

**SUPPORTING STATEMENT FOR
FERC-550, Oil Pipeline Rates: Tariff Filings**
(Three year Extension requested through July 31, 2011)

The Federal Energy Regulatory Commission (Commission) requests that the Office of Management and Budget (OMB) review and extend its approval of **FERC-550 “Oil Pipeline Rates – Tariff Filings”** through July 31, 2011. Current authorization expires on July 31, 2008.

The estimated reporting burden for FERC-550 (OMB Control No. 1902-0089) is expected to be 6,292 total hours (an average of 11 hours per respondent). The burden of these collections has decreased slightly due to the actual number of filings received were less than previously estimated.

A. Justification

1. CIRCUMSTANCES THAT MAKE THE COLLECTION OF INFORMATION NECESSARY

The filing requirements for oil pipeline tariffs and rates are contained in 18 CFR Parts 341– 348.¹ The Commission's jurisdiction over oil pipelines includes the authority to regulate their tariffs and rates and charges for the transportation of crude oil and petroleum products in interstate commerce. The Commission collects this information from oil pipelines to carry out its ratemaking responsibilities. The Commission is required to analyze these tariffs and rates, and determine whether the tariffs and rates are “unjust or unreasonable or unjustly discriminatory or unduly preferential or prejudicial”. Based on this analysis, the Commission takes action to suspend or accept the proposed tariffs and rates.

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

Responses to the filing requirements of FERC-550 provide the basis for Commission analysis of all tariffs and rates, fares, or charges whatsoever demanded, charged, or collected by any oil pipeline or other carriers in connection with the transportation of crude oil and petroleum products. The Commission uses

1 See also Historical Background of Oil Pipeline Ratemaking in Attachment A.

this information to determine whether the proposed tariffs and rates are just and reasonable. If this collection of information were not conducted, the Commission would be unable to determine if proposed tariffs and rates are just and reasonable.

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

Currently, three paper copies of each tariff publication and a letter of transmittal are required by the Commission in order to carry out its regulatory process for oil pipeline ratemaking authority. An alternative plan for electronic oil pipeline tariff filings is under development. Commission staff is participating, as is the oil pipeline industry, with the North American Energy Standards Board to establish electronic data standards by which oil pipeline tariff filings can be made with the Commission.

In RM01-5-000, (69 FR 43929, July 23, 2004), the Commission proposed to require that all tariffs and tariff revisions and rate change applications for public utility, natural gas pipeline, and oil pipeline industries, be filed electronically via software provided by the Commission. Upon the effective date of a final rule, the Commission will no longer accept tariff filings submitted in paper format. This effort is intended to improve the administrative convenience of the regulated entities, facilitate public access to the tariffs, improve the overall tariff management processes, and facilitate the Commission's and the public's analysis of proposed tariff changes and tariff filings.

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.

All of the Commission's public information collections are subject to analysis and review by Commission staff and are examined for redundancy. Further, Commission staff conducted an internal review of this collection of information to determine the necessity of the Commission's strategic objectives. There are no similar sources of information available that can be used or modified for the purpose of oil pipeline rate regulation.

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

This data collection imposes the least possible burden on small entities while collecting the information necessary for the Commission to carry out its responsibilities under Parts 341-348 of the Commission's Regulations (Attachment B).

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

This information is collected when oil pipelines seek to change or establish new tariffs and rates. The collection occurs at the oil pipelines' instigation of a rate proceeding before the Commission. The Commission needs the data to determine if the tariffs and rates proposed are just and reasonable. Without the data, the Commission would not be able to fulfill its statutory mandate under the law.

7. EXPLAIN ANY SPECIAL CIRCUMSTANCES RELATING TO THE INFORMATION COLLECTION

This proposed program meets all of OMB's section 1320.5 requirements with the exception of part "d" thereof. Section 1320.5(d) limits the collection of data to an original and two copies of any document. The data provided under FERC-550 includes tariff publications and transmittal sheets that would be filed by the respondents to comply with the provisions as indicated in Item A (1.). As noted above, an original and three copies are required to be submitted to the Commission. This is the minimum necessary to permit processing within the statutory time frame for Commission action. The original is routed to eLibrary for public viewing over the Commission's web site. One copy is distributed to the Public Reference and Files Maintenance Branch for public inspection in the Commission's Public Reference Room. An additional copy is distributed to the Office of General Counsel for legal review. A copy is distributed to the Office of Energy Markets and Regulation for technical review by analysts in tariff filings, rate investigations and financial analysis.

However, if the eTariff NOPR is adopted and electronic filing is put into place, this will eliminate the need for paper copies entirely for service agreements and transactional reports. During this transitional period, however, the traditional number of hard copies will still be needed for efficient processing of the data.

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

In accordance with OMB requirements in 5 C.F.R. 1320.8(d), the information collection under FERC-550 was noticed in the Federal Register on November 15, 2007² (Attachment C). No comments were received in response to this 60-day notice.

9. EXPLAIN ANY PAYMENT OR GIFTS TO RESPONDENTS

There are no payments or gifts to respondents under any circumstance.

10. DESCRIBE ANY ASSURANCE OF CONFIDENTIALITY PROVIDED TO RESPONDENTS

The Commission does not consider the information collected in these filings to be confidential. However, specific requests for confidential treatment to the extent permitted by law will be considered pursuant to 18 C.F.R. 388.112. Each request for confidential treatment will be reviewed by the Commission on a case-by-case basis.

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

There are no questions of a sensitive nature that are considered private.

12. ESTIMATED BURDEN OF COLLECTION OF INFORMATION

The estimated burden of the collection of information is based on the Commission's previous experience with oil pipeline rate filings and is as follows:

Actual Number of Respondents Annually (1)	Actual Number of Annual Filings ³ (2)	Estimated Average Burden Hours Per Response (3)	Estimated Total Annual Burden Hours (2)x(3)
199	572	11	6292*

*There is an adjustment to the burden hours as further explained in item no. 15 below.

² The notice appeared at 72 FR 64200.

³ Includes 367 tariff changes, 190 rate change filings and 15 TAPS filings for calendar year 2007.

13. ESTIMATE OF THE TOTAL ANNUAL COST BURDEN TO RESPONDENTS

Estimated Total Respondent Burden Hrs.	÷	Number of Hours per Staff Year	×	Cost per Staff Employee ⁴	=	Total Annualized Cost
6292	÷	2,080	×	\$126,384	=	\$382,312

The total estimated annual cost to respondents is \$382,312. The cost per respondent is \$1,921. There are no start-up costs because FERC-550 is an existing information collection.

The respondent burden includes the total time, effort, or financial resources expended by the respondent to assemble and disseminate the information. The cost estimate is based on salaries for professional and support staff, as well as direct and indirect overhead costs. Direct costs include all costs directly attributable to providing this information, such as administrative costs and the cost for information technology.

14. ESTIMATED ANNUALIZED COST TO FEDERAL GOVERNMENT

	(a) Dissemination of filings	
		\$ 2,430
(b) Information Analysis (6 FTEs)	\$ 758,304	
Year of Operation		\$760,734

The estimate of the cost to the Federal Government is based on salaries for professional and clerical support.

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

The estimate for the burden is based on recent Commission experience and the actual number of filings made under FERC-550 over the past 12 months. The

⁴ The "Cost per Staff Employee" estimate is based on the estimated annual allocated cost per Commission employee for Fiscal Year 2008. The estimated \$126,384 "cost" consists of approximately \$102,029 in salaries and benefits and \$24,355 in overhead.

burden of these collections has decreased slightly due to the actual number of filings received (572) were less than previously estimated (600) and a decrease in the number of respondents from 200 to 199. The cost per staff employee has increased as a result of inflation and resulted in a higher total annualized cost than previously reported.

16. TIME SCHEDULE FOR PUBLICATION OF DATA

This is not a collection of information for which results are planned to be published.

17. DISPLAY OF EXPIRATION DATE

It is not appropriate to display the expiration date for OMB approval of the information collected pursuant to Parts 341-348 in the Code of Federal Regulations. The information collected on Oil Pipeline Tariffs is not collected on standardized filing formats or a preprinted form that would avail itself of displaying the OMB control number. If the proposed requirements of RM01-5-000, the electronic filing electric, gas and oil tariffs (see item no. 3 above) are adopted, the control numbers for these information collections will be displayed on the instructional manual to be disseminated to regulated entities and also posted on the Commission's web site.

18. EXCEPTIONS TO THE CERTIFICATION STATEMENT

The data collected for this reporting requirement is not used for statistical purposes. Therefore, the Commission does not use Item No. 19(i) "effective and efficient statistical survey methodology" as stated in OMB Form 83-1. The information collected is case specific to each respondent.

B. Collections of Information Employing Statistical Methods

This is not a collection of information employing statistical methods.

Attachment A

Historical Background of Oil Pipeline Ratemaking

A. Transfer of Jurisdiction

Commission jurisdiction over oil pipelines was transferred from the Interstate Commerce Commission (ICC) pursuant to sections 306 and 402 of the Department of Energy Organization Act (DOE Act), U.S.C. §7155 and §7172, and Executive Order No. 12009, 42 Fed. Reg. 46267 (September 15, 1977). Subsequently on July 5, 1994, Sections 306 and 402 of the DOE Act were repealed.⁵ The Commission's jurisdiction

⁵ To Revise, Codify and Enact Without Substantive Change Certain General and Permanent Laws, Related to Transportation, as Subtitles II, III, and V-X of Title 49, U.S.C., "Transportation", and to Make Other Technical Improvements in the Code, 49 U.S.C. Sec. 60502 (July 5, 1994). This Act repealed Department of Energy Act Sections 306 and 402 under which the Interstate Commerce Commission transferred to, and vested, in the Commission all functions and authority over rates or charges for the transportation of oil by pipeline including the establishment of valuations of any such pipeline, Pub. L. 95-91 (August 4, 1977).

over oil pipelines includes the authority to regulate their tariffs and rates and charges for the transportation of oil in interstate commerce. Section 705(a) of the DOE Act provides that the rules and regulations relating to functions transferred to the Commission will continue in effect until modified by the Commission.

B. Important Ratemaking Cases

On June 28, 1985, the Commission issued a final opinion (Opinion No. 154-B) in the long-standing Williams Pipeline Company ratemaking case in Docket No. OR79-1-000, et al.) (31 FERC ¶61,377). Extensive testimony by persons outside the Commission was presented in this case. The order provided for a new rate base methodology requiring a transition rate base and rates based on trended original cost (TOC) as compared to the earlier ICC valuation method. Subsequently, the Commission further clarified and codified this costing methodology in its Order No. 571 (69 FERC ¶ 61,102).

On December 31, 1990, the Commission issued Opinion No. 360 in Docket Nos. IS87-14-000, et al. and OR88-3-000 (Buckeye Pipe Line Company, L. P.) (53 FERC ¶61,473) which began the move toward a lighter-handed regulation. Market-based rates were determined to be a more appropriate less intrusive, method of regulation in that case. In addition, the Commission issued Order No. 572, (November 16, 1994) (59 FR 59148, FERC Statutes and Regulations ¶31,007) which defined the parameters under which market-based rates can be applied for and the general limits against which they are judged.

Under the Energy Policy Act of 1992, the Commission undertook a complete review of its oil methodologies and regulations, in order to streamline both. The effort resulted in the issuance of Order No. 561 (65 FERC ¶ 61,109). Here, the Commission established an indexing methodology for justifying changes to oil pipeline tariff rates. This methodology established a simplified and generally acceptable method for determining acceptable levels of changed rates. The final rule also revised certain procedural regulations as required by the Act of 1992; abolishing the Oil Pipeline Board; and providing for the institution of alternate dispute resolution procedures for oil pipeline rate matters. The final rule changed the Commission's existing regulations concerning the tariff filing requirements of oil pipelines.

In a subsequent order on rehearing in Order No. 561-A (issued July 28, 1994, 59 FR 40243, FERC Statutes and Regulations ¶31,000) the Commission again amended its

regulations to modify the circumstances under which oil pipelines may use cost-of-service methodology for changing rates in order to more closely track the standard for shipper protests to an indexed rate, and to modify the requirements for protests to oil pipeline tariff filings in order to require that a protestant file a verified statement to support its claim of a substantial interest in the proceeding.

The Commission further amended its regulations in Order No. 650 (August 27, 2004, 69 FR 53800, FERC Statutes and Regulations ¶ 31,168) in response to a judicial determination that the Commission acted properly in establishing an oil pipeline rate index. Order No. 561 had established a price cap for oil pipeline rates to be adjusted annually based upon changes in the Producer Price Index for Finished Goods minus one percent (PPI-1). The Commission also stated that it would review the choice of the index every five years. Upon its review in 2000, the Commission affirmed that the PPI-1 index closely approximated the actual cost changes in the oil pipeline industry as reported on the FERC Form No. 6, "Annual Report of Oil Pipeline Companies". However, the Association of Oil Pipelines (AOPL) petitioned the U.S. Court of Appeals for review of the Commission's determination. The Court remanded the order back to the Commission for further review and explanation. AOPL had argued for the use of PPI, while Sinclair Oil Corporation and Tesoro Refining and Marketing Company representing shippers urged the Commission to reaffirm its decision to use PPI-1 as the appropriate index to measure cost changes in the oil pipeline industry. On February 24, 2003, the Commission issued its order on remand, determining after cost data analysis that the appropriate oil pricing index for the current five year period should be the PPI. Review of this order was sought by the Shippers, and on April 9, 2004, the Court affirmed the Commission's determination.⁶

⁶⁵ Flying J Inc., et al. v. Federal Energy Regulatory Commission, 363 F. 3d 495 (D.C. Cir. 2004).

Attachment B

Title 18: Conservation of Power and Water Resources

PART 341—OIL PIPELINE TARIFFS: OIL PIPELINE COMPANIES SUBJECT TO SECTION 6 OF THE INTERSTATE COMMERCE ACT

Authority: 42 U.S.C. 7101–7352; 49 U.S.C. 1–27.

Source: Order 561, 58 FR 58773, Nov. 4, 1993, unless otherwise noted.

§ 341.0 Definitions; application.

(a) Definitions. (1) Carrier means an oil pipeline subject to the Commission's jurisdiction under the Interstate Commerce Act.

(2) Concurrence means the agreement of a carrier to participate in the joint rates or regulations published by another carrier.

(3) Local rate means a rate for service over the lines or routes of only one carrier.

(4) Local tariffs means tariffs which contain only local rates.

(5) Joint rate means a rate that applies for service over the lines or routes of two or more carriers made by an agreement between the carriers, effected by a concurrence or power of attorney.

- (6) Joint tariffs means tariffs which contain only joint rates.
- (7) Posting or post means making a copy of a carrier's tariff available during regular business hours for public inspection in a convenient form and place at the carrier's principal office and other offices of the carrier where business is conducted with affected shippers, or placing a copy on the Internet in a form accessible by the public.
- (8) Proportional rates means rates published to apply only to traffic having a prior transportation movement, a subsequent transportation movement, or both.
- (9) Rule means any regulation or condition of service stated in the tariff which affects any rate or service provided by the carrier.
- (10) Subscriber means a shipper or a person who regularly is furnished a copy of a particular tariff publication (including reissues and amendments) by the publishing carrier or agent.
- (11) Tariff publication means all parts of a filed tariff, including revised pages and supplements.
- (12) Through rates means the total rates from point of origin to destination. They may be local rates, joint rates, or a combination of separately established rates.
- (b) General application. (1) Each carrier must publish, post, and file with the Commission tariff publications which contain in clear, complete, and specific form all the rules and regulations governing the rates and charges for services performed in accordance with the tariff. Tariffs must be published in a format that ensures the tariffs are readable and that their terms and conditions are easy to understand and apply.
- (2) The Commission may reject, or may require modification, correction, or reissuance of, any tariff publication or other document not in compliance with the law.
- (3) All tariffs filed on or after December 6, 1993 must conform to the regulations of this part. Tariffs which are on file as of that date will not have to be reissued solely to conform to this part.
- (4) Each carrier must post and maintain a complete and current set of all proposed, current, and suspended tariff publications which it has issued or to which it is a party. The carrier must identify in its posted tariff files any tariff publication under suspension and investigation. Each carrier must afford inquirers reasonable opportunity to examine its posted tariff files.

[58 FR 58773, Nov. 4, 1993, as amended by Order 606, 64 FR 44404, Aug. 16, 1999]

§ 341.1 Means of filing.

Filings of tariff publications and related materials must be made with the Secretary of the Commission. Filings made by mail must be addressed to the Federal Energy Regulatory Commission, with the envelope clearly marked as containing “Oil Pipeline Tariffs.”

§ 341.2 Filing requirements.

(a) Number of copies. (1) Carriers must file three copies of each tariff publication and a letter of transmittal.

(2) Carriers must provide a copy of the tariff publication and any tariff justification to each shipper and subscriber. Carriers must provide these copies by first-class mail or by other means of transmission agreed upon in writing, on or before the same day the tariff publication is transmitted to the Commission for filing.

(b) Notice period. All tariff publications (except for suspension supplements, adoption notices, adoption supplements, and tariff indexes) must be filed with the Commission and posted not less than 30, nor more than 60, days prior to the proposed effective date, unless a different notice period is authorized by the Commission. The notice period shall begin the first full day after the tariff publication is filed with the Commission and shall end on the last day prior to the tariff publication effective date.

(c) Transmittal letter —(1) Contents. Letters of transmittal must describe the filing and explain any changes to the carrier's rates, rules, terms or conditions of service; state if a waiver is being requested, and specify the statute, section, regulation, policy or order requested to be waived; and identify the tariffs or supplement numbers and the proposed effective date of the tariff publication. Carriers must provide to the Commission, in the letter of transmittal accompanying the filing of a tariff publication containing a joint carrier, the address, phone number, and a contact for each joint carrier listed in the tariff publication.

(2) Certification. Letters of transmittal must certify that the filing has been sent to each subscriber of the tariff publication by first-class mail or other agreed-upon means. If there are no subscribers, letters of transmittal must so certify.

(3) Acknowledgement. Carriers requesting acknowledgement of the receipt of a filing must submit a duplicate copy of the letter of transmittal marked “Receipt requested.” The request must include a postage paid, self-addressed return envelope. The Commission will return one copy of the letter of transmittal showing the date of receipt.

[58 FR 58773, Nov. 4, 1993, as amended by Order 606, 64 FR 44404, Aug. 16, 1999]

§ 341.3 Form of tariff.

(a) Form, size, and type. (1) All tariff publications must be in book, pamphlet, or loose-leaf form, 8 1/2 by 11 inches in size, and plainly printed and legible. Erasures or alterations in writing will not be permitted in tariff publications filed with the Commission or posted by the carrier.

(2) All tariff publications must have a margin of 5/8 of an inch on the binding edge.

(b) Contents of tariff. All tariff publications must contain the following information in the following order:

(1) Title page. The title page of each tariff must contain the following information:

(i) The FERC tariff number designation, in the upper right hand corner, numbered consecutively, and the FERC tariff number designation of the tariff that is canceled, if any, under it;

(ii) The corporate name of the carrier;

(iii) The type of rates, e.g., local, joint, or proportional, and the commodity to which the tariff applies, e.g., crude, petroleum product, or jet fuel;

(iv) Governing tariffs, e.g., separate "rules and regulations" tariffs, if any;

(v) The specific Commission order pursuant to which the tariff is issued;

(vi) The issue date, which must be shown on the lower left side, and the effective date, which must be shown on the lower right side;

(vii) The expiration date, if applicable;

(viii) The name of the issuing officer or duly appointed official issuing the tariff, the complete street and mailing address of the carrier, and the name and phone number of the individual responsible for compiling the tariff publication.

(2) Table of contents. Tariffs of more than nine pages in length must contain a table of contents. A table of contents is optional for tariffs which are less than 10 pages in length.

(3) A list of carriers participating in joint tariffs.

(4) Index of Commodities.

(5) Explanatory statements. These statements must explain the proper application of rates and rules.

(6) Rules governing tariff publications. (i) All rules affecting the rates or the services provided for in the tariff publication must be included. A special rule affecting a particular item or rate must be referred to specifically in that item or in connection with that rate.

(ii) Each rule must be given a separate item number, (e.g., Item No. 1), and the title of each rule must be shown in distinctive type.

(iii) Except as provided in §341.10, tariffs may not include any rules that substitute for any rates named in the tariff or found in any other tariff. Rules may not provide that traffic of any nature will be “transported only by special agreement” or any other provision of similar meaning.

(iv) Rules may be separately published in a general rules tariff when it is not desirable or practicable to include the governing rules in the rate tariff. Rate tariffs that do not contain rules must make specific reference, by FERC Tariff number, to the governing general rules tariff.

(v) When joint rate tariffs refer to a separate governing rules tariff, such separate tariff must be concurred in by all joint carriers.

(7) Statement of rates. Rates must be stated explicitly in cents, or in dollars and cents, per barrel or other specified unit. The names or designations of the places from and to which the rates apply must be arranged in a simple and systematic manner. Any related services performed by the carrier in connection with the rates must be clearly identified and explained. Duplicative or conflicting rates for the same service are prohibited.

(8) Routing. Routing over which the rates apply must be stated so that the actual routes may be ascertained. This may be accomplished by stating that the rates apply via all routes of the carrier except as otherwise specifically stated in the tariff.

(9) Explanation of abbreviations and reference marks. Reference marks, abbreviations, and note references must be explained at the end of each tariff publication. U.S. Postal Service state abbreviations and other commonly used abbreviations need not be explained.

(10) Changes to be indicated in tariff or supplement. (i) All tariff publications must identify where changes have been made in existing rates or charges, rules, regulations or practices, or classifications. One of the following letter designations or uniform symbols must be used to designate the change:

Description	Option 1	Option 2
Increase	↑	[I]

Decrease	↓	[D]
Change in wording only	▲	[W]
Cancel	■	[C]
Reissued item		[R]
Unchanged rate	○	[U]
New	√	[N]

(ii) Reissued items must include in the square or brackets the number of the tariff supplement where the item was first issued or amended. If the letter designation is used, the number of the supplement must be shown together with the letter. The references must be explained at the end of the tariff. For example: “[R2] Reissued from Supplement No. 2, effective [specify date].”

(iii) The symbols and letter designations contained in paragraph (b)(10)(i) of this section must not be used for any other purpose.

(iv) When the same change is made in all or in substantially all rates in a tariff, a tariff supplement, or a tariff or tariff supplement page, that fact and the nature of the change must be indicated in distinctive type at the top of the title page of the issue, or at the top of each page, as appropriate. For example: “All rates in this issue are increased,” or “All rates on this page are reduced unless otherwise indicated.”

(v) When a tariff publication that cancels a previous tariff publication does not include points of origin or destination, or rates, rules, or routes that were contained in the prior tariff publication, the new tariff publication must indicate the cancellation. If such omissions effect changes in charges or services, that fact must be indicated by the use of the symbols prescribed in paragraph (b)(10)(i) of this section.

(11) Tariff publications must be consecutively numbered.

(c) Loose-leaf tariffs. (1) Pages of loose-leaf tariffs must be consecutively numbered. Each page must show at the top of the page the name of the issuing carrier, the page number, and the FERC tariff number. Each page must show at the bottom of the page the issue date, the effective date, the name of the issuing officer or duly appointed official issuing the tariff, the complete street and mailing address of the carrier, and the name and phone number of the individual responsible for compiling the tariff publication.

(2) Changes and additions to loose-leaf tariffs must be made by reprinting the page upon which the change or addition is made, and designating the changed page as a revised page. For example: “First revised page 1 cancels Original page 1,” or “Second revised

page 2 cancels First revised page 2.” When a revised title page is issued, the following notation must be shown:

Original tariff effective [specify date].

(3) When changes and additions require additional pages, the additional pages must be given the same number with a letter suffix. For example: “Original page 4–A,” or “Original page 4–B.” When, for example, “Original page 4–A” is changed, it must be done by issuing “First revised page 4–A,” which must cancel “Original page 4–A.”

(4) When a revised page is issued which omits rates or rules published on the page which it cancels, and such rates or rules are published on another page, the revised page must refer to the page on which the rates or rules will be found. Subsequently revised pages of the same number must omit the reference insofar as that particular matter is concerned.

(5) Additional pages to a loose-leaf tariff must be numbered beginning with the next successive page number after the last page and must be designated as “Original page —.”

(6) The loose-leaf tariff page that follows the title page is known as a “check sheet” and must be designated as “Original page 1.” When the original tariff is filed, the check sheet must show the number of pages contained in the tariff. For example: “Pages 1 to 150, inclusive, of this tariff are effective as of the date shown.” When pages are revised or added to the tariff, or when supplements are issued, the check sheet must be revised to list all currently effective revised pages and supplements. The list in numerical order of all added original and revised pages must follow the statement: “Original and revised pages and supplements as named below contain all changes from the original tariff that are in effect on the date hereof.” For example:

Page	Number of revision except as indicated.
3	5th.
5A	Original.
10	8th.
151	Original.

(7) The only loose-leaf tariff supplements that may be issued are adoption supplements, suspension supplements, and cancellation supplements.

§ 341.4 Filing requirements for amendments to tariffs.

(a) Supplements to tariffs. (1) Supplements are limited to one effective supplement per tariff, except for cancellation, postponement, adoption, correction, and suspension supplements.

(2) Item numbers that are canceled or amended must be identified and brought forward with the item title in the current supplement. Reissued items from prior supplements must be brought forward in the current supplement and referenced with the symbols in §341.3(b)(10)(i). Cancellation of an item by supplement must be made by bringing forward the item number with an added capital letter suffix in alphabetical sequence. For example: “Item 445–A cancels Item 445.” If a canceled, withdrawn, or expired item is subsequently reissued, it must be republished under the same item number with the next letter suffix.

(b) Cancellation supplements. Cancellation supplements must be filed when tariffs are canceled without reissue.

(c) Postponement supplements. Supplements postponing the effective date of pending tariff filings must be filed prior to the proposed effective date of the filing. A postponement supplement may not postpone the effective date for more than 30 days.

(d) Adoption supplements. A supplement adopting the tariff of another carrier must be filed to provide the notice required in §341.6.

(e) Correction supplements. Correction supplements must be filed to correct typographical or clerical errors. Three correction supplements are permitted per tariff.

(f) Suspension supplements. A suspension supplement must be filed for each suspended tariff or suspended part of a tariff within 30 days of the issuance of a suspension order. The suspension supplement must be served on all subscribers. The supplement must include the date it is issued, a reproduction of the ordering paragraphs of the suspension order, a statement that the tariff or portion of the tariff was suspended until the date stated in the suspension order, a reference to the docket number under which the suspension order was issued, and a statement that the previous tariff publication remains in effect.

[58 FR 58773, Nov. 4, 1993, as amended by Order 561–A, 59 FR 40256, Aug. 8, 1994]

§ 341.5 Cancellation of tariffs.

Carriers must cancel prior tariffs when the tariffs are reissued. When a tariff is canceled in whole or in part by a supplement, the supplement must show where the rates will be found thereafter or what rates will thereafter apply. If the service in connection with the tariff is no longer in interstate commerce, the tariff publication must so state.

§ 341.6 Adoption rule.

(a) Change in name of carrier or ownership of property. The carrier must notify the Commission when there is:

- (1) A change in the legal name of the carrier;
 - (2) A transfer of all of the carrier's properties; or
 - (3) A change in ownership of only a portion of the carrier's property.
- (b) Notification. The carrier must provide notice of these occurrences by tariff publication, filed as soon as possible but no later than 30 days following such occurrence. The filing of adoption notices and adoption supplements requires no notice period.

(c) Complete adoption. (1) When a carrier changes its legal name, or when ownership of all a carrier's properties is transferred, the adopting carrier must file and post an adoption notice, numbered in its own FERC Tariff series, reading as follows:

The [legal name of adopting carrier] hereby adopts and makes its own all tariff publications of [name of adopted carrier], effective [date].

(2) The adopting carrier must concurrently file a consecutively numbered supplement to each of the adopted carrier's tariffs covered by the adoption notice, reading as follows:

Effective [date shown on adoption notice] this tariff publication became the tariff of the [legal name of adopting carrier] as per its adoption notice FERC No. [number].

(3) The supplements issued under this section may contain no other matter, and must refer to §341.6.

(4) The adopting carrier must transfer into its FERC Tariff series the rates applying locally on the adopted lines. The transfer must be made within 30 days of the filing of the adoption notices and supplements. The adopting carrier must give 30 days notice as provided for in §341.2(b).

(d) Partial adoption. (1) When the ownership of a portion of a carrier's properties is transferred to another carrier the adopting carrier must file and post an adoption notice, numbered in its own FERC Tariff series, containing the statement as follows:

The [legal name of adopting carrier] hereby adopts and makes its own, the tariffs of [legal name of former owner] for transportation movements [describe by FERC tariff number, origin, and destination points], effective [date of adoption].

(2) When a point on the transferred portion of a carrier's properties will continue to remain a point on the former owner's line, a reference must be provided in connection with the name of that point, explaining the common junction point.

(3) The former owner must immediately file a consecutively numbered supplement to

each of its tariffs covered by the adoption notice, reading as follows:

Effective [date of adoption notice] this tariff became the tariff of [legal name of adopting carrier] for transportation movements [identify origin and destination points], as per its adoption notice FERC No. [number].

(4) The adoption supplements issued under this section may contain no other matter, and must refer to §341.6.

(5) Rates applying locally on the transferred portion must be transferred into the FERC Tariff series of the adopting carrier within 30 days of the filing of the adoption notices and supplements. The adopting carrier must file and post its tariff publication as provided for in §341.2(b). Where rates are transferred from tariffs of the former owner to tariffs of the adopting carrier, the adopting carrier must establish the rates in its tariffs and the former owner must cancel the corresponding rates in its tariffs effective on the same date. The former owner must reference the FERC Tariff number of the adopting carrier for rates applying thereafter.

[58 FR 58773, Nov. 4, 1993, as amended by Order 606, 64 FR 44404, Aug. 16, 1999]

§ 341.7 Concurrences.

Concurrences must be maintained at carriers' offices and produced upon request. Cancellations or changes to concurrences affecting FERC tariffs must be shown in those tariffs.

§ 341.8 Terminal and other services.

Carriers must publish in their tariffs rules governing such matters as prorationing of capacity, demurrage, odorization, carrier liability, quality bank, reconsignment, in-transit transfers, storage, loading and unloading, gathering, terminalling, batching, blending, commingling, and connection policy, and all other charges, services, allowances, absorptions and rules which in any way increase or decrease the amount to be paid on any shipment or which increase or decrease the value of service to the shipper.

§ 341.9 Index of tariffs.

(a) In general. Each carrier must publish as a separate tariff publication under its FERC Tariff numbering system, a complete index of all effective tariffs to which it is a party, as initial, intermediate, or delivering carrier. The index must be arranged in sections as indicated in paragraphs (b), (c), and (d) of this section and must show as to each tariff:

(1) The FERC Tariff number;

- (2) The full name of the issuing carrier or agent;
 - (3) The type of tariff or description of the traffic to which it applies, including origin and destination points; and
 - (4) Whether the tariff contains rates for transportation by mode other than pipeline.
- (b) The first section. The first section of a tariff index must contain a list of all tariffs in which the carrier is an initial carrier. The list must be arranged alphabetically and organized within the following categories, in order:
 - (1) Specific commodity tariffs;
 - (2) General commodity tariffs; and
 - (3) Miscellaneous tariffs, such as rules and services.
 - (c) The second section. The second section of a tariff index must contain a list of all tariffs in which the carrier is a delivering carrier, arranged in the manner described in the first section of the tariff index. This section must also include those tariffs in which the carrier is an intermediate carrier.
 - (d) The third section. The third section of a tariff index must contain a complete list of the FERC Tariff numbers of the carrier's own effective tariffs arranged in numerical order.
 - (e) Supplements. The index must be kept current by supplements numbered consecutively. The supplements may be issued quarterly. At a minimum, the index must be reissued every four years.
 - (f) Title page. The title page of each index and supplement must contain the issue date.

§ 341.10 Application of rates to intermediate points.

- (a) Applicability. (1) A carrier may provide in its tariff that existing rates between points named in the tariff will be applied to transportation movements from intermediate origin points not named in the tariff to named destination points, and from named origin points to intermediate destination points not named in the tariff.
- (2) A carrier must file a tariff publication applicable to the transportation movements within 30 days of the start of the service if the intermediate point is to be used on a continuous basis for more than 30 days.
- (b) Intermediate point commodity rate regulations —(1) Intermediate origin points. The rate for service provided to a published destination point from an origin point not

specifically named in the tariff, but located intermediate to published origin and destination points, must be the same as the published rate from the next more distant origin point. Application of this provision is subject to the following:

(i) If branch or diverging lines create two or more “next more distant” points, the carrier must apply the rate which results in the lowest charge.

(ii) If the intermediate point is located between two published origin points, the carrier must apply the rate which results in the higher charge.

(iii) If the intermediate point is between more than two published origin points due to branch or diverging lines, the carrier must eliminate all such points except that from which the lowest charge is applicable.

(iv) If there is in any other tariff a commodity rate from the proposed intermediate origin point that is applicable to the same movement, the carrier should not apply this rule from such intermediate point.

(2) Intermediate destination points. The rate for service provided from a published origin point to a destination point not specifically named in the tariff, but located intermediate to published origin and destination points, must be the same as the published rate to the next more distant destination point. Application of this provision is subject to the following:

(i) If branch or diverging lines create two or more “next more distant” points, the carrier must apply the rate which results in the lowest charge.

(ii) If the intermediate point is located between two published destination points, the carrier must apply the rate which results in the higher charge.

(iii) If the intermediate point is between more than two published destination points due to branch or diverging lines, the carrier must eliminate all such points except that from which the lowest charge is applicable.

(iv) If there is in any other tariff a commodity rate to the proposed intermediate destination point that is applicable to the same movement, the carrier should not apply the provisions of this rule to such intermediate point.

(3) Intermediate origin and destination points. Both paragraphs (b)(1) and (b)(2) of this section may apply in connection with the same rate. In this instance, both regulations should be used to establish rates from intermediate points of origin to intermediate points of destination.

§ 341.11 Rejection of tariff publications and other filed materials.

(a) Basis for rejection. The Commission may reject tariff publications or any other material submitted for filing that fail to comply with the requirements set forth in this part or violates any statute, or any regulation, policy or order of the Commission.

(b) Numbering and notating tariff publications. The FERC Tariff number assigned to a tariff publication that has been rejected may not be used again. The tariff publication filed in its place must bear the following notation:

Issued in lieu of [identify the rejected tariff publication], rejected by the Commission.

§ 341.12 Informal submissions.

Carriers may informally submit tariff publications or related material for suggestions of Staff prior to the filing of the tariff publications with the Commission.

§ 341.13 Withdrawal of proposed tariff publications.

(a) Proposed tariff publications. A proposed tariff publication which is not yet effective may be withdrawn at any time by notice to the Commission, made by a letter addressed to the Secretary of the Commission with a certification that all subscribers have been notified by copy of such withdrawal.

(b) Tariff publications that are subject to investigation. A tariff publication that has been permitted to become effective subject to investigation may be withdrawn at any time by notice to the Commission, made by a letter addressed to the Secretary. Such letter must include a copy of the previous tariff publication to be reinstated upon withdrawal of the tariff publication under investigation. The letter must also include a certification that all subscribers have been notified by copy of such notice of withdrawal. Such withdrawal shall be effective immediately upon the submission of the notice, unless a specific effective date is set forth in the notice, and must have the following effects:

(1) Any proceeding with respect to such tariff publication shall be terminated;

(2) The previous tariff rate shall be reinstated; and

(3) Any amounts collected under the withdrawn tariff publication which are in excess of the previous tariff rate shall be refunded within 30 days of the withdrawal with interest as calculated by §340.1 of this chapter.

(c) Numbering and notating tariff publications. The FERC Tariff number assigned to a tariff publication which has been withdrawn may not be used again. The tariff publication filed in its place must bear the following notation:

Issued in lieu of [identify the withdrawn tariff publication] which was withdrawn.

§ 341.14 Special permission.

(a) Procedure. Applications for waiver of the notice and tariff requirements of section 6(3) of the interstate Commerce Act must be filed by the carrier concurrently with the tariff publication being proposed. The letter of transmittal must identify the filing as requesting a waiver under section 6(3) of the Interstate Commerce Act. The application must state in detail any unusual circumstance or emergency situation that supports the requested waiver. If the application requests permission to make changes in joint tariffs, it must state that it is made on behalf of all carriers party to the proposed change. Tariff publications issued on short notice must contain the following statement on the Title Pages:

Issued on [insert number] days notice under authority of 18 CFR 341.14. This tariff publication is conditionally accepted subject to refund pending a 30 day review period.

(b) Conditional acceptance subject to refund. To permit short-notice filings to become effective as requested, the tariff publications filed concurrently with special permission requests for short (less than 30 days) notice will be deemed conditionally accepted for filing, subject to refund, until the Commission has had a full 30-day review period in which to process the filing. Refunds will be collected with interest as calculated according to §340.1 of this chapter. The refund obligation will automatically terminate with no refunds due at the end of the full 30-day notice period absent an order to the contrary issued by the Commission.

(c) Granting automatic permission. The special permission requested will be deemed automatically granted at the end of the full 30-day notice period absent an order denying such request.

§ 341.15 Long and short haul or aggregate of intermediate rates.

(a) Requests for relief from section 4. Carriers may file requests for relief from the provisions of section 4 of the Interstate Commerce Act in order to charge a greater amount for a shorter distance over the same line or route in the same direction, or to charge greater compensation as a through rate than the aggregate of the intermediate rates. Such request will be deemed granted unless the Commission denies the request within 30 days of the filing.

(b) Information required to be filed. A request for section 4 relief must contain the following information:

(1) The names of the carriers for which the relief is being requested.

(2) The FERC tariff numbers which contain the rates or charges referred to in the

application, and identification of all the particular and related rates in question delineating origin and destination points.

(3) An accurate and complete statement giving the basis and reasoning why section 4 relief is necessary.

(4) A statement that the lower rates for longer than for shorter hauls over the same line or route are reasonably compensatory.

(5) A map showing the pipelines and origin and destination points in question and other pertinent information.

(c) Filing tariff publications concurrent with application. Applications for section 4 relief must be filed concurrently with the tariff publication filing establishing those rates. The transmittal letter must identify the filing as requesting section 4 relief.

(d) Tariff statement. Tariff publications filed containing such rates shall plainly state on the title page of the tariff publication that the rates contained therein contravene section 4 of the Interstate Commerce Act.

(e) Rounding through rates. When a carrier aggregates intermediate rates to make up through rates, it may round the resulting through rate to the nearest 0.5 whole cent.

PART 342—OIL PIPELINE RATE METHODOLOGIES AND PROCEDURES

Authority: 5 U.S.C. 571–83; 42 U.S.C. 7101–7532; 49 U.S.C. 60502; 49 App. U.S.C. 1–85.

Source: Order 561, 58 FR 58779, Nov. 4, 1993, unless otherwise noted.

§ 342.0 Applicability.

(a) Except as provided in paragraph (b) of this section, rate changes by oil pipelines shall be governed by this part.

(b) Exception for the Trans-Alaska Pipeline. This part shall not apply to the Trans-Alaska Pipeline authorized by the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1651, et seq.) or to any pipeline delivering oil directly or indirectly to the Trans-Alaska Pipeline.

§ 342.1 General rule.

Each carrier subject to the jurisdiction of the Commission under the Interstate Commerce Act:

- (a) Must establish its initial rates subject to such Act pursuant to §342.2; and
- (b) Must make any change in existing rates pursuant to §342.3 or §342.4, whichever is applicable, unless directed otherwise by the Commission.

§ 342.2 Establishing initial rates. A carrier must justify an initial rate for new service by:

- (a) Filing cost, revenue, and throughput data supporting such rate as required by part 346 of this chapter; or
- (b) Filing a sworn affidavit that the rate is agreed to by at least one non-affiliated person who intends to use the service in question, provided that if a protest to the initial rate is filed, the carrier must comply with paragraph (a) of this section.

[Order 561, 58 FR 58779, Nov. 4, 1993, as amended at 59 FR 59146, Nov. 16, 1994]

§ 342.3 Indexing.

(a) Rate changes. A rate charged by a carrier may be changed, at any time, to a level which does not exceed the ceiling level established by paragraph (d) of this section, upon compliance with the applicable filing and notice requirements and with paragraph (b) of this section. A filing under this section proposing to change a rate that is under investigation and subject to refund, must take effect subject to refund.

(b) Information required to be filed with rate changes. The carrier must comply with Part 341 of this title. Carriers must specify in their letters of transmittal required in §341.2(c) of this chapter the rate schedule to be changed, the proposed new rate, the prior rate, the prior ceiling level, and the applicable ceiling level for the movement. No other rate information is required to accompany the proposed rate change.

(c) Index year. The index year is the period from July 1 to June 30.

(d) Derivation of the ceiling level. (1) A carrier must compute the ceiling level for each index year by multiplying the previous index year's ceiling level by the most recent index published by the Commission. The index will be published by the Commission prior to June 1 of each year.

(2) The index published by the Commission will be based on the change in the final Producer Price Index for Finished Goods (PPI-FG), seasonally adjusted, as published by the U.S. Department of Labor, Bureau of Labor Statistics, for the two calendar years immediately preceding the index year. The index will be calculated by dividing the PPI-FG for the calendar year immediately preceding the index year, by the previous calendar year's PPI-FG.

(3) A carrier must compute the ceiling level each index year without regard to the actual rates filed pursuant to this section. All carriers must round their ceiling levels each index year to the nearest hundredth of a cent.

(4) For purposes of computing the ceiling level for the period January 1, 1995 through June 30, 1995, a carrier must use the rate in effect on December 31, 1994 as the previous index year's ceiling level in the computation in paragraph (d)(1) of this section. If the rate in effect on December 31, 1994 is subsequently lowered by Commission order pursuant to the Interstate Commerce Act, the ceiling level based on such rate must be recomputed, in accordance with paragraph (d)(1) of this section, using the rate established by such Commission order in lieu of the rate in effect on December 31, 1994.

(5) When an initial rate, or rate changed by a method other than indexing, takes effect during the index year, such rate will constitute the applicable ceiling level for that index year. If such rate is subsequently lowered by Commission order pursuant to the Interstate Commerce Act, the ceiling level based on such rate must be recomputed, in accordance with paragraph (d)(1) of this section, using the rate established by such Commission order as the ceiling level for the index year which includes the effective date of the rate established by such Commission order.

(e) Rate decreases. If the ceiling level computed pursuant to §342.3(d) is below the filed rate of a carrier, that rate must be reduced to bring it into compliance with the new ceiling level; provided, however, that a carrier is not required to reduce a rate below the level deemed just and reasonable under section 1803(a) of the Energy Policy Act of 1992, if such section applies to such rate or to any prior rate. The rate decrease must be accomplished by filing a revised tariff publication with the Commission to be effective July 1 of the index year to which the reduced ceiling level applies.

[Order 561, 58 FR 58779, Nov. 4, 1993, as amended by Order 561-A, 59 FR 40256, Aug. 8, 1994; 59 FR 59146, Nov. 16, 1994; Order 606, 64 FR 44405, Aug. 16, 1999; Order 650, 69 FR 53801, Sept. 3, 2004]

§ 342.4 Other rate changing methodologies.

(a) Cost-of-service rates. A carrier may change a rate pursuant to this section if it shows that there is a substantial divergence between the actual costs experienced by the carrier and the rate resulting from application of the index such that the rate at the ceiling level would preclude the carrier from being able to charge a just and reasonable rate within the meaning of the Interstate Commerce Act. A carrier must substantiate the costs incurred by filing the data required by part 346 of this chapter. A carrier that makes such a showing may change the rate in question, based upon the cost of providing the service covered by the rate, without regard to the applicable ceiling level under §342.3.

(b) Market-based rates. A carrier may attempt to show that it lacks significant market power in the market in which it proposes to charge market-based rates. Until the carrier establishes that it lacks market power, these rates will be subject to the applicable ceiling level under §342.3.

(c) Settlement rates. A carrier may change a rate without regard to the ceiling level under §342.3 if the proposed change has been agreed to, in writing, by each person who, on the day of the filing of the proposed rate change, is using the service covered by the rate. A filing pursuant to this section must contain a verified statement by the carrier that the proposed rate change has been agreed to by all current shippers.

[Order 561, 58 FR 58779, Nov. 4, 1993, as amended at 59 FR 59146, Nov. 16, 1994]

PART 343—PROCEDURAL RULES APPLICABLE TO OIL PIPELINE PROCEEDINGS

Authority: 5 U.S.C. 571–583; 42 U.S.C. 7101–7352; 49 U.S.C. 60502; 49 App. U.S.C. 1-85.

Source: Order 561, 58 FR 58780, Nov. 4, 1993, unless otherwise noted.

§ 343.0 Applicability.

(a) General rule. The Commission's Rules of Practice and Procedure in part 385 of this chapter will govern procedural matters in oil pipeline proceedings under part 342 of this chapter and under the Interstate Commerce Act, except to the extent specified in this part.

§ 343.1 Definitions.

For purposes of this part, the following definitions apply:

(a) Complaint means a filing challenging an existing rate or practice under section 13(1) of the Interstate Commerce Act.

(b) Protest means a filing, under section 15(7) of the Interstate Commerce Act, challenging a tariff publication.

[Order 561, 58 FR 58780, Nov. 4, 1993, as amended by Order 578, 60 FR 19505, Apr. 19, 1995]

§ 343.2 Requirements for filing interventions, protests and complaints.

(a) Interventions. Section 385.214 of this chapter applies to oil pipeline proceedings.

(b) Standing to file protest. Only persons with a substantial economic interest in the tariff filing may file a protest to a tariff filing pursuant to the Interstate Commerce Act. Along with the protest, a verified statement that the protestor has a substantial economic interest in the tariff filing in question must be filed.

(c) Other requirements for filing protests or complaints —(1) Rates established under §342.3 of this chapter. A protest or complaint filed against a rate proposed or established pursuant to §342.3 of this chapter must allege reasonable grounds for asserting that the rate violates the applicable ceiling level, or that the rate increase is so substantially in excess of the actual cost increases incurred by the carrier that the rate is unjust and unreasonable, or that the rate decrease is so substantially less than the actual cost decrease incurred by the carrier that the rate is unjust and unreasonable. In addition to meeting the requirements of the section, a complaint must also comply with all the requirements of §385.206, except §385.206(b)(1) and (2).

(2) Rates established under §342.4(c) of this chapter. A protest or complaint filed against a rate proposed or established under §342.4(c) of this chapter must allege reasonable grounds for asserting that the rate is so substantially in excess of the actual cost increases incurred by the carrier that the rate is unjust and unreasonable. In addition to meeting the requirements of the section, a complaint must also comply with all the requirements of §385.206, except §385.206(b)(1) and (2).

(3) Non-rate matters. A protest or complaint filed against a carrier's operations or practices, other than rates, must allege reasonable grounds for asserting that the operations or practices violate a provision of the Interstate Commerce Act, or of the Commission's regulations. In addition to meeting the requirements of this section, a complaint must also comply with the requirements of §385.206.

(4) A protest or complaint that does not meet the requirements of paragraphs (c)(1), (c)(2), or (c)(3) of this section, whichever is applicable, will be dismissed.

[Order 561, 58 FR 58780, Nov. 4, 1993, as amended by Order 602, 64 FR 17097, Apr. 8, 1999; Order 606, 64 FR 44405, Aug. 16, 1999]

§ 343.3 Filing of protests and responses.

(a) Protests. Any protest pursuant to section 15(7) of the Interstate Commerce Act must be filed not later than 15 days after the filing of a tariff publication. If the carrier submits a separate letter with the filing, providing a telefax number and contact person, and requesting all protests to be telefaxed to the carrier by a protestant, any protest must be so telefaxed to the pipeline at the time the protest is filed with the Commission. Only persons with a substantial economic interest in the tariff filing may file a protest to a

tariff filing pursuant to the Interstate Commerce Act. Along with the protest, the protestant must file a verified statement which must contain a reasonably detailed description of the nature and substance of the protestant's substantial economic interest in the tariff filing.

(b) Responses. The carrier may file a response to a protest no later than 5 days from the filing of the protest.

(c) Commission action. Commission action, including any hearings or other proceedings, on a protest will be limited to the issues raised in such protest. If a filing is protested, before the effective date of the tariff publication or within 30 days of the tariff filing, whichever is later, the Commission will determine whether to suspend the tariff and initiate a formal investigation.

(d) Termination of investigation. Withdrawal of the protest, or protests, that caused the initiation of an investigation automatically terminates the investigation.

[Order 561, 58 FR 58780, Nov. 4, 1993, as amended by Order 561-A, 59 FR 40256, Aug. 8, 1994]

§ 343.4 Procedure on complaints.

(a) Responses. The carrier must file an answer to a complaint filed pursuant to section 13(1) of the Interstate Commerce Act within 20 days after the filing of the complaint in accordance with Rule 206.

(b) Commission action. Commission action, including any hearings or other proceedings, on a complaint will be limited to the issues raised in the complaint.

[Order 561, 58 FR 58780, Nov. 4, 1993, as amended by Order 602, 64 FR 17097, Apr. 8, 1999]

§ 343.5 Required negotiations.

The Commission or other decisional authority may require parties to enter into good faith negotiations to settle oil pipeline rate matters. The Commission will refer all protested rate filings to a settlement judge pursuant to §385.603 of this chapter for recommended resolution. Failure to participate in such negotiations in good faith is a ground for decision against the party so failing to participate on any issue that is the subject of negotiation by other parties.

[Order 578, 60 FR 19505, Apr. 19, 1995]

PART 344—FILING QUOTATIONS FOR U.S. GOVERNMENT SHIPMENTS AT REDUCED RATES

Authority: 42 U.S. 7101–7352; 49 U.S.C. 1–27.

§ 344.1 Applicability.

The provisions of this part will apply to quotations or tenders made by all pipeline common carriers to the United States Government, or any agency or department thereof, for the transportation, storage, or handling of petroleum and petroleum products at reduced rates as permitted by section 22 of the Interstate Commerce Act. Excepted are filings which involve information, the disclosure of which would endanger the national security.

[Order 561, 58 FR 58778, Nov. 4, 1993]

§ 344.2 Manner of submitting quotations.

(a) Copies. Exact copies of the quotation or tender must be submitted to the Commission concurrently with the submittal of the quotation or tender to the Federal department or agency for whose account the quotation or tender is offered or the proposed services are to be rendered.

(b) Filing in duplicate. All quotations or tenders must be filed in duplicate. One of these copies must be signed and both copies must clearly indicate the name and official title of the officer executing the document.

(c) Filing procedure. Both copies must be filed with a letter of transmittal which prominently indicates that the filing is in accordance with section 22 of the Interstate Commerce Act. The filing must be filed with the Secretary of the Commission. The envelope must be marked as containing “Oil Pipeline Tariffs—Section 22 Quotations.” A carrier which requests a receipt for the accompanying documentation must submit the letter of transmittal in duplicate and include a postage-paid, self-addressed envelope. One copy showing date of receipt by the Commission will be returned.

(d) Numbering. The copies of quotations or tenders which are filed with the Commission by each carrier must be numbered consecutively.

(e) Supersession of a quotation or tender. A quotation or tender which supersedes a prior quotation or tender must, by a statement shown immediately under the number of the new document, cancel the prior document number.

[Order 561, 58 FR 58778, Nov. 4, 1993]

PART 346—OIL PIPELINE COST-OF-SERVICE FILING REQUIREMENTS

Authority: 42 U.S.C. 7101–7352; 49 U.S.C. 60502; 49 App. U.S.C. 1–85.

§ 346.1 Content of filing for cost-of-service rates.

A carrier that seeks to establish rates pursuant to §342.2(a) of this chapter, or a carrier that seeks to change rates pursuant to §342.4(a) of this chapter, or a carrier described in §342.0(b) that seeks to establish or change rates by filing cost, revenue, and throughput data supporting such rates, other than pursuant to a Commission-approved settlement, must file:

- (a) A letter of transmittal which conforms to §§341.2(c) and 342.4(a) of this chapter;
- (b) The proposed tariff; and
- (c) The statements and supporting workpapers set forth in §346.2.

[59 FR 59146, Nov. 16, 1994, as amended by Order 588, 61 FR 38569, July 25, 1996]

§ 346.2 Material in support of initial rates or change in rates.

A carrier that files for rates pursuant to §342.2(a) or §342.4(a) of this chapter, or a carrier described in §342.0(b) that files to establish or change rates by filing cost, revenue, and throughput data supporting such rates, other than pursuant to a Commission-approved settlement, must file the following statements, schedules, and supporting workpapers. The statement, schedules, and workpapers must be based upon an appropriate test period.

(a) Base and test periods defined. (1) For a carrier which has been in operation for at least 12 months:

(i) A base period must consist of 12 consecutive months of actual experience. The 12 months of experience must be adjusted to eliminate nonrecurring items (except minor accounts). The filing carrier may include appropriate normalizing adjustments in lieu of nonrecurring items.

(ii) A test period must consist of a base period adjusted for changes in revenues and costs which are known and are measurable with reasonable accuracy at the time of filing and which will become effective within nine months after the last month of available actual experience utilized in the filing. For good cause shown, the Commission may allow reasonable deviation from the prescribed test period.

(2) For a carrier which has less than 12 months' experience, the test period may consist of

12 consecutive months ending not more than one year from the filing date. For good cause shown, the Commission may allow reasonable deviation from the prescribed test period.

(3) For a carrier which is establishing rates for new service, the test period will be based on a 12-month projection of costs and revenues.

(b) Cost-of-service summary schedule. This schedule must contain the following information:

(1) Total carrier cost of service for the test period.

(2) Throughput for the test period in both barrels and barrel-miles.

(3) For filings pursuant to §342.4(a) of this chapter, the schedule must include the proposed rates, the rates which would be permitted under §342.3 of this chapter, and the revenues to be realized from both sets of rates.

(c) Content of statements. Any cost-of-service rate filing must include supporting statements containing the following information for the test period.

(1) Statement A—total cost of service. This statement must summarize the total cost of service for a carrier (operating and maintenance expense, depreciation and amortization, return, and taxes) developed from Statements B through G described in paragraphs (c) (2) through (7) of this section.

(2) Statement B—operation and maintenance expense. This statement must set forth the operation, maintenance, administration and general, and depreciation expenses for the test period. Items used in the computations or derived on this statement must consist of operations, including salaries and wages, supplies and expenses, outside services, operating fuel and power, and oil losses and shortages; maintenance, including salaries and wages, supplies and expenses, outside services, and maintenance and materials; administrative and general, including salaries and wages, supplies and expenses, outside services, rentals, pensions and benefits, insurance, casualty and other losses, and pipeline taxes; and depreciation and amortization.

(3) Statement C—overall return on rate base. This statement must set forth the rate base for return purposes from Statement E in paragraph (c)(5) of this section and must also state the claimed rate of return and the application of the claimed rate of return to the overall rate base. The claimed rate of return must consist of a weighted cost of capital, combining the rate of return on debt capital and the real rate of return on equity capital. Items used in the computations or derived on this statement must include deferred earnings, equity ratio, debt ratio, weighted cost of capital, and costs of debt and equity.

(4) Statement D—income taxes. This statement must set forth the income tax computation. Items used in the computations or derived on this statement must show: return allowance, interest expense, equity return, annual amortization of deferred earnings, depreciation on equity AFUDC, underfunded or overfunded ADIT amortization amount, taxable income, tax factor, and income tax allowance.

(5) Statement E—rate base. This statement must set forth the return rate base. Items used in the computations or derived on this statement must include beginning balances of the rate base at December 31, 1983, working capital (including materials and supplies, prepayments, and oil inventory), accrued depreciation on carrier plant, accrued depreciation on rights of way, and accumulated deferred income taxes; and adjustments and end balances for original cost of retirements, interest during construction, AFUDC adjustments, original cost of net additions and retirements from land, original cost of net additions and retirements from rights of way, original cost of plant additions, original cost accruals for depreciation, AFUDC accrued depreciation adjustment, original cost depreciation accruals added to rights of way, net charge for retirements from accrued depreciation, accumulated deferred income taxes, changes in working capital (including materials and supplies, prepayments, and oil inventory), accrued deferred earnings, annual amortization of accrued deferred earnings, and amortization of starting rate base write-up.

(6) Statement F—allowance for funds used during construction. This statement must set forth the computation of allowances for funds used during construction (AFUDC) including the AFUDC for each year commencing in 1984 and a summary of AFUDC and AFUDC depreciation for the years 1984 through the test year.

(7) Statement G—revenues. This statement must set forth the gross revenues for the actual 12 months of experience as computed under both the presently effective rates and the proposed rates. If the presently effective rates are not at the maximum ceiling rate established under §342.3 of this chapter, then gross revenues must also be computed and set forth as if the ceiling rates were effective for the 12 month period.

[59 FR 59146, Nov. 16, 1994, as amended by Order 588, 61 FR 38569, July 25, 1996; Order 606, 64 FR 44405, Aug. 16, 1999]

§ 346.3 Asset retirement obligations.

(a) A carrier that files material in support of initial rates or change in rates under §346.2 and has recorded asset retirement obligations on its books must provide a schedule, as part of the supporting workpapers, identifying all cost components related to the asset retirement obligations that are included in the book balances of all accounts reflected in the cost of service computation supporting the proposed rates. However, all cost

components related to asset retirement obligations that would impact the calculation of rate base, such as carrier property and related accumulated depreciation and accumulated deferred income taxes, may not be reflected in rates and must be removed from the rate base calculation through a single adjustment.

(b) A carrier seeking to recover nonrate base costs related to asset retirement costs in rates must provide, with its filing under §346.2 of this part, a detailed study supporting the amounts proposed to be collected in rates.

(c) A carrier who has recorded asset retirement obligations on its books but is not seeking recovery of the asset retirement costs in rates, must remove all asset retirement obligations related cost components from the cost of service supporting its proposed rates.

[Order 631, 68 FR 19625, Apr. 21, 2003]

PART 347—OIL PIPELINE DEPRECIATION STUDIES

Authority: 42 U.S.C. 7101–7352; 49 U.S.C. 60502; 49 App. U.S.C. 1–85.

§ 347.1 Material to support request for newly established or changed property account depreciation studies.

(a) Means of filing. Filing of a request for new or changed property account depreciation rates must be made with the Secretary of the Commission. Filings made by mail must be addressed to the Federal Energy Regulatory Commission with the envelope clearly marked as containing “Oil Pipeline Depreciation Rates.”

(b) Number of copies. Carriers must file three paper copies of each request with attendant information identified in paragraphs (c) through (e) of this section.

(c) Transmittal letter. Letters of transmittal must give a general description of the change in depreciation rates being proposed in the filing. Letters of transmittal must also certify that the letter of transmittal (not including the information to be provided, as identified in paragraphs (d) and (e) of this section) has been sent to each shipper and to each subscriber. If there are no subscribers, letters of transmittal must so state. Carriers requesting acknowledgement of the receipt of a filing by mail must submit a duplicate copy of the letter of transmittal marked “Receipt requested.” The request must include a postage paid, self-addressed return envelope.

(d) Effectiveness of property account depreciation rates. (1) The proposed depreciation rates being established in the first instance must be used until they are either accepted or

modified by the Commission. Rates in effect at the time of the proposed revision must continue to be used until the proposed revised rates are approved or modified by the Commission.

(2) When filing for approval of either new or changed property account depreciation rates, a carrier must provide information in sufficient detail to fully explain and justify its proposed rates.

(e) Information to be provided. The information in paragraphs (e)(1) through (5) of this section must be provided as justification for depreciation changes. Modifications, additions, and deletions to these data elements should be made to reflect the individual circumstances of the carrier's properties and operations. Any information in paragraphs (e)(1) through (5) of this section, the release of which would violate section 15(13) of the Interstate Commerce Act, must be provided in a format that will protect individual shippers.

(1) A brief summary relating to the general principles on which the proposed depreciation rates are based (e.g., why the economic life of the pipeline section is less than the physical life).

(2) An explanation of the organization, ownership, and operation of the pipeline.

(3) A table of the proposed depreciation rates by account.

(4) An explanation of the average remaining life on a physical basis and on an economic basis.

(5) The following specific background data must be submitted at the time of and concurrently with any request for the establishment of, or modification to, depreciation rates for carriers. If the information listed is not applicable, it may be omitted from the filing:

(i) Up-to-date engineering maps of the pipeline including the location of all gathering facilities, trunkline facilities, terminals, interconnections with other pipeline systems, and interconnections with refineries/plants. Maps must indicate the direction of flow.

(ii) A brief description of the carrier's operations and an estimate of any major near-term additions or retirements including the estimated costs, location, reason, and probable year of transaction.

(iii) The present depreciation rates being used by account.

(iv) For the most current year available and for the two prior years, a breakdown of the throughput (by type of product, if applicable) received with source (e.g. name of well,

pipeline company) at each receipt point and throughput delivered at each delivery point.

(v) The daily average capacity (in barrels per day) and the actual average capacity (in barrels per day) for the most current year, by line section.

(vi) A list of shipments and their associated receipt points, delivery points, and volumes (in barrels) by type of product (where applicable) for the most current year.

(vii) For each primary carrier account, the latest month's book balances for gross plant and for accumulated reserve for depreciation.

(viii) An estimate of the remaining life of the system (both gathering and trunk lines) including the basis for the estimate.

(ix) For crude oil, a list of the fields or areas from which crude oil is obtained.

(x) If the proposed depreciation rate adjustment is based on the remaining physical life of the properties, a complete, or updated, if applicable, Service Life Data Form (FERC Form No. 73) through the most current year.

(xi) Estimated salvage value of properties by account.

[59 FR 59147, Nov. 16, 1994, as amended at 60 FR 358, Jan. 4, 1995]

PART 348—OIL PIPELINE APPLICATIONS FOR MARKET POWER DETERMINATIONS

Authority: 42 U.S.C. 7101–7352; 49 U.S.C. 60502; 49 App. U.S.C. 1–85.

§ 348.1 Content of application for a market power determination.

(a) If, under §342.4(b) of this chapter, a carrier seeks to establish that it lacks significant market power in the market in which it proposes to charge market-based rates, it must file and provide an application for such a determination. An application must include a statement of position and the information required by paragraph (c) of this section.

(b) The carrier's statement of position required by paragraph (a) of this section must include an executive summary of its statement of position and a statement of material facts in addition to its complete statement of position. The statement of material facts must include citation to the supporting statements, exhibits, affidavits, and prepared testimony.

(c) The carrier must include with its application the following information:

- (1) Statement A—geographic market. This statement must describe the geographic markets in which the carrier seeks to establish that it lacks significant market power. The carrier must include the origin market and the destination market related to the service for which it proposes to charge market-based rates. The statement must explain why the carrier's method for selecting the geographic markets is appropriate.
- (2) Statement B—product market. This statement must identify the product market or markets for which the carrier seeks to establish that it lacks significant market power. The statement must explain why the particular product definition is appropriate.
- (3) Statement C—the carrier's facilities and services. This statement must describe the carrier's own facilities and services in the relevant markets identified in statements A and B in paragraphs (c) (1) and (2) of this section. The statement must include all pertinent data about the pipeline's facilities and services.
- (4) Statement D—competitive alternatives. This statement must describe available transportation alternatives in competition with the carrier in the relevant markets and other competition constraining the carrier's rates in those markets. To the extent available, the statement must include all pertinent data about transportation alternatives and other constraining competition.
- (5) Statement E—potential competition. This statement must describe potential competition in the relevant markets. To the extent available, the statement must include data about the potential competitors, including their costs, and their distance in miles from the carrier's terminals and major consuming markets.
- (6) Statement F—maps. This statement must consist of maps showing the carrier's principal transportation facilities, the points at which service is rendered under its tariff, the direction of flow of each line, the location of each of its terminals, the location of each of its major consuming markets, and the location of the alternatives to the carrier, including their distance in miles from the carrier's terminals and major consuming markets. The statement must include a general system map and maps by geographic markets. The information required by this statement may be on separate pages.
- (7) Statement G—market power measures. This statement must set forth the calculation of the market concentration of the relevant markets using the Herfindahl-Hirschman Index. The statement must also set forth the carrier's market share based on receipts in its origin markets and deliveries in its destination markets, if the Herfindahl-Hirschman Index is not based on those factors. The statement must also set forth the calculation of other market power measures relied on by the carrier. The statement must include complete particulars about the carrier's calculations.

(8) Statement H—other factors. This statement must describe any other factors that bear on the issue of whether the carrier lacks significant market power in the relevant markets. The description must explain why those other factors are pertinent.

(9) Statement I—prepared testimony. This statement must include the proposed testimony in support of the application and will serve as the carrier's case-in-chief, if the Commission sets the application for hearing. The proposed witness must subscribe to the testimony and swear that all statements of fact contained in the proposed testimony are true and correct to the best of his or her knowledge, information, and belief.

[59 FR 59160, Nov. 16, 1994]

§ 348.2 Procedures.

(a) A carrier must file, as provided in §341.1 of this chapter, an original plus fourteen copies of its application, including its statement of position, statements, and related material, and a letter of transmittal and must submit its application on an electronic medium. The formats for the electronic filing and the paper copy can be obtained at the Federal Energy Regulatory Commission, Division of Public Information, 825 North Capitol Street, NE., Washington, DC 20426. A carrier must submit with its application any request for privileged treatment of documents and information under §388.112 of this chapter and a proposed form of protective agreement. In the event the carrier requests privileged treatment under §388.112 of this chapter, it must file the original and three copies of its application with the information for which privileged treatment is sought and 11 copies of the application without the information for which privileged treatment is sought.

(b) A carrier must provide a copy of its letter of transmittal and its proposed form of protective agreement to each shipper and subscriber on or before the day the material is transmitted to the Commission for filing.

(c) A letter of transmittal must describe the market-based rate filing, including an identification of each rate that would be market-based, and the pertinent tariffs or supplement numbers, state if a waiver is being requested and specify the statute, section, subsection, regulation, policy or order requested to be waived. Letters of transmittal must be certified pursuant to §341.2(c)(2) of this chapter and acknowledgement must be requested pursuant to §341.2(c)(3) of this chapter.

(d) An interested person must make a written request to the carrier for a copy of the carrier's complete application within 20 days after the filing of the application. The request must include an executed copy of the protective agreement. Any objection to the proposed form of protective agreement must be filed under §385.212 of this chapter.

(e) A carrier must provide a copy of the complete application to the requesting person within seven days after receipt of the written request and an executed copy of the protective agreement.

(f) A carrier must provide copies as required by paragraphs (b) and (e) of this section by first-class mail or by other means of transmission agreed upon in writing.

(g) Any intervention or protest to the application must be filed within 60 days after the filing of the application and must be filed pursuant to §§343.2 (a) and (b) of this chapter. A protest must also be telefaxed if required by §343.3(a) of this chapter.

(h) A protest filed against an application for a market power determination must set forth in detail the grounds for opposing the carrier's application, including responding to its position and information and, if desired, presenting information pursuant to §348.1(c).

(i) After expiration of the date for filing protests, the Commission will issue an order in which it will summarily rule on the application or, if appropriate, establish additional procedures and the scope of the investigation.

[59 FR 59160, Nov. 16, 1994]

Attachment CUNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

[Docket No. IC08-550-000, FERC-550]

COMMISSION INFORMATION COLLECTION ACTIVITIES, PROPOSED
COLLECTION; COMMENT REQUEST; EXTENSION

(November 6, 2007)

AGENCY: Federal Energy Regulatory Commission.**ACTION:** Notice of Proposed Information Collection and Request for Comments.**SUMMARY:** In compliance with the requirements of Section 3506 (c)(2)(a) of the Paperwork Reduction Act of 1995 (Pub. L. 104-13), the Federal Energy Regulatory Commission (Commission) is soliciting public comment on the specific aspects of the information collection described below.**DATES:** Comments on the collection of information are due by **January 11, 2008**.**ADDRESSES:** Copies of sample filings of the proposed information collection can be obtained from the Commission's website (<http://www.ferc.gov/docs-filings/elibrary.asp>) or from the Federal Energy Regulatory Commission, Attn: Michael Miller, Office of the Executive Director, ED-34, 888 First Street NE, Washington, D.C. 20426. Comments may be filed electronically or in paper format. Those parties filing electronically do not need to make a paper filing. For paper filings, the original and 14 copies of such comment should be submitted to the Secretary of the Commission, Federal Energy

Regulatory Commission, 888 First Street NE, Washington, D.C. 20426 and refer to Docket No. IC08-550-000.

Documents filed electronically via the Internet must be prepared in, MS Word, Portable Document Format, Word Perfect or ASCII format. To file the document, access the Commission's website at www.ferc.gov and click on "Make an E-filing," and then follow the instructions for each screen. First time users will have to establish a user name and password. The Commission will send an automatic acknowledgment to the sender's E-mail address upon receipt of comments.

All comments may be viewed, printed or downloaded remotely via the Internet through FERC's homepage using the eLibrary link. For user assistance, contact FERConlinesupport@ferc.gov or toll free at (866) 208-3676 or for TTY, contact (202) 502-8659.

FOR FURTHER INFORMATION CONTACT: Michael Miller may be reached by telephone at (202)502-8415, by fax at (202)273-0873, and by e-mail at michael.miller@ferc.gov.

SUPPLEMENTARY INFORMATION: The information collected under the requirements of FERC-550 "Oil Pipeline Rates: Tariff Filings" (OMB No. 1902-0089) is used by the Commission to implement the statutory provisions of Part 1, 6 and 15 of the Interstate Commerce Act (ICA) (Pub. L. 337, 34 Stat. 584). Jurisdiction over oil

pipelines as it relates to the establishment of valuations for pipelines was transferred from the Interstate Commerce Commission (ICC) to FERC, pursuant to sections 306 and 402 of the Department of Energy Organization Act (DOE Act), 42 U.S.C. 7155 and 7172 and Executive Order No. 12009, 42 FR 46267 (September 17, 1977).

The filing requirements for proposed oil pipeline rates are specified in 18 CFR 341-348. The data that oil pipelines file is the basis for Commission analyses of the amounts they plan to charge to transport crude oil and petroleum products. The Commission uses its analyses to (1) determine if the proposed charges result in just and reasonable rates for the oil pipeline’s transportation services and (2) help the Commission decide whether it should suspend, accept or reject the proposed rates.

Action: The Commission is now requesting a three-year extension of the current expiration date, with no changes to the existing collection. The information filed with the Commission is mandatory.

Burden Statement: Public Reporting Burden for this information collection is estimated as:

Number of Respondents Annually (1)	Number of Responses Per Respondent (2)	Average Burden Hours Per Response (3)	Total Annual Burden Hours (4)

200	3	11	6,600
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6,600 hours/2080 hours ⁷ x \$126,384 ⁸ equals \$401,026. The cost of filing FERC-550 per respondent is \$2005.

The reporting burden includes the total time, effort, or financial resources expended to generate, maintain, retain, disclose or provide the information including: (1) reviewing instructions; (2) developing, acquiring, installing, and using technology and systems for the purposes of collecting, validating, verifying, processing, maintaining, disclosing and providing information; (3) adjusting existing ways to comply with an previously applicable filing instructions and requirements; (4) training personnel to respond to a collection of information; (5) searching data sources; (6) competing and reviewing the collection of information; and (7) transmitting or otherwise disclosing the information.

The cost estimate for respondents is based upon salaries for professional and clerical support, as well as direct and indirect overhead costs. Direct costs include all costs directly attributable to providing this information, such as administrative costs and the cost for information technology. Indirect or overhead costs are costs incurred by an organization in support of its mission. These costs apply to activities which benefit the whole organization rather than any one particular function or activity.

⁷ Number of hours an employee works in a year.

⁸ Average annual salary per employee.

Comments are invited on: (1) the accuracy of the Commission's burden estimate of the proposed information collection, including the validity of the methodology and assumptions used to calculate the reporting burden; (2) ways to enhance the quality, utility and clarity of the information to be collected.

Kimberly D. Bose,
Secretary