compliance times that provides an equivalent level of safety may be approved by the Manager, Atlanta Aircraft Certification Office, Campus Building, 1701 Columbia Ave., suite 2–160, College Park, Georgia 30337–2748. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Atlanta Aircraft Certification Office.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from Atlanta Aircraft Certification Office.

(d) All persons affected by this directive may obtain copies of the document referred to herein upon request to The New Piper Aircraft, Inc., Attn: Customer Service, 2926 Piper Dr., Vero Beach, Florida 32960 or may examine this document at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on April 29, 1997.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–11778 Filed 5–6–97; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 154

[Docket No. RM97–3–000]

Research, Development, and Demonstration Funding

April 30, 1997.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is amending its research, development, and demonstration (RD&D) regulations at 18 CFR 154.401, to propose a new funding mechanism for the Gas Research Institute. The Commission is proposing a mechanism that would fund ''core'' RD&D programs that benefit gas consumers through a nondiscountable, non-bypassable volumetric surcharge on all pipeline throughput. Voluntary funding would continue for all other GRI programs.

DATES: GRI's comments are due on or before May 30, 1997. All other comments are due on or before June 30, 1997.

ADDRESSES: File comments with the Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT:
Mary E. Benge, Office of the General Counsel, Federal Energy Regulatory Commission 888 First Street, N.E., Washington, DC 20426, (202) 208–1214;
Harris S. Wood, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426, (202) 208–0224.

SUPPLEMENTARY INFORMATION: In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to inspect or copy the contents of this document during normal business hours in Room 2A, 888 First Street, N.E., Washington D.C. 20426.

The Commission Issuance Posting System (CIPS), an electronic bulletin board service, provides access to the texts of formal documents issued by the Commission. CIPS is available at no charge to the user and may be accessed using a personal computer with a modem by dialing 202–208–1397 if dialing locally or 1–800–856–3920 if dialing long distance. To access CIPS, set your communications software to 19200, 14400, 12000, 9600, 7200, 4800, 2400, or 1200 bps, full duplex, no parity, 8 data bits and 1 stop bit. The full text of this order will be available on CIPS in ASCII and WordPerfect 5.1 format. CIPS user assistance is available at 202–208–2474.

CIPS is also available on the Internet through the Fed World system. Telnet software is required. To access CIPS via the Internet, point your browser to the URL address: http://www.fedworld.gov and select the ''Go to the FedWorld Telnet Site'' button. When your Telnet software connects you, log on to the FedWorld system, scroll down and select FedWorld by typing: 1 and at the command line and type: /go FERC. FedWorld may also be accessed by Telnet at the address fedworld.gov.

Finally, the complete text on diskette in WordPerfect format may be purchased from the Commission's copy contractor, La Dorn Systems Corporation. La Dorn Systems Corporation is also located in the Public Reference Room at 888 First Street, N.E., Washington, DC 20426.

The Federal Energy Regulatory Commission is proposing to amend its Research, Development, and Demonstration (RD&D) regulations at 18 CFR 154.401, to propose a new funding mechanism for the Gas Research Institute (GRI). For the reasons discussed below, the Commission is proposing a mechanism that would fund GRI ''core'' RD&D programs that benefit gas consumers through a nondiscountable, non-bypassable, volumetric surcharge on all jurisdictional pipeline throughput. Voluntary funding would continue for all other GRI programs.

I. Background

A. History of RD&D Funding

The concept of a cooperative RD&D organization funded by the natural gas industry evolved during a time of uncertainty in the industry, when the excess of demand for natural gas over the supply became apparent in the late 1960s and progressively through the 1970s.[1] During that period, the industry's RD&D was initially conducted by individual jurisdictional companies, with some collective RD&D conducted under the auspices of the American Gas Association (AGA).

In light of gas shortages and rapidly increasing gas prices, the Commission sought to reduce, or at least curb, the demand, and to augment the supply.[2] The Commission began a series of initiatives to stimulate RD&D efforts by jurisdictional companies and to encourage jurisdictional companies to support RD&D organizations which, in turn, would be broadly supported by energy industry sectors.

The Commission recognized a lack of concentrated and coordinated RD&D effort by the natural gas industry to relieve the curtailment of service then being experienced by natural gas pipelines.[3] The Commission also cited the difficulty in reviewing research projects individually to test their reasonableness. Thus, in Order No. 566,[4] the Commission decided to clarify the Commission's review and accounting procedures and provide for simplified proceedings before the Commission by allowing advance approval of RD&D programs of organizations funded by jurisdictional companies.

In 1976, GRI was formed in response to the Commission's challenge in Order No. 566, with its purpose to serve the mutual interests of the gas industry and gas consumers. GRI is a nonprofit organization that sponsors RD&D in the fields of natural gas and manufactured

[1] Gas Research Institute, Opinion No. 11, 2 FERC ¶ 61,259 (1978) (Approving GRI's initial RD&D program).

[2] *Id.* at 61,616.

[3] *Id.* at 61,617.

[4] Research, Development and Demonstration; Accounting; Advance Approval of Rate Treatment, Opinion No. 566, Order Prescribing Changes in Accounting and Rate Treatment for Research, Development and Demonstration Expenditures, 58 FPC 2238 (1977).

gas. GRI does not engage directly in RD&D activities. It is a planning and management organization which engages in such activities through RD&D project contracts with laboratories, universities and others. In Opinion No. 11, the Commission authorized GRI to undertake a program of RD&D with the objective of ameliorating the shortage of natural gas, improving the economics and operation of the gas industry, and developing improved conservation technology.[5]

GRI's program was designed to provide broad, widely dispersed benefits that could not be captured by individual companies, or even groups of companies within the gas industry.[6] At its inception, GRI expected to become the principal organization for cooperative RD&D in the natural gas industry, and expected most of the major gas pipelines and utility systems to become its members,[7] and these expectations were met. For this reason, the Commission believed that formation of GRI was the best way to achieve the Commission's RD&D objectives.

Because of the generalized benefits derived from cooperative RD&D programs sponsored by GRI, the Commission, in Opinion No. 11,[8] adopted the policy of:

> * * *spreading the expenditures for [GRI's] RD&D program as evenly as possible and over the broadest possible base of jurisdictional and non-jurisdictional natural gas services in this country. Since consumers of natural gas in particular, and Federal taxpayers generally, are expected to benefit from the results of GRI's RD&D program, it is proper that they should pay for the program. But since producers, pipelines, and distributors also have a stake in the results of the program, it is proper that they too should pay for it * * *.

The Commission reiterated that GRI funding is fair if costs are spread among those who will derive the benefits of GRI RD&D. The Commission indicated that it ''expect[ed] GRI to make every effort to obtain the broadest equitable funding.''[9]

The Commission has taken the position that gas consumers stand to gain from aggressive RD&D, and therefore should share in the costs of GRI funding. In *Public Utilities Commission of Colorado* v. *FERC,*[10] the United States Court of Appeals for the District of Columbia Circuit affirmed the Commission's authority to take into account even nonjurisdictional RD&D activities in setting rates. In response to the argument that certain end-use RD&D concerning such products as gas appliances, furnaces, and water heaters, was not justified, the Court held that end-use research has as its goal the conservation of natural gas, and that such RD&D is ''a means of enhancing natural gas supplies and keeping consumer rates down,''[11] and that such RD&D was therefore ''within [the Commission's NGA] Section 4 authority to promote.''[12] However, the Commission is mindful that ratepayers required to pay for RD&D must receive tangible benefits from that RD&D. In *Process Gas Consumers Group* v. *FERC (PGC I),*[13] the Court held that the Commission had inadequately addressed the issue of whether GRI's end-use research projects had a reasonable chance of benefiting the ratepayer in ''a reasonable amount of time.''[14] The Court instructed the Commission to use a balancing test to determine whether ''the research, if successful, will work to the benefit of existing classes of ratepayers—those customers paying for the research in the first place.''[15]

As competition has increased in the natural gas market, it has become increasingly difficult to fund GRI in a manner that takes into account the diverse interests of the various industry sectors. From 1978 through 1992, interstate pipeline members recovered their GRI funding costs entirely through a uniform volumetric surcharge applied to each unit of throughput. The Commission approved this method of funding GRI programs because it met the Commission's two original aims: to ensure stable GRI funding while spreading the costs of research as evenly as possible and over the broadest possible base of natural gas service.[16] The use of a surcharge on a regulated price ensured that ratepayers ultimately paid GRI's research costs. Pipelines simply acted as conduits for funds from customers to GRI.[17] The addition of a volumetric surcharge to a pipeline's maximum rates did not affect the pipeline's revenue stream.

Beginning in the late 1980s, changes in the industry began to affect the viability of the uniform volumetric surcharge, by which pipelines recovered the GRI costs from ratepayers. In an era of competitive pricing, a pipeline might no longer be able to recover the entire surcharge from its customers since customers were able to demand a discounted rate. Under the original funding mechanism, each interstate pipeline member of GRI was allocated a portion of GRI's annual costs as an annual funding obligation that the pipeline was required to remit to GRI regardless of whether it actually collected that amount from its customers.

Beginning in 1992, GRI sought to change its funding mechanism after two members of GRI, ANR Pipeline Company and United Gas Pipeline Company, resigned from GRI membership. These pipelines maintained that discounting had caused them to underrecover their GRI funding obligations, and that their stockholders were paying those underrecovered costs.[18] GRI feared that other pipeline members would resign from GRI rather than fund the remainder of GRI's costs.

Ultimately, the Commission approved a settlement that put in place the current funding mechanism.[19] The settlement funding mechanism originally was approved on a temporary basis, for pipeline recovery of GRI's 1994 and 1995 program funding.[20] The funding mechanism was later extended for another two years, through the end of 1997, in order to give GRI and the industry sufficient time to develop a permanent funding mechanism.[21]

In approving the settlement, the Commission found that pipelines had been absorbing GRI costs and that the pipelines needed the flexibility to discount the GRI surcharge to compete with other sources of energy that do not carry the surcharge. Based upon these findings, as well as the fact that the Commission had rejected mandatory pipeline shareholder contributions in the past, the Commission accepted the proposal to allow pipelines to discount the GRI surcharge, to discount it first, and to remit to GRI only those GRI funds that they actually recovered.[22] In these ways, the settlement funding mechanism differed from any that had

[5] Opinion No. 11, 2 FERC at 61,616.

[6] *See* March 21, 1997 GRI Advisory Council Position, Docket No. RP97–149–000 at 1.

[7] Opinion No. 11, 2 FERC at 61,621.

[8] *Id.* at 61,635.

[9] *Id.* at 61,635–6.

[10] Pub. Util. Comm'n of Colo. v. FERC, 660 F.2d 821 (D.C. Cir. 1981), *cert. denied,* 456 U.S. 944 (1982).

[11] *Id.* at 828.

[12] *Id.* at 828 n. 13.

[13] 866 F.2d 470 (D.C. Cir. 1989).

[14] 866 F.2d at 471, *quoting* the Commission's existing RD&D regulations.

[15] 866 F.2d at 474.

[16] Gas Research Institute, 60 FERC ¶ 61,203 at 61,702 (1992), *aff'd,* 61 FERC ¶ 61,121 (1992).

[17] *See In Re Columbia Gas Sys. Inc.,* 997 F.2d 1039, 1062 (3rd Cir. 1993).

[18] *See* ANR Pipeline Co., 58 FERC ¶ 61,228 (1992), *reh'g denied,* 59 FERC ¶ 61,095 (1992); and unpublished letter order issued on December 31, 1991, in United Gas Pipe Line Co., Docket No. TM92–11–000.

[19] Gas Research Institute (GRI), 62 FERC ¶ 61,280 (1993); *reh'g denied,* 63 FERC ¶ 61,316 (1993) (approving contested settlement).

[20] *GRI,* 63 FERC at 63,146.

[21] Gas Research Institute, 71 FERC ¶ 61,130 (1995).

[22] *GRI,* 62 FERC at 62,805.

been in place previously. The new funding mechanism was, for the first time, ''voluntary'' in the sense that it permitted pipelines to discount without having to absorb GRI costs.

The voluntary funding under the settlement raised the policy question whether responsibility for GRI funding would be shifted unfairly from discounted customers to captive customers that do not receive discounted service. In approving GRI's interim funding proposal for 1993, which also included voluntary funding, the Commission acknowledged that cost shifting would necessarily ensue, but nonetheless concluded that because of the mitigating factors built into the settlement, ''[t]he proposed funding mechanism balances the costs of GRI among all classes of service, localities, pipelines, producers and GRI. This is a fair result,'' the Commission concluded, ''given that all of these parties benefit from GRI programs.'' [23]

The United States Court of Appeals for the District of Columbia Circuit, in *Public Utilities Commission of California* v. *FERC*,[24] upheld the Commission's approval of the settlement. In doing so, the Court addressed arguments that the Commission's approval constituted undue discrimination and amounted to an abdication of its duty to protect consumers. The Court concluded that given the underlying desirability of GRI itself, which had not been challenged, the Commission could not be expected to revisit its earlier determination that GRI inured to the benefit of all ratepayers, and that the question to be addressed then became ''how GRI could remain viable.'' [25] The Court held that the funding mechanism chosen was reasonably designed to achieve the valid purpose for which it was intended.

Thus, for the past several years since the Commission's approval of the settlement funding mechanism, GRI has been funded through a temporary mechanism. The Commission's objective in this proceeding is to develop a permanent GRI funding mechanism that will provide GRI with sufficient stability to continue its RD&D with a view toward long-term, as well as short-term, goals. The Commission is also guided by the underlying objective of spreading the responsibility for funding the RD&D sponsored by GRI over the broadest possible base because the benefits go to gas consumers generally.

[23] *GRI,* 60 FERC at 61,702.

[24] Pub. Util. Comm'n of Cal. v. FERC, 24 F.3d 275 (D.C. Cir. 1994).

[25] *Id*. at 281.

B. Problems With Voluntary Funding

The problems raised with respect to voluntary funding, as approved in the settlement, continue to exert stress on the GRI funding mechanism. Essentially, funding for GRI has become less broad-based and less stable than ever. Pipelines, such as Koch Gateway Pipeline Company, continue to express a desire to resign from GRI.[26]

In a recent statement of its position on funding, GRI has indicated that the existing voluntary funding is no longer viable for long-term funding as competitive pressures continue to grow.[27] GRI asserts that consumer needs for technology are no longer met at the currently reduced levels of spending in the industry. Furthermore, GRI contends that its annual evaluation of consumer benefit/cost of unfunded programs continues to show that many beneficial projects are unfunded at current GRI levels. GRI also contends that industry RD&D needs also are not fully met.

GRI recently submitted a new proposed funding mechanism for 1998–1999 through which its pipeline members would collect amounts to be remitted to GRI to satisfy its research budget.[28] GRI proposed a two-part funding mechanism, which would include a pipeline surcharge to be levied on each unit of gas transported or sold, and an LDC delivery charge, which would be levied on LDCs and intrastate pipelines. GRI's proposal met with considerable protests. Many of those protests raised the issue whether the delivery charge and the volumetric surcharge would unfairly shift GRI's costs to LDCs, intrastate pipelines, and the pipelines' captive customers.

The Commission decided to convene a public conference in that proceeding to discuss not only GRI's proposal, but to foster a more far-ranging public policy discussion of the future of GRI.

C. Public Conference

The Commission convened a public conference on March 21, 1997, to discuss the future funding of RD&D in the natural gas industry. A number of participants spoke on the advisability of continuing a voluntary funding mechanism. Many participants, at the conference or in written comments, expressed a need for mandatory funding for a core program involving RD&D in the interest of gas consumers.

[26] Koch Gateway Pipeline Co., 77 FERC ¶ 61,348 (1996), *reh'g pending.*

[27] GRI Position, filed March 19, 1997, in Docket No. RP97–149–000.

[28] Docket No. RP97–149–000, filed December 2, 1996.

While there were a few exceptions, such as the Pennsylvania Office of Consumer Advocate,[29] and The Fertilizer Institute,[30] the vast majority of conference participants, from all sectors of the industry, supported the continuation and vitality of GRI. The success of GRI's RD&D efforts was reflected in the American Gas Association's (AGA) comments. AGA's data showed natural gas' share of the new home heating market at 67 percent—the highest level in industry history.[31] AGA attributed this continued growth, in part, to an increased awareness of the environmental advantages of natural gas. But, AGA maintained, this growth is mainly due to the technological advances that allow the gas industry to compete successfully on the cost of gas, as well as on the efficiency, comfort, and performance of end-use heating equipment. Similarly, appliance manufacturers contended that without GRI-funded programs, manufacturers could be forced into abandoning a gas product line.[32] Participants such as the U.S. Environmental Protection Agency (EPA) pointed out that GRI continues to conduct important environmental RD&D that may be jeopardized if left solely to individual companies to support.[33]

The GRI Advisory Council (Advisory Council), which was set up at the Commission's urging to ensure that GRI adequately utilizes the viewpoints of scientific, engineering, economic, consumer, and environmental interests, also submitted comments concerning the funding of GRI. The Advisory Council asserted that there is little evidence to suggest that the natural gas industry will voluntarily fund the level of RD&D required to provide for the availability of gas supplies, low cost, safe delivery, and efficient use of gas.[34] Nor, the Advisory Council contended, does it appear that voluntary funding will sustain the high level of public benefit that has been received since the founding of GRI.[35] The Advisory Council also stated its belief that the GRI program has already been reduced below the level that is justified based on consumer benefit to cost analysis.[36]

[29] March 21, 1997 comments and Tr. 147–151.

[30] March 21, 1997 comments.

[31] March 25, 1997 comments at 2.

[32] Gas Appliance Manufacturers Association, March 21, 1997 comments.

[33] United States Environmental Protection Agency, March 20, 1997 comments.

[34] March 21, 1997 position of the GRI Advisory Council in Docket No. RP97–149–000.

[35] *Id*.

[36] *Id*.

Some participants continued to favor voluntary funding,[37] but many participants concentrated on the problems associated with voluntary funding. One such problem was discussed by Professor William R. Hogan, a member of the GRI Advisory Council and a member of the GRI board of directors, who addressed the Commission on his own behalf.[38] Professor Hogan explained that in this era of competition, voluntary funding renders GRI's program vulnerable to the classic ''free-rider problem.'' Professor Hogan explained that under voluntary funding, all those contributing to pay for the research realize that they will still receive the benefits that flow from the research, even if they do not pay their individual contribution. When everyone follows this strategy, Professor Hogan explained, there is no funding, and the research is not undertaken. Professor Hogan concluded that it would be unrealistic to think that GRI's widely dispersed benefits are going to be paid in any other way than through a mandatory program. These comments were echoed by Mr. Henry R. Linden, of the Illinois Institute of Technology.[39]

While most participants were reacting to GRI's latest funding proposal, some participants proposed new funding mechanisms. For example, Mr. Leslie B. Enoch, speaking on behalf of the American Public Gas Association (APGA), spoke in favor of a return to the use of a volumetric surcharge to fund GRI. Mr. Enoch asserted that such funding accomplishes three objectives: it is simple; it is in the interest of all segments of the natural gas industry; and it is equitable. Mr. Enoch pointed out that the benefits of RD&D are unrelated to discounts, so, likewise, the funding should not be affected by discounts.

It was also suggested that the Commission take the approach of funding GRI through a combination of mandatory and voluntary funding mechanisms. Mr. Warren Mitchell,[40] representing Southern California Gas Company, suggested a combination of mandatory and voluntary funding. He spoke in support of the funding of consumer interest, or core, programs, through a volumetric, mandatory, nondiscountable usage charge assessed on all throughput as a stable, secure, and equitable funding for these programs. Mr. Mitchell also advocated a separate, discountable, voluntary mechanism for other programs.

II. Discussion

A. The Commission's Proposed GRI Funding Mechanism

The industry has begun to veer from the objective of broad-based funding for RD&D as GRI is losing funding and pipelines are drawing away from supporting GRI economically. The public conference, while not resulting in a consensus on the appropriate mechanism for GRI funding, showed that there is a widely held view that RD&D continues to be in the best interests of natural gas consumers, and that cooperative RD&D through GRI continues to be the best means of approaching RD&D in the gas industry.

It has been more than twenty years since the formation of GRI. The Commission continues to firmly hold the view that GRI's programs benefit natural gas consumers and that there is a need to ensure broad-based and stable funding for consumer-oriented GRI programs. The natural gas technologies developed with GRI funding over the past decade have enabled the natural gas industry to reduce the costs of gas to all classes of consumers. Moreover, new end-use technologies have provided gas customers with improved energy efficiency, lower energy bills, and more productive ways of utilizing energy resources in residential and business applications.

The Commission shares the concerns of those who believe that the continuation of voluntary funding threatens the RD&D efforts of GRI. The limits of voluntary funding for GRI, in the more than three years that the temporary voluntary funding mechanism has been in place, have been explored. The Commission agrees with the Advisory Council that there is little evidence to suggest that the natural gas industry will voluntarily fund the level of RD&D required to provide for availability, low cost, safe delivery, and efficient use of natural gas. Nor will voluntary funding sustain the high level of public benefit that has been received since the founding of GRI. The GRI program has already been reduced below the level that is justified based on an analysis of consumer benefit relative to cost.

The Commission continues to be guided by the original goals of funding the generalized benefits of GRI's RD&D programs—to ensure stable GRI funding while spreading the responsibility for funding research as evenly as possible and over the broadest possible base of natural gas service. Rather than adopt GRI's post-1997 funding mechanism,[41] the Commission proposes a new, permanent funding mechanism to spread the responsibility for funding RD&D widely in the natural gas industry.

The Commission is persuaded that the need for stable GRI funding requires that at least some of GRI's funding must be mandatory. In order for the responsibility for the funding to be as broadly-based as possible, the Commission believes that it should be secured, at least in part, through a volumetric surcharge, as in the past. However, the Commission also recognizes that in a competitive market, pipelines must have the flexibility to discount their rates.

Thus the Commission proposes to fund RD&D that is of primary benefit to gas consumers as a group through a ''core'' RD&D program. The core RD&D program would be comprised of RD&D activities that produce broadly-dispersed benefits flowing predominantly to gas consumers, and that cannot be readily captured by industry sectors. The core program would be funded by a mandatory, non-bypassable, non-discountable volumetric funding surcharge levied on all volumes transported by interstate pipelines, regardless of the pipelines' membership status in GRI. This surcharge would ensure stable and equitable funding for gas consumer-interest programs.

GRI has proposed that other RD&D, that primarily benefits a specific industry sector, would be funded through voluntary funding.[42] The voluntarily funded RD&D programs would consist of RD&D activities that produce less widely-dispersed benefits to more limited categories, such as individual consumers, groups of consumers, industries, or groups of companies within an industry. GRI proposed these programs to be funded by two means. One would be a separate charge in the pipelines' tariffs which shippers could choose to pay. Those shippers who chose to pay the charge to contribute to this fund, called a ''Technology Management'' fund, would be able to participate in governance over the management of the fund. It was suggested at the conference that it is appropriate to make such non-core RD&D funding subject to Commission oversight, rather than to leave it to GRI to design its own funding mechanism or establish a voluntary RD&D contract

[37] *See* March 20, 1997 comments of the Wisconsin Distributor Group, the Northern Distributor Group, and PNM Gas Services.

[38] March 20, 1997 comments; Tr. at 39–40.

[39] Tr. at 46–47.

[40] Tr. at 102–5.

[41] Filed December 2, 1996, in Docket No. RP97–149–000.

[42] GRI Position, filed March 19, 1997, in Docket No. RP97–149–000, at 2.

service.[43] GRI's proposed Technology Management charge is consistent with this view. Accordingly, the Commission requests comments on GRI's proposal to fund non-core RD&D through a Technology Management charge, paid only by shippers that willingly elect to pay for GRI RD&D over-and-above the core program. The Commission also invites industry participants to comment on the need for any Commission involvement with the non-core program and the appropriateness of including any funding for the non-core program in pipeline rates.

As an alternative to GRI's proposal, shippers could make voluntary contributions to fund the Technology Management program by agreeing to make payments directly to GRI. Another possibility would be for shippers to arrange to pay a designated amount to the pipeline. The pipeline would then, acting as a conduit, remit the same amount to GRI. The pipeline could file with the Commission an amendment to its contract with such a shipper in order to specify the amount of the contribution.

The other way GRI proposes to fund the Technology Management program is voluntary pipeline contributions. If a pipeline chooses to contribute to the voluntarily funded program, GRI proposes that the pipeline would be able to include those contributions in the pipeline's operating budget that is used in setting the pipeline's rates in a rate case.[44] The Commission requests comment on whether to permit pipelines to obtain recovery in their rates of their own voluntary contributions as GRI proposes.

The Commission, at this time, can only estimate the budget requirements for the core RD&D program. GRI states in its March 19, 1997 position paper that it has identified $90 million of its 1997 RD&D projects in the areas of environment, safety, basic research, and pro-competitive research related to emerging gas supplies and energy efficiency. Projects of this type are examples of what the Commission would consider to be part of the core program.

In order to identify which RD&D projects would be in the core program and which would be in the voluntary program, the Commission has looked to GRI's 1997–2001 Research and Development Plan. GRI has broken down its RD&D program into smaller groups called ''Business Units'', as shown in Exhibit 1 of its 1997–2001 Research and Development Plan. All of GRI's individual RD&D projects are distributed among these business units.

GRI's twelve RD&D business units are as follows:

(1) Basic Research,
(2) Commercial,
(3) Distribution,
(4) Environment and Safety,
(5) Industrial,
(6) Market and Strategic Collaboration and Technology Transfer,
(7) Natural Gas Vehicles,
(8) Power Generation,
(9) Residential,
(10) Strategic Collaboration,
(11) Supply, and
(12) Transmission.

Certain RD&D activities within the individual business units would appear to fall easily into one of the two proposed RD&D programs. For example, RD&D within the Basic Research and Environment & Safety business units would likely belong in the core program, while RD&D within the Commercial, Industrial, Natural Gas Vehicles, and Power Generation business units would probably be more appropriately funded through the voluntary program. GRI estimates the budget for what appears to be non-core RD&D as ranging from $45–70 million.[45]

Some RD&D might contain elements of both the core and voluntary programs, *e.g.*, those activities in GRI's Distribution, Market & Strategic Collaboration and Technology Transfer, Residential, Strategic Collaboration, Supply and Transmission business units. For this reason, only activities within the business units which relate to environment, safety, basic research, and generic supply and energy efficiency efforts, would be included in the core program, with the remainder of the activities to be included in the voluntary program.

The business unit approach is just one of many possible methods which may be used to identify elements of a core RD&D program. The Commission requests GRI to submit a proposed division of categories, and a description of the types of projects GRI would include in each category. Interested persons may then submit comments on the business unit approach and GRI's proposal, if different, and suggest other possible methods of determining how GRI's RD&D activities should be divided into the two proposed core and non-core RD&D categories. Commenters are requested to define commercialization, as distinguished from basic RD&D which may have no immediate commercial application, and comment on whether it is necessary or appropriate for GRI's commercialization of technology to be funded by pipeline rates.

Regardless of the approach taken to classify projects for purposes of the proposed funding mechanism, once the two categories are in place, the Commission proposes to require GRI to file an annual application seeking approval for its core RD&D program. In this application, GRI would continue to file all of the detailed information necessary for advance approval and rate treatment as required by the Commission's existing regulations, and also show that its filing is consistent with Court and Commission precedent. In addition, GRI would be required to specifically identify which projects are to be included in the core program and which are in the voluntary program, along with the anticipated costs for each program broken down by individual project cost. Finally, GRI would have to state the surcharge proposed to support its program. The Commission intends to scrutinize individual core projects to ensure that gas consumers receive the benefits of such projects. Based upon such review, the Commission will determine the appropriate annual core program funding level.

As indicated above, the funding surcharge for the core program would be applied to every volume of gas (or dekatherm equivalent) transported by all regulated pipelines, and not just GRI members. Accordingly, GRI would be required to support its core program surcharge derivation using documented transportation volumes from the preceding year.

Contemporaneously with the issuance of this notice, the Commission is issuing an order in Docket No. RP97–149–000, extending the current GRI funding mechanism for one year, through 1998. Therefore, the funding mechanism the Commission is proposing here would become effective after 1998. Beginning with GRI's 1999 filing, the Commission will require GRI to file annually for

[43] At the conference, Mr. William Burnett, speaking on behalf of GRI, argued that the Commission's imprimatur as to the analysis of the benefits of Technology Management RD&D would assist state commissions in dealing with the passthrough of these costs by local distribution companies. Tr. at 131–4.

[44] GRI Position, filed March 19, 1997, in Docket No. RP97–149–000, at 2.

[45] In its position paper filed March 19, 1997, in Docket No. RP97–149–000, GRI indicates that a Technology Management surcharge is but one way of obtaining funding for the voluntary program. Specifically, GRI states that certain gas industry segments may not necessarily be shippers on interstate pipelines and consequently would not be positioned to pay the Technology Management surcharge. In these instances, GRI could be compensated for non-core RD&D in other ways. For example, pipelines could provide funding support for the non-core program by including the costs in their operating budgets, while producers (and others) could directly support the non-core program by cash or in-kind funding.

Commission approval of its programs. However, after the Commission, GRI, and the industry have gained sufficient experience with the proposed funding mechanism, the Commission will permit GRI to revert to the two-year planning cycle the Commission approved in Opinion No. 384.[46]

B. Changes to Regulations To Reflect GRI Mandatory Funding and Rate Treatment of Pipelines' Contributions to GRI

Section 154.401 of the Commission's regulations governing the rate treatment of RD&D expenditures[47] continues to reflect the Commission's initiatives in Order No. 566. The regulation contemplates RD&D projects by multiple jurisdictional companies although it does provide for RD&D conducted by organizations supported by more than one company. Since the advent of broadly funded RD&D projects that are centrally planned and managed by GRI, these regulations do not reflect actual practice. Consequently, the Commission proposes to replace Section 154.401(a).

Proposed Section 154.401(a) would require all natural gas companies to include in their tariffs a non-discountable, non-bypassable volumetric surcharge to be collected from shippers on their systems to fund the GRI core RD&D program. This charge will be required regardless of whether the natural gas company chooses to be a member of GRI or support non-core RD&D programs. In this manner, those programs which are primarily designed to benefit gas consumers will be assured of funding. Without such a mandatory funding mechanism for these core projects, the evidence is clear that funding of such projects is in jeopardy, and this is not acceptable to the Commission.

Section 154.401(b)(1) of the Commission's regulations currently provides that individual natural gas companies may apply for advance approval of rate treatment for RD&D expenditures. It also provides that an RD&D organization, such as GRI, that is supported by more than one company may submit an application that covers the organization's RD&D program, and that the Commission's approval of that application constitutes approval of the individual companies' contributions to the organization. In recent years, there have been no filings by individual companies for advance approval of rate treatment for RD&D expenses. Rather, virtually all requests for advance approval of RD&D expenses have been filed by GRI. Therefore, to reflect actual practice, the Commission proposes to revise Section 154.401(b) of its regulations.

Proposed Section 154.401(b)(1) would provide for the filing of applications for advance approval of RD&D expenditures only by GRI, or other RD&D organizations. Individual companies will be able to seek to recover other RD&D expenses beyond the amounts related to funding RD&D organizations as part of their general section 4 rate filings. Proposed Section 154.401(b)(2) would define ''core'' and ''non-core'' projects and would describe the requirements for funding core and non-core programs.

III. Information Collection Statement

The following collections of information contained in this proposed rule are being submitted to the Office of Management and Budget (OMB) for review under Section 3507(d) of the Paperwork Reduction Act of 1995.[48] FERC identifies the information provided under 18 U.S.C. Part 154 as FERC–545, Gas Pipeline Rates: Rate Change (non-formal).

Pursuant to Sections 4, 5 and 16 of the Natural Gas Act (NGA) (15 U.S.C. 717c–717o, P.L. 75–688) and Part 154 of the Commission's regulations, natural gas companies must file tariffs that comprise schedules of all rates or charges identifying transportation or sales activities conducted by natural gas pipelines. Pursuant to the proposed rules contained in the instant NOPR, all natural gas companies having tariffs on file with the Commission would be required to file new tariff provisions reflecting the mandatory GRI surcharge. Such filings would be required annually.

The burden estimates for complying with this proposed rule are as follows:

Data collection	Number of respondents	Number of responses	Hours per response	Total annual hours
FERC–545	88	88	7.35	*647

* Rounded off.

Total Annual Hours for Collection (reporting + Recordkeeping, (if appropriate)) =647.

These estimates reflect only the incremental burden on companies not presently members of GRI. Inasmuch as those companies presently members of GRI must reflect a GRI surcharge in their tariffs now, there would be no significant change in the burden on those companies resulting from adoption of the rules proposed in this NOPR.

Comments are solicited on the Commission's need for this information, whether the information will have practical utility, the accuracy of the provided burden, estimates, ways to enhance the quality, utility and clarity of the information to be collected, and any suggested methods for minimizing respondent's burden, including the use of automated information techniques.

The Commission also seeks comments on the costs to comply with these requirements. It has projected the average annualized cost for all respondents to be:

Annualized Costs (Operations & Maintenance) $32,350.

The currently valid OMB Control Number for the collection of information (*i.e.*, tariff filings) that would be required by the proposed rules is 1902–0154. Applicants shall not be penalized for failure to respond to these collections of information unless collection(s) of information display a valid OMB control number.

The Commission has assured itself, by means of its internal review, that there is specific, objective support for the burden estimates associated with the Commission requirements. The Commission's Office of Pipeline Regulation will use the data included in these filings to verify the costs proposed to be recovered are just and reasonable and assists the Commission in carrying out its regulatory responsibilities under the Natural Gas Act. These requirements conform to the Commission's plan for efficient information collection, communication, and management within the natural gas industry.

Interested persons may obtain information on the reporting requirements by contacting the

[46] Gas Research Institute, Opinion No. 384, 65 FERC ¶ 61,027 (1993) at 61,367–8.

[47] 18 CFR 154.401.

[48] 44 U.S.C. 3507(d).

following: Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, [*Attention:* Michael Miller, Division of Information Services, *Phone:* (202) 208–1415, fax: (202) 273–0873, *E-mail:* mmiller@ferc.fed.us

For submitting comments concerning the collection of information(s) and the associated burden estimate(s) please send your comments to the contact listed above and to the Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, DC 20503. [Attention: Desk Officer for the Federal Energy Regulatory Commission, phone: (202) 395–3087, fax: (202) 395–7285]

IV. Environmental Analysis

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.[49] The Commission has categorically excluded certain actions from these requirements as not having a significant effect on the human environment.[50] The action proposed here is procedural in nature and therefore falls within the categorical exclusions provided in the Commission's regulations.[51] Therefore, neither an environmental impact statement nor an environmental assessment is necessary and will not be prepared in this rulemaking.

V. Regulatory Flexibility Act Certification

The Regulatory Flexibility Act[52] generally requires the Commission to describe the impact that a proposed rule would have on small entities or to certify that the rule will not have a significant economic impact on a substantial number of small entities. An analysis is not required if a proposed rule will not have such an impact.[53]

Pursuant to section 605(b), the Commission certifies that the proposed rules and amendments, if promulgated, will not have a significant adverse economic impact on a substantial number of small entities.

VI. Comment Procedures

The Commission invites interested persons to submit written 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. Because the Commission is seeking in the first instance comments from GRI on what will constitute ''core projects,'' GRI must submit its comments no later than May 30, 1997. All other comments, including replies to the comments of GRI concerning its concept of ''core projects,'' must be filed with the Commission no later than June 30, 1997. An original and 14 copies of comments should be submitted to the Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, and should refer to Docket No. RM97–3–000. Additionally, comments should be submitted electronically. Participants can submit comments on computer diskette in WordPerfect® 6.1 or lower format or in ASCII format, with the name of the filer and Docket No. RM97–3–000 on the outside of the diskette.

Participants also are encouraged to participate in a Commission pilot project to test the use of the Internet for electronic filing either in conjunction with, or in lieu of, diskette filing. Comments should be submitted through the Internet by E-Mail to comment.rm@ferc.fed.us in the following format: on the subject line, specify Docket No. RM97–3–000; in the body of the E-Mail message, specify the name of the filing entity and the name, telephone number and E-Mail address of a contact person; and attach the comment in WordPerfect® 6.1 or lower format or in ASCII format as an attachment to the E-Mail message. The Commission will send a reply to the E-Mail to acknowledge receipt. Questions or comments on the pilot project itself should be directed to Marvin Rosenberg at 202–208–1283, E-Mail address marvin.rosenberg@ferc.fed.us, but should not be sent to the E-Mail address for comments on the NOPR.

All written comments will be placed in the Commission's public files and will be available for inspection in the Commission's Public Reference Room at 888 First Street, NE, Washington, DC 20426, during regular business hours.

List of Subjects in 18 CFR Part 154

Natural Gas Companies, Rate Schedules and tariffs.

By direction of the Commission. Commissioner Santa concurred with a separate statement attached.

Lois D. Cashell,

Secretary.

In consideration of the foregoing, the Commission gives notice of its proposal to amend Part 154, Chapter I, Title 18, *Code of Federal Regulations,* as set forth below.

PART 154—RATE SCHEDULES AND TARIFFS

1. The authority citation for Part 154 continues to read as follows:

Authority: 15 U.S.C. 717–717w; 31 U.S.C. 9701; 42 U.S.C. 7102–7352.

2. Sections 154.401(a), (b)(1) and (b)(2) are revised to read as follows:

§ 154.401 RD&D expenditures.

(a) All natural gas companies must include in their tariffs a non-discountable volumetric surcharge, as determined by the Commission upon approval of an application filed under paragraph (b)(1) of this section, to fund Research, Development, and Demonstration (RD&D) programs.

(b) *Applications for rate treatment approval.* (1) An application for advance approval of an RD&D program to be funded by the rates of natural gas pipeline companies may be filed by the Gas Research Institute or other RD&D organization. Approval by the Commission of such an RD&D application will constitute approval of the individual company's rate surcharges to fund the RD&D programs of the Gas Research Institute or other RD&D organization. The rate surcharge required in paragraph (a) of this section will be limited to funding projects that produce broadly-dispersed benefits flowing predominantly to gas consumers that cannot be captured readily by industry sectors.

(2) An application filed under paragraph (b)(1) of this section for advance approval of an RD&D program to be funded by the rates of natural gas pipeline companies must include:

(i) a 5-year program plan that identifies ''core'' RD&D projects and ''non-core'' RD&D projects;

(ii) the anticipated costs for the ''core'' program and the ''non-core'' program broken down by individual project cost; and

(iii) the respective surcharges proposed to fund the ''core'' program and the ''non-core'' program. ''Core'' projects are defined as those projects that produce broadly-dispersed benefits flowing predominantly to gas consumers that readily cannot be captured by industry sectors. ''Non-core'' projects are defined as all other RD&D projects. Such an application must be filed at least 180 days prior to the commencement of the 5-year period of the plan.

* * * * *

[49] Order No. 486, Regulations Implementing the National Environmental Policy Act, 52 FR 47897 (Dec. 17, 1987), FERC Statutes and Regulations, Regulations Preambles 1986–1990 ¶ 30,783 (1987).

[50] 18 CFR 380.4.

[51] *See* 18 CFR 380.4(a)(2)(ii).

[52] 5 U.S.C. 601–612.

[53] 5 U.S.C. 605(b).

Federal Energy Regulatory Commission

[Docket No. RM97–3–000]

Research, Development and Demonstration Funding

Issued: April 30, 1997.

SANTA, Commissioner, *concurring:*

I concur in today's notice of proposed rulemaking to amend the Commission's research development and demonstration (RD&D) regulations to propose a new funding mechanism for the Gas Research Institute (GRI). Historically, GRI has served both consumers and the natural gas industry well as the planning and management organization for the coordination of collaborative natural gas RD&D projects. Nonetheless, as was made clear at the Commission's March 21, 1997, public conference to explore the future funding of RD&D in the natural gas industry, the funding crisis that has plagued GRI for the past five years is unlikely to be resolved absent intervention by this Commission. Therefore, I support initiating this proceeding to provide a forum in which this issue might be resolved conclusively.

Still, it concerns me that in proposing a mandatory volumetric surcharge on all interstate natural gas pipeline throughput to fund GRI's ''core'' RD&D program, the Commission is sidestepping several threshold questions that should be answered before taking this unprecedented step. As noted in the background discussion in today's NOPR, both GRI and the Commission's order in Opinion No. 11, authorizing GRI to undertake its RD&D program, are a product of the era of wellhead price controls and comprehensive regulation of the natural gas industry. Over the ensuing two decades, the natural gas industry has been restructured fundamentally. There now is a competitive commodity market for natural gas, interstate pipelines have left the merchant function and now provide unbundled open access transportation, and there now is the prospect for even greater competition and customer choice with the unbundling of local distribution company services. In sum, both the market conditions and the regulatory environment that gave rise to the need for this Commission's support for ratepayer-funded collaborative RD&D through GRI are part of the industry's increasingly distant past.

In light of these fundamental changes, what is the policy rationale for continued Commission support of collaborative natural gas industry RD&D through the GRI surcharge on interstate pipeline transportation services? Furthermore, is this public policy rationale for Commission-supported collaborative RD&D so great as to justify converting GRI funding from the heretofore voluntary program into one which would mandate interstate pipeline participation notwithstanding the decision by an individual pipeline, or pipelines, not to be a member of GRI? In other words, before taking the unprecedented step of transforming the GRI surcharge into a nonbypassable ''tax'' on all interstate pipeline throughput, does the Commission need to re-establish the public interest basis for this program in view of today's natural gas market?

I also believe that in deliberating on the future funding of RD&D in the natural gas industry, the Commission should consider this issue in the context of trends in the broader energy markets. With the convergence of natural gas and electricity markets, it is appropriate to compare the natural gas and electric power industries' mechanisms for funding collaborative RD&D. In particular, how is the experience of the Electric Power Research Institute (EPRI), which never has enjoyed the benefit of a Commission-authorized surcharge, instructive in evaluating the prospects for collaborative natural gas RD&D in the future? What, if anything, makes natural gas so different as to justify a Commission mandate that ratepayers fund GRI's ''core'' program when no such mandate exists for a comparable EPRI program?

Finally, while it is reflected in the NOPR, I wish to emphasize the question concerning whether GRI's proposed ''non-core'' voluntary program should be authorized by the Commission. Given that this purportedly is a ''voluntary'' program, what useful purpose is served by Commission oversight? The NOPR recounts GRI's argument in favor of Commission oversight of the ''non-core'' program: ''[T]he Commission's imprimatur as to the analysis of the benefits of Technology Management RD&D would assist state commissions in dealing with the passthrough of these costs by local distribution companies.'' [1] Does this rationale support a finding that it is in the public interest for the Commission to oversee the ''non-core'' program? In particular, do state commissions desire the Commission's ''assistance'' in dealing with the passthrough of ''non-core'' program costs? Also, given the nature of the activities that would be funded under the ''non-core'' program (i.e., ''RD&D activities that produce less widely-dispersed benefits to more limited categories, such as individual consumers, groups of consumers, industries, or groups of companies within an industry''), [2] how likely is it that in overseeing the ''non-core'' program the Commission easily could make generalized findings that ''non-core'' RD&D projects would be appropriate for funding through a generally applicable charge stated in a pipeline's tariff?

In raising these questions, I do not wish to leave the impression that there is not a case to be made for collaborative RD&D in the natural gas industry. Also, I view it as a positive development that GRI is now focusing more intently on a ''core'' program that is intended to capture RD&D projects with widely dispersed consumer benefits. Still, given GRI's seemingly chronic funding crisis and the unprecedented nature of the Commission's proposed solution, these fundamental threshold questions about the future of collaborative RD&D in the natural gas industry and the appropriate role of this Commission in supporting such RD&D should be answered before the Commission proceeds. If not now, when will be the appropriate time for such questions?

While the Commission's March 21, 1997, technical conference touched on these questions, I do not believe that the record of that conference alone provides a sufficient basis for taking the steps proposed in today's NOPR. I sincerely hope that these questions contribute to a better developed record in this proceeding so that the Commission can make a fully informed decision when it issues a final rule.

Donald F. Santa, Jr.,

Commissioner.

[1] *Supra,* note 43.

[2] *Supra, slip op.* at p. 17.

[FR Doc. 97–11794 Filed 5–6–97; 8:45 am]

BILLING CODE 6717–01–P

NATIONAL INSTITUTE FOR LITERACY

34 CFR Part 1100

[CFDA No. 84.257I]

Literacy Leader Fellowship Program

AGENCY: National Institute for Literacy.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Director proposes to amend the regulations governing the Literacy Leader Fellowship Program. Under this program, the Director may award fellowships to individuals to enable them to engage in research, education, training, technical assistance, or other activities that advance the field of adult education or literacy. The proposed amended regulations are needed to improve the administration of the program and to establish new priorities under the program.

DATES: Comments must be received on or before June 6, 1997.

ADDRESSES: All comments concerning these proposed regulations should be addressed to Meg Young, National Institute for Literacy, 800 Connecticut Avenue N.W., Suite 200, Washington DC 20006. Comments may also be sent through the Internet to myoung@nifl.gov.

A copy of any comments that concern information collection requirements should also be sent to the Office of Management and Budget at the address listed in the Paperwork Reduction Act section of this preamble.

FOR FURTHER INFORMATION CONTACT: Meg Young, Telephone: 202/632–1515. E-mail: myoung@nifl.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The Literacy Leader Fellowship Program is authorized under section 384(e) of the Adult Education Act (20 U.S.C. 1213c(e)), as amended. On July 11, 1995, the Director published interim