

## **FERC-606 (1902-0241) and FERC-607 (1902-0240)**

Supporting Statement for  
**FERC-606, Notification of Request for Federal Authorization and Requests  
for Further Information (OMB Control No. 1902-0241), and  
FERC-607, Report on Decision or Action on Request for Federal  
Authorization (OMB Control No. 1902-0240)**

Three year extension requested

The Federal Energy Regulatory Commission (FERC or Commission) requests the Office of Management and Budget (OMB) extend its approval of FERC-606 and FERC-607 for three years. FERC-606 and FERC-607 are existing data requirements for which we are requesting a three-year extension, with no change to the reporting requirements or burden. OMB approvals of FERC-606 and FERC-607 expire 5/31/2010.

### **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<sup>1</sup> 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 use 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 is still required at the time of filing; and

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<sup>1</sup> FERC-539 (OMB Control No. 1902-0062) covers the pre-filing aspects of the Import/Export certification process (under 18CFR 153). FERC -537 (OMB Control No. 1902-0060) covers the full application reporting requirements (after the pre-filing process is complete) for the proposed facility. FERC-539 and FERC-537 are cleared separately and are not addressed here. This information is provided for background purposes.

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(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 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 a 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.

It is desirable to maximize early public involvement, to promote the wide-spread 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 codified the pre-filing procedures and regulations, in order to respond to the mandate of Section 311(d) of EPAAct of 2005.

### **A. Justification**

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

The Commission authorizes the construction and operation of proposed natural gas projects under NGA sections 3 and 7.<sup>2</sup> However, the Commission does not have

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<sup>2</sup> Under NGA section 7, the Commission has jurisdiction over the transportation or sale of natural gas in interstate commerce and the construction, acquisition, operation, and abandonment of facilities to transport natural gas in interstate commerce. Pursuant to Department of Energy (DOE) Delegation Order No. 00-004.00, 67 Fed. Reg. 8946 (February 27, 2002), the Secretary of Energy delegated to the Commission the authority under NGA section 3 to approve

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jurisdiction over every aspect of each natural gas project. Hence, for a natural gas project to go forward, in addition to Commission approval, several different agencies must typically reach favorable findings regarding other aspects of the project.

To better coordinate the activities of the separate agencies with varying responsibilities over proposed natural gas projects, the Energy Policy Act of 2005 (EPAAct 2005) modified FERC's role. Section 313 of EPAAct 2005 directs FERC: (1) to establish a schedule for agencies<sup>3</sup> to review requests for federal authorizations required for a project, and (2) to compile a record of each agency's decision, together with the record of the Commission's decision, to serve as a consolidated record for the purpose of appeal or review, including judicial review.

FERC assumes that upon initial receipt of a request for federal authorizations, agencies will make an initial assessment to verify whether the request is ready for processing. 18CFR§ 385.2013 directs the agency or official to forward that initial assessment to the Commission. If in the course of processing a request, an agency or official finds additional information from the applicant is needed, § 385.2013 directs the agency or official to forward to the Commission a copy of any data request sent to the applicant. With respect to 18CFR § 385.2014, the Commission assumes that in considering a request for a federal authorization, agencies compile and title the documents and materials they rely upon in reaching a decision. The Commission does not require a specific format for the index that is to be submitted to FERC. An agency's in-house recordkeeping may be presented as an index, as long as it functions as a table of contents to the documents and materials.

Attachment A includes the regulatory and statutory language (from 18CFR 385.2013 and 385.2014, and EPAAct 2005) for both FERC-606 and FERC-607. Links to sample filings in FERC's eLibrary are included at Attachment B.

### **FERC-606**

FERC-606 requires agencies responsible for issuing, conditioning, or denying requests for federal authorizations necessary for a proposed natural gas project to report to the Commission regarding the status of an authorization request. This reporting requirement is intended to allow agencies to assist the Commission to make better informed decisions in establishing due dates for agencies' decisions.

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or disapprove applications for the construction and operation of facilities to import or export natural gas, including liquefied natural gas.

<sup>3</sup> "Agency" means a Federal agency or officer, or State agency or officer acting pursuant to delegated Federal authority, responsible for a Federal authorization.

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### **FERC-607**

FERC-607 requires agenciesError: Reference source not found or officials to submit to the Commission a copy of a decision or action on a request for federal authorization and an accompanying index to the documents and materials relied on in reaching a conclusion.

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

The information collections cannot be discontinued nor collected less frequently because of statutory requirements. The consequences of not collecting this information are that the Commission would be unable to fulfill its statutory mandate under the Energy Policy Act of 2005:

- to establish a schedule for agencies to review requests for federal authorizations required for a project, and
- to compile a record of each agency's decision, together with the record of the Commission's decision, to serve as a consolidated record for the purpose of appeal or review, including judicial review.

### **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 determine the potential and value of improved information technology to reduce the burden. As the Commission increases its use of electronic media for filing, storage, retrieval, and tracking of information and documents, greater uniformity in filing procedures, where practical, will greatly expedite and simplify conversion to electronic media. FERC's eFiling program is described at <http://www.ferc.gov/docs-filing/efiling.asp>. The FERC-606 and FER-607 filings can be submitted electronically, on CD or on paper.

### **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 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.

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

FERC-606 and FERC-607 are regulatory filing requirements implementing a statutory provision as stated above in Questions 1 and 2. The information requirement is imposed on federal agencies, or State agencies or officers acting pursuant to delegated Federal authority, responsible for a Federal authorization (issuing, conditioning, or denying requests) necessary for a proposed natural gas project. The information is readily available to the federal and state respondents. In addition, FERC-607 allows agencies to submit the information in the format in which they have it, rather than requiring a specific format.

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

The information collection cannot be discontinued or collected less frequently because of statutory requirements. The consequences of not collecting this information are that the Commission would be unable to fulfill its statutory mandate under the EPOA 2005.

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

The number of copies to be filed may be more than prescribed by OMB in their guidelines at 5 CFR 1320.5(d) (2). Generally, if CDs are submitted, we request 4 copies, and if paper is submitted, we request 8 copies. However FERC encourages eFiling to eliminate the need for additional copies.

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

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 in the proposed rule.

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### 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. Critical Energy Infrastructure Information (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. If the filer requests CEII treatment for the filing, the filer marks the information CEII. The Commission's procedures in section 388.112 are designated to ensure that CEII is not placed in the Commission's public records.

### 12. ESTIMATED BURDEN OF COLLECTION OF INFORMATION

The estimated average annual public reporting burden for FERC-606 and FERC-607 follow.

<b>FERC Data Collection</b>	<b>Number of Respondents Annually (1)</b>	<b>Number of Responses Per Respondent (2)</b>	<b>Average Burden Hours Per Response (3)</b>	<b>Total Annual Burden Hours (1)x(2)x(3)</b>
FERC-606	48	35.46	4.4	7,489
FERC-607	48	34.45	6.3	10,423

There is no change to the burdens or reporting requirements.

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

The estimated, annual costs to the respondents, averaged over the next three years follow.

	<b>Total Annual Burden Hours for Respondents (1)</b>	<b>Person Hours Per Year (2)</b>	<b>Estimated Annual Cost Per Person (3)</b>	<b>Total Annual Cost to Respondents [(1)/(2)]x(3)</b>
FERC-606	7,489	2,080	\$137,874	\$496,413 <sup>4</sup>

<sup>4</sup> In the current inventory in OMB's ROCIS system, the cost is shown as \$0. However, in the latest clearance package for FERC-606 and FERC-607 (that also covered FERC-537 (Gas Pipeline Certificates: Construction, Acquisition and Abandonment) and FERC-539 (Gas Pipeline

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FERC-607	10,423	2,080	\$137,874	\$690,895 Error: Reference source not found
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The total cost figures may not be exact, compared to the cost calculation in OMB’s ROCIS system, due to the way ROCIS rounds and truncates.

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

The estimated annualized cost to the Federal government for FERC-606 and FERC-607 follows:

<b>Total FERC costs</b>	<b>No. of Employees (FTE’s) [using 2,080 hrs. per year, and \$137,874/FTE/year]</b>	<b>Estimated, Annual, Federal Resources in (\$)</b>
FERC-606	16	\$2,205,984
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Forms Clearance		\$1,528
FERC Total, for FERC-606 and FERC-607		\$4,413,496

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

There are no changes to the reporting requirements or burdens.

**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.

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Certificates: Import/Export Related), for the final rule in Docket RM06-1-000 (issued 10/19/2006)), Question 13 stated: “Because of the regional differences and the various staffing levels that will be involved in preparing the documentation (legal, technical and support) the Commission is using an hourly rate of \$150 to estimate the costs for filing and other administrative processes (reviewing instructions, searching data sources, completing and transmitting the collection of information). The estimated cost is anticipated to be \$2,748,900. (18,326 x \$150)”.

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### **17. DISPLAY OF EXPIRATION DATE**

Not applicable. The data requirements for FERC-606 and FERC-607 are based on regulations and not filed on formatted/printed forms. Thus, the subject data requirements do not have an appropriate format to display OMB expiration dates.

### **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-606 and FERC-607 are not collections of information employing statistical methods.