failure or refusal on the part of any carrier, lessor or other person to keep any accounts, records and memoranda in the form and manner prescribed, under authority of this section, by the Commission, or to submit any accounts, books, records, memoranda, correspondence or other documents to the Commission or any of its authorized agents, accountants or examiners for inspection or copying, as required under this section, such carrier, lessor or person shall forfeit to the United States not to exceed \$500 for each such offense and for each day during which such failure or refusal continues ***

2. The official records maintained by the regulated companies in accordance with the Schedules provided in Parts 125, 225 and 356 will be used by these companies as the basis for their required rate filings and reports for the FERC. In addition, the records will be used by the Commission's audit and compliance staffs during the periodic compliance reviews and special analyses performed as deemed necessary by the FERC.

The information contained in Parts 125, 225, and 356 will be used by the regulated companies to determine the minimum length of time to maintain their records subject to the requirements of the Commission. This is a preservation of records requirement pursuant to specific regulations.

3. These preservation of records requirements have been in existence for many years with time and usage as a testing media. The FERC does consider as evidenced by this proposed rulemaking, any comments which offer suggestions for improving the preservation of records requirements. Technical obstacles to reducing burden would be minimum requirements for the quality (in accordance with standards set by the American National Standards Institute) of official permanent records maintained on film and

certification of such records. Legal obstacles would be the minimum records needed for regulatory purposes.

4. The Commission, through its information collection validation program, reviews its various information collection requirements in an effort to eliminate duplication where feasible. In addition, the Commission's rulemaking practices and procedures request respondents to identify duplication where applicable and the staff reviews other regulations to identify possible duplication during the preliminary review, as part of the rulemaking procedures. Staff has conducted such a review in consultation with representatives from regulated entities prior to issuing the Order No. 617 as noted above. These regulations are used by the regulated industries as the basis for their preservation of records program and developed to satisfy the various requirements of the FERC.

Therefore, since the Commission's schedules are the preliminary source for establishing the retention periods for their records required by the FERC, there are no other similar requirements which can be used or modified by the FERC.

5. There are no small organizations among the respondents and so minimization of the impact on them would not be applicable. The companies regulated by the FERC are all subject to the jurisdiction of either a federal or state agency or both.

6. These records are not filed with the Commission but are retained by the regulated companies to be used as previously noted by the Commission's enforcement staff during the periodic compliance reviews and special analyses performed as deemed necessary by the FERC. Absent the availability of obtaining these records, and the Commission would not be able to carry out its regulatory responsibilities as authorized by the Federal Power Act, the Natural Gas Act and the Interstate Commerce Act.

This is a preservation of records requirement pursuant to specific regulations and, therefore, there is no actual data collection filed with the Commission on a regular basis.

7. The preservation of records schedules were reviewed and reduced by the Commission in separate orders to only include those records needed by the Commission to perform its regulatory responsibilities. (Copies of Commission Order Nos. 258 and 335 were provided in earlier FERC submissions to OMB.) The periods of retention for each of the remaining categories were also reviewed in response to comments by regulated entities and OMB which resulted in a systematic review by FERC staff. The current requirements do not contain many records that the respondents will have to continue to retain for other Federal agencies (SEC, IRS, and NRC), State Commissions and their own management and legal requirements.

8. The Commission developed the electric and natural gas regulations in accordance with FPA Sections 301, 304 and 309, and NGA Sections 8, 10, and 16. Part 125 was originally prescribed by the Commission Order No. 54, dated August 30, 1938, and amended several times thereafter. Part 225 was made effective by Commission Order No. 258, dated December 27, 1962, and was also revised and amended thereafter. The FERC is responsible for the maintenance of the oil pipeline regulations developed by the Interstate Commerce Commission in accordance with ICA Section 20.

All past amendments and revisions to the regulations have been made in accordance with the FERC's rulemaking procedures. The proposed changes were noticed for rulemaking and were published in the Federal Register, which gave all interested electric utilities, natural gas companies, oil pipeline companies, all State commissions and all other interested parties an opportunity to submit their comments and suggestions about the proposed changes before they were adopted by the FERC. The FERC also maintains an official rulemaking mailing list for all affected parties, including public utilities, licensees, natural gas companies, oil pipeline companies and State commissions. The rulemaking procedures permit the holding of public conferences, when applicable and upon request.

As noted above, the Commission has conducted outreach session with the jurisdictional companies, trade associations and other federal and state agencies that have an active interest in the Commission's financial information collections. On February 15, 2007, the Commission issued a Notice of Inquiry (NOI) seeking comment on the need for changes or additions to the financial information reported in the Commission's quarterly and annual financial reports, FERC Form Nos. 1, 1-F, 2, 2-A, 3-Q, 6 and 6-Q. In response the comments the Commission received to its NOI, it has reviewed these information collections and is in the process of drafting proposed amendments to these information collections. However, the commenters did not raise issues concerning records retention.

In accordance with OMB requirements in 5 C.F.R 1320.8(d), the record keeping requirements for FERC-555 were noticed in the Federal Register on May 8, 2007 (72FR 26086-87). The Commission did not receive any comments in response to its notice.

9. No gifts or payments have been made to respondents.

10. There is no requirement for confidentiality for the FERC's regulations pertaining to the preservation of records of regulated companies, because such records are subject to examination as provided by the FPA, NGA and ICA.

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11. Questions of a sensitive nature, such as questions related to sexual behavior, religious beliefs, etc. are not asked.

12. Estimate of Annual burden to Respondents.

The current annual burden estimate is 1,285,930 hours. This estimate was based on 535 respondents (an average of 2,353 hours per respondent) for record keeping requirements under FERC-555, and based on FERC's experience with the burden of record keeping in connection with the Preservation of Records and additional documentation requirements imposed by the Commission for companies that participate in cash management programs. The subsequent requirements were since modified. The overall burden to respondents on an annualized basis is estimated to be the following:

FERC-555 Record keeping Burden*			
	No. Of Respondents ¹	Burden Hours Per respondent	Total Burden Hours
Current Inventory	535	2,353	1,285,930
Proposed Estimate	515	2,402	1,237,030
Difference	20	0	0
Program Change			
Adjustment	-20	0	- 48,900

¹No. Of Respondents: Electric=233; Gas=111; Oil=171; for total of 515.

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*In the Commission’s original proposed estimate in Order No. 617 (2000) there were 515 respondents, 1,080 hours per respondent and total hours of 556,200. This would have resulted in a reduction of 679,000 hours. Subsequent to the order’s issuance, the number of respondents was adjusted upwards to reflect changes in industry. However, due to mergers and industry consolidations the number of entities has declined back to 515.

13. Annualized Cost to Respondents.

FERC-555 Respondents' Annualized Cost		
Annual Burden in hours	Estimated Cost Per Respondent ²	Total Annual Cost
1,236,896(<i>current</i>)	\$ 141,045.00 (<i>current</i>)	\$72,638,045.00 (<i>current</i>)
1,287,030(<i>proposed</i>)	\$ 141,045.00	\$72,638,045.00

²Based on Average Yearly Hours per Respondent (see item no. 12) divided by 2,080 and multiplied by \$122,137 (FERC's current average annual cost per employee).

14. Annualized Cost to the Federal Government:

Based on previous experience, the estimated annual costs to administer the preservation of records regulations, including the periodic clearance requirement, are (at last submission, the figure was \$91,800 which include the cost for no. of FTE's administering the program plus clearance requirement. The clearance requirement is now \$6,305, and it's estimated that .75 of an FTE's (\$91,603) is necessary to administer these regulations for a total of \$97,908.)

15. There is a change to the burden as a result of an adjustment in the number of entities that are subject to the Commission's jurisdiction.

16. Time Schedule for Information and Publication.

There are no tabulations, statistical analysis or publication plans for these record keeping requirements. The records retained are for regulatory purposes and the information is not published.

17. It is not appropriate to display the expiration date for OMB approval of these record keeping requirements pursuant to Sections 301, 304 and 309 of the FPA, Sections 8, 10 and 16 of the NGA and Section 20 of the ICA and Parts 125, 225 and 356 of the Commission's regulations. The information retained is not retained on a standard preprinted form which would avail itself to this display. Rather, the regulated companies prepare and retain information that reflects the unique or specific circumstances related to the jurisdictional transaction. In addition, the information contains both narrative descriptions and empirical support that varies depending on the nature of the transaction. The Commission does publish in its regulations at 18 C.F.R Part 389 both the regulatory citation and corresponding OMB control number for public viewing, and identifies these sections and control numbers with the issuance of each proposed and final rulemaking.

18. Item 19(g) (vi). See Item No. 17 above.

B. COLLECTION OF INFORMATION EMPLOYING STATISTICAL METHODS

The information collection "Preservation of Records" does not employ statistical analysis methods.