

Supporting Statement for  
**FERC-538, Gas Pipeline Certificate: Section 7(a) Mandatory Initial Service**

The Federal Energy Regulatory Commission (Commission or FERC) requests that the Office of Management and Budget (OMB) review and approve FERC-538, Gas Pipeline Certificate: Section 7(a) Mandatory Initial Service, for a three year period. FERC-538 (OMB Control No. 1902-0061) is an existing Commission data collection, as stated by 18 Code of Federal Regulations (CFR) 156.

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

Under the Natural Gas Act (NGA) (Public Law 75-688) (15 USC 717-717w), upon application by a local distribution company or municipality, a natural gas pipeline company may be ordered by the Commission to extend or improve transportation facilities, to establish physical connections to serve, and sell natural gas to the applicant.

As stated in Section 156 (18 CFR 156), filings pursuant to the provisions of Section 7(a) of the NGA are to contain all information necessary to advise the Commission fully concerning the service which the applicant has requested the Commission to direct the natural gas pipeline company to render. Included in the information to be provided as stated in 18 CFR 156.5 (1-16) are included (but not limited to):

- A description of any improvement or extension of facilities which the natural gas pipeline company will be required to make in connection with the requested rendition of the service;
- The applicant's present and proposed operations, construction, service, and sales, together with a description of any extension or improvement of facilities by the applicant which will be required in order to enable applicant to engage in the local distribution of natural gas.

If the request is granted, the natural gas pipeline company must extend or improve transportation facilities and establish physical connection to serve the local distribution companies.

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

The Commission uses the FERC-538 data to perform its regulatory functions. The Commission must determine whether the distributor applicant can economically construct and manage its facilities. A request is made by a person or municipality to have the Commission, by order, direct a natural gas company to extend or improve its transportation facilities, and sell natural gas to the municipality or person and, for such purpose, to extend its transportation facilities to communities immediately adjacent to such facilities or to territories served by the natural gas pipeline company.

In addition, the Commission uses the flow data and market data to evaluate existing and future customer requirements on the system in order to determine if sufficient capacity will be available. Likewise, the Commission uses the cost of facilities and the rate data to evaluate the financial impact of the project to both the pipeline company and its customers.

The information collection cannot be discontinued nor collected less frequently because of statutory requirements. The Commission is required to review applications concerning improvement or extensions of facilities and services for local distributors of natural gas. The consequences of not collecting this information are that the Commission would be unable to fulfill its statutory mandate under the NGA and its Rules of Practice and Procedure, and the distribution companies would be unable to request the Commission to direct pipelines to serve them.

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

There is an ongoing effort to determine the potential and value of improved information technology to reduce the burden. As the Commission increases its use of electronic media for filing, storage, retrieval, and tracking of information and documents, greater uniformity in filing procedures, where practical, will greatly expedite and simplify conversion to electronic media.

The FERC-538 application may be eFiled through FERC's eFiling system. Application filings made in accordance with Sections 7(a) and 7(c) can be filed electronically. However, due to the complexity of the exhibits, maps, and projects, three additional paper copies of the eFiled applications would be needed for staff review, processing, and collaboration. As noted above, 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.

**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 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. The information is case specific.

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

FERC-538 is a regulatory filing requirement implementing a statutory provision concerned with initial service as stated above in Question number two. Small businesses and other small entities seeking initial natural gas service while not the subject of these regulations may still be impacted by the filing requirements under FERC-538. There is minimum data required that is necessary to evaluate the filing irrespective of company size. The information is readily available to respondents.

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

Without the data filed under FERC-538, the Commission would be unable to evaluate the merits of respondents seeking initial gas service and provide a forum for discussion by all interested/affected parties. The timing and frequency of data filed under FERC-538 is determined by the respondent and the respondent's need for the natural gas service. Also, see response to Question # 2 above.

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

FERC-538 meets all of OMB's Section 1320.5 requirements with the exception of 1320.5(d) (2) (iii). The application may be eFiled through FERC's eFiling system. For applications that are eFiled, as posted at <http://www.ferc.gov/docs-filing/efiling/filing.pdf>, an additional three paper copies are required for use by the Office of Energy Projects and Office of General Counsel.

If the application is filed on paper and/or CD, Section 156.3 of the Commission's regulations (18 CFR. 156.3) requires original and seven conformed copies for the Commission to conduct the regulatory review. The original is routed to the eLibrary System for public viewing over the Commission's web site (and then goes to the official files). One copy is distributed for public inspection in the Commission's Public Reference Room. The remaining copies are distributed within the Office of Energy Projects to ensure that each Division(s)/Office(s) involved in processing the case can review, analyze and respond in a timely fashion.

Fewer copies would result in delay and reproduction requirements. As noted above, the majority of filings under Sections 7(a) and 7(c) of the Natural Gas Act are filed electronically.

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

In accordance with OMB requirements<sup>1</sup>, the Commission published a 60-day notice<sup>2</sup> and a 30-day notice<sup>3</sup> to the public regarding this information collection on 12/18/2018 and 3/19/2019 respectively. Within the public notices, 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. No comments were received.

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

There are no payments or gifts to FERC-538 respondents.

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

The Commission does not consider the information collected in FERC-538 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.<sup>4</sup>

**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**

The Commission does not consider any of the questions to be sensitive or private.

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<sup>1</sup> 5 CFR 1320.8(d)

<sup>2</sup> 83 FR 64824

<sup>3</sup> 84 FR 10064

<sup>4</sup> 18 CFR 388.112

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

Currently, applications under Section 7(a) of the NGA are rarely submitted to FERC (although FERC has received them in the past). As such, FERC has included a ‘placeholder’ burden of 240 hours for one respondent in the event that a filing is submitted, even though one has not been received in several years.

The potential reporting burden to an LDC or municipality were they to file would include any work effort to compose a description of the bases upon which local distribution companies (for example) request that the Commission require a jurisdictional company to provide service. This would include documentation of legal history, casework, and precedence. Additionally, attachments and exhibits (such as maps, system engineering diagrams, flow diagram data, pressure and volume reading, delivery points, cost and market data, etc.) may accompany the applications. FERC estimates that this burden would total approximately 240 hours.

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

<b>FERC-538: Gas Pipeline Certificates: Section 7(a) Mandatory Initial Service</b>						
	<b>Number of Respondents (1)</b>	<b>Annual Number of Responses per Respondent (2)</b>	<b>Total Number of Responses (1)*(2)=(3)</b>	<b>Average Burden Hrs. &amp; Cost (\$) Per Response<sup>5</sup> (4)</b>	<b>Total Annual Burden Hours &amp; Total Annual Cost (\$) (3)*(4)=(5)</b>	<b>Cost per Respondent (\$) (5)÷(1)</b>
Gas Pipeline Certificates	1	1	1	240 hrs.; \$18,960	240 hrs.; \$18,960	\$18,960

**13. ESTIMATE OF TOTAL ANNUAL COST OF 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**

	<b>Number of Employees</b>	<b>Estimated Annual Federal</b>
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<sup>5</sup> The estimates for cost per response are derived using the following formula: Average Burden Hours per Response \* \$79.00/hour = Average cost/response. The figure is the 2018 FERC average hourly cost (for wages and benefits) of \$79.00 (and an average annual cost of \$164,820/year). Commission staff is using the FERC average salary plus benefits because we consider people completing the FERC-538 to be compensated at rates similar to FERC employees.

	(FTEs)	Cost
PRA <sup>6</sup> Administration Cost <sup>7</sup>	-	\$4,931
Data Processing and Analysis <sup>8</sup>	1	\$164,820
FERC Total		\$169,751

The Commission bases its estimate of the “Data Processing and Analysis” 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 made in response to the information collection.

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

The requirements within FERC-538 did not change. Thus, there is no substantive change in burden from the last date of submittal.

The following table shows the total burden of the new 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-538	Total Request	Previously Approved	Change due to Adjustment in Estimate	Change Due to Agency Discretion
Annual Number of Responses	1	1	0	0
Annual Time Burden (Hr)	240	240	0	0
Annual Cost Burden (\$)	\$0	\$0	\$0	\$0

The format, labels, 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**

<sup>6</sup> Paperwork Reduction Act of 1995 (PRA).

<sup>7</sup> The Paperwork Reduction Act of 1995 (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.

<sup>8</sup> The cost estimate is based upon FERC’s FY2018 average annual salary plus benefits per FTE (full-time equivalent) of \$164,820.

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 OMB expiration dates are posted on <http://www.ferc.gov/docs-filing/info-collections.asp> .

**18. EXCEPTIONS TO THE CERTIFICATION STATEMENT**

There are no exceptions.