

136 FERC ¶ 61,067
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

18 CFR Part 357

(Docket No. RM11-21-000)

Revision to Form No. 6

(Issued July 29, 2011)

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Federal Energy Regulatory Commission (Commission) proposes to amend the instructions on page 700 of FERC Form No. 6 (Form 6) to ensure that pipelines report interstate-only barrel and barrel-mile data and not a combination of interstate and intrastate throughput. The Commission also proposes to direct pipelines that reported combined interstate and intrastate data on lines (1) through (12) of page 700 of their 2010 Form 6 to file a revised page 700 containing only interstate data for the years 2009 and 2010.

DATES: Comments are due [insert 60 days after publication in the **FEDERAL REGISTER**].

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SUPPLEMENTARY INFORMATION:

136 FERC ¶ 61,067
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Revision to Form No. 6

Docket No. RM11-21-000

NOTICE OF PROPOSED RULEMAKING

(July 29, 2011)

1. The Federal Energy Regulatory Commission (Commission) proposes to amend the instructions on page 700, Annual Cost of Service Based Analysis Schedule, of FERC Form No. 6, Annual Report of Oil Pipeline Companies, (Form 6) to ensure that pipelines report interstate-only barrel and barrel-mile data and not a combination of interstate and intrastate throughput. The Commission also directs pipelines that reported combined interstate and intrastate data in any field on lines (1) through (12) of page 700 of their 2010 Form 6¹ to file within 90 days of the final rule's publication in the *Federal Register* a revised page 700 containing only interstate data for the years 2009 and 2010.

Background

2. Page 700 of Form 6 serves as a preliminary screening tool for pipeline rate filings with the Commission.² Specifically, page 700 enables shippers to evaluate proposed rate

¹ Pipelines filed their 2010 FERC Form 6 on April 18, 2011.

² All jurisdictional pipelines are required to file page 700, including pipelines exempt from filing the full Form 6. 18 CFR §§ 357.2(a)(2) and (a)(3) (2011).

changes under the indexing methodology³ and to determine whether a pipeline's cost of service or per barrel-mile costs are so substantially divergent from the revenues produced to warrant a challenge.⁴ In Order No. 620, the Commission clarified that it intended page 700 to include only the interstate costs and interstate revenues, and not a combination of interstate and intrastate data.⁵

Discussion

3. The Commission proposes to modify the instructions on page 700 to specify that pipelines must report interstate throughput levels and exclude throughput associated with intrastate movements. The current instructions on page 700 for lines (11) and (12) may inadvertently have caused some pipelines to report barrel and barrel-mile throughput that combines interstate and intrastate data. The instruction for line (12) on page 700 directs pipelines to report the same barrel-mile figures as those reported on line 33a of page 600 of the Form 6. Similarly, the instruction for line (11) on page 700 directs pipelines to report the same barrel figures as those reported on line 33b of page 601 of the Form 6. Thus, the instructions on page 700 specify that the throughput data reported on page 700

³ *Cost of Service Requirements and Filing Requirements for Oil Pipelines*, Order No. 571, FERC Stats. & Regs. ¶ 31,006, at 31,168 (1995).

⁴ *Revisions to and Electronic Filing of the FERC Form No. 6 and Related Uniform Systems of Accounts*, Order No. 620, FERC Stats. & Regs. ¶ 31,115, at 31,960, *on reh'g*, 94 FERC 61,130 (2001).

⁵ Order No. 620, FERC Stats. & Regs. at 31,959, *on reh'g*, 94 FERC at 61,498.

is the same throughput data that is reported on page 600-601.⁶ The instructions for page 600 direct pipelines to include “all oils received” by the pipeline,⁷ which consequently may have led some filers to report combined interstate and intrastate barrel-miles on lines (11) and (12) of page 700.

4. It is an axiomatic rule of ratemaking that the same set of costs and volumes must be used to determine rates.⁸ The Commission did not intend for the cost of service per-barrel/mile data provided by page 700 to include interstate-only costs and revenues alongside throughput data that combines interstate and intrastate totals. To address this reporting issue, the Commission now proposes to modify the instructions for line (11)⁹ and line (12)¹⁰ of page 700 to more precisely direct pipelines to report only interstate barrels and interstate barrel-miles and not a combination of interstate and intrastate throughput.

5. The Commission further proposes to require pipelines that reported throughput levels on their 2010 Form 6, page 700 reflecting both interstate and intrastate data to file a revised page 700 with only interstate barrels and barrel-miles for 2009 and 2010.

⁶ Pages 600-601 are entitled Statistics of Operations.

⁷ Pipelines filing pages 600-601 as well as page 700 may transport both interstate and intrastate barrels.

⁸ *Five-Year Review of Oil Pipeline Pricing Index*, 75 FR 80300, 80308 (Dec. 22, 2010), 133 FERC ¶ 61,228, at P 85 (2010), *order on reh’g*, 135 FERC ¶ 61,172 (2011).

⁹ Instruction number 4 on page 700 of the Form 6.

¹⁰ Instruction number 5 on page 700 of the Form 6.

Moreover, the current instructions on page 700 require that pipelines report interstate-only data on lines (1) through (10) relating to various cost, revenue and other ratemaking elements. Any pipeline that reported combined interstate and intrastate data on lines (1) – (10) of page 700 must also file corrections so that page 700 only contains interstate data for 2009 and 2010. This action ensures the availability of complete interstate cost per barrel-mile data consistent with the Commission’s regulation of interstate oil and petroleum product pipeline rates and the intent of page 700 to enable the Commission and shippers to analyze interstate pipeline costs. Moreover, this requirement is consistent with the existing instructions on page 700, which allow staff to require the submission of cost-of-service workpapers pursuant to the 154-B methodology at any time.¹¹

Information Collection Statement

6. The Office of Management and Budget (OMB) regulations require approval of certain information collection requirements imposed by agency rules.¹² Upon approval of a collection(s) of information, OMB will assign an OMB control number and an expiration date. Respondents subject to the filing requirements of an agency rule will not be penalized for failing to respond to these collections of information unless the collections of information display a valid OMB control number. The Paperwork

¹¹ FERC Form No. 6, Page 700 (“A respondent may be requested by the Commission or its staff to provide its workpapers which support the data reported on page 700.”).

¹² 5 CFR 1320.

Reduction Act (PRA)¹³ requires each federal agency to seek and obtain OMB approval before undertaking a collection of information directed to ten or more persons or contained in a rule of general applicability.¹⁴

7. The Commission is submitting these reporting requirements to OMB for its review and approval under section 3507(d) of the PRA. Comments are solicited on the Commission's need for this information, whether the information will have practical utility, the accuracy of provided burden estimates, ways to enhance the quality, utility, and clarity of the information to be collected, and any suggested methods for minimizing the respondent's burden, including the use of automated information techniques.

8. The Commission's estimate of the additional Public Reporting Burden and cost related to the proposed rule in Docket RM11-21-000 follow. The Commission recognizes that there will be a one-time increased burden involved in the initial implementation associated with: (a) using only interstate figures for lines 1-12 of page 700, and (b) re-filing of revised data for lines (1) through (12) of page 700 for 2009 and 2010. We estimate an additional one-time burden of one-hour per filer for the combined implementation and the re-filing of the page 700 for the 2009 and 2010 data. For the recurring effort involved in filing interstate data on lines (1) through (12) of page 700 for

¹³ 44 U.S.C. 3501-3520.

¹⁴ OMB's regulations at 5 CFR 1320.3(c)(4)(i) require that "Any recordkeeping, reporting, or disclosure requirement contained in a rule of general applicability is deemed to involve ten or more persons."

2011 and future years, we estimate that the change in burden is negligible (after the initial implementation).

RM11-21, FERC Form 6	Annual No. of Filers	Estimated Additional One-Time Burden per Filer (Hr.)	Total Estimated Additional One-Time Burden (Hr.)	Estimated Additional One-Time Cost per Filer (\$) ¹⁵
Implementation Burden (one-time); and Re-filing of Page 700, lines 1-12 for 2009-2010 (one-time)	166 ¹⁶	1	166	\$68.45
Total	166		166	\$11,362.70

The additional one-time burden of 166 hours is being spread over the three years for the purposes of submittal to the Office of Management and Budget (OMB), giving an average additional annual burden of 55.33 hours.

Information Collection Costs: The Commission seeks comments on the costs and burden to comply with these requirements.

Total additional one-time cost = \$11,362.70.

¹⁵ Based on an estimated average cost per employee for 2011 (including salary plus benefits) of \$142,372, the estimated average hourly cost per employee is \$68.45. The average work year is 2,080 hours.

¹⁶ Although 166 pipelines file page 700, the number of pipelines that must file corrected information will likely be substantially less. Some pipelines only transport interstate shipments and thus would have reported only interstate data on page 700. Other pipelines may have reported only interstate data on lines (1) – (12) on page 700, and these pipelines would not need to file additional data.

Title: FERC-6, Annual Report of Oil Pipeline Companies

Action: Proposed Revisions to the FERC Form 6

OMB Control No: 1902-0022

Respondents: Public and non-public utilities

Frequency of Responses: Initial implementation and one-time re-filing of selected data for 2009-2010.

Necessity of the Information: This action ensures the availability of complete interstate cost per barrel-mile data consistent with the Commission's regulation of interstate oil and petroleum product pipeline rates and the intent of page 700 to enable the Commission and shippers to analyze interstate pipeline costs.

Internal review: The Commission has reviewed the proposed changes and has determined that the changes are necessary. These requirements conform to the Commission's need for efficient information collection, communication, and management within the energy industry. The Commission has assured itself, by means of internal review, that there is specific, objective support for the burden estimates associated with the information collection requirements.

9. Interested persons may obtain information on the reporting requirements by contacting: Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426 [Attention: Ellen Brown, Office of the Executive Director, e-mail: DataClearance@ferc.gov, Phone: (202) 502-8663, fax: (202) 273-0873]. Comments on the requirements of this rule may also be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 [Attention: Desk

Officer for the Federal Energy Regulatory Commission]. For security reasons, comments should be sent by e-mail to OMB at oir_submission@omb.eop.gov. Please reference OMB Control No. 1902-0022, FERC-6 and the docket number of this proposed rulemaking in your submission.

Environmental Analysis

10. The Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any action that may have a significant adverse effect on the human environment.¹⁷ The actions taken here fall within categorical exclusions in the Commission's regulations for information gathering, analysis, and dissemination.¹⁸ Therefore, an environmental assessment is unnecessary and has not been prepared in this rulemaking.

Regulatory Flexibility Act Certification

11. The Regulatory Flexibility Act of 1980 (RFA) requires agencies to prepare certain statements, descriptions, and analyses of proposed rules that will have a significant economic impact on a substantial number of small business entities.¹⁹ Agencies are not required to make such an analysis if a rule would not have such an effect.

¹⁷ *Regulations Implementing the National Environmental Policy Act*, Order No. 486, 486 FR 1750 (Jan. 22, 1988), FERC Stats. & Regs. ¶ 30,783 (1987).

¹⁸ 18 CFR § 380.4(a)(5).

¹⁹ 5 U.S.C. 601-12.

12. As explained above, the change to page 700 will not increase the burden of preparing page 700. Further, the time required to implement changes and to file any necessary one-time revision of the page 700 data as specified in this order is minimal. Thus, the Commission concludes that the final rule would not have a significant economic impact on small entities.

Comment Procedures

13. The Commission invites interested persons to submit comments on the matters and issues proposed in this notice to be adopted, including any related matters or alternative proposals that commenters may wish to discuss. Comments are due 60 days from publication in the *Federal Register*. Comments must refer to Docket No. RM11-21-000, and must include the commenter's name, the organization they represent, if applicable, and their address in their comments.

14. The Commission encourages comments to be filed electronically via the eFiling link on the Commission's web site at <http://www.ferc.gov>. The Commission accepts most standard word processing formats. Documents created electronically using word processing software should be filed in native applications or print-to-PDF format and not in a scanned format. Commenters filing electronically do not need to make a paper filing.

15. Commenters that are not able to file comments electronically must send an original and 14 copies of their comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE, Washington, DC 20426.

16. All comments will be placed in the Commission's public files and may be viewed, printed, or downloaded remotely as described in the Document Availability section below. Commenters on this proposal are not required to serve copies of their comments on other commenters.

Document Availability

17. In addition to publishing the full text of this document in the *Federal Register*, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the Internet through FERC's Home Page (<http://www.ferc.gov>) and in FERC's Public Reference Room during normal business hours (8:30 a.m. to 5:00 p.m. Eastern time) at 888 First Street, NE, Room 2A, Washington, DC 20426.

18. From FERC's Home Page on the Internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

19. User assistance is available for eLibrary and the FERC's website during normal business hours from FERC Online Support at (202) 502-6652 (toll free at 1-866-208-3676) or email at ferconlinesupport@ferc.gov, or the Public Reference Room at (202) 502-8371, TTY (202) 502-8659. E-mail the Public Reference Room at public.referenceroom@ferc.gov.

List of subjects in 18 CFR Part 357

Pipelines
Reporting and recordkeeping requirements
Uniform System of Accounts

By direction of the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

**Note: Appendix A will not be published in the Code of Federal Regulations
Appendix A- Summary of Proposed Changes to FERC Form 6, Page 700**

Instruction 4 is revised to read as follows:

Enter on line 11, columns b and c, the interstate throughput in barrels for the current and previous calendar years.

Instruction 5 is revised to read as follows:

Enter on line 12, columns b and c, the interstate throughput in barrel-miles for the current and previous calendar years.

Line 11 is revised to read as follows:

Total Interstate Throughput in Barrels

Line 12 is revised to read as follows:

Total Interstate Throughput in Barrel-Miles

Note: Appendix B will not be published in the Code of Federal Regulations

Appendix B: Revised Page 700 to Form 6

Name of Respondent	This Report Is:	Date of Report (Mo, Da, Yr)	Year/Period of Report
	<input type="checkbox"/> (1) An Original <input type="checkbox"/> (2) A Resubmission	/ /	End of _____

Annual Cost of Service Based Analysis Schedule

- 1.) Use footnotes when particulars are required or for any explanations.
- 2.) Enter on lines 1-9, columns (b) and (c), the value the respondent's Operating & Maintenance Expenses, Depreciation Expense, AFUDC Depreciation, Amortization of Deferred Earnings, Rate Base, Rate of Return, Return, Income Tax Allowance, and Total Cost of Service, respectively, for the end of the current and previous calendar years. The values shall be computed consistent with the Commission's Opinion No. 154-B et al. methodology. Any item(s) not applicable to the filing, the pipeline company shall report nothing in columns (b) and (c).
- 3.) Enter on line 10, columns (b) and (c), total interstate operating revenue, as reported on page 301, for the current and previous calendar years.
- 4.) Enter on line 11, columns b and c, the interstate throughput in barrels for the current and previous calendar years.
- 5.) Enter on line 12, columns b and c, the interstate throughput in barrel-miles for the current and previous calendar years.
- 6.) If the company makes major changes to its application of the Opinion No. 154-B et al. methodology, it must describe such changes in a footnote, and calculate the amounts in columns (b) and (c) of lines No. 1-12 using the changed application.
- 7.) A respondent may be requested by the Commission or its staff to provide its workpapers which support the data reported on page 700.

Line No.	Item (a)	Current Year Amount (in dollars) (b)	Previous Year Amount (in dollars) (c)
1	Operating and Maintenance Expenses		
2	Depreciation Expense		
3	AFUDC Depreciation		
4	Amortization of Deferred Earnings		
5	Rate Base		
6	Rate of Return % (10.25% -10.25)		
7	Return on Rate Base		
8	Income Tax Allowance		
9	Total Cost of Service		
10	Total Interstate Operating Revenues		
11	Total Interstate Throughput in Barrels		
12	Total Interstate Throughput in Barrel-Miles		