

Supporting Statement  
**FERC-539 Gas Pipeline Certificates: Import & Export Related Applications**  
Three year extension requested

The Federal Energy Regulatory Commission (FERC or Commission) requests the Office of Management and Budget (OMB) extend its approval of FERC-539 (Gas Pipeline Certificates: Import & Export Related Applications) for three years.

FERC-539 covers the Import & Export authorization application and Presidential Permit application processes under 18 CFR 153.

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

Section 3 of the Natural Gas Act (NGA)<sup>1</sup> provides, in part, that “...no person shall export any natural gas from the United States to a foreign country or import any natural gas from a foreign country without first having secured an order from the Commission authorizing it to do so.”

The 1992 amendments to Section 3 of the NGA concern importation or exportation from/to a nation which has a free trade agreement with the United States and requires that such importation or exportation:

- (1) shall be deemed to be a “first sale” (i.e. not a sale for a resale)
- (2) shall be deemed to be consistent with the public interest, and applications for such importation or exportation shall be granted without modification or delay

The regulatory functions of Section 3 are shared by the Commission and the Secretary of Energy, Department of Energy (DOE). The Commission has the authority to approve or disapprove the construction and operation of particular facilities, the site at which such facilities will be located, and, with respect to natural gas that involves the construction of new domestic facilities, the place of entry for imports or exit for exports. The DOE approves the importation or exportation of the natural gas commodity.<sup>2</sup>

Additionally, pursuant to the DOE Delegation Order and Executive Order Nos. 10485 and 12038, the Commission has the authority to issue Presidential Permits for natural gas facilities which cross an international border of the United States. Persons seeking Section 3 authorizations or Presidential Permits from the Commission file applications for such requests

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<sup>1</sup> 15 U.S.C. 717-717w

<sup>2</sup> SEE Secretary of DOE’s current delegation of authority to the Commission relating to import and export facilities was renewed by the Secretary’s Delegation Order No. 00-004.00A, effective May 16, 2006.

pursuant to Part 153 of the Commission's Regulations; Part 153, Subpart B Application Under Section 3 and Part 153 Subpart C Application for a Presidential Permit.

FERC-539 addresses FERC's implementing regulations in 18 CFR Part 153.

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

The natural gas companies file the necessary information required in FERC's implementing regulations in 18 CFR Part 153. This application must include:

- Applicant information;
- Proposal summary;
- Statements demonstrating that the proposal is in the public interest and that the services rendered will be in accordance with existing Commission regulations;
- Nine required exhibits:
  - Exhibit A – articles of incorporation;
  - Exhibit B – statement of the relationship between the applicant and any other corporation or person;
  - Exhibit C – affidavit stating that the project will be constructed and operated in accordance with the laws of the state within which they are located;
  - Exhibit D – copy of any construction or operation agreement between the applicant and the operator of the border facilities;
  - Exhibit E – statement affirming that a qualified entity will receive or deliver LNG and engineering and design information (if a LNG import or export facility is proposed);
  - Exhibit E-1- report on earthquake hazards and engineering, as appropriate;
  - Exhibit F – environmental report;
  - Exhibit G – map of appropriate scale and detail; and
  - Exhibit H – statement identifying each Federal authorization that the proposal will require.

For applicants proposing to construct, operate, maintain or connect facilities at the borders of the United States and Canada or Mexico for importing or exporting natural gas, a request for issuance of a Presidential Permit is also required. Once issued by the Commission, an acceptance of the Presidential Permit must be filed.

If the Commission did not collect the FERC-539 information it would not be able to meet its statutory responsibilities.

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

FERC encourages companies to use its eFiling system. Natural gas companies can submit the FERC-539 using FERC's eFiling system (see <http://www.ferc.gov/docs-filing/efiling.asp>)

**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**

FERC periodically reviews filing requirements as OMB review dates arise or as it may deem necessary in carrying out its regulatory responsibilities under the NGA. All Commission information collections are subject to analysis by Commission staff and are examined for redundancy. FERC has found no other source of this information.

DOE and FERC share the regulatory functions described in the NGA Section 3. As stated in response to question 1 above, the Commission has the authority to approve or disapprove the construction and operation of facilities related to the importation or exportation of natural gas. DOE approves the importation or exportation of the natural gas commodity. Any number of importers and exporters can use any of the facilities or points of import/export the Commission approves. Also, the applicants to FERC and DOE tend to be completely different corporate segments of the industry. FERC deals with pipeline and LNG terminal builders while DOE works with gas marketers and producers.

In summary, FERC collects information about a particular facility used for import/export in order to approve/disapprove construction and operation. DOE collects information about the imported/exported natural gas. The information collected by each agency is distinct and necessary to meet the purposes of the NGA.

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

The information requirements under FERC-539 apply to jurisdictional pipelines or companies. Many of these pipelines do not fall within the Regulatory Flexibility Act's (RFA) definition of a small entity.

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

The Commission requires the FERC-539 information for statutory purposes as described in Question #1 above and the collection cannot be discontinued nor collected less frequently. The information that must be submitted to the Commission is event driven. Without such information, the Commission would be unable to fulfill its statutory responsibilities.

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

FERC-539 meets all of OMB's Section 1320.5 requirements, except 1320.5(d) (2) (iii). The application may be eFiled through FERC's eFiling system. For applications that are eFiled, two additional paper copies are required for use by the Office of Energy Projects. The copies are distributed to FERC staff involved in the review process and are necessary to ensure a timely review of the submitted materials.

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

In accordance with OMB requirements, the Commission published in the Federal Register a 60-day notice<sup>3</sup> and a 30-day notice<sup>4</sup> to the public regarding the FERC-539 information collection on 2/25/2013 and 5/20/2013 respectively. Within the public notices, 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. The Commission received no comments.

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

There are no payments or gifts to respondents as part of this collection.

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

The Commission does not consider the information to be confidential. However, the Commission has encouraged prospective applicants to submit preliminary corridor or route information maps which may contain Critical Energy Infrastructure Information (CEII). CEII, as defined in Section 388.113 of the Commission's regulations, includes information about proposed or existing natural gas facilities that could compromise critical energy infrastructure. The Commission's procedures in Section 388.112 are designated to ensure that CEII is not placed in the Commission's public records.

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<sup>3</sup> 78 FR 12747  
<sup>4</sup> 78 FR 29360

**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 as part of this collection.

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

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

<b>FERC-539: Gas Pipeline Certificates: Import &amp; Export Related Applications</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>
7	2	14	12	168

The total estimated annual cost burden to respondents is \$5,880[168 hours \* \$70/hour<sup>5</sup> = \$11,760.

The estimated number of responses is based on the actual number of filings received over the last three years.

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

There are no capital or start-up costs associated with this collection. All of the costs are associated with the burden hours and accounted for in Question #12.

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

	<b>Number of Employees (FTE)</b>	<b>Estimated Annual Federal Cost</b>
Analysis and Processing of filings <sup>6</sup>	3.5	\$510,363
PRA <sup>7</sup> Administrative Cost <sup>8</sup>		\$2,250
<b>FERC Total</b>		<b>\$512,613</b>

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

<sup>5</sup> Average salary (per hour) plus benefits per full-time equivalent employee

<sup>6</sup> Based upon 2013 FTE average salary plus benefits (\$145,818).

<sup>7</sup> Paperwork Reduction Act of 1995 (PRA).

<sup>8</sup> Based on Commission staff time/effort for PRA compliance and for the cost to publish items in the Federal Register.

estimated cost represents staff analysis, decision-making, and review of any actual filings submitted in response to the information collection.

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

The burden hours per filing are unchanged. The only observed difference in this extension request is that the Commission is adding one respondent and decreasing the number of responses per respondent (leading to fewer total responses) based on the actual number of filings received over the last three years.

With the clearance package, 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>9</sup>. Commission staff corrected the annual cost burden within the ROCIS metadata to show that the Commission associates no cost to capital investment or other non-labor costs. The Commission estimates the monetary cost related to the burden hours in Question #12 (above). This was done erroneously in the previous FERC-539 supporting statement. Commission staff corrected the error within the current proposed clearance package.

<b>FERC-539</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	14	152	-138	-
Annual Time Burden (Hr)	168	1,826	-1,658	-
Annual Cost Burden (\$)	\$0	\$121,037	-\$121,037	-

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

There are no tabulating, statistical or tabulating analysis or publication plans for the collection of information. The Commission uses the data for regulatory purposes only.

**17. DISPLAY OF EXPIRATION DATE**

The data requirements for FERC-539 are based on regulations and not filed on formatted/printed forms. Thus, the subject data requirements do not have an appropriate format to display an OMB expiration date.

**18. EXCEPTIONS TO THE CERTIFICATION STATEMENT**

<sup>9</sup> [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

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.