

Supporting Statement for  
**FERC-537, Gas Pipeline Certificates: Construction, Acquisition and Abandonment;  
With regard to Revisions to Landowner Notification and Blanket Certificate  
Regulations**

As proposed in Docket No. RM07-17-000  
(Final Rule Issued October 18, 2007)

The Federal Energy Regulatory Commission (FERC/Commission) requests Office of Management and Budget (OMB) review and approval of **FERC-537 “Gas Pipeline Certificates: Construction, Acquisition and Abandonment”**. **FERC-537** is an existing collection of data requirements that amends Parts 157 of the Commission’s regulations.

On October 18, 2007, the Commission issued a Final Rule amending its regulations to modify landowner notification requirements and to require a noise survey following the completion of projects involving compressor facilities undertaken pursuant to blanket certificate authority. The proposed regulatory revisions are intended to enhance public participation in the Commission’s consideration of proposed projects and to ensure that compressor projects completed under blanket certificate authority will not have a significant adverse environmental impact.

We estimate that the annual reporting-burden related to the subject Final Rule will be 160 hours under FERC-537 (unchanged from what was proposed in the NOPR). When added to the 215,798 hours currently reflected in OMB’s inventory, this will result in a total of 215,958 hours as adopted by the Commission in the subject final rule. FERC-537 (OMB Control No. 1902-0060) is currently approved by OMB through May 31, 2010. **Note:** The NOPR was recently the subject of an OMB review. (See ICR 200707-1902-004)

### **Background**

On October 19, 2006, the Commission issued a Final Rule amending its regulations to expand the scope and scale of activities that may be undertaken in accordance with blanket certificate authority and clarifying that existing Commission policies permit natural gas companies to charge different rates to different classes of customers.<sup>1</sup> (See RM06-7-000, ICR: 200612-1902-003) In RM07-17-000 NOPR, the Commission proposed to further amend its regulations to modify the landowner notification requirements and require a noise survey following the completion of projects involving compressor facilities undertaken in accordance with blanket certificate authority.

A natural gas company must obtain a certificate of public convenience and necessity in accordance with section 7 of the Natural Gas Act (NGA) to construct, acquire, alter, abandon, or operate jurisdictional gas facilities or to provide jurisdictional gas services. Natural gas

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<sup>1</sup> Order No. 686, 71 FR 63680 (October 31, 2006), FERC Stats & Regs ¶ 31,231 (2006); Notice of Proposed Rulemaking (NOPR) 71 FR 36276 (June 26, 2006), FERC Stats. & Regs. ¶ 32,606 (2006). An order on rehearing and clarification of the Final Rule in Docket No. RM06-7-001 was issued contemporaneously with the NOPR. 119 FERC ¶ 61,303 (2007).

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companies holding an NGA section 7(c) certificate may also obtain blanket certificate authority under Part 157, Subpart F, of the Commission's regulations to undertake certain types of activities without the need to obtain case-specific certificate authorization for each project. Activities undertaken in accordance with blanket certificate authority are not subject to the longer and more exacting review process associated with individual authorizations issued on an application-by-application basis.<sup>2</sup>

Natural gas facilities that may be constructed, acquired, altered, or abandoned in accordance with blanket authority are currently constrained by a cost limit of \$9,600,000 for projects which can be undertaken without prior notice (also referred to as self-implementing or automatic authorization projects) and \$27,400,000 for projects for which prior notice is required.<sup>3</sup> In addition, the blanket certificate provisions apply only to a restricted set of eligible facilities;<sup>4</sup> ineligible facilities currently include mainlines, storage field facilities, and facilities receiving gas from a liquefied natural gas (LNG) plant or a synthetic gas plant.<sup>5</sup>

### **Final Rule RM06-7-000, Order No. 686**

In RM06-7-000 Final Rule, issued October 19, 2006, the Commission amended its blanket certification regulations to expand the scope and scale of activities that may be undertaken pursuant to blanket certificate authority. The Commission expanded the types of natural gas projects permitted under blanket certificate authority and increased the cost limits that apply to blanket projects. In addition, the Commission clarified that a natural gas company

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<sup>2</sup> Certain activities are exempted from the certificate requirements of NGA section 7(c). For example, § 2.55 of the Commission's regulations exempts auxiliary installations and the replacement of physically deteriorated or obsolete facilities; Part 284, Subpart I, of the regulations provides for the construction and operation of facilities needed to alleviate a gas emergency.

<sup>3</sup> See 18 CFR § 157.208(d), Table I (2006), as updated. In November 2005, in response to the impacts of hurricanes Katrina and Rita on gas production, processing, and transportation in and along the Gulf of Mexico, these cost limits were temporarily raised to \$50,000,000 for prior notice projects and \$16,000,000 for self-implementing projects, provided the projects increase access to gas supply and will be completed by October 31, 2006. See Expediting Infrastructure Construction To Speed Hurricane Recovery, 113 FERC ¶ 61,179 (2005). The October 31, 2006 deadline was subsequently extended to February 28, 2007. 114 FERC ¶ 61,186 (2006).

<sup>4</sup> See § 157.202(b)(2)(i) of the Commission's regulations, defining "eligible facilities," and § 157.202(b)(2)(ii)(2005) of the regulations, describing facilities excluded from the definition of "eligible facilities."

<sup>5</sup> The November 2005 Order cited in note 3 also temporarily extended blanket certificate authority to include what would otherwise be ineligible facilities, namely, an extension of a mainline; a facility, including compression and looping, that alters the capacity of a mainline; and temporary compression that raises the capacity of a mainline.

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is not necessarily engaged in an unduly discriminatory practice if it charges different customers different rates for the same service based on the date that customers commit to service. Rather than rely on the more demanding process of submitting an application under section 7(c) of the Natural Gas Act for certificate authorization for every project, the revised regulations allow interstate natural gas pipelines to employ the streamlined blanket certificate procedures for larger projects and for a wider variety of types of projects, thereby increasing efficiencies, and decreasing time and costs, associated with the construction and maintenance of the nation's natural gas infrastructure.

### **Final Rule on Rehearing (Docket No. RM06-7-001)**

On June 22, 2007 the Commission issued a Final Rule which denied rehearing on the additional notice time instituted by Order No. 686-<sup>6</sup> and granted rehearing on the point of measuring noise for compressors projects, returning to Noise Sensitive Areas (NSAs) rather than the project boundary. This change aligns the blanket program with the noise criterion generally applied to case-specific compressor projects.

Order No. 686 permitted companies to construct compression and loop lines to expand mainline capacity under blanket authority. Consistent with this approach, the Commission clarifies in the Order on Rehearing that, provided companies meet all applicable blanket certificate regulatory requirements, they can rely on blanket certificate authority to change the MAOP of facilities that are not supply or delivery laterals, such as mainlines.

Order No. 686 extended blanket certificate authority to include certain underground storage field projects. National Fuel supported this inclusion, but sought assurance that storage remediation and maintenance activities that qualify as auxiliary installations or replacements under § 2.55 of the Commission's regulations can still be undertaken pursuant to § 2.55, and need not now proceed under the automatic or prior notice provisions of the blanket certificate program. National Fuel also sought clarification that plugging and abandoning storage wells constitutes maintenance, and as such will be eligible to be undertaken pursuant to the automatic authorization provisions of § 157.213(a), and will not be viewed as altering the function of a well, which would require adherence to the prior notice requirements of § 157.205(b). Order No. 686's enlargement of the scope of blanket certificate authority does not constrict the scope of activities that may be performed under § 2.55 of the Commission's regulations. Therefore in the Order on Rehearing the Commission has determined that activities involving storage,

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<sup>6</sup> In Order No. 686 expanded the blanket certificate program by raising per-project costs limits and allowing additional types of facilities to be constructed. To be able to continue to ensure that the expanded class of blanket projects will not have a significant adverse environmental, 15 days were added to the notice period for proposed blanket projects, and the point for measuring noise for compressor projects was relocated from Noise Sensitive Areas (NSAs) to the project boundary.

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mainline, and LNG and synthetic gas pipeline facilities that could have been performed under § 2.55 prior to the expansion of the blanket certificate program may continue to be performed under § 2.55. Further, as before issuance of Order No. 686 a company need not obtain a blanket certificate as a prerequisite to act under § 2.55.

In the Order on Rehearing, the Commission clarified that the reference in new § 157.213(a) to altering “the function of any well that is drilled into or is active in the management of the storage facility” is not intended to include temporarily plugging a storage field well as part of standard maintenance operations. In contrast, permanently plugging a well would not qualify as standard maintenance, but would instead constitute abandonment, as it would permanently alter the function of the well, and could impact the performance of the storage field. Accordingly, such an action would need to comply with the blanket certificate program’s § 157.216 regulatory requirements regarding an abandonment.

In addition, the Commission revised §§ 157.213(b) and (c) to permit companies to employ blanket certificate authority to make modifications to storage facilities to enhance injection and withdrawal capacity. This is consistent with the Commission’s previously expressed intent to permit a company to rely on expanded blanket certificate authority “to re-engineer an existing storage facility to decrease cushion gas, increase working gas, improve injection and withdrawal capabilities, and add more cycles per season,” provided the company can “demonstrate, by theoretical or empirical evidence, that a proposed project will improve storage operations without altering an underground storage facility’s total inventory, reservoir pressure, or reservoir or buffer boundaries, and will comply with environmental and safety provisions.”<sup>7</sup>

Simultaneously with the issuance of the Order on Rehearing, the Commission issued a NOPR in Docket No. RM07-17-000 seeking comments on the modification of the noise standard.

### **NOPR (Docket No. RM07-17-000)**

In RM07-17-000 Notice of Proposed Rulemaking (NOPR) issued June 22, 2007, the Commission proposed to extend to blanket compressor projects the same requirement now applicable to case-specific compressor projects that companies submit a noise survey upon a project’s completion that demonstrates compliance with a noise level of 55dBA limit at NSAs and to expand notice requirements to ensure that all landowners within a half mile of a proposed compressor project are notified. The proposed regulatory revisions are expected to enhance public participation in the Commission’s consideration of proposed projects and ensure that

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<sup>7</sup> 71 FR 36276, 36281 (June 26, 2006), FERC Stats. & Regs. ¶ 32,606 (2006).

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compressor projects completed under blanket certificate authority will not have a significant adverse environmental impact.

A compressor project under the blanket certificate program is not subject to the same scrutiny and procedural safeguards that apply to a compressor project subject to case-specific NGA section 7 certificate's authority. A case-specific application is subject to a more extensive notification process than a proposed blanket certificate project; indeed, for a project that qualifies for automatic authorization under the blanket certificate regulations, the Commission itself does not receive notice in advance of the project's construction. Thus, in contrast to a request for case-specific certificate authority, for a compressor project subject to blanket certificate authority, the Commission and public do not have the opportunity to assess aspects of a proposal such as what constitutes a noise sensitive area (NSA),<sup>8</sup> the prospective uses of property proximate to a compressor facility, habitat impacts on non-residential areas, whether a particular area has a heightened noise sensitivity that would merit a limit of less than 55 dBA, or the cumulative impacts resulting from modifying or expanding existing compressor facilities.

As a result, whereas an individual assessment can be undertaken for each proposed case-specific compressor project in order to establish a noise level appropriate to the particular site, this is not the case for blanket certificate compressor projects. The more cursory standard of review necessary to expedite projects under the blanket certificate program, coupled with the expansion of blanket certificate authority to cover larger and more varied types of compressor facilities, prompted the Commission to impose a stricter standard on the noise produced by blanket certificate compressor facilities. As described in the NOPR and implemented in the Final Rule, the Commission stated that, going forward, all compressor facilities constructed pursuant to blanket certificate authority must meet a standard day-night level ( $L_{dn}$ ) limit of 55 dBA at the boundary of the compressor site. Previously, the Commission had required that compressor facilities installed under blanket certificate authority meet a noise level of 55 dBA at any pre-existing NSA.<sup>9</sup>

In the NOPR, the Commission proposed to further amend its Part 157 regulations to modify the landowner notification requirements and require a noise survey following the completion of projects involving compressor facilities undertaken pursuant to blanket certificate authority.

#### Landowner Notification

<sup>8</sup> In the case of a blanket certificate compressor project, the blanket certificate holder, rather than the Commission, determines what constitutes a potentially affected NSA.

<sup>9</sup> This compressor noise constraint has always been a part of the environmental compliance conditions of the blanket certificate program. Interstate Pipeline Certificates for Routine Transactions, Order No. 234, 47 FR 24254 (June 4, 1982), FERC Stats. & Regs. ¶ 30,368 (1982); Order No. 234-A, 47 FR 38871 (Sept. 3, 1982), FERC Stats. & Regs. ¶ 30,389 (1982).

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Currently, a natural gas company that seeks to undertake a compressor project must notify all landowners with a residence within one-half mile of proposed compressors or their enclosures.<sup>10</sup> The Commission is concerned that this existing landowner notification requirement fails to capture all potentially affected landowners, because a compressor project could go forward without any notification to nearby landowners without a residence on their property. To guarantee that land use issues – including existing non-residential uses as well as future uses of undeveloped land – are adequately considered, the Commission proposed to revise § 157.6(d)(2)(iii), which defines “affected landowners” as: owners of property interests, as noted in the most recent county/city tax records as receiving the tax notice, whose property, “[c]ontains a residence within one-half mile of proposed compressors or their enclosures.” The Commission proposed to omit the qualification that the property contains a residence to ensure that all landowners within one-half mile of a compressor site receive notice prior to construction, regardless of whether there is a residence on their property, and regardless of whether construction is undertaken pursuant to blanket or case-specific certificate authorization.<sup>11</sup>

### Noise Survey

To verify compliance with the compressor noise limit, the Commission proposes to add a new § 157.206(b)(5)(ii) that will require a company installing compressor facilities under blanket certificate authority to submit a noise survey within 60 days of placing new facilities in service to demonstrate that noise attributable to the operation of the company’s new compressor facilities does not exceed an  $L_{dn}$  of 55 dBA at any preexisting NSA.<sup>12</sup> A noise survey measures the noise at selected locations to quantify the existing noise environment by using a sound level meter, a dosimeter, or an integrating sound level meter over a specified timeframe.

### **Subject Final Rule (Docket No. RM07-17-000)**

In RM07-17-000 Final Rule issued October 18, 2007, the Commission as noted above is amending its regulations to modify landowner notification requirements and to require a noise survey following the completion of projects involving compressor facilities undertaken pursuant

<sup>10</sup> See the landowner notification requirements, 18 CFR §§ 157.203(d)(1) and (2), and the definition of affected landowners, 18 CFR § 157.6(d)(2)(iii).

<sup>11</sup> This proposed revision of the 18 CFR 157.6(d)(2)(iii) notification condition will also apply to landowners within one-half mile of liquefied natural gas (LNG) facilities.

<sup>12</sup> The existing 18 CFR 157.206(b)(5)(ii) describing noise attributable to drilling activities will remain unchanged, but will be redesignated as 18 CFR 157.206(b)(5)(iii).

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to blanket certificate authority. These proposed regulatory revisions are intended to enhance public participation in the Commission's consideration of proposed projects and ensure that compressor projects completed under blanket certificate authority will not have a significant adverse environmental impact.

**A. Justification**

**1. CIRCUMSTANCES THAT MAKE THE COLLECTION OF INFORMATION NECESSARY**

The blanket certificate program was designed to provide an administratively efficient means to authorize a generic class of routine activities, without assessing each prospective project on a case-by-case basis. In 1982, in instituting the blanket certificate program, the Commission explained the new program as follows:

[T]he final regulations divide the various actions that the Commission certifies into several categories. The first category applies to certain activities performed by interstate pipelines that either have relatively little impact on ratepayers, or little effect on pipeline operations. This first category also includes minor investments in facilities which are so well understood as an established industry practice that little scrutiny is required to determine their compatibility with the public convenience and necessity. The second category of activities provides for a notice and protest procedure and comprises certain activities in which various interested parties might have a concern. In such cases there is a need to provide an opportunity for a greater degree of review and to provide for possible adjudication of controversial aspects. Activities not authorized under the blanket certificate are those activities which may have a major potential impact on ratepayers, or which propose such important considerations that close scrutiny and case-specific deliberation by the Commission is warranted prior to the issuance of a certificate.<sup>13</sup>

The Commission continues to apply the above criteria in an effort to distinguish those types of activities that may appropriately be constructed under blanket certificate authority from those projects that merit closer, case-specific scrutiny due to their potentially significant impact on rates, services, safety, security, competing natural gas companies or their customers, or on the environment.

“Under section 7 of the NGA, pursuant to which the blanket certificate rule is

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<sup>13</sup> 47 FR 24254 (June 4, 1982).

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promulgated,” the Commission has “an obligation to issue certificates only where they are required by the public convenience and necessity. The blanket certificate rules set out a class of transactions, subject to specific conditions, that the Commission has determined to be in the public convenience and necessity.”<sup>14</sup> To the extent this class of transactions is enlarged, there must be an assessment, and assurance, that each added class of transactions is similarly required by the public convenience and necessity.

The blanket certificate program relies on the presumption that any project permitted under blanket certificate authority will not have a significant adverse environmental impact. The Commission ensures that this is the case by restricting blanket certificate authority to certain types of facilities and to individual projects that can comply with a cost cap and the environmental requirements specified in § 157.206(b). Prior to Order No. 686’s increase in the per project cost cap and the expansion of blanket certificate authority to cover compressor facilities that alter mainline capacity, blanket certificate authority was restricted to a limited set of compression facilities, *e.g.*, compressors on lateral pipelines, compressors installed temporarily, replacement compressors that could not qualify under § 2.55(b), and compressors needed to restore service lost due to sudden unforeseen damage to a mainline.

### **FERC-537**

Under the Natural Gas Act (NGA) (Public Law 75-688) (15 U.S.C. 717-717w) a natural gas company must obtain FERC authorization to engage in the transportation of natural gas in interstate commerce, to undertake the construction or extension of any facilities, or to acquire or operate any such facilities or extensions in accordance with Section 7(c) of the NGA. A natural gas company must also obtain FERC approval under Section 7(b) of the NGA prior to abandoning any jurisdictional facility or service. Under the Natural Gas Policy Act (NGPA) (Public Law 96-621) interstate and intrastate pipelines must also obtain FERC authorization for certain transportation arrangements.

If a certificate is granted, the natural gas company can engage in the interstate transportation of natural gas and construct, acquire, or operate facilities. Conversely, approval of an abandonment application permits the pipeline to cease service and discontinue the operation of such facilities. Authorization under NGPA Section 311(a) allows the interstate or intrastate pipeline applicants to render certain transportation services.

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

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<sup>14</sup> Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol, Order No. 436, 50 FR 42408 (Oct. 18, 1985).



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The natural gas companies file the necessary information with FERC so that the Commission can determine from the data if the requested certificate should be authorized. The data required to be submitted in a normal certificate filing consists of identification of the company and responsible officials, factors considered in the location of the facilities and the impact on the area for environmental considerations. Also to be submitted are the following:

- Flow diagrams showing the design capacity for engineering design verification and safety determination;
- Gas reserve data for appraisal of the feasibility of the project;
- Market data presenting the economic basis for the proposed action; and
- Cost of proposed facilities, plans for financing, and estimated revenues and expenses related to the proposed facility for accounting and financial evaluation.

Because of the greater demand for natural gas as seen in rapidly evolving market conditions, FERC established in FY '99 a performance plan to process cases as efficiently as possible. The Commission grouped certificate applications by the level of effort required to respond to the applications and established clear targets for the time it should take to process each type of application. Among the four types of certificate cases, three met or beat targets, and the fourth approximated the target time.

Environmental concerns play a significant role in the review of certificate construction applications. Pipelines are facing increased opposition from landowners as new projects are proposed in more heavily populated areas. When new pipelines propose to serve markets currently served by existing pipelines, FERC has to balance the benefits of alternative supplies of natural gas with the environmental impact of a new project. Critical to the Commission's efforts to balance benefits and environmental impacts are the environmental conditions the Commission builds into the certificates.

An individual assessment can be undertaken for each proposed case-specific compressor project in order to establish a noise level appropriate to the particular site; this is not the case for blanket certificate compressor projects. The more cursory standard of review necessary to expedite projects under the blanket certificate program, in conjunction with the expansion of the blanket certificate program, prompted the Commission to impose a stricter standard on the noise produced by blanket certificate compressor facilities. As proposed in the NOPR and implemented in the Final Rule,<sup>15</sup> the Commission stated that going forward, all compressor facilities constructed pursuant to blanket certificate authority must meet the standard day-night

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<sup>15</sup> The revised blanket certificate regulations became effective on January 2, 2007.

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level ( $L_{dn}$ ) limit of 55 dBA at the boundary of the compressor site. However, as discussed in the order on rehearing of Order No. 686 issued contemporaneously with the RM07-17-000 NOPR, the Commission returned to the noise limit in place prior to Order No. 686, which requires that compressor facilities installed under blanket certificate authority be no louder than an  $L_{dn}$  of 55 dBA at any existing pre-existing NSA.

If the collection of data for FERC-537 were not conducted, the Commission would not be able to meet its NGA statutory responsibilities and meet the Commission's objectives of expediting appropriate infrastructure development to ensure sufficient energy supplies while addressing landowner and environmental concerns fairly.

The Commission concludes these procedural modifications are necessary and sufficient to retain the expedited authorization available for blanket certificate projects while guaranteeing that compressor activities subject to the expanded to the expanded blanket certificate program will not have significant adverse environmental impacts.<sup>16</sup>

### **3. DESCRIBE ANY CONSIDERATION OF THE USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN AND THE 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. Specifically, in order to increase the efficiency with which it carries out its program responsibilities, the Commission has been implementing measures to use information technology to reduce the amount of paperwork required in its proceedings. In Order No. 619, FERC established an electronic filing initiative to meet the goals of the Government Paperwork Elimination Act, which directed agencies to provide for optimal use and acceptance of electronic documents and signatures and electronic recordkeeping, where practical, by October 2003. Among the qualified documents that can now be filed electronically are comments on a filing. "Comments on a Filing" is a document filed in response to a FERC public notice or order in a specific FERC docketed proceeding. It includes comments on applications, comments filed with environmental documents, protests or statements of positions. In addition, in the Commission's regulations at 18 CFR Part 157, section 157.6 directs applicants to file in an electronic format (1) applications covering acquisitions and all attached exhibits; (2) applications to abandon facilities; (3) progress reports; (4) request for

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<sup>16</sup> Currently, companies must conduct and submit a noise survey for compressor projects completed under case-specific certificate authority. The proposed new 18 CFR 157.206(b)(5)(ii) would extend this same requirement to compressor projects completed under blanket certificate authority. Note that in the order on rehearing in Docket No. RM06-7-001 the Commission similarly seeks to harmonize requirements that apply to case-specific and blanket certificate compressor projects. See note 1.

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authorizations under the notice procedures established in 157.205; (5) applications submitted under subpart F of Part 157 and (6) annual report required by §157.207.

**4. DESCRIBE EFFORTS TO IDENTIFY DUPLICATION AND SHOW SPECIFICALLY WHY ANY SIMILAR INFORMATION ALREADY AVAILABLE CANNOT BE USED OR MODIFIED FOR USE FOR THE PURPOSE(S) DESCRIBED IN INSTRUCTION NO. 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 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**

The information requirements under FERC-537 apply to jurisdictional pipelines. Most of the companies regulated by the Commission do not fall within the Regulatory Flexibility Act's (RFA) definition of a small entity. Under the industry standards used for purposes of the RFA, a natural gas pipeline company qualifies as a "small entity" if it has annual revenues of \$6.5 million or less. Most companies regulated by the Commission do not fall within the RFA's definition of a small entity.<sup>17</sup> The procedural modifications proposed herein should have no significant economic impact on those entities – be they large or small – subject to the Commission's regulatory jurisdiction under NGA section 3 or 7, and no significant economic impact on state agencies.

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

FERC-537 data collections are required for statutory purposes and cannot be discontinued nor collected less frequently. The information that must be submitted to the Commission is event driven. The same applies to requirements contained in the Final Rule.

Without such information, the Commission would be unable to fulfill its statutory responsibilities under the NGA, NGPA, NEPA and the Energy Policy Act of 2005.

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<sup>17</sup> 5 U.S.C. 601(3), citing to section 3 of the Small Business Act, 15 U.S.C. 623 (2000). Section 3 of the Small Business Act defines a "small-business concern" as a business which is independently owned and operated and which is not dominant in its field of operation.

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**7. EXPLAIN ANY SPECIAL CIRCUMSTANCES RELATING TO THE INFORMATION**

The number of copies of a certificate application to be filed in compliance with Section 157.6 includes an electronic media submission along with an original and seven hard copies. The number of copies to be filed is more than prescribed by OMB in their guidelines at 5 CFR 1320.5(d) (2). The additional copies are necessary because of the number of offices within the Commission that must review and analyze the application in a timely fashion. Project sponsors will be required to submit an additional exhibit with each application. However, the information in the new exhibit already should be readily available to the project sponsor; the new reporting requirement merely directs that this information be summarized and presented in tabular form.

**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. Comments were due 45 days from publication of the NOPR in the Federal Register.

As noted above, the Commission issued a Final Rule in Order No. 686 amending Part 157, Subpart F, of its regulations to expand the scope and scale of activities that may be undertaken pursuant to blanket certificate authority by (1) broadening the types of natural gas projects permitted under blanket certificate authority to include certain mainline, storage, and liquefied natural gas (LNG) and synthetic gas pipeline facilities, and (2) increasing the blanket certificate project cost limits from \$8,200,000 to \$9,600,000 for automatic authorization projects and from \$22,700,000 to \$27,400,000 for prior notice projects.<sup>18</sup> In addition, Order No. 686 clarified that a company is not necessarily engaged in an unduly discriminatory practice if it charges different customers different rates for the same service when customers commit to service on different dates. The revised blanket certificate regulations became effective on January 2, 2007, and are intended to allow interstate natural gas pipelines to employ the streamlined blanket certificate procedures for larger projects and for a wider variety of types of projects, thereby increasing efficiencies, and decreasing time and costs associated with the construction and maintenance of the nation's natural gas infrastructure.

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<sup>18</sup> These cost limits now stand at \$9,900,000 for an automatic authorization project and \$28,200,000 for a prior notice project. See Natural Gas Pipelines; Project Cost and Annual Limits, 72 FR 5614 (Feb. 7, 2007).

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In RM07-17-000 NOPR as noted above, the Commission proposed to extend to blanket compressor projects the same requirement now applicable to case-specific compressor projects that companies submit a noise survey upon a project's completion that demonstrates compliance with a noise level of 55dBA limit at NSAs and to expand notice requirements to ensure that all landowners within a half mile of a proposed compressor project are notified. In response to the NOPR, the Commission received comments from two commenters, the Department of Interior and the Interstate Natural Gas Association of America (INGAA).

### Interior

Interior pointed out that 55 dBA was designated by the U. S. Environmental Protection Agency (EPA) as a noise level adequate to protect against speech interference and sleep disturbance for residential, education, and healthcare NSAs.<sup>19</sup> Given that the 55 dBA level is based on human activity, Interior is concerned that this level fails to account for impacts on species that may be more sensitive to noise. Interior urges that screening for such species be required for blanket certificate projects and asks the Commission to direct blanket project applicants to contact Interior's Fish and Wildlife Service, along with the appropriate state fish and wildlife agency or state Natural Heritage Database, to identify the presence of threatened or endangered species and noise-sensitive species or habitats in the project vicinity. If there are such species or habitats, Interior would then require the project applicant to seek case-specific certificate authorization.

### Commission's Response:

While appropriate to most circumstances, the Commission recognizes that 55 dBA ought not to be applied inflexibly or universally.<sup>20</sup> That said, the Commission finds that potential adverse impacts on species and habitat due to noise are adequately taken into account by the requirement that all blanket certificate projects comply with the Endangered Species Act of 1973 (ESA).<sup>21</sup> Compliance with the ESA effectively compels a blanket certificate holder to engage in the same screening and consultation that Interior requests for threatened and endangered species. Accordingly, the Commission expects the ESA compliance process will

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<sup>19</sup> The Commission relied on this EPA designation in conducting its Environmental Assessment (EA) of the blanket certificate program, finding that compressors should not increase ambient noise levels at nearby NSAs above an  $L_{dn}$  of 55 dBA, since 55 dBA is "the maximum level which will not affect public health and welfare by interfering with speech or other activities in outdoor areas . . . [and consequently] should also ensure adequate protection for the indoor noise environment." Blanket Certification of Routine Gas Pipeline Transactions, EA at 25 (July 1981), citing EPA's Information on Levels of Environmental Noise Requisite to Protect Public Health and Welfare with an Adequate Margin of Safety (Washington, D.C. 1974).

<sup>20</sup> The EA reviewing the blanket certificate program noted the possibility that "compressor facilities constructed in some rural areas could degrade a quiet environment because a blanket authorization would require little or no noise abatement in remote or unpopulated areas." Id. at 33.

<sup>21</sup> 16 U.S.C. 1531 et seq.

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continue to provide the most appropriate means for assessing whether a proposed blanket certificate project's permitted noise level of 55 dBA might have significant adverse impacts on wildlife resources. In addition, the Commission noted that the expanded landowner notification requirement implemented herein should promote consideration of noise impacts on the use of land for non-residential purposes, such as the cultivation of a domesticated noise-sensitive species.

### INGAA

The NOPR proposed that § 157.206(b)(5)(ii) direct a blanket certificate project sponsor to measure "noise attributable to the operation of the facility at full load." INGAA sought clarification on conducting a post-project noise survey, asking whether "the facility" is intended to refer to the particular equipment added or modified under blanket certificate authorization, or whether "the facility" is intended to include all the facilities, i.e., both existing facilities as well as new or modified facilities located at a particular compressor site.

#### Commission's Response:

In response to INGAA's request, the Commission will revise § 157.206(b)(5)(ii) As a threshold measure, for a compressor facility to qualify for blanket certificate authorization, the facility must be designed to meet an  $L_{dn}$  of 55 dBA at NSAs when operating at full load. Requiring that a facility added or modified under blanket certificate authority meet this maximum noise limit is intended to ensure that there will not be a significant adverse environmental noise impact.

With respect to noise impacts, the Commission will also consider the composite noise level of a compressor station's new and existing facilities. This is because a facility that meets an  $L_{dn}$  of 55 dBA, when added to a station currently operating an  $L_{dn}$  of 55 dBA, can cause the overall noise of the station to exceed an  $L_{dn}$  of 55 dBA. Thus, the Commission will require that an addition or modification to an existing compressor station that is operating at or below an  $L_{dn}$  of 55 dBA at NSAs must not cause overall noise attributable to the station to exceed an  $L_{dn}$  of 55 dBA at NSAs. Further, an addition or modification to an existing compressor station that is operating above an  $L_{dn}$  of 55 dBA at NSAs must not cause overall noise attributable to the station to increase at NSAs.

To ensure adherence to these noise level limits, the Commission will require a company that relies on its blanket certificate to construct a new compressor station facility, or to add or modify a facility at an existing station, to submit a noise survey within 60 days of placing the new or modified facility in service. The company must measure noise attributable to its new or

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modified facility operating at full load at NSAs. When a new or modified facility is placed in service at an existing compressor station, the company must also measure the overall post-project noise of the station operating at full load. If the measured noise exceeds the specified limits at NSAs, the company must bring its station into compliance within a year of the blanket certificate facility's in-service date. Within 60 days of completing its noise-mitigation measures, e.g., making modifications to noise-generating equipment or erecting a barrier between the station and NSAs, the company must submit a subsequent noise survey to the Commission demonstrating its compliance with the noise level limits.

**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 does not consider the information to be confidential. However, the Commission has encouraged prospective applicants to submit preliminary corridor or route information maps which may contain Critical Energy Infrastructure Information (CEII). CEII as defined in section 388.113 of the Commission's regulations includes information about proposed or existing natural gas facilities that could be used by a person planning an attack on critical energy infrastructure. The Commission's procedures in section 388.112 are designed to ensure that CEII is not placed in the Commission's public records. .

**11. PROVIDE ADDITIONAL JUSTIFICATION FOR ANY QUESTIONS OF A SENSITIVE NATURE**

There are no questions of a sensitive nature associated with the requirements proposed in the subject final rule.

**12. ESTIMATED BURDEN COLLECTION OF INFORMATION**

The Commission estimates it will require 32 hours to complete a noise survey, and expects the aggregate impact of the proposal to be modest, given that in 2006, two blanket certificate compressor projects were completed. For the purpose of estimating burden hours, the Commission anticipates five such projects in the future. In response to the NOPR, the Commission did not receive any comments on its burden estimates and uses the same estimates in the final rule.

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| Data Collection     | No. of Respondents | No. of Responses/Filings | No. of Hours per Response | Total Annual Hours |
|---------------------|--------------------|--------------------------|---------------------------|--------------------|
| FERC-537 (Part 157) | 5                  | 5                        | 32                        | 160                |

| <b>DATA REQUIREMENT (FERC-537)</b>            | <b>CURRENT OMB INVENTORY*</b> | <b>PROPOSED IN NOPR</b> | <b>NEW OMB INVENTORY</b> |
|---|-------------------------------|-------------------------|--------------------------|
| Estimated number of respondents :             | 76                            | 5                       | 76                       |
| Estimated number of responses per respondent: | 10.72                         | 1.0                     | 10.78                    |
| Estimated number of responses per year :      | 815                           | 5                       | 820                      |
| Estimated number of hours per response :      | 245.82                        | 32.0                    | 263.36                   |
| Total estimated burden (hours per year) :     | 215,798                       | 160                     | 215,958                  |

Program change in industry burden hours : + 160

Adjustment change in industry burden hours : -0-

\*OMB Inventory as of 11/14/07 (The OMB inventory reflects a double count of both the NOPR and the Final Rule. The following are the correct estimates:

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| <b>DATA REQUIREMENT (FERC-537)</b>            | <b>CURRENT OMB INVENTORY*</b> | <b>PROPOSED IN NOPR</b> | <b>PROPOSED IN FR</b> | <b>NEW OMB INVENTORY</b> |
|---|-------------------------------|-------------------------|-----------------------|--------------------------|
| Estimated number of respondents :             | 76                            | 76                      | 76                    | 76                       |
| Estimated number of responses per respondent: | 10.72                         | 2.71                    | 2.71                  | 10.72                    |
| Estimated number of responses per year :      | 815                           | 206                     | 206                   | 815                      |
| Estimated number of hours per response :      | 245.82                        | 37.1                    | 37.1                  | 282.92                   |
| Total estimated burden (hours per year) :     | 200,344                       | 7,727                   | 7,727                 | 208,071                  |

Program change in industry burden hours : + 7,727

Adjustment change in industry burden hours : -0-

\*OMB Inventory as of 6/30/06

Revised for RM07-17-000 and reflecting the correct estimates:

| <b>DATA REQUIREMENT (FERC-537)</b>            | <b>CURRENT OMB INVENTORY*</b> | <b>PROPOSED IN NOPR</b> | <b>PROPOSED IN FINAL</b> | <b>NEW OMB INVENTORY</b> |
|---|-------------------------------|-------------------------|--------------------------|--------------------------|
| Estimated number of respondents :             | 76                            | 5                       | 5                        | 76                       |
| Estimated number of responses per respondent: | 10.72                         | 1.0                     | 1.0                      | 10.79                    |
| Estimated number of responses per year :      | 815                           | 5                       | 5                        | 820                      |
| Estimated number of hours per response :      | 282.92                        | 32.0                    | 32.0                     | 253.94                   |
| Total estimated burden (hours per year) :     | 208,071                       | 160                     | 160                      | 208,231                  |

Program change in industry burden hours : + 160

Adjustment change in industry burden hours : -0-

\*OMB Inventory as of 9/26/07 (The OMB inventory reflects a double count of both the NOPR and the Final Rule for RM06-7-000).

**13. ESTIMATE OF TOTAL ANNUAL COST OF BURDEN TO RESPONDENTS**



Because of the regional differences and the various staffing levels that will be involved in preparing the documentation (legal, technical, and support) the Commission is using an hourly rate of \$150 to estimate the costs for filing and other administrative processes (reviewing instructions, searching data sources, completing and transmitting the collection of information). The estimated cost is anticipated to be \$3,360 per project, for a total of \$24,000.

**14. ESTIMATED ANNUALIZED COST TO 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) | x | Estimated Salary per Year | = | Total Cost Year's Operation |
|-------------------------|-------------------------|---|---------------------------|---|-----------------------------|
| FERC-537                | .6                      |   | \$122,137                 |   | \$ 73,282                   |
| Total                   | .6                      |   | \$122,137                 |   | \$ 73,282#                  |

#based on 2007 Budget estimate for FERC FTE staff (FTE=Full Time Equivalent)

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

Submission of the information is necessary for the Commission to carry out its NGA statutory responsibilities and meet the Commission’s objectives of expediting appropriate infrastructure development to ensure sufficient energy supplies while addressing landowner and environmental concerns fairly. The Commission proposes to further amend its Part 157 regulations to modify the landowner notification requirements and require a noise survey following the completion of projects involving compressor facilities undertaken pursuant to blanket certificate authority. The proposed regulatory revisions are expected to enhance public participation in the Commission’s consideration of proposed projects and ensure that compressor projects completed under blanket certificate authority will not have a significant adverse environmental impact.

**16. TIME SCHEDULE FOR PUBLICATION OF DATA**

The time schedule for the proposed requirements in this Final Rule is shown in the following table.

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Schedule for Data Collection and Analysis

| <u>Activity</u>   | <u>Estimated Completion Time</u> |
|-------------------|----------------------------------|
| Application Filed | Event Oriented                   |

**17. DISPLAY OF EXPIRATION DATE**

Not applicable. The data requirements under FERC-537 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. An applicant is to follow these procedures prior to filing an application with the Commission.

**18. EXCEPTIONS TO THE CERTIFICATION STATEMENT**

There are exceptions to the Paperwork Reduction Act statement. Because the data collected (pre-filing process) are not submitted on a standardized form, the Commission does not display the expiration date. In addition, the Commission does not use statistical survey methodology for these information collections.

**B. COLLECTION OF INFORMATION EMPLOYING STATISTICAL METHODS**

Not Applicable. Statistical methods are not employed for these data collections.