

Supporting Statement
FERC-542 Gas Pipeline Rates: Rate Tracking
Proposed modifications as contained in Docket No. RM12-14

The Federal Energy Regulatory Commission (Commission or FERC) requests that the Office of Management and Budget (OMB) review and approve **FERC-542, Gas Pipeline Rates: Rate Tracking**, for a three year period. FERC-542 is an existing collection and the Commission is proposing modifications to it in a proposed rule.

The existing FERC-542 contains the following information collections: (1) Research, development, and deployment expenditures; (2) annual charge adjustments (ACA) and (3) periodic rate adjustments. The proposed rule in RM12-14 only makes changes to number 2, annual charge adjustments. The Commission does not propose any changes to the other information collection requirements and in this package only provides details on the annual charge adjustments.

1. CIRCUMSTANCES THAT MAKE THE COLLECTION OF INFORMATION NECESSARY

The Commission is required to “assess and collect fees and annual charges in any fiscal year in amounts equal to all of the costs incurred by the Commission in that fiscal year.”¹ To accomplish this, the Commission created the annual charges program, which is designed to recover the costs of administering the natural gas, oil, and electric programs by calculating the costs of each program, net of filing fees, and properly allocating them among the three programs.² This proceeding applies only to the recovery of annual charges assessed to entities in the natural gas program.

Pipelines are entitled to recover these annual charges from their customers, and they have two options for doing so. First, upon Commission approval, a Pipeline may adjust its rates annually to recover the annual charges through an ACA clause.³ Second, a Pipeline may seek to recover its annual charges through its general transportation rates.⁴ This proceeding proposes to modify

¹ See *Omnibus Budget Reconciliation Act*, Pub. L. No. 99-509, Title III, Subtitle E, § 3401, 1986 U.S. Code Cong. & Ad. News (100 Stat.) 1874, 1890-91 (*codified at* 42 U.S.C. 7178 (2012)).

² *Annual Charges Under the Omnibus Budget Reconciliation Act of 1986*, Order No. 472, FERC Stats & Regs. ¶ 30,746, *clarified by*, Order No. 472-A, FERC Stats. & Regs. ¶ 30,750, *order on reh’g*, Order No. 472-B, FERC Stats. & Regs. ¶ 30,767 (1987), *order on reh’g*, Order No. 472-C, 42 FERC ¶ 61,013 (1988).

³ 18 C.F.R. 154.402 (2012).

⁴ Order No. 472, FERC Stats. & Regs. ¶ 30,746 at 30,629.

only the first method, i.e., recovery of annual charges through an ACA clause, as it is widely used among Pipelines. In order to take advantage of the ACA clause, a pipeline has to file a revision to their tariff. This is the portion of the annual charges program associated with paperwork in this proposed rule.

Order No. 472 recognized that although the Commission generally disfavors the use of tracking mechanisms, it is appropriate that Pipelines be permitted to pass through these annual charges directly to customers.⁵ Accordingly, the Commission provided Pipelines an option of passing along the annual charges to customers through a surcharge to their transportation rates reflected in the ACA clause.⁶ The Commission's requirements for Pipelines that choose to utilize an ACA clause are codified in section 154.402 of the Commission's regulations.⁷

The purpose of the proposed rule is to reduce existing regulatory burden on the natural gas pipeline industry. Under current regulations (as described above), a pipeline must file a tariff record and obtain approval from the Commission approximately once a year to continue to use an ACA clause. This proposed rule modifies the process so that pipelines will not have to make the yearly filing.

In this NOPR the Commission proposes to have each pipeline (145 in total) file a tariff record that contains language allowing the pipeline to not have to file revisions in subsequent years. Hence this is a one-time collection that reduces the number of filings over time.

The one time collection of information is necessary to reduce existing regulatory burden on the natural gas pipeline industry by not requiring approximately 145 annual filings.

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

Pipelines that seek to recover annual charges through an ACA clause must file a tariff record containing the following:

- (1) A statement that the company is collecting an ACA per unit charge, as approved by the Commission, applicable to all the pipeline's sales and transportation rate schedules,
- (2) The per unit charge of the ACA,

⁵ *Id.*

⁶ *Id.*

⁷ 18 C.F.R. 154.402 (2012).

- (3) The proposed effective date of the tariff change (30 days after the filing of the tariff sheet or section, unless a shorter period is specifically requested in a waiver petition and approved), and
- (4) A statement that the pipeline will not recover any annual charges recorded in FERC Account 928 in a proceeding under subpart D of [part 154 of the Commission's regulations].⁸

Additionally, the Commission requires these Pipelines to file revised tariff records to reflect changes to the ACA unit charge authorized by the Commission each fiscal year.⁹ It is this existing yearly filing that the Commission is proposing to eliminate in the NOPR.

Each year the Commission sets the ACA unit charge for the natural gas program in July.¹⁰ Pipelines that wish to begin collecting the ACA unit charge on the first day of the fiscal year are required to file revised tariff records reflecting changes in the ACA unit charge by September 1 of each year, to be effective October 1 of that year.¹¹ So long as the Pipeline has paid its annual charge to the Commission, the Commission will accept the tariff records, and they will go into effect on October 1. To the extent that the ACA unit charge remains the same from one year to the next, existing Pipelines that already reflect that ACA unit charge in their tariffs need not make a filing for that year. This annual process is designed to ensure that Pipelines collect charges for the entire fiscal year, as defined in Part 382 of the Commission's regulations.

In an effort to reduce the regulatory burden associated with annual tariff filings to reflect the current year's ACA unit charge, the Commission proposes to eliminate the annual filing requirement for Pipelines utilizing an ACA clause. In its place, the Commission proposes to require Pipelines utilizing an ACA clause to incorporate the Commission-authorized ACA unit rate by reference to that rate, as published on the Commission's website. Accordingly, Pipelines that wish to continue utilizing an ACA clause would be required to make a one-time tariff revision that incorporates the ACA unit charge published on the Commission's website into the Pipeline's tariff as the ACA unit charge for the relevant fiscal year.¹²

⁸ *Id.* at 154.402(b).

⁹ *Id.* at 154.402(c).

¹⁰ The Commission publishes this change via a notice entitled, "FY [Year] Gas Annual Charges Correction for Annual Charges Unit Charge," which is available on the Commission's website, located at <http://www.ferc.gov>.

¹¹ *See id.* at 382.102(i) (defining "fiscal year" as the twelve-month period that begins on the first day of October and ends on the last day of September); *see also id.* at 154.402(b)(3) (requiring the proposed effective date of the tariff change revising the ACA unit charge to be 30 days after the date the change is filed, unless a shorter period is specifically requested in a waiver petition and approved).

¹² *See id.* at 382.102(i) (defining "fiscal year" as the twelve-month period that begins on the first day of October and ends on the last day of September).

In proposing this change, the Commission is aware that in addition to the basic statutory requirement that all rates and charges be on file with the Commission,¹³ the filing requirements associated with the annual revisions to the ACA unit charge serve important practical functions. First, the annual tariff filing (and the Commission's acceptance of that filing) establishes an effective date upon which the Pipeline is entitled to begin collecting that fiscal year's ACA unit charge. Second, the annual filing provides the Commission with an opportunity to ensure that the Pipeline has actually paid the annual charge that it seeks to recover from customers.¹⁴

Because the annual filing requirement would be eliminated under the proposed reform and no longer serve these functions, the Commission's proposal is designed to replicate them. Accordingly, the Commission proposes to require Pipelines utilizing an ACA clause to incorporate by reference into their tariffs the ACA unit charge specified in the annual notice issued by the Commission entitled "FY [Year] Gas Annual Charges Correction for Annual Charges Unit Charge." This ACA unit charge shall be effective on the first day of October following issuance of this notice and shall extend to the last day of September the following year (i.e., the duration of the fiscal year). However, the ACA unit charge shall only be incorporated by reference into the Pipeline's tariff, and thereby assessed to shippers, if the Pipeline has paid its annual assessment, as reflected on a new notice, entitled "Payment Status of Pipeline Billings – FY [Year]," that the Commission will issue each year. This notice will identify the Pipelines that have been assessed annual charges for a fiscal year and indicate whether they have paid their bills and are, therefore, authorized to recover the ACA unit charge from shippers. The Commission will issue the "Payment Status of Pipeline Billings – FY [Year]" notice on the last business day of the fiscal year, and provide updates as necessary. All of the documents can be found on the Annual Charges page of the Natural Gas section of the Commission's website, located at <http://www.ferc.gov>.

The consequences of not collecting the information will result in maintaining unnecessary regulatory burden upon the industry.

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

¹³ 15 U.S.C. 717c (2006).

¹⁴ Order No. 472, FERC Stats. & Regs. ¶ 30,746 at 30,629-30 (explaining that Pipelines may only collect those annual charges that they have already paid to the Commission).

The rule proposes to allow the incorporation by reference of the annual charge adjustment unit charge, and utilizes information technology to maintain the current level of transparency regarding the collecting of such costs.

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

This rulemaking is designed to reduce duplication and remove unnecessary burden on the industry by reducing the number of filings that company has to make with the Commission.

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

The rulemaking proposes a minimal one-time burden on all companies that use ACA clauses. The Commission estimates there are 15 small companies impacted by the rule. Over time, the changes proposed in the rule are designed to reduce the burden on small entities.

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

Because the rule proposes a reduction in the number of filings as well as a one-time collection of information, this item is not applicable.

7. EXPLAIN ANY SPECIAL CIRCUMSTANCES RELATING TO THE INFORMATION COLLECTION

There are no special circumstances related to this rulemaking.

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

The Commission solicits public comment on the proposed changes to the information collection requirements as part of the proposed rule. The proposed rule was published in the Federal Register on October 29, 2012 (76 FR 65508).

9. EXPLAIN ANY PAYMENT OR GIFTS TO RESPONDENTS

The Commission makes no payments or gifts to respondents as part of this collection.

10. DESCRIBE ANY ASSURANCE OF CONFIDENTIALITY PROVIDED TO RESPONDENTS

An entity seeking confidential treatment of the information must ask the Commission to treat this information as confidential and non-public, consistent with the Commission's regulations at 18 CFR 388.112. Generally, the Commission does not consider this information to be confidential.

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

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

12. ESTIMATED BURDEN OF COLLECTION OF INFORMATION

The following burden estimates reflect the time necessary for respondents to update their tariffs according to this proposed rule, and also reflect the avoided burden as respondents will no longer have to file ACA charge tariff adjustments. The Commission estimates it will require eight hours per company to make the one time tariff changes proposed in this rule. In each year, including the first, the Commission estimates that filers will see a two hour per year reduction in burden from no longer filing ACA charge tariff adjustments. The following shows the burden hour impact of the proposed rule.

	Number of Respondents (A)	Number of Responses Per Respondent (B)	Total Number of Responses (A)*(B)=(C)	Average Burden Hours per Response (D)	Estimated Total Annual Burden (C)*(D)
Year 1 One-time tariff changes <u>and</u> burden reduction	145	1	145	6	870
Year 2 burden reduction				-2	-290
Year 3 burden reduction				-2	-290
Total	145	1	145	2	290

The average annual burden associated with this rule (one-time addition plus burden reduction) over three years is 97 hours (870 hours – 290 hours – 290 hours = 290 hours; 290 hours / 3 years = 96.67 hours/year). Accordingly, the Commission estimates that each respondent, on average, should experience a net change in burden of 0 hours in year four, and a net reduction in burden (2 hours per year) starting with the fifth year and in each year thereafter.

In the submittal system to OMB for requested approval of this Collection, we are averaging the one-time burden (8 hours per company) over three years for a total of 2.67 hours per company for each year (145 companies X 2.67 = 387 hours).

Proposed Rule Information Collection Costs: It has projected the average burden hour cost for all respondents to be the following:¹⁵

- One-time total cost of \$51,330 (870 hours * \$59/hour)
- Avoided cost per year of \$17,110 (290 hours * \$59/hour)

Current FERC-542 Burden Hour Inventory

FERC Data Collection	Annual No. of Respondents (1)	No. of Responses Per Respondent (2)	Average Burden Hours Per Response (3)	Total Annual Burden Hours (1)x(2)x(3)
FERC-542	95	3.5	40	13,300 hours

13. ESTIMATE OF THE TOTAL ANNUAL COST BURDEN TO RESPONDENTS

This information collection does not include start-up, capital, or any other non-labor hour costs.

14. ESTIMATED ANNUALIZED COST TO FEDERAL GOVERNMENT

The Commission does not foresee any increased cost to the Federal Government as a result of this rule. In the future, the reduced number of filings is expected to decrease the overall Federal cost.

The existing Federal Cost for the FERC-542 is \$575,748 and is based on 4 full time equivalent employees and \$1,588 for Paperwork Reduction Act administration¹⁶ (\$574,160+\$1,588 = \$575,748)

¹⁵ The cost figures are derived by multiplying the total hours to prepare a response (hours) by an hourly wage estimate of \$59 (a composite estimate that includes legal, technical and support staff wages and benefits obtained from the Bureau of Labor Statistic data at http://bls.gov/oes/current/naics3_221000.htm and <http://www.bls.gov/news.release/ecec.nr0.htm> rates).

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

The following table shows the burden changes due to the adjustment and the proposed rule:

FERC-542	Total Request	Previously Approved	Change due to Adjustment in Estimate	Change Due to Agency Discretion
Annual Number of Responses	653	333	320	0
Annual Time Burden (Hr)	20,397	13,300	7,000	97
Annual Cost Burden (\$)	0	0	0	0

We are adjusting the existing burden inventory to account for estimating 145 filers instead of the previous number of 95. The difference of 50 filers is due to Commission error in previous estimates. We also reduce the annual hours by 2 hours per filer to account for the reduced number of filings. We are averaging the one-time filing burden contained in the proposed rule over three years, leading to 97 hours per company

The one-time increase in burden (averaged over three years) is necessary to implement the burden reduction measures (reduced number of required filings in future years) proposed in the rule.

16. TIME SCHEDULE FOR PUBLICATION OF DATA

There are no tabulating, statistical or tabulating analyses or publication plans for the collection of information.

17. DISPLAY OF EXPIRATION DATE

It is not appropriate to display the expiration date for OMB approval of the information collection. The information is not collected upon a standard form which would facilitate the display of the expiration date for OMB approval.

18. EXCEPTIONS TO THE CERTIFICATION STATEMENT

16 PRA Administration is the cost required of FERC staff to prepare estimates, draft documents and otherwise comply with the PRA for this collection. The cost is based on 24 hours of staff time.

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.