

Supporting Statement for
FERC-549, Natural Gas Policy Act (NGPA) Title III Transactions and Natural Gas Act (NGA) Blanket Certificate Transactions

The Federal Energy Regulatory Commission (Commission or FERC) requests that the Office of Management and Budget (OMB) review and approve **FERC-549, NGPA Title III Transactions and NGA Blanket Certificate Transactions** (OMB Control No. 1902-0086), for a three-year period. FERC-549 is an existing data collection with reporting requirement in 18 Code of Federal Regulations (CFR) Section 284.

1. CIRCUMSTANCES THAT MAKE THE COLLECTION OF INFORMATION NECESSARY

FERC-549 is required to implement the statutory provisions governed by Sections 311 and 312 of the NGPA¹ and Section 7 of the NGA².

Rates and Charges for Intrastate Pipelines

Section 284.123 applies to filings by: (1) intrastate pipelines providing interstate services pursuant to Section 311 of the NGPA³ and (2) Hinshaw⁴ pipelines providing interstate services subject to the Commission's NGA jurisdiction pursuant to blanket certificates issued under Section 284.224 of the Commission's regulations.⁵

18 CFR 284.123(b) provides that intrastate gas pipeline companies file for Commission approval of rates for services performed in the interstate transportation of gas. An intrastate gas pipeline company may elect to use rates contained in one of its then effective transportation rate schedules on file with an appropriate state regulatory agency for intrastate service comparable to the interstate service or file for approval of rates and supporting information showing the rates are cost based and are fair and equitable. 150 days after the application is filed for approval of the later (e.g. the cost based rates) the rate is deemed to be fair and equitable unless the Commission either extends the time for action, institutes a proceeding or issues an order providing for rates it deems to be fair and equitable.

18 CFR 284.123(e) requires that within 30 days of commencement of new service any intrastate pipeline engaging in the transportation of gas in interstate commerce must file a statement that includes the interstate rates and a description of how the pipeline will engage in the transportation services, including operating conditions. If an intrastate gas pipeline company changes its operations or rates it must amend the statement on file with the Commission. Such

1 15 USC 3371-3372

2 15 U.S.C. 717f

3 15 USC 3372

4 Section 1(c) of the NGA exempts from the Commission's NGA jurisdiction pipelines which transport gas in interstate commerce if (1) they receive natural gas at or within the boundary of a state, (2) all the gas is consumed within that state, and (3) the pipeline is regulated by a state Commission. This exemption is referred to as the Hinshaw exemption after the Congressman who introduced the bill amending the NGA to include § 1(c). See *ANR Pipeline Co. v. Federal Energy Regulatory Comm'n*, 71 F.3d 897, 898 (1995) (briefly summarizing the history of the Hinshaw exemption).

5 18 CFR 284.224.

amendment is to be filed not later than 30 days after commencement of the change in operations or change in rate election.

18 CFR 284.123(f) requires that all filings must be made electronically consistent with requirements set forth in Order No. 714.

Transportation by Interstate Pipelines

In 18 CFR 284.102(e) the Commission requires interstate pipelines to obtain proper certification in order to ship natural gas on behalf of intrastate pipelines and local distribution companies (LDC). This certification consists of a letter from the intrastate pipeline or LDC authorizing the interstate pipeline to ship gas on its behalf. In addition, interstate pipelines must obtain from its shippers certifications including sufficient information to verify that their services qualify under this section.

Code of Conduct

The Commission's regulations at 18 CFR 284.288 and 284.403 provide that applicable sellers of natural gas adhere to a code of conduct when making gas sales in order to protect the integrity of the market. As part of this code, the Commission imposes a record retention requirement on applicable sellers to "retain, for a period of five years, all data and information upon which it billed the prices it charged for natural gas it sold pursuant to its market based sales certificate or the prices it reported for use in price indices." FERC uses these records to monitor the jurisdictional transportation activities and unbundled sales activities of interstate natural gas pipelines and blanket marketing certificate holders.

The record retention period of five years is necessary due to the importance of records related to any investigation of possible wrongdoing and related to assuring compliance with the codes of conduct and the integrity of the market. The requirement is necessary to ensure consistency in prohibiting market manipulation (regulations adopted in Order No. 670, implementing the EAct 2005 anti-manipulation provisions⁶) and the generally applicable five-year statute of limitations where the Commission seeks civil penalties for violations of the anti-manipulation rules or other rules, regulations, or orders to which the price data may be relevant.

Failure to have this information available would mean the Commission is unable to perform its regulatory functions and to monitor and evaluate transactions and operations of interstate pipelines and blanket marketing certificate holders.

Market-Based Rates for Storage

In 2006 the Commission amended its regulations to establish criteria for obtaining market-based rates for storage services offered under 18 CFR 284.501-505. First, the Commission modified its market-power analysis to better reflect the competitive alternatives to storage. Second, pursuant to the Energy Policy Act of 2005, the Commission promulgated rules to implement section 4(f) of the Natural Gas Act, to permit underground natural gas storage service providers that are

⁶ 18 CFR 1c.1 and 1c.2, 71 FR 4,244 (2006).

unable to show that they lack market power to negotiate market-based rates in circumstances where 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 where customers are adequately protected. These provisions are intended to facilitate the development of new natural gas storage capacity while protecting customers.

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

The Commission uses the data in the FERC-549 to examine the costs, rates, and service and tariff provisions for the transportation and/or sale of natural gas in interstate commerce filed in compliance with Commission orders. Specifically, the Commission uses the data to ensure compliance with Sections 311 and 312 of the NGPA, Section 7 of the NGA and Part 284 of the Commission's regulations. The information collected or maintained is used by the Commission to monitor jurisdictional transportation activities of intrastate and Hinshaw pipelines and the unbundled sales activities of interstate natural gas pipelines and to ensure the integrity of the gas sales market that remains subject to the Commission's jurisdiction.

The rate approval procedure for state-based rates will allow pipelines whose rates have not changed to simply submit a certification, avoiding a rate review by the Commission.

Failure to collect this information would prohibit the Commission from monitoring and properly evaluating pipeline transactions and meeting statutory obligations under both the NGPA and the NGA.

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

The Commission has developed the capability for electronic filing of all submissions that occur under FERC-549. In requesting changes to its rates or statement of operating conditions, the pipeline's filings must be made electronically per section 284.123(f), thus paper copies are no longer accepted.

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 OMB review dates arise or as the Commission may deem necessary in carrying out its responsibilities under the NGPA and the NGA in order to eliminate duplication and ensure that filing burden is minimized.

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

FERC-549 is a filing requirement pertaining to pipeline transportation transaction filing and retention obligations under the applicable regulations for the transportation, and sale of natural gas as stated herein. This filing collects data from both large and small respondent companies. However, most companies that fulfill the FERC-549 filing requirement do not fall within the RFA's definition of small entities.

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

Section 311 intrastate pipeline companies or persons holding blanket certificates only provide this information collection through the submission of filings. If the collection were conducted less frequently or discontinued, the Commission would be unable to determine if the rates continue to be fair and equitable.

7. EXPLAIN ANY SPECIAL CIRCUMSTANCES RELATING TO THE INFORMATION

The record retention period of five years for Code of Conduct material is necessary due to the importance of records related to any investigation of possible wrongdoing and related to assuring compliance with the codes of conduct and the integrity of the 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 notice⁷ and a 30-day notice⁸ to the public regarding this information collection on 5/26/2016 and 8/31/2016, 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 respondents in the requirements contained in this collection.

10. DESCRIBE ANY ASSURANCE OF CONFIDENTIALITY PROVIDED TO RESPONDENTS

The Commission does not consider the information collected in FERC-549 filings to be confidential.

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

7 81 FR 33499
8 81 FR 59995

RELIGIOUS BELIEFS, AND OTHER MATTERS THAT ARE COMMONLY CONSIDERED PRIVATE

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

12. ESTIMATED BURDEN COLLECTION OF INFORMATION

FERC-549: NGPA Title III Transactions and NGA Blanket Certificate Transaction						
	Number of Respondents (1)	Annual Number of Responses per Respondent (2)	Total Number of Responses (1)*(2)=(3)	Average Burden & Cost Per Response (4)	Total Annual Burden Hours & Total Annual Cost (3)*(4)=(5)	Cost per Respondent (\$) (5)÷(1)
Transportation by Interstate Pipelines ⁹	75	2	150	3 hrs. ¹⁰ ; \$386.82	450 hrs.; \$58,023	\$773.64
Rates and Charges for Intrastate Pipelines ¹¹	50	1	50	50 hrs.; \$5,084.50 ¹²	2,500 hrs.; \$254,225	\$5,084.50
Code of Conduct ^{13, 14}	222	1	222	1 hr.; \$128.94 ¹⁰	222 hrs.; \$28,624.68	\$128.94
Market-Based Rates ¹⁵	4	1	4	350 hrs.; \$45,129 ¹⁰	1,400 hrs.; \$180,516	\$45,129
TOTAL			426		4,572 hrs.; \$521,388.68	

13. ESTIMATE OF THE TOTAL ANNUAL COST BURDEN TO RESPONDENTS

There are no non-labor start-up costs. All costs are related to burden hours and are addressed in Questions #12 and #15.

14. ESTIMATED ANNUALIZED COST TO FEDERAL GOVERNMENT

⁹ 18 CFR 284.102(e)

¹⁰ The average hourly cost (salary plus benefits) is \$128.94. The BLS wage category code is 23-0000 (lawyers). This figure is also taken from the Bureau of Labor Statistics, May 2015 figures at http://www.bls.gov/oes/current/naics2_22.htm.

¹¹ 18 CFR 284.123(b),(e)

¹² The estimates for cost per response are derived using the following formula:

Average Burden Hours per Response * \$101.69 per Hour = Average Cost per Response. The hourly average of \$101.69 assumes equal time is spent by an economist and lawyer. The average hourly cost (salary plus benefits) is: \$74.43 for economists (occupation code 19-3011) and \$128.94 for lawyers (occupation code 23-0000). (The figures are taken from the Bureau of Labor Statistics, May 2015 figures at http://www.bls.gov/oes/current/naics2_22.htm).

¹³ Recordkeeping burden.

¹⁴ 18 CFR 284.288, 403

¹⁵ 18 CFR 284.501-505

	Number of Employees (FTE)	Estimated Annual Federal Cost
Analysis and Processing of Filings ¹⁶	9	\$1,391,823
PRA ¹⁷ Administrative Cost ¹⁸		\$5,481
FERC Total		\$1,397,304

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 burden for the FERC-549 information collection increased from previous burden estimates despite a decrease in total annual responses. The increase in burden is due to 1) increased annual burden per response for periodic rate review (related to “Rates and Charges for Intrastate Pipelines”) and 2) an increase in the annual number of market-based rates filers (from two to four).

The increase in the annual burden per response for “Rates and Charges for Intrastate Pipelines” requirement is due to an underestimation of relevant burden in previous FERC-549 information collection activities. Based on more recent experience with the FERC-549 information collection, FERC subject matter experts increased the annual hourly burden per response from 5.24 to 50.

The decrease in total annual responses reflects a reduction in filer activity related to FERC-549 due to revisions extending the cycle for “Rates and Charges” reviews from three to five years (i.e. less frequent filing)¹⁹.

The following table shows the total burden of the collection of information. The format, labels, and definitions of the table follow the ROCIS submission system’s “Information Collection Request Summary of Burden” for the metadata.

FERC-549	Total Request	Previously Approved	Change due to Adjustment in Estimate	Change Due to Agency Discretion

¹⁶ Based upon 2016 FTE average annual salary plus benefits (\$154,647).

¹⁷ Paperwork Reduction Act of 1995 (PRA).

¹⁸ The PRA Administrative Cost is a Federal Cost associated with preparing, issuing, and submitting materials necessary to comply with the Paperwork Reduction Act (PRA) for rulemakings, orders, or any other vehicle used to create, modify, extend, or discontinue an information collection. This average annual cost includes requests for extensions, all associated rulemakings, and other changes to the collection.

¹⁹ This is due to FERC Order No. 735, issued 5/20/2010. The decrease in total annual responses is due to an improved burden estimate based on actual filings.

Annual Number of Responses	426	552	-126	0
Annual Time Burden (Hours)	4,572	2,331	2,241	0
Annual Cost Burden (\$)	\$0	\$0	\$0	\$0

16. TIME SCHEDULE FOR PUBLICATION OF DATA

There are no tabulating, statistical or tabulating analysis or publication plans for the collection of information. The data are used for regulatory purposes only.

17. DISPLAY OF EXPIRATION DATE

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

18. EXCEPTIONS TO THE CERTIFICATION STATEMENT

There are no exceptions.