

86. 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.

VIII. Document Availability

87. 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 the Commission's Home Page (<http://www.ferc.gov>) and in the Commission's Public Reference Room during normal business hours (8:30 a.m. to 5 p.m. Eastern time) at 888 First Street, NE., Room 2A, Washington, DC 20426.

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List of Subjects in 18 CFR Part 40

Electric power, Electric utilities, Reporting and recordkeeping requirements.

By direction of the Commission.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 284

[Docket No. RM11-4-000]

Storage Reporting Requirements of Interstate and Intrastate Natural Gas Companies

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission proposes to eliminate the semi-annual storage reporting requirements for Interstate and Intrastate Natural Gas Companies that are currently codified in our regulations. The Commission finds that the reports now proposed for elimination are largely duplicative with other reporting requirements.

DATES: Comments are due November 21, 2011.

ADDRESSES: Comments, identified by docket number, may be filed in the following methods:

- Electronic Filing through <http://www.ferc.gov>. Documents created electronically using word processing software should be filed in native applications or print-to-PDF format and not in a scanned format.

- *Mail/Hand Delivery:* Those unable to file electronically may mail or hand-deliver an original of their comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street, NE., Washington, DC 20426.

Instructions: For detailed instructions on submitting comments and additional information on the rulemaking process, see the Comment Procedures Section of this document.

FOR FURTHER INFORMATION CONTACT: Vince Mareino (Legal Information), Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502-6167, Vince.Mareino@ferc.gov.

Thomas Russo (Technical Information), Office of Enforcement, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502-8792, Thomas.Russo@ferc.gov.

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September 15, 2011.

1. The Commission proposes to eliminate the semi-annual storage reporting requirements for: (1) Interstate natural gas companies subject to the Commission's jurisdiction under the Natural Gas Act (NGA), as codified in 18 CFR 284.13(e); (2) intrastate pipelines providing interstate services pursuant to section 311 of the Natural Gas Policy

Act of 1978 (NGPA),¹ as codified in 18 CFR 284.126(c); and (3) Hinshaw²

¹ 15 U.S.C. 3372.

² Section 1(c) of the NGA exempts from the Commission's NGA jurisdiction pipelines which transport gas in interstate commerce if (1) They receive natural gas at or within the boundary of a state, (2) all the gas is consumed within that state, and (3) the pipeline is regulated by a state Commission. This exemption is referred to as the Hinshaw exemption after the Congressman who introduced the bill amending the NGA to include

pipelines providing interstate services subject to the Commission's Natural Gas Act (NGA) jurisdiction pursuant to blanket certificates issued under § 284.224 of the Commission's regulations, as also codified in 18 CFR

§ 1(c). See *ANR Pipeline Co. v. Federal Energy Regulatory Comm'n*, 71 F.3d 897, 898 (1995) (briefly summarizing the history of the Hinshaw exemption).

284.126(c). The Commission finds that the reports now proposed for elimination are largely duplicative with other reporting requirements.

I. Background

A. Current Regulations

2. Section 284.13(e) of the Commission's regulations requires interstate pipelines to file semi-annual storage reports at the end of each complete storage injection and withdrawal season. Section 284.126(c) requires similar semi-annual reports by section 311 and Hinshaw pipelines providing interstate storage service. The reports by the two sets of pipelines must include:

(1) The identity of each customer injecting gas into storage and/or withdrawing gas from storage (including, for interstate pipelines, any affiliate relationship),

(2) The rate schedule (for interstate pipelines) or docket number (for intrastate pipelines) authorizing the storage injection or withdrawal service,

(3) The maximum storage quantity and maximum daily withdrawal quantity applicable to each storage customer,

(4) For each storage customer, the volume of gas (in dekatherms) injected into and/or withdrawn from storage during the period,

(5) The unit charge and total revenues received during the injection/withdrawal period from each storage customer (including, for interstate pipelines, any discounts), and

(6) For intrastate pipelines, any related docket numbers under which the intrastate pipeline reported storage related injection/withdrawal transportation services.

The pipelines must file these reports within 30 days of the end of each complete storage injection and withdrawal season, and the reports must be signed under oath by a senior official. The Commission has not adopted any standardized electronic form for pipelines to submit the semi-annual storage reports, nor has the Commission expressly required that the reports be public.

3. The Commission adopted the existing semi-annual storage reporting requirements for both interstate and intrastate pipelines in 1992 as part of Order No. 636,³ and there have been only minor modifications in the semi-annual storage reporting requirements

³ Pipeline Service Obligations and Revisions to Regulations Governing Self-Implementing Transportation; and Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol, Order No. 636, FERC Stats. & Regs. ¶ 30,939, *order on reh'g*, Order No. 636-A, FERC Stats. & Regs. ¶ 30,950, *order on reh'g*, Order No. 636-B, 61 FERC ¶ 61,272 (1992), *order on reh'g*, 62 FERC ¶ 61,007 (1993), *aff'd in part and remanded in part sub nom. United Distribution Cos. v. FERC*, 88 F.3d 1105 (D.C. Cir. 1996), *order on remand*, Order No. 636-C, 78 FERC ¶ 61,186 (1997).

since that date.⁴ However, the Commission has added other reporting requirements for both sets of pipelines, which include much of the same information as is included in the semi-annual storage reports.

4. First, in 2000, the Commission issued Order No. 637,⁵ revising the reporting requirements for interstate pipelines in order to require them to post on their internet websites basic information on the terms of each transportation and storage contract with individual shippers, no later than the first nomination under a transaction.⁶ These posting requirements are set forth in section 284.13(b) of the Commission's regulations.⁷ That section requires interstate pipelines to make daily postings of the same types of information about both firm and interruptible storage transactions as is contained in the interstate pipelines' semi-annual storage reports, except for (1) The amount of gas injected and withdrawn from storage by each individual customer, (2) storage revenues from each individual customer, and (3) the rate schedule authorizing the injection or withdrawal service.⁸ Order No. 637 also retained the existing requirement that interstate pipelines post an index of their firm customers each quarter and expanded the information that must be included

⁴ In 1995 in Order No. 581, the Commission held that it would "retain the semi-annual storage reports," and "not exempt intrastate storage companies charging market-based rates from the requirement to file semi-annual storage reports," and made minor changes to the regulatory text. *Revisions to Uniform System of Accounts, Forms, Statements, and Reporting Requirements for Natural Gas Companies*, Order No. 581, 60 FR 53019, 53049-51, FERC Stats. & Regs. ¶ 31,026 (1995), *order on reh'g*, Order No. 581-A, FERC Stats. & Regs. ¶ 31,032 (1996).

⁵ *Regulation of Short-Term Natural Gas Transportation Services and Regulation of Interstate Natural Gas Transportation Services*, Order No. 637, FERC Stats. & Regs. ¶ 31,091, *clarified*, Order No. 637-A, FERC Stats. & Regs. ¶ 31,099, *reh'g denied*, Order No. 637-B, 92 FERC ¶ 61,062 (2000), *aff'd in part and remanded in part sub nom. Interstate Natural Gas Ass'n of America v. FERC*, 285 F.3d 18 (D.C. Cir. 2002), *order on remand*, 101 FERC ¶ 61,127 (2002), *order on reh'g*, 106 FERC ¶ 61,088 (2004), *aff'd sub nom. American Gas Ass'n v. FERC*, 428 F.3d 255 (D.C. Cir. 2005).

⁶ The information to be posted includes the name of the shipper, the contract number (for firm service), the rate charged, the maximum rate, the duration (for firm service), the receipt and delivery points and zones covered, the quantity of natural gas covered, any special terms or details (such as any deviations from the tariff), and whether any affiliate relationship exists.

⁷ 18 CFR 284.13(b).

⁸ Because the semi-annual reporting periods are tied to the injection and withdrawal season, the time periods covered by that report do not correspond with the time periods covered by the interstate pipelines' reports.

in that index.⁹ Among other things, that index must include the rate schedule under which service under each firm contract is provided. However, Order No. 637 did not significantly modify the semi-annual storage reporting requirement for interstate pipelines.¹⁰

5. Order No. 637 did not modify any of the reporting requirements for section 311 and Hinshaw pipelines. However, in 2010, the Commission issued Order No. 735 to bring the transactional reporting requirements for section 311 pipelines and Hinshaw pipelines closer in line with the 18 CFR 284.13(b) posting requirements for interstate pipelines.¹¹ Before Order No. 735, section 284.126(b) required section 311 and Hinshaw pipelines to make an annual report of their transportation transactions excluding storage transactions. Thus, the semi-annual storage report required by section 284.126(c) was the only place where section 311 and Hinshaw pipelines reported their storage transactions. However, Order No. 735 made a number of changes in the former annual transportation reporting requirements at 18 CFR 284.126(b), including requiring that the report cover storage transactions and be filed quarterly. As amended by Order No. 735, section 284.126(b) requires that section 311 and Hinshaw pipelines file the quarterly reports of their transportation and storage transactions in a standardized electronic format, and requires that those reports be public. As revised in a December 2010 order on rehearing, Order No. 735-A, the new quarterly reports must contain the following information on each transportation and storage transaction, aggregated by contract:

i. The full legal name and identification number of the shipper receiving the service, including whether there is an affiliate relationship between the pipeline and the shipper;

ii. The type of service performed (*i.e.*, firm or interruptible transportation, storage, or other service);

iii. The rate charged under each contract, specifying the rate schedule/name of service and docket where the rates were approved. The report should separately state each rate

⁹ Order No. 637 moved the index of customers requirement from § 284.106(c) to § 284.13(c).

¹⁰ Order No. 637 moved the interstate semi-annual storage reporting requirement from § 284.106(b) to § 284.13(e), and eliminated the requirement that interstate pipelines identify in their semi-annual storage reports any related docket numbers under which the interstate pipeline reported storage related injection/withdrawal transportation services.

¹¹ *Contract Reporting Requirements of Intrastate Natural Gas Companies*, Order No. 735, 75 FR 29404, FERC Stats. & Regs. ¶ 31,310, 131 FERC ¶ 61,150, *order on reh'g*, Order No. 735-A, 75 FR 80685, 133 FERC ¶ 61,216 (2010).

component set forth in the contract (*i.e.*, reservation, usage, and any other charges);

iv. The primary receipt and delivery points covered by the contract, identified by the list of points that the pipeline has published with the Commission, which shall include the industry common code for each point where one has already been established;

v. The quantity of natural gas the shipper is entitled to transport, store, or deliver under each contract;

vi. The duration of the contract, specifying the beginning and (for firm contracts only) ending month and year of the current agreement;

vii. Total volumes transported, stored, injected, or withdrawn for the shipper; and

viii. Annual revenues received for each shipper, excluding revenues from storage services. The report should separately state revenues received under each component, and need only be reported every fourth quarter.

6. Thus, the revised quarterly reports require section 311 and Hinshaw pipelines to report the same types of information about firm and interruptible storage transactions as is contained in their semi-annual storage reports, except for storage revenues from each individual storage customer. In addition, because the semi-annual reporting periods are tied to the injection and withdrawal season, the time periods covered by each report do not correspond precisely. Order No. 735 did not modify the existing semi-annual storage reporting requirement for section 311 and Hinshaw pipelines in section 284.126(c) of the Commission's regulations in any way.

B. Notice of Inquiry

7. On rehearing of Order No. 735, several parties argued that the semi-annual storage reporting requirement for section 311 and Hinshaw pipelines at 18 CFR 284.126(c) should be eliminated. The parties argued that Order No. 735 has made the existing semi-annual storage reporting requirement for those pipelines duplicative. In response, in December 2010, the Commission issued a Notice of Inquiry (NOI) to consider whether and how the semi-annual storage reports required of both interstate and intrastate pipelines should be modified.

8. In the NOI, the Commission noted that the semi-annual storage reports overlapped significantly, but not entirely, with the new reporting requirement for intrastate pipelines. The NOI also noted that interstate pipelines, which are not affected by Order No. 735, file semi-annual storage reports as well. Accordingly, the Commission sought comment from all interested parties on the future of the semi-annual storage reports, in light of changes in the natural gas market since the

Commission originally adopted the requirements and in light of recent improvements in the Commission's other reporting requirements.

C. Comments to the Notice of Inquiry

9. Twelve companies and associations, listed in the Appendix to this order, filed comments in response to the NOI. APGA states that it supports increased transparency, and specifically advocates that all pipelines should report revenues received from each storage customer. IOGA comments that it "supports the maximum reasonable level of transparency,"¹² and specifically recommends that (1) Form 549D be expanded to collect information on storage compressor fuel and lost and unaccounted-for gas, (2) interstate pipelines be required to show the rate components in each storage customer's contracts separately and also "show recourse rates, the customers under such rates, and any discounted or negotiated rate customer separately,"¹³ and (3) cost-of-service storage providers be required to provide individual customer revenue.

10. No other parties advocate any expansion of the current reporting requirements. The other industry associations that filed comments, AGA, INGAA, NGSAA, and TPA, are all in consensus that "the Commission should focus its efforts on ensuring that the transparency requirements that are already in place for pipelines are effectively applied."¹⁴ AGA, INGAA, and TPA, who generally represent the Hinshaw, interstate, and section 311 pipelines, respectively, urge the Commission to eliminate the semi-annual storage report. The remaining comments, all from storage companies (Enstor, Jefferson, Niska, Northern, Spectra, and DTE) were either partly opposed¹⁵ or totally opposed¹⁶ to continuing the existing semi-annual storage report. These commenters point out that, with respect to section 311 and Hinshaw pipelines, the existing semi-annual storage reports largely duplicate the new Order No. 735 quarterly reports, and with respect to interstate pipelines, semi-annual storage reports largely duplicate the section 284.13(b) Web site posting requirements. Therefore, they contend, the Commission should reduce

or eliminate the semi-annual reporting requirements.

D. Executive Orders

11. On January 18, 2011, President Obama issued Executive Order 13563, "Improving Regulation and Regulatory Review," (EO 13563)¹⁷ and a presidential memorandum on regulatory flexibility, small business, and job creation (Regulatory Flexibility Memo).¹⁸ The Commission, as an independent agency, is not subject to requirements of those presidential documents. Nonetheless, Chairman Wellinghoff directed Commission staff to perform an internal assessment of the effectiveness of Commission regulations. Subsequently, on July 11, 2011, the President issued an executive order asking independent regulatory agencies such as the Commission to take steps to reassess and streamline existing regulations.¹⁹

12. The Commission continually seeks to streamline its regulations in order to foster competitive markets, facilitate enhanced competition, and avoid imposing undue burdens on regulated entities or unnecessary costs on those entities or their customers. We note that the NOI in this proceeding was issued in December 2010, before issuance of the above-noted executive orders. In analyzing the comments received in response to the NOI, the Commission considered the goals of those Executive Orders. In this Notice of Proposed Rulemaking, the Commission is seeking to streamline our natural gas pipeline reporting requirements, as part of our continuing efforts to ensure Commission regulations are effective, timely, and up to date.

II. Discussion

13. In this Notice of Proposed Rulemaking, the Commission is proposing to delete both sections 284.13(e) and 284.126(c) from our regulations. The semi-annual storage reporting requirements in those regulations appear for the most part to duplicate other reporting requirements. To the extent those reports do include information not reported elsewhere, the burden of requiring pipelines to report that information appears to outweigh any benefits to the Commission or the public of requiring such information to continue to be reported on a regular basis. If such information is needed in a particular case, the Commission

¹² IOGA comments at 1.

¹³ IOGA comments at 5.

¹⁴ NGSAA comments at 2.

¹⁵ *E.g.*, Northern comments at 3 ("The report should not duplicate any information already provided publicly elsewhere.")

¹⁶ *E.g.*, Jefferson comments at 3 ("Jefferson Island believes that the Commission should eliminate the requirement for semi-annual storage reports.")

¹⁷ 76 FR 3,821 (Jan. 21, 2011).

¹⁸ 76 FR 3,827 (Jan. 21, 2011).

¹⁹ *Regulation and Independent Regulatory Agencies*, Exec. Order 13579, 76 FR 41587 (2011). The Commission is in the process of implementing this executive order.

retains the ability to seek such information through a data request to the pipeline in question.

A. Interstate Storage Reports

14. The Commission proposes eliminating 18 CFR 284.13(e), which requires semi-annual storage reports from interstate pipelines. That report is no longer necessary for shippers to make informed decisions about their capacity purchases, or for the Commission and shippers to monitor storage transactions to determine if market power is being exercised.

15. As described above, since Order No. 637 took effect over ten years ago, interstate pipelines have been required to post on their internet Web sites basic information, in downloadable file formats, on the terms of each transportation and storage contract with individual shippers, no later than the first nomination under a transaction. As detailed in 18 CFR 284.13(b), for every transaction, including capacity release transactions, the pipeline must post:

- a. The full legal name, and identification number, of the shipper receiving service;
- b. The rate charged;
- c. The maximum rate;
- d. The receipt and delivery points covered between which the shipper is entitled to transport gas at the rate charged, including the industry common code for each point, zone, or segment;
- e. The quantity of gas the shipper is entitled to transport;
- f. Special details pertaining to the agreement, including conditions applicable to a discounted transportation contract and all aspects in which the agreement deviates from the pipeline's tariff; and
- g. Whether the shipper is affiliated with the pipeline.

In addition, for firm or capacity release contracts, the pipeline must post:

- h. The contract number,
- i. The duration of the contract, and
- j. Whether the transaction involves a capacity release to an asset manager or a retail access program.²⁰

16. As the Commission held in Order No. 637, the transactional information included in the interstate pipelines' daily postings of both transportation and storage contracts "provides price transparency so shippers can make

²⁰ Section 284.13(c) also requires interstate pipelines to post at the beginning of each quarter an index of their firm transportation and storage customers, including information about the shippers' contractual entitlements and the duration of their contracts, but not the rates to be paid by the shipper.

informed purchasing decisions, and also permits both shippers and the Commission to monitor actual transactions for evidence of the possible abuse of market power."²¹ There appears no need to require interstate pipelines to continue filing an additional semi-annual report of their storage transactions containing much the same information Order No. 637 requires them to post on a daily basis to accomplish the goal of price transparency. The Commission does not require interstate pipelines to file any comparable additional report of their non-storage transportation transactions. Thus, since the issuance of Order No. 637 in 2000, industry participants have been relying primarily on the pipelines' daily postings required by section 284.13(b) to obtain information about individual non-storage transportation transactions.²² There appears to be nothing unique about storage transactions which requires more stringent reporting requirements than for other transportation transactions in order to accomplish the goal of price transparency.

17. The Commission recognizes that the semi-annual storage reports do provide certain information that is not provided by the interstate pipelines' daily 18 CFR 284.13(b) Web site postings. This information includes:

- i. the volume of gas actually injected into and/or withdrawn from storage for each customer during each complete storage injection and withdrawal period, and
- ii. the total revenues received during the injection/withdrawal period from each storage customer, including any discounts.²³

18. These two elements are not available to the public on a per-customer basis in any other report.

²¹ Order No. 637, FERC Stats. & Regs. ¶ 31,091 at 31,320.

²² The Commission also requires interstate pipelines to file each of their negotiated rate transactions with the Commission for its approval, thereby providing other shippers notice and an opportunity to comment on each such transaction. See *Natural Gas Pipeline Negotiated Rate Policies and Practices*, 104 FERC ¶ 61,134, at P 31-34 (2003). Similarly, the Commission requires interstate pipelines to file all contracts which materially deviate from the form of service agreements in their tariffs. See *Southern Star Central*, 125 FERC ¶ 61,082 (2008); *Natural Gas Pipeline Negotiated Rate Policies and Practices*, 104 FERC ¶ 61,134 (2003), *order on rehearing and clarification*, 114 FERC ¶ 61,042 (2006); *Columbia Gas Transmission Corp.*, 97 FERC ¶ 61,221, at 62,010 (2001).

²³ The daily postings also do not include the rate schedule authorizing the injection or withdrawal service. However, section 284.13(c) requires that this information be included in the Index of Customers for firm shippers, and no commenter has expressed concern about not collecting this information for interruptible storage service.

However, the primary value of information about volumes of gas injected into and withdrawn from storage is to permit shippers to monitor the availability of storage capacity and whether shippers or the pipeline are withholding storage capacity.²⁴ Section 284.13(d) requires interstate pipelines to provide on their websites "equal and timely access to information relevant to the availability of all transportation services whenever capacity is scheduled, including * * * in storage fields, whether the capacity is available directly from the pipeline or through capacity release."²⁵ While these postings do not provide individual shipper injection and withdrawal information, they appear far more useful to shippers because they provide information about the availability of capacity at the time shippers are seeking to schedule capacity. By contrast, the semi-annual storage reports are not filed until up to 30 days after the completion of each injection and withdrawal season. The Commission also notes the commenters opposing elimination of the semi-annual storage reports have not explained how the after-the-fact customer-by-customer storage injection and withdrawal information significantly benefits the market. This suggests that the alternative reporting requirements do indeed meet the market's needs, and that the semi-annual storage report is duplicative.

19. On the per-customer revenue reporting requirement, which is not collected by other reporting requirements, only APGA and IOGA support its retention. APGA argues this requirement is useful to "indicate whether * * * providers * * * should have their market-based authorization reviewed."²⁶ IOGA supports revenue reporting for cost-of-service interstate storage providers, but, in contrast to APGA, IOGA agrees that market-based storage providers need not have the same reporting obligations with respect to revenues.²⁷

20. APGA has not explained how per-customer revenue information would significantly enhance the Commission and the parties' ability to determine whether a market-based interstate storage provider should have its authorization to charge market-based

²⁴ See Order No. 637, FERC Stats. & Regs. ¶ 31,091 at 31,320.

²⁵ In addition, the Energy Information Administration publishes weekly underground storage data, including base gas, working gas in storage, and injection and withdrawal volumes by storage facility type and region. Available at <http://www.eia.gov/naturalgas/data.cfm#storage>.

²⁶ APGA comments at 4.

²⁷ IOGA comments at 5.

rates reviewed. The determination whether a storage provider lacks market power, thus justifying market-based rates, turns on the available competitive alternatives to the storage provider in its relevant markets, the market concentration in those markets, and the storage providers' market share.²⁸ In addition, section 284.504(b) of the Commission's regulations requires storage providers with market-based rates to notify the Commission within 10 days of acquiring knowledge of significant changes occurring in its market power status. Such changes are generally matters affecting the storage provider's market share, as opposed to the revenues the storage provider has collected from individual shippers. In any event, while the section 284.13(b) daily postings do not require interstate storage providers with market-based rates to post the revenues collected from each customer, that section does require such storage providers to post the per-unit rates they charge to each customer, thus enabling shippers to monitor the storage provider's actions for potentially discriminatory practices.

21. With regard to IOGA's concerns about the reporting of per-customer revenue information by cost-based interstate storage providers, the Commission similarly finds that IOGA has not shown that the benefit of reporting such per-customer revenue information in addition to the per-unit rate information already posted on a daily basis outweighs the burden of such a reporting requirement. Sections 260.1 and 260.2 of the Commission's regulations require cost-based interstate storage providers to file either a Form 2 or a Form 2-A each year containing extensive revenue and cost data. This enables the Commission and shippers to review whether the pipeline is significantly over-recovering its costs. The Commission also notes that neither party has shown that customers are using the revenue data already available through the existing semi-annual storage reports.

22. IOGA recommends that interstate pipelines also be required to show their recourse rates, the customers under such rates, and any discounted or negotiated rate separately. However, section 284.13(b)(1)(iv) and (b)(2)(iii) already requires interstate pipelines to post both the maximum rate applicable to each contract and the actual rate charged under that contract. Moreover, pursuant to standards adopted by NAESB, those postings must separately

state the components of the contract rate, including surcharges.²⁹ In addition, section 284.13(c)(2)(vii) requires that the Index of Customers posted by the interstate pipeline indicate whether each firm shipper's rate is a negotiated rate.

23. Finally, the Commission notes that it retains its ability to obtain any of the above discussed information in response to individual filings under sections 4 and 5 of the Natural Gas Act, and through its investigative authority. No party, however, has provided comments explaining how storage customers would benefit from having this information from all pipelines on a generic basis rather than a case-by-case basis. Nor has any party provided comments explaining how this benefit would outweigh the filers' burden. Thus, the Commission proposes in this notice to eliminate 18 CFR 284.13(e), and does not propose to introduce any new reporting requirements for interstate storage facilities at this time.

B. Intrastate and Hinshaw Storage Reports

24. The Commission also proposes eliminating 18 CFR 284.126(c), which requires semi-annual storage reports from section 311 and Hinshaw pipelines for much the same reasons as the Commission proposes to eliminate the corresponding reporting requirement for interstate pipelines. In Order Nos. 735 and 735-A, the Commission specifically copied all the substantive elements of the semi-annual storage reports in developing the requirements for the new quarterly transportation for both transportation and storage transactions, except that the Commission did not require section 311 and Hinshaw storage providers to report the revenues collected from each storage customer. In addition, because the semi-annual reporting periods are tied to the injection and withdrawal season, the time periods covered by each report do not correspond precisely.

25. Accordingly, as numerous commenters have pointed out, for section 311 and Hinshaw pipelines, the semi-annual storage reports are now largely duplicative. As discussed in the preceding section, APGA and IOGA have both expressed concern about eliminating the requirement for pipelines to report per-customer storage revenues. In Order Nos. 735 and 735-A, the Commission considered requiring individual customer storage revenue in the quarterly reports, as IOGA and APGA request, but chose not to implement that requirement pending

the present proceeding. As discussed in the preceding section, APGA argues this requirement is useful for purposes of determining whether a storage provider should have its market-based authorization reviewed; however, APGA has not explained how per-customer revenue information would significantly enhance the Commission's and the parties' ability to determine whether a market-based storage provider should have its authorization to charge market-based rates reviewed. IOGA supports requiring storage providers with cost-based rates to report per-customer revenues, but states it is more concerned with interstate storage providers than with section 311 or Hinshaw storage providers. In the present proceeding, no new evidence or arguments have come to light that compel us to require section 311 and Hinshaw storage providers to report per-customer storage revenue. The pipelines commenting in this proceeding have provided detailed arguments that providing the public with individual customer storage revenue is burdensome, while proponents of collecting this information have only offered basic statements of support.

26. IOGA recommends that the Form 549D be expanded to collect information on "storage compressor fuel and lost and unaccounted-for gas * * * to better understand what is reasonable in the industry and as an alert to potential problems."³⁰ The Commission does collect this information for interstate pipelines on Form 2,³¹ but does not currently collect it for section 311 and Hinshaw pipelines. Where section 311 and Hinshaw pipelines apply a separate charge in their rates, the Commission generally either requires the pipeline to establish a tracker and true-up mechanism in their statements of operating conditions (e.g., for fuel and lost or unaccounted-for gas), or else the Commission reviews the charge as part of its periodic rate review every five years. In its regularly scheduled tracker filings, the pipeline bears the burden to demonstrate that its proposed updated reimbursement percentages are fair and equitable. This established method allows the Commission and customers to scrutinize fuel use on a case-by-case basis, taking into account the unique operational

³⁰ IOGA at 4.

³¹ *Revisions to Forms, Statements, and Reporting Requirements for Natural Gas Pipelines* Order No. 710, FERC Stats. & Regs. ¶ 31,267 (2008) (Order No. 710); *order on reh'g and clarification*, Order No. 710-A, 123 FERC ¶ 61,278 (2008), Order No. 710-B, 76 FR 4516 (Jan. 26, 2011), 134 FERC ¶ 61,033 (2011), *order on reh'g*, Order No. 710-C 136 FERC ¶ 61,109 (2011).

²⁸ See 18 CFR 284.503(b) (adopted by Order No. 678, *Rate Regulation of Certain Natural Gas Storage Facilities*, 71 FR 36636, 115 FERC ¶ 61, 343 (2006)).

²⁹ NAESB WGQ Standards 5.4.20-5.4.22.

characteristics of each storage facility. Accordingly, we decline to impose the added burden of collecting this information again on a generic basis in Form 549D.

27. Finally, no commenter has indicated that there is a continuing need for section 311 and Hinshaw transactional information to be reported by injection and withdrawal seasons, as opposed to on a quarterly basis.

28. Accordingly, the Commission proposes in this notice to eliminate 18 CFR 284.126(c), and does not propose to introduce any new reporting requirements for section 311 and Hinshaw storage facilities at this time.

III. Regulatory Requirements

A. Information Collection Statement

29. The Office of Management and Budget (OMB) regulations require that OMB approve certain reporting, record keeping, and public disclosure requirements (collections of information) imposed by an agency.³² Therefore, the Commission is providing notice of its proposed elimination of the information collections.³³ This proposed rule will be submitted to OMB for review in accordance with the Paperwork Reduction Act of 1995.³⁴

30. Under the Paperwork Reduction Act and OMB's implementing

regulations, OMB clearance for information collections in current rules should be current and active. In separate Docket No. IC11-549-000, the Commission is requesting comments on the need for and burden related to the FERC-549 in order to ensure OMB approval continues while the Commission obtains comments and completes action in Docket No. RM11-4.³⁵

31. The Commission is proposing to eliminate two reporting requirements and to remove the burden of those requirements from jurisdictional entities.

Information Collections:

Information collection (or part of) proposed for deletion in NOPR in RM11-4	Part of OMB control No.	Number of respondents	Number of filings per respondent per year	Burden hrs. per filing	Annual burden hrs. per respondent	Total annual burden hrs., proposed for deletion
		(a)	(b)	(c)	(b × c)	(a × b × c)
FERC-549, for the requirements in 18 CFR 284.13(e) ..	1902-0086	155	2	12	24	3720
FERC-537, for the requirements in 18 CFR 284.126(c)	1902-0060	50	2	27	54	2700
Grand Total	205	6420

Title: Semi-annual storage reporting requirements for Interstate and Intrastate Natural Gas Companies (currently codified in 18 CFR 284.13(e) and 18 CFR 284.126(c)).

Respondents: Interstate and Intrastate Natural Gas Companies.

32. *Internal review:* The Commission has reviewed the semi-annual storage reporting requirements for Interstate and Intrastate Natural Gas Companies that are currently codified in 18 CFR 284.13(e) and 18 CFR 284.126(c). The Commission has determined that the reports now proposed for elimination are largely duplicative of other reporting requirements.

33. Interested persons may obtain information on the reporting requirements proposed for deletion 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 proposed for deletion in 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 *oira_submission@omb.eop.gov*. Please reference OMB Control Nos. 1902-0169 and 1902-0089 in your submission.

B. Environmental Analysis

34. 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.³⁶ The Commission has categorically excluded certain actions from these requirements as not having a significant effect on the human

environment.³⁷ The actions proposed to be taken here fall within categorical exclusions in the Commission's regulations for rules that are corrective, clarifying, or procedural, for information gathering, analysis, and dissemination, and for sales, exchange, and transportation of natural gas that requires no construction of facilities.³⁸ Therefore an environmental review is unnecessary and has not been prepared in this rulemaking.

C. Regulatory Flexibility Act [Analysis Or Certification]

35. The Regulatory Flexibility Act of 1980 (RFA)³⁹ generally requires a description and analysis of proposed rules and final rules that will have significant economic impact on a substantial number of small entities. Most of the natural gas companies regulated by the Commission do not fall within the RFA's definition of a small entity.⁴⁰ Any economic impact from the

³² 5 CFR 1320.

³³ In the Notice of Inquiry in Docket No. RM11-4, the Commission referred to the FERC Form No. 549B reporting requirements (in 18 CFR 284.13(e), OMB Control No. 1902-0169) and the Form No. 549 reporting requirements (in 18 CFR 284.126(c), OMB Control No. 1902-0089). After further review, we have determined that the affected reporting requirements are included instead in FERC-549 (18 CFR 284.13(e), OMB Control No. 1902-0086) and in FERC-537 (18 CFR 284.126(c), OMB Control No. 1902-0060).

³⁴ 44 U.S.C. 3507(d).

³⁵ FERC-549 includes the Semi-Annual Storage Reports for Interstate Pipelines, in 18 CFR 284.13(e), and several other reporting requirements. The Notice in Docket IC11-549-000 was issued July 28, 2011 (76 FR 46783, August 3, 2011) as part of the OMB clearance process for the entire set of requirements under FERC-549. In Docket No. IC11-549-000, the Commission is seeking to continue the OMB clearance for the Semi-Annual Storage Reports for Interstate Pipelines in 18 CFR 284.13(e) until the resolution of the final rule in Docket No. RM11-4.

³⁶ Order No. 486, *Regulations Implementing the National Environmental Policy Act*, 52 FR 47897

(Dec. 17, 1987), FERC Stats. & Regs. Preambles 1986-1990 ¶ 30,783 (1987).

³⁷ 18 CFR 380.4.

³⁸ See 18 CFR 380.4(a)(2)(ii), 380.4(a)(5), and 380.4(a)(27).

³⁹ 5 U.S.C. 601-612.

⁴⁰ See 5 U.S.C. 601(3) (citing section 3 of the Small Business Act, 15 U.S.C. 623, which defines a "small business concern" as a business which is independently owned and operated and which is not dominant in its field of operation. The Small Business Size Standards component of the North American Industry Classification System defines a small natural gas pipeline company as one that

proposed rulemaking would be due to the elimination of unnecessary filing burdens and costs on small and large entities. Accordingly, the Commission certifies that this proposed rule will not have a significant impact on a substantial number of small entities.

D. Comment Procedures

36. 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 November 21, 2011. Comments must refer to Docket No. RM11-4-000, and must include the commenter's name, the organization they represent, if applicable, and their address in their comments.

37. 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.

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

39. 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.

E. Document Availability

40. 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 the Commission's Home Page (<http://www.ferc.gov>) and in the Commission's Public Reference Room during normal business hours (8:30 a.m. to 5 p.m. Eastern time) at 888 First Street, NE., Room 2A, Washington, DC 20426.

41. From the Commission'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.

42. User assistance is available for eLibrary and the Commission's Web site during normal business hours from the Commission's Online Support at (202) 502-6652 (toll free at 1-(866) 208-3676) or e-mail 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 284

Continental shelf, Natural gas, Reporting and recordkeeping requirements.

By direction of the Commission.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

In consideration of the foregoing, the Commission proposes to amend Part 284, Chapter I, Title 18, *Code of Federal Regulations*, as follows.

PART 284—CERTAIN SALES AND TRANSPORTATION OF NATURAL GAS UNDER THE NATURAL GAS POLICY ACT OF 1978 AND RELATED AUTHORITIES

1. The authority citation for part 284 continues to read as follows:

Authority: 15 U.S.C. 717-717w, 3301-3432; 42 U.S.C. 7101-7352; 43 U.S.C. 1331-1356.

§ 284.13 [Amended]

2. In § 284.13, remove paragraph (e) and paragraph (f) is redesignated as paragraph (e).

§ 284.126 [Amended]

3. In § 284.126, remove paragraph (c).

Note: The following appendix will not appear in the Code of Federal Regulations.

Appendix

List of Commenters and Abbreviations

Commenter	Abbreviation
American Gas Association	AGA
American Public Gas Association	APGA
Enstor Operating Company, LLC	Enstor
Independent Oil and Gas Association of West Virginia	IOGA
Interstate Natural Gas Association of America	INGAA
Jefferson Island Storage & Hub, LLC	Jefferson
Natural Gas Supply Association	NGSA
Niska Gas Storage LLC	Niska
Northern Natural Gas Company	Northern
Spectra Energy Transmission, LLC & Spectra Energy Corp	Spectra
Texas Pipeline Association	TPA
Washington 10 Storage Corp. & Michigan Consolidated Gas Co	DTE

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transports natural gas and whose annual receipts

(total income plus cost of goods sold) did not exceed \$7 million for the previous year).