

**SUPPORTING STATEMENT FOR  
FERC-521, Payments for Benefits from Headwater Improvements  
(Three year Extension requested through June 30, 2011)**

The Federal Energy Regulatory Commission (Commission) requests that the Office of Management and Budget (OMB) review and extend its approval of **FERC-521, Payments for Benefits from Headwater Improvements** through June 30, 2008. FERC-521 (OMB Control No. 1902-0087) is an existing data collection (filing application) whose filing requirements are contained in Title 18 C.F.R., Part 11.

The estimated reporting burden for FERC-521 is expected to average 120 hours per year over the next three years, no change from the current estimate. The average burden per filing is estimated to be 40 hours.

**A. Justification**

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

Headwater benefits are the additional energy production possible at a downstream hydropower project resulting from the regulation of river flows by an upstream storage reservoir. Authority for the filing of headwaters benefits information is under the Commission's defined role as mandated by Part 1, of the Federal Power Act<sup>1</sup> (FPA), Section 10(f). Under Section 10(f) of the Federal Power Act, an owner of a hydropower project is required to reimburse upstream headwater project owners for an equitable part of the benefits it receives. This includes paying equitable portions of the annual charges for interest, maintenance, and depreciation of the headwater project to the U.S. Treasury. The Commission collects about \$6 million annually, which it returns to the U.S. Treasury. The Commission's regulations provide for apportionment of these costs between the headwater project and down-stream projects based on downstream energy gains and propose equitable apportionment methodology that can be applied to all river basins in which headwater improvements are built.

The Commission focuses its efforts on assessing headwaters benefits derived from upstream federal storage projects constructed and operated by the U.S. Army Corps of Engineers and the Bureau of Reclamation. The purpose of determining the benefits is for assessing the down-stream beneficiaries for a part of the annual charges for the headwater project. The Commission approved a major headwater benefits settlement agreement for the Columbia River Basin, which paid almost half the total amount the Commission addressed. The Commission implements these requirements in the Code of Federal Regulations, 18 C.F.R. Part 11.

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<sup>1</sup>116 U.S.C. Section 803 (1982 and supp. IV 1986).

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

FERC-521 implements the existing regulations and is inclusive for the determination of headwater benefits derived from downstream parties. The regulations set forth a formula for determining an equitable apportionment of the annual charges for interest, maintenance, and depreciation for a storage reservoir or other headwater improvement owned by the United States, a licensee, or a pre-1920 permittee. Energy gains are determined by FERC using various analytical methods. The method chosen depends upon the complexity of the river basin and the potential headwater benefits. Complex river basins that include a large number of headwater and downstream projects often require a detailed computer analysis using FERC's computer modeling simulation program HWBEG. For river basins that are not complex or in which the headwater benefits are expected to be small, the Commission relies on flow duration methodology to determine energy gains. Investigations are based on the determination of the average energy gains of a project. To determine how much annual energy is produced, it is necessary to calculate how much energy the downstream project would have produced if the upstream projects did not exist. The amount of energy that a hydropower project produces depends primarily on the following factors:

- stream flow;
- reservoir storage;
- head;
- size and efficiency of the turbines and generators;
- load to be served.

In determining energy gains, the size and efficiency of the turbines and the generators, and the load to be served will remain constant, while stream flow, reservoir storage, and head will vary depending on the operating conditions of the upstream reservoirs. Because head and stream flow determine the amount of energy produced at the hydropower project, a relationship that the generation is a function of the head and stream flow can be developed. Commission experience has shown that the relationship between generation and stream flow is an adequate tool for estimating generation in calculating energy gains.

If the information were not collected, there would be no data available to determine the benefits received from down-stream parties from the operation of storage reservoirs, or other headwater improvements.

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**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 consideration of the use of improved information technology to reduce burden. In the filing requirements for submission of information concerning headwaters benefits, the required attachments of drawings, blueprints, and quad sheets, plus the variety of technical data submitted compounds problems for using the automation of data materials.

**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.**

In an effort to alleviate duplication, filing requirements are periodically reviewed as OMB review dates arise, or as the Commission may deem necessary in carrying out its regulatory responsibilities under the FPA. All Commission information collections are subject to a systematic validation review of all information collections imposed on regulated industry.

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

The reporting requirements associated with FERC-521 are the basic filing requirements pertaining to headwaters benefits. There are no similar sources of information available that can be used or modified for the purposes described in Item A(1).

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

FERC-521 is a filing requirement for determining the benefits received by downstream parties for improvements to headwaters, or the operation of storage reservoirs. This requirement collects data from both large and small respondent entities. Specific efforts have been made to minimize the burden imposed on small entities who file the data. For example, only those hydropower projects with an installed generating capacity greater than 1.5 MW are subject to headwater benefits charges. No final charge assessed may exceed 85 percent of the value of the energy gains for the assessment period. The data required is specific to each respondent; therefore the reporting burden

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varies between each respondent. If the information were collected less frequently, the Commission would be placed at a disadvantage in not having available data for determining the benefits from headwater improvements.

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

FERC-521 is a filing requirement of an applicant to comply with the applicable provisions of the Commission's regulations pertaining to obligations for payment of annual charges based on assessments made of the benefits derived from headwaters improvements. The proposed collection complies with the requirements as specified in 5 C.F.R. 1320.5(d). In addition, there is no information collected from state or local governments.

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

Prior to adopting regulations that provide for the collection of data, the Commission's procedures require that a notice be published in the Federal Register, thereby allowing all owners of non-federal hydropower projects, state commissions, Federal agencies, and other interested parties an opportunity to submit comments, or suggestions concerning the proposed collection of data. These notice 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-521 were noticed in the Federal Register on February 19, 2008 (73 FR 9108-09). 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 PROVIDED TO RESPONDENTS**

All data are public information, and therefore not confidential. However, a license may request, under the Freedom of Information Act and Commission regulations at 18 C.F.R. 388.112, confidential treatment of some, or all of the FERC-521 filing.

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Each request for confidential treatment will be reviewed on a case-by case basis.

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

No data of a sensitive nature is requested.

**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 FERC-521. It is estimated that the total annual burden for Headwaters Benefits will be as follows:

Headwaters Benefits

Estimated number of respondents	:	3
Estimated number of responses	:	1
Estimated number of responses	:	3 responses/yr
Estimated annual number of hours per response	:	40 hrs/response
Total estimated annual burden	:	120 hrs/yr

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

The estimated annualized cost to the respondents for **FERC-521 Payments for Benefits from Headwater Improvements** averaged over the next three years is as follows:

Total Hours

<u>Respondent Burden</u>	<u>Person</u>	<u>Average</u>	<u>Estimated Total</u>	<u>Hours/Year</u>	<u>Salary/Year<sup>2</sup></u>	<u>Cost</u>
120	2080	x	\$126,384	=	\$7,291	

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<sup>2</sup>The estimated annual cost per staff/employee (\$126,384) based on the number of employees or Full Time Equivalents (FTEs) in the Office of Energy Projects (OEP) and the FY 2007 appropriation for that Office as reported in the Commission's FY 2008 OMB Budget Request. The \$126,384 cost consists of salary and benefits for overhead. The estimated "salary" per employee with industries regulated by the Commission is assumed to be the same as that per Commission staff members, including related overhead and contracted services.

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The Commission has determined that the cost to the respondents is comparable to average salary/year for a Commission (combination of professional and technical) staff.

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

There is no cost to the Federal Government as the Commission's hydropower licensing program is reimbursed by licensees pursuant to the Federal Power Act (FPA) and the beneficiaries pay for the cost of the studies. Section 10(e) of the FPA authorizes the Commission to collect annual charges from hydroelectric licenses for the cost of administering Part I of the FPA (16 U.S.C. 803(e)) and for use of administering the costs of United States dams.

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

This submission of FERC-521 reflects no change from the current OMB inventory of 120 hours per year. There is an adjustment to the costs to reflect the cost of inflation.

Total estimated burden (hours per year)	: 120
FERC 521 burden hours currently in OMB's inventory	: 120
Program change in industry burden hours	: 0
Adjustment change in industry burden hours	: 0

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

(a) There are no tabulations, statistical analysis or publication plans for the information collection. The data are used for regulatory purposes.

**17. DISPLAY OF EXPIRATION DATE**

It is not appropriate to display the expiration date for OMB approval of the information collected pursuant to Section 10 of the Federal Power Act and part 11 of the Commission's regulations. The information submitted to the Commission is not collected on a standard preprinted form which would avail itself to this display. Rather, owners of

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hydropower projects prepare and submit filings that reflect the unique or specified circumstances related to jurisdictional transaction. In addition, as previously noted, the information contains a mixture of narrative descriptions and empirical support that varies with each respondent. The Commission does publish in its regulations at 18 C.F.R. Part 389 both the regulatory citations and the corresponding OMB control numbers for public viewing plus identifying these regulatory sections and control numbers with the issuance of each proposed and final rule making.

**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**

Not applicable. This collection of information does not employ statistical methodology.