

**Supporting Statement for  
FERC Form No. 6, Annual Report of Oil Pipeline Companies  
(OMB Control No. 1902-0022),  
in Notice of Proposed Rulemaking (Docket No. RM11-21-000)**

The Federal Energy Regulatory Commission (Commission or FERC) requests that the Office of Management and Budget (OMB) review and approve the FERC Form No. 6 (Annual Report of Oil Pipeline Companies; current expiration date of 6/30/2013), for a three-year period. The FERC Form No. 6 is an existing Commission data collection, contained in Title 18 Code of Federal Regulations (CFR), Part 357 (Attachment A).<sup>1</sup>

**Notice of Proposed Rulemaking (Docket No. RM11-21-000)**

On July 29, 2011, the Commission issued a Notice of Proposed Rulemaking (NOPR) in Docket No. RM11-21-000, Revision to Form No. 6. In the NOPR the Commission proposes to amend the instructions on page 700, Annual Cost of Service Based Analysis Schedule, of FERC Form No. 6 (Form 6) to ensure that pipelines report interstate-only barrel and barrel-mile data and not a combination of interstate and intrastate throughput. The Commission also proposes to direct pipelines that reported combined interstate and intrastate data on lines (1) through (12) of page 700 of their 2010 Form 6 to file a revised page 700 containing only interstate data for the years 2010 and 2009.

**A. JUSTIFICATION**

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

Under the Interstate Commerce Act (ICA), (Section 20, 54 Stat. 916) [Section 20 at Attachment B], the Commission is authorized and empowered to make investigations and to collect and record data to the extent the Commission may consider to be necessary or useful for the purpose of carrying out the provisions of the Interstate Commerce Act (ICA). The information collected under the requirements of the Form 6 is used by the Commission to carry out its responsibilities in implementing the statutory provisions of the ICA, including the authority to prescribe rules and regulations concerning accounts, records and memoranda as necessary or appropriate. 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.

Financial accounting and reporting provides needed information concerning a company's past performance and its future prospects. Without reliable financial statements prepared in

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<sup>1</sup> The FERC Form No. 6-Q is not being reviewed here. This is because the Notice of Proposed Rulemaking that has triggered this review is only proposing changes to the FERC Form No. 6.

accordance with the Commission's Uniform System of Accounts and related regulations, the Commission would be unable to accurately determine the costs that relate to a particular time period, service or line of business. Additionally, it would be difficult to determine whether a given entity has previously been given the opportunity to recover its costs through rates, or to compare how the financial performance and results of the operations of one regulated entity relates to another.

The Form 6 also assists the Commission in overseeing and policing the regulated oil pipeline markets to assist in enforcing the ICA.

### **Historical Background**

In 1977, the Department of Energy Organization Act transferred to the Commission from the Interstate Commerce Commission (ICC) the responsibility to regulate oil pipeline companies. In accordance with the transfer of authority, the Commission was delegated the responsibility to require oil pipelines to file annual reports of information necessary for the Commission to exercise its statutory responsibilities.<sup>2</sup> The transfer included the Form P, the forerunner to the Form 6, Annual Report of Oil Pipeline Companies (Form 6).<sup>3</sup>

In 1994, the Commission addressed additional revisions to the Form 6 in Order Nos. 571 and 571-A, including a new Page 700 (Annual Cost of Service).

On December 13, 2000, the Commission issued a Final Rule in Docket No. RM99-10-000, Order No. 620, "Revisions to and Electronic Filing of the FERC Form No. 6 and Related Uniform System of Accounts." The Final rule revised Form 6 and the Commission's regulations in 18 CFR Part 357. These revisions amended the annual filing requirements and raised the minimal filing threshold for the Form 6. The Commission also revised the Form 6 instructions and schedules to clarify definitions and general instructions, eliminated duplicate reporting requirements, removed and consolidated schedules, updated and revised current schedules. As a result, three tiers, or thresholds based on the last three years of reported operating revenues (as noted below) were created for filing the Form 6.

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<sup>2</sup> Section 402(b) of the Department of Energy Organization Act (DOE Act), 42 U.S.C. 7172 provides that; "[t]here are hereby transferred to, and vested in, the Commission all functions and authority of the Interstate Commerce Commission or any officer or component of such Commission where the regulatory function establishes rates or charges for the transportation of oil by pipeline or established the valuation of any such pipeline."

<sup>3</sup> The ICC developed the Form P to collect information on an annual basis to enable it to carry out its regulation of oil pipeline companies under the Interstate Commerce Act. A comprehensive review of the reporting requirements for oil pipeline companies was performed on September 21, 1982, when the Commission issued Order 260 revising the former ICC Form P, "Annual Report of Carriers by Pipeline" and redesignating it as FERC Form No. 6, "Annual Report of Oil Pipeline Companies".

- (A) \$500,000 and above-must file the full Form 6;
- (B) \$350,000 to \$499,999 – must file only the Identification page, Page 301 and Page 700;
- (C) Below \$350,000 – must file only the Identification page and Page 700.

Section 352 of Title of the Code of Federal Regulations prescribes a system of accounts which is applicable to all oil pipeline companies subject to the Commission's jurisdiction.

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

The information filed with the Commission is used in the following manner:

- The Commission's Office of Enforcement (OE) uses the Form 6 data collected to assist in the implementation of its financial audits and programs, in the continuous review of the financial condition of regulated companies and in the assessment of energy markets. The Office of Energy Markets Regulation (OEMR) uses the data collected for various rate proceedings and economic analyses. The Office of Administrative Litigation (OAL) uses the data collected for background research for use in litigation. The Office of the General Counsel (OGC) uses the data in its programs relating to the administration of the ICA.
- The Office of the Executive Director (OED) uses data on certain schedules of the Form 6 to compute annual charges which are then assessed against oil pipeline companies to recover the Commission's annual costs as mandated by Commission Order No. 472. The annual charges are required by Section 3401 of the Omnibus Budget Reconciliation Act of 1986.
- The majority of state regulatory commissions use the Form 6 and the FERC Uniform System of Accounts to satisfy their reporting requirements for those companies under their jurisdiction.
- The public uses the data to assist in monitoring rates, the financial condition of the industry, and in the assessment of energy markets.

The Commission continues to review and modernize its oil regulations with a view toward reducing the burden it places on industry. The ICA mandates the collection of information needed by the Commission to perform its regulatory responsibilities in the setting of just and reasonable rates. The Commission could be held in violation of the ICA if the information was not collected.

**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. Every pipeline carrier subject to the provisions of Section 20 of the ICA must electronically file with the Commission through Commission-provided software. The Commission has made available to all Form 6 respondents web-based submission software necessary to file electronically through a doorway found on the FERC web site at <http://www.ferc.gov/docs-filing/forms/form-6/elec-subm-soft.asp>. The Commission requires all Form 6 respondents to use this software and doorway access for filings.

The Commission believes that electronic submission of Form 6 filings yields significant benefits, including more timely analysis and publication of data, increased data analysis capability, reduced cost of data entry and retrieval, simplifying the form design, and overall reduction of the reporting burden.

**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 to alleviate duplication. All Commission information collections are subject to analysis by Commission staff and are examined for redundancy. To date, no duplication of the proposed data requirements has been found.

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

The filing threshold for the Form 6 is divided into three categories, based on the size of the company (see Historical Background section above). Smaller companies are not required to file the full Form 6, only certain pieces of form. The Commission concluded that exempting a certain percentage of oil companies from filing the full FERC Form No. 6 in its entirety will not compromise its ability to gather meaningful data upon which to base its regulation of the oil pipeline industry.

The one-time filing proposed in the NOPR will affect all filers of the Form 6. However, the average burden per filer is expected to be small (1 hour per company), and therefore not substantially impacting small entities.

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

The Commission is authorized by statute to collect this information on an annual (Form 6) and quarterly (Form 6-Q) basis. If the collection were conducted less frequently, the Commission would be unable to perform its mandated review responsibilities with respect to the assessment of the financial conditions of oil pipeline companies. The continued use of the FERC Form No. 6 (and FERC Form No. 6-Q) ensures that the Commission has the financial, operational, and ratemaking information needed to carry out its regulatory responsibilities to monitor the oil pipeline industry.

The trend toward more frequent and better financial disclosures has increased in reaction to highly publicized corporate scandals, business failures and the resulting losses incurred by investors and others. In 2002, Congress passed the Sarbanes-Oxley Act to require public companies disclose on a more rapid and current basis additional information on material changes in their financial and operational condition. This information has to be disseminated to the public and investors in language they would clearly understand. As a result of this legislation, dates for periodic reporting of financial information have been accelerated, and principal executive and financial officers must each attest to the validity of the financial and other information contained in the financial reports.

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

The requirements of the FERC Form No. 6 meet all of OMB's section 1320.5 requirements.<sup>4</sup>

**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. On August 3, 2011, a NOPR was published in the Federal Register (76 FR 46668). Comments in response to this notice are due October 3, 2011.

**9. EXPLAIN ANY PAYMENT OR GIFTS TO RESPONDENTS**

No payments or gifts have been made to respondents.

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<sup>4</sup> 5 C.F.R. § 1320.5 (1995).

**10. DESCRIBE ANY ASSURANCE OF CONFIDENTIALITY PROVIDED TO RESPONDENTS**

The Commission designed Form 6 in a manner such that all information reported is subject to public access and review and therefore, generally not confidential. Specific requests for confidential treatment to the extent permitted by law will be entertained 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 items of confidentiality or questions of a sensitive nature associated with the data requirements proposed on the Form 6.

**12. ESTIMATED BURDEN OF COLLECTION OF INFORMATION**

The current burden estimate as approved by OMB for the Form 6 is as follows:

<b>Form 6<sup>5</sup></b>	<b>Number of Respondents Annually (1)</b>	<b>Number of Responses Per Respondent (2)</b>	<b>Average Annual Burden Hours Per Response (3)</b>	<b>Total Annual Burden Hours (1)x(2)x(3)</b>
Current Inventory	166	1	160.58	26,657
Proposed in NOPR (RM11-21) <sup>6</sup>	166 Error: Reference source not found	1	.33	55.33
Proposed New Inventory				26,712

The Commission estimates that the requirements of the NOPR, if adopted, would add a one-time burden of 1 hour per respondent (166 respondents at 1/hour per filing = 166 hours). The 1 hour burden estimate is based on the fact that the revision to the 12 lines of data on page 700 only involves subtracting the intrastate barrel and barrel-mile data from the total if it was incorrectly included previously (interstate plus intrastate barrel and barrel-mile), and does not involve any

<sup>5</sup> Some of the figures do not add up exactly due to rounding/truncating error.

<sup>6</sup> The NOPR in RM11-21 is adding no respondents, However it might result in a maximum of the 166 filers (respondents; the figure in the current inventory) providing one additional filing [response] of Page 700 data if they had included intrastate data in their previous Page 700 figures for 2009 and 2010. For those filers that had not included intrastate data in their filing (covering 2009 and 2010), no additional response is necessary. Because this is a proposed rule, the timing for re-filing of the 2009 and 2010 data for Page 700 is not certain and would depend on the timing of any final rule in this docket and the OMB clearance process.

further analysis or collection of information. The Page 700 revised figures containing only interstate information would then be re-filed on a one-time basis.

The program change (additional one-time burden) of 166 hours and one-time response from 166 respondents are being spread over the next three years for the purposes of submittal to the OMB, giving an average additional annual burden of 55.33 hours or 20 minutes per year per respondent.

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

The estimated, annual cost to the respondents, averaged over the next three years is shown here.

<b>FERC Data Collection Form 6</b>	<b>Total Annual Burden Hours (1)</b>	<b>Estimated Hourly Cost (\$) (2)</b>	<b>Estimated Total Annual Cost to Respondents (\$) (2) X (1)</b>
Current Inventory Cost	26,657	\$68.45 <sup>7</sup>	\$1,824,672
Proposed in NOPR (RM11-21)	55.33	\$68.45	\$3,787
Proposed New Inventory	26,712.33	\$68.45	\$1,828,459 <sup>8</sup>

The average cost per respondent for Form No. 6 is \$11,015 (rounded off) [\$1,828,459/166].

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

The estimated annualized cost to the Federal government related only to the data collections/requirements are shown below:

<b>Data of Requirement</b>	<b>Analysis of Data<sup>9</sup></b>	<b>Estimated Salary</b>	<b>FERC Forms Clearance</b>	<b>Total Cost</b>
<b>Number</b>	<b>(FTEs)</b>	<b>Per Year</b>	<b>Per Year</b>	<b>= One Year's Operation</b>
Form 6	.5	\$142,372	\$ 1,575	\$72,761

<sup>7</sup> Using 2,080 hours/year, the estimated cost for 1 full-time employee is \$142,372/year. The estimated hourly cost is \$68.45 (or \$142,372/2,080).

<sup>8</sup> Rounded off.

<sup>9</sup> An "FTE" is a "Full time Equivalent" employee that works the equivalent of 2,080 hours per year, at a cost of \$142,372 per year.

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

The Commission estimates there will be a one-time increased burden involved in the initial implementation associated with: (a) using only interstate figures for lines 1-12 of page 700, and (b) re-filing of revised data for lines (1) through (12) of page 700 for 2009 and 2010. For the recurring effort involved in filing interstate data on lines (1) through (12) of page 700 for 2011 and future years, we estimate that the change in burden is negligible (after the initial implementation).

The additional one-time burden of 166 hours is being spread over the three years for the purposes of submittal to the Office of Management and Budget (OMB), giving an average additional annual burden of 55.33 hours.<sup>10</sup>

In the last submission to OMB under this control number the Commission included the annual cost figure in the ROCIS metadata. However, the Commission currently only includes in ROCIS the costs not associated with burden hours and wages for employees and has therefore removed the cost figure previously reported in ROCIS as it corresponded to wages paid to employees in completing this collection (burden hour costs are still reported in question 13).

**16. TIME SCHEDULE FOR PUBLICATION OF DATA**

The information furnished in the Form 6 is available for public inspection at the FERC website (<http://www.ferc.gov/docs-filing/forms.asp#6>). Each pipeline company, subject to the provisions of Section 20 of the ICA, must file the Form 6 on or before April 18 of the year following the year covered by this report. The data are not collected for the purposes of a publication; rather they are collected for regulatory purposes.

**17. DISPLAY OF THE EXPIRATION DATE**

The Form 6 displays both the OMB control number and the expiration date. This information is displayed in the upper right-hand corner of the cover page in the appropriate electronic version of this form.

**18. EXCEPTIONS TO THE CERTIFICATION STATEMENT**

There is an exception to the Paperwork Reduction Act Submission Certification. Because the data collected for this reporting requirement is not used for statistical purposes, as is stated in the certification accompanying this submission. The information collected is case specific to each respondent.

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<sup>10</sup> After three years, the Commission intends to remove these hours from this collection.



FERC Form No. 6 (OMB Control No. 1902-0022) [updated 9/20/2011]  
NOPR (RM11-21) Issued 7/29/2011 (RIN: 1902-AE37)

**B. COLLECTION OF INFORMATION EMPLOYING STATISTICAL METHODS**

This is not a collection of information employing statistical methods.

**Attachment A**

The specific reporting requirements related to FERC Form No. 6 appear in 18CFR Part 357.2. A hyperlink to a blank FERC Form 6 is as follows: [FERC Form 6](#).

**Title 18: Conservation of Power and Water Resources**

**PART 357 ANNUAL SPECIAL OR PERIODIC REPORTS: CARRIERS SUBJECT TO PART I OF THE INTERSTATE COMMERCE ACT--Table of Contents**

**Sec. 357.2 FERC Form No. 6, Annual Report of Oil Pipeline Companies.**

(a) *Who must file.* (1) Each pipeline carrier subject to the provisions of section 20 of the Interstate Commerce Act whose annual jurisdictional operating revenues has been \$500,000 or more for each of the three previous calendar years must prepare and file with the Commission copies of FERC Form No. 6, "Annual Report of Oil Pipeline Companies," pursuant to the General Instructions set out in that form. Newly established entities must use projected data to determine whether FERC Form No. 6 must be filed.

(2) Oil pipeline carriers exempt from filing Form No. 6 whose annual jurisdictional operating revenues have been more than \$350,000 but less than \$500,000 for each of the three previous calendar years must prepare and file pages 301, "Operating Revenue Accounts (Account 600)," and 700, "Annual Cost of Service Based Analysis Schedule," of FERC Form No. 6. When submitting pages 301 and 700, each exempt oil pipeline carrier must include page 1 of Form No. 6, the Identification and Attestation schedules.

(3) Oil pipeline carriers exempt from filing Form No. 6 and pages 301 and whose annual jurisdictional operating revenues were \$350,000 or less for each of the three previous calendar years must prepare and file page 700, "Annual Cost of Service Based Analysis Schedule," of FERC Form No. 6. When submitting page 700, each exempt oil pipeline carrier must include page 1 of Form No. 6, the Identification and Attestation schedules.

(b) *When to file.* (1) The annual report for the year ending December 31, 2004, must be filed on April 25, 2005.

(2) The annual report for each year thereafter must be filed on April 18 of the subsequent year.

(c) *What to submit.* (1) This report form must be filed as prescribed in §385.2011 of this chapter and as indicated in the General Instructions set out in the report form, and must be properly completed and verified.

(2) A copy of the report must be retained by the pipeline carrier in its files. The conformed copies may be produced by any legible means of reproduction.

FERC Form No. 6 (OMB Control No. 1902-0022) [updated 9/20/2011]  
NOPR (RM11-21) Issued 7/29/2011 (RIN: 1902-AE37)

(3) The form must be filed in electronic format only pursuant to §385.2011 of this chapter, beginning with report year 2002, due on or before March 31, 2003.

[Order 620, 65 FR 81344, Dec. 26, 2000, as amended by Order 628, 68 FR 269, Jan. 3, 2003; 69 FR 9044, Feb. 26, 2004]

**Attachment B**

The relevant section of the statute, Interstate Commerce Act, Section 20. The specific section follows.

**EXCERPTS FROM THE LAW**

**Interstate Commerce Act, Part I**

Section 20

(1) The Commission is hereby authorized to require annual, periodical, or special reports from carriers, lessors, \* \* \* (as defined in this section), to prescribe the manner and form in which such reports shall be made, and to require from such carriers, lessors, \* \* \* specific and full, true, and correct answers to all questions upon which the Commission may deem information to be necessary, classify such carriers, lessors, \* \* \* as it may deem proper for any of these purposes. Such annual reports shall give an account of the affairs of the carrier, lessor, \* \* \* in such form and detail as may be prescribed by the Commission.

(2) Said annual reports shall contain all the required information for the period of twelve months ending on the 31st day of December in each year, unless the Commission shall specify a different date, and shall be made out under oath and filed with the Commission at its office in Washington within three months after the close of the year for which report is made, unless additional time be granted in any case by the Commission.

**GENERAL PENALTIES**

Section 20

(7)(b) Any person who shall knowingly and willfully make, cause to be made, or participate in the making of any false entry in any annual or other report required under this section to be filed, \* \* \* or shall knowingly or willfully file with the Commission any false report, or other document, shall be deemed guilty of a misdemeanor and shall be subject, upon conviction in any court of the United States of competent jurisdiction to a fine of not more than five thousand dollars or imprisonment for not more than two years, or both such fine and imprisonment: \* \* \*

(7)(c) Any carrier or lessor, or any officer, agent, employee, or representative thereof, who shall fail to make and file an annual or other report with the Commission within the time fixed by the Commission, or to make specific and full true and correct answer to any question within thirty days from the time it is lawfully required by the Commission so to do, shall forfeit to the United States the sum of one hundred dollars for each and every day it shall continue to be in default with respect thereto.