

FERC-549 (OMB Control No. 1902-0086)
(Renewal in Docket No. IC20-1)
(Updated 3/4/2020)

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) Part 284. No changes (other than the information provided in Questions 12 and 15, related to Hinshaw pipelines (under 18 CFR 284.102(e)) are being made to the reporting or recordkeeping requirements at this time.

**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 NGA,² which are codified at 18 CFR Part 284.

Transportation for Intrastate Pipelines

Section 284.123 of the Commission's regulations 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 latter (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.

1 15 U.S.C. 3371-3372

2 15 U.S.C. 717f

3 15 U.S.C. 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.

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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 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.

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 Energy Policy Act of 2005 (EPAAct 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.⁷

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.

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

⁷ The general five-year statute of limitations arises out of 28 USC 2462.

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 EPCRA 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 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.

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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 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 notice⁸ requesting public comments on this information collection. The Commission noted that it would be requesting a three-year extension of the information collection. The Commission received no comments on the 60-day Notice.

The Commission issued a 30-day Notice on 12/26/2019 (posted in FERC's eLibrary at <https://elibrary.ferc.gov/idmws/common/OpenNat.asp?fileID=15431747>) providing another opportunity for public comment. The 30-day notice was published⁹ on January 2, 2020. The Commission received no comments on the 30-day Notice.

⁸ 84 FR 56805 (October 23, 2019)

⁹ 85 FR 19 (January 2, 2020)

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FERC did not otherwise consult with members of the public concerning this information collection pursuant to 5 CFR 1320.8(d)(1).

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-549 filings to be confidential.

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

The Commission estimates the annual burden and cost for the information collection as follows.

FERC-549: NGPA Title III Transactions and NGA Blanket Certificate Transaction¹⁰						
	Number of Respondents (1)	Annual Number of Responses per Respondent (2)	Total Number of Responses (1)*(2)=(3)	Average Burden Hrs. & Cost (\$) Per Response (4)	Total Annual Burden Hours & Total Annual Cost (\$) (rounded) (3)*(4)=(5)	Cost per Respondent (\$) (5)÷(1)

¹⁰ The estimates for cost per response are derived using the following formula: Average Burden Hours per Response * \$106.62 per Hour = Average Cost per Response. The hourly average of \$106.62 (for wages and benefits) assumes equal time is spent by an economist and lawyer. The average hourly cost (for wages plus benefits) is: \$70.38 for economists (occupation code 19-3011) and \$142.86 for lawyers (occupation code 23-0000). (The figures are taken from the Bureau of Labor Statistics, May 2018 figures at http://www.bls.gov/oes/current/naics2_22.htm).

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Transportation by Pipelines under 18 CFR 284.123(b) ¹¹	53	2	106	50 hrs.; \$5,331	5,300 hrs.; \$565,086	\$10,662
Transportation by Pipelines under 18 CFR 284.102(e) ¹¹	1	0.33	0.33	3 hrs.; \$319.86	1 hr.; \$106.62	\$106.62
Market-Based Rates ¹²	1	1	1	350 hrs.; \$37,317	350 hrs.; \$37,317	\$37,317
TOTAL			107.33		5,651 hrs.; \$602,509.62	

Record Retention Requirements for Holders of Blanket Marketing or Unbundled Sales Certificates						
Labor Burden and Cost	Number of Respondents (1)	Annual Number of Responses per Respondent (2)	Total Number of Responses (1)*(2)=(3)	Average Burden Hrs. & Cost (\$) Per Response (4)	Total Annual Burden Hours & Total Annual Cost (\$) (rounded) (3)*(4)=(5)	Cost per Respondent (\$) (5)÷(1)
Code of Conduct (record-keeping) ^{13, 14}	319	1	319	1 hr.; \$33.39	319 hrs.; \$10,651	\$33.39
TOTAL			319		319 hrs.; \$10,651	

¹¹ The entities affected by 18 CFR 284.123(b) and (e) are intrastate pipelines. Interstate and intrastate pipelines are affected by 18 CFR 284.102(e). The Commission has not received any filings under 18 CFR 284.102(e) since 2016, however based on communications with OMB, we are retaining a placeholder of 1/3 response and 1 hour annually. (The 0.33 responses annually will be rounded to 1 response [and 1 hour] for ROCIS and reginfo.gov.).

¹² 18 CFR 284.501-505

¹³ 18 CFR 284.288 and 284.403

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The number of annual responses for Hinshaw pipelines providing interstate service being submitted annually is being reduced to 0.33 (rather than 150). The Commission has not received any Hinshaw Blanket Certificate filings since 2016 because they are filed for unique and irregular circumstances under 18 CFR 284.102(e). However, the Commission does note that while we are providing an estimate of 0.33 responses annually [or one in the next three years], there is a possibility that the Commission may receive one to three Hinshaw Blanket Certificate filings in the next three years. The reason for the decline in Hinshaw Blanket Certificate filings can be attributed to the maturity of the Hinshaw pipeline market and the lack of demand for the certification of new Hinshaw facilities. The IC called “Transportation by Interstate Pipelines (18 CFR 284.102(e))” is being revised to reflect this change in the market; the Commission did not take regulatory action to remove those requirements.

13. ESTIMATE OF THE TOTAL ANNUAL COST BURDEN TO RESPONDENTS

(Costs related to burden hours are addressed in Questions #12 and #15.) The following table and discussion cover the costs associated with physical storage (retention) of paper and digital records.¹⁵

Storage Cost for Record Retention Requirements for Holders of Blanket Marketing or Unbundled Sales Certificates			
	Total Number of Responses (1)*(2)=(3)	Cost (\$) Per Respondent (4)	Total Annual Burden Hours & Total Annual Cost (\$) (3)*(4)=(5)
Paper Storage	319	\$80.75	\$25,759.25
Electronic Storage	319	\$3.18	\$1,014.42
Total Storage Burden/Cost	319		\$26,773.67

Storage Cost¹⁶: In addition to the burden and cost for labor, the table above reflects an additional cost for record retention and storage:

- Paper storage costs (using an estimate of 12.5 cubic feet x \$6.46 per cubic foot): \$80.75 per respondent annually. Total annual paper storage cost to industry (\$80.75 x 319 respondents): \$25,759.25. This estimate assumes that a respondent stores 12.5 cubic feet of paper. We expect that this estimate should trend downward over time as more companies move away from paper storage and rely more heavily on electronic storage.

¹⁵ It appears that the cost related to physical storage of records was not detailed in ICR 201609-1902-001, submitted to OMB on 9/15/2016. The storage requirements are not being changed at this time, however we are providing detailed information on the related cost estimates. (The cost are also being updated to reflect cost in 2019.) The cost burden will correspondingly be updated in OMB’s ROCIS system.

¹⁶ Each of the 319 entities is assumed to have both paper and electronic record retention. Internal analysis assumes 50% paper storage and 50% electronic storage.

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- Electronic storage costs: \$3.18 per respondent annually. Total annual electronic storage cost to industry (\$3.18 x 319 respondents): \$1,014.42. This calculation estimates storage of approximately 200 MB per year with a cost of \$3.18. We expect that this estimate should trend downward over time as the cost of electronic storage technology, including cloud storage, continues to decrease. For example, external hard drives of approximately 500GB are available for approximately \$50. In addition, cloud storage plans from multiple providers for 1TB of storage (with a reasonable amount of requests and data transfers) are available for less than \$35 per month.

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 collections.

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 ¹⁷	9	\$1,503,819
PRA ¹⁸ Administrative Cost		\$4,832
FERC Total		\$1,508,651

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

Program changes. No program changes are being made to the reporting or recordkeeping requirements at this time.

Adjustments in Estimates. The following adjustments are being made to estimates due to normal fluctuations in industry (e.g., companies entering or leaving the field, or merging or splitting).

¹⁷ The FERC 2019 average salary plus benefits for one FERC full-time equivalent (FTE) is \$167,091/year (or \$80.00/hour).

¹⁸ Paperwork Reduction Act of 1995 (PRA).

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- The number of market-based rates being submitted annually is being reduced to 1 (rather than 4). Correspondingly, the burden is being decreased to 350 hours (rather than 1400).
- The number of respondents for the Code of Conduct has increased to 319 (rather than 222), increasing burden by 97 hours (from 222 to 319 hours).
- The number of responses for Hinshaw pipelines providing interstate service being submitted annually is being reduced to a placeholder of 0.33 [which will be rounded to one in ROCIS and reginfo.gov] responses per year (rather than 150). The Commission has not received any Hinshaw Blanket Certificate filings since 2016 because they are filed for unique and irregular circumstances under 18 CFR 284.102(e). However, the Commission does note that while we are providing an annual placeholder estimate of 0.33 annual responses (and one hour), there is a possibility that the Commission may receive one to three Hinshaw Blanket Certificate filings in the next three years. The reason for the decline in Hinshaw Blanket Certificate filings can be attributed to the maturity of the Hinshaw pipeline market and the lack of demand for the certification of new Hinshaw facilities.
- The number of responses for intrastate pipelines providing interstate service pursuant to section 311 of the NGPA submitted annually is being increased to 106 (rather than 50). Correspondingly, the burden is being increased to 5,300 hours (rather than 2,500 hours). This increase reflects the expansion of NGPA 311 services in the southern region of the country.

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
Annual Number of Responses	426.33	426	0.33	0
Annual Time Burden (Hours)	5,970	4,572	1,398	0
Annual Cost Burden (\$) ¹³	\$26,773.67	\$0	\$26,773.67 ¹³	\$0

16. TIME SCHEDULE FOR PUBLICATION OF DATA

There are no 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

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There are no exceptions.