

Supporting Statement  
**FERC-545, Gas Pipeline Rates: Rate Change Non-Formal,**  
as modified by the Policy Statement (in Docket No. PL15-1, issued 4/16/2015)

The Federal Energy Regulatory Commission (Commission or FERC) requests that the Office of Management and Budget (OMB) review and approve (for three years) the changes to FERC-545 (Gas Pipeline Rates: Rate Change Non-Formal), made in Docket No. PL15-1.

Note that the Policy Statement in Docket No. PL15-1<sup>1</sup> indicated the reporting and recordkeeping requirements would be included under FERC-545A, due to another item pending OMB review under FERC-545. OMB issued a decision on the other pending FERC-545 item, so the requirements in PL15-1 are now being submitted to OMB under FERC-545.

**In general**, the requirements for the FERC-545 information collection are discussed in the Commission's regulations at 18 Code of Federal Regulations (CFR) Parts 154, 284.12, and 284.221.

**A. Justification**

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

FERC-545 is required to implement Sections 4, 5, and 16 of the Natural Gas Act (NGA), (15 USC 717c-717o, PL 75 688, 52 Stat. 822 and 830). NGA Sections 4, 5, and 6 authorize the Commission to inquire into rate structures and methodologies and to set rates at a just and reasonable level. Specifically, 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.

Under the NGA, a natural gas company's rates must be just and reasonable and not unduly discriminatory or preferential. The Commission may act under different sections of the NGA to effect a change in a natural gas company's rates. When the Commission reviews rate increases that a natural gas company has proposed, it is subject to the requirement of Section 4(e) of the NGA. Under Section 4(e), the natural gas company bears the burden of proving that its proposed rates are just and reasonable. On the other hand, when the Commission seeks to impose its own rate determination, it must do so in

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<sup>1</sup> The Policy Statement was issued 4/16/2015 and is posted at <http://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=13842049>.

In addition, the Order Denying Request for Clarification (in Docket PL15-1-001) was issued on 7/16/2014 and is posted at [http://elibrary.ferc.gov/idmws/file\\_list.asp?accession\\_num=20150716-3025](http://elibrary.ferc.gov/idmws/file_list.asp?accession_num=20150716-3025). It includes the second notice requesting public comment on the burden estimates.

compliance with Section 5(a) of the NGA. Under Section 5, the Commission must first establish that its alternative rate proposal is both just and reasonable.

Section 16 of the NGA states that the Commission “shall have the power to perform any and all acts, and to prescribe, issue, make, amend, and rescind such orders, rules, and regulations as it may find necessary or appropriate to carry out provisions of [the NGA].” In other words, Section 16 of the NGA grants the Commission the power to define accounting, technical and trade terms, prescribe forms, statements, declarations or reports and to prescribe rules and regulations.

When a natural gas company decides to construct and operate a jurisdictional pipeline, it files an application with the Commission and receives a certificate of public convenience and necessity from FERC. In the certificate proceeding, the Commission authorizes initial rates for the transportation service to be provided by the pipeline. Initial rates are established for new services authorized in certificate proceedings and must meet a public convenience and necessity standard. Initial rates established in the certificate proceeding remain in effect until the rates are changed by a Commission order. After the pipeline has been in operation for a set period, it files a cost and revenue study justifying the continuation of its initial rates or for a rate change under NGA Section 4.

Pipelines adjust their tariffs to meet market and customer needs. Commission review of these proposed changes is required to ensure rates remain just and reasonable and that services are not provided in an unduly or preferential manner. The Commission’s regulations in 18 CFR Part 154 specify what changes are allowed and the procedures for requesting Commission approval.

The Commission sets rates for interstate pipeline services in a number of proceedings. For example, when a pipeline files to increase its rates, it makes a filing with the Commission under section 4 of the NGA. These types of filings are referred to as general section 4 rate cases. In the proceedings, the Commission reviews all of a pipeline’s rates and services. A pipeline can file a general section 4 rate case anytime it wishes, provided the pipeline did not agree otherwise in a settlement. A pipeline must demonstrate that the new rates it proposes to charge are just and reasonable. When a rate increase filing is made pursuant to section 4, the application is typically suspended and set for hearing by a Commission Order.

**Docket No. PL15-1.** In the Policy Statement,<sup>2</sup> FERC “provides greater certainty regarding the ability of interstate natural gas pipelines to recover the costs of modernizing their facilities and infrastructure to enhance the efficient and safe operation of their systems. The Policy Statement explains the standards the Commission will require

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<sup>2</sup>The Policy Statement is available in FERC’s eLibrary at <http://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=13842049> and was published in the Federal Register on 4/22/2015 (80FR22366). A News Release is available at <http://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=13842830>.

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as revised in Docket No. PL15-1 (Policy Statement, issued 4/16/2015)

interstate natural gas pipelines to satisfy in order to establish simplified mechanisms, such as trackers or surcharges, to recover certain costs associated with replacing old and inefficient compressors and leak-prone pipes and performing other infrastructure improvements and upgrades to enhance the efficient and safe operation of their pipelines.”

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

The FERC-545 includes: (1) tariff filings and any related compliance filings; (2) rate case filings and any related compliance filings; (3) informational reports; (4) negotiated rates; (5) non-conforming agreement filings; and (6) NAESB Activity (tariff portion only).

The Commission reviews the FERC-545 information to determine whether proposed transportation and sales rates and terms and conditions of service are just and reasonable, and to monitor rates related to jurisdictional transportation, natural gas storage, and unbundled sales activities of jurisdictional companies. In addition to fulfilling the Commission’s obligations under the NGA, the FERC-545 enables the Commission to monitor the activities and evaluate transactions of the natural gas industry to ensure competitiveness and improved efficiency of the industry’s operations. In summary, the Commission uses the FERC-545 information to (1) ensure adequate customer protections under section 4(f) of the NGA; (2) review rate and tariff changes by natural gas companies for the transportation and storage of natural gas; (3) provide general industry oversight; and (4) supplement documentation during its audits process.

### **PL15-1.**

Failure to collect this information could prevent interstate natural gas pipelines and their customers from agreeing to modernize natural gas facilities. This failure, in turn, could limit natural gas pipelines from seeking to modify its rates and tariff records to respond to market and economic dynamics to modernize their natural gas facilities.

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

The FERC-545 filings are submitted electronically to FERC through the eTariff system.

In previous rulemakings,<sup>3</sup> the Commission implemented the capability and requirement for electronic filing of all tariff submissions. FERC also improved the security of

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<sup>3</sup>More information is available on FERC’s eTariff page at <http://www.ferc.gov/docs-filing/etariff.asp> .

submitting those electronic filings and the pipelines' on-line process of appointing and modifying agents with the authority to make a filing on the pipeline's behalf (providing filing companies with greater control over the agents eligible to make specific types of filings on their behalf).

**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 has reviewed the guidance in the Policy Statement and has determined that the information is necessary. These requirements conform to the Commission's plan for efficient information collection, communication, and management within the natural gas pipeline industry. The Commission has assured itself, by means of its internal review, that there is specific, objective support for the burden estimates associated with the information requirements.

**5. METHODS USED TO MINIMIZE THE BURDEN IN COLLECTION OF INFORMATION INVOLVING SMALL ENTITIES<sup>4</sup>**

An estimated 165 natural gas pipelines (Part 284 program) may be affected by this Policy Statement. Of the 165 pipelines, Commission staff estimates that 3 pipelines may choose to submit an application for a modernization cost tracker per year.

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

Failure to collect the FERC-545 information would prohibit FERC from properly monitoring and evaluating pipeline transactions and meeting statutory obligations under NGPA and NGA.

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

The FERC-545 presents no special circumstances.

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

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<sup>4</sup> Annual revenues less than \$27.5 million (based on the Small Business Administration definition).

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as revised in Docket No. PL15-1 (Policy Statement, issued 4/16/2015)

The Commission issued a Proposed Policy Statement on 11/20/2014,<sup>5</sup> 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 policy and reporting requirements.

The Commission received more than 60 comments in response to the Proposed Policy Statement. There were no comments on the reporting requirements or PRA-related issues.

FERC issued a Policy Statement on 4/16/2015. The Policy Statement [footnotes omitted] explains that,

“[g]enerally, interstate pipelines and other natural gas facility owners and operators favor the proposed policy, commenting that the criteria for collecting modernization costs through a surcharge should be more flexible than contemplated in the Proposed Policy Statement. Shippers varied in supporting or opposing the proposal, with LDCs conditionally supporting it provided that surcharges are tailored to the individual circumstances of the pipeline, and are designed so as not to impose unreasonable cost burdens or risks on natural gas customers. Some marketers also favored a program allowing the implementation of surcharges for modernization costs. Other shippers, however, including industrials, municipals and supply end entities, oppose the proposed policy statement. Producers are especially opposed to the recovery of any modernization costs through a surcharge mechanism, claiming that to allow such recovery is contrary to the NGA and longstanding Commission policy. The individuals filing comments also oppose the Proposed Policy Statement for varying reasons.

Numerous entities from a wide spectrum of industry interests filed in favor of the Proposed Policy Statement, supporting properly limited tracker or surcharge mechanisms to recover modernization costs. Some advocate granting pipelines added flexibility to comply with the five standards necessary to establish such trackers. Others filing in favor of the Commission’s proposed policy state that pipeline cost recovery mechanisms must be tailored to the individual circumstances of the pipeline, and be designed so as not to impose unreasonable cost burdens or risks on natural gas customers. Various pipeline customers generally support the development of simplified mechanisms for the recovery of costs of modernizing pipeline assets to enhance safety and reliability subject to conditions, commenting that the costs to be recovered should be limited to capital improvements for safety purposes and for compliance with environmental regulations. Others state that modernization cost recovery trackers should include safeguards to ensure that pipelines are not permitted to pass through costs while

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<sup>5</sup> The Proposed Policy Statement is available at <http://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=13690657>; a related News Release is posted at <http://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=13690551>.

evading shipper protections traditionally afforded by NGA section 4 rate review. Others support the Proposed Policy Statement as a method for enhancing certainty and the ability of interstate pipelines to recover costs for augmenting the efficient and safe operation of their respective systems.

In contrast to the pipelines' and other comments in support of the proposed policy, other commenters, particularly those representing producers, marketers, municipal gas companies, and industrial users of natural gas, expressed strong opposition to the recovery of modernization costs through a tracker. Opponents' claims that additional cost-recovery guarantees to incentivize compliance with mandatory environmental and safety laws is misplaced, and that cost trackers are inconsistent with section 284.10(c)(2) of the Commission's regulations, which requires that transportation rates be based on estimated units of service so that the pipeline is at risk for cost under-recovery. Opponents also claim that a cost modernization surcharge would be contrary to longstanding Commission policy and precedent, noting that the Commission has consistently rejected maintenance, compliance, and safety cost trackers, because they guarantee cost recovery without taking into account the benefits of cost reductions in other areas and/or increases in throughput affecting base rate revenues. Those opposing the Proposed Policy Statement further claim that the five standards do not provide the consumer protections afforded under section 4 of the Natural Gas Act (NGA), and that the record lacks a showing that pipelines cannot recover such costs through NGA section 4 rate cases. Opponents also claim that the Proposed Policy Statement is premature, because PHMSA and the EPA have not yet issued new regulations."

Public comments on the Paperwork Reduction Act (PRA) estimates in the Policy Statement were invited and due 6/22/15. No comments were received on PRA-related issues in the Policy Statement.

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

There are no payments or gifts to respondents associated with this collection.

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

The Commission generally does not consider the data provided in FERC-545 filings to be confidential. The Commission considers specific requests for confidential treatment to the extent permitted by law as described in 18 C.F.R. Section 388.112.

## **11. PROVIDE ADDITIONAL JUSTIFICATION FOR ANY QUESTIONS OF A SENSITIVE NATURE, SUCH AS SEXUAL BEHAVIOR AND ATTITUDES,**

**RELIGIOUS BELIEFS, AND OTHER MATTERS THAT ARE COMMONLY CONSIDERED PRIVATE.**

There are no questions of a sensitive nature in the reporting requirements.

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

The following FERC-545 burden estimates only relate to implementing the information collection requirements of the Policy Statement in Docket PL15-1.

<b>FERC-545, modifications from Policy Statement in PL15-1</b>					
	<b>Number of Respondents<sup>6</sup> (1)</b>	<b>Number of Responses per Respondent (2)</b>	<b>Average Burden Hours Per Response (3)</b>	<b>Total Annual Burden Hours (1)x(2)x(3)</b>	<b>Total Annual Cost (\$)<sup>7</sup> [rounded]</b>
provide information to shippers for any surcharge proposal, and prepare modernization cost tracker filing <sup>8</sup>	3	1	750	2,250	\$147, 578

6 An estimated 165 natural gas pipelines (Part 284 program) may be affected by the Policy Statement. Of the 165 pipelines, Commission staff estimates that 3 pipelines may choose to submit an application for a modernization cost tracker per year.

7 The hourly wage figures are published by the Bureau of Labor Statistics, U.S. Department of Labor, *National Occupational Employment and Wage Estimates, United States*, Occupation Profiles, May 2014 (available 4/1/2015) at <http://www.bls.gov/oes/home.htm>, and the benefits are calculated using BLS information, at <http://www.bls.gov/news.release/ecec.nr0.htm>.

The average hourly cost (salary plus benefits) to prepare the modernization cost tracker filing is \$65.59. It is the average of the following hourly costs (salary plus benefits): manager (\$77.93, NAICS 11-0000), Computer and mathematical (\$58.17, NAICS 15-0000), Legal (\$129.68, NAICS 23-0000), Office and administrative support (\$39.12, NAICS 43-0000), Accountant and auditor (\$51.04, NAICS 13-2011), Information and record clerk (\$37.45, NAICS 43-4199), Engineer (\$66.74, NAICS 17-2199), Transportation, Storage, and Distribution Manager (\$64.55, NAICS 11-3071).

The average hourly cost (salary plus benefits) to perform the periodic review is \$67.04. It is the average of the following hourly costs (salary plus benefits): manager (\$77.93, NAICS 11-0000), Legal (\$129.68, NAICS 23-0000), Office and administrative support (\$39.12, NAICS 43-0000), Accountant and auditor (\$51.04, NAICS 13-2011), Information and record clerk (\$37.45, NAICS 43-4199).

8 The pipeline’s modernization cost tracker filing is expected to include information to:

- demonstrate that its current rates are just and reasonable and that proposal includes the types of benefits that the Commission found maintained the pipeline’s incentives for innovation and efficiency;

perform periodic review and provide information to show that both base rates and the surcharge amount remain just and reasonable	3	0.60 <sup>9</sup>	350	630	\$42,235
<b>Total, related to PL15-1</b>				2,880	\$189,813

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

There are no non-labor costs currently associated with the FERC-545.

All of the costs in the Policy Statement are associated with burden hours (labor) and described in Questions 12 and 15.

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

**FERC-545.** The following federal costs relate only to the new requirements in PL15-1.

	<b>Number of Hours or FTE's</b>	<b>Estimated Annual Federal Cost (\$) <sup>10</sup></b>
PRA <sup>11</sup> Administration Cost <sup>12</sup>	-	\$ 5,193

- identify each capital investment to be recovered by the surcharge, the facilities to be upgraded or installed by those projects, and an upper limit on the capital costs related to each project to be included in the surcharge, and schedule for completing the projects;
- establish accounting controls and procedures that it will utilize to ensure that only identified eligible costs are included in the tracker;
- include method for periodic review of whether the surcharge and the pipeline's base rates remain just and reasonable; and
- state the extent to which any particular project will disrupt primary firm service, explain why it expects it will not be able to continue to provide firm service, and describe what arrangements the pipeline intends to make to mitigate the disruption or provide alternative methods of providing service.

<sup>9</sup> Based on the Columbia case, we estimate that a review may be required every 5 years, triggering the first pipeline reviews to be done in Year 6 (for the pipelines which applied and received approval in Year 1).

<sup>10</sup> Based on FERC's Fiscal Year 2015 average cost per FTE (salary plus benefits) of \$149,489 per year (or 2,080 work hours), rounded to \$72.00 per hour.

<sup>11</sup> Paperwork Reduction Act of 1995 (PRA)



Processing and Analysis of Filings	1	\$149,489
<b>Total, related to PL15-1</b>		<b>\$154,682</b>

The estimates for the federal cost (including existing inventory, changes due to this Policy Statement in PL15-1, and updated total) follow.

<b>Data Collection</b>	<b>Federal Cost Change, due to Policy Statement in PL15-1)</b>	<b>Total Federal Cost, after implementation of Policy Statement in PL15-1</b>
FERC-545	\$154,682	\$3,069,862

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

**Inventory before Implementation of PL15-1.** The OMB-approved burden inventory for the FERC-545 annually includes approximately 2,478 responses, and 282,297 hours of total burden.<sup>13</sup> These hours include: (1) tariff filings and any related compliance filings; (2) rate case filings and any related compliance filings; (3) informational reports; (4) negotiated rates (5) non-conforming agreement filings; and (6) NAESB Activity (tariff portion only).

**Implementation of Docket PL15-1.** FERC establishes a policy allowing interstate natural gas pipelines to seek to recover certain capital expenditures made to modernize system infrastructure in a manner that enhances system reliability, safety and regulatory compliance through a surcharge mechanism, subject to conditions intended to ensure that the resulting rates are just and reasonable and protect natural gas consumers from excessive costs. On balance, consideration of such mechanisms is justified in order to provide an enhanced opportunity to recover the substantial capital costs some pipelines are likely to incur to replace aging, unsafe and leak-prone facilities. The Policy Statement provides a framework for how the Commission will evaluate pipeline proposals for recovery of infrastructure modernization costs, and guidance as to how it will evaluate such proposals in accordance with the five adopted standards. As the comments in support of the Commission’s Proposed Policy Statement indicate, establishment of a policy to permit enhanced recovery of modernization costs is in the public interest and necessary to address concerns regarding the safety of the Nation’s natural gas infrastructure and the safe operation of natural gas pipelines, as well as environmental issues related to emissions.<sup>14</sup>

<sup>12</sup> The PRA Administration Cost is \$ 5,193, and includes preparing supporting statements, notices, and other activities associated with Paperwork Reduction Act compliance.

<sup>13</sup> On 7/6/2014, OMB approved ICR #201504-1902-007 for the reporting requirements in the Final Rule in Docket No. RM14-2.

<sup>14</sup> With regard to safety and reliability, one commenter indicated that recent pipeline accidents, including the September 2010 pipeline rupture in San Bruno, California, demonstrate the potential consequence of aging pipeline

The Policy Statement provides greater certainty regarding the ability of interstate natural gas pipelines to recover the costs of modernizing their facilities and infrastructure to enhance the efficient and safe operation of their systems. The additional information that will be submitted to FERC enables the Commission to review and monitor proposed costs and ensure they are just and reasonable.

**Summary.** Estimates for the total annual burden for FERC-545, after implementation of the Policy Statement in PL15-1 follow.

<b>FERC-545</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	2,482.8	2,478	0	+4.8
Annual Time Burden (Hr.)	285,177	282,297	0	+2,880
Annual Cost Burden (\$)	0	0	0	0

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

FERC-545 filings are available to the public through the Commission’s eLibrary and eTariff systems when they are submitted. FERC does not publish any data associated with this collection.

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

The expiration date is displayed at <http://www.ferc.gov/docs-filing/info-collections.asp>.

## **18. EXCEPTIONS TO THE CERTIFICATION STATEMENT**

There are no exceptions for this collection.

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facilities that are not properly repaired, rehabilitated or replaced. The commenter states that 59 percent of existing natural gas pipelines were built before 1970 and 69 percent of existing natural gas pipelines were built before 1980. The Department of Energy notes that more than half of the country’s natural gas transmission and gathering infrastructure is over 40 years old. As a commenter points out, while aging pipelines are not inherently risky, older facilities have been exposed to more threats and were likely constructed without the benefit of today’s safety standards or quality materials.

