Supporting Statement for

FERC Form No. 2 "Annual Report of Major Natural Gas Companies";
FERC Form No. 2-A "Annual Report of Nonmajor Natural Gas Companies" and
FERC Form No. 3-Q "Quarterly Financial Report of Electric Utilities Licensees, and Natural Gas Companies";
As Proposed in Docket No. RM07-9-003, RIN 1902-AD26
(Notice of Proposed Rulemaking (NOPR) issued June 17, 2010)

The Federal Energy Regulatory Commission (Commission) requests Office of Management and Budget (OMB) review and approval of **FERC Form No. 2 "Annual Report of Major Natural Gas Companies"; FERC Form No. 2-A "Annual Report of Nonmajor Natural Gas Companies" and FERC Form No. 3-Q "Quarterly Financial Report of Electric Utilities, Licensees and Natural Gas Companies"** These information collections are current data requirements with modifications as proposed in Docket No. RM07-9-003 "Revisions to Forms, Statements and Reporting Requirements for Natural Gas Pipelines[1]/.

The subject data collections will be affected by the proposed reporting requirements because:

The American Gas Association (AGA) filed a petition for review in the United States Court of Appeals for the District of Columbia Circuit arguing that the Commission erred by not addressing the concerns raised by Chairman Wellinghoff (then Commissioner) in his partial dissent to Order No 710-A. The court agreed and remanded the matter back to the Commission for further proceedings.[2]

Following the court's remand, AGA filed a motion requesting that the Commission issue a Notice proposing revisions to FERC Form Nos. 2, 2-A and 3-Q, to add additional details as initially proposed by AGA in the rulemaking proceeding and that were the subject of Chairman Wellinghoff's partial dissent. Comments in support of AGA's motion were filed by Kansas Corporation Commission and by Independent Oil & Gas Association of West Virginia, Inc.

<u>Notice of Proposed Rulemaking (Docket No. RM07-9-003)</u>

On June 17, 2010, as noted above, FERC issued a Notice of Proposed Rulemaking

1/ Form 2 has OMB approval number 1902-0028, expires 6/30/11; Form 2-A has OMB approval number 1902-0030, expires 6/30/11; and Form 3-Q has OMB approval number 1902-0205, expires 1/31/2012.

2 593 F.3d at 21.

(NOPR) in Docket No. RM07-9-003 regarding **"Revisions to Forms, Statement and Reporting Requirements for Natural Gas Pipelines**." The purpose of the proposed 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.

In this NOPR, the Commission addresses the concerns raised by American Gas Association (AGA) in its motion and by Chairman Wellinghoff in his partial dissent to Order No. 710-A. In Order No. 710-A, the Commission found that the detail sought by AGA might provide additional clarity with respect to fuel costs, but decided, nonetheless, not to require the reporting of this information, based on concerns over the burden associated with compliance with such a requirement.[3] The Commission also declined to accept AGA's proposal regarding reporting details about the amount of fuel that a pipeline has waived, discounted or reduced as part of a negotiated rate agreement, based on concerns that this information might not be significant and might not be readily available, as many pipelines do not periodically file to adjust fuel rates and may not keep records of this type of information.[4]

Our earlier findings did not sufficiently focus on the fact that, as pointed out by AGA and Chairman Wellinghoff, pages 520 and 521 of the forms work in tandem and unless the information provided on pages 521a and 521b is broken out by function, a shipper cannot match the revenues generated by the sale of excess fuel with the functionalized costs reported on page 520. Thus, the additional information proposed to be reported on pages 521a and 521b will allow the user to determine if there is a cross-subsidy, which is critical to assessing the justness and reasonableness of the pipeline's fuel rates.[5]

Moreover, as pointed out by AGA, while page 520 of the form provides certain fuel information by function, the information is not adequate to enable a form user to determine where on the pipeline system fuel costs are being incurred and how they are being allocated. As stated in the Final Rule, page 520 of Form Nos. 2 and 2-A provides fuel losses by function (unaccounted for gas is broken out by function at lines 30-34). AGA argued that additional detail regarding fuel costs is required for pages 521a and 521b to ensure that the Commission and pipeline customers have sufficient information required to assess the justness and reasonableness of pipeline rates. The Commission agrees and therefore proposes to require that the fuel information be disaggregated by function to provide greater clarity with regard to fuel costs. The Commission believes that the availability of this information, reported by function, is consistent with its goal in the Final Rule of having sufficient information to allow the

3 Order No. 710-A, P 10.

4 *Id.*, P 11.

5 The Commission notes that its proposal renumbers page 521 as 521a, renumbers page 521a as 521b, and adds two runover pages as 521c and 521d.

Commission and pipeline customers to assess the impact on pipeline rates of rising fuel costs. Thus, the Commission's proposal in this NOPR includes the level of detail suggested by AGA and as explained and shown below; we propose to require additional information to be reported on pages 521a and 521b of the forms.

Specifically, the Commission proposes to revise Pages 521a and b to provide more detailed information about the information that previously has been reported on Page 520, Gas Account – Natural Gas. However, the functional category for production/extraction/processing that we are here proposing to add to Page 521a and b is additional information that has not previously been reported in Page 520.[6] Consequently, our proposal is to add a line on Page 520 for Gas of Others Received for Production/Extraction/Processing (Accounts 490 and 491) and another line for Gas of Others Delivered for Production/Extraction/Processing (Accounts 490 and 491). This provides a bridge between the production/extraction/processing function on Page 521a and b and Page 520. In addition, the Commission proposes to revise Page 520, Line 29 (current line 27) to read Other Deliveries and Gas Used for Other Operations. Again, this allows the reporting of gas used in operations with the detail reported in Pages 521a and 521b.

Finally, the Commission proposes to revise the heading on Page 520 for Gas Unaccounted For to read Gas Losses and Gas Unaccounted For. Additionally, as the Commission is proposing here to have more detailed information on fuel costs (broken down by function) reported on pages 521a and b, the Commission is removing (as duplicative) the prior requirement to report information on fuel costs in a more summary fashion on Page 520.

AGA also requested the reporting of the amount of fuel by function that has been waived, discounted or reduced as part of a negotiated rate agreement. As observed in Chairman Wellinghoff's dissent, most pipeline expansions are backstopped with negotiated rate contracts, the fuel associated with these types of transactions may, in many cases, be significant. Moreover, regardless of the level of fuel, the Commission has a strict policy that existing shippers must not subsidize the negotiated rate program.[7] Thus, it is important to know the level of services provided under each negotiated, discounted, or recourse rate to prevent cross-subsidization. Therefore, the Commission proposes that fuel costs and revenues associated with each type of rate structure (*i.e.*, negotiated, discounted, or recourse) be broken down by function to provide better information with which to assess the justness and reasonableness of a pipeline's fuel rates.

The Commission is also revisiting its earlier finding that information regarding the amount of fuel that a pipeline has waived discounted or reduced as part of a negotiated rate

6 Given the additional level of detail the Commission is proposing to add to Pages 521a and 521b, the Commission is also proposing to add Pages 521c and 521d, to provide a place for additional information to be reported, if needed.

7 *See Alternative Rate Policy Statement*, 74 FERC ¶ 61,076 at 61,242 (1996), and *NorAm Gas Transmission Company*, 77 FERC ¶ 61,011(1996).

agreement, may not be readily available. As pointed out by Chairman Wellinghoff, the pipeline maintains this information by function in order to change its fuel rate either in a tracking mechanism or its next section 4 rate filing, and to assure that its existing customers are not subsidizing the negotiated rate program.[8] Thus, the increased burden is related solely to inputting the data in the Form Nos. 2, 2-A, and 3-Q and with this additional information we now propose to find that this small increase in filing burden is justified by the usefulness of the information.

Thus, the Commission proposes in this NOPR to revise the financial reporting forms required to be filed by natural gas companies (contained in FERC Form Nos. 2, 2-A and 3-Q) to include functionalized fuel data on pages 521a and 521b of those forms, and to include on such forms the amount of fuel waived or reduced as part of a discounted or negotiated rate agreement. Specifically, the Commission proposes to revise pages 521a and 521b to include the following: (1) expanding line 1 to separately reflect shipper supplied fuel by function, i.e., production/extraction/process, gathering, transmission, distribution, and storage; (2) expanding lines 2, 3 and 4 to separately list the volumes for each of these functions; (3) expanding the listing of volumes to include discounted, negotiated and recourse rates; (4) expanding line 5 to separately list the volumes for each of these functions; (5) expanding the reporting of dollar amounts to include amounts collected under discounted, negotiated and recourse rates; (6) requiring the reporting of volumes of gas (in dekatherms) not collected where the request for that gas has been waived or reduced under discounted or negotiated rates; and (7) directing filers (if the pipeline does not use a particular function) to enter a zero for that field.

In comments to the earlier notice of proposed rulemaking in this proceeding issued on September 20, 2007,[9] the Interstate Natural Gas Association of America commented that the Commission should revise the reporting requirement for pages 521a and 521b to have these data reported on a quarterly basis, rather than a monthly basis. While this suggestion is not part of the Commission's proposal in this NOPR, the Commission nonetheless is inviting comments on this suggestion and reserve decision, until the final rule, as to which of these options will be adopted in our final rule.

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 and quarterly report burden related to the proposed rule would be 2,560 hours under FERC Form Nos. 2, 2-A, and Form No. 3-Q

Background

8 *See Alternative Rate Policy Statement*, 74 FERC ¶ 61,076 at 61,241 (1996).

9 Revisions to Forms, Statements, and Reporting Requirements for Natural Gas Pipelines, Notice of Proposed Rulemaking, FERC Stats. & Regs. ¶ 32,623 (2007).

In Order No. 710, the Commission revised its financial forms, statements, and reports for natural gas companies, contained in FERC Form Nos. 2, 2-A and 3-Q to make the information reported in these forms more useful by updating them to reflect current market and cost information relevant to interstate natural gas pipelines and their customers.

Among the changes required by the Final Rule, the Commission adopted new schedules for Forms 2, 2-A, and 3-Q[10] and added page 520 (Gas Account-Natural Gas) to Form 3-Q[11] to report, in greater detail, the acquisition and disposition of shipper-supplied gas.[12] Order No. 710 requires pipelines to report: (1) the difference between the volume of gas received from shippers and the volume consumed in pipeline operations each month; (2) the disposition of any excess gas 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 the gas used to meet any deficiency.[13] AGA expressed support for these additions to the forms, but argued that greater clarity could 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." [14]

In response to AGA's arguments, the Commission found that the information that AGA requested to be broken out by function (*e.g.*, transportation, storage, gathering, etc.) is available in Form 2 at page 520.[15] The Commission explained that 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.[16]

On rehearing, AGA argued, among other matters, that the fuel data would be more useful if such data were broken out by different pipeline functions, including transportation, storage,

10 This new schedule reports: (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.

11 Page 520 was added to provide more timely reporting of the quantity of natural gas received and delivered by the pipeline.

12 Order No. 710, P 13.

13 *Id.*

14 *Id.*, P 15.

15 Order No. 710, P 16.

16 *Id.*

gathering, and exploration/production, and should include, by function, the amount of fuel waived or reduced as part of a negotiated or discounted rate agreement.

In Order No. 710-A, the Commission addressed the various requests for rehearing and clarification of Order No. 710, including AGA's, and denied AGA's request to add additional detail to the fuel costs reported at pages 521a and 521b on the basis that some of the information sought by AGA, i.e., certain data broken out by function, are already available on page 520 of Form Nos. 2 and 2-A and because Order No. 710 also added page 520 to Form No. 3-Q.[17] The Commission found that, while the detail sought by AGA might provide additional clarity with respect to fuel costs, it did not believe its exclusion would preclude the Commission's or customers' ability to assess the justness and reasonableness of pipeline rates.[18] We also denied AGA's request that pipelines provide information regarding the amount of fuel that a pipeline has waived, discounted or reduced as part of a negotiated rate agreement, deeming such information unnecessary and burdensome.[19] Chairman (then Commissioner) Wellinghoff issued a partial dissent arguing that AGA's proposals should have been adopted.[20]

Subsequently, AGA filed a petition for review in the United States Court of Appeals for the District of Columbia Circuit arguing that the Commission erred by not addressing the concerns raised by Chairman Wellinghoff in his partial dissent to Order No 710-A. The court agreed and remanded the matter back to the Commission for further proceedings.[21]

Following the court's remand, AGA filed a motion requesting that the Commission issue a NOPR proposing revisions to FERC Form Nos. 2, 2-A and 3-Q, to add additional details as initially proposed by AGA in the rulemaking proceeding and that were the subject of Chairman Wellinghoff's partial dissent. Comments in support of AGA's motion were filed by Kansas Corporation Commission and by Independent Oil & Gas Association of West Virginia, Inc.

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 Form Nos. 2, 2-A and the Quarterly Report Form 3-Q. 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

17 Order No. 710-A, P 9-11.

18 *Id.*, P 10.

19 *Id.*, P 11.

20 *Id.* at 62,708-9.

21 593 F.3d at 21.

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.[22] 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.[23]

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.[24] The Commission eliminated outdated reporting requirements but 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.[25]

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.[26] The final rule revised the Commission's regulatory approach to pipeline pricing

22 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).

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

24 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).

25 Id.

26 Regulation of Short-Term Natural Gas Transportation Services, and Regulation of Interstate Natural Gas

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.[27]

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.[28] Of course, FERC may, on its own motion, institute an investigation under NGA section 5 to determine if pipeline rates are just and reasonable.[29] 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 few years, two section 5 complaints were filed with FERC, both relying on data provided in Form Nos. 2 and 2-A to argue that the pipelines' rates were unjust and unreasonable.[30] In National Fuel, the complainants contended that it had been 11 years since the Commission had reviewed National Fuel's rates and that during that time the rates had become unjust and unreasonable.[31] 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.[32] 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

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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).

27 Id. See also 18 CFR 284.13.

28 15 U.S.C. 717c.

29 15 U.S.C. 717d.

30 Public Service Commission of New York, Pennsylvania Public Utility Commission and 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).

31 National Fuel at P 7.

32 Id.

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.[33]

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.[34] 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.[35] 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.[36]

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.[37] 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.[38] 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 for hearing.[39]

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).[40]

A. Justification

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

34 National Fuel at P 37.

35 Id.

36 Id. at P 42.

37 See Southwest Gas, 117 FERC at P 1.

38 Id.

39 Id. at P 19.

40 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.

1. CIRCUMSTANCES THAT MAKE THE COLLECTION OF INFORMATION NECESSARY

Form No. 2 & Form No. 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-A information as prescribed in 18 CFR 260.1 and 260.2.

Form No. 3-Q "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, debt and equity used in its business. Transparent accounting 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. 3-Q information as prescribed in 18 CFR 260.300.

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.[41] If shippers cannot readily access the data they need to make informed

41 The records indicated that as many as 15 major and 20 nonmajor gas pipelines have not filed a

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 revisions to Forms 2, 2-A and 3-Q require a pipeline to provide additional, detailed information regarding the pipeline's costs and revenues, regarding shipper supplied gas. The Commission believes that 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 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.

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).[42] 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,

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.

42 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 system 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 uniform system 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 proposed changes would require pipelines to provide additional information regarding fuel costs. The Commission proposes to revise certain financial reporting forms required to be filed by natural gas companies (FERC Form Nos. 2, 2-A and 3-Q) to include functionalized fuel data on pages 521a through 521d of those forms, and to include on those forms the amount of fuel waived or reduced as part of a discounted or negotiated rate agreement. The Commission also proposes to revise page 520 accordingly.

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 pipelines' 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 2/2-A/3-Q will not be used to limit an entity's rights under the NGA and the Commission's regulations. Nor will the revised Form 2/2-A/3-Q 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 3-Q 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 No. 2. As the schedule pages in Form No. 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 Vista, Windows XP, Windows 2000, Windows 95 & Windows 98. The application has been updated to be compatible with text cut from Office 2003 documents and pasted into Footnotes and Notes to the Financial Statements.) 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, and 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.

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

The Commission believes that the reporting requirements contained in the NOPR 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 Notice of Proposed Rulemaking 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 NOPR will require changes to existing Form Nos. 2, 2-A and 3-Q 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 are due 60 days from the publication date in the Federal Register.

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 84 Major natural gas companies that will be affected by the Final Rule, for a total of 128 affected respondents.[43] 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 5 (Form 2), 5 (Form 2-A), and 5, (Form 3-Q) additional hours respectively. These estimates translate into 20 additional

43 These numbers are based on the most recent filings.

hours for Major natural gas companies annually and 20 additional hours for Nonmajor natural gas companies annually.

		Hours per Respondent		
(a)	(b)	(c)	(d)	(e)=(b)x(c)x(d)
FERC Form 2	84	5	1	420
FERC Form 2-A	44	5	1	220
FERC Form 3-Q	128 (84_{m}, 44_{nm})	5_{m} 5_{nm}	3	1,920 ($1,260_{m}$,660_{nm})
Relevant Totals				2,560 ($1,680_{m}$,880_{nm})

nm= nonmajor company m=major company

Total Annual Hours for Collections in NOPR:

(Reporting + record keeping, (if appropriate)) = 2,560 hours.

DATA REQUIREMENT Form 2		**Current OMB Inv.***	**Proposed In Nopr**	**NEW OMB Inv.**
Estimated number of respondents	:	74	84	84
Estimated number of responses per respondent:		1	1	1
Estimated number of responses per year	:	74	84	84
Estimated number of hours per response	:	1,623	5	1,628
Total estimated burden (hours per year)	:	120,102	420	136,752

Program change in industry burden hours : + 420
Adjustment change in industry burden hours : + 16,230
* Based on OMB's Active Information Collections
as of June 22, 2010.

DATA REQUIREMENT Form 2-A		**Current OMB OMB Inv.***	**Proposed In Nopr**	**NEW OMB Inv.**
Estimated number of respondents	:	44	44	44
Estimated number of responses per respondent:		1	1	1
Estimated number of responses per year	:	44	44	44
Estimated number of hours per response	:	250	5	255
Total estimated burden (hours per year)	:	10,885	220	11,105

Program change in industry burden hours : + 220
Adjustment change in industry burden hours : + 0
* Based on OMB's Active Information Collections
as of June 22, 2010.
#rounded off.

DATA REQUIREMENT Form 3-Q		**Current OMB OMB Inv.***	**Proposed In Nopr**	**NEW OMB Inv.**
Estimated number of respondents	:	358	128	367
Estimated number of responses per respondent:		3	3	3
Estimated number of responses per year	:	1,074	384	1,101
Estimated number of hours per response	:	164.9#	5	166.71#
Total estimated burden (hours per year)	:	177,177	1,920	183,551

Program change in industry burden hours : + 1,920
Adjustment change in industry burden hours : + 4,454
* Based on OMB's Active Information Collections
as of June 22, 2010.
#rounded off

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 NOPR are as follows:

FERC Data Collection	Total Annual Burden Hours (1)	Estimated Hourly Cost ($) (2)	Estimated Total Annual Cost to Respondents ($) (2) X (1)
FERC Form No. 2 (Complete form)	120,102		$7,961,562
	With NOPR, ADJ 136,752	$66.29[44]	$9,065,290
FERC Form No. 2-A (Complete Form)	10,885		$721,567
	With NOPR 11,105	$66.29	$736,150
FERC Form No.3-Q (Complete Form)	177,177		$11,745,063
	With ADJ 181,631		$12,040,319
	With NOPR, ADJ 183,551	$66.29	$12,167,596

14. ESTIMATED ANNUALIZED COST TO FEDERAL GOVERNMENT

Data Requirement <u>Number</u>	**Analysis of Data[45]/ <u>(FTEs)</u>**	**▯**	**Estimated Salary <u>Per Year</u>**	**x**	**FERC Forms Clearance <u>Per Year</u>**	**=**	**Total Cost One Year's <u>Operation</u>**
FERC Forms 2, 2-A, & 3-Q	3	x	$137,874	+	$ 1,528		$415,150.

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

44 Using 2,080 hours/year, the estimated cost for 1 full-time employee is $137,874/year. The estimated hourly cost is $66.29 (or $137,874/2,080).

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

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 Notice of Proposed Rulemaking would 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 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 & 3-Q. 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.

B. COLLECTION OF INFORMATION EMPLOYING STATISTICAL METHODS

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