

Supporting Statement  
**FERC-577 Gas Pipeline Certificates: Environmental Impact Statement**  
Modifications in the Proposed Rule in Docket No. RM12-11-000

FERC is resubmitting this proposed rule (NOPR) in RM12-11 for administrative purposes only. The original submission was decided on by OMB on 5/30/2013 (ICR #201212-1902-004).

The Federal Energy Regulatory Commission (Commission or FERC requests that the Office of Management and Budget (OMB) review the proposed changes to the FERC-577 contained in the Notice of Proposed Rulemaking (NOPR) in Docket No. RM12-11.

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

Section 102(2) (c) of the National Environmental Policy Act of 1969 (NEPA) (Pub.L 91-190) (42 U.S.C. 4321) requires that all Federal agencies must include in every recommendation or report on proposals for legislation and other major federal actions significantly affecting the quality of human environment, a detailed statement on: the environmental impact on the proposed actions; any adverse environmental effects which cannot be avoided should the proposal be implemented; alternatives to the proposed action; the relationship between local short-term uses of man's environment, and the maintenance and enhancement of resources which would be involved in the proposed action should it be implemented.

FERC-577 identifies the Commission's information collections relating to Parts 2, 157, 284, and 380 of its regulations implementing NEPA and includes the environmental compliance conditions of Parts 2, 157, 284, and 380.

One part of the FERC-577 pertains to land owner notification. Commission staff has received numerous requests from landowners asking that we require companies to notify landowners in advance of any activity that will take place on their land. In response to these requests, the Commission proposes in the NOPR to add landowner notification requirements for both auxiliary installations and replacement facilities under section 2.55 and for siting and maintenance activities under section 380.15.

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

Environmental concerns play a significant role in the review of certificate construction applications. Pipelines are facing increased opposition from landowners as new projects are proposed, especially in more heavily populated areas. FERC has to balance the benefits of alternative supplies of natural gas with the environmental impact of a project. Critical to the Commission's efforts to balance benefits and environmental impacts are the environmental conditions the Commission incorporates into certificates.

Applicants have to conduct appropriate studies which are necessary to determine the impact of the construction and/or operation of the proposed jurisdictional facilities on human and natural resources and the measures which may be necessary to protect the values of the affected area.

In the NOPR, FERC proposes new sections in its regulations (18 CFR). Under proposed Sections 2.55(c) and 380.15(b)(1), a natural gas company must notify affected landowners at least 10 days prior to commencing construction. The notification should include: (1) a brief description of the activity to be conducted or facilities to be constructed/replaced and the effects that the activities are expected to have on the landowner's property; (2) the name and phone number of the company representative that is knowledgeable about the project; and (3) a description of the Commission's Dispute Resolution Service Helpline, as explained in Section 1b.21(g) of the Commission's regulations, and the Dispute Resolution Service Helpline number.

If the landowner has further questions concerning construction or maintenance activities, the landowner can contact the company representative for more details. If the landowner needs further information concerning the Commission's role in these types of projects, the landowner can contact the Commission's Dispute Resolution Service Helpline.

FERC also proposes to define "affected landowners" as owners of property interests, as noted in the most recent tax notice, whose property (1) is directly affected (i.e. crossed or used) by the proposed activity, including all rights-of-way, facility sites, access roads, pipe and contractor yards, and temporary workspace, or (2) abuts either side of an existing right-of-way or facility site, or abuts the edge of a proposed right-of-way or facility site which runs along a property line in the area in which the facilities would be constructed, or contains a residence within 50 feet of the proposed construction work area.

The Commission collects the bulk of the information under the FERC-577 in order to comply with applicable environmental statutes. The FERC-577 cannot be discontinued or conducted less frequently. The Commission is proposing a new landowner notification requirement in response to requests from landowners.

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

There is an ongoing effort to increase the use of improved information technology and to reduce burden. The FERC-577 materials may be eFiled through FERC's eFiling system. [See <http://www.ferc.gov/docs-filing/efiling/filing.pdf> for more information.]

For the existing FERC-577 requirements, the majority of the application filings made in accordance with sections 7(a) and 7(c) are filed electronically. However, due to the complexity of the exhibits, maps, and projects, for some of the filings, up to three additional paper copies may be required for staff review, processing, and collaboration. As additional uses of

information technology (including geospatial information systems) are implemented, FERC may be able to reduce or eliminate the need for the additional paper copies.

For the new requirements in the proposed rule, FERC does not prescribe a certain format in which to notify landowners.

**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**

Filing requirements are periodically reviewed as information collection expiration dates arise or as the Commission may deem necessary in carrying out its regulatory responsibilities under the NGA in an effort to alleviate duplication. All Commission information collections are subject to analysis by Commission staff and are examined for redundancy. There is no other source of this information.

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

There are no special provisions or methods for reducing burden on any small entities. FERC proposes that all applicable entities be required to notify landowners as described in the proposed rule.

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

FERC-577 data collections are required for statutory purposes and cannot be discontinued or collected less frequently. The information that must be submitted to the Commission is event driven. The information to be submitted in accordance with section 157.21(a)(2) includes draft environmental material in accordance with the provisions of Part 380 of FERC's regulations in order to implement the Commission's procedures under NEPA.

Without such information, the Commission would be unable to fulfill its statutory responsibilities under the NGA, NGPA, NEPA, and the Energy Policy Act of 2005.

The proposed landowner notification requirement is event driven and cannot be done less frequently.

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

In general, FERC-577 meets all of the requirements in OMB's regulations. Because the proposed landowner notification requirement is event driven, some respondents may have to

notify landowners more often than quarterly. The Commission considers this necessary in order to provide landowners with notification when work is being done on their property.

For the existing requirements related to this collection (requirements not changed by this rule) up to three paper copies may be required for staff review, processing, and collaboration.

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

Each FERC rulemaking (both proposed and final rules) is published in the Federal Register, thereby providing public utilities and licensees, state commissions, Federal agencies, and other interested parties an opportunity to submit data, views, comments or suggestions concerning the proposed collection of data. The NOPR in Docket RM12-11 was published in the Federal Register on January 4, 2013 (78 FR 679), and requests public comments.

The principle reason for this submission is because many landowners requested that FERC require companies to notify landowners in advance of any activity that will take place on their land.

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

There are no payments or gifts to respondents.

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

The Commission does not consider the information to be confidential. However, the Commission has encouraged applicants to indicate information which may be Critical Energy Infrastructure Information (CEII), or privileged. CEII as defined in Section 388.113 of the Commission's regulations includes information about proposed or existing natural gas facilities that could be used by a person planning an attack on critical energy infrastructure. [More information about CEII and privileged security levels of information are posted at <http://www.ferc.gov/legal/ceii-foia/ceii.asp> and <http://www.ferc.gov/legal/ceii-foia/ceii/classes.asp>.] The Commission's procedures in Part 388 are designed to ensure that CEII and privileged material is not placed in the Commission's public records.

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

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

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

Because this proposed rule adds a landowner notification requirement in Section 2.55(c) and Section 380.15(c) for activities undertaken pursuant to sections contained under FERC-577, the overall burden on the industry will increase. However, because natural gas companies subject to our jurisdiction must already notify landowners in conjunction with Section 3 projects, Section 7 applications, and when conducting activities under Part 157 of our regulations, no new technology would be needed and no start-up costs would be incurred. Further, even without the notification requirement proposed herein, companies routinely inform landowners prior to coming onto their property, both as a courtesy and to avoid conflicts in landowner and company activities. Thus, the proposed notification is expected to be consistent with some companies' current practices and, consequently, impose little or no additional obligation on such companies.

In 1999, in estimating the landowner notification burden in Order No. 609, the Commission found that companies would need four hours to identify affected landowners and prepare and distribute information describing the proposed project. Given advances in database management since then and the fact that Section 2.55 and Section 380.15 activities generally involve activities that are smaller than those that go forward under blanket certificate authority, we anticipate companies will need two hours to meet the proposed landowner notification requirement.

While companies are required to file annual reports of replacement facilities under 2.55(b), no such reports are required for ancillary installations under 2.55(a). Thus, we have no data upon which to base an estimate of activities under 2.55(a). In view of this, Commission staff asked for information on activities under 2.55(a) from a small representative sample (less than 10) of jurisdictional companies and we have extrapolated our estimate based on company responses. We estimate that on average, approximately 6,500 auxiliary installation projects are undertaken annually.

Companies file an annual report itemizing all Section 2.55(b) replacement activities. Our review of the more recent annual reports indicates that companies undertake approximately 500 section 2.55(b) projects per year total.

Section 380.15 siting and maintenance activities, like activities under 2.55(a), do not require companies to submit an annual report. These activities are generally minor and planned for well in advance and cover a wide variety of efforts (e.g. physical up-keep of above-ground facilities and right-of-way vegetation maintenance). Further, any particular company's activities on its right-of-way can depend upon changing conditions such as maintenance initiatives, population density, and even weather. Because of this variety of possible activities and their minor nature we have estimated that, for all companies nationwide, there will be a total of approximately three times as many activities as take place under Section 2.55(a) which would require a landowner notification (i.e. in the aggregate, 19,500 siting and maintenance activities that could require a landowner notification).

The Commission estimates the proposed additional notification burden that the proposal would impose in the table below.

New Requirements Proposed in NOPR	Annual Number of Respondents (A)	Annual Number of Filings Per Respondent <sup>1</sup> (B)	Number of Hours per Filing (C)	Total Annual Hours (A*B*C) <sup>2</sup>
Landowner notification in 18 CFR 2.55(a)	165	39.5	2	13,000
Landowner notification in 18 CFR 2.55(b)	165	3	2	1,000
Landowner notification in 18 CFR 380.15	165	118	2	39,000
<b>TOTAL</b>	165			53,000

As discussed above, natural gas companies already conduct landowner notifications for larger projects, and some companies also routinely inform affected landowners in advance of undertaking activities on their property as it is considered a “best practice” for facility and right-of-way management. Given that some companies currently comply with the notification requirements proposed herein, we believe that the actual industry-wide increase in burden will be substantially less than what we have estimated here.

**Information Collection Costs:** The Commission has projected the average cost for all respondents to be as follows:<sup>3</sup>

- \$3,180,000 per year for all regulated entities;
- \$19,272 per year for each regulated entity.

The Commission does not propose any modifications to any existing FERC-577 information collection requirements. The following table summarizes the existing burden and how it will change based on the NOPR.

FERC-577	Total Request	Previously Approved	Change due to Adjustment in Estimate	Change Due to Agency Discretion
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<sup>1</sup> This column reflects a rounded estimate for each jurisdictional natural gas company, averaged over all 165 such companies.

<sup>2</sup> The figures in this column are also rounded.

<sup>3</sup> The cost figures are derived by multiplying the total hours to prepare a response by an hourly wage estimate of \$60 (based on average civil engineer wages and benefit information obtained from the Bureau of Labor Statistic data at [http://bls.gov/oes/current/naics4\\_221200.htm#17-0000](http://bls.gov/oes/current/naics4_221200.htm#17-0000) and <http://www.bls.gov/news.release/ecec.nr0.htm> rates).

Annual Number of Responses	27,957	1,474	-	26,483
Annual Time Burden (Hr)	338,226	285,226	-	53,000
Annual Cost Burden (\$)	0	18,906,383	-18,906,383	-

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

There are no non-labor costs associated with the existing or landowner notification requirements.

### 14. ESTIMATED ANNUALIZED COST TO FEDERAL GOVERNMENT

Below is the Federal Cost estimate for the existing requirements under FERC-577. The proposed rule does not change the existing Federal Cost estimate because the Commission will not be receiving or reviewing the landowner notifications.

Type of Cost	Number of Employees (FTEs)	Estimated Annual Federal Cost <sup>4</sup>
PRA Administration Cost <sup>5</sup>		\$1,588
FTE	34	\$4,880,360
<b>FERC Total</b>		<b>\$4,881,948</b>

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

The increase in burden is due to the proposed landowner notification requirement. As noted in item 12 above, the Commission estimates a total increase of 53,000 hours (approximately 321 hours per entity). As noted previously, this new information collection requirement comes out of requests from the landowners for better notification when work is being done on their land.

OMB's guidance is that any burden reported in hours should not be reported as a dollar cost.<sup>6</sup> In this 2012 clearance package for the FERC-577, the cost to industry is calculated using the unit of burden hours. Commission staff has corrected the industry's annual cost burden within the ROCIS metadata to show that there are no costs associated to capital investment or other non-labor costs. The Commission estimates the monetary cost related to the burden hours in #12 (above). The format, label, and definitions of the summary table in #12 follow the ROCIS system's "ICR Summary of Burden" for the meta-data.

### 16. TIME SCHEDULE FOR PUBLICATION OF DATA

<sup>4</sup> Based on 2012 cost per FTE of \$143,540

<sup>5</sup> The Commission bases the PRA administration cost upon an average of 24 hours per clearance.

<sup>6</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

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FERC does not publish any data as part of this collection.

#### **17. DISPLAY OF EXPIRATION DATE**

The information collected as part of the FERC-577 is not collected 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**

This collection does not use statistical survey methodology as stated in the certification as part of this submission. Further, as stated in item 17 above, the information collection requirements do not have an appropriate format to display the OMB expiration date. There are no special provisions for small entities for the new landowner notification requirement. Each entity performing specific activities will be required to notify the appropriate landowners, without exception.