

**SUPPLEMENTAL SUPPORTING STATEMENT FOR**  
**FERC-511, "Application for Transfer of License"**  
(Three year Extension requested through December 31, 2010)

The Federal Energy Regulatory Commission (FERC/Commission) requests that the Office of Management and Budget (OMB) review and extend its approval of **FERC-511 Application for Transfer of License**, through December 31, 2010. FERC-511 (OMB Control No. 1902-0069) is an existing data collection (filing application) whose filing requirements are contained in Title 18 C.F.R., Parts 9, 131.20 and sections 4(e) and 8 of the Federal Power Act (16 U.S.C. 797 and 16 U.S.C. 801).

**A. Justification**

**1. CIRCUMSTANCES THAT MAKE THE COLLECTION OF INFORMATION NECESSARY**

Part I of the Federal Power Act, under the authority of the Federal Power Act<sup>1</sup> (FPA) gives the Commission authority to issue licenses for hydroelectric projects on the waters over which Congress has jurisdiction.

Section 4 (e)<sup>2</sup> of the FPA authorizes the Commission to issue licenses for the construction, operation and maintenance of dams, water conduits, reservoirs, power houses and transmission lines or other facilities necessary for development and improvement of navigation and for the development, transmission, and utilization of power from bodies of water Congress has jurisdiction over.

Section 8 of the Federal Power Act (16 U.S.C. 801) provides that the voluntary transfer of any licensee can only be made with the written approval of the Commission. Any successor to the licensee may assign the rights of the original licensee but is not subject to all the conditions of the license.

The FPA requires FERC approval of the transfer of a hydropower license. Among other things, the Commission ensures that the transferee qualifies under the FPA to be a licensee, e. g., foreign citizens or corporations cannot hold a license. Licenses may be issued to citizens of the United States, or to any

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<sup>1</sup> 16 U.S.C. sections 791a et seq.

<sup>2</sup> 16 U.S.C. section 797. (2000)

association of such citizens, or to any corporation organized under the laws of the United States or any individual state, or to any state or municipality.

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

The information collected by FERC is in the format of a written application for transfer of a license, executed jointly by the parties to the proposed transfer. The transfer of a license may be occasioned by the sale or merger of a licensed hydropower electric project (see sample filing). It is used by FERC staff to determine the qualifications of the proposed transferee to hold the license, and to prepare the transfer of the license order.

Commission staff conducts a systematic review of the prepared application with supplemental documentation provided in the filing. The research includes examining maps and land ownership records of the lands and waters affected by the project. Such sites are generally on streams other than those defined as U.S. navigation waters, and over which Congress has jurisdiction under its authority to regulate foreign and interstate commerce. Before approving a transfer, the Commission reviews the proposed transferee's compliance history and scrutinizes marginal projects for potential compliance problems. In particular Commission staff review the license document for any significant anticipated expenses to ensure that the purpose of the transfer is not to shift the financial burden of compliance to an entity that is unlikely to satisfy these obligations. Commission staff consults in-house with the Office of General Counsel and the Office of Energy Projects dam safety inspectors for their review and comment.

Notice of transfer applications are published in the Federal Register and in a local newspaper near the project site. FERC seeks to ensure that states, other federal agencies, local communities, and other interested groups are provided the opportunity to address any issues related to the project transfer.

The approval process requires the Commission to determine that the transfer is in the public interest. Commission approval is made contingent on transfer of the title to properties under the license. If the information contained in FERC-511 were not collected, the Commission would be unable to establish facts and pertinent information as to why a licensee desires to transfer the license and if the proposed transferee can operate and maintain the project under the terms and conditions of the license. Without the establishment of these facts there would be no basis for accepting the application for a transfer of a license.

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

There is currently an ongoing effort to determine the potential value of improved information technology to reduce the burden. On September 21, 2000, the Commission issued Order No. 619, which implemented the use of the Internet for submission of documents to the Commission for filing.<sup>3</sup> Such submissions were limited to categories of documents specified by the Secretary of the Commission, with the intention of gradually expanding the range of eligible documents.<sup>4</sup>

The eFiling system plays an important role in the Commission's efforts to comply with the Government Paperwork Elimination Act, which requires that agencies provide the option to submit information electronically, when practicable, as a substitute for paper.<sup>5</sup> The Commission also has established a system of electronic registration, or eRegistration, which is required for users of its eFiling system and other specified activities.<sup>6</sup> Filing via the Internet is optional for eligible documents.<sup>7</sup> The eFiling system now is receiving approximately one third of all documents filed at the Commission. The system is accessible through the Commission's web site at <http://www.ferc.gov/docs-filing/efiling.asp>.

The Commission is proposing to implement, in late 2007, eFiling 7.0, which will significantly expand the capabilities of the system. As part of this implementation, the Commission proposes to expand the range of documents that may be filed via the Internet to include all filings, with specified exceptions. Most notably, it will be possible for regulated entities to make complex filings in their

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<sup>3</sup> Electronic Filing of Documents, Order No. 619, 65 Fed. Reg. 57088 (Sept. 21, 2000), FERC Stats. & Regs. ¶ 31,107 (2000).

<sup>4</sup> See Rule 2003(c) of the Commission's Rules of Practice and Procedure, 18 CFR 385.2003(c).

<sup>5</sup> Pub. L. No. 105-277, Sec. 1702-1704 (1998); see OMB Circular A-130 Para 8.a.1(k).

<sup>6</sup> 18 CFR 390.1 & 390.2.

<sup>7</sup> Rule 2001(a) of the Commission's Rules of Practice and Procedure, 18 CFR 385.2001(a).

entireties in electronic format.<sup>8</sup> The Commission also proposes to implement other changes and technical enhancements, and has sought comments on the advisability of these changes and the best methods of implementing them.

Under the Commission's regulations, only "qualified documents" may be filed via the Internet, and the Secretary is authorized to specify which documents are qualified.<sup>9</sup> A list of qualified documents is published on the Commission's web site. Currently, there are over forty categories of qualified documents.<sup>10</sup> The Secretary also is authorized to issue filing instructions.<sup>11</sup>

To implement eFiling 7.0, the Commission has proposed to revise its regulations to permit users to submit via the Internet all documents filed in Commission proceedings pursuant to Chapter I of Title 18 of the Code of Federal Regulations, with specified exceptions. As before, the Secretary will specify the documents that may be submitted to the eFiling system, but now the Secretary would list exceptions rather than eligible documents. The Secretary would continue to issue filing instructions for allowable file formats, electronic document formats and electronic filings having multiple components. However, where specific regulations require that a filing include particular content, those regulations will continue to apply. Similarly, where specific regulations or other instructions contain requirements applicable to electronic documents, such as allowable file formats,<sup>12</sup> those instructions also will continue to apply. The

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<sup>8</sup> The process for making tariff filings by the electric, gas, and oil industries is being addressed in Electronic Tariff Filings, Docket No. RM01-5-000. See Electronic Tariff Filings, Notice of Proposed Rulemaking, 69 FR 43929 (July 23, 2004), FERC Stats. & Regs. ¶ 32,575 (July 8, 2004); Notice of Additional Proposals and Procedures, 70 FR 40941 (July 15, 2005), FERC Stats. & Regs. ¶ 35,551 (July 6, 2005). The Commission allows Open Access Transmission Tariffs (OATTs) and revisions to be eFiled as described at <http://www.ferc.gov/help/filing-guide/file-OATT.asp>.

<sup>9</sup> Rule 2003(c), 18 CFR 385.2003(c).

<sup>10</sup> See <http://www.ferc.gov/docs-filing/efiling/docs-efiled.asp>.

<sup>11</sup> Rule 2003(c)(1)(ii), 18 CFR 385.2003(c)(1)(ii); see <http://www.ferc.gov/docs-filing/efiling/user-guide.asp>.

<sup>12</sup> E.g., <http://www.ferc.gov/industries/electric/gen-info/qual-fac/completing.asp> (Form 556 for Qualifying Facilities).

Commission has invited comments on the proposals on which documents should be accepted through the eFiling system.

In some cases, the Commission will require paper copies of filings although it will also be possible to submit the documents through eFiling 7.0. This paper back-up will apply most notably to oversized documents such as maps, diagrams and drawings. Due to the size of standard monitors and other hardware and software limitations, it is impractical at this time for Commission staff to review such documents in electronic form. The Commission therefore anticipates that it will continue to need paper copies of most documents that are larger than 8.5 x 11 inches. As the Commission upgrades its resources, it expects to be able to reduce or eliminate the requirement for paper copies. The Commission also is considering whether to require paper copies of long documents, such as those exceeding 500 pages. The instructions posted by the Secretary will include directions specifying whether, and how many, paper copies of electronically filed documents are required.

With respect to the documents submitted under FERC-511 there is a large variance in the type of material submitted as technical data to the Commission, and the required drawings, blueprints and quad sheets compounds the problems associated with the automation of materials and for the reasons notes above, paper copies will still be required. Currently, improved information technology cannot be adapted to all facets of the application process.

**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.**

Filings are periodically reviewed in conjunction with OMB clearance expiration dates. This includes a review of the Commission's reporting requirements to identify duplication of data requirements. To date, no duplication of application data has been found. The information is case specific to the applicant.

**5. METHODS USED TO MINIMIZE BURDEN IN COLLECTION OF INFORMATION INVOLVING SMALL ENTITIES**

The reporting requirements associated with FERC-511 are the basic filing requirement pertaining to all applications for transfer of a license. There are no similar sources of information available that can be used or modified for use as the information collected is unique to the applicant and the site for which the filing is made. The data required imposes the least possible burden on applicants, while

collecting information required in processing the information. The collection of information could not be made less frequently since it made only upon application for transfer.

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

The data required impose the least possible burden on applicants, while collecting the information required in processing the application. The minimization of impact on small businesses would not be applicable. The burden will vary among applicants, since the application should be specific for all applicants.

**7. EXPLAIN ANY SPECIAL CIRCUMSTANCES RELATING TO THE INFORMATION COLLECTION**

The guidelines of OMB’s regulations at 5 C.F.R. 1320.5(d) are being exceeded in the number of copies forwarded to the Commission. The following is the distribution of application for review within the Office of Energy Projects.

<u>Office</u>	<u>Number of Copies</u>
Director	1
Division of Hydropower Administration And Compliance	1
Division of Hydropower Licensing	1
Division of Dam Safety and Inspections	1
Regional Offices	1

The Offices of the General Counsel and External Affairs each receives one copy.

The distribution of multiple copies of an application to OEP staff is essential so that the required adequacy, and technical, engineering, and environmental reviews and analyses proceed simultaneously and efficiently. A project coordinator must have a copy of any application for review and coordination purposes; additional copies must be available for staff members in various parts for assessing the adequacy of diverse exhibits. It would not be feasible to conduct these review and analysis functions in a timely manner, and within the current processing schedule, if fewer copies of the application were provided for staff use.

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

Prior to adopting regulations that requires the collection of data, the Commission's procedures require the rulemaking notices be published in the Federal Register, thereby allowing all applicants, state commissions, federal agencies, and other interested parties an opportunity to submit comments, or suggestions concerning the proposal. The rulemaking procedures also allow for public conferences to be held as required. In accordance with OMB requirements in 5 C.F.R. 1320.8(d), the reporting requirements for FERC-511 were noticed in the Federal Register on June 6, 2007. No comments were received in response to the notice.

**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-511 is a public collection and therefore not considered confidential. Specific requests for confidential treatment to the extent submitted by law will be entertained pursuant to 18 C.F.R. section 388.112.

**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**

The annual burden estimate for information collected under FERC-511 is based on the Commission's recent experience with applications for transfer of license. Under FERC-511, it is estimated that the annual average burden for each application will be 40 hours. The number of respondents is expected to average 23 per year.

Estimated number of respondents	: 23
Estimated number of responses	: 1
Estimated number of responses per year	: 23
Estimated number of hours per response	: 40
Total estimated burden hours (hours per year)	: 920

FERC-511 burden hours currently in OMB's Inventory	: 920
Program change in industry burden hours	: 0
Adjustment change in industry burden hours	: 0

**13. ESTIMATE OF THE TOTAL ANNUAL COST BURDEN TO RESPONDENTS**

The estimated cost burden to respondents is \$54,022 (920 hours ÷ 2080 hours per year times \$122,137 per year average per employee). The cost per respondent is \$2,348 (\$54,022 ÷ 23).

**14. ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT**

(a) Data Clearance (FERC FY 2007)	\$ 941
(b) Analysis of Data, (1.5 FTE)	\$183,205
Year of Operation	\$ 184,147

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

**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 under FERC-511 data collection is not published as a separate document. 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**

It is not appropriate to display the expiration date for OMB approval for the information collected pursuant to sections 4 and 8 of the Federal Power Act and parts 9 and 131 of the Commission's regulations. The information submitted to the Commission is not collected on a standard preprinted form which could avail itself to this display. Rather, applicants for declaring their intention prepare to



submit information that reflects unique or specified circumstances related to jurisdictional transaction. In addition, the information contains a mixture of narrative descriptions and empirical support that varies depending on the nature of the filing requirement. The Commission publishes both the regulatory citation and corresponding OMB control number for public viewing with the issuance of each proposed and final rulemaking.

## **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.