

Supporting Statement for
FERC-574, Gas Pipeline Certificates: Hinshaw Exemption
(Three-year extension requested)

The Federal Energy Regulatory Commission (FERC or Commission) requests that the Office of Management and Budget (OMB) extend its approval of FERC-574 (Gas Pipeline Certificates: Hinshaw Exemption) for three years. FERC-574 is an existing information collection (filing application) whose filing requirements are contained in 18 C.F.R. Part 152. The estimated annual public reporting burden for FERC-574 is reduced by 185 hours from 245 hours per response as used in the 2007 estimate to 60 hours per response.

A. Justification

1. CIRCUMSTANCES THAT MAKE THE COLLECTION OF INFORMATION NECESSARY

The Natural Gas Act (NGA) regulates the transportation and sale for resale of natural gas in interstate commerce. Section 7 of the NGA provides that “[n]o natural gas company¹ or person which will be a natural gas company upon completion of any proposed construction or extension shall engage in transportation or sale of ‘natural gas’ without first obtaining a certificate of public convenience and necessity from the Commission.” Section 4 of the NGA requires that “natural gas companies” must maintain their rates for transportation or sale of gas with the Commission. Section 1(c) of the NGA, known as the “Hinshaw Amendment,” exempts from FERC regulation intrastate pipelines that receive natural gas at their state boundary that is consumed within the state and subject to state commission regulation, as well as from the many provisions of NGA, including Section 4 and 7. Section 1(c) states:

The provisions of this chapter shall not apply to any person engaged in...the transportation in interstate commerce or resale, of natural gas received by such person from another person within...a state if all of the natural gas so received is ultimately consumed within such state, or to any facilities used by such person for transportation or sale, provided that the rates and service of such person and facilities by subject to regulation by a state commission. The matters exempted from the provisions of this chapter are declared to be matters primarily of local concern and subject to regulation by the several states.²

Under the NGA, interstate pipelines are subject to FERC regulation while intrastate pipelines operations generally are not. However, in 1978, Congress enacted the Natural

¹ The NGA defines “natural gas company” as any individual or corporation “engaged in the transportation of natural gas in interstate commerce of such gas for resale.” 15 U.S.C. § 717(a)(6)

² 15 U.S.C. § 717(c) (2000).

Gas Policy Act (NGPA), in part to eliminate the regulatory barriers between the intrastate and interstate markets and to promote the entry of intrastate pipelines into the interstate market. The NGPA enabled FERC to “develop a national natural gas transportation network without subjecting intrastate pipelines, already regulated by State agencies, to FERC’s regulations over the entirety of their operation.”³

Section 311 of the NGPA authorizes FERC to allow intrastate pipelines to transport gas “on behalf of” interstate pipelines or local distribution companies served by interstate pipelines so long as their rates are “fair and equitable” and do not “exceed an amount which is reasonably comparable to the rates and charges interstate pipelines would be permitted to charge for providing similar transportation services.”⁴ Thereafter, in Order No. 63, FERC authorized Hinshaw pipelines to apply for certificates of authorization to transport natural gas in interstate commerce to the same extent and in the same manner as intrastate pipelines were allowed to do under §311 of the NGPA.

Under the NGA⁵ the Commission is also authorized to conduct investigations and to collect and record data, to the extent the Commission may consider necessary or useful, for the purpose of carrying out the provisions of the Act.

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

The information collected by FERC is in the format of a written application, declaring the applicant’s intent. The application provides the information which the applicant must furnish the Commission in order to make a determination as to whether the application meets exemption provisions of Section 1(c) of the Natural Gas Act. It is used by the Commission’s staff to research the jurisdictional aspects of the applicant’s operations. Commission staff conducts a systematic review of the prepared application with supplemental documentation provided in the filing. The research includes examining maps and land ownership records to establish whether or not there is Federal jurisdiction. In addition, companies that are currently regulated by the Commission and change their status and wish to become non-jurisdictional, must document that they meet the criteria as provided for in Part 152. The required documents allow for a full and complete analysis of a company and provide sufficient data to make a jurisdictional decision. A finding of non-jurisdictional by the Commission can result in the elimination of a substantial paperwork burden for an applicant who might otherwise have to file to comply with sections 4 and 7 of the NGA.

³ *Associated Gas Distributors v. FERC*, 889 F.2d 1250, 1225 (D.C. Cir. 1990)

⁴ 15 U.S.C. § 3371(a)(2)(A)(B)(i)

⁵ (Public Law 75-688)(15 U.S.C. Sections 717-717w)(1998)

Failure to issue these requirements would mean the Commission is not meeting its statutory obligations under Sections 1(c), 4 and 7 of the NGA.

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. The FERC-574 application may be eFiled through FERC's eFiling system. [See <http://www.ferc.gov/docs-filing/efiling.asp> for more information.]

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 Act in an effort alleviate duplication. This includes a review of the Commission's reporting requirements to identify duplication of data requirements. To date, no duplication of application data has been found. The information is specific to each applicant.

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

The reporting requirements associated with FERC-574 are basic filing requirements pertaining to all applications for making a determination for exemption. FERC-574 is a filing on a nonrecurring basis. This is a one-time filing by companies to obtain an exemption from the provisions of the Natural Gas Act. See Part 152 of the Commission's regulations for application and filing requirements. There are no similar sources of information available that can be used or modified for use as the information collected is unique to the applicant.

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

The data required impose the least possible burden on applicants, while collecting the information required for processing the application. As the purpose of the application is to obtain exemption from the NGA provisions, the minimization of the impact, particularly on small businesses would not be applicable. As noted above, this is a one-time filing for exemption from the pipelines certificate requirements of the NGA, and as such, the issue of frequency of filing is not applicable.

7. EXPLAIN ANY SPECIAL CIRCUMSTANCES RELATING TO THE INFORMATION COLLECTION

The guidelines of OMB's regulations of 5 C.F.R. are being exceeded in the number of copies forwarded to the Commission. An original and three copies are required by the Commission to conduct the regulatory review when the submitter chooses not to eFile.⁶ There is no requirement for the company to maintain any copies.

The Commission's Offices of the General Counsel receives one copy and the remaining copies are distributed to Office of Energy Projects staff. These copies are essential to staff so that the required technical, engineering, and environmental reviews and analyses proceed simultaneously and efficiently. A project manager must have a copy of the application for review and coordination purposes; additional copies must be available for staff members in various parts of the Commission for assessing the adequacy of diverse exhibits. It would not be feasible to conduct these review functions in a timely manner, and within the current processing schedule, if fewer copies of the application were provided for staff use.

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

In accordance with OMB requirements in 5 C.F.R. 1320.8(d), FERC issued a 60-day request for public comment on 08/02/2010 (posted at: <http://elibrary.ferc.gov/idmws/nvcommon/NVintf.asp?slcfilelist=12404554:0>) and published in the Federal Register (75FR 47804, 08/09/2010). No comments were received. FERC then issued a 30-day request for public comment on 11/8/2010 (posted at: <http://elibrary.ferc.gov/idmws/nvcommon/NVintf.asp?slcfilelist=12482437:0>) and published in the Federal Register (75FR 70219, 11/17/2010), 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. DESCRIBE ANY ASSURANCE OF CONFIDENTIALITY PROVIDED TO RESPONDENTS

The information submitted to the Commission is public information and therefore is not considered confidential. A company may request confidential treatment of some or all parts of the FERC-574 filing under FERC regulations at 18 C.F.R. 1(b).9, 1(b).20, 385.903, 385.10063, 385.1112. Each request for confidential treatment will be reviewed by FERC on a case-by-case basis.

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

⁶ When the company eFiles, only the three paper copies are needed.

There are no questions of a sensitive nature or other matters that are commonly considered private that is associated with the collection of information under FERC-574.

12. ESTIMATED BURDEN OF COLLECTION OF INFORMATION

The annual burden estimate for information collection under FERC-574 is based on the Commission’s recent experience with applications for Gas Pipeline Certificates: Hinshaw exemptions. FERC estimated the burden based on both the volume and content of recent filings on this data collection.

FERC Data Collection	No. of Respondents (1)	Average No. of Responses per Respondent (2)	Average Burden Hours per Response (3)	Total Annual Burden Hours (1) x (2) x (3)
FERC-574	1	1	60	60

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)
60	2080	\$137,874 ⁷	\$3,977.13

14. ESTIMATED ANNUALIZED COST TO FEDERAL GOVERNMENT

The estimated annualized cost to the Federal Government for FERC-574, Gas Pipeline Certificates: Hinshaw Exemptions is as follows:

FERC-574	No. of FTE’s	Estimated, Annual, Federal Resources in (\$)
Annual Staff Costs	.1	\$13,787
Annual Clearance Processing Cost		\$1,528
Total		\$15,315

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

The estimated annual public reporting burden for FERC-574 is reduced from the estimate made three years ago due to the results of an analysis of recent filings. The analysis focused on both the volume and content of submissions and showed that 60 hours per response is a more accurate estimate for the average burden hours per response than the

⁷ Estimated average annual cost per employee

245 hours used in the 2007 estimate. The estimated number of filings remains at one per year. However, there have been years in which no FERC-574 filings were received (see attachment C).

16. TIME SCHEDULE FOR PUBLICATION OF DATA

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

17. DISPLAY OF EXPIRATION DATA

It is not appropriate to display the expiration data for OMB approval of the information collected under FERC-574. The information is not collected on a standard, preprinted form which would avail itself to this display.

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 noticed in no. 17, this information does not fully meet the standard set in 19 (g)(vi).

B. COLLECTION METHODS OF INFORMATION EMPLOYING STATISTICAL METHODS

FERC-574 is not collections of information employing statistical methods.