

SUPPLEMENTAL SUPPORTING STATEMENT FOR
FERC-580 "Interrogatory on Fuel and Energy Purchase Practices
Pursuant to Section 205(f)(2) of the Federal Power Act"

The Federal Energy Regulatory Commission (FERC/Commission) requests a three-year extension (through 06/30/2010) of OMB approval for FERC-580, "Interrogatory on Fuel and Energy Purchase Practices Pursuant to Section 205(f)(2) of the Federal Power Act," which expires 06/30/2007.

A. Justification

1. CIRCUMSTANCES THAT MAKE THE COLLECTION OF INFORMATION NECESSARY

The information collected under FERC-580 (Attachment A) is used by the Commission to implement statutory provisions governed by Section 205(f) of the Federal Power Act (FPA) as amended by Section 208 of the Public Utility Regulatory Policies Act of 1978 (PURPA) (Attachment B). The FERC-580 interrogatory began in 1979 with a Commission Order under Docket No. IN79-6 (Attachment C), to collect the information every other year as mandated by statute.

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

The FERC-580 interrogatory is conducted every other year and collects information from public utilities subject to Commission jurisdiction, which own or operate power plants that generate a minimum of 50MW. Presently there are 114 public utilities subject to this requirement.

The information collected through the FERC-580 interrogatory is used by Commission staff to review utility fuel purchase and cost recovery practices through wholesale fuel adjustment clauses (FACs), to insure efficient use of resources, in compliance with the Commission's FAC regulations promulgated in 18 CFR§35.14 (Attachment D). The information is also used by the Commission to evaluate fuel costs in individual rate filings and to supplement periodic utility audits. The information has been used by the Energy Information Administration under a Congressional mandate to study various aspects of coal, oil, and gas

transportation rates. The public as well, use the information in this manner. Without the FERC-580 interrogatory, the Commission would not have the requisite information available to conduct the necessary review as mandated under the FPA.

As the electric industry is moving from traditional cost-based rates to market-based rates for power sales, the Commission recognizes that there is a diminishing number of utilities with FACs and thus a diminishing need for this requirement. The number of utilities with FACS has dropped from 84 in the 1994-95 collection to 47 in the 2004-05.

3. DESCRIBE ANY CONSIDERATION OF THE USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN AND TECHNICAL OR LEGAL OBSTACLES TO REDUCING BURDEN

At present, FERC-580 filings are mailed or hand-delivered in hard copy and diskette to the Secretary of the Commission. The Commission has an on-going program to explore the possibility of replacing the existing paper/diskette system with an electronic system. However, it must be taken into consideration that the information submitted varies among utilities. Provided is fuel contract information in varying terms, free form text explanations to questions, and attachments consisting of corporate studies and audits. This is not a collection of standardized data. Therefore, it is not currently a good candidate for electronic filing.

4. DESCRIBE EFFORTS TO IDENTIFY DUPLICATION AND SHOW SPECIFICALLY WHY ANY SIMILAR INFORMATION ALREADY AVAILABLE CANNOT BE USED OR MODIFIED FOR USE FOR THE PURPOSE(S) DESCRIBED IN INSTRUCTION 2.

The Commission collects fuel cost data in its Form 423, "Monthly Report of Cost and Quality of Fuels for Electric Plants" (Attachment E) which compliments that of the FERC-580. The information collected on the Form 423 is not duplicative and there is no other known source for the FERC-580 information.

5. METHODS USED TO MINIMIZE BURDEN IN COLLECTION OF

INFORMATION INVOLVING SMALL ENTITIES

This investigation does not collect information from small entities.

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

FERC-580 information is collected every other year as required under Section 205(f)(2) of the FPA as amended by Section 208 of PURPA. If the collection were conducted less frequently, the Commission would not be in compliance with this statute.

7. EXPLAIN ANY SPECIAL CIRCUMSTANCES RELATING TO THE INFORMATION COLLECTION

There are no special circumstances requiring the collection to be conducted in a manner inconsistent with FPA Section 205(f) as amended by Section 208 of PURPA and subsequently the Commission Order issued under Docket No. IN79-6.

8. DESCRIBE EFFORTS TO CONSULT OUTSIDE THE AGENCY: SUMMARIZE PUBLIC COMMENTS AND THE AGENCY'S RESPONSE TO THESE COMMENTS

The Notice of proposed information collection and request for comments was published in the Federal Register on December 7, 2006 (Attachment F). It generated comments from Entergy Services, Inc. (Entergy) and Wisconsin Electric Power Company (Wisconsin) (Attachments G and H).

Entergy's Comments:

Entergy believes that the information is not necessary for the Commission to perform its functions.

Commission Response: There is a statutory requirement to examine whether fuel costs recovered automatically by utilities through FACs are just and reasonable. As long as there are utilities with cost-based rates and wholesale fuel adjustment clauses, the Commission must oversee industry's use of them and it would take an act of Congress repealing Section 205(f) of the Federal Power Act to change this.

Entergy states that the data gathered is of very limited practical use in terms of identifying industry-wide trends or practices.

The Commission agrees with this statement.

FERC-580 has limited practical use since it only includes long-term fossil fuel contracts, and only high-level data regarding purchases.

The Commission designed the FERC-580 for the sole purpose of assessing use of FACs in the recovery of fuel and economic power purchase costs. The interrogatory has no limitations in that mission. Entergy points out that there is increased use of short term natural gas contracts at the expense of long term contracts but doesn't draw any connection as to how this would hamper Commission study of FAC practices. The Commission continues to sufficiently study FAC use with long term contract information and does not see the necessity of further burdening utilities with the requirement to submit short term contract information as well. After studying the information collected, if the Commission needs more detail, it is requested of the specific utility of interest.

Entergy also states that since the interrogatory is collected "eight months after the end of the second reporting year," the Commission does not have "any kind of real-time opportunity to see what may or may not be happening with respect to the efficient use of resources, Form 580 is useless."

Staff review of the information collected is examined for compliance with Commission FAC regulations in 18 CFR§35.14. The timeliness of the information collected has no bearing upon the review. By "efficient use of resources," the Commission refers to Webster's definition of efficiency: "producing the desired effect or result."¹

Entergy states that the reported information is aggregated on a yearly basis.

The Commission is assuming Entergy is referring to question 3 in this comment and is concerned with the significant burden it would add were the information requested for question 3 collected on a monthly, or some other shorter term basis. After studying the information collected, if the Commission needs more detail, it is requested of the specific utility of interest.

¹ Webster's New World Dictionary of the American Language, College Edition, 1966, The World Publishing Company.

Entergy states that only “high-level data regarding purchases” is collected.

It is unknown what Entergy is referring to here, as the information collected is quite detailed and is anything but “high-level”. Historically, the Commission has reviewed this information on a contract basis and in great detail.

Entergy feels that FERC-580 is largely duplicative of what is provided in Form 423 and that because of this, Entergy recommends that the Commission eliminate the FERC-580. They also state that the Form 423 is not limited to utilities with a fuel adjustment clause and that FERC-580 includes a small amount of information that is not included in Form 423.

The information collected in the Form 423 is insufficient for FAC study. The information collected on FERC-580 that is not collected on the Form 423 includes: audits, studies, and reports of fuel supply contracts, fuel procurement policies and practices; names and addresses of fuel suppliers; the nature of any association between the utility and the fuel supplier; detailed contract information such as the date of the first contract signing, contract expiration, renegotiations, renewals and price reopeners and much, much more. See Attachments A and E.

Finally, Entergy notes that the Commission’s burden estimate for the FERC-580 collection is “reasonably close.”

Wisconsin Electric Power Company’s comments:

Wisconsin comments that it would be helpful if the Commission would, in issuing instructions for the completion of FERC-580, give a clearer picture of how it reviews and processes the information contained in the filings. Wisconsin then could more easily recommend ways to streamline the collection. Also, Wisconsin notes that the FERC-580 should be updated to recognize that many respondents are no longer in a position to provide the number and cost of emissions allowances recovered through the FAC during the year as this information is now supplied by the independent system operator not the individual utilities.

The Commission appreciates this information and will take it into consideration in future OMB renewals and in drafting the next FERC-580 interrogatory.

9. EXPLAIN ANY PAYMENT OR GIFTS TO RESPONDENTS

No gifts or payments have been made to the respondents.

10. DESCRIBE ANY ASSURANCE OF CONFIDENTIALITY PROVIDED TO RESPONDENTS

The FERC-580 is a public collection. No assurance of confidentiality has been made to any respondent.

11. PROVIDE ADDITIONAL JUSTIFICATION FOR ANY QUESTIONS OF A SENSITIVE NATURE THAT ARE CONSIDERED PRIVATE.

There are no questions of a sensitive nature that are considered private.

12. ESTIMATED BURDEN OF COLLECTION OF INFORMATION

Section 205(f) of the FPA requires electric power producers having electric generating plants with a rated capacity of 50 MW or greater to file FERC-580 information biennially. Currently, this data is filed with the Commission in hard copy and on diskette. There is no change in burden from the previous review.

Estimated number of respondents	114 respondents
Average number of hours per response	63.16 hours
Frequency of responses	0.5 per year
Total estimated annual burden	3,600 hours
Current Burden hours	3,600 hours

13. ESTIMATE OF THE TOTAL ANNUAL COST BURDEN TO RESPONDENTS

Total					
				Number of	Cost
				Total	
□	Hours per	x	Staff	per	
	<u>Burden Hours</u>				<u>Staff year</u>
			Annualized		<u>Employee²</u>
					=
					<u>Cost</u>
	3,600			□	2,080
					x
					\$122,137
				=	\$
					211,391

14. ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT

(a) Forms Clearance, Processing, Review	\$ 6,039
(b) Dissemination of data (1 FTE)	\$122,137
Year of Operation	\$128,176

The estimate of the cost to the Federal Government is based on salaries for professional and clerical support, as well as direct overhead costs.

2 The "Cost per Staff Employee" estimate is based on the estimated annual allocated cost per Commission employee for Fiscal year 2006. The estimated \$122,137 "cost" consists of salaries and benefits.

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

There is no change in burden.

16. TIME SCHEDULE FOR THE PUBLICATION OF DATA

The information collected in this FERC-580 interrogatory is not published. Filings are made available to the public however, through the Commission's eLibrary accessible over the Commission's web site: <http://www.ferc.gov>.

17. DISPLAY OF EXPIRATION DATE

An expiration date is shown on FERC-580.

18. EXCEPTIONS TO THE CERTIFICATION STATEMENT

There is an exception to the Paperwork Reduction Act Submission Certification. Because the data collected for this reporting requirement is not used for statistical purposes, the Commission does not use as stated in item 19(i) "effective and efficient statistical survey methodology." The information collected is case specific to each respondent.

B. COLLECTION OF INFORMATION EMPLOYING STATISTICAL METHODS.

This is not a collection of information employing statistical methods.