

Supporting Statement
FERC-546, Certificated Filings: Gas Pipeline Rates

The Federal Energy Regulatory Commission (Commission or FERC) requests that the Office of Management and Budget (OMB) review and approve FERC-546, Certificated Filings: Gas Pipeline Rates, for a three year period. FERC-546 (OMB Control No. 1902-0155) is an existing Commission data collection (reporting requirements), as stated by 18 Code of Federal Regulations (CFR) 154 and 284.¹

1. CIRCUMSTANCES THAT MAKE THE COLLECTION OF INFORMATION NECESSARY

In accordance with sections 4, 5, and 16 of the Natural Gas Act (NGA)² and Section 403 of the Natural Gas Policy Act (NGPA)³, a natural gas company must obtain Commission authorization for all rates and charges made, demanded, or received in connection with the transportation or sale of natural gas in interstate commerce. The aforementioned statutes authorize the Commission to investigate the rates charged by natural gas pipeline companies subject to its jurisdiction. If, after the investigation, the Commission finds that the rates are "unjust or unreasonable or unjustly discriminatory or unduly preferential," it is authorized to determine and prescribe just and reasonable rates. The NGA also authorizes the Commission to consider the reasonableness of rates through settlement conferences or hearings. Section 312 of the Energy Policy Act of 2005 (EPAct 2005)⁴ added section 4(f) to the NGA⁵ and permits the Commission to allow a natural gas storage service provider which places new facilities in service to negotiate market-based rates if the Commission determines that (1) market-based rates are in the public interest and necessary to encourage the construction of the storage capacity in the area needing storage services and (2) customers are adequately protected.⁶

Section 5 of the NGA⁷ authorizes the Commission to require prospective changes in the rates charged by a pipeline when it is demonstrable that the rates are no longer just and reasonable. The Commission can initiate a Section 5 proceeding on its own motion or upon complaint from an interested party. In a Section 5 proceeding, the Commission has the burden to demonstrate that the currently effective rates of a pipeline are no longer just and reasonable, and to establish just and reasonable rates.

1 More specifically requirements are contained within 18 CFR 154.4, 154.7, 154.202, 154.204-208, 154.602-603 and 284.501-505

2 15 USC 717c - 717o, PL 75-688, 52 Stat. 822 and 830

3 15 USC 3393, PL 95-621

4 Energy Policy Act of 2005, Pub. L. No. 109-58, 119 Stat. 594 (2005).

5 15 USC 717, et seq. (2000).

6 Energy Policy Act of 2005, Pub. L. No. 109-58, section 312, 119 Stat. 594, 688 (2005).

7 15 USC 717c

The following list outlines the circumstances under which the FERC-546 information collection requirements for certificated rates must be met.

A company decides to:

1. Construct and operate a new jurisdictional pipeline⁸;
2. Expand its certificated pipeline capacity by constructing a lateral pipeline, adding compression or providing storage at incremental or cost-based rates;
3. Build a new liquefied natural gas facility; or
4. Provide gas storage and negotiate market based rates.

Under the circumstances 1– 3, the company must file its FERC-546 cost data along with an application for a certificate of public convenience and necessity under the statutory requirements of NGA Section 7(c). For circumstance 4, the company must file its FERC-546 information with an application under NGA Section 4(f)⁵.

The FERC-546 includes the following:

- Supporting information for proposed initial rates (e.g. cost-based, market based, incremental rates);
- Pro forma tariffs;
- Motions to put proposed initial rates into effect subject to Commission findings on the related certificate;
- Unexecuted precedent agreements; and
- Full general rate cases under NGA Section 4.

Section 16 of the NGA grants the Commission administrative powers including the ability to define accounting, technical and trade terms, prescribe forms, statements, declarations or reports and to prescribe rules and regulations.

Section 403 authorizes the Commission, as delegated through the Department of Energy Organization Act, to establish and review priorities for curtailments under the Natural Gas Act.

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

The Commission reviews the FERC-546 materials in order to decide whether or not to determine an initial rate associated with an application for a certificate under NGA Section 7(c). More specifically, the Commission reviews FERC-546 materials in 4(f) storage applications to evaluate market power and decide whether to grant, deny, or condition market based rate authority for the applicant. The Commission also uses the FERC-546 information to monitor

⁸ Also known as a “greenfield” pipeline

jurisdictional transportation, natural gas storage, and unbundled sales activities of interstate natural gas pipelines and Hinshaw⁹ pipelines. In addition to fulfilling the Commission's obligations under the NGA, the FERC-546 enables the Commission to monitor activities, evaluate transactions, ensure competitiveness, and improved efficiency of the gas industry's operations. In summary, the Commission uses the FERC-546 information to:

- Ensure adequate customer protections under section 4(f) of the NGA;
- Review rate and tariff changes by natural gas companies for the transportation of gas, natural gas storage services;
- Provide general industry oversight; and
- Supplement documentation during its audits process.

Failure to collect this information would prevent the Commission from being able to monitor and evaluate transactions and operations of interstate pipelines and perform its regulatory functions.

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

The Commission provides ongoing effort to apply improved information technology to reduce the burden related to this information collection. Most documents may be filed electronically with the Commission via the Internet (e.g. via eFiling, eForms, eTariff). These efforts are part of FERC compliance with the Paperwork Reduction Act, the Government Paperwork Elimination Act, and the E-Government Act of 2002.

By issuing Order No. 714¹⁰ in 2008, the Commission revised its regulations to require electronic filing of all tariffs, tariff revisions and rate change applications for public utilities, natural gas pipelines, oil pipelines and power administrations starting in April 2010.

FERC-546 data can be embedded within the XML schema of the new eTariff system. Providing FERC-546 filers with the eTariff system for submitting information reduced physical storage space needs and document processing time. It has also provided easier tracking of document filing activity and reduced mailing and courier fees. The eTariff system allows concurrent access to FERC-546 tariff filings by multiple parties as well as the ability to download and print tariff filings. It automatically sends filers an email indicating their filing has arrived at FERC

⁹ Hinshaw pipelines are those that receive all out-of-state gas from entities within or at the boundary of a state if all the natural gas so received is ultimately consumed within the state in which it is received, 15 USC 717(c). Congress concluded that Hinshaw pipelines are "matters primarily of local concern," and so are more appropriately regulated by pertinent state agencies rather than by FERC. The Natural Gas Act section 1(c) exempts Hinshaw pipelines from FERC jurisdiction. A Hinshaw pipeline, however, may apply for a FERC certificate to transport gas outside of state lines.

and of its acceptance. All FERC-546 filings are also available electronically in FERC's eLibrary system.

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 FERC-546 information concerns rates for new or changed transportation and storage services stemming from new or modified natural gas infrastructure. There is a relationship with the FERC-545 because that collection's data includes the cost and revenue studies that NGA Section 7(c) certificate holders file to support a rate after their initial certificated rate period elapses. However, there is no duplication between the FERC 546 and any other data collection. Finally, each FERC-546 filing is unique to the filing pipeline and activity.

The Commission published a notice within the Federal Register¹¹ to help identify any duplication of the information in FERC-546. The Commission received no comments regarding this collection. No similar information can be used or modified. There are no other Federal agencies responsible for addressing the operations of the cogeneration and/or the small power production facility who makes the filing on behalf of its customers as reflected in the related tariff.

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

FERC-546 is a filing requirement pertaining to pipeline service filing obligations for the transportation, storage, and sale of natural gas. The FERC-546 filing collects data from both large and small respondent companies. The data required impose the least possible burden for companies while collecting the required information for the certificated rate filings. Use of the Internet to file documents electronically is the primary method the Commission uses to minimize the burden.

The Commission permits the option of filing all documents within the data collection through the eFiling interface as a means of reducing burden for respondents including small entities.

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

Industry respondents only file the FERC-546 data when rates for new or changed transportation and storage services will be needed for new or modified natural gas infrastructure. It is not

11 77 FR 40348

possible for the Commission to receive FERC-546 data less frequently and meet its statutory responsibility of ensuring that the rates of these natural gas pipelines are just and reasonable under the Natural Gas Act.

7. EXPLAIN ANY SPECIAL CIRCUMSTANCES RELATING TO THE INFORMATION COLLECTION

The information collection meets all of OMB's section 1320.5 requirements.

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

In accordance with OMB requirements, the Commission published a 60-day notice¹² and a 30-day notice¹³ to the public regarding this information collection on 7/9/2012 and 9/19/2012 respectively. Within the public notice, 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 FERC-546 respondents.

10. DESCRIBE ANY ASSURANCE OF CONFIDENTIALITY PROVIDED TO RESPONDENTS

The Commission does not consider the information collected in FERC-546 filings to be confidential. However, the filer may request privileged treatment of a filing that may contain information harmful to the competitive posture of the applicant if released to the general public.¹⁴

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

The Commission considers the questions within the FERC-546 neither sensitive in nature nor private.

12. ESTIMATED BURDEN OF COLLECTION OF INFORMATION

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

12 77 FR 40348

13 77 FR 58115

14 18 CFR 388.112

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	Number of Respondents (A)	Number of Responses Per Respondent (B)	Total Number of Responses (A)x(B)=(C)	Average Burden Hours per Response (D)	Estimated Total Annual Burden (C)x(D)
Pipeline Companies	11	1	11	40	440
Storage Operators	2	1	2	350	700
TOTAL					1,140

The following table shows the labor cost associated with the burden hours.

FERC-546		
Annual Burden Hours (1)	Estimated Hourly Cost (\$) (2)	Estimated Total Annual Cost to Respondents (\$) (1) X (2)
1,140	\$69.01 ¹⁵	\$78,671.40

13. ESTIMATE OF THE TOTAL ANNUAL COST BURDEN TO RESPONDENTS

Total Capital and Start-up cost: \$0

Total Operation, Maintenance, and Purchase of Services: \$0

14. ESTIMATED ANNUALIZED COST TO FEDERAL GOVERNMENT

	Number of Employees (FTEs)	Estimated Annual Federal Cost
Analysis and Processing of filings ¹⁶	0.5	\$71,770
PRA ¹⁷ Administrative Cost ¹⁸		\$1,588
FERC Total		\$73,358

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 This figure is rounded to the nearest cent
¹⁶ Based upon 2012 FTE average salary plus benefits (\$143,540)
¹⁷ Paperwork Reduction Act of 1995 (PRA)
¹⁸ Based upon 24 hours of Commission staff time/effort

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

The Commission's goal has been to reduce natural gas price volatility and encourage development of natural gas storage capacity in the United States. The 2006 and 2009 clearance packages for the FERC-546 estimated 77 pipeline respondents would each submit about 4 applications and 3 storage operators would each submit 1 application with FERC 546 information. Actual numbers for the FERC-546 filings were both significantly lower than previously proposed filing estimates due to the state of the economy and the current natural gas industry's infrastructure being sufficient to meet required supplies. The Commission, therefore, reduced the burden estimates in the currently proposed clearance package in accordance with the aforementioned analysis of actual filings received of the FERC-546. Commission staff made this adjustment to the total estimated burden via reductions in filing numbers while leaving the average respondent burden hours/response static for both pipeline companies and storage operators (40 and 350 hours respectively). Thus, the Commission reduced the total public reporting burden imposed upon the respondent universe for this information collection. However, the Commission changed nothing regarding burden imposed upon individual respondents.

Despite any changes to the estimated burden, the FERC-546 requirements remain unchanged from previously approved clearance packages.

The table below illustrates the aggregate burden (and any corresponding changes).

FERC-546	Total Request	Previously Approved	Change due to Adjustment in Estimate	Change Due to Agency Discretion
Annual Number of Responses	13	80	-67	0
Annual Time Burden (Hr)	1,140	13,370	-12,230	0
Annual Cost Burden (\$)	\$0	\$824,678	-\$824,678	\$0

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 hours¹⁹. Therefore, Commission staff corrected the industry's 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 #13 (above).

¹⁹ 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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This Commission erroneously represented these data in previous FERC-546 supporting statements. Commission staff corrected the error within the current proposed clearance package.

The format, label, and definitions of the table above follow the ROCIS system's "ICR Summary of Burden" for the meta-data.

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

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

18. EXCEPTIONS TO THE CERTIFICATION STATEMENT

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.