Supporting Statement for

FERC-549D, Contract Reporting Requirements of Intrastate Natural Gas Pipelines

As Proposed In Docket No. RM09-2-000

(Notice of Proposed Rulemaking Issued July 16, 2009)

The Federal Energy Regulatory Commission (Commission) requests Office of Management and Budget (OMB) review and approval of **FERC-549D, Contract Reporting Requirements of Intrastate Natural Gas Pipelines. FERC-549D** is a new information collection requirement that amends the Commission's regulations, section 284.126(b). Section 284.126(b) covers annual transportation contract reporting requirements for Natural Gas Policy Act (NGPA) section 311 intrastate pipelines and Hinshaw pipelines. FERC proposes in a Notice of Proposed Rulemaking (NOPR) to make those reporting requirements more comparable to the §284.13(b) daily posting requirements for interstate pipelines.

The subject data collection will be affected because the proposed regulations will require intrastate pipelines to amend their filing requirements by (1) changing the existing annual §284.126(b) transactional reports to be filed on a quarterly basis, (2) require that the reports include certain additional types of information and cover storage transactions as well as transportation transactions, (3) establish a procedure for the §284.126(b) reports to be filed in a uniform electronic format and posted on the Commission's web site, and (4) hold that those reports must be public and may not be filed with information redacted as privileged.

We estimate that the total annual reporting-burden related to the subject NOPR will be 1,750 hours. This is equal to an average of 3.5 hours per company under FERC-549D if the Commission adopts the changes proposed in the subject NOPR in a final rule.

All of the proposed changes in the subject NOPR are provided for under Title III, section 311, of the Natural Gas Policy Act (NGPA) and section 1 of the Natural Gas Act.

Background

The Commission currently has less stringent transactional reporting requirements for NGPA section 311 intrastate pipelines and Hinshaw pipelines[1], than for interstate pipelines. Section 284.126(b) of the Commission's Part 284 regulations requires NGPA section 311 and Hinshaw pipelines to file with the Commission annual reports of their transportation transactions, excluding storage. Those reports include basic information about each transaction, including the identity of each customer, the type of service provided, the volumes of service provided, and the total revenues received for the shipper, with a separate statement of

---

1 Section 1(c) of the Natural Gas Act (NGA) exempts from FERC's NGA jurisdiction pipelines which transport gas in interstate commerce if (1) they receive natural gas at or within the boundary of a state, (2) all the gas is consumed within that state and (3) the pipeline is regulated by a state Commission. This exemption is referred to as the Hinshaw exemption after the Congressman who introduced the bill amending the NGA to include § 1(c). See ANR Pipeline Co. v. Federal Energy Regulatory Comm'n, 71 F.3d 897, 898 (1995) (briefly summarizing the history of the Hinshaw exemption).

reservation and usage revenues for firm service. By contrast, section 284.13(b) of the Part 284 regulations requires interstate pipelines to post information for both transportation and storage transactions on their internet websites no later than the first nomination under each transaction. Also, section 284.13(b) requires the posting of certain additional types of information, including the rate charged under each contract, the duration of the contract, the receipt and delivery points and zones or segments covered by each contract, and whether there is an affiliate relationship between the pipeline and the shipper.

Section 284.126(c) requires section 311 intrastate pipelines and Hinshaw pipelines to file a semi-annual report of their storage activity within 30 days of the end of each complete storage and injection season. This requirement is not significantly different than the section 284.13(e) requirement that interstate pipelines file such semi-annual reports of their storage activity.

Subject NOPR (Docket No. RM09-2-000)

On July 16, 2009, the Commission issued a NOPR proposing to revise the contract reporting requirements for those natural gas pipelines that fall under the Commission's jurisdiction in accordance with section 311 of the Natural Gas Policy Act or section 1(c) of the Natural Gas Act.

In the NOPR, the Commission proposes to first, amend § 284.126(b) to require the quarterly reports to include certain additional information about each transaction not currently required by § 284.126(b). This information will include: (1) the rate charged under each contract, including a separate statement of each rate component, (2) the duration of the contract, (3) the primary receipt and delivery points covered by the contract, (4) the quantity of natural gas the shipper is entitled to transport, store, or deliver, and (5) whether there is an affiliate relationship between the pipeline and the shipper. The purpose of these reports is to allow shippers and others, including the Commission, to monitor transactions for undue discrimination and preference.

Second, the Commission proposes to require that the proposed § 284.126(b) quarterly reports include all storage transactions in addition to transportation transactions. Currently, § 284.126(b) only requires section 311 and Hinshaw pipelines to report information with respect to transportation transactions. The only information the Commission currently requires those pipelines to report with respect to storage transactions is the information included in the § 284.126(c) semi-annual storage activity report. Aside from the fact the storage activity report is only filed on a semi-annual, rather than a quarterly basis, it also does not include all of the information that the Commission is proposing to require to be included in the quarterly reports under revised § 284.126(b). For example, § 284.126(c) does not require section 311 and Hinshaw pipelines to report the rates provided for in each contract, the duration of each contract, or whether there is an affiliate relationship between the storage provider and its customer. In order to assure that section 311 and Hinshaw pipelines report the same information about storage transactions as transportation transactions and on the same schedule, the Commission proposes to revise section 284.126(b) to cover both transportation and storage transactions. Clearly, there is just as great a need for transparency of storage transactions as of transportation transactions.

Third, the Commission proposes to establish a procedure for the reports to be filed in a uniform electronic format and posted on the Commission's web site. Fourth, the Commission proposes to require that reports be public and not filed with information redacted as privileged. These proposals are intended to improve market transparency, without making it unduly burdensome for intrastate and Hinshaw pipelines to participate in interstate markets.

A. Justification

1. CIRCUMSTANCES THAT MAKE THE COLLECTION OF INFORMATION NECESSARY

NGPA section 311 authorizes the Commission to allow intrastate pipelines to transport natural gas "on behalf of" interstate pipelines or local distribution companies served by interstate pipelines "under such terms and conditions as the Commission may prescribe."[2] NGPA § 601(a)(2) exempts transportation service authorized under NGPA section 311 from the Commission's NGA jurisdiction. Congress adopted these provisions in order to eliminate the regulatory barriers between the intrastate and interstate markets and to promote the entry of intrastate pipelines into the interstate market. Such entry eliminates the need for duplication of facilities between interstate and intrastate pipelines. Shortly after the adoption of the NGPA, the Commission authorized Hinshaw pipelines to apply for NGA section 7 certificates authorizing them to transport natural gas in interstate commerce in the same manner as intrastate pipelines may do under NGPA section 311.[3]

Subpart C of the Commission's Part 284 open access regulations (18 C.F.R. §§ 284.121-126) implements the provisions of NGPA section 311 concerning transportation by intrastate pipelines. Section 284.224 of the regulations provides for the issuance of blanket certificates to Hinshaw pipelines to provide open access transportation service "to the same extent that, and in the same manner" as intrastate pipelines are authorized to perform such service by Subpart C. The Part 284, Subpart C, regulations require that intrastate pipelines performing interstate service under NGPA section 311 must do so on an open access basis.[4] However, consistent with the NGPA's goal of encouraging intrastate pipelines to provide interstate service, the

2 15 U.S.C. 3371(c).
3 Certain Transportation, Sales, and Assignments by Pipeline Companies not subject to Commission Jurisdiction under Section 1(c) of the Natural Gas Act, Order No. 63, FERC Stats. & Regs. ¶ 30,118, at 30,824-25 (1980).
4 See 18 C.F.R. §§ 284.7(b), 284.9(b) and 284.122.

Commission has not imposed on intrastate pipelines all of the Part 284 requirements imposed on interstate pipelines.[5] For example, when the Commission first adopted the Part 284 open access regulations in Order No. 436, the Commission exempted intrastate pipelines from the requirement that they offer open access service on a firm basis.[6] The Commission found that requiring intrastate pipelines to offer firm service to out-of-state shippers could discourage them from providing any interstate service, because such a requirement could progressively turn the intrastate pipeline into an interstate pipeline against its will and against the will of the responsible state authorities. Similarly, Order No. 636-B exempted intrastate pipelines from the requirements of Order No. 636.[7] Those requirements included capacity release, electronic bulletin boards (now internet websites), and flexible receipt and delivery points.

Requiring section 311 intrastate and Hinshaw pipelines to report this additional information concerning each transaction will make the reporting requirements for those pipelines more comparable to the transactional posting requirements for interstate pipelines. Section 284.13(b)(1) requires interstate pipelines to post similar information concerning contract rates, duration, receipt and delivery points, entitlements to service, and affiliate relationships.[8] Most of the remaining information which § 284.13(b) requires interstate pipelines to post, but the Commission is not proposing to require section 311 and Hinshaw pipelines to report, relates to capacity release, which section 311 and Hinshaw pipelines are not required to allow.

The proposed reporting requirements under FERC-549D are required to carry out the Commission's policies in accordance with the general authority in Sections 1(c) of the Natural Gas Act (NGA) (15 U.S.C. 717-817-w), and Sections 311 of the Natural Gas Policy Act of 1978 (NGPA) (15 U.S.C. 3301-3432).

---

5 Associated Gas Distributors v. FERC, 824 F.2d 981, 1002-1003 (D.C, Cir. 1987)(AGD); Mustang Energy Corp. v. Federal Energy Regulatory Comm'n, 859 F.2d 1447, 1457 (10th Cir. 1988), cert. denied, 490 U.S. 1019 (1988); see also EPGT Texas Pipeline, 99 FERC ¶ 61,295 (2002).

6 Regulation of Natural Gas Pipelines after Partial Wellhead Decontrol, Order No. 436, FERC Stats. & Regs. ¶ 30,665, at 31,502 (1985).

7 Pipeline Service Obligations, and Revisions to Regulations Governing Self-Implementing Transportation Under Part 284 of the Commission's Regulations; Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol, Order No. 636-B, 61 FERC ¶ 61,272, at 61,992 n.26 (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).

8 See § 284.13(b)(1)(ii), (iv), (v), and (vii) and (2)(iv)(v)(vi)and (ix).

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

The Commission currently has less stringent transactional reporting requirements for NGPA section 311 intrastate pipelines and Hinshaw pipelines, than for interstate pipelines. In Order No. 637,[9] the Commission revised the reporting requirements for interstate pipelines in order to provide more transparent pricing information and to permit more effective monitoring for the exercise of market power and undue discrimination. As adopted by Order No. 637, § 284.13(b) requires interstate pipelines to post on their internet websites basic information on each transportation and storage transaction with individual shippers, including revisions to a contract, no later than the first nomination under a transaction.

Section 284.13(c) of the Commission's regulations also requires interstate pipelines to file with the Commission on the first business day of each calendar quarter an index of its firm transportation and storage customers and to publish the same information on their websites. The information required to be included in the Index of Customers does not include the rates paid by the customers. Section 284.13(e) requires interstate pipelines to file semi-annual reports of their storage injection and withdrawal activities, including the identities of the customers, the volumes injected into and withdrawn from storage for each customer and the unit charge and total revenues received.

The primary objective of the NOPR is to revise the Commission's regulations on transactional reporting requirements for intrastate and Hinshaw pipelines in order to increase market transparency, without imposing unduly burdensome requirements on those pipelines. Transactional information provides price transparency so shippers can make informed purchasing decisions, and also permits both shippers and the Commission to monitor actual transactions for evidence of possible abuse of market power or undue discrimination. The Commission is proposing to increase the availability and usefulness of the transactional information reported by intrastate and Hinshaw pipelines by requiring that as noted above, (1) the existing annual § 284.126(b) transactional reports be filed on a quarterly basis, (2) the quarterly reports include certain additional types of information and cover storage transactions as well as transportation transactions, (3) the quarterly reports be filed in a uniform

9 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).

electronic format and posted on the Commission’s web site, and (4) those reports must be public and may not be filed with information redacted as privileged.

This additional information is necessary to enable such entities to determine the extent to which particular transactions are comparable to one another. For example, contracts for service on different parts of a pipeline system or with different durations may not be comparable to one another. In addition, the requirement that affiliate relationships between the pipeline and its shippers be reported will allow the Commission and interested parties to monitor whether the pipeline is favoring its affiliates.

The implementation of these data requirements will help the Commission to carry out its responsibilities under both the Natural Gas Act and Natural Gas Policy Act to monitor the activities and evaluate transactions of the natural gas industry to ensure competitiveness and to assure the improved efficiency of the industry's operations. The Commission's Office of Markets, Tariffs and Rates and the Office of the General Counsel will use the data in rate proceedings to review rate and tariff changes by natural gas companies for the transportation of gas, for general industry oversight, and to supplement the documentation used during the Commission's audit process.

Failure by the Commission to collect this information would mean that it is unable to monitor and evaluate transactions and operations of interstate pipelines and perform its regulatory functions.

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

The Commission is working to expand the qualified types of documents that can be filed over the Internet. On November 15, 2007, the Commission issued a Final Rule, RM07-16-000, Order No. 703, “Filing via the Internet” 73 Fed. Reg. 65659 (November 23, 2007) revised its regulations for implementing the next version of its system for filing documents via the Internet, eFiling 7.0. The Final Rule allows for the option of filing all documents in Commission proceedings through the eFiling interface except for specified exceptions, and of utilizing online forms to allow “document less” interventions in all filings. Under these current rules, the Commission encourages parties to file intrastate reports using Form No. 537 for storage and Form No. 549 for transportation. Such standardized forms are conducive to eFiling, which has proven to be an effective way to increase practical access both for industry members and the Commission’s own staff.

One purpose of the NGPA was to induce intrastate pipelines to participate in the interstate market by ensuring that it would not be unduly burdensome to do so.[10] This participation by intrastate pipelines eliminates the need for duplication of facilities between interstate and intrastate pipelines.[11] However, if the Commission was to require all intrastate and Hinshaw pipelines to post transactional information on a daily basis, all those pipelines would have to maintain their own websites for this purpose. Such daily postings of information about individual transactions could be significantly more burdensome than the quarterly reporting requirement the Commission is proposing. The cost of maintaining a website in compliance with NAESB standards appears to be the primary concern of many intrastate and Hinshaw pipelines. The TPA noted that NAESB compliance "would require section 311 and Hinshaw pipelines to invest in additional information technology hardware and personnel,"[12] and noted that the Commission recently avoided requiring NAESB compliance for section 311 and Hinshaw pipelines in Order No. 720. Other pipelines expressed similar concerns about the cost of NAESB standards.[13] Notably, Cranberry expressed doubt that it would be able to afford even an electronic bulletin board, given the small size of its staff.[14] Further, as the AGA and others note, "a daily reporting requirement would be unduly burdensome in light of the information that would be obtained," from the typical service provider, whose transactions often do not change on a day-to-day basis.[15]

Based on comments to the Notice of Inquiry (NOI), the Commission is concerned that a daily internet posting requirement could discourage section 311 and Hinshaw pipelines from performing interstate service. In order to make the proposed quarterly reports filed with the Commission more accessible to the public, the Commission proposes requiring that the reports be filed in an electronic standardized format to be developed by Commission staff.

4. DESCRIBE EFFORTS TO IDENTIFY DUPLICATION AND SHOW SPECIFICALLY WHY ANY SIMILAR INFORMATION ALREADY AVAILABLE CANNOT BE USED OR MODIFIED FOR USE FOR THE PURPOSE(S) DESCRIBED IN INSTRUCTION NO. 2

Commission filings and data requirements are periodically reviewed in conjunction with OMB clearance expiration dates. This includes a review of the

10 AGD, 824 F.2d at 1001-1003.
11 EPGT Texas Pipeline, L.P., 99 FERC ¶ 61,295 at 62,252
12 TPA Comments at 21.
13 See AGA Comments at 2, 11, 15, 18; Copano Comments at 7; DCP Comments at 10; Enogex Comments at 9; NW Natural Comments at 3, 8, 13.
14 Cranberry Comments at 6-8.
15 AGA Comments at 12-13; see also Duke Comments at 8; NW Natural at 14; PG&E Comments at 2, 5, 10.

Commission's regulations and data requirements to identify any duplication. To date, no duplication of the proposed data requirements has been found. The Commission staff is continuously reviewing its various filings in an effort to alleviate duplication. There are no similar sources of information available that can be used or modified for use for the purpose described in Item A (1.).

While the Commission is proposing to revise § 284.126(b) to include storage transactions, it will continue to require section 311 and Hinshaw pipelines to make the semi-annual storage activity reports currently required by § 284.126(c). Those reports include information that will not be contained in the proposed quarterly transactional reports. Specifically, § 284.126(c) requires section 311 and Hinshaw pipelines to report total volumes injected into storage during each complete storage injection season and total volumes withdrawn from storage during each complete storage withdrawal season. Such seasonal information will not be captured by the § 284.126(b) quarterly transactional reports, because those reports will not correlate with the typical five-month withdrawal and seven-month injection seasons. Moreover, retaining the § 284.126(c) semi-annual storage activity report for section 311 and Hinshaw pipelines is consistent with the Commission's existing requirement, in § 284.13(e), that interstate pipelines also make such semi-annual storage activity reports in addition to posting transactional information pursuant to § 284.13(c).

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

There are very few small businesses that will be impacted under the FERC-549D Reporting/data requirements. Most of the natural gas companies regulated by the Commission do not fall within the Regulatory Flexibility Act's definition of a small entity.[16] Approximately 125 natural gas companies are potential respondents subject to the requirements adopted by this rule. For the year 2008 (the most recent year for which information is available), 4 companies had annual revenues of less than $7 million. This represents 3.2% of the total universe of potential respondents or only a very few entities that may have a significant burden imposed on them.

The Commission is not proposing to impose on intrastate and Hinshaw pipelines the same reporting requirements as it imposes on interstate pipelines. As noted above, the Commission in this NOPR will not require the intrastate and

16 See 5 U.S.C. 601(3), citing section 3 of the Small Business Act, 15 U.S.C. 623. Section 3 of the SBA defines a "small business concern" as a business which is independently owned and operated and which is not dominant in its field of operation. The Small Business Size Standards component of the North American Industry Classification System defines a small natural gas pipeline company as one that transports natural gas and whose annual receipts (total income plus cost of goods sold) did not exceed $7 million for the previous year.

Hinshaw pipelines to make daily postings of transactional information on their own websites. The Commission believes that the revised reporting requirements proposed in the NOPR appropriately balance the need for increased transparency of intrastate and Hinshaw pipeline transactions, while avoiding unduly burdensome requirements that might discourage such pipelines from participating in the interstate market.

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

In proposing to require section 311 and Hinshaw pipelines to make quarterly transactional reports containing similar information to that reported by interstate pipelines, the Commission has sought to balance the benefits of increased transparency of intrastate and Hinshaw pipeline transactions with the interest in avoiding unduly burdensome requirements for those pipelines.

Increasing the frequency of the § 284.126(b) transactional reports by intrastate and Hinshaw pipelines from annual to quarterly and requiring additional information in those reports will provide shippers and the Commission with both more timely and more useful information concerning the transactions entered into by section 311 and Hinshaw pipelines.

7. EXPLAIN ANY SPECIAL CIRCUMSTANCES RELATING TO THE INFORMATION COLLECTION

This 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 the rulemaking notice be published in the Federal Register, thereby allowing all pipeline companies, state commissions, federal agencies, and other interested parties an opportunity to submit comments, or suggestions concerning the proposal. The rulemaking procedures also allow for public conferences to be held as required.

In September 2008, an interstate storage provider with market-based rates, SG Resources Mississippi, L.L.C. (SGRM) filed a request for waiver of the §§ 284.13(b)(1)(iii) and (b)(2)(ii) requirements that interstate pipelines post the rates charged in firm and interruptible transactions no later than first nomination for service. SGRM requested the waiver for both itself and all interstate storage providers with market-based rates. It contended that the mandatory disclosure of commercially sensitive pricing information provides prospective customers and competitors, such as NGPA section 311 intrastate storage providers that are only subject to semi-annual reporting requirements, with an unfair competitive advantage. SGRM also stated that a number of the NGPA section 311 storage providers submit their semi-annual storage reports subject to a request for privileged treatment pursuant to § 388.112 of the Commission's regulations.

In November 2008, the Commission denied SGRM's request, holding that the existing posting requirements for interstate pipelines are necessary to provide shippers with the price transparency they need to make informed decisions, and the ability to monitor transactions for undue discrimination and preference.[17] The Commission also found that the requested exemption would be contrary to NGA section 4(c)'s requirement that "every natural gas company . . . keep open . . . for public inspection . . . all rates."

Contemporaneously with the *SGRM* order, the Commission issued a Notice of Inquiry, requesting comments on whether the Commission should impose additional reporting requirements on (1) NGPA section 311 intrastate pipelines and (2) Hinshaw pipelines.[18] The NOI stated that the Commission was interested in exploring (1) whether the disparate reporting requirements for interstate and NGPA section 311 and Hinshaw pipelines have an adverse competitive effect on the interstate pipelines and (2) if so, whether the Commission should modify the posting requirements for section 311 intrastate pipelines and Hinshaw pipelines in order to make them more comparable to the § 284.13(b) posting requirements for interstate pipelines.

A total of 18 parties filed comments. Fourteen of those commenters represented NGPA section 311 or Hinshaw pipelines. The other four commenters included one interstate pipeline (Tres Palacios), one company owning both interstate and NGPA section 311 intrastate storage providers (Enstor), a producer/marketer (Apache), and APGA.

Seven of the parties representing section 311 and Hinshaw pipelines oppose any change in the existing reporting requirements.[19] They argued that imposing additional burdensome reporting requirements on section 311 and Hinshaw pipelines would be inconsistent with Congress's intent of allowing intrastate pipelines to participate in the interstate pipeline grid without unduly burdensome regulatory requirements. For example, they argued that the intrastate and Hinshaw

---

17 *SG Resources Mississippi, L.L.C.*, 125 FERC ¶ 61,191 (2008).

18 *Contract Reporting Requirement of Intrastate Natural Gas Companies*, 125 FERC ¶ 61,190 (2008), 73 FR 72395, November 28, 2008.

19 AOG, Atmos, Copano, Cranberry, DCP, Enogex, Gas Processors Association (GPA), Jefferson, and the Texas Pipeline Association (TPA).

pipelines would have to invest in additional information technology and personnel in order to comply with the section 284.13 requirement that pipelines post the information on an internet web site in downloadable file formats. They also maintain they already file enough information with other state and federal agencies. Any further filings, they claim, would place them at a competitive disadvantage against intrastate-only pipelines, who are often allowed to keep confidential the identity of their shippers and the agreed-upon prices.[20] Moreover, they stated that they generally do not compete for the same customers as interstate pipelines, arguing that they generally feed into interstate pipelines, rather than running parallel and competing with them. Two commenters[21] even suggested that the Commission lacks jurisdiction to reform the reporting requirements.

The remaining section 311 and Hinshaw commenters, including AGA, also opposed changing the current reporting requirements, and made many of the same arguments as are noted above.[22] However, these commenters suggested that, if the Commission believes increased reporting is necessary, it could consider increasing the frequency of the existing reports to quarterly and to presume such reports to be fully public. This more limited change in the current reporting requirements would address perhaps their primary concern: the cost of having to upgrade their existing information technology systems in order to maintain the necessary internet website. If the Commission were to require reports more frequently than quarterly, these commenters support an exemption for smaller intrastate and Hinshaw pipelines. Several commenters propose such an exemption apply to intrastate and Hinshaw pipelines whose average gas deliveries over the previous three years did not exceed 50 million MMBtu, consistent with the exemption from the Order No. 720 requirement that non-NGA pipelines report scheduled gas flows.

The other four commenters[23] contend that the Commission should extend the § 284.13 interstate pipeline reporting requirements to intrastate and Hinshaw pipelines. They asserted that applying the same reporting requirements to all pipelines performing interstate service is both a matter of fairness and a practical solution to the discrimination and anti-competitive practices currently afflicting the market. One, Enstor, stated that in order to fully equalize the reporting requirements for interstate pipelines and intrastate and Hinshaw pipelines, the Commission must impose tariff filing requirements on intrastate and Hinshaw pipelines comparable to those currently imposed on interstate pipelines. Enstor pointed out that sections 284.13(b)(1)(viii) and 284.13(b)(2)(vi) require interstate

---

20 Atmos, DCP, Jefferson, Niska, and the TPA.

21 Enogex and the GPA

22 AGA, Duke, Niska, NW Natural, PG&E.

23 Apache (shippers), APGA (municipal LDCs), Enstor, and Tres Palacios (interstate storage)

pipelines to post all aspects in which a service agreement deviates from the pipeline's tariff. Enstor stated that, while interstate pipelines are required to file tariffs in a prescribed format, there is no similar requirement for intrastate and Hinshaw pipelines and this would complicate any requirement for those pipelines to post how particular contracts deviate from their tariff.

9. EXPLAIN ANY PAYMENT OR GIFTS TO RESPONDENTS

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

10. DESCRIBE ANY ASSURANCE OF CONFIDENTIALITY PROVIDED TO RESPONDENTS

The Commission is proposing to make these reports more accessible to the public by requiring that they be filed in a standardized electronic format and be posted on the Commission's website without any redaction of any information. The Commission proposes the data be publicly available, and not filed on a redacted basis. This method will enhance the posting of quarterly reports on the Commission's website and facilitate easy access to the information by the public. At the same time, this procedure will avoid the costs of requiring intrastate pipelines to maintain a NAESB-compliant website, discussed above. Specific requests for confidential treatment to the extent permitted by law will be entertained pursuant to 18 C.F.R. Section 388.110.

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 information collection proposed in the subject NOPR.

12. ESTIMATED BURDEN OF COLLECTION OF INFORMATION

The annual burden estimate of 1,750 hours (an average of 3.5 hours per filing for information requirements/collections under FERC-549D, as proposed in the subject NOPR, is based on the Commission's recent experience with transactional and storage reports.

Data Collection	Number of Respondents	Number of Responses	Hours per Response	Total Hours
FERC-549D	125	4	3.5	1,750

13. ESTIMATE OF THE TOTAL ANNUAL COST BURDEN TO RESPONDENTS

The estimated annualized cost to respondents related to the data collection/requirements as proposed in the subject NOPR is as follows:

Because of the various staffing levels that will be involved in preparing the documentation (legal, technical and support) the Commission is using an hourly rate of $150 to estimate the costs for filing and other administrative processes, (reviewing instructions, searching data sources, completing and transmitting the data. reviewing instructions, searching data sources, completing and transmitting the collection of information. The total estimated cost is anticipated to be $262,500.

14. ESTIMATED ANNUALIZED COST TO FEDERAL GOVERNMENT

The estimated annualized cost to the Federal government related to the data collections/requirements as proposed in the subject NOPR are shown below:

1) Data Requirement Number	Analysis of Data (FTEs)[24] x	Estimated Salary Per Year +	FERC Forms Clearance (FY '08) =	Total Cost One Year's Operation
FERC-549D	0.12112-[25]	$128,297	$ 1,480	$17,020

2) In item no. 3 above, we indicated that to improve the transparency of the data to be filed with the Commission, we would create a standardized format so the reports could be filed electronically. The Commission estimates the costs for development of that format to be as follows: a total development cost projected to be $46,097. (This includes 4 weeks of systems development (3 FTE for 4 weeks or 480 hours) + reports development (1 FTE generating 5 reports and 2 days per report or 80 hours). In addition, this data collection will be housed on a new server and the costs are approximately $6,004 for hardware costs.
provided with the submission of the final rule.

Total Costs* = $69,121 ($17,020 + $46,097+$6004).

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

24 An "FTE" is a "Full Time Equivalent" employee that works the equivalent of 2,080 hours per year.
25 This estimate is based on 25 cases per year with two analysts assigned to cases. In total they would devote 5 hours total for analyzing the data. 25 cases x 2 analysts x 5 hours @$62.16 hourly rate = $15,540 per year.

By issuing this NOPR the Commission finds that increased transparency of both the transportation and storage transactions of section 311 and Hinshaw pipelines is desirable and can be accomplished without undue burden on the subject pipelines. By requiring reports to include not only the information currently required by section 284.126(b), but also the rate charged under each contract, the duration of the contract, the receipt and delivery points, and whether there is an affiliate relationship between the pipeline and the shipper will allow shippers and others, including the Commission, to monitor transactions for undue discrimination and preference. This additional information is necessary to enable such persons to determine the extent to which particular transactions are comparable to one another.

An additional benefit would occur by making the reports easily accessible on the Commission's website would avoid the costs of requiring intrastate pipelines to maintain a NAESB-compliant website while also offering a single, convenient, and standardized source for intrastate pipeline information.

In summary, this proposal would improve market transparency and consistency, which could lead to gains in market efficiency and competitiveness and having the Commission post the reports instead of the intrastate pipelines would avoid the feared increased information technology costs.

16. TIME SCHEDULE FOR THE PUBLICATION OF DATA

The time schedule for FERC-549D, **Contract Reporting Requirements of Intrastate Natural Gas Pipelines** is shown in the following table.

Schedule for Data Collection and Analysis

Activity	Estimated Completion Time
Each intrastate pipeline must file a quarterly report that contains each transportation and storage service provided during the preceding calendar quarter with the Commission and the appropriate state regulatory agency. These reports are to be filed in accordance with the following schedule:	
The quarterly report for first quarter (January 1 through March 31)	must be filed on or before May 1.
The quarterly report for the second quarter (April 1 through June 30)	must be filed on or before August 1.
The quarterly report for the third quarter	must be filed on or

before November 1. (July 1 through September 30)

The quarterly report for the fourth quarter must be filed on or before February 1. (October 1 through December 31)

17. **DISPLAY OF EXPIRATION DATE**

The FERC-549D format is currently under development. Upon completion of that development, the format will display an OMB control no. and expiration date.

18. **EXCEPTIONS TO THE CERTIFICATION STATEMENT**

Not applicable. The Commission does not use statistical methodology for FERC-549D.

B. COLLECTION OF INFORMATION EMPLOYING STATISTICAL METHODS

Not applicable.