

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"
As Proposed in Docket No. RM07-9-004, RIN: 1902-AE11
OMB Control Nos. 1902-0028, -0030
(Order on Rehearing issued August 22, 2011)

The Federal Energy Regulatory Commission (FERC or Commission) requests Office of Management and Budget (OMB) review and approval of **FERC Form No. 2 "Annual Report of Major Natural Gas Companies", and FERC Form No. 2-A "Annual Report of Nonmajor Natural Gas Companies"**. These information collections are current data requirements with modifications as proposed in Docket No. RM07-9-004, "Revisions to Forms, Statements and Reporting Requirements for Natural Gas Pipelines" (Order 710-C).¹

The Federal Energy Regulatory Commission generally denies rehearing and reaffirms the findings made in Order No. 710-B (Final Rule in Docket No. RM07-9-003). The Commission does, however, grant rehearing on the issue of whether to include Page 521d and grant additional time to comply with Order No. 710-B. Further, in response to comments, the Commission is revising its burden estimates for the two collections affected.

Background

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.² The information provided in these forms included data on fuel use, but did not require these data to be functionally disaggregated.

On rehearing, the American Gas Association (AGA) argued that the fuel data would be more useful if such data were broken out by different pipeline functions, including transportation,

¹ Form 2 has OMB approval number 1902-0028, expires 5/31/14; Form 2-A has OMB approval number 1902-0030, expires 5/31/14. The FERC Form No. 3-Q is not directly affected here because the filers will be making a one-time change in preparation for filing the Form Nos. 2 and 2A in April, 2012. It is expected that well before the date of the next Form No. 3-Q filing the one-time burden associated with this change will have already been expended. However, the Commission intends to submit the FERC Form No. 3-Q to OMB as a non-substantive change.

² *Revisions to Forms, Statements, and Reporting Requirements for Natural Gas Pipelines*, Order No. 710, 73 FR 19389 (Apr. 10, 2008), FERC Stats. & Regs. ¶ 31,267 (2008), *order on reh' g and clarification*, Order No. 710-A, 123 FERC ¶ 61,278 (2008), *remanded sub nom, American Gas Ass'n v. FERC*, 593 F. 3d 14 (D.C. Cir 2010) (D.C. Circuit Remand Order).

storage, gathering, and exploration/production, and should include, by function, the amount of fuel waived, discounted or reduced as part of a negotiated rate agreement. This argument originally was rejected in Order No. 710-A, and Chairman (then Commissioner) Wellinghoff issued a partial dissent arguing that AGA's proposals should have been adopted.³

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.⁴

On June 17, 2010, the Commission issued a notice of proposed rulemaking proposing to revise pages 521a, 521b, and page 520, and proposing to add pages 521c and 521d to FERC Form Nos. 2, 2-A, and 3-Q to include functionalized fuel data, including the amount of fuel waived, discounted or reduced as part of a negotiated rate agreement.⁵

In response to the June 2010 NOPR, comments were filed by eight commenters.⁶ Certain of the comments presented proposals that differed from the Commission's proposals in the June 2010 NOPR. To give all interested persons an opportunity to comment on these proposals prior to making a final decision, the Commission issued a notice allowing reply comments. Reply comments were filed by two commenters.⁷

On January 20, 2011 the Commission issued a final rule (Order 710-B) that revised the 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, 521b, and 521c of those forms, and to include on such forms the amount of fuel waived, discounted or reduced as part of a negotiated rate agreement.

In response to the Final Rule, the Interstate Natural Gas Association of America (INGAA) filed a request for rehearing raising several separate objections to the Final Rule. In the order on rehearing (the subject of this proceeding), the Commission generally denies rehearing and

³ Order No. 710-A, 123 FERC at 62,708-9.

⁴ 593 F.3d at 21.

⁵ *Revisions to Forms, Statements, and Reporting Requirements for Natural Gas Pipelines*, Notice of Proposed Rulemaking, 75 FR 35700 (June 23, 2010), FERC Stats. & Regs. ¶ 32,659 (June 17, 2010) (June 2010 NOPR).

⁶ These commenters and the abbreviations used to identify them are provided in the attached in the Appendix to Order 710-B (in Docket No. RM07-9-003).

⁷ INGAA and AGA.

reaffirms the findings made in Order No. 710-B. The Commission is, however, revising the burden estimate to more accurately account for initial start-up costs, granting rehearing on the issue of whether to include page 521d and granting filers additional time before they must begin filing Form Nos. 2, 2-A, and 3-Q in accordance with the requirements established in Order No. 710-B and this rehearing order.

A. Justification

1. CIRCUMSTANCES THAT MAKE THE COLLECTION OF INFORMATION NECESSARY

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.

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. The information is compiled using a standard chart of accounts contained in the Commission's Uniform System of Accounts (USofA).⁸ 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

⁸ See 18 CFR Part 201.

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, 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.

In summary, without the information collected in these forms 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 and 2-A 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/forms/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.

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 of Forms 2 and 2A do not create significant burdens on industry. The Commission believes that the benefits of transparency and understandability of financial statements to both the Commission and the public far outweigh the costs to an individual company. 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.

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

Annual reporting is consistent with the reporting to the companies' own management, the Internal Revenue Service, state and other Federal agencies' requirements. If the Forms were filed less frequently the Commission would not be able to respond and make decisions in a timely manner particularly to rapidly changing financial conditions of entities subject to its jurisdiction.

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 received requests for clarification and rehearing in response of the Final Rule published in the Federal Register in January 2011. The following paragraphs provide summaries of the comments along with the Commission's response. These summaries are pulled almost directly from Order 710-C (Order on rehearing in Docket No. RM07-9-004) and contain references that pertain to paragraph numbers that are contained in that Order.

In response to the Final Rule, Interstate Natural Gas Association of America (INGAA) filed a request for rehearing reiterating many of the concerns that it raised earlier in the proceeding (in its comments and reply comments on the June 2010 NOPR).

INGAA raises eleven separate objections to the Final Rule. First, INGAA argues that Order No. 710-B erred by finding that reporting of functionalized fuel data by contract rate category does not require tracking of fuel by individual contracts. Second, INGAA argues that adding this level of detail increases the reporting burden. Third, INGAA argues that the Commission erred by not adopting its alternative proposal which it maintains would have met the Commission's needs with a lesser burden to filers. Fourth, INGAA claims that the requirement to allocate lost and unaccounted for gas (LAUF) among negotiated, discounted and recourse transportation customers ignores fundamental nature of LAUF, forcing an allocation that is meaningless. Fifth, INGAA argues that the requirement to disclose the disposition of excess gas or gas acquired to meet deficiencies by contract rate category also is meaningless. Sixth, INGAA reiterates its objection to reporting discounted rates as a separate category, claiming that disclosing this information does not serve any regulatory purpose because pipelines are prohibited from discounting. Seventh, INGAA argues that the Commission erred by not

granting the clarification requested by MidAmerican⁹ (that the rule should only cover (1) contracts with discounted and negotiated fuel rates and (2) headings should be changed to be “discounted fuel rate” and “negotiated fuel rate).” INGAA argues this would be less burdensome but would accomplish the Commission’s stated goals. Eighth, INGAA argues that the Commission erred by assuming that MidAmerican’s proposal would have excluded many contracts that otherwise would be reported. Ninth, INGAA argues that the Final Rule orders the collection of data too soon and that data under the new categories should not be required to be collected until calendar year 2012. Tenth, INGAA requests clarification that “backhaul service offered under tariff” means that, if tariff does not include a “backhaul” rate schedule, then nothing need be reported for this. Finally, INGAA argues that the Commission should keep blank page 521d, which was included in the June 2010 NOPR and omitted in the Final Rule. We will now examine each of these arguments.

Does the Final Rule Require the Tracking of Individual Contracts?

INGAA argues that Order No. 710-B erred by finding that reporting of functionalized fuel data by contract rate category does not require the tracking of fuel by individual contracts.

INGAA states that, in Order No. 710-B, the Commission found that the reporting of functionalized fuel data by contract rate category does not require the tracking of fuel by individual contracts. INGAA disputes this finding and argues that such tracking would be necessitated, despite the Commission’s finding to the contrary. We reject this interpretation. As we stated in Order No. 710-B, at P 74:

In this Final Rule, the Commission is not imposing any additional reporting requirements that change how those pipelines track fuel. Pipeline billings are provided on an integrated basis, accounting for sales based on whether the volumes are negotiated, recourse, or discounted. Moreover, contrary to INGAA’s assertions, the Commission is not requiring pipelines to track fuel by individual contracts, but merely continuing the current practice of requiring the assignment of fuel based on an allocation of throughput or stated fuel rate. The revisions to page 521a through 521c require the same accounting mechanism for fuel, enabling parties to better understand how fuel use costs are assigned.

Thus, it can be seen that, if a pipeline has twelve gas service contracts, the Final Rule is not requiring the pipeline to report the details of each of those contracts. Instead, the Final Rule is requiring the pipeline to report the totals for fuel (for all twelve contracts) by function which can be determined on an allocation of throughput or stated fuel rate. To accomplish this, however,

⁹ In this proceeding, we are referring to Northern Natural Gas Company and Kern River Gas Transmission Company, collectively, as MidAmerican.

the pipelines would need to continue their current practice of assessing shippers for services provided to each customer.

Reporting Burden

INGAA argues that adding the level of detail required by the Final Rule increases the reporting burden. In light of INGAA's concerns, we have further reviewed the burden estimate contained in the Final Rule and have determined that we can improve the accuracy of our burden estimate if we distinguish between the initial start-up costs, which include all of the work needed to identify and create a mechanism to report the information required to be reported under the Final Rule, as compared to the ongoing costs of reporting the information required to be reported under the Final Rule once the reporting mechanism is in place. This revised burden estimate is shown below in response to question 12.

INGAA's Alternative Proposal

INGAA argues that the Commission erred by not adopting its alternative proposal which it maintains would have met the Commission's needs with a lesser burden to filers. The Commission addressed this issue in Order No. 710-B, where we stated:

We find that requiring the reporting of fuel costs and revenues by rate structure broken down by function will increase the ability of the Commission and interested parties to assess whether a pipeline's existing shippers are subsidizing the pipeline's negotiated rate program. Thus, we find that INGAA's proposal would effectively delete much of the valuable information sought in the June 2010 NOPR.^[10]

The revised forms also will now allow the user to better determine where on the pipeline system fuel costs are being incurred and how they are being allocated. This added transparency, which is supported by the majority of the commenters, will ensure that the Commission and pipeline customers have sufficient information to be able to assess the justness and reasonableness of pipeline rates. The collection and public availability of this information is consistent with our goal of having sufficient information to allow the Commission and pipeline customers to assess the impact on pipeline rates of changing fuel costs.^[11]

By contrast, if we adopted INGAA's suggestion to limit the revisions to FERC Form No. 2 to those originally proposed by AGA, then the benefits of increased transparency of rates,

¹⁰ *Revisions to Forms, Statements, and Reporting Requirements for Natural Gas Pipelines*, Order No. 710-B, 76 FR 4516 (Jan. 26, 2011), 134 FERC ¶ 61,033 (Jan. 20, 2011) (Order No. 710-B or Final Rule). P 37.

¹¹ *Id.*, P 38.

particularly within the negotiated rate program, which are described in the two preceding paragraphs, would not be fully realized.^[12]

INGAA's rehearing reiterates arguments it advanced earlier in this proceeding that, for the reasons quoted above, the Commission rejected in Order No. 710-B. We reaffirm those findings and reject INGAA's proposal.

Allocations of Fuel Used in Compressor Stations, LAUF, and Fuel Used in Operations

INGAA argues that Order No. 710-B suggests that fuel consumed in compressor stations, LAUF and fuel used in operations, which are all drawn from a commingled and fungible gas stream, can be traced back to individual shipper contracts. INGAA further argues that the requirement to allocate LAUF among negotiated, discounted and recourse transportation customers ignores fundamental nature of LAUF, forcing an allocation that is meaningless. INGAA also argues that, except in some limited and unique circumstances, such tracing is impractical, if not impossible.¹³

The reporting requirements established in the Final Rule do not require fuel use to be traced back to individual shipper contracts.¹⁴ The information reported on Pages 521a and 521b -- even before issuance of the Final Rule -- already included a requirement for pipelines to report monthly fuel use by Dth. The Final Rule added the requirement for pipelines (on lines 1-65 on Pages 521a and 521b) to allocate these totals among discounted rates, negotiated rates, and recourse rates. The Final Rule did not impose a requirement that these allocations be made based on a review of individual contracts. One reasonable approach would be to take the total volume of throughput and allocate it among the three contract categories (i.e., contracts with discounted rates, contracts with negotiated rates, and contracts with recourse rates) based on the percentage of gas transported for each contract type, which is already known and available to a pipeline for invoicing shippers on a monthly basis. For example, if, hypothetically, a pipeline has a monthly transportation volume of 1000 Dth and 5 percent of its volume is associated with

¹² *Id.*, P 39.

¹³ INGAA states that “[p]ipelines do track or allocate fuel consumed separately for incremental rate services in which the Commission in its orders has required the pipeline to keep the incremental rate customers’ fuel costs and revenues separate. Other than for such very limited incremental rate purposes, however, pipelines are not required to allocate or track fuel used by individual contract even in general section 4 rate proceedings. In its orders approving pipelines’ negotiated rate contracts, the Commission requires pipelines to separately account for the negotiated rate transaction’s volumes, revenues, billing determinants, rate components and surcharges. But, the Commission does not require that fuel used, or any other cost for that matter, associated with negotiated rate transactions be separately accounted for.” INGAA Rehearing at n.1.

¹⁴ The Commission does not expect pipelines to develop and administer a process by which the fuel in each compressor, as it is burned, is assigned in some manner among individual shipper contracts.

contracts with discounted rates, 10 percent is associated with negotiated rates contracts, and 85 percent associated with recourse rate contracts, then the pipeline could develop an allocation of fuel used at compressor stations, LAUF, and gas used in operations based on a ratio of the throughput. Such an allocation could be used for all the various allocations needed to complete Pages 521a and 521b. Thus, it is evident that we are not requiring pipelines to assess individual contracts to make this allocation.

In addition, while admittedly imperfect, allocating costs by function is a standard practice for pipelines for numerous cost categories. The allocation of fuel consumed in compressor stations, LAUF and fuel used in operations, and among negotiated, discounted and recourse transportation customers are a few, among many, of such cost allocations. The allocation of costs is a standard practice for pipeline companies to bill their customers for services rendered. The fact that such allocations are not 100 percent precise does not negate the necessity for such allocations being made. Pipelines collect fuel (including LAUF) from customers and the Final Rule requires the reporting of how that fuel is assigned.

INGAA's position is that the allocation of fuel costs required by this rule is "meaningless" given the nature of LAUF as gas that is lost and unaccounted for.¹⁵ We disagree. In our view, allowing customers to see exactly how fuel costs are assigned to various customer groups is important because it allows customers to assure themselves that the fuel costs being assigned to them are reasonable and do not cross-subsidize other customer groups. Thus, we find that making such allocations transparent is extremely meaningful.

Disclosure of Disposition of Excess Gas or Gas Acquired to Meet Deficiency by Contract Rate Category

INGAA raises the same objections to the reporting of the disposition of excess gas or the reporting of gas acquired to meet deficiencies that it raised regarding the reporting of the allocation of fuel used in compressor stations, LAUF, and fuel used in operations. Specifically, INGAA argues that, [t]he reporting of disposition of excess gas or the reporting of gas acquired to meet deficiencies on pages 521b and 521c (lines 38-65) by contract rate category would provide little benefit. A pipeline does not track disposition or acquisition of gas by categories of transportation contracts. Assignment to contract rate categories could be accomplished by utilizing an arbitrary allocation methodology. However, the allocation of a pipeline's system gas dispositions or acquisitions would not yield any meaningful information. Only the reporting of total dispositions or total acquisitions of system gas would produce a cogent result. Accordingly, INGAA requests rehearing and asks the Commission to allow pipelines to report total disposition or total acquisitions of system gas on pages 521b and 521c.^{16]}

¹⁵ INGAA Rehearing at 3 & 8-9.

¹⁶ INGAA Rehearing at 8.

As discussed above in paragraph 14, the allocations required by the Final Rule do not require an analysis of individual contracts. Moreover, while the allocations required by this rule may not be precise, few allocations are, and these allocations are routinely made for customer billing purposes.

The information reported in lines 38-65 would be useful in determining among which classes of shippers over and under recoveries of fuel are occurring (i.e., recourse, negotiated, or discounted customers). For example, recourse rate shippers could provide more fuel than necessary and negotiated rate shippers could have a capped fuel rate such that recourse shippers may be subsidizing negotiated rate shippers. The recourse rate shippers should be in a position to fully understand whether over recovered fuel for recourse rate contracts is being used to make up a deficiency of fuel for negotiated rate contracts. Similarly, shippers should be aware to the extent a pipeline is purchasing gas associated with a fuel deficiency attributable to negotiated rate contracts. Additionally, while generally more applicable to pipelines with stated fuel rates, shippers should be in a position to know whether the disposition of excess fuel is being sold or if the gas is used for imbalances such that pipelines are recovering the cost through periodic imbalance cashout reports. We find that reporting this information provides useful transparency regarding the amount of fuel used to operate compressor stations, the disposition of excess gas and how the deficiency was acquired, and how fuel costs and LAUF are allocated among customers. Consequently, we deny rehearing of this issue.

Discounted Rates as a Separate Category and Negotiated Rates as a Separate Category

INGAA reiterates its objection to reporting fuel assigned to discounted rates as a separate category, claiming that disclosing this information does not serve any regulatory purpose, because pipelines are prohibited from discounting fuel. Fuel expenses constitute a significant portion of the total expenses recovered by natural gas rates. Obscuring this information makes it harder for entities to track the reasonableness of these expenses. Contrary to INGAA's arguments, pipelines are not prohibited from discounting fuel under all circumstances.¹⁷ In addition, the additional transparency provided by this Final Rule serves the important regulatory objective of assuring that rates are just and reasonable. If a pipeline is not discounting fuel then it should simply report zero in Column (K), Volume (in Dth) Not Collected. This approach provides an affirmative confirmation that fuel is not being discounted. Combining the discount

¹⁷ For example, in *Transwestern Pipeline Company*, 54 FERC ¶ 61,319, at 62,007 (1991), the Commission approved Transwestern's proposal to provide fuel discounts, provided that the minimum rate would not be lower than actual fuel costs, if any.

rate category with negotiated rates would eliminate this confirmation. Consequently, we will retain the separate discount rate category.

Additionally, based on its contention that there is no cross-subsidy in instances where a negotiated rate customer pays the same fuel rate as a recourse rate customer, INGAA argues that there is no need to separate the reporting of recourse and negotiated rate contracts. The Commission has long required pipelines to separately account for rate components associated with negotiated rates.¹⁸ We are not persuaded to modify that policy in this rule. Moreover, while INGAA points to certain circumstances where it argues that no cross-subsidy would occur, the reporting requirements of this rule apply to all negotiated rate contracts and thus INGAA's example does not suffice to contradict the need for this provision.

MidAmerican's Requested Clarification

INGAA argues that the Commission erred by not granting the clarification requested by MidAmerican (that the rule should only cover (1) contracts with discounted and negotiated fuel rates and (2) headings should be changed to be "discounted fuel rate" and "negotiated fuel rate"). INGAA argues this approach would be less burdensome but would accomplish the Commission's stated goals.

As we stated in Order No. 710-B,¹⁹ the proposal to limit the scope of the rule to only require the reporting of fuel costs in contracts that include a specific provision for discounted or negotiated fuel would elevate form over substance and would omit contracts with negotiated and discounted rates, unless they include a specific provision covering discounted or negotiated fuel. This is contrary to the objective of the Final Rule of enhancing the transparency of fuel costs and we deny rehearing. Also, given our finding on the required reporting of gas contracts with discounted or negotiated fuel, we affirm our finding on the appropriate headings to be used.²⁰

Excluded Contracts

INGAA argues that the Commission erred by assuming that MidAmerican's proposal would have excluded many contracts that otherwise would be reported. As we stated in Order No.

¹⁸ See, e.g., *NorAm Gas Transmission Company*, 75 FERC ¶ 61,322, at 62,029 (1996); *Texas Eastern Transmission, LP*, 133 FERC ¶ 61,220 at P 19 (2010); *Gulf Crossing Pipeline Company LLC*, 123 FERC ¶ 61,100 at P 87 (2008).

¹⁹ Order No. 710-B at P 55.

²⁰ *Id.*, P 56.

710-B, MidAmerican commented that, to its knowledge, very few discounted and negotiated rate agreements include a provision for discounted and negotiated fuel.²¹ We concluded that, if this were true or if future contracts are written to make it true, then excluding the reporting of contracts not including a specific provision identifying discounted and negotiated fuel would be problematic.²² INGAA argues that we erred in relying on MidAmerican's statement, but in no way rebuts it. Moreover, we were concerned that, even if contracts are not currently drafted in this fashion, future contracts could be rewritten to achieve this end and we do not wish to open this possibility. Accordingly, we deny INGAA's request for rehearing on this issue.

Start Date for New Data Collections

INGAA argues that the Final Rule orders the collection of data to begin too soon and that data under the new categories should not be required to be collected until calendar year 2012. We agree with INGAA that pipelines may not have the accounting systems in place to make the allocations of functionalized fuel by contract rate type required by the Final Rule and they may need to develop systems for making such allocations. We recognize some pipelines may not currently have in place the required accounting systems necessary to allocate fuel costs to negotiated, discounted and recourse transportation customers. In light of these considerations, we will grant rehearing and further delay the commencement of implementation of the filing requirements of the Final Rule until the fourth quarter period ("Q4") of 2011. Thus, the data must be reported in the new format starting with the quarterly period October 1 through December 31, 2011 in Annual Report Forms 2 and 2-A with a due date of April 18, 2012. This should allow sufficient time for filers to develop the necessary data and perform the needed allocations. Individual pipeline companies may apply to the Commission for further extensions, based on their individual circumstances. Even if an extension is granted, the information will still be required to be reported for the Q4 period of 2011 but, if an extension is granted, the due date for the filing of this information may be extended past the April 18, 2012 filing deadline. Pipeline companies seeking an extension must provide a detailed explanation of why (for example, an additional analysis of data is needed, or allocation factors are still being developed) they cannot meet the filing deadline. The Commission will evaluate these requests on a case-by-case basis, based on the facts presented.

Requested Clarification of Reported Backhaul Service

²¹ *Id.*, P 53.

²² *Id.*, P 55.

INGAA requests clarification that “backhaul service offered under tariff” means that, if the tariff does not include a “backhaul” rate schedule, then nothing need be reported for this.²³ A review of gas tariffs shows that many tariffs recover a charge for backhaul service, but do not necessarily provide for a separate backhaul rate schedule for that service. In many instances, the forwardhaul tariff permits backhaul service at or below the forwardhaul rate, with no separate backhaul rate schedule.²⁴ If we exclude these backhaul volumes, then total backhaul volumes would be understated for these transactions. Thus, we reject the argument that information on backhauls should be limited to those instances when the tariff includes a separate backhaul rate schedule. INGAA’s requested clarification would keep needed information hidden and could encourage tariffs to be drafted in a manner to avoid the reporting of this information. We note that the discussion in Order No. 710-B at P 52 was addressing the narrow instances, such as with reticulated gas systems, where it is not possible to clearly determine what is a backhaul and what is a forwardhaul. We did not intend this to restrict the reporting of backhauls in systems where the gas flow path can be determined. Put differently, if the pipeline is unable to determine whether the volume is forwardhaul or backhaul, then the volume can be reported entirely as forwardhaul. Accordingly, we affirm the findings we made on this subject at P 50-52 of Order No. 710-B and deny the requested clarification.

Need for Page 521d

Finally, INGAA argues that the Commission should retain the blank page 521d that we proposed in the June 2010 NOPR but omitted in Order No. 710-B. This omission was an oversight and we agree with INGAA that a filer would need this page to properly complete the Forms. Thus, we will correct this oversight and will include page 521d on the various forms.²⁵ We, likewise, are including Pages 521a-d in the FERC Form 2/2-A/3-Q Submission Software System.

9. EXPLAIN ANY PAYMENTS OR GIFTS TO RESPONDENTS

²³ In Order No. 710-B, the Commission added lines 66-68 to Page 521. The lines request a separation of forwardhaul and backhaul throughput volumes in Dths for the quarter.

²⁴ See *Trailblazer Pipeline Co.*, 39 FERC ¶ 61,103, at 61,324 (1987), where we stated that, as backhaul volumes are included within the definition of transportation in section 284.1(a) of the Commission’s regulations (18 C.F.R. § 284.1(a)), Trailblazer may perform backhaul service pursuant to its firm and interruptible rate schedules and we did not require Trailblazer to adopt a separate backhaul rate in that proceeding. We also note that, for example, the Iroquois Gas Transmission System, L.P., FERC Gas Tariff, at Section 13 of the General Terms and Conditions, Second Revised Sheet No. 76, provides for backhaul transportation service to be provided pursuant to the firm transportation service rate schedule and not under a separate backhaul rate schedule.

²⁵ This page can be found at the end of the issued rule on rehearing at <http://elibrary.ferc.gov/idmws/common/OpenNat.asp?fileID=12735112> .

There are no payments or gifts to respondents in the proposed rule.

10. DESCRIBE ANY ASSURANCE OF CONFIDENTIALITY PROVIDED TO RESPONDENTS

The Commission considers its annual 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 CFR §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 requirements in the order.

12. ESTIMATED BURDEN COLLECTION OF INFORMATION

As indicated in question #8, INGAA contends that the Commission underestimated the burden associated with implementing the changes mandated in Order No. 710-B. In light of INGAA's arguments, the Commission acknowledged that some filers may have to modify existing systems in order to collect the necessary data.²⁶ To account for this, the Commission estimated a one-time burden of 80 hours per filer. It is assumed that this one-time burden will be completed by April 18, 2012 (the required filing date of the forms) and subsequently the Commission plans to remove the hours from the inventory for each form. This will increase the estimated burden over the next year as follows:

Data Collection Form²⁷	Number of Respondents	One-time filing per respondent	Filings per year	Total one-time additional hours
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²⁶ This is assumed to refer to modifying existing processes and systems and not to purchasing new software or hardware.

²⁷ The burden for the FERC Form No. 3-Q is not directly affected here because the filers will be making this one-time change in preparation for filing the Form Nos. 2 and 2A in April, 2012. It is expected that well before the date of the next Form No. 3-Q filing the one-time burden will have already been expended. However, the Commission intends to submit the FERC Form No. 3-Q to OMB as a non-substantive change.

FERC Form No. 2	84	80	1	6,720
FERC Form No. 2-A	44	80	1	3,520
Total				10,240

FORM 2 DATA REQUIREMENT	Current OMB Inventory*	Proposed in Order on Rehearing	New OMB Inventory
Estimated number of respondents	84	84	84
Estimated number of responses per respondent	1	1	1
Estimated number of responses per year	84	84	84
Estimated number of hours per response	1,629	80	1,709
Total estimated burden (hours per year)	136,836	6,720**	143,556
Program change in industry burden hours		-	
Adjustment change in industry burden hours		+6,720	

FORM 2-A DATA REQUIREMENT	Current OMB Inventory*	Proposed in Order on Rehearing	New OMB Inventory
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	253.39#	80	333.39#
Total estimated burden (hours per year)	11,149	3,520**	14,669
Program change in industry		-	

burden hours			
Adjustment change in industry burden hours		+3,520	

* Based on OMB's Active Information Collections as of July 29, 2011.

** This a one-time burden and it is planned to be removed from this collection in the latter half of 2012.

#rounded off

13. ESTIMATE OF THE TOTAL ANNUAL COST BURDEN TO RESPONDENTS

The estimated one-time filing cost to respondents related only to the adjustments made in the Order on Rehearing is as follows:

Total one-time filing cost: 10,240 hours at \$120/hour= \$1,228,800. Cost per respondent = \$9,600.

FERC Form 2 total cost: 6,720 hours at \$120/hour = \$806,400.

FERC Form 2-A total cost: 3,520 hours at \$120/hour = \$422,400.

14. ESTIMATED ANNUALIZED COST TO FEDERAL GOVERNMENT

The changes made in the Order on Rehearing are not expected to affect the analysis of data, costs already submitted to OMB under Order 710-B. However, the FERC Forms clearance cost still applies. This cost is currently estimated at \$1,575 per collection annually, or \$3,150 total for this proceeding.

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

In this proceeding, the Commission is responding to a comment that the burden estimate in Order 710-B was too low. The Commission agrees with the commenter and is now seeking approval of a one-time program change of 80 hours per filer of each form (Form 2 and Form 2-A). These 80 hours are necessary for companies to set up the necessary processes to be able to provide the information the Commission is seeking. The Commission intends to remove these hours from the inventory following the April 2012 filing of the forms 2/2A. Including the blank page 521d does not affect the burden estimate because the estimated burden hours for this page had been included at the NOPR stage and remained in the burden estimate at the final rule stage, even though as an oversight the page was dropped.

16. TIME SCHEDULE FOR PUBLICATION OF DATA

The Commission has not published the information contained on FERC Forms 2 and 2-A. 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 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.