

Supporting Statement for
FERC-501G, One-time Report on Rate Effect of the Tax Cuts and Jobs Act,
As Proposed In NOPR In Docket No. RM18-11-000

The Federal Energy Regulatory Commission (Commission or FERC) requests Office of Management and Budget (OMB) review and approval of FERC-501G, One-time Report on Rate Effect of the Tax Cuts and Jobs Act (OMB Control No. 1902-TBD), for a one-time reporting requirement. FERC-501G is a one-time, new data collection with reporting requirements in Code of Federal Regulations (CFR) Title 18, Parts 154, 260, and 284. The FERC-501G is being proposed in the Notice of Proposed Rulemaking (NOPR) in Docket No. RM18-11-000¹.

1. CIRCUMSTANCES THAT MAKE THE COLLECTION OF INFORMATION NECESSARY

The Tax Cuts and Jobs Act of 2017² reduced tax levels applicable to corporate and individual income, effective January 1, 2018. Pipelines subject to cost of service regulation pursuant to Section 4 of the Natural Gas Act (NGA)³ and Section 311 of the Natural Gas Policy Act (NGPA)⁴ are permitted to include projected income taxes as part of the cost of service, and are permitted the opportunity to recover those costs through their rates. Pipelines are not required to reduce their rates to reflect reduced income taxes. Proposed FERC-501G is required to implement the statutory provisions governed by Section 4 of the NGA and Section 311 of the NGPA that the pipelines' currently effective rates remain just and reasonable (NGA) or fair and equitable (NGPA).

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

The proposed data collections under FERC-501G are different for NGA natural gas companies and NGPA pipelines due to the different statutory authorities. There are three components to the proposal: a) a financial report FERC Form No. 501-G⁵ applicable to NGA pipelines; b) a new tariff filing option for NGA pipelines pursuant to a proposed 18 C.F.R. 154.404; and c) a requirement for a tariff filing for certain NGPA pipelines pursuant to a proposed 18 C.F.R. 284.123(i).

a) FERC Form No. 501-G

¹ The following items are available on FERC.gov:

- NOPR at <https://elibrary.ferc.gov/idmws/common/OpenNat.asp?fileID=14842252>, attached Instruction Guide at <https://elibrary.ferc.gov/idmws/common/OpenNat.asp?fileID=14842254>, and attached one-time form at <https://elibrary.ferc.gov/idmws/common/OpenNat.asp?fileID=14842253>
- News Release at <https://www.ferc.gov/media/news-releases/2018/2018-1/03-15-18-E-1.asp>
- Staff Presentation at <https://www.ferc.gov/industries/gas/E-1-presentation.pdf>
- Fact Sheet at <https://www.ferc.gov/media/news-releases/2018/2018-1/03-15-18-E-1-fact-sheet.pdf>.

² Tax Cuts and Jobs Act, Pub. L. No. 115-97, 131 Stat. 2054 (2017).

³ 15 USC 717c.

⁴ 15 USC 3372.

⁵ Hereinafter, this will be referred to as "Report" or "FERC Form No. 501-G."

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Proposed in NOPR (issued 3/15/2018) in Docket No. RM18-11-000
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FERC Form No. 501-G proposes to collect income and balance sheet statement financial data from all NGA pipelines that have cost based rates on file with the Commission. NGA pipelines whose rates are being examined in a general rate case under section 4 of the NGA or in an investigation under section 5 of the NGA need not file FERC Form No. 501-G.

The Commission proposes to use the data of the Report to examine the costs underlying existing NGA natural gas companies' cost-based rates for the transportation in interstate commerce to determine whether the Tax Cuts and Jobs Act of 2017 reduction in income tax should be reflected in their rates. The Report data will be available to the public and subject to notice and comment.

Failure to collect this information would hamper the Commission's ability to properly evaluate whether pipeline rates should be reduced to reflect the Tax Cuts and Jobs Act of 2017. While the Tax Cuts and Jobs Act of 2017 applies to all natural gas pipelines, whether the change in federal tax law reduces an individual pipeline's NGA revenue requirement requires a pipeline-by-pipeline analysis. Proposed FERC Form No. 501-G is designed to examine a natural gas pipeline's cost of service focused just on the impact of the Tax Cuts and Jobs Act of 2017. This contrasts with the normal evaluations that examine all items of a pipeline's cost of service. Such an approach is very labor intensive for the pipeline, the public, and the Commission, and requires considerable time, sometimes years, to resolve. As the Tax Cuts and Jobs Act of 2017 impacts all natural gas pipelines, the normal approach in evaluating pipeline rates is not practicable. FERC Form No. 501-G is designed to compress the financial data collection and analytical time line. Further, the Tax Cuts and Jobs Act of 2017 became effective January 1, 2018. The NGA only permits rate changes (including rate reductions) to be effective prospectively. Excess revenues collected since January 1, 2018 through the effectiveness of reduced rates are not refundable to the customers. Therefore, any delay in effecting rate reductions means customers will be paying rates that higher than are cost justified.

b) Proposed 18 C.F.R. 154.404

The NGA does not give the Commission the authority to order NGA pipelines to file a rate reduction without first engaging in a multi-step process. However, if a pipeline wished to voluntarily file for a rate reduction to reflect the Tax Cuts and Jobs Act of 2017, the Commission's current rate filing requirements generally do not provide for a pipeline to propose a change in rates for a single cost item. The current rate filing requirements require rate change filings to provide extensive financial data, all of which may be challenged by the public or the Commission. As the Tax Cuts and Jobs Act of 2017 became effective January 1, 2018, and the NGA only permits rate changes (including rate reductions) to be effective prospectively, proposed FERC-501G provides natural gas companies an option to voluntarily reduce their rates by the amount shown in Report through a limited NGA section 4 filing. This proposed tariff filing is enumerated at 18 C.F.R. 154.404. Under this tariff filing provision, the required data is reduced to only the completed FERC Form No. 501-G (discussed above). The public availability of the filed data and the opportunity provided for comments is designed to limit the issues that may be raised by the parties and expedite rate reductions to the benefit of the natural gas pipeline companies' customers.

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Failure to permit the rate reduction type of filing proposed at 18 C.F.R. 154.404 would require NGA pipelines to use tariff filing forms that require extensive financial data beyond that necessary to support a rate reduction solely attributable to the Tax Cuts and Jobs Act of 2017. These additional financial data can result in extensive and extended proceedings on issues of fact not related to the Tax Cuts and Jobs Act of 2017. If this were to happen, as noted discussion above, rate reductions would be delayed with no recourse for those customers paying rates that are higher than are cost justified.

c) Proposed 18 C.F.R. 284.123(i)

The Commission is proposing to modify 18 C.F.R. 284.123 of its regulations to require all NGPA section 311 and NGA “Hinshaw”⁶ pipelines (collectively referred to as “NGPA pipelines”) to file a new rate election for interstate service if their rates for intrastate service are reduced at the state level to reflect the Tax Cuts and Jobs Act of 2017. The Commission’s existing regulations provide multiple methods by which NGPA pipelines can establish their rates. Under section 284.123(b)(1), NGPA pipelines may elect to use state-derived rates. Under this existing regulation, any rate reductions reflecting the Tax Cuts and Jobs Act of 2017 required at the state level would result in a rate reduction filing with the Commission within 30-days of the change. Thus no additional data collection is necessary for NGPA pipelines with rates established pursuant to this existing regulation. However, if the NGPA pipeline elected to use Commission-established cost-based rates pursuant to section 284.123(b)(2), there is no requirement for the pipeline to file a rate reduction applicable to interstate shippers to reflect a rate reduction in federal income tax level required by the state for intrastate shippers. Proposed 18 C.F.R. 284.123(i) would require NGPA pipelines with rates established pursuant to the Commission-established cost-based rates to file a rate reduction if the state requires it at the intrastate level. This proposal would give the same rate reduction benefit to any interstate shippers on those pipelines as the intrastate shippers receive, thereby ensuring that the two groups of shippers are treated similarly.

Failure to require the rate reductions required by the states of NGPA pipelines would result in intrastate shippers receiving a rate reduction that the interstate shippers would not, and those customers paying rates that are higher than are cost justified.

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

FERC-501G is a one-time data collection. The proposed FERC Form No. 501-G is in spreadsheet format. This spreadsheet performs calculations that will assist the respondents, public and the Commission analyze the financial data as to the impact of the Tax Cuts and Jobs Act of 2017 on the respondents’ cost of service. The Commission also proposes that respondents use their existing tariff filing software to file all components of the FERC-501G with the

⁶ Section 1(c) of the NGA, 15 U.S.C. 717(c), exempts from the Commission’s NGA jurisdiction those 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 is known as the Hinshaw exemption.

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Commission electronically through established procedures.

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.

For NGA pipelines, FERC Form No. 501-G will largely require the use of financial information on file with the Commission in the respondent's FERC Forms 2 or 2-A (Major and Non-Major Natural Gas Pipeline Annual Report, respectively). Some of the requested financial data is filed by the respondents with the Securities and Exchange Commission (SEC) in its Form 10-K. Finally, in order to calculate the impact of the Tax Cuts and Jobs Act of 2017 on Accumulated Deferred Income Taxes and pass-through master limited partnerships, the only source for this information are the respondents. The Commission's approach to use existing data is deliberate. The objective of the one-time FERC Form No. 501-G is to provide an analysis of specific financial data in FERC Forms 2 or 2-A and the SEC Form 10-K such that the impact of the Tax Cuts and Jobs Act of 2017 on rates can be evaluated by the Commission and all stakeholders. All of the financial data requested are attested to by the respondents. Thus, the focus of the pipelines, the public, and the Commission can be on the analysis of the data, as opposed to the origins or validity of the data. FERC-501G's proposed rate reduction filing option at proposed 18 C.F.R. 154.404 does not require any information other than the populated FERC Form No. 501-G, thereby leveraging the information already collected to serve a tariff filing purpose.

For NGPA pipelines, FERC-501G proposes that NGPA pipelines with Commission-established cost-based rates file for a rate reduction if their state requires the pipelines to reduce their rates for their intrastate shippers. The Commission does not collect relevant NGPA pipeline financial information nor monitor state actions. Therefore only the NGPA pipelines have this information.

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

This filing collects data from both large and small respondent companies. The Commission proposes to minimize the burden in the data collection by not requiring companies with market based rates to file. However, most companies that fulfill the FERC-501G filing requirement do not fall within the Regulatory Flexibility Act's definition of small entities.

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

The FERC-501G is a one-time filing obligation instigated by the Tax Cuts and Jobs Act of 2017. If the Commission does not require this filing, NGA and NGPA pipelines may collect a tax expense from their customers for which the pipelines are no longer liable under the Tax Cuts and Jobs Act of 2017. Market forces would not be able to correct this over-charging of customers.

7. EXPLAIN ANY SPECIAL CIRCUMSTANCES RELATING TO THE INFORMATION

There are no special circumstances.

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

State agencies, trade associations, and individual pipeline shippers have filed numerous comments with the Commission in response to the Tax Cuts and Jobs Act of 2017.⁷ They have requested that the Commission take action to reduce natural gas pipeline companies' rates in line with the pipelines' reduction in income tax liability. The proposed FERC-501G is a partial response to these comments.

In the NOPR in Docket RM18-11 (which is being published in the Federal Register on 3/26/2018), the Commission is providing the public and all stakeholders an opportunity to review and comment on the proposed FERC-501G.

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 collected in FERC-501G to be confidential. However, the Commission will consider specific requests for confidential treatment to the extent permitted by law. The Commission will review each request for confidential treatment (which must be made pursuant to 18 CFR 388.112(a)(1)) on a case-by-case basis.

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 associated with the reporting requirements.

12. ESTIMATED BURDEN COLLECTION OF INFORMATION

FERC-501G is a one-time reporting requirement with various components. The estimated burden and cost⁸ follow.

⁷ Comments filed in Docket No. RP18-415-000.

⁸ The estimated average hourly cost of \$79.77 (rounded) assumes equal time is spent by an accountant, management, lawyer, and office and administrative support. The average hourly cost (salary plus benefits) is: \$53.00 for accountants (occupation code 13-2011), \$81.52 for management (occupation code 11-0000), \$143.68 for lawyers (occupation code 23-0000), and \$40.89 for office and administrative support (occupation code 43-000). (The figures are taken from the Bureau of Labor Statistics, October 2017 for the year ending May 2016, figures at http://www.bls.gov/oes/current/naics2_22.htm.)

FERC-501G (One-time Report on Rate Effect of the Tax Cuts and Jobs Act), as proposed in NOPR in Docket No. RM18-11-000							
	No. of Respon dents (1)	No. of Respon ses per Respond ent (2)	Total Respon ses (3)	Avg. Burden Hr. Per Respon se (4)	Avg. Cost Per Respon se (5)	Total Burden Hours (3)*(4)=(6)	Total Cost (\$) (3)*(5)=(7)
Interstate Natural Gas Pipelines with Cost-Based Rates							
FERC Form No. 501-G, One-time Report ⁹	133	1	133	9 hrs.	\$718	1,197 hrs.	\$95,485
Optional Response							
No Response	53	0	0	0	0	0	0
Case for no change	64	1	64	5 hrs.	\$399	320 hrs.	\$25,526
Limited Sec 4 filing ¹⁰	15	1	15	6 hrs.	\$479	90 hrs.	\$7,179
General Sec. 4 filing ¹¹	1	1	1	512 hrs. ¹²	\$40,842	512 hrs.	\$40,842
NGPA section 311 and Hinshaw Pipelines with Cost-Based Rates							
NGPA rate filing ¹³	15 ¹⁴	1	15	24 hrs.	\$1,914	360 hrs.	\$28,717

⁹ 18 CFR 260.402 (proposed).

¹⁰ 18 CFR 154.404 (proposed).

¹¹ 18 CFR 154.312 (2017).

¹² The estimate for hours is based on the estimated average hours per response for the FERC-545 (OMB Control No. 1902-0154), with general NGA section 4, 18 CFR 154.312 filings weighted at a ratio of 20 to one.

¹³ 18 CFR 284.123(i) (proposed).

¹⁴ Estimate of number of respondents assumes that states will act within one year to reduce NGPA section 311 and Hinshaw pipeline rates to reflect the Tax Cuts and Jobs Act.

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	No. of Respon dents (1)	No. of Respon ses per Respond ent (2)	Total Respon ses (3)	Avg. Burden Hr. Per Respon se (4)	Avg. Cost Per Respon se (5)	Total Burden Hours (3)*(4)=(6)	Total Cost (\$) (3)*(5)=(7)
TOTAL	148¹⁵		228			2,479 hrs.	\$197,749

13. ESTIMATE OF THE TOTAL ANNUAL COST BURDEN TO RESPONDENTS

FERC-501G is a one-time report with no continuing reporting obligation. The costs related to burden hours are discussed in Questions 12 and 15.

The Report and any tariff filing option that an NGA natural gas company may choose or an NGPA pipeline company may be required to file must be filed using the Commission’s eTariff filing format. This format requires the use of software that all respondents currently have or purchase on a per-use basis. For companies that do not have their own software and must contract for the service, the Commission estimates a cost of \$300 per filing. We estimate approximately 40 of the NGA and NGPA pipeline company respondents will contract for eTariff filing services at an estimated total cost of \$12,000.

All other costs are related to burden hours are addressed in Questions #12 and 15.

14. ESTIMATED ANNUALIZED COST TO FEDERAL GOVERNMENT

The estimate of the cost for analysis and processing of filings is based 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.

The Paperwork Reduction Act (PRA) Administrative Cost is the average annual FERC cost associated with preparing, issuing, and submitting materials necessary to comply with the PRA for rulemakings, orders, or any other vehicle used to create, modify, extend, or discontinue an information collection. It also includes the cost of publishing the necessary notices in the Federal Register.

	Number of Employees (FTE)	Estimated Annual Federal Cost
Analysis and Processing of Filings ¹⁶	2.5	\$396,885

15 148 unique respondents = (133 One-time FERC Form No. 501-G filers) + (15 NGPA rate filers).

16 Based upon FERC’s 2017 average annual salary plus benefits per FTE (full-time equivalent) of \$158,754.

PRA ¹⁷ Administrative Cost		\$5,723
FERC Total		\$402,608

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

The NOPR says in part [footnotes omitted]:

“[t]he Federal Energy Regulatory Commission is proposing a process that will allow it to determine which jurisdictional natural gas pipelines may be collecting unjust and unreasonable rates in light of the recent reduction in the corporate income tax rate in the Tax Cuts and Jobs Act and changes to the Commission’s income tax allowance policies following the United Airlines, Inc. v. FERC decision.”

....
“On December 22, 2017, the President signed the Tax Cuts and Jobs Act. The Tax Cuts and Jobs Act, among other things, lowers the federal corporate income tax rate from 35 percent to 21 percent, effective January 1, 2018. This means that, beginning January 1, 2018, companies subject to the Commission’s jurisdiction will compute income taxes owed to the IRS based on a 21 percent tax rate. The tax rate reduction will result in less corporate income tax expense going forward.

The tax rate reduction will also result in a reduction in accumulated deferred income taxes (ADIT) on the books of rate-regulated companies. The amount of the reduction to ADIT that was collected from customers but is no longer payable to the IRS is excess ADIT and should be flowed back to ratepayers under general ratemaking principles. “

The proposed new FERC-501G is an information collection designed to provide the data to ensure natural gas pipeline rates are just and reasonable. FERC-501G is a one-time report (for which the various components are detailed in Question 12) with no continuing reporting requirement.

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-501G	Total Request	Previously Approved	Change due to Adjustment in Agency Estimate	Program Change Due to New Statute
Annual Number of Responses	228	0	0	+228
Annual Time Burden (Hours)	2,479	0	0	+2,479

¹⁷ Paperwork Reduction Act of 1995 (PRA).

Annual Cost Burden (\$)	0	0	0	0
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16. TIME SCHEDULE FOR PUBLICATION OF DATA

The data are not collected for publication; the data will be used for regulatory purposes only.

17. DISPLAY OF EXPIRATION DATE

The expiration date will be 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.