

FERC-577 (1902-0128)

Supporting Statement for
FERC-577, Gas Pipeline Certificates: Environmental Impact Statement
(OMB Control. No. 1902-0128)
Request for 3-year extension

The Federal Energy Regulatory Commission (FERC or Commission) requests the Office of Management and Budget (OMB) extend its approval of FERC-577 for three years.

Background

Under the Commission's current guidelines, when a prospective applicant elects to undertake the Commission's pre-filing process, the prospective applicant submits a written request to the Director of Energy Projects (OEP) for staff assistance with the pre-filing process seven to eight months prior to filing an application. The request provides the following information:

- (1) explains why the prospective applicant wants to use the pre-filing process, including time considerations;
- (2) lists the federal and state agencies in the project area with relevant permitting requirements, documents that those agencies are aware of the prospective applicant's intention to the use of FERC's pre-filing process, provides the Commission with contact names and phone numbers, and verifies that the federal agencies agree to participate in the process;
- (3) identifies other interested persons and organizations who have been contacted about the project;
- (4) details what work has been done already, *i.e.*, contacting landowners, agency consultants, project engineering, and route planning;
- (5) states that the prospective applicant will provide a list of potential third-party contractors who can prepare the requisite National Environmental Policy Act (NEPA) document, from which Commission staff will make a selection;
- (6) acknowledges that a complete application are still required at the time of filing; and
- (7) details a Public Participation Plan which identifies specific tools and actions to facilitate stakeholder communications and public information, including establishing a single point of contact. Prospective applicants are strongly encouraged to establish a project-web-site where interested persons can go for further information such as copies of applications to other agencies.

In recent years, FERC staff has encouraged the use of the pre-filing process by prospective applicants for all major natural gas projects, including LNG projects. If the guidelines for requesting the pre-filing process are satisfied by a prospective

FERC-577 (1902-0128)

applicant, then a written acceptance notice is issued by the Director of Office of Energy Projects (OEP), and a Pre-Filing (PF) docket number is assigned.

To date, it has been FERC's policy to encourage early involvement by the public and governmental agencies, as contemplated by NEPA and the Council on Environmental Quality (CEQ) regulations, by promoting an optional pre-filing process for interstate gas pipelines and LNG terminal projects. Specifically, in the case of LNG project proposals, pre-filing activity is one of the three distinct phases of activity that FERC undertakes in fulfilling its goal of assuring the safe operation and system reliability of proposed and operation jurisdictional LNG facilities throughout the United States. The other two phases of a project timeline for any LNG proposal are pre-decision and post-decision construction/operation inspection and monitoring.

Because it is desirable to maximize early public involvement, to promote the widespread dissemination of information about proposed projects and to reduce the amount of time required to issue an Environmental Impact Statement (EIS) or an Environmental Assessment (EA) once an application is filed, FERC implemented mandatory pre-filing procedures and regulations to respond to the mandate of Section 311(d) of EPLA of 2005.

A. Justification

1. CIRCUMSTANCES THAT MAKE THE COLLECTION OF INFORMATION NECESSARY

Section 102(2) (c) of the National Environmental Policy Act of 1969 (NEPA) (Pub.L 91-190) (42 U.S.C. 4321) requires that all Federal agencies must include in every recommendation or report on proposals for legislation and other major federal actions significantly affecting the quality of human environment, a detailed statement on: the environmental impact on the proposed actions; any adverse environmental effects which cannot be avoided should the proposal be implemented; alternatives to the proposed action; the relationship between local short-term uses of man's environment, and the maintenance and enhancement of resources which would be involved in the proposed action should it be implemented.

FERC-577 identifies the Commission's information collections relating to Parts 2, 157, 284, and 380 of its regulations implementing NEPA and includes the environmental compliance conditions of Parts 2, 157, 284, and 380. The statutory and regulatory language are included at Attachment A.

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

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

Applicants have to conduct appropriate studies which are necessary to determine the impact of the construction and/or operation of the proposed jurisdictional facilities on human and natural resources and the measures which may be necessary to protect the values of the affected area. The exhibit report is composed of resource reports which identify the effects of construction, operation (including maintenance and malfunctions), measures proposed to enhance the environment or to avoid, mitigate, or compensate for adverse aspects of the project (including the design, engineering and contract specifications, construction techniques and efforts for monitoring the construction and restoration of the project site). In addition, the applicant is to identify all expected significant short-term and long-term environmental effects.

The data provided by the respondents are used to aid the Commission's Office of Energy Projects in the environmental analysis of certificate applications filed by natural gas pipeline companies concerning their construction proposals and may be used in the preparation of Environmental Assessments or Environmental Impact Statements. Commission staff examines and projects potential effects on soils, geology, water, land use, recreation, aesthetics, air and noise quality, vegetation, wildlife, cultural resources, and pipeline and LNG safety.

Specifically, FERC uses the information in its efforts to safeguard the environment by:

- Disclosing, analyzing and minimizing impacts where it is feasible and reasonable to do so;
- Ensuring applicants communicate with relevant federal and state natural resources agencies, Indian tribes, and state water quality agencies;
- Ensuring that all applicants perform the necessary studies to make an informed decision on the project;
- Issuing environmental assessments(EA) or draft and final environmental impact statements (EIS) for comment on most projects;

FERC-577 (1902-0128)

- Including requirements with any certificate issued to reduce environmental impacts; and
- Visiting proposed project areas to determine the range of environmental issues requiring analysis and holding scoping meetings as appropriate.

The information collection cannot be discontinued nor collected less frequently because of statutory requirements. The Commission is required to review applications concerning improvement or extensions of facilities and services for local distributors of natural gas. The consequences of not collecting this information are that the Commission would be unable to fulfill its statutory mandate.

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

There is an ongoing effort to increase the use of improved information technology and to reduce the burden. The FERC-577 materials may be eFiled through FERC's eFiling system. [See <http://www.ferc.gov/docs-filing/efiling/filing.pdf> for more information.]

At present, the majority of the application filings made in accordance with sections 7(a) and 7(c) are filed electronically. However, due to the complexity of the exhibits, maps, and projects, for some of the filings, up to three additional paper copies may be required for staff review, processing, and collaboration. As additional uses of information technology (including geospatial information systems) are implemented, FERC may be able to reduce or eliminate the need for the additional paper copies.

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

Filing requirements are periodically reviewed as OMB review dates arise or as the Commission may deem necessary in carrying out its regulatory responsibilities under the NGA in an effort to alleviate duplication. All Commission information collections are subject to analysis by Commission staff and are examined for redundancy. There is no other source of this information.

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

FERC-577 (1902-0128)

The information requirements under FERC-577 apply to jurisdictional pipelines. Most of the companies regulated by the Commission do not fall within the Regulatory Flexibility Act's definition of a small entity. Based on FERC's experience, the Commission doubts that any filer will be a small entity under the RFA's standards.

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

FERC-577 data collections are required for statutory purposes and cannot be discontinued or collected less frequently. The information that must be submitted to the Commission is event driven. The information to be submitted in accordance with section 157.21(a)(2) includes draft environmental material in accordance with the provisions of Part 380 of FERC's regulations in order to implement the Commission's procedures under NEPA.

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

7. EXPLAIN ANY SPECIAL CIRCUMSTANCES RELATING TO THE INFORMATION COLLECTION

The number of copies of a certificate application to be filed in compliance with Section 157.6 includes an electronic media submission along with an original and seven hard copies. The number of copies to be filed is more than prescribed by OMB in their guidelines at 5 CFR 1320.5(d) (2). The additional copies are necessary because of the number of offices within the Commission that must review and analyze the application in a timely fashion.

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. Additionally, as part of the renewal process of its information collections, a notice seeking public comment on the continued use of the information was published in the Federal Register.

FERC-577 (1902-0128)

FERC issued a 60-day request for public comment on 1/7/2010 (posted at <http://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=12237068>; 75FR 2124, 1/14/2010). No comments were received. FERC then issued a 30-day request for public comment on 3/21/2010 (posted at <http://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=12296731>), with the comment period ending 30 days after publication in the Federal Register.

9. EXPLAIN ANY PAYMENT OR GIFTS TO RESPONDENTS

There are no payments or gifts to respondents.

10 and 11. DESCRIBE ANY ASSURANCE OF CONFIDENTIALITY PROVIDED TO RESPONDENTS; and PROVIDE ADDITIONAL JUSTIFICATION FOR ANY QUESTIONS OF A SENSITIVE NATURE THAT ARE CONSIDERED PRIVATE

The Commission does not consider the information to be confidential. However, the Commission has encouraged applicants to indicate information which may be Critical Energy Infrastructure Information (CEII), or privileged. CEII as defined in section 388.113 of the Commission's regulations includes information about proposed or existing natural gas facilities that could be used by a person planning an attack on critical energy infrastructure. [More information about CEII and privileged security levels of information are posted at <http://www.ferc.gov/legal/ceii-foia/ceii.asp> and <http://www.ferc.gov/legal/ceii-foia/ceii/classes.asp> .] The Commission's procedures in Part 388 are designed to ensure that CEII and privileged material is not placed in the Commission's public records.

12. ESTIMATED BURDEN OF COLLECTION INFORMATION

The estimated average annual public reporting burden for FERC-577 follows.

FERC Data Collection FERC-538	Number of Respondents Annually (1)	Number of Responses Per Respondent (2)	Average Burden Hours Per Response (3)	Total Annual Burden Hours (1)x(2)x(3) ¹
	92	16.026316	193.504926	285,226.25

¹ Please note that OMB's ROCIS system truncates the estimate for the number of annual responses (to 1474, rather than 1474.421 that would be used based on our numbers here) in performing its calculation. Therefore, we are using the 1474 for the number of responses in our calculation here to match ROCIS.

FERC-577 (1902-0128)

The current inventory reflects 76 respondents. Based on current experience and workload, the number of estimated annual respondents has increased to 92 (from 76), with a corresponding adjustment in the estimated annual burden to 285,226 from 235,689 (an adjustment increase of 49,537 hours). Error: Reference source not found

Burden hours currently in OMB’s inventory: 235,689
 Program change² in industry burden hours: 0
 Adjustment change³ in industry burden hours: +49,537 Error: Reference source not found
found

13. ESTIMATE OF TOTAL ANNUAL COST BURDEN TO RESPONDENTS

The estimated, annual cost to the respondents, averaged over the next three years follows.

Total Annual Burden Hours for Respondents (1)	Person Hours Per Year (2)	Estimated Annual Cost Per Person (3)	Total Annual Cost to Respondents [(1)/(2)]x(3)
285,226	2,080	\$137,874	\$18,906,369

14. ESTIMATED ANNUALIZED COST TO FEDERAL GOVERNMENT

The estimated annualized cost to the Federal government follows.

FERC-577	No. of Employees (FTE’s) [\$137,874/FTE/yr.]	Estimated, Annual, Federal Resources in (\$)
Processing costs	34	\$4,687,716
Forms Clearance		\$1,528
FERC Total		\$4,689,244

² Program changes are caused by FERC taking action to increase, decrease, or modify factors, such as: the number of filers; the threshold or frequency of filing; the data that are collected, filed, posted, retained, or provided to third parties; and/or the record retention period.

³ Adjustments are not caused by a Commission action. They include changes, such as: the number of entities subject to FERC jurisdiction (e.g., an entity that enters or leaves that business area), and improved estimates of the burden hours per filing.

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

The current inventory reflects 76 respondents. Based on current experience and workload, the number of estimated annual respondents has increased to 92 (from 76), with a corresponding adjustment in the estimated annual burden to 285,226 from 235,689 (an adjustment increase of 49,537 hoursError: Reference source not found).

16. TIME SCHEDULE FOR PUBLICATION OF DATA

There are no tabulation, statistical analysis, or publication plans for the information collected. The data are used for regulatory purposes.

17. DISPLAY OF EXPIRATION DATE

Not applicable. The data requirements for FERC-577 are based on regulations and not filed on formatted/printed forms. Thus, the subject data requirements do not have an appropriate format to display an OMB expiration date.

18. EXCEPTIONS TO THE CERTIFICATION STATEMENT

There are exceptions to the Paperwork Reduction Act Submission certification. Because the data collected for these reporting and recordkeeping requirements are not used for statistical purposes, the Commission does not use as stated in item 19(I) “effective and efficient statistical survey methodology.” In addition, as noted in no. 17, this information collection does not fully meet the standard set in 19 (g) (vi.).

B. COLLECTION OF INFORMATION EMPLOYING STATISTICAL METHODS

FERC-577 is not a collection of information employing statistical methods.