

Supporting Statement for  
**FERC Form 552, Annual Report of Natural Gas Transactions**

The Federal Energy Regulatory Commission (Commission or FERC) requests that the Office of Management and Budget (OMB) review and approve **FERC Form 552, Annual Report of Natural Gas Transactions**, for a three year period. FERC Form 552 (OMB Control No. 1902-0242) is an existing Commission data collection (filing requirements) as stated in 18 Code of Federal Regulation (CFR) 260.401.

The Commission estimates the annual reporting burden for FERC Form 552 will be 6,910 total hours (an average of 10 hours per respondent).

NOTE: The current FERC Form 552 requires administrative changes. The required changes are denoted within a document named “Additional Administrative Changes Needed to Instructions” and posted within the ROCIS clearance package.

**A. Justification**

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

A natural gas company must obtain Commission authorization for all rates and charges made, demanded, or received in connection with the transportation or sale of natural gas in interstate commerce<sup>1</sup>. The Commission is authorized to investigate the rates charged by natural gas pipeline companies subject to its jurisdiction. All rates and charges made, demanded, or received by any natural-gas company for or in connection with the transportation or sale of natural gas subject to the jurisdiction of the Commission, and all rules and regulations affecting or pertaining to such rates or charges, shall be just and reasonable<sup>2</sup>. If, after the investigation, the Commission is of the opinion that the rates are unjust or unreasonable or unjustly discriminatory or unduly preferential, it is authorized to determine and prescribe just and reasonable rates. The Natural Gas Act (NGA) also provides the Commission with a means for considering the reasonableness of rates through settlement conferences or hearings.

With the passage of EAct 2005, Congress affirmed a commitment to support competition in wholesale natural gas and electricity markets as part of national policy. EAct 2005 is the fifth major federal law in the last 30 years to do so.<sup>3</sup> As part of this

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1 Pursuant to sections 4, 5, and 16 of the NGA, (15 USC 717c - 717o, P.L. 75-688, 52 Stat. 822 and 830), and Title III of the NGPA, (15 USC 3301-3432, P.L. 95-621

2 15 USC 717C(a) – Rates and Charges

3 See Energy Policy Act of 1992, Pub. L. No. 102-486, 106 Stat. 2776 (1992), codified as amended in various

commitment to competition, in the transparency provisions, Congress charged the Commission with assuring the integrity of the wholesale markets and assuring fair competition by facilitating price transparency in those markets. It also significantly strengthened the Commission’s regulatory measures in the transparency provisions. Specifically, these new measures are outlined section 220 of the Federal Power Act (FPA) and section 23 of the NGA.

In section 23(a) (1) of the NGA, Congress provided the Commission’s following mandates:

- 23(a)(1): The Commission is directed to facilitate price transparency in markets for the sale or transportation of physical natural gas in interstate commerce, having due regard for the public interest, the integrity of those markets, fair competition, and the protection of consumers.<sup>4</sup>
- 23(a)(2): The Commission may prescribe such rules as the Commission determines necessary and appropriate to carry out the purposes of this section. The rules shall provide for the dissemination, on a timely basis, of information about the availability and prices of natural gas sold at wholesale and in interstate commerce to the Commission, State commissions, buyers and sellers of wholesale natural gas, and the public.<sup>5</sup>
- 23(a)(3): The Commission may:
  - obtain the information described in paragraph (2) (i.e. information about the availability and prices of natural gas sold at wholesale and interstate commerce) from any market participant
  - (B) rely on entities other than the Commission to receive and make public the information, subject to the disclosure rules in subsection (b).<sup>6</sup>
- 23(d)(2): The Commission shall not require natural gas producers, processors, or users who have a de minimis market presence to comply with the reporting requirements of this section....”<sup>7</sup>

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sections of 16 USC; Natural Gas Wellhead Decontrol Act of 1989, Pub. L. No. 101-60, 103 Stat. 157 (1989), codified in various sections of 15 USC; Public Utility Regulatory Policies Act of 1978, 16 USC 2601-2645 (2000); Natural Gas Policy Act of 1978, 15 USC. 3301-3442 (2000).

<sup>4</sup> 15 USC 717(v)(a)(1). The electric transparency provisions of the Federal Power Act are nearly identical as to the electric wholesale markets. Section 220 of the Federal Power Act, 16 USC 824t.

<sup>5</sup> 15 USC 717t-2(a).

<sup>6</sup> 15 USC 717t-2(a)(3).

<sup>7</sup> 15 USC 717t-2(d)(2), section 23(d)(2) of the Natural Gas Act,

Additionally, Order No. 704, as clarified and modified by Order Nos. 704-A<sup>8</sup> and 704-B<sup>9</sup>, requires market participants with reportable physical natural gas purchases or sales equal to or greater than 2.2 trillion British Thermal Units (BTU)<sup>10</sup> to report the following information on Form No. 552:

- (1) total volume of the respondent's reportable physical sales and purchases during the year,
- (2) quantities contracted at fixed prices for next day delivery,
- (3) quantities contracted at prices that refer to published daily gas price indices,
- (4) quantities contracted at fixed prices for next month delivery,
- (5) quantities contracted at prices that refer to published monthly gas price indices,
- (6) quantities contracted under trigger agreements, such as NYMEX Plus contracts, and
- (7) quantities contracted as physical basis transactions.<sup>11</sup>

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

Congress directed the Commission to facilitate price transparency in markets for the sale, purchase, or transportation of physical natural gas in interstate commerce<sup>12, 13</sup>. The natural gas transparency provision language also provides for the timely dissemination of information about the availability and prices of natural gas sold at wholesale and within interstate commerce.<sup>14</sup> The Commission requires information regarding purchases of natural gas to evaluate the reliability of information regarding sales of natural gas. Additionally, the Commission needs the information to obtain a useful gauge of price transparency within natural gas markets. The data provides public and market participants with a gauge of collective usage and resultant confidence concerning market indices. Additionally, it shows market participants volumetric contributions to the index formation which also provides insight into market confidence.

The FERC Form 552 provides greater transparency concerning the use of indices to price natural gas and how well index prices reflect market forces. Many market participants

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8 *Transparency Provisions of Section 23 of the Natural Gas Act*, Order No. 704-A, FERC Stats. & Regs. ¶ 31,275, 73 Fed. Reg. 55726 (2008) (Order No. 704-A).

9 *Transparency Provisions of Section 23 of the Natural Gas Act*, Order No. 704-B, 125 FERC ¶ 61,302 (2008) (Order No. 704-B).

10 2.2 trillion British Thermal Units ≈ 2.2 million dekatherms.

11 Respondents must also explain any difference between the total volumes of their reportable purchases and sales reported in response to item (1) above and the sum of the corresponding quantities reported in response to items (2) through (7).

12 15 USC 717t, Section 23(a)(1)

13 15 USC 717t-2(a)(1), Section 23(a)(1) of the NGA.

14 15 USC 717t-2(a)(2), Section 23(a)(2) of the NGA.

rely on indices to reference market prices without acquiring the risks of active trading. However, the Commission discovered that there was insufficient information available to the Commission and market participants in order to assess whether the gas indices are derived from a robust market of fixed-price transactions and, thus, accurately reflect market forces. For example, there was no way to determine the volumetric relationships between (a) the fixed-price, next day and next month delivery transactions that form gas price indices; and (b) transactions that use indices. The Office of Enforcement (OE) usually presents data to the Commission and the public which show the volumes that are used to form the daily and monthly indexes and also provide the number of companies voluntarily reporting to index publishers. OE then monitors changes in the number and types of companies that voluntarily report transactions and trends (e.g. increased index usage, changes within monthly/daily usage, relationship between natural gas prices to index use, relationship between fixed prices and the provision of next-month delivery). We also make the form 552 database available on the FERC website<sup>15</sup>.

The annual filing of transaction information by market participants is necessary to provide information regarding the size of the physical natural gas market, the use of the natural gas spot markets and the use of fixed- and indexed- price transactions. Without the most basic information about these volumetric relationships, the Commission has been hampered in its oversight and its ability to assess the adequacy of price-forming transactions. Market participants are likewise unable to evaluate their use of indexed transactions. Typically, market participants rely on index-priced transactions as a way to reference market prices without taking on the risks of active trading. These market participants rely on index prices, often whether or not those prices are derived from a robust market of fixed-price transactions.

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

The Commission continually reevaluates the potential and value of improved information technology to reduce burden.

The FERC-552 must be filed electronically.

**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.**

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<sup>15</sup> <http://www.ferc.gov/docs-filing/forms/form-552/form-552.pdf>

The Commission published a notice within the Federal Register<sup>16</sup> to help identify any duplication of the information in FERC-552. No comments were received. There are no other Federal agencies responsible for obtaining authorization for all rates and charges made, demanded, or received in connection with the transportation or sale of natural gas in interstate commerce<sup>17</sup>. No similar information can be used or modified.

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

Order 704-C exempted small entities who were obligated to report solely by virtue of possessing a blanket sales certificate. This attempted to minimize the burden upon small entities.

The Commission also uses eFiling for this collection as a means of reducing burden for respondents including small entities.

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

The Commission would not be able to facilitate price transparency in markets for the sale or transportation of physical natural gas in interstate commerce if the FERC-552 data were collected less frequently. The annual filing of transaction information by market participants is necessary to provide information regarding the size of the physical natural gas market, the use of the natural gas spot markets and the use of fixed and index price transactions.

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

The form 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**

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<sup>16</sup> 77 FR 11520 (2/27/2012)

<sup>17</sup> Pursuant to sections 4, 5, and 16 of the NGA, (15 USC 717c - 717o, P.L. 75-688, 52 Stat. 822 and 830), and Title III of the NGPA, (15 USC 3301-3432, P.L. 95-621)

In accordance with OMB requirements<sup>18</sup>, the Commission published a 60-day notice<sup>19</sup> and a 30-day notice<sup>20</sup> to the public regarding this information collection on 3/29/2012 and 7/9/2012 respectively. Within the public notice, the Commission noted that it would be requesting a three-year extension of the public reporting burden with no change to the existing requirements concerning the collection of data. No comments were received.

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

There are no payments or gifts to FERC 552 respondents.

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

The Commission does not consider the information collected in FERC-552 filings to be confidential. However, the Commission will consider specific requests for confidential treatment to the extent permitted by law pursuant to 18 C.F.R. 388.112(a)(1). The Commission will review each request for confidential treatment on a case-by-case basis. The Commission received 0 requests for confidential treatment since the data are reported in aggregate and not specifically referring to trading locations.

**11. PROVIDE ADDITIONAL JUSTIFICATION FOR ANY QUESTIONS OF A SENSITIVE NATURE.**

There are no questions of a sensitive nature that are considered private in the FERC-552.

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

The Commission estimates the Public Reporting Burden for this information collection as:

<b>FERC-552: Annual Report of Natural Gas Transactions</b>					
	<b>Number of Respondents (A)</b>	<b>Number of Responses Per Respondent (B)</b>	<b>Total Number of Responses (A)x(B)=(C)</b>	<b>Average Burden Hours per Response (D)</b>	<b>Estimated Total Annual Burden (C)x(D)</b>
Wholesale natural gas market participants	691	1	691	10	6,910

18 5 CFR 1320.8(d)

19 77 FR 19009

20 77 FR 40347

The Commission outlines the differences between the total requested annual time burden and the previously approved annual time burden below:

<b>FERC-552</b>	<b>Total Request</b>	<b>Previously Approved</b>	<b>Change due to Adjustment in Estimate</b>	<b>Change Due to Agency Discretion</b>
Annual Number of Responses	691	740	-49	0
Annual Time Burden (Hr)	6,910	2,960	3,950	0
Annual Cost Burden (\$)	0	\$296,000	-\$296,000	0

The format, labels, and definitions of the table above follow the ROCIS system’s “ICR Summary of Burden” for the meta-data.

### 13. ESTIMATE OF THE TOTAL ANNUAL COST BURDEN TO RESPONDENTS

<b>FERC Form 552</b>	<b>Annual Burden Hours (1)</b>	<b>Estimated Hourly Cost (\$) (2)</b>	<b>Estimated Total Annual Cost to Respondents (\$) (1) X (2)</b>
	6,910	69.01 <sup>21</sup>	\$476,859.10

The total estimated annual cost to respondents is \$476,859.10. The cost per respondent is \$690.10. There are no start-up costs because FERC-552 is an existing information collection.

The respondent burden includes the total time, effort, and financial resources respondents spend to assemble and file the information. The cost estimate is based on salaries (plus benefits) for professional and support staff.

### 14. ESTIMATED ANNUALIZED COST TO FEDERAL GOVERNMENT

	<b>Number of Employees (FTEs)</b>	<b>Estimated Annual Federal Cost</b>
Analysis and Processing of filings <sup>22</sup>	0.5	\$71,770
Data Clearance Cost	N/A <sup>23</sup>	\$1,588 <sup>24</sup>

<sup>21</sup> \$143,540 (2012 FTE average salary)/2080 hours/year = \$69.01 per hour

<sup>22</sup> Based upon 2012 FTE average salary (\$143,540)

<b>FERC Total</b>	N/A	\$73,358
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The Commission bases its estimate of the “Analysis and Processing of filings” cost to the Federal Government on salaries and benefits for professional and clerical support. This estimated cost represents staff analysis, decision making, and review of any actual filings made in response to the information collection.

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

The requirements within the FERC-552 did not change. However, the total estimated annual burden changed due to a revised internal estimates concerning 1)the number of proposed respondents and 2)the average estimated burden hours per response figure (the previous figure was found to be underestimated). Therefore, the estimated total annual burden for the FERC-552 information collection changed due to revision of the aforementioned factors. The Commission bases the revision on estimation and discussions with respondents.

In ROCIS, the cost to industry is displayed using the unit of burden hours. In accordance with the “ROCIS HOW TO Guide for Agency Users of the Information Collection Request (ICR) Module”, users should not report as a dollar cost any burden reported in hours<sup>25</sup>. Therefore, we corrected the industry’s annual cost burden within the ROCIS metadata to show that the Commission associates no cost to capital investment or other non-labor costs. The monetary cost related to the burden hours is estimated in #13 (above). This was done erroneously in previous FERC-552 supporting statements and is corrected within the current proposed clearance package.

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

There are no tabulating, statistical or tabulating analysis or publication plans for the collection of information. The data are used for regulatory purposes only. The Commission provides the entire database on the FERC website directly after the filing deadline. Also, the Commission posts each respondent’s Form 552 within the Commission’s eLibrary system which is available to the public.

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23 Not applicable

24 The Commission bases its estimate of the cost to the Federal Government on salaries for professional and clerical support. For the data clearance cost, the Commission bases this cost upon an average of 24 hours per clearance.

25 [https://www.rocis.gov/rocis/jsp/common/ROCIS\\_HOW\\_TO\\_Guide\\_for\\_AGENCY\\_Users\\_of\\_ICR\\_Module-03192012\\_v2.pdf](https://www.rocis.gov/rocis/jsp/common/ROCIS_HOW_TO_Guide_for_AGENCY_Users_of_ICR_Module-03192012_v2.pdf) , p.37



**17. DISPLAY OF EXPIRATION DATE**

The expiration date is displayed on the Form 552<sup>26</sup>.

**18. EXCEPTIONS TO THE CERTIFICATION STATEMENT**

The Commission does not use the data collected for this reporting requirement for statistical purposes. Therefore, the Commission does not use as stated in item (i) of the certification to OMB "effective and efficient statistical survey methodology." The information collected is case specific to each information collection.

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<sup>26</sup> <http://www.ferc.gov/docs-filing/forms/form-552/form-552.pdf>