

Supporting Statement for
FERC-549, NGPA Title III Transactions and NGA Blanket Certificate Transactions,
Request for a three-year approval of the current information collection

The Federal Energy Regulatory Commission (FERC or Commission) requests that the Office of Management and Budget (OMB) approve **FERC-549, NGPA Title III and NGA Blanket Certificate Transactions**. FERC-549 (OMB Control No. 1902-0086) is an existing Commission data collection, (report and filing requirements), as contained in 18 Code of Federal Regulations, Part 284. There have been no changes in the data collected under FERC-549 except for the proposed transfer of the FERC-916 requirements (code of conduct) into this collection.¹

A. Justification

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

FERC-549 is required to implement the statutory provisions governed by Sections 311 and 312 of the Natural Gas Policy Act (NGPA) (15 USC 3371-3372) and Section 7 of the Natural Gas Act (NGA) (15 U.S.C. 717f). The reporting requirements for implementing these provisions are contained in 18 Code of Federal regulations (CFR) Part 284.

Semi-Annual Storage Report for Interstate Pipelines

The Commission recently proposed to discontinue the semi-annual storage report for interstate and intra state pipelines due to the report being largely duplicative of other reporting requirements.² However, because the proceeding has yet to be resolved, the Commission is renewing the semi-annual storage report for interstate pipelines as part of the FERC-549 so as to ensure OMB approval of the reporting requirement continues.

18 CFR 284.13(e) requires each interstate pipeline to file with the Commission a report of storage activity. The Commission adopted the existing semi-annual storage reporting requirements for interstate pipelines in their current form in 1992 as part of Order No. 636, and there have been only minor modifications in the semi-annual storage reporting requirements since that date.

Natural gas production is relatively constant throughout the year, while many uses of natural gas, residential space heating for example, are seasonal. Natural gas storage plays a critical role in balancing the seasonal demand with relatively constant supply, and the data collected in the semi-annual storage report provides information about natural gas pipelines' ability to affect the prices shippers can obtain from consumers.

¹ The FERC-549 collection has an expiration date of 12/31/2011. The FERC-916 has an expiration date of 9/30/2012. This submission was delayed due to a notice of proposed rulemaking under this same control number that was pending from 09/22/2011 until 12/08/2011.

² The Commission issued a Notice of Proposed Rulemaking in Docket No. RM11-4 on September 15, 2011 proposing to delete the semi-annual storage reporting requirements in an effort to minimize duplicative reporting requirements. Comments were due November 21, 2011.

Improved storage technology and the increased use of natural gas in industry and electric generation have helped transform the storage market since 1992. There has been a sharp increase in demand for natural gas outside of the traditional winter months. Withdrawals and injections, instead of occurring on a uniform annual schedule based on heating needs, now occur dynamically year-round in response to market forces.

Transportation by Interstate Pipelines

In 18 CFR 284.102(e) the Commission requires interstate pipelines to obtain proper certification in order to ship natural gas on behalf of intrastate pipelines and local distribution companies (LDC). This certification consists of a letter from the intrastate pipeline or LDC authorizing the interstate pipeline to ship gas on its behalf. In addition, interstate pipelines must obtain from its shippers certifications including sufficient information to verify that their services qualify under this section.

Rates and Charges for Intrastate Pipelines

18 CFR 284.123(b) provides that intrastate gas pipeline companies file for Commission approval of rates for services performed in the interstate transportation of gas. An intrastate gas pipeline company may elect to use rates contained in one of its then effective transportation rate schedules on file with an appropriate state regulatory agency for intrastate service comparable to the interstate service OR file proposed rates and supporting information showing the rates are cost based and are fair and equitable. 150 days after the application is filed the rate is deemed to be fair and equitable unless the Commission either extends the time for action, institutes a proceeding or issues an order providing for rates it deems to be fair and equitable.

18 CFR 284.123(e) requires that within 30 days of commencement of new service any intrastate pipeline engaging in the transportation of gas in interstate commerce must file a statement that includes the interstate rates and a description of how the pipeline will engage in the transportation services, including operating conditions. If an intrastate gas pipeline company changes its operations or rates it must amend the statement on file with the Commission. Such amendment is to be filed not later than 30 days after commencement of the change in operations or change in rate election.

Code of Conduct³

The Commission's regulations at 18 CFR 284.288 and 284.403 provide that applicable sellers of natural gas adhere to a code of conduct when making gas sales in order to protect the integrity of the market. As part of this code, the Commission imposes a record retention requirement on applicable sellers to "retain, for a period of five years, all data and information upon which it

³ These requirements were approved by OMB originally in FERC-916 (OMB Control No. 1902-0224, current expiration date is 9/30/2012). They are being moved to the FERC-549 in an effort to decrease the administrative effort involved in renewing data collections. The Commission intends to submit a request to discontinue the OMB Control No. 1902-0224 upon approval of this request to renew the FERC-549 requirements.

billed the prices it charged for natural gas it sold pursuant to its market based sales certificate or the prices it reported for use in price indices.” FERC uses these records to monitor the jurisdictional transportation activities and unbundled sales activities of interstate natural gas pipelines and blanket marketing certificate holders.

The record retention period of five years is necessary due to the importance of records related to any investigation of possible wrongdoing and related to assuring compliance with the codes of conduct and the integrity of the market. The requirement is necessary to ensure consistency with the rule prohibiting market manipulation (regulations adopted in Order No. 670, implementing the EPCA 2005 anti-manipulation provisions⁴) and the generally applicable five-year statute of limitations where the Commission seeks civil penalties for violations of the anti-manipulation rules or other rules, regulations, or orders to which the price data may be relevant. Failure to have this information available would mean the Commission is unable to perform its regulatory functions and to monitor and evaluate transactions and operations of interstate pipelines and blanket marketing certificate holders.

Market-Based Rates for Storage

In 2006 the Commission amended its regulations to establish criteria for obtaining market-based rates for storage services offered under 18 CFR 284.501-505. First, the Commission modified its market-power analysis to better reflect the competitive alternatives to storage. Second, pursuant to the Energy Policy Act of 2005, the Commission promulgated rules to implement section 4(f) of the Natural Gas Act, to permit underground natural gas storage service providers that are unable to show that they lack market power to negotiate market-based rates in circumstances where market-based rates are in the public interest and necessary to encourage the construction of the storage capacity in the area needing storage services, and where customers are adequately protected. These revisions are intended to facilitate the development of new natural gas storage capacity while protecting customers.

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

The Commission uses the data to examine service and tariff provisions for the transportation and/or sale of natural gas in interstate commerce filed in compliance with Commission orders. Specifically, the Commission uses the data to ensure compliance with Sections 311 and 312 of the NGPA, Section 7 of the NGA and Part 284 of the Commission’s regulations. The information collected or maintained is used by the Commission to monitor jurisdictional transportation activities of intrastate and Hinshaw pipelines and the unbundled sales activities of interstate natural gas pipelines and to ensure the integrity of the gas sales market that remains subject to the Commission’s jurisdiction.

⁴ 18 CFR 1c.1 and 1c.2, 71 FR 4,244 (2006).

Failure to collect this information would prohibit the Commission from monitoring and properly evaluating pipeline transactions and meeting statutory obligations under both the NGPA and the NGA.

3. DESCRIBE ANY CONSIDERATION OF THE USE OF IMPROVED TECHNOLOGY TO REDUCE BURDEN AND TECHNICAL OR LEGAL OBSTACLES TO REDUCING BURDEN.

The Commission has developed the capability for electronic filing of all submissions that occur under FERC-549. In some cases, paper copies are no longer accepted. This change has reduced the burden and cost associated with filing paper documents and tariffs with the Commission.

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 responsibilities under the NGPA and the NGA in order to eliminate duplication and ensure that filing burden is minimized. The Commission recently proposed to discontinue the semi-annual storage reporting requirements because it was determined that the report was largely duplicative of other reporting requirements. Error: Reference source not found

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

FERC-549 is a filing requirement pertaining to pipeline transportation transaction filing and retention obligations under the applicable regulations for the transportation, and sale of natural gas as stated herein. This filing collects data from both large and small respondent companies. Specific efforts have been made to minimize the burden imposed on those small companies which file under this obligation. The data required imposes the least possible burden for companies, while collecting the information required in processing these reports. Error: Reference source not found

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

This information collection is only obtained through the submission of filings by pipeline companies or persons holding blanket certificates. If the collection were conducted less frequently or discontinued, the Commission would be placed at a disadvantage in not having the data necessary for monitoring jurisdictional activities of pipelines with market based rates and meeting its mandated obligations. Error: Reference source not found

7. EXPLAIN ANY SPECIAL CIRCUMSTANCES RELATING TO THE INFORMATION COLLECTION

There are no special circumstances or exceptions related to this collection.

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

In order to continue a collection of information, the Commission is required to publish in the Federal Register a notice indicating the Commission's intention to continue the collection and soliciting comments related thereto. For the FERC-549, this notice was published on August 3, 2011 (76 FR 46783). No comments were received in response to this notice.

9. EXPLAIN ANY PAYMENT OR GIFTS TO RESPONDENTS

No payments or gifts have been made to respondents.

10. DESCRIBE ANY ASSURANCE OF CONFIDENTIALITY PROVIDED TO RESPONDENTS

The Commission generally does not consider the data filed to be confidential. However, specific requests for confidential treatment to the extent permitted by law will be considered pursuant to 18 C.F.R. 388.110 of FERC's regulations.

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

There are no questions of a sensitive nature that are considered private.

12. ESTIMATED BURDEN OF COLLECTION OF INFORMATION

The current burden inventory was not disaggregated and estimated to the same level of detail as has been done in the notices in Docket IC11-549 and this corresponding clearance package. Through examining each requirement under FERC-549, the Commission has derived an estimate that is slightly lower than the previous one. As there were no comments received to refute this burden estimate, the Commission continues to use it here.

The following table shows the burden figures for the proposed inventory, the current inventory and how many hours are attributed to the adjustment.

FERC-549 Requirements & 18 CFR Cite	Number of Respondents Annually (1)	Number of Responses per	Number of Responses Annually	Average Burden Hours per	Total Annual Burden Hours
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		Respondent (2)	(1)x(2)=(3)	Response (4)	(3)x(4)
Semi-Annual Storage Reports for Interstates 284.13(e)	155 ⁵	2	310	12 ⁶	3,720
Transportation by Interstate Pipelines 284.102(e)	75 ⁷	2	150	3 ⁸	450
Rates and Charges for Intrastate Pipelines 284.123(b), (e)	67 ⁹	1	67	12 ¹⁰	804
Code of Conduct ¹¹ (recordkeeping) 284.288, 403	222	1	222	1	222
Market-Based Rates ¹² 284.501-505	2	1	2	350	700
Total			751		5,896
Previous Inventory¹³			224		7,190
Adjustment in Agency Estimate			+527		-1,294
Total Proposed Inventory			751		5,896

13. ESTIMATE OF THE TOTAL ANNUAL COST BURDEN TO RESPONDENTS

5 The number of pipelines in eTariff that are subject to the Natural Gas Act.

6 This figure is based on the burden hours estimated in Docket No. RM09-2 (quarterly transportation and storage reports) and in the NOPR in Docket RM11-4 (proposal to delete semi-annual storage reports).

7 The number of respondents annually is assumed to be approximately half of the number of interstate pipelines as estimated under the semi-annual storage report category.

8 This is an estimate for the amount of time it requires to complete a one page document, which is what is essentially required by this part (one page from the shippers and one page from the intrastate or LDC, equaling an estimated 2 times a year).

9 This figure is based on the number of filings under 18 CFR Part 284.123 filings over the past three years.

10 This figure is based on the assumption that the effort required to make this revision to a tariff is approximately half of the effort required to make a baseline tariff filing (as computed in the Final Rule in Docket No. RM01-5)

11 The estimates for this category come from the Commission’s most recent renewal pertaining to this requirement.

12 The estimates for this category are the same as were submitted to OMB when these requirements were last modified (in the Final Rule in Docket No. RM05-23).

13 The prior inventory was not disaggregated in the same way as is done in this process.

The estimated annual labor related cost to respondents of FERC-549 is \$341,968 (5,896 hours times \$58/hour¹⁴). All of these costs are associated with labor hours.

The current cost inventory in ROCIS includes a one-time start-up cost of \$638,000 associated with the implementation of eTariff. This implementation was completed by the close of 2010. As such, the Commission is removing these costs from the inventory for FERC-549.

14. ESTIMATED ANNUALIZED COST TO FEDERAL GOVERNMENT

The estimated annualized cost to the Federal government for FERC-549 is as follows:

Operation		
(a) Information Collection Clearance		\$ 1,575
(b) Analysis/administration of collection (9.8 FTEs @ \$142,372)	\$ 1,395,246	
Year of Operation Total	\$ 1,396,821	

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

The current burden inventory was not disaggregated and estimated to the same level of detail as has been done in this proposal. Also, the code of conduct record keeping requirements were previously associated with FERC-916 (OMB Control No. 1902-0224) and are now being included under FERC-549, adding 222 hours to FERC-549. The net change is a reduction of 1,294 hours. As there were no comments received to refute this burden estimate, the Commission plans to use it moving forward.

The current cost inventory in ROCIS includes a one-time start-up cost of \$638,000 associated with the implementation of eTariff (both capital and hourly burden costs). This implementation was completed by the close of 2010. Also, the Commission does not report costs associated with labor in ROCIS. As such, the Commission is removing all the costs from the inventory for FERC-549.

16. TIME SCHEDULE FOR THE PUBLICATION OF DATA

There are no other publications or tabulations of the information.

17. DISPLAY OF THE EXPIRATION DATE

¹⁴ The per hour figures were obtained from the Bureau of Labor Statistics National Industry-Specific Occupational and Employment Wage Estimates (http://www.bls.gov/oes/current/naics4_221200.htm), and are based on the mean wage statistics for staff in the areas of management, business and financial, legal and administrative. The mean wage was then increased by 20% to account for benefits/overhead.

It is not appropriate to display the expiration date for OMB approval of the information collected. The information is not collected on a standard, preprinted form which would avail itself to that display. Rather natural gas pipeline companies prepare and submit filings that reflect unique or specific circumstances related to the transaction in the filing. In addition, the information contains a mixture of narrative descriptions and empirical support that varies depending on the nature of the transaction.

18. EXCEPTIONS TO THE CERTIFICATION STATEMENT

Because this is not a collection that is used for statistical purposes the Commission does not use as stated in the certification statement, “effective and efficient statistical survey methodology.”

B. COLLECTION OF INFORMATION EMPLOYING STATISTICAL METHODS.

This is not a collection of information employing statistical methods.