

Supporting Statement for
FERC- 574¹ (Gas Pipeline Certificates: Hinshaw Exemptions)

The Federal Energy Regulatory Commission (Commission or FERC) requests that the Office of Management and Budget (OMB) review and approve **FERC- 574 (Gas Pipeline Certificate: Hinshaw Exemptions; OMB Control No. 1902-0116)** for a three-year period. FERC-574 is an existing data collection with reporting requirement in 18 Code of Federal Regulations (CFR) Part 152.

1. CIRCUMSTANCES THAT MAKE THE COLLECTION OF INFORMATION NECESSARY

The Natural Gas Act (NGA) regulates the transportation and sale for resale of natural gas in interstate commerce. Section 7 of the NGA provides that “[n]o natural gas company or person which will be a natural gas company upon completion of any proposed construction or extension shall engage in transportation or sale of ‘natural gas’ without first obtaining a certificate of public convenience and necessity from the Commission.” Section 4 of the NGA requires that “natural gas companies” must maintain their rates for transportation or sale of gas with the Commission. Section 1(c) of the NGA, known as the “Hinshaw Amendment,” exempts from FERC regulation intrastate pipelines that receive natural gas at their state boundary that is consumed within the state and subject to state commission regulation, as well as from the many provisions of NGA, including Sections 4 and 7. Section 1(c) states:

The provisions of this chapter shall not apply to any person engaged in...the transportation in interstate commerce or resale, of natural gas received by such person from another person within...a state if all of the natural gas so received is ultimately consumed within such state, or to any facilities used by such person for transportation or sale, provided that the rates and service of such person and facilities by subject to regulation by a state commission. The matters exempted from the provisions of this chapter are declared to be matters primarily of local concern and subject to regulation by the several states.

Under the NGA, interstate pipelines are subject to FERC regulation while intrastate pipelines operations generally are not. However, in 1978, Congress enacted the Natural Gas Policy Act (NGPA), in part to eliminate the regulatory barriers between the intrastate and interstate markets and to promote the entry of intrastate pipelines into the interstate market. The NGPA enabled FERC to “develop a national natural gas transportation network without subjecting intrastate pipelines, already regulated by State agencies, to

¹ An Emergency Extension was requested by FERC to OMB on information collection FERC-574. OMB granted the emergency on 12/19/2019, extending the expiration date to 03/31/2020.

FERC's regulations over the entirety of their operation.”

Section 311 of the NGPA authorizes FERC to allow intrastate pipelines to transport gas “on behalf of” interstate pipelines or local distribution companies served by interstate pipelines so long as their rates are “fair and equitable” and do not “exceed an amount which is reasonably comparable to the rates and charges interstate pipelines would be permitted to charge for providing similar transportation services.” Thereafter, in Order No. 63, FERC authorized Hinshaw pipelines to apply for certificates of authorization to transport natural gas in interstate commerce to the same extent and in the same manner as intrastate pipelines were allowed to do under §311 of the NGPA.

Under the NGA the Commission is also authorized to conduct investigations and to collect and record data, to the extent the Commission may consider necessary or useful, for the purpose of carrying out the provisions of the Act.

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

The information collected by FERC-574 is a written application declaring the applicant's intent following the requirements set forth in 18 CFR 152. Although the FERC-574 application provides specific data per 18 CFR 152, the information is not collected on a prescribed or preformatted form.

The application provides the information which the applicant must furnish the Commission in order to make a determination as to whether the application meets exemption provisions of Section 1(c) of the Natural Gas Act.

Every application shall set forth in the order indicated, the following:

- (a)** The exact legal name of applicant.
- (b)** The name, title, and post office address of the person to whom correspondence in regard to the application shall be addressed.
- (c)** A statement of pertinent facts as to the existing service, if any, or authorized service by applicant, including a showing that all of the natural gas which applicant receives from out-of-State sources is and will be ultimately consumed within the State in which the operations sought to be exempted are conducted.

Certificate from State Commission.

Applications for exemption under § 152.3 shall contain, or there shall be separately filed, a certificate from the appropriate State Commission that the natural-gas (a) rates (including rates for sales for resale), (b) service, and (c) facilities of the applicant are

subject to the regulatory jurisdiction of the State Commission and that the State Commission is exercising such jurisdiction.

It is used by the Commission's staff to research the jurisdictional aspects of the applicant's operations. Commission staff conducts a systematic review of the prepared application with supplemental documentation provided in the filing. The research includes examining maps and land ownership records to establish whether or not there is Federal jurisdiction. In addition, companies that are currently regulated by the Commission and change their status and wish to become non-jurisdictional, must document that they meet the criteria as provided for in Part 152. The required documents allow for a full and complete analysis of a company and provide sufficient data to make a jurisdictional decision. A finding of non-jurisdictional by the Commission can result in the elimination of a substantial paperwork burden for an applicant who might otherwise have to file to comply with sections 4 and 7 of the NGA.

Failure to issue these requirements would mean the Commission is not meeting its statutory obligations under Sections 1(c), 4 and 7 of 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

FERC encourages companies to use its eFiling system. The FERC-574 application may be eFiled through FERC's eFiling system. (See <http://www.ferc.gov/docs-filing/efiling.asp> for more information.)

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.

FERC periodically reviews filing requirements as OMB review dates arise or as it may deem necessary in carrying out its regulatory responsibilities under the NGA. All Commission information collections are subject to analysis by Commission staff and are examined for redundancy. FERC has found no other source of this information.

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

This application does not collect information from small entities. As the purpose of the application is to obtain exemption from the NGA provisions, the minimization of the impact, particularly on small businesses would not be applicable.

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

The data required impose the least possible burden on applicants while collecting the information required for processing the application. As noted above, this is a one-time filing for exemption from the pipelines certificate requirements of the NGA, and as such, the issue of frequency of filing is not applicable.

7. EXPLAIN ANY SPECIAL CIRCUMSTANCES RELATING TO THE INFORMATION

The guidelines of OMB's regulations of 5 CFR 1320.5(d)(2) are being exceeded in the number of copies forwarded to the Commission. An original and three copies are required by the Commission to conduct the regulatory review when the submitter chooses not to eFile. There is no requirement for the company to maintain any copies.

The Commission's Offices of the General Counsel receives one copy and the remaining copies are distributed to Office of Energy Projects staff. These copies are essential to staff so that the required technical, engineering, and environmental reviews and analyses proceed simultaneously and efficiently. A project manager must have a copy of the application for review and coordination purposes; additional copies must be available for staff members in various parts of the Commission for assessing the adequacy of diverse exhibits. It would not be feasible to conduct these review functions in a timely manner (and within the current processing schedule) if fewer copies of the application were provided for staff use.

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 notice² and 30-day notice³ to the public regarding this information collection on 11/26/2019 and 2/18/2020 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 no comments on the 60-day notice.

9. EXPLAIN ANY PAYMENT OR GIFTS TO RESPONDENTS

² 84 FR 65148
³ 85 FR 8853

The Commission does not make payments or provide gifts for respondents related to FERC-574 information collection.

10. DESCRIBE ANY ASSURANCE OF CONFIDENTIALITY PROVIDED TO RESPONDENTS

The Commission does not consider the filings within the FERC-574 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-574 of a sensitive nature that would be considered private.

12. ESTIMATED BURDEN COLLECTION OF INFORMATION

The burden⁴ and cost⁵ of the FERC-574 information collection requirements are:

FERC-574: Gas Pipeline Certificates: Hinshaw Exemption						
	Number of Respondents	Annual Number of Responses per Respondent	Total Number of Responses	Average Burden & Cost (\$ Per Response)	Total Annual Burden Hours & Total Annual Cost (\$)	Cost (\$) per Respondent (\$)
	(1)	(2)	(1)*(2)=(3)	(4)	(3)*(4)=(5)	(5)÷(1)

⁴ Burden is defined as the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a federal agency. See 5 CFR 1320 for additional information on the definition of information collection burden.

⁵ Commission staff estimates that the industry's skill set and cost (for wages and benefits) for FERC-574 are approximately the same as the Commission's average cost. The FERC 2019 average salary plus benefits for one FERC full-time equivalent (FTE) is \$167,091/year (or \$80.00/hour).

Pipeline Companies	2	1	2	60 hrs.; \$4,800	120 hrs.; \$9,600	\$4,800
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13. ESTIMATE OF THE TOTAL ANNUAL COST BURDEN TO RESPONDENTS

There is 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

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.

The Commission incurs the costs associated with obtaining OMB clearance for the collection under the Paperwork Reduction Act of 1995 (PRA). The PRA Administrative Cost is a Federal 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. This average annual cost includes requests for extensions, all associated rulemakings and orders, other changes to the collection, and associated publications in the Federal Register.

The estimated annualized cost to the Federal Government for FERC-574 follows:

FERC-574	Number of Employees (FTE)	Estimated Annual Federal Cost
Analysis and Processing of Filings ⁶	0.1	\$16,709
PRA ⁷ Administrative Cost ⁸		\$4,832
FERC Total		\$21,541

⁶ Based upon 2019 FTE average annual salary plus benefits (\$167,091).

⁷ Paperwork Reduction Act of 1995 (PRA).

⁸ The PRA Administrative Cost is a Federal Cost associated with preparing, issuing, and submitting materials necessary to comply with the Paperwork Reduction Act (PRA) for rulemakings, orders, or any other vehicle used to create, modify, extend, or discontinue an information collection. This average annual cost includes requests for extensions, all associated rulemakings, and other changes to the collection.

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

There is a change in burden due to an influx in industry. The estimated number of respondents has increased by 1 respondent and 60 hours annually.

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-574	Total Request	Previously Approved	Change due to Adjustment in Estimate	Change Due to Agency Discretion
Annual Number of Responses	2	1	1	0
Annual Time Burden (Hours)	120	60	60	0
Annual Cost Burden (\$)	\$0	\$0	\$0	\$0

16. TIME SCHEDULE FOR PUBLICATION OF DATA

There is no publication of data associated with FERC-574 information collection.

17. DISPLAY OF EXPIRATION DATE

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

18. EXCEPTIONS TO THE CERTIFICATION STATEMENT

There are no exceptions.