

FERC Form 574 (OMB Control No. 1902-0116)

Supporting Statement

FERC Form 574: Gas Pipeline Certificates: Hinshaw Exemption

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 FERC-574 (Gas Pipeline Certificates: Hinshaw Exemption) information collection for a three-year period under OMB Control Number 1902-0116.

1. CIRCUMSTANCES THAT MAKE THE COLLECTION OF INFORMATION NECESSARY

The Natural Gas Act (NGA) regulates the transportation and sale for resale of natural gas in interstate commerce. Section 7 of the NGA provides that “[n]o natural gas company or person which will be a natural gas company upon completion of any proposed construction or extension shall engage in transportation or sale of ‘natural gas’ without first obtaining a certificate of public convenience and necessity from the Commission.” Section 4 of the NGA requires that “natural gas companies” must maintain their rates for transportation or sale of gas with the Commission. Section 1(c) of the NGA, known as the “Hinshaw Amendment,” exempts from FERC regulation intrastate pipelines that receive natural gas at their state boundary that is consumed within the state and subject to state commission regulation, as well as from the many provisions of NGA, including Sections 4 and 7. Section 1(c) states:

The provisions of this chapter shall not apply to any person engaged in...the transportation in interstate commerce or resale, of natural gas received by such person from another person within...a state if all of the natural gas so received is ultimately consumed within such state, or to any facilities used by such person for transportation or sale, provided that the rates and service of such person and facilities be subject to regulation by a state commission. The matters exempted from the provisions of this chapter are declared to be matters primarily of local concern and subject to regulation by the several states.

Under the NGA, interstate pipelines are subject to FERC regulation while intrastate pipelines operations generally are not. However, in 1978, Congress enacted the Natural Gas Policy Act (NGPA), in part to eliminate the regulatory barriers between the intrastate and interstate markets and to promote the entry of intrastate pipelines into the interstate market. The NGPA enabled FERC to “develop a national natural gas transportation network without subjecting intrastate pipelines, already regulated by State agencies, to FERC’s regulations over the entirety of their operation.”

Section 311 of the NGPA authorizes FERC to allow intrastate pipelines to transport gas “on behalf of” interstate pipelines or local distribution companies served by interstate pipelines so long as their rates are “fair and equitable” and do not “exceed an amount which is reasonably comparable to the rates and charges interstate pipelines would be permitted to charge for providing similar transportation services.” Thereafter, in Order No. 63, FERC authorized Hinshaw pipelines to apply for certificates of authorization to transport natural gas in interstate

commerce to the same extent and in the same manner as intrastate pipelines were allowed to do under §311 of the NGPA.

Under the NGA the Commission is also authorized to conduct investigations and to collect and record data, to the extent the Commission may consider necessary or useful, for the purpose of carrying out the provisions of the Act.

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

The information collected by FERC-574 is a written application declaring the applicant's intent following the requirements set forth in 18 CFR 152. Although the FERC-574 application provides specific data per 18 CFR 152, the information is not collected on a prescribed or preformatted form.

The application provides the information which the applicant must furnish the Commission in order to make a determination as to whether the application meets exemption provisions of Section 1(c) of the Natural Gas Act. It is used by the Commission's staff to research the jurisdictional aspects of the applicant's operations. Commission staff conducts a systematic review of the prepared application with supplemental documentation provided in the filing. The research includes examining maps and land ownership records to establish whether or not there is Federal jurisdiction. In addition, companies that are currently regulated by the Commission and change their status and wish to become non-jurisdictional, must document that they meet the criteria as provided for in Part 152. The required documents allow for a full and complete analysis of a company and provide sufficient data to make a jurisdictional decision. A finding of non-jurisdictional by the Commission can result in the elimination of a substantial paperwork burden for an applicant who might otherwise have to file to comply with sections 4 and 7 of the NGA.

Failure to issue these requirements would mean the Commission is not meeting its statutory obligations under Sections 1(c), 4 and 7 of the NGA.

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 the burden. The FERC-574 application may be eFiled through FERC's eFiling system. (See <http://www.ferc.gov/docs-filing/efiling.asp> for more information.)

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 periodically reviews filing requirements as OMB review dates arise or as the Commission may deem necessary in carrying out its regulatory responsibilities under the Act in an effort alleviate duplication. This includes a review of the Commission's reporting requirements to identify duplication of data requirements. To date, no duplication of application data has been found. The information is specific to each applicant.

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

This investigation does not collect information from small entities. As the purpose of the application is to obtain exemption from the NGA provisions, the minimization of the impact, particularly on small businesses would not be applicable.

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

The data required impose the least possible burden on applicants while collecting the information required for processing the application. As noted above, this is a one-time filing for exemption from the pipelines certificate requirements of the NGA, and as such, the issue of frequency of filing is not applicable.

7. EXPLAIN ANY SPECIAL CIRCUMSTANCES RELATING TO THE INFORMATION COLLECTION

The guidelines of OMB's regulations of 5 CFR 1320(d)(2) are being exceeded in the number of copies forwarded to the Commission. An original and three copies are required by the Commission to conduct the regulatory review when the submitter chooses not to eFile. There is no requirement for the company to maintain any copies.

The Commission's Offices of the General Counsel receives one copy and the remaining copies are distributed to Office of Energy Projects staff. These copies are essential to staff so that the required technical, engineering, and environmental reviews and analyses proceed simultaneously and efficiently. A project manager must have a copy of the application for review and coordination purposes; additional copies must be available for staff members in various parts of the Commission for assessing the adequacy of diverse exhibits. It would not be feasible to conduct these review functions in a timely manner (and within the current processing schedule) if fewer copies of the application were provided for staff use.

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 notice¹ and a 30-day

¹ 78 FR 49491

notice² to the public regarding this information collection on 8/14/2013 and 11/5/2013 respectively. Within the public notices, the Commission noted that it would be requesting a three-year extension of the public reporting burden. 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-574 requirements.

10. DESCRIBE ANY ASSURANCE OF CONFIDENTIALITY PROVIDED TO RESPONDENTS

The Commission does not consider the information collected in FERC-574 filings to be confidential.

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

There are no questions of a sensitive nature associated with the FERC-574 reporting requirements.

12. ESTIMATED BURDEN OF COLLECTION OF INFORMATION

The Commission bases the estimated annual burden on recent experience with applications for Gas Pipeline Certificates: Hinshaw Exemptions. The estimated total annual burden is as follows:

FERC-574: Gas Pipeline Certificates: Hinshaw Exemptions					
	Number of Respondents (A)	Number of Annual Responses Per Respondent (B)	Total Number of Annual Responses (A)x(B)=(C)	Average Burden Hours per Response (D)	Estimated Total Annual Burden (C)x(D)
FERC-574	1	1	1	60	60

The total estimated annual cost burden to respondents is **\$4,200** [60 * \$70/hour³ = \$4,200].

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

² 78 FR 66350

³ Average salary (per hour) plus benefits per full-time equivalent employee

associated with the burden hours and accounted for in Question #12.

14. ESTIMATE OF THE TOTAL ANNUAL COST TO FEDERAL GOVERNMENT

	Number of Employees (FTE)	Estimated Annual Federal Cost
Analysis and Processing of filings ⁴	0.1	\$14,582
PRA ⁵ Administrative Cost ⁶		\$2,250
FERC Total		\$16,832

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 submitted in response to the information collection.

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

The estimated annual public reporting burden for FERC-574 remains static from estimates three years ago. Recent analysis focused on both the volume and content of submissions and confirms that 60 hours per response is still an accurate estimate for the average burden hours per response. The estimated number of filings also remains at one per year.

FERC-574	Total Request	Previously Approved	Change due to Adjustment in Estimate	Change Due to Agency Discretion
Annual Number of Responses	1	1	0	0
Annual Time Burden (Hr)	60	60	0	0
Annual Cost Burden (\$)	0	0	0	0

16. TIME SCHEDULE FOR THE PUBLICATION OF DATA

There are no tabulations, statistical analysis, or publications of information planned for the FERC-574 information collection. The data is intended for regulatory purposes only.

⁴ Based upon 2013 FTE average salary plus benefits (\$145,818)

⁵ Paperwork Reduction Act of 1995 (PRA)

⁶ Based upon 24 hours of Commission staff time/effort

17. DISPLAY OF EXPIRATION DATE

The Commission does not collect FERC-574 data on a standard, preprinted form which would avail itself to display of the expiration date. Therefore, it is not appropriate to display the expiration date for OMB approval of the information collected under the FERC-574.

18. EXCEPTIONS TO THE CERTIFICATION STATEMENT

The Commission will not be using statistical survey methodology for this information collection.