DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 158 and 260

[Docket No. RM07–9–001; Order No. 710–A]

Revisions to Forms, Statements, and Reporting Requirements for Natural Gas Pipelines

Issued June 20, 2008.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Order Granting in Part and Denying in Part Rehearing and Granting Request for Clarification.

SUMMARY: In this order on rehearing, the Commission affirms its basic determinations in Order No. 710, grants in part and denies in part rehearing and grants clarification regarding certain revisions to its forms and reporting requirements for natural gas pipelines.

DATES: *Effective Date:* This Rule will become effective July 28, 2008. The revisions to FERC Form Nos. 2, 2–A, and 3–Q are applicable January 1, 2008, and February 28, 2009 for the termination of FERC Form No. 11.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

Before Commissioners: Joseph T. Kelliher, Chairman; Suedeen G. Kelly, Marc Spitzer, Philip D. Moeller, and Jon Wellinghoff.

1. This order addresses requests for rehearing and clarification of Order No. 710, a Final Rule issued on March 21, 2008, adopting revisions to the Commission's financial reporting requirements for natural gas pipelines, FERC Form Nos. 2, 2–A and 3–Q.[1]

I. Background

2. On September 20, 2007, the Commission issued a Notice of Proposed Rulemaking (NOPR) proposing changes to the financial forms and reporting requirements for natural gas pipelines.[2] The NOPR was issued following an in-depth review of financial reporting requirements for the natural gas, electric utility and oil pipeline industries in the fall of 2006. The staff's review, including outreach meetings with both form filers and users, culminated in the issuance of a Notice of Inquiry seeking comment on the need for changes or additions to the financial information reported in the Commission's quarterly and annual financial reports.[3]

3. The changes adopted in the Final Rule were designed to enhance the transparency of financial reporting by interstate natural gas pipelines and better reflect the current market and cost information needed for the Commission's oversight of interstate natural gas pipeline rates. The Final Rule requires the forms' filers to provide additional information on costs and revenues related to the disposition of shipper-supplied gas, affiliate transactions, discounted and negotiated rate services, and deferred income tax and state tax issues. The Final Rule eliminated FERC Form No. 11 and incorporated the information contained in that form into Form Nos. 2 and 3–Q. The revisions to Form Nos. 2, 2–A and 3–Q are applicable January 1, 2008. The revised Form Nos. 2 and 2–A are required to be filed on April 30, 2009. The termination of FERC Form No. 11 is effective February 28, 2009.

II. Requests for Rehearing and Clarification

4. Timely requests for clarification and/or rehearing were filed by the American Gas Association (AGA), Dominion Resources, Inc. (Dominion), the Interstate Natural Gas Association of America (INGAA), and the Kansas Corporation Commission (KCC).

A. Other Gas Revenues

5. INGAA and Dominion filed requests for clarification or rehearing of the elimination of an instruction on page 308 of Form Nos. 2 and 2–A. The Final Rule revised page 308 to provide more detail regarding revenues recorded in Account 495, Other Gas Revenues. Previously, pipelines were required to report this information in the aggregate and not required to include detailed information about the nature of the business activities from which the revenues are derived. The Commission determined that it was important for users of the data to understand which customer classes or groups are affected by the miscellaneous gas revenues reported in Form Nos. 2 and 2–A.[4] Accordingly, page 308 was revised to include a breakdown of the types of revenues in Account No. 495 to be separately reported on that schedule.[5]

6. Prior to the revisions adopted in the Final Rule, the instructions for page 308 did not require the revenue information to be broken down but simply stated that transactions (identified in the instructions) with annual revenues of $250,000 or more were to be reported in the aggregate. In the Final Rule, miscellaneous revenue was broken out into ten separate categories and the instructions for page 308, including the $250,000 threshold, were eliminated.[6]

7. INGAA and Dominion request that the Commission reinstate the $250,000 minimum threshold contained in the instructions to page 308 prior to revision of the forms. INGAA notes that in the Final Rule, the Commission reinstated a similar minimum threshold reporting requirement for one existing schedule and inserted the same threshold reporting requirement for another.[7] The Commission agreed with commenters who argued that the absence of such minimum thresholds could add a substantial burden to the forms' filers.[8] We grant rehearing. We agree that a similar burden could be imposed on filers absent the change sought by INGAA and Dominion. Accordingly, we will reinstate a minimum reporting threshold for page 308 and clarify that the reporting requirements for the ten categories of discrete miscellaneous revenues listed thereon be limited to transactions with annual revenues of $250,000 or greater.

B. Shipper-Supplied Gas

8. The Final Rule adopted two new schedules to require natural gas companies to provide detailed information regarding the acquisition and disposition of shipper-supplied gas.[9] The Commission noted that, despite existing accounting and reporting requirements for gas used in

[1] *Revisions to Forms, Statements, and Reporting Requirements for Natural Gas Pipelines*, Order No. 710, 73 FR 19389 (Apr. 10, 2008), FERC Stats. & Regs. ¶ 31,267 (2008) (Final Rule).

[2] *Revisions to Forms, Statements, and Reporting Requirements for Natural Gas Pipelines*, Notice of Proposed Rulemaking, 72 FR 54860 (Sept. 27, 2007), FERC Stats. & Regs. ¶ 32,623 (2007) (NOPR).

[3] *Assessment of Information Requirements for FERC Financial Forms*, Notice of Inquiry, FERC Stats. & Regs. ¶ 35,554 (2007).

[4] *See* Order No. 710 at P 19.

[5] *Id.*

[6] *Id.* at App. C, p. 308.

[7] *Id.* P 22 (pages 357–8 of Form 2).

[8] *Id.*

[9] *Id.* P 16.

operations, gas lost, and gas sold, Form Nos. 2 and 2–A users are unable to readily determine the disposition and value of shipper-supplied gas that exceeds the pipelines' operational needs or the source and cost of any gas acquired to meet deficiencies in shipper-supplied gas.[10] Given the rising cost of gas and a lack of detailed, current information, the Commission adopted new schedules for Form Nos. 2, 2–A and 3–Q to require the following information: (1) The difference between the volume of gas received from shippers and the volume of gas consumed in pipeline operations each month; (2) the disposition of any excess and the accounting recognition given to such disposition including the basis of valuing the gas and the specific accounts charged or credited; and (3) the source of gas used to meet any deficiency and the accounting recognition given to the gas used to meet the deficiency, including the accounting basis of the gas and the specific account(s) charged or credited.[11]

9. The Final Rule declined to adopt additional information requirements related to shipper-supplied gas and concluded that the requested information was already available to the forms' users or that adding requirements might upset the delicate balance between burden and benefit.[12] On rehearing, AGA argues that the Commission erred by failing to adopt AGA's suggestion that the new information reported on pages 521a and 521b of Form Nos. 2, 2–A and 3–Q should be broken down by function and include, by function, the amount of fuel that has been waived, discounted, or reduced as part of a negotiated rate agreement.[13] The Commission declined to adopt the additional detail requested by AGA, pointing out that certain fuel information, broken out by function, is already available on page 520 of Form Nos. 2 and 2–A.[14]

10. AGA's request for rehearing argues that, while page 520 of the form provides certain fuel information by function, the information is not adequate to enable a form user to determine where on the pipeline system fuel costs are being incurred and how they are being allocated.[15] As stated in the Final Rule, Page 520 of Form Nos. 2 and 2–A provides fuel losses by function (unaccounted for gas is broken out by function at lines 30–34).[16] AGA argues that additional detail regarding fuel costs is required for schedules 521a and 521b to ensure that the Commission and pipeline customers have the information required to assess the justness and reasonableness of pipeline rates.[17] The Final Rule approved extensive revisions to Form Nos. 2, 2–A and 3–Q with respect to the disposition of shipper supplied gas, adding two new schedules to the forms to accommodate the information collection.[18] INGAA and other pipeline commenters objected to the changes as burdensome, but the Commission deemed the collection of this information critical in light of the increased impact on the pipeline's cost of service as a result of rising gas prices.[19] At the same time, the Commission noted that the need to provide greater transparency with regard to fuel costs had to be balanced with the additional reporting burdens placed on the pipeline, and the Commission approved the new schedules as a fair reflection of this balance.[20] In addition, the Commission stated that some of the information sought by AGA, i.e., certain data broken out by function, is already available on page 520 of Form Nos. 2 and 2–A and the Final Rule added page 520 to Form No. 3–Q as well. While the detail sought by AGA might provide additional clarity with respect to fuel costs, we do not believe its exclusion will preclude the Commission's or customers' ability to assess the justness and reasonableness of pipeline rates.

11. We also deem unnecessary and burdensome AGA's request that pipelines provide information regarding the amount of fuel that a pipeline has waived, discounted or reduced as part of a negotiated rate agreement. AGA argues that some pipelines currently provide information in periodic fuel reports regarding fuel that has been waived, discounted, or reduced as part of a negotiated rate agreement. In support, AGA cites a fuel report filed by Dominion Transmission, Inc. (Dominion Transmission).[21] The report cited by AGA is a 20-page annual fuel report filed by Dominion Transmission pursuant to a rate settlement agreement, and exceeds, in significant detail, the type of financial and rate information the Commission deems appropriate for Forms 2, 2–A and 3–Q. It is unlikely that all pipelines would have this information readily available since many pipelines do not periodically file to adjust fuel rates and may not keep records of this type of information. Further, it is not apparent that the level of fuel associated with these types of transactions is significant enough to warrant additional reporting requirements. Customers of pipelines that use fuel tracking mechanisms and file periodic true-up reports may explore these issues in the context of the pipeline's periodic fuel filings. For these reasons, we deny AGA's request for rehearing.

C. Reinstatement of Periodic Rate Filing Requirement

12. The KCC's request for rehearing argues that the Final Rule did not address its proposal to reinstate a periodic rate-refiling requirement as a condition to issuance of a blanket certificate for open access transportation service under Part 284 of the Commission's regulations.[22] The KCC states that the Commission has the ability to impose conditions under section 7(c) of the Natural Gas Act (NGA) and that conditioning blanket certificate authority on periodic filing of general section 4 rate cases would be within the Commission's authority.[23] Further, the KCC argues that imposing such a condition would not violate the distinction between sections 4 and 5 of the NGA any more than when the Commission imposed a triennial rate filing requirement as a condition to receipt of a purchased gas adjustment (PGA) clause in pipeline tariffs.[24]

13. Contrary to KCC's claim, the Final Rule addressed its request that the Commission reinstate a periodic rate-refiling requirement.[25] It is well settled that the Commission may not compromise the limits of section 5 of the NGA on the Commission's power to revise rates.[26] The KCC's proposal is inconsistent with that limitation on the Commission's powers. In *PSCNY* v. *FERC*, the court reviewed the Commission's orders in a pipeline's first NGA section 4 rate case after it had received a certificate of public

[10] *See* NOPR at P 37.

[11] *Id.* P 39.

[12] Order No. 710 at P 16.

[13] AGA Request for Rehearing at 2.

[14] Order No. 710 at P 16.

[15] AGA Request for Rehearing at 5.

[16] Order No. 710 at P 16.

[17] *See* AGA Request for Rehearing at 5–6.

[18] *See* Order No. 710 at P 16.

[19] *Id. See also Public Service Commission of New York, Pennsylvania Public Utility Commission and Pennsylvania Office of Consumer Advocate* v. *National Fuel Gas Supply Corp.*, 115 FERC ¶ 61,299 (2006), *order approving uncontested settlement*, 118 FERC ¶ 61,091 (2007).

[20] Order No. 710 at P 16.

[21] *See* AGA Request for Rehearing at 3, citing *Dominion Transmission, Inc.*, Docket No. RP00–632–023.

[22] KCC Request for Rehearing at 8.

[23] *Id.*

[24] *Id.*

[25] *See* Order No. 710 at P 12.

[26] *Public Service Commission of New York* v. *FERC*, 866 F.2d 487, 489 (D.C. Cir. 1989) (*PSNY* v. *FERC*); *see also United Distribution Companies* v. *FERC*, 88 F.3d 1105 (D.C. Cir. 1996).

convenience and necessity pursuant to section 7 of the NGA. In those orders, the Commission approved the pipeline's proposed rates. However, because the pipeline's rate base was expected to continue declining, the Commission required that the pipeline file a new section 4 rate case every three years so as to minimize the possibility of the pipeline recovering an excessive return on equity.[27] The court rejected the Commission's decision and held that the Commission's action would destroy the balance struck by the NGA in sections 4 and 5 of the act.[28] The court further admonished the Commission that it had considered earlier efforts by the Commission to ''escape the inconveniences of § 5,'' citing *Panhandle Eastern Pipe Line Co.* v. *FERC*, 613 F.2d 1120 (D.C. Cir. 1979) (*Panhandle*). In *Panhandle*, the Commission had issued a section 7 certificate and conditioned the certificate on the pipeline's crediting revenues from the new service to customers of other pipeline services. The court labeled the condition as ''a de facto reduction in existing rates,'' and concluded that ''in light of the distinctions between §§ 4 and 5, FERC's proposed tinkering with existing rates would 'effectively emasculate the role of section 5 in the ratemaking scheme'.'' [29]

14. Along the same lines, in *United Distribution Companies* v. *FERC*, the court affirmed the Commission's refusal in Order No. 636 to impose a three-year rate review on open access pipelines with blanket certificates.[30] The court rejected the claim of those in favor of retaining triennial rate review that the market-based sales authority granted to pipelines in Order No. 636 and Straight Fixed Variable (SFV) transportation rate design required by that order are benefits to which a periodic rate filing requirement may be attached.[31] The court pointed out that pipelines were leaving the sales business, and ''whatever the benefits of SFV rate design to pipelines, they are not benefits voluntarily accepted by the pipelines and so cannot be the basis for imposition of periodic rate review.'' [32] The court also cited the decision in *PSCNY* v. *FERC* ''noting that FERC's authority to impose a periodic rate review in the PGA context 'obviously rests on pipeline consent' to triennial rate review in exchange for automatic PGA adjustment authority.'' [33]

15. The relief requested by KCC in this proceeding is the same and must be rejected for the same reasons. As the court has pointed out, the rate refiling requirement that was once imposed in exchange for the pipeline's ability to recover purchased gas costs through a tracker was based upon the voluntary acceptance by the pipeline of a rate refiling condition. In addition, allowing pipelines to track gas costs through a PGA was an exception to the Commission's general ratemaking policy that pipelines may not change individual components of their cost of service without filing a general section 4 rate case. Therefore, if a pipeline chose not to accept the option of PGA recovery of gas costs, its alternative was to adjust its rates for changes in its gas costs in a general section 4 rate case. Because that alternative was consistent with the Commission's general ratemaking policy, it was as consistent with the public interest as the PGA recovery option. KCC's proposal is dissimilar in both respects. In today's natural gas market, open access transportation is so fundamental to the manner in which pipelines conduct business that there is no realistic option for a pipeline not to retain its blanket certificate. The alternative would require a return to the pre-open access past when pipelines provided only individually certificated service requiring abandonment proceedings under section 7 of the NGA and would deprive the pipeline's customers and the public at large of the many benefits of open access transportation service. It is unlikely that a pipeline would ''voluntarily'' consent to such a condition and, in any event, the pipeline's alternative of discontinuing open access transportation service would not be in the public interest.

16. The revisions to Form Nos. 2, 2–A and 3–Q adopted in the Final Rule were designed to provide a level of information that would enhance the ability of the Commission and pipeline customers to assess the justness and reasonableness of pipeline rates. As we stated in the Final Rule, the Commission cannot compel a pipeline to file a rate case under section 4, nor can it preclude it from filing under section 4 for any reason.[34] The Commission's efforts in this regard reflect its awareness that pipeline customers need additional information to make a reasonable assessment of a pipeline's cost of service, and we believe that the Final Rule accomplishes that goal. Accordingly, we deny the KCC's request for rehearing.

D. Miscellaneous

17. Following the issuance of the Final Rule, staff discovered a few inadvertent errors in two of the revised schedules, pages 278 and 299. These revisions are for purposes of clarification and do not affect the level of information requested in the forms.

18. Column (a) on page 278 is revised to reference liabilities rather than assets. The column labeled ''Written off During Quarter/Year Account Charged'' replaces the word ''charged'' with ''credited.'' The column labeled ''Debits'' is revised to read ''Credits.''

19. The instructions to page 299, Monthly Quantity & Revenue Data by Rate Schedule are revised as reflected on the attached schedule.

The Commission Orders

The requests for clarification and/or rehearing are granted in part and denied in part as discussed in the body of this order.

By the Commission. Commissioner Wellinghoff dissenting in part with a separate statement attached.

Kimberly D. Bose,

Secretary.

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[27] *PSNY* v. *FERC*, 866 F.2d at 490.

[28] *Id.*

[29] *PSCNY* v. *FERC*, 866 F.2d at 490. *See also Northern Natural Gas Co.* v. *FERC*, 780 F.2d 59 (D.C. Cir. 1985).

[30] *United Distribution Cos.* v. *FERC*, 88 F.3d 110, 1175–6.

[31] *Id.* at 1176.

[32] *Id.* at 1176.

[33] *Id.* at 1176, citing *PSCNY* v. *FERC*, 866 F.2d at 492.

[34] Order No. 710 at P 12.

Revised Schedules for FERC Forms 2,2-A, and 3-Q

Name of Respondent	This Report is: (1) An Original (2) A Resubmission	Date of Report (Mo. Da. Yr.	Year/Period of Report End of Year/Qtr

Other Regulatory Liabilities (Account 254)

1. Report below the details called for concerning other regulatory liabilities which are created through the ratemaking actions of regulatory agencies (and not includable in other accounts).
2. For regulatory assets being amortized, show the period of amortization in column (a).
3. Minor items (5% of the Balance at the End of the Year for Account 182.3 or amounts less than $250,000, whichever is less) may be grouped by classes.
4. Provide in a footnote, for each line item, the regulatory citation where the respondent was directed to refund the regulatory liability (e.g. Commission Order, state commission order, court decision.

Line No.	Description and Purpose of Other Regulatory Liabilities (a)	Balance at Beginning Current of Quarter/Year (b)	Written off During Quarter/Year Account Credited (c)	Written Off During the Period		Credits (f)	Balance at End of Current Quarter/Year (g)
				Amount Refunded (d)	Amount Deemed Non-Refundable (e)		
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40							
41	Total						

Revised Schedules for FERC Forms 2,2-A, and 3-Q

Name of Respondent	This Report is: (1) An Original (2) A Resubmission	Date of Report (Mo. Da. Yr.	Year/Period of Report End of Year/Qtr

Monthly Quantity & Revenue Data by Rate Schedule

Select the appropriate Month from the dropdown menu.

1. Reference to account numbers in the USofA is provided in parentheses beside applicable data. Quantities must not be adjusted for discounts.
2. Total Quantities and Revenues in whole numbers
3. Report revenues and quantities of gas by rate schedule. Where transportation services are bundled with storage services, reflect only transportation Dth. When reporting storage, report Dth of gas withdrawn from storage and revenues by rate schedule.
4. Revenues in Column (c) include transition costs from upstream pipelines. Revenue (Other) in Column (e) includes reservation charges received by the pipeline plus usage charges, less revenues reflected in Columns (c) and (d). Include in Column (e), revenue for Accounts 490-495.
5. Enter footnotes as appropriate.
6. Select the appropriate Month from the dropdown menu.

Line No.	Item (a)	Quantity (b)	Revenue Transition Costs and Take-or-Pay (c)	Revenue (GRI & ACA) (d)	Revenue (Other) (e)	Revenue (Total) (f)
1	Total Sales (480-488)					
2	Transportation of Gas for Others (489.2 and 489.3)					
2.001	[Rate Schedule Number]					
2.002	[Rate Schedule Number]					
2.003	[Rate Schedule Number]					
2.004	[Rate Schedule Number]					
2.005	[Rate Schedule Number]					
2.006	[Rate Schedule Number]					
2.007	[Rate Schedule Number]					
2.008	[Rate Schedule Number]					
2.009	[Rate Schedule Number]					
2.010	[Rate Schedule Number]					
3	Total Transportation (Other than Gathering)					
4	Storage (489.4)					
4.001	[Rate Schedule Number]					
4.002	[Rate Schedule Number]					
4.003	[Rate Schedule Number]					
4.004	[Rate Schedule Number]					
4.005	[Rate Schedule Number]					
5	Total Storage					
6	Gathering (489.1)					
7	Gathering-Firm					
8	Gathering-Interruptible					
9	Total Gathering (489.1)					
10	Additional Revenues					
11	Products Sales and Extraction (490-492)					
12	Rents (493-494)					
13	Other Gas Revenues (495)					
14	(Less) Provision for Rate Refunds					
15	Total Additional Revenues					
16	Total Operating Revenues (Total of Lines 1, 3, 5, 9, and 15					

Revised Schedules for FERC Forms 2,2-A, and 3-Q

Name of Respondent	This Report is: (1) An Original (2) A Resubmission	Date of Report (Mo. Da. Yr.	Year/Period of Report End of Year/Qtr

Other Gas Revenues (Account 495)

Report below transactions of $250,000 or more included in Account 495, Other Gas Revenues. Group all transactions below $250,000 in one amount and provide the number of items.

Line No.	Description of Transaction (a)	Amount (b)
1	Commissions on Sale or Distribution of Gas of Others	
2	Compensation for Minor or Incidental Services Provided for Others	
3	Profit or Loss on Sale of Material and Supplies not Ordinarily Purchased for Resale	
4	Sales of Stream, Water, or Electricity, including Sales or Transfers to Other Departments	
5	Miscellaneous Royalties	
6	Revenues from Dehydration and Other Processing of Gas of Others except as provided for in the Instructions to Account 495	
7	Revenues for Right and/or Benefits Received from Others which are Realized Through Research, Development, and Demonstration Ventures	
8	Gains on Settlements of Imbalance Receivables and Payables	
9	Revenues from Penalties earned Pursuant to Tariff Provisions, including Penalties Associated with Cash-out Settlements	
10	Revenues from Shipper Supplied Gas	
11	Other revenues (Specify):	
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50		
51		
52	**Total**	

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WELLINGHOFF, Commissioner, *dissenting in part:*

On rehearing, the American Gas Association (AGA) continues to recommend that the Commission require pipelines to provide shipper-supplied gas information reported on Sheets 521a/b by function and to include, by function, the amount of fuel that has been waived, discounted or reduced as part of a negotiated rate agreement. The Commission rejects AGA's proposals. I disagree.

In denying the request for shipper-supplied gas information reported on Sheets 521a/b by function, the majority acknowledges that the detail sought by AGA would bring additional clarity to fuel costs. However, the majority states that the additional information is not needed to assess the justness and reasonableness of the pipeline's rates. The majority further states that the additional reporting would be too burdensome.

The Commission recognizes that shipper-supplied gas information is critical to the clarity and transparency needed to support a reasonable analysis of fuel gas costs.[35] Sheets 521a/b operate in tandem with Sheet 520. Sheet 520 provides fuel gas costs by function. A shipper pays for fuel costs by function whether the fuel rate is fixed or tracked. Sheets 521a/b provide the volume and revenue from the disposition of excess shipper-supplied gas. However, unless Sheets 521a/b are broken out by function, a shipper cannot match the revenues generated by the sale of excess fuel with the functionalized costs. Thus, because the fuel rate would include both gas costs and excess gas revenues, the information sought by AGA is critical to assessing the justness and reasonableness of the pipeline's fuel rates.

In denying the request for the amount of fuel by function that has been waived, discounted or reduced as part of a negotiated rate agreement, the majority states that it is unlikely that all pipelines would have this information readily available. The majority also asserts that it is not apparent that the level of fuel associated with these types of transactions is significant enough to warrant additional reporting.

With most pipeline expansions backstopped with negotiated rate contracts, I believe that the fuel associated with these types of transactions is not insignificant. Regardless of the level of fuel, the Commission has a strict policy that existing shippers must not subsidize the negotiated rate program.[36] In fact, in this proceeding, the Commission has stated that because pipelines may provide services from the same facilities using different rates—negotiated, discounted or recourse rates—it is important to know the level of services provided under each rate structure in order to protect against cross-subsidization. Therefore, fuel costs and revenues of the different types of rate structures broken down by function are critical to assessing the justness and reasonableness of a pipeline's fuel rates.

With regard to the reporting burden, the information requested by AGA is readily available. The pipeline maintains this information by function in order to change its fuel rate either in a tracking mechanism or its next section 4 rate filing, and to assure that its existing customers are not subsidizing the negotiated rate program.[37] The increased burden is related solely to inputting the data in the Form 2. I believe that the increased burden is justified by the utility of the information.

For these reasons, I respectfully dissent in part from today's order.

Jon Wellinghoff,

Commissioner.

[FR Doc. E8–14463 Filed 6–26–08; 8:45 am]

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[35] *Revisions to Forms, Statements, and Reporting Requirements for Natural Gas Pipelines*, Order No. 710, 73 FR 19389 (Apr. 10, 2008), FERC Stats. & Regs. ¶ 31,267 (2008).

[36] *See Alternative Rate Policy Statement*, 74 FERC ¶ 61,076 at 61,242 (1996), and *NorAm Gas Transmission Company*, 77 FERC ¶ 61,011 (1996).

[37] *See Alternative Rate Policy Statement*, 74 FERC ¶ 61,076 at 61,241 (1996).

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[TD 9404]

RIN 1545–BE97

Capital Costs Incurred To Comply With EPA Sulfur Regulations

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Temporary regulations.

SUMMARY: This document contains temporary regulations relating to the deduction provided under section 179B of the Internal Revenue Code (Code) for qualified capital costs paid or incurred by a small business refiner to comply with the highway diesel fuel sulfur control requirements of the Environmental Protection Agency (EPA). The regulations implement changes to the law made by the American Jobs Creation Act of 2004, the Energy Policy Act of 2005, and the Tax Technical Corrections Act of 2007. The text of these temporary regulations also serves as the text of the proposed regulations set forth in the notice of proposed rulemaking on this subject in the Proposed Rules section in this issue of the **Federal Register**.

DATES: *Effective Date:* These regulations are effective on June 27, 2008.

Applicability Date: For dates of applicability, see § 1.179B–1T(f).

FOR FURTHER INFORMATION CONTACT: Nicole Cimino, (202) 622–3110 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

These temporary regulations are being issued without prior notice and public procedure pursuant to the Administrative Procedure Act (5 U.S.C. 553). For this reason, the collection of information contained in these regulations has been reviewed and pending receipt and evaluation of public comments, approved by the Office of Management and Budget under control number 1545–2104. Responses to this collection of information are required to obtain a tax benefit.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number.

For further information concerning this collection of information, and where to submit comments on the collection of information and the accuracy of the estimated burden, and suggestions for reducing this burden, please refer to the preamble to the cross-referencing notice of proposed rulemaking published in the Proposed Rules section in this issue of the **Federal Register**.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Background

This document contains amendments to 26 CFR part 1 providing temporary regulations under section 179B of the Code. Section 179B was added to the Code by section 338(a) of the American Jobs Creation Act of 2004, Public Law 108–357 (118 Stat. 1418), and was modified by section 1324(a) of the