

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

The purpose of FERC-538 is to implement the information collections pursuant to Sections 7(a), 10(a) and 16 of Natural Gas Act (NGA)¹, and part 156 of the Commission Regulations.² These statutes and regulations upon application by a person or municipality authorized to engage in the local distribution of natural gas, allow for the Commission to order 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. The Commission uses the application data in order to be fully informed concerning the applicant, and the service the applicant is requesting.

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 application 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.

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 the distribution companies would be unable to request the Commission to direct pipelines to serve them.

¹ 15 USC 717f-w

² 18 CFR 156

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, and the Commission encourages the use of electronic filing. Application materials related to the FERC-538 may be eFiled through the Commission's eFiling system.

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. However, there is a minimum data requirement 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>,

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 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,³ the Commission published a 60-day notice⁴ and a 30-day notice⁵ to the public regarding this information collection on 12/18/2018 and 6/22/2022 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. Filers may request privileged or CEII treatment of a filing that may contain information the applicant deems harmful if released to the general public.⁶

**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.

³ 5 CFR 1320.8(d)

⁴ 87 FR 21655

⁵ 87 FR 37324

⁶ 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:

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	Number of Respondents (1)	Annual Number of Responses per Respondent (2)	Total Number of Responses (1)*(2)=(3)	Average Burden Hrs. & Cost (\$) Per Response⁷ (4)	Total Annual Burden Hours & Total Annual Cost (\$) (3)*(4)=(5)	Cost per Respondent (\$) (5)÷(1)
Gas Pipeline Certificates	1	1	1	240 hrs.; \$20,880	240 hrs.; \$20,880	\$20,880

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

⁷ The estimates for cost per response are derived using the following formula: Average Burden Hours per Response * \$87.00/hour = Average cost/response. The figure is the 2021 FERC average hourly cost (for wages and benefits) of \$87.00 (and an average annual cost of \$180,703/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.

	Number of Employees (FTEs)	Estimated Annual Federal Cost
PRA ⁸ Administration Cost ⁹	-	\$8,079
Data Processing and Analysis ¹⁰	1	\$164,820
FERC Total		\$172,899

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

⁸ Paperwork Reduction Act of 1995 (PRA).

⁹ 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.

¹⁰ The cost estimate is based upon FERC’s FY2021 average annual salary plus benefits per FTE (full-time equivalent) of \$180,703.

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 <https://www.ferc.gov/information-collections>.

18. EXCEPTIONS TO THE CERTIFICATION STATEMENT

There are no exceptions.