

**SUPPORTING STATEMENT FOR  
FERC-566 "Annual Report of a Utility's Twenty Largest Purchasers"**  
(Three Year Extension Requested through May 31, 2011)

The Federal Energy Regulatory Commission (Commission) requests that the Office of Management and Budget (OMB) review and extend its approval of FERC-566 "Annual Report of a Utility's Twenty Largest Purchasers" through May 31, 2011. Current authorization expires on May 31, 2008.

There is an increase (adjustment) in the reporting burden due to an increase in the number of respondents who submit FERC-566 (OMB Control No. 1902-0114).

**A. Justification**

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

Section 305 of the Federal Power Act (FPA), as amended by Title II, section 211 of the Public Utility Regulatory Policies Act of 1978 (PURPA)(16 U.S.C. 825d) (see Attachment A below), requires the annual reporting by electric public utilities of the twenty largest purchasers information in FERC-566. The FPA mandates the information that must be filed, the required filers, the requirement to make the information available to the public, and the filing deadline. The Commission is not empowered to amend or waive these statutory requirements. Requirements the Commission has the authority to amend, such as filing format and method, can be found in 18 CFR 46.3 (see Attachment B below).

*Background:* In 1978, the 95<sup>th</sup> Congress passed public law 95-617. Major sections of the law dealt with gasoline prices and new energy policies including gas well deregulation. The reporting requirements for both FERC-561 and FERC-566 resulted from a compromise within the Congress. The bill (H4018) initially made illegal the holding of the position of director, officer, partner, appointee, or representative for both a public utility and a commercial entity. But before Congress passed the bill into law, this section was amended to reflect only the listing of directorates. The law makes it possible that an individual may be barred from holding two positions. The Commission must find, after a notice of public hearing that holding two positions would adversely the public interest. The bill was passed into law on November 9, 1978. The elements collected in these forms are those specifically mandated in the Act. Public utilities respond to FERC-566 and directors or involved individuals respond to FERC-561.

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

The information collected by the Commission is used to identify large purchasers of electric energy. The FPA requires public utilities to publish and file with the Commission, a list of their largest customers and the identification of public utility board members who are also board members of the utility's largest customers.<sup>1</sup> This data on *interlocking directorates* allows the Commission to inquire into and determine whether public or private interests will be adversely affected by the holding of such positions. The FERC-566 collection also provides the Commission with the information necessary for enforcement proceedings when violations under the FPA occur.

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

Currently, Commission regulations allow for submission of FERC-566 filings by mail in hardcopy or by eFiling in electronic format using the Commission's website-based eFiling system (see <http://www.ferc.gov/docs-filing/efiling.asp>). The implementation of eFiling 7.0 on March 1, 2008,<sup>2</sup> provides filers the option to eFile their 2007 forms due April 30, 2008. In the past, filers were required to mail or deliver their filings by courier.

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 NO. 2**

Filing requirements for the FERC-566 are reviewed every three years as the Commission's OMB authorization nears expiration. Current review resulted in no similar sources of information available that can be used or modified for

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<sup>1</sup> Annual Report of Interlocking Positions, FERC Form 561, OMB No. 1902-0099, collects the interlocking directorate information.

<sup>2</sup> Filing Via the Internet, Order No. 703, 72 FR 65,659 (November 23, 2007), FERC Stats & Regs. ¶31,259.

interlocking directorate oversight purposes.

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

This information collection imposes the least possible burden on small entities while collecting the information necessary for the Commission to carry out its responsibilities under 18 CFR Part 46.

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

If the collection of information were conducted less frequently, the Commission would be unable to perform its mandated oversight and review responsibilities with respect to interlocking directorates. Furthermore, PURPA Section 211 mandates annual submission of this information to the Commission.

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

The FERC-566 is not collected in any specified format or form. It is simply a list of a utility's twenty largest customers and their business addresses. As such, the submission does not display an OMB control number or expiration date.

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

In accordance with the OMB regulations in 5 C.F.R. 1320.8(d), the data collection for FERC-566 was noticed in the Federal Register on February 11, 2008,<sup>3</sup> (Attachment C). The Commission did not receive any comments in response to this notice.

9. **EXPLAIN ANY PAYMENT OR GIFTS TO RESPONDENTS**

No payments or gifts have been made to respondents.

10. **DESCRIBE ANY ASSURANCE OF CONFIDENTIALITY**

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<sup>3</sup> ? The Notice appeared at 73 FR 7723.

**PROVIDED TO RESPONDENTS**

The information submitted to the Commission is public information and therefore is not considered confidential. Specific requests for confidential treatment, to the extent permitted by law, will be considered pursuant to 18 CFR 388.112.

**11. PROVIDE ADDITIONAL JUSTIFICATION FOR ANY QUESTIONS OF A SENSITIVE NATURE**

There are no questions of a sensitive nature.

**12. ESTIMATED BURDEN OF THE COLLECTION OF INFORMATION**

The estimated burden of the collection of information is based on the Commission’s previous experience with large purchasers of electric energy and is as follows:

Number of Respondents Annually (1)	Number of Responses Per Respondent (2)	Average Burden Hours Per Response (3)	Total Annual Burden Hours (1)x(2)x(3)
242	1	6	1,452

Currently as adjusted, the reporting burden for FERC-566 is 1,452 hours. The increase is an adjustment due to the increase in the number of respondents that have come into the industry and must submit the report.

Current OMB inventory:

Number of Respondents Annually (1)	Number of Responses Per Respondent (2)	Average Burden Hours Per Response (3)	Total Annual Burden Hours (1)x(2)x(3)
183	1	6	1,098

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

## RESPONDENTS

Total Respondent	÷	Number of Hours Per	x	Cost Per Staff	=	Total Annualized Cost
<u>Burden Hours</u>		<u>Staff Year</u>		<u>Employee<sup>4</sup></u>	=	<u>Cost</u>
1,452	÷	2080		\$126,384	=	\$88,226

The estimated annual cost to respondents is \$88,226. The cost per respondent is \$365. There are no start-up costs because FERC-566 is an existing information collection.

The respondent burden includes the total time, effort, or financial resources expended by the respondent to assemble and disseminate the information. The cost estimate is based on salaries for professional and support staff, as well as direct and indirect overhead costs. Direct costs include all costs directly attributable to providing this information, such as administrative costs and the cost for information technology.

### 14. ESTIMATED ANNUALIZED COST TO FEDERAL GOVERNMENT

The estimated annualized cost to the Federal Government is shown below:

<u>Operation</u>	<u>Total Cost</u>
a) Data clearance (FERC FY 2008)	\$ 2,431
b) Data analysis (1.0 FTE x \$126,384)	<u>\$126,384</u>
Total cost	\$128,815

The estimate of the cost to the Federal Government is based on salaries for professional and clerical support.

### 15. REASONS FOR CHANGES IN BURDEN INCLUDING THE NEED

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<sup>4</sup> The “Cost per Staff Employee” estimate is based on the estimated annual allocated cost per Commission employee for fiscal year 2008. The estimated \$126,384 “cost” consists of approximately \$102,029 in salaries and benefits and \$24,355 in overhead.

**FOR ANY INCREASE**

The estimate for the burden is based on recent Commission experience and actual number of filings made under FERC-566 over the past 12 months.

There is an adjustment in the burden from the Commission's last submission to OMB and this is due to an increase in the number of respondents.

**16. TIME SCHEDULE FOR INFORMATION COLLECTION AND PUBLICATION**

This is not an information collection for which results are published.

**17. DISPLAY OF EXPIRATION DATE**

It is not appropriate to display the expiration date for OMB approval of the information collected. The information is not collected on a standard, preprinted form which would avail itself of that display. Rather utilities prepare and submit filings that reflect unique or specific circumstances related to their filing.

**18. EXCEPTIONS TO THE CERTIFICATION STATEMENT**

The data collected for this reporting requirement is not used for statistical purposes. Therefore, the Commission does not use Item No. 19(i) "effective and efficient statistical survey methodology" as stated in OMB Form 83-1. 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.

**ATTACHMENT A**

**FPA, SEC. 305. OFFICIALS DEALING IN SECURITIES; INTERLOCKING DIRECTORATES**

[5263-28]

[¶5305]

**Officials Dealing in Securities; Interlocking Directorates**

**Sec. 305.**

(c)(1) On or before April 30 of each year, any person, who, during the calendar year preceding the filing date under this subsection, was an officer or director of a public utility and who held, during such calendar year, the position of officer, director, partner, appointee, or representative of any other entity listed in paragraph (2) shall file with the Commission, in such form and manner as the Commission shall by rule prescribe, a written statement concerning such positions held by such person. Such statement shall be available to the public.

[5263-30]

(2) The entities listed for purposes of paragraph (1) are as follows--

(A) any investment bank, bank holding company, foreign bank or subsidiary thereof doing business in the United States, insurance company, or any other organization primarily engaged in the business of providing financial services or credit, a mutual savings bank, or a savings and loan association;

(B) any company, firm, or organization which is authorized by law to underwrite or participate in the marketing of securities of a public utility;

(C) any company, firm, or organization which produces or supplies electrical equipment or coal, natural gas, oil, nuclear fuel, or other fuel, for the use of any public utility;

(D) any company, firm, or organization which during any one of the 3 calendar years immediately preceding the filing date was one of the 20 purchasers of electric energy which purchased (for purposes other than for resale) one of the 20 largest annual amounts of electric energy sold by such public utility (or by any public utility which is part of the same holding company system) during any one of such three calendar years;

(E) any entity referred to in subsection (b); and

(F) any company, firm, or organization which is controlled by any company, firm, or organization referred to in this paragraph.

**On or before January 31 of each calendar year, each public utility shall publish a list, pursuant to rules prescribed by the Commission, of the purchasers to which subparagraph (D) applies, for purposes of any filing under paragraph (1) of such calendar year.**

(3) For purposes of this subsection--

(A) The term “public utility” includes any company which is a part of a holding company system which includes a registered holding company, unless no company in such system is an electric utility.

(B) The terms “holding company”, “registered holding company”, and “holding company system” have the same meaning as when used in the Public Utility Holding Company Act of 1935.



**ATTACHMENT B****Title 18: Conservation of Power and Water Resources****PART 46—PUBLIC UTILITY FILING REQUIREMENTS AND FILING REQUIREMENTS FOR PERSONS HOLDING INTERLOCKING POSITIONS****§ 46.3 Purchaser list.**

(a) Compilation and filing list. On or before January 31 of each year, each public utility shall compile a list of the purchasers described in paragraph (b) of this section and shall identify each purchaser by name and principal business address. An original and two (2) copies of such list shall be filed with the Commission by the public utility and the list shall be made publicly available through its principal business office.

(b) Largest purchasers. The list required under paragraph (a) of this section shall include each purchaser who, during any of the three (3) preceding calendar years, purchased (for purposes other than resale) from a public utility one of the twenty (20) largest amounts of electric energy measured in kilowatt hours sold (for purposes other than resale) by such utility during such year.

(c) Special rules. If data for actual annual sales (for purposes other than resale) are not available in the records of the public utility, the utility may use estimates based on actual data available to it. If one purchaser maintains several billing accounts with the public utility, the kilowatt hours purchased in each account of that purchaser shall be aggregated to arrive at the total for that purchaser.

(d) Notification of largest purchasers. Each public utility shall notify by January 31 of each year each purchaser which has been identified on the list of largest purchasers under paragraph (b) of this section.

(e) Revision of the list. Each public utility relying upon any estimates for its January 31st filing, shall revise the list compiled under paragraph (b) of this section no later than March 1 of the year in which the list was originally filed to reflect actual data not available to the utility prior to that time. Any revised list shall be filed with the Commission and made publicly available through the utility's principal business office no later than March 1. A utility filing a revised list shall indicate thereon the changes made to the list previously filed under paragraph (b) of this section. On or before the filing and publication of the revised list, the public utility shall notify the newly-listed purchasers

and any purchasers whose names were removed from the list.

[Order 67, 45 FR 3569, Jan. 18, 1980; 45 FR 6377, Jan. 28, 1980]

**ATTACHMENT C**

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

[Docket No. IC08-566-000; FERC-566]

COMMISSION INFORMATION COLLECTION ACTIVITIES, PROPOSED COLLECTION;  
COMMENT REQUEST; EXTENSION

(February 1, 2008)

**AGENCY:** Federal Energy Regulatory Commission.

**ACTION:** Notice.

**SUMMARY:** In compliance with the requirements of section 3506(c)(2)(a) of the Paperwork Reduction Act of 1995 (Pub. L. No. 104-13), the Federal Energy Regulatory Commission (Commission) is soliciting public comment on the specific aspects of the information collection described below.

**DATES:** Comments on the collection of information are due April 7, 2008.

**ADDRESSES:** Copies of sample filings of the proposed information collection can be obtained from the Commission's Documents & Filing website

(<http://www.ferc.gov/docs-filings/elibrary.asp>) or by contacting the Federal Energy Regulatory Commission, Attn: Michael Miller, Office of the Executive Director, ED-34, 888 First Street NE, Washington, D.C. 20426. Comments may be filed either in paper format or electronically. Those parties filing electronically do not need to make a paper filing. For paper filing, the original and 14 copies of such comments should be submitted to the Secretary of the

Commission, Federal Energy Regulatory Commission, 888 First Street NE, Washington, D.C. 20426 and refer to Docket No. IC08-566-000.

Documents filed electronically via the Internet must be prepared in the acceptable filing format and in compliance with the Federal Energy Regulatory Commission's submission guidelines. Complete filing instructions and acceptable filing formats are available at (<http://www.ferc.gov/help/submission-guide/electronic-media.asp>). To file the document electronically, access the Commission's website and click on Documents & Filing, E-Filing (<http://www.ferc.gov/docs-filing/efiling.asp>), and then follow the instructions for each screen. First time users will have to establish a user name and password. The Commission will send an automatic acknowledgement to the sender's e-mail address upon receipt of comments.

All comments may be viewed, printed or downloaded remotely via the Internet through FERC's homepage using the eLibrary link. For user assistance, contact [ferconlinesupport@ferc.gov](mailto:ferconlinesupport@ferc.gov) or toll-free at (866) 208-3676 or for TTY, contact (202) 502-8659.

**FOR FURTHER INFORMATION CONTACT:** Michael Miller may be reached by telephone at (202) 502-8415, by fax at (202) 273-0873, and by e-mail at [michael.miller@ferc.gov](mailto:michael.miller@ferc.gov).

**SUPPLEMENTARY INFORMATION:** The information collected under the requirements of FERC-566 “Annual Report of a Utility’s Twenty Largest Purchasers” (OMB No. 1902–0114) is used by the Commission to implement the statutory provisions of section 305 of the Federal Power Act (FPA), (16 U.S.C. 825d), as amended by Title II, section 211 of the Public Utility Regulatory Policies Act of 1978 (PURPA). FPA section 305—Officials Dealing in Securities; Interlocking Directorates—requires that each public utility annually “publish” a list, pursuant to rules prescribed by the Commission, of the purchasers of the 20 largest annual amounts of electric energy sold by such public utility during any one of three previous calendar years. The required filers, the filing deadline, the specific information to be filed, and the requirement to publicly provide the information are all specifically mandated by the FPA. The Commission is not empowered to amend or waive these statutory requirements. Requirements the Commission has the authority to amend, such as the filing format and method are found in the Commission’s regulations in 18 CFR section 46.3.

The FPA requires public utilities to publish and file with the Commission a list of their largest customers and the identification of public utility board members who are also board members of the utility’s largest customers.<sup>5</sup> This data on *interlocking directorates* allows the Commission to inquire into and determine whether public or private interests will be adversely affected by the holding of such positions.

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<sup>5</sup> Annual Report of Interlocking Positions, FERC Form 561, OMB No. 1902-0099, collects the interlocking directorate information.

Under the current OMB authorization, the Commission requires the filing of FERC-566 in hardcopy. However, the Commission has directed under RM07-16-000<sup>6</sup> to allow for the voluntary electronic submittal of many required filings, including the FERC-566, which is expected by early 2008. The implementation of eFiling 7.0 would eliminate the current burden of mailing or hand-delivering these filings in hardcopy.

Action: The Commission is requesting a three-year extension of the current expiration date and proposes to make the filing of the FERC-566 more efficient by the end of 2007 under RM07-16-000.

Burden Statement: Public reporting burden for this collection is estimated as:

Number of Respondents Annually (1)	Number of Responses Per Respondent (2)	Average Burden Hours Per Response (3)	Total Annual Burden Hours (1)x(2)x(3)
242	1	6	1,452

The estimated total cost to respondents is \$85,261, [1,452 hours divided by 2,080 hours<sup>7</sup> times \$126,384<sup>8</sup> equals \$88,226, (*rounded off*)]. The cost of filing FERC-566 per respondent is \$365 (*rounded off*).

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<sup>6</sup> Filing Via the Internet, RM07-16-000, 72 Fed. Reg. 65659 (2007), FERC Stats. & Regs. ¶ 31,259.

<sup>7</sup> Number of hours an employee works.

<sup>8</sup> Average annual salary per employee.

The reporting burden includes the total time, effort, or financial resources expended to generate, maintain, retain, disclose, or provide the information including: (1) reviewing instructions; (2) developing, acquiring, installing, and using technology and systems for the purposes of collecting, validating, verifying, processing, maintaining, disclosing and providing information; (3) adjusting existing ways to comply with any previously applicable filing instructions and requirements; (4) training personnel to respond to a collection of information; (5) searching data sources; (6) completing and reviewing the collection of information; and (7) transmitting or otherwise disclosing the information.

The cost estimate for respondents is based upon salaries for professional and clerical support, as well as direct and indirect overhead costs. Direct costs include all costs directly attributable to providing this information, such as administrative costs and the cost for information technology. Indirect or overhead costs are costs incurred by an organization in support of its mission. These costs apply to activities which benefit the whole organization rather than any one particular function or activity.

Comments are invited on: (1) the accuracy of the agency's burden estimate of the proposed information collection, including the validity of the methodology and assumptions used to calculate the reporting burden; (2) ways to enhance the quality, utility and clarity of the information to be collected; and (3) the proposal to provide the option to collect FERC-566 electronically during 2008, as indicated under RM07-16-000 000 and any reduction in burden that option might allow filers.

IC08-566-000

OMB Control No. 1902-0114

Kimberly D. Bose,

Secretary.