

**SUPPORTING STATEMENT**

**FERC 583 (1902-0136): Annual Kilowatt Generating Report (Annual Charges)**  
(Three Year Extension Requested Through October 31, 2011)

The Federal Energy Regulatory Commission (Commission) requests that the Office of Management and Budget (OMB) extend its approval of **FERC-583, Annual Kilowatt Generating Report (Annual Charges) (FERC-583) through October 31, 2011**. FERC-583 is an existing information collection (OMB Control No. 1902-0136), consisting of a set of filing requirements and notice procedures as contained in 18 CFR Part 11. The Commission estimates that the annual reporting burden under FERC- 583 will average 1,198 hours over the next three years, a decrease of 212 hours from the present OMB inventory. This decrease is an adjustment of the current inventory figure. Current OMB approval of FERC-583 expires October 31, 2008.

**A. JUSTIFICATION**

**9948. CIRCUMSTANCES THAT MAKE THE COLLECTION OF INFORMATION NECESSARY**

The filing requirements for FERC-583 are contained in 18 CFR Part 11 and are mandated by Section 10(e) of the Federal Power Act (FPA), Part 1 (16 U.S.C. 803(e)).

Section 10(e) of the Federal Power Act authorizes the Commission to collect annual charges from hydropower licensees for, among other things, the cost of administering Part I of the FPA and for use of administering the costs of United States dams. Part 11 of the Commission's regulations provides the manner in which licensees are charged for such costs. Prior to the adoption of the current regulations in 1958 and 1963, administrative charges were not based on the actual costs of the government, but were in the nature of set fees that were billed for the calendar year. In addition, the Omnibus Budget Reconciliation Act of 1986 authorizes the Commission to "assess and collect fees and annual charges in any fiscal year in amounts equal to all of the costs incurred by the Commission in that fiscal year."

On May 8, 1987, the Commission issued a final rulemaking in Docket No RM86-2 which revised the regulations governing the timing and method used to determine annual charges. In RM86-2, the Commission changed the timing of billing of reimburseable administrative charges from a calendar year to a federal

fiscal year basis. This change synchronized billing procedures so that charges are based on costs and power generation data from the same period of time.

In RM93-7, Order No. 576, (March 15, 1995), the Commission amended its regulations governing the assessment of annual charges by allocating the charges for administrative costs among a single class of licensees and exemptees, based on the respective capacity of each hydropower project as measured in kilowatts, with a maximum charge and with the assessments to commence at the same time as the commencement of project construction. The final rule also eliminated annual charges for minor licensees and did not impose annual charges on exempt applications. The final rule retained the current practice of separate allocation for municipal and non-municipal licensees, as well as the existing formulae for allocating those costs between the two classes of major licensees. The final rule amended 18 CFR Section 11.1 to substitute kilowatts for horsepower

in stating a projects' authorized installed capacity. This change was designed to reflect modern usage in the rating of equipment used in hydropower projects. For the few hydro mechanical projects all of which are smaller projects, the Commission imputed a kilowatt figure by multiplying these projects' existing horsepower capacity by three fourths.

In RM96-2, Order No. 584, November 25, 1995 the Commission reversed itself by restoring the *status quo* in the formulae for allocating annual charges among licenses, by correcting an error that occurred in Order No 576. By making the change in defining "authorized installed capacity" in terms of kilowatts instead of horsepower, the Commission inadvertently neglected to include the horsepower to kilowatt adjustment in the regulations that referred to generation. The effect of the inadvertent omission was to seriously distort the balance of capacity and generation in determining the allocation of certain annual charges. The Commission corrected the omission by adding conversion adjustments to the appropriate regulatory sections.

In an Order dated June 18, 2004 (Project No. 2482-038, et al.) the Commission responded to a decision by the United States Court of Appeals for the District of Columbia Circuit.<sup>1</sup> The court concluded that the Commission is required to determine the reasonableness of costs incurred by other Federal agencies (OFAs) related to the participation of those agencies in the Commission's proceedings under the Federal Power Act when those agencies seek to include such costs in the administrative annual charges licensees must pay to reimburse

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1 City of Tacoma, WA, et al. v. FERC, 331 F 3d 106 (D.C. Cir. 2003) (Tacoma v. FERC).

the United States for the cost of administering Part 1. The court also remanded to the Commission issues regarding the eligibility of specific types of OFA costs for reimbursement, and issues regarding the availability of refunds for certain charges.

In response, the Commission established in the order which OFA costs are eligible to be included in administrative annual charges. It also established procedures for Commission review of future OFA costs submittals and those currently under appeal. Finally, it introduced a new form for such cost submittals and announced a technical conference for the purpose of finalizing the form. A copy of the format is included with this submission.

**9949. HOW, BY WHOM, AND FOR WHAT PURPOSES THE INFORMATION IS TO BE USED AND THE CONSEQUENCES OF NOT COLLECTING THE INFORMATION**

The Commission uses information collected on FERC- 583 to carry out its statutory mandate. Specifically, the Commission staff uses the information to determine the amount of annual charges to be assessed licensees for reimbursable government administrative costs (including other Federal agencies) and for the use of government dams. If the information were not collected, the Commission would be unable to have an accurate basis for assessing charges and would not be able to carry out its responsibilities under the Federal Power Act. In addition, Congress has directed the Commission to collect fees and annual charges equal to its annual appropriation. The Commission deposits the fees and annual charges that it collects in the Treasury's general fund.

**9950. DESCRIBE ANY CONSIDERATION FOR THE USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN AND TECHNICAL OR LEGAL OBSTACLES TO REDUCING BURDEN**

The use of information technology is being used by both the licensees and the Commission. The Commission has converted information filed under 18 CFR Part 11 to an automated file for computation of annual charges for hydro facilities.

The Commission continues to implement improved information technology to reduce the burden on jurisdictional companies. When possible, the Commission will apply this technology to FERC-583.

**9951. 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.**

The Commission periodically reviews notice requirements as OMB review dates arise or as the Commission may see fit in carrying out its responsibilities under the FPA in order to eliminate duplication and minimize the filing burden. There is no duplication of information. A number of licensees are required to report the same information to other license conditions, but where those conditions exist, these licensees are permitted to file a single report covering all related requirements. To the extent that similar information is reported in 18 CFR 11.16, it will be used and licensees will not be required to make duplicative reports in 18 CFR 11.3(c) (1). It should be noted that the Commission has no other sources available on gross generation. Gross generation data, as opposed to net generation data, is necessary to ensure that the kilowatt hour figures are reliable for billing purposes.

**9952. METHODS USED TO MINIMIZE BURDEN IN COLLECTION OF  
INFORMATION INVOLVING SMALL ENTITIES**

FERC-583 is a regulatory filing requirement pertaining to the filing of fees for use in its computation of annual charges. The data required imposes the least possible burden for small and large entities while collecting the information required to carry out the responsibilities under the Federal Power Act, Part 1, Section 10(e) and the Omnibus Budget Reconciliation Act of 1986. The Commission also provides waiver provisions (18 CFR 381.106 and 382.105(a)) for request of exemption from fees and annual charges, respectively, on the basis of financial hardship. None of the electric utilities or hydropower facilities affected by these regulations are small businesses or small entities as defined by the Regulatory Flexibility Act. If a small entity were affected, they would not have to file as they would be exempt under other provisions of the regulations.

**9953. CONSEQUENCE TO FEDERAL PROGRAM IF COLLECTION WERE  
CONDUCTED LESS FREQUENTLY**

The information collection cannot be discontinued nor collected less frequently due to statutory requirements. The information required in

18 CFR Part 11 is required only once per year in order to compute annual charges that will be assessed to applicable regulated entities. These reports are required to support each assessment.

**9954. EXPLAIN ANY SPECIAL CIRCUMSTANCES RELATING TO THE INFORMATION COLLECTION**

The information required for filing for a waiver of fees and/or annual charges is only required on the occasion of filing a request for waiver. The frequency of collection is not germane to the requirements under FERC-583. The Commission meets the guidelines set by out by OMB in 5 CFR 1320.5.

**9955. DESCRIBE EFFORTS TO CONSULT OUTSIDE THE AGENCY: SUMMARIZE PUBLIC COMMENTS AND AGENCY'S RESPONSE TO THESE COMMENTS**

The Commission published the notice required by 5 CFR 1320.8(d) in the *Federal Register* on February 26, 2008, (Fed. Reg. Vol. 73, at 10235-36) with comments due on or before April 14, 2008. In the public notice, the Commission noted it would be requesting a three year extension of the public reporting burden with no change to the existing collection of data. No comments were received in response to this notice.

**9956. EXPLAIN ANY PAYMENT OR GIFTS TO RESPONDENTS**

No gifts or payments have been made to respondents.

**9957. DESCRIBE ANY ASSURANCE OF CONFIDENTIALITY PROVIDED TO RESPONDENTS**

The Commission's existing regulations at 18 C.F.R. § 388.112 provide a process for filers to submit documents with a request for privileged treatment. The Commission does not consider FERC-583 information confidential. All data are public information.

**9958. PROVIDE ADDITIONAL JUSTIFICATION FOR ANY QUESTIONS OF A SENSITIVE NATURE THAT ARE CONSIDERED PRIVATE.**

The issue of sensitive questions is not applicable to the data contained in FERC-583.

**9959. ESTIMATED BURDEN ON COLLECTION OF INFORMATION**

Based on the Commission’s previous experience with the burden of FERC 583, it is estimated that the average burden will be as follows:

<b>FERC-583 BURDEN OF ANNUAL REPORTING</b>				
<b>Data Collection</b>	<b>Respondents</b>	<b>Estimated Number of Responses Per Year</b>	<b>Average Annual Hours Per Respondent</b>	<b>Total Hours</b>
FERC 583	599	1	2	1,198

Current OMB Inventory:

Estimated number of respondents:	599
Estimated number of responses per respondent:	1
Estimated number of responses per year:	599
Estimated hours per response:	2
Total annual hours:	1,198

Difference from OMB inventory

Program Change:	0
Adjustment:	-212

Reason for the difference: The decrease in respondents is due to the number of entities who have left the energy industry either through consolidation or are no longer in business and are no longer subject to the requirements of 18 CFR Part 11.

**9960. ESTIMATED OF THE TOTAL COST BURDEN TO RESPONDENTS**

<b>FERC 583 RESPONDENTS= ANNUALIZED COST</b>				
	<b>Respondents</b>	<b>Average Annual Hours</b>	<b>Estimated Cost per</b>	<b>Total Cost for All</b>

		Per Respondent	Respondent <sup>2</sup>	Respondents
FERC 583	599	2	\$104.38	\$73,590

**9961. ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT**

The estimated annual cost to the Federal government is as follows:

FERC 583 FEDERAL GOVERNMENT=S ANNUALIZED COSTS	
Activity	Estimated Cost
Forms Clearance Review (FY 2008)	\$1,458
Analysis of Data	\$126,384
Total	\$127,832

**9962. REASONS FOR CHANGES IN BURDEN INCLUDING THE NEED FOR ANY INCREASE**

Since the last request for renewal of FERC-583, there has been a change in the burden due to the decrease of 106 entities that are no longer required to file. (See item no. 12 above).

**9963. TIME SCHEDULE FOR THE PUBLICATION OF DATA**  
Schedule for Data Collection and Analysis

Statements of annual charges are sent annually to licensees. Initial delinquency notices (Dunning Notices) are sent to customers if payment is **not** received within 45 days (i.e. customers have 45 days from the date of the bill to make a timely payment). A two to three day grace period will follow after the first due date and then a Dunning Notice is sent every 30 days with a maximum of four Dunning notices for payment. There is a late fee assessment on each hydro license. The billing rates are 5% on the first

<sup>2</sup> Based the average annual hours per respondent divided by 2,080 and multiplied by \$126,384 (Commission=s current average annual cost per employee).

Dunning Notice and 3% thereafter. In addition, the Oil, Gas, and Electric (OGE) overdue billing rates are published quarterly with the late fees assessed on a monthly basis. PeopleSoft (which is the Commission's primary financial reporting system) maintains a log of delinquent billings that is used when Dunning Notices should be sent.

Certification Debt Collection forms and Debt Information forms are sent to the Department of Treasury for offset or collection, if Commission staff have not received payment after 180 days.

**Estimated Activity Completion Time**

The data are used for regulatory purposes in connection with processing annual charges for jurisdictional companies (see above). The Commission does not publish the data.

**9964. DISPLAY OF EXPIRATION DATE**

It is not appropriate to display the expiration date of OMB approval of the information collection. The information is not collected on a standard printed form. Applicants prepare and submit a notice that is in a format (notice) that meets the Commission's requirements.

**9965. EXCEPTION TO THE CERTIFICATION STATEMENT**

There are exceptions 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 the standard as stated in item 19(i) "effective and efficient statistical survey methodology."

Item no. 19(g)(vi)- See Item no. 17 above and Item no. 19(i) see B. below.

**B. COLLECTION OF INFORMATION EMPLOYING STATISTICAL METHODS.**

The FERC-583 is designed for regulatory purposes and, therefore, does not employ statistical methods for analysis or publication.