

Supporting Statement for
**FERC-592, Standards of Conduct for Transmission Providers and Marketing
Affiliates of Interstate Pipelines**

The Federal Energy Regulatory Commission (Commission or FERC) requests that the Office of Management and Budget (OMB) review and approve **FERC-592, Standards of Conduct for Transmission Providers and Marketing Affiliates of Interstate Pipelines**, for a three year period. FERC-592 (OMB Control No. 1902-0157) is an existing Commission data collection, as stated by 18 Code of Federal Regulations (CFR), Parts 250.16 and 358.

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

The Commission has the regulatory responsibility under Section 4 of the Natural Gas Act to ensure that pipeline rates and terms and conditions of service are just and reasonable and not unduly discriminatory. Just and reasonable rates and services are needed to achieve two principal objectives. They should promote competitive and efficient markets, while mitigating market power and preventing undue discrimination, especially for the Commission's "prime constituency, captive customers vulnerable to pipelines' market power."¹ In short, the Commission's regulatory policy must seek to reconcile the objectives of fostering an efficient market that provides good alternatives to as many shippers as possible while at the same time creating a regulatory framework that is fair and protects captive customers without good alternatives. The Standards of Conduct only apply to interstate natural gas pipelines that engage in transportation transactions with their marketing affiliates. The Standards of Conduct² and related document retention/posting requirements enable the Commission and the public to monitor, deter and prevent an interstate natural gas pipeline from giving its marketing affiliate an undue preference or engaging in unduly discriminatory behavior in favor of its marketing affiliate.

18 CFR Part 358 (Standards of Conduct)

Undue preferences toward marketing affiliates can occur through discriminatory behavior in favor of a marketing affiliate or by providing the marketing affiliate with preferential access to non-public transportation information. The Commission believes that transportation customers must have simultaneous access to the same information available to the Transmission Provider if truly nondiscriminatory transmission services are to be a reality. The Commission provides transportation customers access to select information and information with which that the pipeline might favor its affiliate. Requiring transparency of that information ensures that all customers are treated in a non-discriminatory manner. Accordingly, the Standards of Conduct requirements at Part 358 promote transparency.

¹ United Distribution Companies v. FERC, 88 F.3d 1105, 1123 (D.C. Cir. 1996).

² 18 CFR 358

The information collection, retention, and posting requirements of Part 358 include:

- (1) Information disclosed to Marketing Affiliate [post with exceptions];
- (2) Names & addresses of Marketing Affiliates;
- (3) List of facilities shared with Marketing Affiliate;
- (4) Job titles & descriptions of transmission function employees (“TFE”);
- (5) Transfers of TFE to a position as a marketing function employee, or the reverse;
- (6) Potential merger partners; and
- (7) Posting instructions describing how they implement the Standards of Conduct.

18 CFR 250.16, and the FERC-592 log/format

This provides the electronic formats for maintaining information on discounted transportation transactions and capacity allocation to support monitoring of activities of interstate pipeline marketing affiliates. 18 CFR 250.16(c)(1) requires natural gas pipelines (that rely on contract data or other types of data to allocate capacity) to maintain a “log showing, for each transportation contract (both for marketing affiliates and non-affiliates) on its system: the shipper's name (including a designation whether the shipper is a local distribution company, an interstate pipeline, an intrastate pipeline, an end-user, a producer, a marketer, or a pipeline sales operating unit); the shipper's affiliation with the pipeline; the contract number; and the applicable dates or other information used to allocate capacity under its tariff. The log data relating to each contract must be maintained as long as the contract is used to allocate capacity and for three years after the contract data is no longer used for capacity allocation.”

18 CFR 250.16(c)(2) states “[t]he current log of allocation data for marketing affiliates must be posted on the pipeline’s Internet Web site....”

18 CFR 250.16(d)(1) states: “A pipeline that provides transportation service at a discounted rate must maintain, for each billing period, the following information: the name of the shipper being provided the discount; the affiliate's role in the transportation transaction (i.e. shipper, marketer, supplier, seller); the duration of the discount; the maximum rate or fee; the rate or fee actually charged during the billing period; and the quantity of gas scheduled at the discounted rate during the billing period for each delivery point. The discount information with respect to each transaction must be maintained for three years from the date the transaction commences.”

The information required by 18 CFR 250.16 must be provided to the Commission upon request and must be made available to the public.³

The FERC-592 data on transactions involving interstate pipelines and their affiliates are required to carry out the Commission's policies in accordance with the general authority in Sections 4, 5, 7, 8, 10, 14, 16, and 20 of the Natural Gas Act (NGA) (15 U.S.C. 717-717w). Blanket certificates for transportation, natural gas sales, and storage service

³ 18CFR 250.16 (c)(3) and (d)(2)

issued under Section 7(c) of the NGA also prohibit undue discrimination. Continuing this data collection will assist FERC in ensuring compliance with the nondiscriminatory requirement of Section 4 of the NGA and Order No. 636.

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

The information maintained and posted by the respondents is used by the Commission to monitor the pipeline's transportation, sales, and storage activities for its marketing affiliate to deter undue discrimination by pipeline companies in favor of their marketing affiliates. The information is also used by non-affiliated shippers or others (such as state commissions) to determine whether they have been harmed by affiliate preference and, in some cases, to prepare evidence for proceedings following the filing of a complaint.

18 CFR Part 358 (Standards of Conduct)

The information required by Part 358 is maintained and provided by the respondents on their internet websites. When a pipeline is required to post information on its internet website following a disclosure of non-public information to its marketing affiliate, non-affiliated shippers obtain comparable access to the non-public transportation information, which allows them to compete with marketing affiliates on a more equal basis.

18 CFR 250.16, and the FERC-592 log/format

Discounts given to shippers are also considered by Commission staff in litigated rate cases.

Without this information collection:

- the Commission would be unable to effectively monitor whether pipelines are giving discriminatory preference to their marketing affiliates, and;
- non-affiliated shippers and state commissions and others would be unable to determine if they have been harmed by affiliate preference or prepare evidence for proceedings following the filing of a complaint.

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

18 CFR Part 358 (Standards of Conduct)

Via internet access, transmission customers are able to access Standards of Conduct information from interstate natural gas pipelines. The Commission is committed to reducing the burden on the interstate natural gas pipelines and their shippers through the use of improved information technology. In 1987, when the Standards of Conduct were

initially adopted, they included both filing and posting requirements. As the Commission has modified the obligations (to eliminate the filing requirements and to enhance the posting requirements), the technology has also improved, allowing transmission customers to have contemporaneous access to information.

18 CFR 250.16, and the FERC-592 log/format

In FERC-592, the Commission is committed to the use of information technology. Per 18 CFR 250.16, the Commission requires generally that Interstate natural gas pipeline companies that conduct transportation transactions with its marketing or brokering affiliate must:

- post, “the current log of allocation data for marketing affiliates on their web sites...”
- maintain both the log of allocation of pipeline capacity and transportation discount information and make these logs available to the Commission or other parties to a Commission hearing
- ,upon request by the Commission, provide the information consistent with instructions
- maintain tariff provisions containing procedures used to resolve complaints by shippers and potential shippers, including a provision that the pipeline will respond within 48 hours and in writing within 30 days to such complaints.

These requirements allow flexibility as to how interstate natural gas pipeline companies store and represent the data on their web sites and on their data storage systems.

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.

Commission filings and data requirements are periodically reviewed in conjunction with OMB clearance expiration dates. This includes a review of the Commission's regulations and data requirements to identify any duplication.

18 CFR Part 358 (Standards of Conduct)

In this regard, one of the changes adopted by the 2008 Standards of Conduct was to eliminate the Standards of Conduct requirement to post discount information as comparable information is required by § 284.13(b) of the Commission’s regulations. (Order Nos. 637 and 720).

Since its inception, FERC has modified the Standards of Conduct to make them clearer, to refocus the rules on the areas where there is the greatest potential for affiliate abuse, and to facilitate Commission enforcement.

18 CFR 250.16, and the FERC-592 log/format

The data maintenance and reporting requirements in 18 CFR 250.16 ensure that interstate natural gas pipeline rates are just and reasonable and not unduly discriminatory in providing preferential treatment to their marketing affiliates. Discount information is also used in rate cases.

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

18 CFR Part 358 (Standards of Conduct)

18 CFR Section 358.1(d) allows a transmission provider to seek a waiver from the Standards of Conduct. Several interstate natural gas pipelines have sought and received partial waivers of the Standards of Conduct based on their small size.

18 CFR 250.16, and the FERC-592 log/format

Only transmission providers owning, operating, and/or controlling facilities used for the transportation of natural gas in interstate commerce that engage in transportation transactions with their marketing affiliates are required to comply with the requirements. Additionally, the information will be available to others (including small distribution utilities, independent power producers, marketers, local distribution companies, shippers and state commissions).

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

If the data were not updated regularly, the Commission and industry would be placed at a disadvantage by not having the most current data available for competitive and regulatory purposes. The Commission needs access to up-to-date information to monitor self-implementing activities of the transmission providers to ensure that transmission services are being provided in a nondiscriminatory manner.

7. EXPLAIN ANY SPECIAL CIRCUMSTANCES RELATING TO THE INFORMATION

18 CFR Part 358 (Standards of Conduct)

All of the Standards of Conduct related data are to be displayed on internet web sites and to be available for downloading.

18 CFR 250.16, and the FERC-592 log/format

Data related to the pipelines' allocation of capacity and the details (including discounts) of their negotiated contracts for natural gas transportation with both affiliates and non-affiliates, must be:

- maintained as long as the contract is used to allocate capacity and for three years after the contract data is no longer used for capacity allocation, and
- provided at the request of the FERC.

**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 notice⁴ and a 30-day notice⁵ to the public regarding this information collection on 12/18/2018 and 5/1/2019 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 0 comments regarding this information collection.

Commission staff made insubstantial, administrative changes to the first page of the FERC Form 592. A copy of the first page (with tracked changes) is available in the "Supplementary Documents" in ROCIS. These changes were not explained within either of the public notices because they do not concern program requirements nor burden/cost amounts.

9. EXPLAIN ANY PAYMENT OR GIFTS TO RESPONDENTS

There are no payments or gifts to FERC-592 respondents.

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

The Commission does not consider the filings within the FERC-592 to be confidential. Information provided with the filing may be submitted with a specific request for confidential treatment to the extent permitted by law and pursuant to FERC's regulations.

**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 within the FERC-592 of a sensitive nature that would be considered private.

12. ESTIMATED BURDEN OF COLLECTION OF INFORMATION

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

⁴ 83 FR 64818

⁵ 84 FR 18531

FERC-592: Standards of Conduct for Transmission Providers and Marketing Affiliates of Interstate Pipelines					
Number of Respondents (1)	Annual Number of Responses per Respondent (2)	Total Number of Responses (1)*(2)=(3)	Average Burden & Cost Per Response⁶ (4)	Total Annual Burden Hours & Total Annual Cost (3)*(4)=(5)	Cost per Respondent (\$) (5)÷(1)
85	1	85	116.62 hrs.; \$9,212.98	9,913 hrs.; \$783,127	\$9,212.98

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

	Number of Employees (FTEs)	Estimated Annual Federal Cost
PRA ⁷ Administration Cost ⁸	-	\$4,931
Data Processing and Analysis ⁹	1	\$164,820
FERC Total		\$169,751

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 made in response to the information collection.

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

The requirements within FERC-592 did not change. Therefore, there is no change to the annual number of responses or burden hours for the FERC-592 information collection.

⁶ 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 salary of \$164,820/year). Commission staff is using the FERC average salary because we consider any reporting requirements completed in response to the FERC-592 to be compensated at rates similar to the work of FERC employees.

⁷ Paperwork Reduction Act of 1995 (PRA).

⁸ The PRA Administration Cost is \$4,931, and includes preparing supporting statements, notices, and other activities associated with Paperwork Reduction Act compliance.

⁹ The FTE cost figure uses the 2018 FERC average salary plus benefits (\$164,820/year or \$79/hour).

The following table shows the total burden for 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-592	Total Request	Previously Approved	Change due to Adjustment in Estimate	Change Due to Agency Discretion
Annual Number of Responses	85	85	0	0
Annual Time Burden (Hr)	9,913	9,913	0	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 Commission provides a summary and instructions regarding the FERC-592 on the FERC website (<http://www.ferc.gov/docs-filing/forms.asp#592>) which includes the expiration date for OMB approval.

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

18. EXCEPTIONS TO THE CERTIFICATION STATEMENT

There are no exceptions.