

Supporting Statement

**FERC-551: Reporting of Flow Volume and Capacity by Interstate Natural Gas Pipelines**

Three-year approval of revisions requested

The Federal Energy Regulatory Commission (FERC or Commission) requests that the Office of Management and Budget (OMB) review and approve the revisions to the FERC-551 (Reporting of Flow Volume and Capacity by Interstate Natural Gas Pipelines) for a three-year period under OMB Control Number 1902-0243.

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

With the passage of EAct 2005, Congress affirmed a commitment to competition in wholesale natural gas and electricity markets as national policy, the fifth major federal law in the last 30 years to do so. As part of this 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 tools in the transparency provisions, specifically, in Section 220 of the Federal Power Act and Section 23 of the Natural Gas Act (NGA).

FERC implemented Order Nos. 720 and 720-A to comply with EAct 2005 which amended the NGA to direct FERC to "facilitate price transparency in markets for the sale or transportation of physical natural gas in interstate commerce." On October 24, 2011, the United States Court of Appeals for the Fifth Circuit issued a decision granting the Texas Pipeline Association and the Railroad Commission's petition for review and vacating FERC's Order Nos. 720 and 720-A<sup>1</sup>. In its order, the 5th Circuit held that Order Nos. 720 and 720-A exceeded the scope of FERC's authority under the NGA of 1938 and FERC could not require intrastate natural gas pipelines to post the information. However, the court's decision did not disrupt the reporting and posting obligations of interstate natural gas pipelines<sup>2</sup>. The requirements for intrastate natural gas pipelines remain the FERC's regulations at 18 CFR 284.14, but the Commission may take action to remove these requirements in the future. .

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

The Commission believes that the remaining information requirements<sup>3</sup> that pertain to interstate natural gas pipelines will still be helpful to market participants and transparency of the natural gas markets. The daily posting of additional information by interstate pipelines is necessary to provide information regarding the price and availability of natural gas to market participants,

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1 <http://www.ca5.uscourts.gov:8081/isysquery/52e99660-48c4-4036-ac2e-991c600601bd/1/doc/10-60066-CV0.wpd.pdf>

2 Order Granting Motion to Clarify Opinion, Texas Pipelines Association v. FERC, 661 F.3d 258 (12/20/2011)

3 18 CFR 284.12

state commissions, FERC, and the public. The postings contribute to market transparency by aiding the understanding of the volumetric/availability drivers behind price movements; it provides a better picture of disruptions in interstate natural gas flows in the case of disturbances to the pipeline system and allows for the some monitoring of potentially manipulative or unduly discriminatory activity in the interstate market.

Failure by the Commission to collect this information means that it is unable to monitor and evaluate transactions and operations of interstate pipelines and perform its regulatory functions and statutory responsibilities as enumerated by the Energy Policy Act of 2005.

This ICR revision accounts for the reduction in burden due to the Court's partial vacation of the intrastate pipeline recordkeeping and reporting requirements of Orders 720 and 720-A. Commission staff is considering options and may recommend updating the existing regulations, containing the currently unenforceable intrastate reporting requirements at 18 CFR 284.14, by removing the vacated requirements from FERC's regulations (through a rulemaking) and updating the information collection.

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

There is an ongoing effort to determine the potential and value of improved information technology to reduce burden. As we noted in the Order No. 720 submission, the Commission does not receive any of the information under the FERC-551 data requirements as the information that is required is posted on the pipelines' internet sites.

**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 published a notice within the Federal Register to help identify any duplication of the information in the FERC-551. The Commission received no comments regarding this issue.

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

Small entities subject to this collection may request a waiver from the posting requirements if necessary.

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

As noted above, the daily posting of flow information by interstate pipelines provides several benefits to the functioning of natural gas markets in ways to protect the integrity of physical, interstate natural gas markets, protect fair competition in those markets and consequently serve the public interest by better protecting consumers

To have effective monitoring, the Commission needs timely information. Any reporting period longer than daily postings hinders the Commission in meeting this objective and the Commission would be responding to information that is either stale or no longer relevant nor would the Commission be able under the Natural Gas Act to ensure both competitiveness and improved efficiency of the industry's operations. The daily posting of flow information by intrastate pipelines is necessary to provide information regarding the price and availability of natural gas to market participants, State commissions, FERC, and the public.

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

As previously stated in Question #2, the daily posting of additional information by interstate pipelines (while more frequent than most data collections) is necessary to provide information regarding the price and availability of natural gas to market participants, state commissions, FERC, and the public. The postings contribute to market transparency by aiding the understanding of the volumetric/availability drivers behind price movements; it provides a better picture of disruptions in interstate natural gas flows in the case of disturbances to the pipeline system and allows for some monitoring of potentially manipulative or unduly discriminatory activity in the interstate market.

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

In accordance with OMB requirements, the Commission published a 60-day notice<sup>4</sup> and a 30-day notice<sup>5</sup> to the public regarding this information collection on 6/17/2013 and 9/6/2013 respectively. Within the public notices, the Commission noted that it would be requesting a three-year extension of the public reporting burden with the changes described in those notices. The Commission received no responses from the public regarding this information collection.

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

There are no payments or gifts to respondents in the FERC-551 requirements.

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

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4 78 FR 36176  
5 78 FR 54880

The data submitted to pipelines' internet websites is public information and, therefore, is not considered confidential.

**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 that are associated with the FERC-551 reporting requirements.

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

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

<b>FERC-551: Reporting of Flow Volume and Capacity by Interstate Natural Gas Pipelines</b>				
<b>Number of Respondents (A)</b>	<b>Number of Annual Responses Per Respondent (B)</b>	<b>Total Number Responses (A)x(B)=(C)</b>	<b>Estimated Burden Hours per Response (D)</b>	<b>Estimated Total Annual Burden (C)x(D)</b>
101	366	36,966	0.5 <sup>6</sup>	18,483

The total estimated annual cost burden to respondents is \$1,293,810 [18,483 \* \$70/hour<sup>7</sup> = \$1,293,810].

**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. ESTIMATE OF THE TOTAL ANNUAL COST TO FEDERAL GOVERNMENT**

	<b>Number of Employees (FTE)</b>	<b>Estimated Annual Federal Cost</b>
Analysis and Processing of	0.0	\$0

<sup>6</sup> In the prior notice regarding this collection, FERC used 183 burden hours per response, and the assumption of one response per year. In this notice we show the burden to a more detailed level, indicating that there is one response per day per respondent. We use 366 days as this keeps the total burden hour figure consistent with the prior notice.

<sup>7</sup> Based on average wages and benefits for an employee at FERC. The Commission assumes that employees working on information collection activities for this collection receive, on average, similar wages and benefits as FERC employees.

filings		
PRA <sup>8</sup> Administrative Cost <sup>9</sup>		\$2,250
<b>FERC Total</b>		<b>\$2,250</b>

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

The FERC-551 information collection burden changed because of the decision of the United States Court of Appeals for the Fifth Circuit that Order Nos. 720 and 720-A exceeded the scope of FERC’s authority under the Natural Gas Act of 1938. Therefore FERC could not require intrastate natural gas pipelines to post the information. The total burden for this clearance package only reflects the respondent burden for interstate natural gas pipelines. This is the reason for the decrease in burden for the FERC-551 information collection.

<b>FERC-551</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	36,966	62,244	-25,278	0
Annual Time Burden (Hr)	18,483	44,033	-25,550	0
Annual Cost Burden (\$)	0	0	0	0

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

The time schedule for FERC 551 is as follows:

Regarding the timing of postings, the Commission considers that scheduled flow information that is not provided on a daily basis is untimely and of vastly diminished use to market participants. The Commission believes that, in this regard, its interstate natural gas pipeline postings set an appropriate standard: postings should occur at least on a daily basis. Further, this standard conforms to Congress’ direction in Section 23 of the NGA, which requires that the Commission’s transparency rules “provide for the dissemination, on a timely basis, of information about the availability and prices of natural gas....”

**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

<sup>8</sup> Paperwork Reduction Act of 1995 (PRA)

<sup>9</sup> The Commission bases the cost of Paperwork Reduction Act administration on staff time, and other costs related to compliance with the Paperwork Reduction Act of 1995.

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updated 12/23/2013

display of the expiration date for OMB approval.

**18. EXCEPTIONS TO THE CERTIFICATION STATEMENT**

The Commission will not be using statistical survey methodology for this information collection. In addition, there is no stated record retention period related to this collection.