Supporting Statement for

FERC Form 2 "Annual Report of Major Natural Gas Companies"; FERC Form 2-A "Annual Report of Nonmajor Natural Gas Companies" and FERC Form 3-Q "Quarterly Financial Report of Electric Utilities Licensees, and Natural Gas Companies"; FERC Form 11 "Natural Gas Pipeline Company Quarterly Statement of Monthly Data"

As Proposed in Docket No. RM07-9-000
(Final Rule issued March 21, 2008)

The Federal Energy Regulatory Commission (Commission) requests Office of Management and Budget (OMB) review and approval of **FERC Form 2 "Annual Report of Major Natural Gas Companies"; FERC Form 2-A "Annual Report of Nonmajor Natural Gas Companies" FERC Form 3-Q "Quarterly Financial Report of Electric Utilities Licensees and Natural Gas Companies" and FERC Form 11 "Natural Gas Pipeline Company Quarterly Statement of Monthly Data".** These information collections are current data requirements with modifications as proposed in Docket No. RM07-9-000 "Revisions to Forms, Statements and Reporting Requirements for Natural Gas Pipelines[1], " the Commission's Final Rule issued March 21, 2008.

The subject data collections will be affected by the amended regulations because:

In a Notice of Proposed Rulemaking (NOPR) issued on September 20, 2007, the Commission proposed revisions to Forms 2, 2-A, and 3-Q, and the elimination of Form 11. The NOPR proposed to add several new schedules, requiring pipelines to report: (1) the disposition of shipper-supplied gas; (2) transactions between the pipeline and its affiliates; (3) revenues and volumes applicable to discount and negotiated rate services; and (4) identification of rate treatment afforded new pipeline projects. In addition, the NOPR proposed modifications to existing schedules to require more detail regarding: (1) sales data; (2) deferred income taxes; (3) state income tax expense; (4) regulatory assets and liabilities; (5) distribution of salaries and wages; and (6) employee pensions and benefits. After careful consideration of the comments received, the Commission is adopting the changes and revisions as proposed in the NOPR with certain modifications and clarifications. (See item no. 8 of this submission.)

Background

1?/ Form 2 has OMB approval number 1902-0028, expires 6/30/10; Form 2-A has OMB approval number 1902-0030, expires 6/30/10; Form 3-Q has OMB approval number 1902-0205, expires 2/28/09 and Form 11 has approval number 1902-0032 expires 10/31/08.

Under the existing regulations FERC jurisdictional entities subject to its Uniform System of Accounts must annually and quarterly file with the Commission a complete set of financial statements along with other selected financial and non financial data through the submission of FERC Annual Report Forms 2, 2-A and the Quarterly Report Form 3Q. The FERC Annual and Quarterly Report Forms provide the Commission, as well as others, with an informative picture of the jurisdictional entities financial condition along with other relevant data that is used by the Commission, as well as others, in making economic judgments about the entity or its industry.

The Commission strives to ensure that its reporting requirements keep pace with the evolution of the natural gas industry. Before the advent of Order No. 636 and its progeny, interstate natural gas pipeline companies provided both sales and transportation services.[2] Gas costs were entered into a purchased gas adjustment (PGA) account and were periodically adjusted and passed through to customers. The substitution for the ability to recover the gas costs through a PGA tracker was the requirement that the pipelines file to restate their rates every three years. The PGA regulations and the triennial filing requirement therein, were eliminated when the Commission issued a Final Rule that changed pipeline filing and reporting requirements in the post-Order No. 636 environment.[3]

In Order No. 636, the Commission restructured pipeline services and required pipelines to unbundle their sales and transportation services. Accordingly, shippers were able to buy gas at the wellhead or from gas marketers, and purchase pipeline capacity from other shippers in the secondary market, as well as from the pipeline. Order No. 636 authorized pipelines to make unbundled commodity sales at market-based rates at the wellhead because it concluded that, after unbundling, sellers of short-term or long-term gas supplies (whether pipelines or other sellers) would not have market power over the sale of natural gas.

In 1995, in Order No. 581, FERC issued a Final Rule revising the filing and reporting requirements for interstate natural gas pipeline companies to reflect the changed regulatory environment of unbundled pipeline sales for resale at market-based prices and open-access transportation of natural gas.[4] The Commission eliminated outdated reporting requirements but

2 See Pipeline Service Obligations and Revisions to Regulations Governing Self-Implementing Transportation; and Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol, Order No. 636, FERC Stats. & Regs. ¶ 30,939, order on reh’g, Order No. 636-A, FERC Stats. & Regs. ¶ 30,950, order on reh’g, Order No. 636-B, 61 FERC ¶ 61,272 (1992), order on reh’g, 62 FERC ¶ 61,007 (1993), aff’d in part and remanded in part sub nom. United Distribution Cos. v. FERC, 88 F.3d 1105 (D.C. Cir. 1996), order on remand, Order No. 636-C, 78 FERC ¶ 61,186 (1997).

3 Filing and Reporting Requirements for Interstate Natural Gas Company Rate Schedules and Tariffs, FERC Stats. & Regs. ¶ 31,025 (1995).

4 Revisions to Uniform System of Accounts, Forms, Statements, and Reporting Requirements for Natural Gas Companies, Order No. 581, FERC Stats. & Regs. ¶ 31,026 (1995), order on reh’g, Order No. 581-A, FERC Stats. & Regs. ¶ 31,032 (1996).

revised Forms 2 and 2-A to provide financial, rate, and statistical information on transactions that it deemed more useful in monitoring the restructured industry.[5]

In 2000, in Order No. 637, the Commission again amended its regulations in response to the growing development of more competitive markets for natural gas and the transportation of natural gas.[6] The final rule revised the Commission's regulatory approach to pipeline pricing by permitting pipelines to propose peak/off-peak and term differentiated rate structures. Although the rule did not change the financial forms, it required pipelines to provide additional data on their web sites, including: (1) information regarding the pipeline's capacity and released capacity transactions, including names of parties to the contract, rate charged, and receipt and delivery points; and, (2) information concerning market affiliates, including an organizational chart showing the structure of the parent corporation and the position within that structure of all affiliates. These additional reporting requirements were designed to provide more transparent pricing information and to permit more effective monitoring for the exercise of market power and undue discrimination.[7]

Since the Commission eliminated the triennial restatement of rates filing requirement in Order No. 636, there has been a decline in filings under NGA section 4.[8] Of course, FERC may, on its own motion, institute an investigation under NGA section 5 to determine if pipeline rates are just and reasonable.[9] The Commission relies also on section 5 complaints, which may be filed by state public utility commissions or pipeline customers, to review gas rates outside of a section 4 rate proceeding. In a section 5 proceeding, the complainant has the burden of proof and must have access to the information needed to meet that burden. A section 5 complaint may rely on Forms 2, 2-A, and 3-Q financial data and that data must be sufficient to support a complaint.

Within the past year, two section 5 complaints were filed with FERC, both relying on data provided in Forms 2 and 2-A to argue that the pipelines' rates were unjust and unreasonable.[10] In National Fuel, the complainants contended that it had been 11 years since the

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5 Id.

6 Regulation of Short-Term Natural Gas Transportation Services, and Regulation of Interstate Natural Gas Transportation Services, Order No. 637, FERC Stats. & Regs. ¶ 31,091, clarified, Order No. 637-A, FERC Stats. & Regs. ¶ 31,099, reh'g denied, Order No. 637-B, 92 FERC ¶ 61,062 (2000), aff'd in part and remanded in part sub nom. Interstate Natural Gas Ass'n of America v. FERC, 285 F.3d 18 (D.C. Cir. 2002), order on remand, 101 FERC ¶ 61,127(2002), order on reh'g, 106 FERC ¶ 61,088(2004), aff'd sub nom. American Gas Ass'n v. FERC, 428 F.3d 255 (D.C. Cir. 2005).

7 Id. See also 18 CFR 284.13.

8 15 U.S.C. 717c.

9 15 U.S.C. 717d.

10 Public Service Commission of New York, Pennsylvania Public Utility Commission and

Commission had reviewed National Fuel's rates and that during that time the rates had become unjust and unreasonable.[11] Relying upon Forms 2 and 3-Q data, the complainants prepared an analysis for the most recent three-year period, which allegedly demonstrated significant excess revenue and equity return near 20 percent.[12] National Fuel argued in response to the complaint that the Form 2 data relied upon by the complainants was not sufficient and that only a detailed cost and revenue study could provide justification for an investigation into a pipeline's rates under NGA section 5. Complainants acknowledged that the lack of certain data in Form 2 hindered the performance of a full rate analysis, but argued that the complaint, nonetheless, presented evidence sufficient to initiate an investigation of National Fuel's rates.[13]

In its order setting the case for hearing, the Commission found that the complainants had raised serious questions as to whether the rates established in 1995 settlements allowed National Fuel to recover revenue substantially in excess of its costs.[14] The Commission rejected National Fuel's contention that a detailed cost and revenue study is the sole means of justifying an investigation into a pipeline's rates under section 5, and that Form 2 data could provide the starting point for such an investigation.[15] However, the Commission denied complainants' request for summary disposition, noting that data extrapolated from Form 2 was, in some cases, unclear and not adequate to support a summary disposition.[16]

On December 21, 2006, the Commission set for hearing another complaint filed by a group of customers that contended that Southwest Gas' rates had not been reviewed in 17 years and that during that time, the rates had become unjust and unreasonable.[17] Complainants submitted a cost and revenue study using information from Southwest Gas' Form 2-A, which allegedly demonstrated that the pipeline was earning a return on equity as high as 32 percent.[18] The complainants sought an immediate rate reduction and a hearing. The Commission found that the complainants' rate study did not support an immediate rate reduction, but set the matter

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Pennsylvania Office of Consumer Advocate v. National Fuel Gas Supply Corp., 115 FERC ¶ 61,299 (2006) (National Fuel), order approving uncontested settlement, 118 FERC ¶ 61,091 (2007); Panhandle Complainants v. Southwest Gas Storage Co., 117 FERC ¶ 61,318 (2006) (Southwest Gas).

11 National Fuel at P 7.

12 Id.

13 Motion for Leave to Answer and Answer of the Joint State Agencies to National Fuel Gas Supply Corporation's Answer to Complaint at 6.

14 National Fuel at P 37.

15 Id.

16 Id. at P 42.

17 See Southwest Gas, 117 FERC at P 1.

18 Id.

for hearing.[19]

Against this backdrop, Commission staff initiated a review of Forms 1, 1-F, 2, 2-A, and 3-Q data in the fall of 2006. As part of this review, staff met with both filers and users of annual and quarterly reports for the purpose of reexamining the breadth of data collected by the forms and to determine the need for additional information, deletions, or other clarifications. Thereafter, on February 15, 2007, the Commission issued a Notice of Inquiry (NOI).[20]

Notice of Proposed Rulemaking (Docket No. RM07-9-000)

On September 20, 2007 as noted above, FERC issued a Notice of Proposed Rulemaking (NOPR) in Docket No. RM07-9-000 regarding **"Revisions to Forms, Statement and Reporting Requirements for Natural Gas Pipelines**." The purpose of the proposed rule was to improve the forms, reports and statements to provide, in greater detail, the information the Commission needs to carry out its responsibilities under the Natural Gas Act (NGA) to ensure that rates are just and reasonable, and to provide pipeline customers, state commissions, and the public the information they need to assess the justness and reasonableness of pipeline rates. The proposed changes would require pipelines to provide additional information regarding their sources of revenue and amounts included in rate base, and identify costs related to affiliate transactions, incremental facilities, and discounted and negotiated rates. They would be effective January 1, 2008. Accordingly, companies subject to the new requirements would file their new Form 3-Q beginning with the first quarter of 2009 and their new Forms 2 and 2-A in 2009 for calendar year 2008. Finally, the Commission proposed to eliminate the requirement to file FERC Form No. 11 and to extend the period of time to May 18 of the year following the submittal of annual and quarterly forms to file the Report of Certification.[21]

All of the proposed changes in the Notice Proposed Rulemaking are provided for under sections 10(a) and 16 of the Natural Gas Act (NGA). We estimated that the annual report burden related to the proposed rule would be 11,230 hours under FERC Form Nos. 2, 2-A, ,

19 Id. at P 19.

20 Assessment of Information Requirements for FERC Financial Forms, Notice of Inquiry, 72 Fed. Reg. 8316 (February 26, 2007), FERC Stats. & Regs. ¶ 35,554 (2007). While the outreach meetings addressed only Forms 1 and 2, the NOI invited comments from filers and users of Form 6 and 6-Q as well.

21 See 18 CFR 158.11. The Commission issued concurrently a Notice of Inquiry (NOI) in Docket No. RM07-20-000, titled Fuel Retention Practices of Natural Gas Pipelines, seeking comments on several specific proposals for natural gas pipeline rate recovery of fuel and lost and unaccounted-for gas. The NOI addressed Commission policy regarding the method of cost recovery used by pipelines and sought comments on whether that policy should be changed. While the instant proposed rulemaking in Docket RM07-9-000 addressed changes to the Commission's financial forms, the NOI addressed the method of recovery of fuel and sought comments on whether it should change the current policy and prescribe a uniform recovery method for all pipelines. Therefore, there is no conflict between the two proposals.

Form 3Q. If the proposals are adopted and the Commission eliminates FERC Form No. 11, this will result in a reduction of 888 hours.[22]

Final Rule (Docket No. RM07-9-000)

On March 21, 2008, the Commission issued a Final Rule in Docket No. RM07-9-000 regarding **"Revisions to Forms, Statement and Reporting Requirements for Natural Gas Pipelines**." The purpose of the Final Rule is to improve the forms, reports and statements to provide, in greater detail, the information the Commission needs to carry out its responsibilities under the Natural Gas Act (NGA) to ensure that rates are just and reasonable, and to provide pipeline customers, state commissions, and the public the information they need to assess the justness and reasonableness of pipeline rates.

A. Justification

1. CIRCUMSTANCES THAT MAKE THE COLLECTION OF INFORMATION NECESSARY

Form 2 & Form 2-A Pursuant to sections 8, 10 and 14 of the National Gas Act (NGA), (15 U.S.C. 717g-717m, PL. 75-688), the Commission is authorized to make investigations and collect and record data, to prescribe rules and regulations concerning accounts, records and memoranda as necessary or appropriate for purposes of administering the NGA. The Commission may prescribe a system of accounts for jurisdictional companies, and after notice and opportunity for hearing, may determine the accounts in which particular outlays and receipts will be entered, charged or credited. Form 2 is filed by "major" natural gas pipeline companies that have combined gas sold for resale and gas transported or stored for a fee that exceeds 50 million Dekatherms (Dth) in each of the three previous calendar years. Form 2-A is filed by "Nonmajor" natural gas pipeline companies that have combined sales for resale and gas transported or stored that is less than 50 million Dth but exceeds 200,000 Dth in each of three previous calendar years. The Commission collects Form Nos. 2 and 2-information as prescribed in 18 CFR 260.1 and 260.2.

Form 3Q "Quarterly Financial Report of Electric Utilities, Licensees, and Natural Gas Companies," requires companies to file with the Commission a complete set of quarterly financial statements. Most of the information contained in these forms is the same information currently submitted on an annual basis.

Quarterly reporting of financial information permits the Commission to better understand trends and other factors that may affect an entity's liquidity position, its commitments of capital expenditures, its sources of financing, along with changes in the amount of assets, liabilities,

22 Since FERC Form No. 11’s last submission to OMB in 2005, there has been an adjustment to the number of hours reported on OMB’s inventory. The Final Rule reflects the current number of hours or 888 hours as opposed to 756 hours in OMB’s inventory.

debt and equity used in its business. Transparent accountings and more frequent financial reporting play an important role in achieving vigilant oversight of market participants. More frequent financial reporting provides needed insight into the opportunities and risks facing the energy industry as the Commission considers and assesses the affects of its regulatory initiatives. The Commission shares the view that quarterly reporting enhances its overall decision making process by providing more timely, useful and relevant data to the decision making process. The Commission collects Form Nos. 3Q information as prescribed in 18 CFR 260.300.

Form 11 "Natural Gas Pipeline Company Quarterly Statement of Monthly Data", filed quarterly, FERC Form No. 11, provides monthly data on certain revenue and volume items of major pipelines. Yearly data on the items reported in Form No. 11 are, for the most part, reported annually in FERC Form No. 2. Commission staff use Form No. 11 data for current information on developments and trends in the activities of regulated major natural gas pipelines and to verify data presented in rate proceedings. Additionally, the monthly data collected under FERC-11 allows for analysis of seasonal variation in throughput. The Commission collects Form Nos. 11 information as prescribed in 18 CFR 260.3.

The steady decline of section 4 rate filings, the concerns regarding the adequacy of data in Forms 2 and 2-A expressed in both the National Fuel and Southwest Gas complaints, and the comments received in response to the NOI indicated a need to update and supplement Forms 2, 2-A, and 3-Q. While a hiatus in section 4 rate case filings does not, in every instance, support a conclusion that the pipeline is earning excess revenues, some pipelines have not filed a section 4 rate case in more than a decade, and their costs of service and revenues have gone unreviewed as a consequence.[23] If shippers cannot readily access the data they need to make informed assessments regarding the propriety of the rates charged, they are left without any plausible means of assessing the justness and reasonableness of those rates and are forced to accept the information provided at face value or attempt to initiate expensive and time-consuming section 5 proceedings to obtain the data.

The proposed additions or changes to Forms 2, 2-A and 3-Q require a pipeline to provide additional, detailed information regarding the pipeline's costs and revenues, including a reconciliation of gas supplied by shippers for compressor fuel and gas losses; disaggregation of certain cost data; provision of additional information related to affiliate transactions; and the distinction between services provided at discounted or negotiated rates and costs recovered through incremental, as opposed to rolled-in, rates. The Commission believes that all of the proposed changes will better facilitate the forms users' ability to make a meaningful assessment of the pipeline's cost of service and current rates. FERC has endeavored, however, to achieve a balance between the benefits these changes will facilitate and the imposition of any additional

23 The records indicated that as many as 15 major and 20 nonmajor gas pipelines have not filed a section 4 rate case in more than a decade. Also, although INGAA contends that pipeline rate cases are quite common, a review of the cases cited by INGAA reveals that most were filed because prior settlement agreements required the filing.

burden on the pipelines. Most of the information requested is data that is maintained by the pipeline and can be transferred to existing and new schedules. In addition, as discussed below, the Commission is proposing the eventual elimination of Form 11, which would lessen pipelines' filing requirements.

Several schedules are being added to Form 2-A as well as to Form 2. The Commission regulates 44 pipelines that are classified as "nonmajor" and required to file Form 2-A. It is no less important that customers of pipelines classified as nonmajor be provided with the information the Commission proposes to add to Form 2. Form 2-A filers now provides less data than do Form 2 filers. As with Form 2, the information the Commission is adding to Form 2-A is information FERC deems necessary to enable customers, state commissions, and the Commission to assess existing pipeline rates. Complaints regarding the dearth of data have been made by customers of both major and nonmajor pipelines and FERC believes all are entitled to the same information.[24]

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

These forms provide information concerning a company's past performance and its future prospects, information compiled using a standard chart of accounts contained in the Commission's Uniform System of Accounts (USofA).[25] The forms contain schedules which include a basic set of financial statements: Comparative Balance Sheet, Statement of Income and Retained Earnings, Statement of Cash Flows, and the Statement of Comprehensive Income and Hedging Activities. Supporting schedules containing supplementary information are filed, including revenues and the related quantities of products sold or transported; account balances for various operating and maintenance expenses; selected plant cost data; and other information.

The information collected in the forms is used by Commission staff, state regulatory agencies and others in the review of the financial condition of regulated companies. The information is also used in various rate proceedings, industry analyses and in the Commission's audit programs and as appropriate, for the computation of annual charges based on certain schedules contained on the forms. The Commission provides the information to the public, intervenors and all interested parties to assist in the proceedings before the Commission.

In addition, the FERC Annual and Quarterly Report Forms provide the Commission, as well as others, with an informative picture of the jurisdictional entities' financial condition along with other relevant data that is used by the Commission in making economic judgments about the entity or its industry. For financial information to be useful to the Commission, it must be understandable, relevant, reliable and timely. As financial reporting has evolved over the years,

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24 See, e.g., Southwest Gas, 117 FERC at P 4 (complaint filed by Form 2-A users).

25 See 18 CFR Part 201.

users of financial information have been willing to forgo some precision in reliability for the ability to obtain the information on more timely intervals, such as quarterly reporting.

The use of a uniform chart of accounts permits natural gas companies to account for similar transactions and events in a consistent manner, and communicate those results to the Commission on a periodic basis.

Additionally, the uniformity helps to present accurately the entity's financial condition and produces comprehensive data related to the entity's financial history helping to act as a guide for future action. The uniformity provided by the Commission's chart of accounts and related accounting instructions permits comparability and financial statement analysis of data provided by jurisdictional entities. Comparability of data and financial statement analysis for a particular entity from one period to the next, or between entities, within the same industry, would be difficult to achieve if each company maintained its own accounting records using dissimilar accounting methods and classifications to record similar transactions and events.

The requested data is designed to provide the Commission and pipeline customers with information that will aid their ability to make a reasonable assessment of a pipeline's cost of service. Along the same lines, the requested data is not the functional equivalent of a cost and revenue study. Therefore, the revised Form 2 will not be used to limit an entity's rights under the NGA and the Commission's regulations. Nor will the revised Form 2 change FERC's obligation to rule on complaints, petitions, or other requests for relief based on a full record and substantial evidence.

In summary, without this information the Commission will not be able to respond and make decisions in a timely manner particularly to rapidly changing financial conditions of entities subject to its jurisdiction.

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

The Commission has made available to all Form 2, 2-A and 3Q respondents, a web-based, Windows submission software necessary to file electronically through a doorway found on the FERC web site at http://www.ferc.gov/docs-filing/eforms/form-2/elec-subm-soft.asp. Presently, all respondents use this software and doorway access. Order No. 581 changed Form 2-A into a subset of Form 2. As the schedule pages in 2-A are identical to those in Form 2, the electronic filing instructions for the two forms have been consolidated into a single document. The Commission has adopted user friendly electronic filing formats and software to facilitate these required formats and software in order to generate the required electronic filings. (See Section 385.2011 of the Commission's regulations.) (The Form 2/2A Software has been tested and will function correctly with Windows XP, Windows 2000, Windows 95 & Windows 98. The application has been updated to be compatible with text cut from Office 2000 documents and pasted into Footnotes and Notes to the Financials.) The Form 2/2A Submission System

(F2SS) uses HTTP (to get the list of respondents for initial creation of a user's database), FTP Receive (to check for and deliver F2SS software updates) and FTP Send for a user to submit a filing. These are common Internet Communication Protocols.

To improve access to FERC-held financial information, the Commission is making it easier for users to electronically access financial information filed with the Commission. It is also the Commission's intent to collaborate with the SEC to establish new web links between the two agencies respective web home pages so that all users can access FERC-held financial information in a timely and efficient manner.

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**

The Commission's 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. The Commission's staff is continuously reviewing its various filings in an effort to alleviate duplication.

While some jurisdictional entities may file similar information with the Securities and Exchange Commission (SEC), the level of detail concerning assets, liabilities, stockholders' equity along with the revenues, expenses, gains and losses is different for the Commission and the SEC. The financial statements filed with the SEC are on a consolidated, or parent company basis. The Commission notes that a majority of the jurisdictional entities that it regulates file financial information with the SEC that consolidates their assets, liabilities and profits with their parent company, or combine the regulated and unregulated operations in the reports to the SEC. While consolidation is appropriate for SEC reporting, the Commission requires more detailed information concerning the results of operations, and the financial position of each jurisdictional entity in order to meet its regulatory needs. Therefore, the Commission has required jurisdictional entities to file financial information on a jurisdictional entity level basis using a uniform system of accounts.

The Commission finds no merit in INGAA's argument filed in response to the NOI that much of the data sought by Form 2 users is available elsewhere, in forms and filings made before state agencies, the Commission, other federal agencies, or in the pipeline's tariff. The Commission does not believe that users should have to piece together and interpret from myriad sources information that is readily available to the pipeline and can, without a substantial increase in burden, be incorporated into Forms 2 and 2-A. Also, much of the information cited by INGAA is not coterminous with Form 2 data and cannot be used for purposes of comparison.

Natural gas pipelines operate in all of the United States and are subject to state commission regulation. Each state has its own regulatory requirements which may be similar or different from the Commission's requirements. Many states have adopted requirements similar to the Commission's requirements while some states have not. The states regulate intrastate natural gas operations whereas the Commission regulates interstate operations. These data requirements differ. However, the Commission works with the National Association of Regulatory Utility Commissioners whenever possible to adopt requirements which attempt to limit the burden on impacted entities.

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

The Commission believes that the reporting requirements contained in the final rule will not create significant burdens to industry. The Commission believes that the benefits of greater transparency and understandability of financial statements to both the Commission and the public far outweigh the costs to an individual company. As the Commission noted above, most of the information requested is data that is maintained by the pipeline and can be transferred to existing and new schedules. The Commission finds that the burden should be minimal. It is standard practice for companies to compile and summarize accounting transactions on a monthly basis, or even more frequently depending on the operational need for selected data. Therefore, the information needed to compile quarterly financial statements is readily available. However, if the reporting requirements represent an undue burden on small businesses, the affected entity may seek a waiver of the disclosure requirements from the Commission. The Commission believes that the information specified in the final rule is the minimum necessary to provide a meaningful review of financial conditions and would impose the least possible burden on entities.

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

The proposed data requirements, as adopted in the final rule will require changes to existing Form Nos. 2, 2-A and 3Q which are required by FERC to be submitted annually and for the 3Q quarterly. Annual reporting is consistent with the reporting to the companies' own management, the Internal Revenue Service, state and other Federal agencies' (including Office of Management and Budget) (OMB) requirements. Likewise, the reporting requirements for quarterly reports are consistent with and compatible to the reporting of companies to their own management as discussed in this submission. OMB's guidelines also states at 5 CFR 1320.5(d)(2)(1) call for agencies to require respondents report information no less than quarterly and the proposed requirements meet that guideline.

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

The proposed program meets all of OMB's section 1320.5 requirements.

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 a rulemaking notice be published in the Federal Register, thereby allowing all jurisdictional entities, 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.

The Commission published the proposed rule in the Federal Register. Comments were due 45 days from the publication date in the Federal Register. The Commission received 17 comments in response to the proposed reporting requirements which ranged from favorable to those seeking yet more detailed information, and a few who argued that the proposed modifications were unnecessary or burdensome.[26] In general, most commenters applauded the Commission's efforts to improve the quality of the financial forms. After careful consideration of the comments received, the Commission is adopting the changes and revisions as proposed in the NOPR with certain modifications and clarifications as discussed below.

The NOPR discussed a concern raised by the Interstate Natural Gas Association of America (INGAA) that the proposed changes to reporting requirements could blur the distinction between sections 4 and 5 of the NGA, and invited comments on this issue.[27] A few commenters addressed this issue. Dominion Resources, Inc. (Dominion) commended the Commission for recognizing this concern and requested that the Commission keep the concern in mind when finalizing the rule.[28] The Michigan Public Service Commission (MPSC) urged the Commission to reject any argument that the reporting requirements proposed in the NOPR would improperly shift the burden of proof under section 5 of the NGA by requiring pipelines to justify their existing rates outside the context of a section 4 rate case.[29] The MPSC stated that the NGA explicitly gives the Commission the authority to require periodic reporting as necessary for purposes of administering the NGA.[30] The Process Gas Consumers Group (PGC) stated that the NOPR is proposing greater transparency and accuracy, which are essential to the Commission's oversight obligations and neither of which could reasonably impact the burden of proof in section 5 proceedings.[31]

The Kansas Corporation Commission (KCC) and Apache Corporation (Apache)

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26 A list of commenters is attached as Appendix B.

27 NOPR at P 28.

28 Dominion NOPR Comments at 4.

29 MPSC NOPR Comments at 4.

30 MPSC NOPR Comments at 4.

31 PGC NOPR Comments at 5.

expressed concern that the ability of a pipeline to file a section 4 rate case even after parties have filed a section 5 complaint, as transpired in the recent Southwest Gas proceeding, may serve as a disincentive for some parties to file section 5 complaints.[32] Apache recommended that the Commission add to the Form 2 and 2-A a cost and revenue summary page that would provide the Commission and interested parties a clear view of whether a pipeline's filed rates are just and reasonable.[33] The KCC agreed that the possibility that a pipeline may file a section 4 rate case after a complaint has been lodged will make potential complainants hesitant about incurring the costs of a section 5 complaint.[34] The KCC further noted the fact that any relief under a section 5 proceeding is limited since it is prospective only and urged the Commission to reinstate a periodic rate-refiling requirement as a condition to approval of pipeline blanket certificates.[35]

Commission Response

As an initial matter, the Commission has no intention of obscuring the distinction between sections 4 and 5 of the NGA by any changes implemented here to the financial forms filed by natural gas companies. Therefore, the Commission will not reinstate a periodic rate review absent a concomitant benefit as was the case when, in exchange for recovering purchased gas costs through a tracker, pipelines were required to restate their rates every three years.[36] In addition, the Commission rejects the proposal to order companies to file cost and revenue studies as part of these forms. Also, the changes being implemented here do not affect existing rates nor change any rate on file. In like vein, the Commission cannot alter the rights and obligations of pipelines and their customers under sections 4 and 5 of the NGA. Under section 4 of the NGA, a pipeline has the right to file a rate case at any time. The Commission cannot compel a pipeline to file under section 4, nor can it preclude it from filing under section 4 for any reason, including the presence of a section 5 complaint. The pipeline can agree to bind itself, for example through an agreement to a rate moratorium in a rate case settlement, but the Commission does not have the power to prohibit a pipeline from filing a rate case. The requested data is designed to provide the Commission and pipeline customers with information that will aid their ability to make a reasonable assessment of a pipeline's cost of service. Greater transparency is essential to the Commission's oversight responsibilities and, as implemented here, will not affect the burden of proof in section 5 proceedings. A party filing a section 5 complaint would still have the burden to show why the information in the

32 KCC NOPR Comments at 15-16; Apache NOPR Comments at 2.

33 Apache NOPR Comments at 2.

34 KCC NOPR Comments at 17.

35 KCC NOPR Comments at 17-18.

36 See Public Service Commission of the State of New York v. FERC, 866 F.2d 487, 492 (D.C. Cir. 1989).

Commission's financial forms support an allegation that the pipeline's existing rates are unjust and unreasonable. Stated briefly, the changes adopted in the final rule will not be used to limit an entity's right under the NGA and the Commission's regulations. Nor will the changes to the forms change the Commission's obligation to rule on complaints, petitions, or other requests for relief based on a full record and substantial evidence.

Implementation

The NOPR proposed an effective date of January 1, 2008. Accordingly, companies subject to the new requirements would file their revised Form 3-Q beginning with the first quarter of 2009 and their revised Forms 2 and 2-A in 2009 for calendar year 2008. Form 11 data will continue to be collected through 2008 and pipelines will be required to file the form until February 28, 2009, when the revised 3-Q filings will commence.[37] While INGAA did not object to the Commission's proposed effective date, it requested that the Commission recognize that meeting this deadline may be difficult for some pipeline companies.[38] INGAA stated that although pipelines will not be required to file their new annual Forms 2 and 2-A reflecting revised data for 2008 until 2009, the changes will require modifications to accounting and computer systems that will need to be in place on January 1, 2008, to capture data for the full year 2008.[39] Enbridge requested that the effective date of the final rule be revised to the first day of the first full calendar quarter that falls at least 90 days after the Commission's issuance of a final rule.[40]

Commission's Response

The Commission proposed the January 1, 2008 effective date so that pipelines' revised Form 2 and 2-A filings, reflecting an entire year of data, could be filed in 2009. Enbridge's suggestion that the effective date be changed to a mid-year calendar quarter would mean that the new Form 2 data for filing year 2009 would be incomplete. The proposals contained in the September 20, 2007 NOPR have not changed substantially in the final rule. The reporting of some information, deemed burdensome by pipeline filers, has been modified. Most of this data will have been collected by the pipeline during the first quarter of 2008 and the Commission does not believe that the necessary changes warrant any delay in the filings required for 2009.

Elimination of Form 11

The NOPR sought comments on whether the information in FERC No. 11, Natural Gas

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37 Form 11 is scheduled to expire on October 31, 2008. In a separate docket, the Commission is seeking public on continuing Form 11 for an additional year in order that it can collect a full year of data for 2008.

38 INGAA NOPR Comments at 2.

39 Id.

40 Enbridge NOPR Comments at 10.

Pipeline Company Quarterly Statement of Monthly Data (Form 11) is relied upon by pipeline customers. The NOPR also asked whether the information reported in Form 11 could, alternatively, be incorporated into Form 3-Q. Form 11 is a quarterly filing made by natural gas companies whose gas transported or stored for a fee exceeded 50 million Dth in each of the three previous years.[41] In comments on the NOI, Williston had suggested that Form 11 be eliminated and that the information required in Form 11 be incorporated into Form 3-Q.[42]

Most commenters expressed a need for the information reported in Form 11. NGSA, Calpine, the IPPA and TIPRO opposed the elimination of the form unless the information reported is added to Forms 2 and 3-Q, with the assurance that this alternative would maintain the monthly volume detail currently provided in Form 11.[43] NGSA stated that the information reported in Form 11 is the only source of contract demand and volume information that enables customers to properly attribute costs to incremental services and design rates.[44] One commenter, Dominion, asserted that the information reported in Form 11 is unnecessary but stated that if the Commission deems that such information needs to be reported, Form 11 should be incorporated into Forms 2 and 3-Q.[45]

Commission Response

The comments indicate that Form 11 information is unique and useful for performing a reasonable rate assessment. The Commission agrees with NGSA and others that eliminating Form 11 without incorporating the detail in other forms would remove from consideration data that is not available elsewhere. The Commission believes that the most efficient way to collect the information now reported in Form 11 is to add a new schedule to Forms 2 and 3-Q, entitled "Monthly Quantity & Revenue Data by Rate Schedule," to require the reporting of information now contained in Form 11. An additional benefit of this change in reporting is that the data collected in Form 11 can now be filed using Commission issued software as part of the Form 2 filing rather than as a separate submission. Accordingly, FERC Form 11 will be terminated on February 29, 2009, the date that pipelines will be required to file a revised Form 3-Q.

Affiliate Transactions

The NOPR proposed that pipelines be required to provide detailed information regarding affiliate transactions. The Commission agreed with the form users' assertions that currently, Forms 2 and 2-A do not require any reporting of affiliate transactions and that disclosures of

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41 See 18 CFR 260.3.

42 See Williston Basin NOI Comments at 6-7.

43 NGSA NOPR Comments at 7-8; Calpine NOPR Comments at 11; ITPI NOPR Comments at 3-4.

44 NGSA NOPR Comments at 7-8.

45 Dominion NOPR Comments at 11-12.

affiliate transactions are needed to prevent cross-subsidization between regulated and unregulated companies. The NOPR proposed to add a new schedule, page 358, to both Forms 2 and 2-A entitled "Transactions with Associated (Affiliated) Companies" that would require filers to report affiliate transactions. The NOPR proposed that filers be required to report the following: (1) a description of the good or service transacted; (2) the name of the associated (affiliated) company; (3) the FERC account charged or credited; and (4) the amount charged or credited. The NOPR proposed that where amounts billed to or from an affiliate are based on an allocation process, filers be required to explain the basis of the allocation in a footnote. The NOPR also proposed to amend the existing instructions for page 357, Charges for Outside Professional and Other Consultative Services, to exclude affiliate transactions, and remove the existing $250,000 threshold for reporting services.

INGAA, AGA, Williston, Kinder Morgan Interstate Pipelines (Kinder Morgan) and other commenters asked the Commission to reconsider the proposed removal of the $250,000 cost threshold for the reporting of non-affiliated "Charges for Outside Professional and Other Consultative Services" on page 357 of Form 2.[46] INGAA and Williston asserted that eliminating the threshold will add a significant burden to Form 2 filers without adding a significant benefit to the form's users.[47] For similar reasons, AGA and Williston also recommended that the $250,000 cost threshold be applied to the new schedule for affiliate transactions.[48] AGA requested that the Commission clarify that the required affiliate information be limited to transactions between a jurisdictional entity and its affiliates and not include transactions solely between affiliated entities that are not subject to the Commission's reporting requirements.[49] Dominion asked the Commission to clarify that when an affiliate provides a service on an on-going basis, only a single line entry describing that service is required.[50]

Commission Response

The Commission agrees that elimination of the $250,000 cost threshold for page 357 of Forms 2 and 2-F and the absence of a similar threshold for the new schedule for reporting affiliate transactions may add a substantial burden to the forms' filers. Accordingly, the Commission will reinstate the $250,000 cost threshold on page 357 (Charges for Outside Professional and Other Consultative Services) and add an instruction to the new schedule on

46 INGAA NOPR Comments at 3-4; AGA NOPR Comments at 6; Williston NOPR Comments at 3; Kinder Morgan NOPR Comments at 3-4; Enbridge Energy Partners (Enbrdige) NOPR Comments at 7-9; Dominion NOPR Comments at 11.

47 INGAA NOPR Comments at 4; Williston NOPR Comments at 3-4.

48 AGA NOPR Comments at 6; Williston NOPR Comments at 3-4.

49 AGA NOPR Comments at 5-6.

50 Dominion NOPR Comments at 10-11.

page 358 (Transactions with Associated (Affiliated) Companies) to require reporting of amounts in excess of $250,000. However, in order to ensure full reporting of these expenses, the Commission will add a requirement for pages 357 and 358 that the filer must provide the total amount of all services amounting to $250,000 or less. As requested by AGA, the Commission clarifies that affiliate transactions reported are limited to transactions between a jurisdictional entity and its affiliates. Finally, in response to Dominion's request, the Commission clarifies that when an affiliate provides an on-going service, only a single line entry describing that service is required.

Acquisition and Disposition of Gas: Shipper-supplied Gas

In the NOPR, the Commission noted that despite current accounting and reporting requirements for gas used in operations, gas lost, and gas sold, Forms 2 and 2-A users cannot readily determine the disposition and value of any shipper-supplied gas that exceeds the pipeline's operational needs or the source and cost of any gas acquired to meet deficiencies in shipper-supplied gas.[51] Comments on the NOI identified information regarding the pipeline's fuel retainage percentage as particularly lacking in detail. The complainants in the National Fuel case, referenced above, asserted that the principal reason for the pipeline's alleged excess revenue was due to its retention of more than twice as much fuel from shippers than is necessary to operate the system and that it then sold and retained all revenues from those sales.[52] In light of these concerns, the Commission proposed the addition of a new schedule to Forms 2, 2-A, and 3-Q, which would require the pipeline to report the following: (1) the difference between the volume of gas received from shippers and the volume of gas consumed in pipeline operations each month; (2) the disposition of any excess and the accounting recognition given to such disposition, including the basis of valuing the gas and the specific accounts charged or credited; and (3) the source of gas used to meet any deficiency, including the accounting basis of the gas and the specific account(s) charged or credited.[53] In addition, the NOPR proposed to add page 520 (Gas Account-Natural Gas) to Form 3-Q in order to provide more timely reporting of the quantity of natural gas received and delivered by the pipeline.[54] The NOPR also proposed to require pipelines to provide in a footnote to page 520, the volumes of gas purchased applicable to each of the gas pipeline expense accounts.[55]

Most commenters supported the addition of this information to Forms 2, 2-A, and 3-Q. INGAA and Williston Basin Interstate Pipeline Company (Williston), however, requested that the Commission revise pages 521a and 521b to remove the monthly reporting requirement and

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51 NOPR at P 37.

52 See National Fuel, 115 FERC ¶ 61,299 at P 8.

53 NOPR at P 39.

54 Id.

55 Id. See 18 CFR Part 201, Account Nos. 800-05.

replace it with a quarterly reporting requirement.[56] INGAA also requested that the Commission revise its proposal to remove the requirement that pipelines categorize the discrete offsetting gas transactions of any excess or deficiency related to shipper supplied gas.[57] Dominion requested that the Commission modify the proposal to require the new reporting on shipper-supplied gas on only an annual basis and not in quarterly reports.[58]

The American Gas Association (AGA) supports the NOPR's proposal to require this information but believes that greater clarity can be achieved if the Commission requires the information to be broken out by function (e.g., transportation, storage, gathering, etc.) and to include, by function, the amount of fuel that has been waived, discounted or reduced as part of a negotiated rate agreement.[59] The Natural Gas Supply Association (NGSA) requests that a column be added to proposed page 521 to require pipelines to identify the specific accounts being used to record the various sources and disposition of fuel gas.[60] In NGSA's view, this information would enable users to reconcile the volumes broken out by account reported on proposed page 521 to data recorded elsewhere in Forms 2, 2-A and 3-Q.[61] Calpine Corporation (Calpine) requests that the Commission require the fuel gas accounts to be broken down by month so that these costs can be reconciled with those reported in other filings such as annual fuel tracker reports.[62]

<u>Commission's Response</u>

As stated in the NOPR, the Commission is concerned about the increased impact on the pipeline's cost of service resulting from rising gas prices.[63] The escalation of gas prices coupled with the decline of section 4 rate reviews has made this an important issue in the pipeline's cost of transportation. Currently, Forms 2 and 2-A users cannot determine the disposition and value of any shipper-supplied gas that exceeds the pipeline's operational needs or the source and cost of any gas acquired to meet deficiencies in shipper-supplied gas. While the Commission recognizes INGAA's desire that the data be reported on a quarterly and not monthly basis, the Commission agrees with Calpine that monthly data is necessary for the purpose of comparing and attempting to reconcile these costs with other routine pipeline filings such as annual fuel

56 INGAA NOPR Comments at 5; Williston NOPR Comments at 5-6.

57 INGAA NOPR Comments at 5.

58 Dominion NOPR Comments at 7.

59 AGA NOPR Comments at 5.

60 NGSA NOPR Comments at 5.

61 <u>Id.</u>

62 Calpine NOPR Comments at 5.

63 <u>See</u> NOPR at P 38.

tracker reports. In addition, INGAA objects to the requirement that pipelines categorize the discrete offsetting gas transactions relating to any excess or deficiency shipper supplied gas. The Commission deems this information critical to the clarity and transparency needed to support a reasonable analysis of gas costs. The information broken out by function (e.g., transportation, storage, gathering, etc.) sought by AGA is available in Form 2 at page 520. On Page 520 (Gas Account), pipelines are required to provide detailed information regarding gas received and delivered by the pipeline, identified by function and account number.

Regarding NGSA's request that a column be added to page 521 to require pipelines to identify the specific accounts being used to record the various sources and disposition, the Commission rejects it as unnecessary. Pages 521a and 521b already require in columns (d) and (e) that the specific account(s) be identified. The NOPR's proposals are designed to provide needed transparency but also to reflect a fair balance between the need for the information and the additional burden on the pipeline. The Commission believes that the new schedules (pages 521a and 521b) as originally proposed in the NOPR reflect this balance. Accordingly, the proposal is adopted in the final rule as outlined in the NOPR.

9. EXPLAIN ANY PAYMENTS 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 considers both its annual and quarterly reporting systems to be public information and, therefore, generally not confidential. The benefits of a standardized and uniform accounting system would not be realized if the financial information once compiled were withheld from public view. To ensure that these benefits are realized, and to provide transparency of economic consequences to all affected interests, the Commission has prescribed a program of periodic financial reporting that makes financial and non-financial information publicly available to all interested parties.

However, the Commission will entertain specific requests for confidential treatment to the extent permitted by law pursuant to 18 C.F.R. § 388.112.

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

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

12. ESTIMATED BURDEN COLLECTION OF INFORMATION

There are an estimated 44 Nonmajor and 74 Major natural gas companies that will be affected by the Final Rule, for a total of 118 affected respondents.[64] The change in annual public reporting burden per respondent for Form 2, Form 2-A, and Form 3-Q for Major and Form 3-Q for Nonmajor natural gas companies is estimated to be 53(Form 2), 135 (Form 2-A), 30, and 21 (Form 3Q) additional hours respectively. These estimates translate into 83 additional hours for Major natural gas companies annually and 156 additional hours for Nonmajor natural gas companies annually.

Data Collection Form	Number of Respondents	Change in the Number of Hours per Respondent	Filing Periods	Change in the Total Annual Hours
(a)	(b)	(c)	(d)	(e)=(b)x(c)x(d)
FERC Form 2	74	53	1	3,922
FERC Form 2-A	44	135	1	5,940
FERC Form 3-Q	118 (74_m, 44_{nm})	10_m 7_{nm}	3	3,144 ($2{,}200_m$,924_{nm})
FERC Form 11	74	-3	4	(-888)
Relevant Totals		83_m, 156_{nm}		12,118 (5244_m,6864_{nm})

nm= nonmajor company m=major company

Total Annual Hours for Collection:
(Reporting + record keeping, (if appropriate)) = 12,118 hours.

DATA REQUIREMENT Form 2		Current OMB Inv.*	Proposed In Nopr	Proposed In Final	NEW OMB Inv.
Estimated number of respondents	:	71	74	74	74
Estimated number of responses per respondent	:	1	1	1	1
Estimated number of responses per year	:	71	74	74	74
Estimated number of hours per response	:	1,570	50	53	1,623
Total estimated burden (hours per year)	:	111,470	3700	3922	120,102

Program change in industry burden hours : + 3,922
Adjustment change in industry burden hours : + 4,710
* Based on OMB's Active Information Collections
as of March 21, 2008.

64 These numbers are based on the most recent filings.

DATA REQUIREMENT Form 2-A	Current OMB OMB Inv.*	Proposed In Nopr	Proposed In Final	NEW OMB Inv.

FERC Forms 2, 2-A, 3Q & 11 RM07-9-000, Final Rule, Issued March 21, 2008

Estimated number of respondents :	43	44	44	44
Estimated number of responses per respondent:	1	1	1	1
Estimated number of responses per year :	43	44	44	44
Estimated number of hours per response :	115	135	135	247.39
Total estimated burden (hours per year) :	4,945	5,940	5,940	10,885

Program change in industry burden hours : + 5,805
Adjustment change in industry burden hours : + 135
* Based on OMB's Active Information Collections
as of March 21, 2008.
#rounded off.

NEW DATA REQUIREMENT Form 3-Q	Current OMB OMB Inv.*	Proposed In Nopr	Proposed In Final	OMB Inv.
Estimated number of respondents :	353	118	118	357
Estimated number of responses per respondent:	3	3	3	3
Estimated number of responses per year :	1,059	354	354	1,071
Estimated number of hours per response :	161#	8.88	8.88	164.4
Total estimated burden (hours per year) :	171,011	3,144	3,144	176,087

Program change in industry burden hours : + 3,144
Adjustment change in industry burden hours : + 1,932
* Based on OMB's Active Information Collections
as of March 21, 2008.
#rounded off

NEW DATA REQUIREMENT Form 11	CURRENT OMB INV.*	PROPOSED IN NOPR	PROPOSED IN FINAL	OMB INV.
Estimated number of respondents :	63	74	74	74
Estimated number of responses per respondent:	4	4	4	4
Estimated number of responses per year :	252	296	296	296
Estimated number of hours per response :	3	- 3	-3	-3
Total estimated burden (hours per year) :	756	-888	-888	-888

Program change in industry burden hours : - 756
Adjustment change in industry burden hours : - 132
* Based on OMB's Active Information Collections
as of March 21, 2008.

While the Final Rule increases the estimated total annual burden by 13,006 hours, the Rule eliminates Form 11 which reduces the total annual reporting burden by an estimated 888 hours. If this change is taken into consideration, the annual burden increase would be 12,118 hours.

<u>Comments on Reporting Burden</u>

One commenter, Dominion, stated that while it applauds the Commission for striving to achieve a balance between the benefits these revisions will achieve, in assessing pipeline rates, and the imposition of any additional burden on the pipeline, it believes the estimated hours may be too low.[65] No other commenters offered burden estimates.

Dominion estimates that the annual report will require an additional 60 hours (the Commission estimates 53 hours) and that preparation of information for Form 3-Q would be about 23 hours per quarter (the Commission estimates seven hours).[66] Dominion also estimates that additional time will be required in the first year to implement, including the required computer programming, the changes in reporting requirements.[67]

<u>Commission's Response:</u>

The Commission agrees that some time will be required to implement the changes, however, the Commission has provided the companies with the software to prepare the financial reports and the Commission believes Dominion's estimates are excessive. Most of the data required by the Final Rule is information that is already collected by the pipeline company. Certain of the schedules added to Form 3-Q are schedules that are currently in the annual forms and require only that this data be reported on a quarterly basis in addition to the annual reports. Further, the Final Rule has modified some requirements that will ease considerably the reporting burden, that is, reinstating the $250,000 cost threshold for page 357 of Form 2, and instating the same $250,000 threshold for new reporting on affiliate transactions on page 358. In addition, the Final Rule eliminates Form 11 which was previously filed in hard copy and incorporates that information into the annual and quarterly forms, thereby allowing the data to be submitted using Commission software. This, too, produces a substantial decrease in burden. The Commission believes that the new, or revised, requirements strike a fair balance between the benefits these changes will facilitate and the imposition of any additional burden on the pipeline.

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

The estimated annualized filing cost to respondents related only to the reporting requirements as proposed in the Final Rule are as follows:

Data	**Total Hours**	**Employee**	**Estimated**

65 Dominion NOPR Comments at 4.

66 <u>Id.</u>

67 <u>Id.</u>

FERC Forms 2, 2-A, 3Q & 11 RM07-9-000, Final Rule, Issued March 21, 2008

Requirement Number	Respondent Burden		Hours Per Year	x	Salary[68] Per Year	=	Total Cost
FERC Forms 2, 2-A, 3Q & 11	13,006		2,080		$126,384		$790,265.
FERC Forms 2, 2-A, 3Q & minus Form 11	12,118		2,080		$126,384		$736,308

14. **ESTIMATED ANNUALIZED COST TO FEDERAL GOVERNMENT**

Data Requirement Number	Analysis of Data[69] (FTEs)		Estimated Salary Per Year	x	FERC Forms Clearance Per Year	=	Total Cost One Year's Operation
FERC Forms 2, 2-A , 3Q & 11	3	x	$126,384	+	$ 6,153		$385,305.

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

The information maintained and collected under the requirements of Part 260 is essential to the Commission's oversight duties. The data now reported in the forms does not provide sufficient information to the Commission and the public to permit an evaluation of the filers' jurisdictional rates. Since the triennial restatement of rates requirement was abolished and pipelines are no longer required to submit this information, the need for current and relevant data is greater than in the past. The information collection proposed in the Final Rule will increase the forms' usefulness to both the public and the Commission. Without this information, it is difficult for the Commission and the public to perform an assessment of pipeline costs, and thereby help to ensure that rates are just and reasonable.

The Commission has determined that dependable, affordable, competitive wholesale energy markets require an adequate infrastructure, balanced market rules, and vigilant oversight. This proposed rule helps in achieving the goal of vigilant oversight by providing the

68?/ The "salary" per employee with entities regulated by the Commission is assumed to be the same as per Commission program staff based on its appropriated budget for fiscal year 2008. The $126,384 consists of $102,028 in salaries and benefits and $24,356 in overhead.

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

Commission with more timely, relevant, reliable and understandable information from jurisdictional participants in the energy markets.

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

The Commission has not published the information contained on FERC Forms 2, 2-A and 3Q & 11. The publication of energy data became the responsibility of the Energy Information Administration when the Commission succeeded the Federal Power Commission per the Department of Energy Organization Act in October 1977. The primary purpose of the information collected on these forms is to support the Commission's regulatory activities. However, copies of the forms submitted to the Commission are available on its Internet web site or through its Public Reference Room.

17. **DISPLAY OF EXPIRATION DATE**

All forms display both the OMB control number and the expiration date. In addition, this information is also displayed in the upper right-hand corner of the cover page in the appropriate electronic versions for these forms.

18. **EXCEPTIONS TO THE CERTIFICATION STATEMENT**

There is an exception to the Paperwork Reduction Act submission certification. Because the data collected on these forms is not used for statistical purposes, the Commission does not as stated in item no. 19(j) use "effective and efficient statistical survey methodology." The information collected is case specific to each respondent. The Commission’s interpretation of how this criterion is applied is that it does not use statistical sampling. The Commission may however, employ statistical techniques in it’s economic analyses of the data requirements.

B. COLLECTION OF INFORMATION EMPLOYING STATISTICAL METHODS

These are not as noted above, collections of information employing statistical methods.