

**Supporting Statement for**  
**FERC-65A "Exemption Notification of Holding Company Status"**  
(Three Year Extension Requested through February 29, 2012)

The Federal Energy Regulatory Commission (FERC or Commission) requests that the Office of Management and Budget (OMB) review and extend its approval of FERC-65A "Exemption Notification of Holding Company Status" (OMB No. 1902-0216) through February 29, 2012. Current OMB approval expires on February 29, 2012.

**A. Justification**

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

Section 1264 of PUHCA 2005<sup>1</sup>, (Attachment A), generally provides that holding companies and associated entities are required to give the Commission access to books and records relevant to costs incurred by a public utility which are necessary or appropriate for the protection of utility customers with respect to jurisdictional rates. Section 1275 of PUHCA<sup>2</sup> 2005 addresses the Commission's review and authorization of the allocation of costs for non-power goods or administrative or management services when requested by a holding company system or state commission. In addition, the Commission's rate authorities under the Federal Power Act<sup>3</sup> enable the Commission to detect and disallow from jurisdictional rates any imprudently incurred, unjust or unreasonable, or unduly discriminatory or preferential costs resulting from affiliate transactions between companies in the same holding company system. This includes both power transactions and non-power goods or services transactions between Commission-regulated companies that have captive customers and their "unregulated" affiliates. The Commission routinely places code of conduct restrictions on power sales at market-based rates between regulated and non-regulated affiliates and has also placed conditions on non-power goods and services transactions involving public utilities to help ensure these businesses engage in appropriate market behavior.

The Commission issued Order No. 667 in 2005 to implement the repeal of the Public Utility Holding Company Act of 1935 and the enactment of the Public Utility Holding Company Act of 2005. The new FERC regulations this Order put in place adopted, modified, and streamlined the reporting requirements for holding companies which the Securities and Exchange Commission specified in 17 CFR

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1 Pub. L. No. 109-58, 119 Stat. 594 (2005), 42 U.S.C. § 16452.

2 Ibid.

3 [16 U.S.C. §§824](#) d-e (2000).

§§250.1, 250.26, 250.80, 250.93, 250.94, and 259.313.

The Commission is concurrently requesting a collection approval extension from OMB for the related collection FERC-65 “Notification of Holding Company Status.” This collection is used to track the corporate identities of public utility and natural gas companies as well as the organizational structure of business unit constituents in holding company systems. The Commission needs this information to discern whether the reported businesses fall within its jurisdiction.

The FERC-65A is submitted by those entities requesting an exemption from the requirements for Commission access to their books and records under PUHCA 2005, Section 1264<sup>4</sup>. The Commission allows an exemption if the books, accounts, memoranda, and other records of any person or entity are not relevant to the jurisdictional rates of a public utility or natural gas company; or if any class of transactions is not relevant to the jurisdictional rates of a public utility or natural gas company. Commission regulations (Attachment B) in 18 CFR 366.3 describe the exemption criteria in detail.

Commission regulations in 18 CFR 366.4 designate the use of FERC-65A for exemption requests. The regulations do not specify a format in which respondents must submit the required information. These filings are docketed as PH08-, PH07-, etc. in the Commission’s eLibrary system (<http://www.ferc.gov/docs-filing/elibrary.asp>).

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

The information filed in the FERC-65A would be what is necessary to support the company’s position that they qualify for exemption from the requirement because they belong to one or more of the 12 types of entities, persons or classes of transactions which 18 CFR 366.3 deems not subject to the requirements for Commission access to their books and records under PUHCA 2005 and eligible to seek waiver of the Commission’s accounting, record retention, and reporting requirements. The list includes:

- (1) Qualifying facilities;
- (2) Exempt wholesale generators;

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<sup>4</sup> The Commission is concurrently requesting a collection approval extension from OMB for related collection, FERC-65B “Waiver Notification” (1902-0217).

- (3) Foreign utility companies;
- (4) Persons whose books, accounts, memoranda, and other records the Commission finds are not relevant to the jurisdictional rates of a public utility or natural gas company; or any class of transactions the Commission finds is not relevant to the jurisdictional rates of a public utility or natural gas company;
- (5) Passive investors, so long as the ownership remains passive, including:
- (6) Mutual funds;
- (7) Collective investment vehicles whose assets are managed by banks, savings and loan associations and their operating subsidiaries, or brokers/dealers;
- (8) Persons that directly, or indirectly through their subsidiaries or affiliates, buy and sell the securities of public-utility companies in the ordinary course of business as a broker/dealer, underwriter or fiduciary, and are not exercising operational control over the companies;
- (9) Commission-jurisdictional utilities that have no captive customers and that are not affiliated with any jurisdictional utility that has captive customers, and that do not own Commission-jurisdictional transmission facilities or provide Commission-jurisdictional transmission services and that are not affiliated with persons that own Commission-jurisdictional transmission facilities or provide Commission-jurisdictional transmission services, and holding companies that own or control only such utilities;
- (10) Electric power cooperatives;
- (11) Local distribution companies that are not regulated as "natural gas companies" pursuant to sections 1(b) or 1(c) of the Natural Gas Act, (15 U.S.C. 717(b), (c)); and
- (12) Natural gas companies that distribute natural or manufactured gas at retail to industrial or electric generation customers and/or distribute de minimis amounts of natural or manufactured gas at retail to farmer or rancher customers located adjacent to the natural gas company's rights-of-way.

The exemptions provided benefit many small entities; without the exemption option, the burden on small entities would be significant.

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

To minimize filer burden, the Commission accepts FERC-65A electronically through its website-based eFiling system (see <http://www.ferc.gov/docs-filing/efiling.asp>). Filers preferring not to e-File may

submit hardcopy filings to the Commission by mail or via courier delivery services.

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**

Commission staff who use the information and who are knowledgeable of the requirements have not been able to find any other source of the information.

In addition, the public, in response to a Commission Federal Register Notice, and filers of the information have not identified any other source of this information.

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

This filing exists to benefit small entities. It allows for their exemption from the books and records provisions of 18 CFR 366.

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

There is no requirement to file the FERC-65A on a recurring basis. The FERC-65 filing deadline was June 15, 2006 for all holding companies in existence on February 8, 2006. Holding companies formed after February 8, 2006 must file within thirty days of becoming a holding company. The FERC-65A should be filed in a timely manner taking the FERC-65 deadlines into consideration.

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

There are no special circumstances relating to the FERC-65A information collection.

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

In accordance with 5 CFR § 1320.8(d), the Commission’s notice to renew its OMB approval of the FERC-65A information collection was published in the Federal Register on October 15, 2008<sup>5</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 PROVIDED TO RESPONDENTS**

The information submitted to the Commission is public information and therefore is not considered confidential. However, specific requests for confidential treatment to the extent permitted by law are 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 is based on Commission staff experience with the collection and is as follows:

Number of Respondents Annually		Number of Responses per Respondent		Average Burden Hours per Response		Total Annual Burden Hours
10	x	1	x	1	=	10

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

The cost of the information collection to respondents is as follows:

Total Respondent Burden Hours	Number of Hours per Staff Year	Cost per Staff Employee	Total Annualized Cost
10	208	\$126.384	\$607.62

<sup>5</sup> The notice appeared at 73 FR 61414-12 (2008).

The estimated total cost to respondents is \$607.62. [10 hours divided by 2080 hours<sup>6</sup> per year, times \$126,384<sup>7</sup> equals \$607.62]. The average cost per respondent is \$60.76

The respondent burden includes the total time, effort, and 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 estimate of the cost to the Federal government is based on salaries for professional and clerical support and is as follows:

	Total Staff Burden Hours		Number of Hours per Staff Year		Cost per Staff Employee		Total Annualized Cost
Clearance:	40	÷	2080	x	\$126,384	=	\$2430.46
Analysis:	120	÷	2080	x	\$126,384	=	\$7291.39
Total:						=	\$9721.85

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

There is an adjustment to the reporting burden. The Commission estimated that it would receive responses from 35 entities when it issued the final rule. However, in practice the Commission has received responses on average from 10 entities. The amount of time to complete the filing remains unchanged.

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

<sup>6</sup> Number of hours an employee works each year.

<sup>7</sup> Average annual salary per employee.

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

**17. DISPLAY OF EXPIRATION DATE**

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

**18. EXCEPTIONS TO THE CERTIFICATION STATEMENT**

The information 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 guidelines. 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.

**Public Utility Holding Company Act of 2005**

**SEC. 1264. FEDERAL ACCESS TO BOOKS AND RECORDS.**

(a) IN GENERAL.—Each holding company and each associate company thereof shall maintain, and shall make available to the Commission, such books, accounts, memoranda, and other records as the Commission determines are relevant to costs incurred by a public utility or natural gas company that is an associate company of such holding company and necessary or appropriate for the protection of utility customers with respect to jurisdictional rates.

(b) AFFILIATE COMPANIES.—Each affiliate of a holding company or of any subsidiary company of a holding company shall maintain, and shall make available to the Commission, such books, accounts, memoranda, and other records with respect to any transaction with another affiliate, as the Commission determines are relevant to costs incurred by a public utility or natural gas company that is an associate company of such holding company and necessary or appropriate for the protection of utility customers with respect to jurisdictional rates.

(c) **HOLDING COMPANY SYSTEMS.**—The Commission may examine the books, accounts, memoranda, and other records of any company in a holding company system, or any affiliate thereof, as the Commission determines are relevant to costs incurred by a public utility or natural gas company within such holding company system and necessary or appropriate for the protection of utility customers with respect to jurisdictional rates.

(d) **CONFIDENTIALITY.**—No member, officer, or employee of the Commission shall divulge any fact or information that may come to his or her knowledge during the course of examination of books, accounts, memoranda, or other records as provided in this section, except as may be directed by the Commission or by a court of competent jurisdiction.



**ATTACHMENT B**

## TITLE 18--CONSERVATION OF POWER AND WATER RESOURCES

## CHAPTER I--FEDERAL ENERGY REGULATORY COMMISSION, DEPARTMENT OF ENERGY

## PART 366\_PUBLIC UTILITY HOLDING COMPANY ACT OF 2005--Table of Contents

## Subpart A\_PUHCA 2005 Definitions and Provisions

**Sec. 366.2 Commission access to books and records.**

(a) In general. Unless otherwise exempted by Commission rule or order, each holding company and each associate company thereof shall maintain, and shall make available to the Commission, such books, accounts, memoranda, and other records as the Commission determines are relevant to costs incurred by a public utility or natural gas company that is an associate company of such holding company and necessary or appropriate for the protection of utility customers with respect to jurisdictional rates. However, for purposes of this subchapter, no provision in the subchapter shall apply to or be deemed to include:

- (1) The United States;
- (2) A state or political subdivision of a state;
- (3) Any foreign governmental authority not operating in the United States;
- (4) Any agency, authority, or instrumentality of any entity referred to in paragraphs (a) (1), (2), or (3) of this section; or
- (5) Any officer, agent, or employee of any entity referred to in paragraphs (a)(1), (2), (3), or (4) of this section as such in the course of his or her official duty.

(b) Affiliate companies. Unless otherwise exempted by Commission rule or order, each affiliate of a holding company or of any subsidiary company of a holding company shall maintain, and shall make available to the Commission, such books, accounts, memoranda, and other records with respect to any transaction with another affiliate, as the Commission determines are relevant to costs incurred by a public utility or natural gas company that is an associate company of such holding company and necessary or appropriate for the protection of utility customers with respect to jurisdictional rates.

(c) Holding company systems. The Commission may examine the books, accounts, memoranda, and other records of any company in a holding company system, or any affiliate thereof, as the Commission determines are relevant to costs incurred by a public utility or natural gas company within such holding company system and necessary or

appropriate for the protection of utility customers with respect to jurisdictional rates.

(d) Confidentiality. No member, officer, or employee of the Commission shall divulge any fact or information that may come to his or her knowledge during the course of examination of books, accounts, memoranda, or other records as provided in this section, except as may be directed by the Commission or by a court of competent jurisdiction.

### **Sec. 366.3 Exemption from Commission access to books and records; waivers of accounting, record-retention, and reporting requirements.**

(a) Exempt classes of entities. Any person that is a holding company solely with respect to one or more of the following will be exempt from the requirements of Sec. Sec. 366.2 and 366.21 and any associated service company will be exempt from the requirements of Sec. 366.2, 366.22, and 366.23; such person need not make the filings provided in Sec. 366.4(a) or (b):

(1) Qualifying facilities under the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2601 et seq.);

(2) Exempt wholesale generators; or

(3) Foreign utility companies.

(b) Exemptions of additional persons and classes of transactions--

(1) Commission authority to exempt additional persons and classes of transactions. The Commission shall exempt a person or class of transactions from the requirements of Sec. 366.2 and the accounting, record-retention, and reporting requirements of Sec. 366.21, 366.22, and 366.23 if, upon individual application or upon the motion of the Commission--

(i) The Commission finds that the books, accounts, memoranda, and other records of any person are not relevant to the jurisdictional rates of a public utility or natural gas company; or

(ii) The Commission finds that any class of transactions is not relevant to the jurisdictional rates of a public utility or natural gas company.

(2) Commission exemption of additional persons and classes of transactions. The Commission has determined that the following persons and classes of transactions satisfy the requirements of paragraph (b)(1) of this section, and any person that is a holding company solely with respect to one or more of the following may file to obtain an exemption for that person or class of transactions, as appropriate, from the requirements of Sec. Sec. 366.2 and 366.21 (applicable to holding companies) and Sec. Sec. 366.2, 366.22, and 366.23 (applicable to the holding companies' associated service companies), pursuant to the notification procedure contained in Sec. 366.4(b):

(i) Passive investors, so long as the ownership remains passive, including:

(A) Mutual funds,

(B) Collective investment vehicles whose assets are managed by banks, savings and

loan associations and their operating subsidiaries, or brokers/dealers; and

(C) Persons that directly, or indirectly through their subsidiaries or affiliates, buy and sell the securities of public-utility companies in the ordinary course of business as a broker/dealer, underwriter or fiduciary, and not exercising operational control over such companies;

(ii) Commission-jurisdictional utilities that have no captive customers and that are not affiliated with any jurisdictional utility that has captive customers, and that do not own Commission-jurisdictional transmission facilities or provide Commission-jurisdictional transmission services and that are not affiliated with persons that own Commission-jurisdictional transmission facilities or provide Commission-jurisdictional transmission services, and holding companies that own or control only such utilities;

(iii) Transactions where the holding company affirmatively certifies on behalf of itself and its subsidiaries, as applicable, that it will not charge, bill or allocate to the public utility or natural gas company in its holding company system any costs or expenses in connection with goods and services transactions, and will not engage in financing transactions with any such public utility or natural gas company;

(iv) Transactions between or among affiliates that are independent of and do not include a public utility or natural gas company;

(v) Electric power cooperatives;

(vi) Local distribution companies that are not regulated as "natural gas companies" pursuant to sections 1(b) or 1(c) of the Natural Gas Act, (15 U.S.C. 717(b), (c)).

(vii) Natural gas companies that distribute natural or manufactured gas at retail to industrial or electric generation customers and/or distribute de minimis amounts of natural or manufactured gas at retail to farmer or rancher customers located adjacent to the natural gas company's rights-of-way.

(c) Waivers. Any person that is a holding company solely with respect to one or more of the following may file to obtain a waiver of the accounting, record-retention, and reporting requirements of Sec. 366.21 (applicable to holding companies) and Sec. Sec. 366.22 and 366.23 (applicable to the holding companies' associated service companies), pursuant to the notification procedures contained in Sec. 366.4(c):

(1) Single-state holding company systems; for purposes of Sec. 366.3(c)(1), a holding company system will be deemed to be a single-state holding company system if the holding company system derives no more than 13 percent of its public-utility company revenues from outside a single state (for purposes of this waiver, revenues derived from exempt wholesale generators, foreign utility companies and qualifying facilities will not be considered public-utility company revenues);

(2) Holding companies that own generating facilities that total 100 MW or less in size and are used fundamentally for their own load or for sales to affiliated end-users; or

(3) Investors in independent transmission-only companies.

(d) Other requests for exemptions and waivers. Any person seeking an exemption or waiver that is not covered by paragraphs (a), (b)(2) or (c) of this section, shall file a

petition for declaratory order pursuant to Sec. 385.207(a) of this chapter justifying the request for exemption or waiver. Any person seeking such an exemption or waiver shall bear the burden of demonstrating that such an exemption or waiver is warranted.

(e) Nothing in paragraphs (a)-(d) of this section shall affect the authority of the Commission under the Federal Power Act (16 U.S.C. 791 et seq.), the Natural Gas Act (15 U.S.C. 717 et seq.), or other applicable law, including the authority of the Commission with respect to rates, charges, classifications, rules, regulations, practices, contracts, facilities, and services under the Federal Power Act and Natural Gas Act and with respect to access to books and records under the Federal Power Act and Natural Gas Act.

[Order No. 667-A, 71 FR 28457, May 16, 2006, as amended by Order 667-B, 71 FR 42755, July 28, 2006]

**Sec. 366.4 FERC-65, notification of holding company status, FERC-65A, exemption notification, and FERC-65B, waiver notification.**

(a) Notification of holding company status--(1) Persons that meet the definition of a holding company as provided by Sec. 366.1 as of February 8, 2006 shall notify the Commission of their status as a holding company no later than June 15, 2006. Holding companies formed after February 8, 2006 shall notify the Commission of their status as a holding company, no later than the later of June 15, 2006 or 30 days after they become holding companies.

(2) The notification required pursuant to Sec. 366.4(a)(1) shall be made by submitting FERC-65 (notification of holding company status), which shall contain the following: The identity of the holding company and of the public utilities and natural gas companies in the holding company system; the identity of service companies, including special-purpose subsidiaries providing non-power goods and services; the identity of all affiliates and subsidiaries; and their corporate relationship to each other. This filing will be for informational purposes and will not be noticed in the Federal Register, but will be available on the Commission's Web site. FERC-65 must be subscribed, consistent with Sec. 385.2005(a) of this chapter, but need not be verified.

(3) Notwithstanding Sec. 366.4(a)(1) and (2), holding companies that are exempt holding companies pursuant to Sec. 366.3

(a) are not required to notify the Commission of their status or to submit FERC-65 (notification of holding company status).

(b) FERC-65A (exemption notification) and petitions for exemption.

(1) Persons who, pursuant to Sec. 366.3(b)(2), seek exemption from the requirements of Sec. 366.2 and the accounting, record-retention, and reporting requirements of Sec. 366.21, 366.22, and 366.23, may seek such exemption by filing FERC-65A (exemption notification); FERC-65A must be subscribed, consistent with Sec.

385.2005(a) of this chapter, but need not be verified. These filings will be noticed in the Federal Register; persons who file FERC-65A must include a form of notice suitable for publication in the Federal Register in accordance with the specifications in Sec.

385.203(d) of this chapter. Persons who file FERC-65A in good faith shall be deemed to have a temporary exemption upon filing. If the Commission has taken no action within 60 days after the date of filing FERC-65A, the exemption shall be deemed to have been granted. The Commission may toll the 60-day period to request additional information or for further consideration of the request; in such case, the temporary exemption will remain in effect until such time as the Commission has determined whether to grant or deny the exemption. Authority to toll the 60-day period is delegated to the Secretary or the Secretary's designee.

(2) Notwithstanding Sec. 366.4(b)(1), persons that are exempt holding companies pursuant to Sec. 366.3(a) are not required to file FERC-65A (exemption notification).

(3) Persons that do not qualify for exemption pursuant to Sec. 366.3(b)(2) may seek an individual exemption from this subchapter. They may not do so by means of filing FERC-65A and instead must file a petition for declaratory order as required under Sec. 366.3(d). Such petitions will be noticed in the Federal Register; persons that file a petition must include a form of notice suitable for publication in the Federal Register in accordance with the specifications in Sec. 385.203(d) of this chapter. No temporary exemption will attach upon filing and the requested exemption will be effective only if approved by

the Commission. Persons may also seek exemptions for classes of transactions by filing a petition for declaratory order pursuant to Sec. 385.207(a) of this chapter justifying the request for exemption. Any person seeking such an exemption shall bear the burden of demonstrating that such exemption is warranted.

(c) FERC-65B (waiver notification) and petitions for waiver.

(1) Persons who, pursuant to Sec. 366.3(c), seek waiver of the accounting, record-retention, and reporting requirements of Sec. Sec. 366.21, 366.22, and 366.23, may seek such waiver by filing FERC-65B (waiver notification); FERC-65B must be subscribed, consistent with Sec. 385.2005(a) of this chapter, but need not be verified. FERC-65B will be noticed in the Federal Register; persons who file FERC-65B must include a form of notice suitable for publication in the Federal Register in accordance with the specifications in Sec. 385.203(d) of this chapter. Persons who file FERC-65B in good faith shall be deemed to have a temporary exemption upon filing. If the Commission has taken no action within 60 days after the date of filing of FERC-65B, the waiver shall be deemed to have been granted. The Commission may toll the 60-day period to request additional information or for further consideration of the request; in such case, the temporary waiver will remain in effect until such time as the Commission has determined whether to grant or deny the waiver. Authority to toll the 60-day period is delegated to the Secretary or the Secretary's designee.

(2) Persons that do not qualify for waiver pursuant to Sec. 366.3(c) may seek an individual waiver from this subchapter. They may not do so by means of filing FERC-65B and instead must file a petition for declaratory order as required under Sec. 366.3(d). Such petitions will be noticed in the Federal Register; persons that file a petition must include a form of notice suitable for publication in the Federal Register in accordance with the specifications in Sec. 385.203(d) of this chapter. No temporary waiver will attach upon filing and the requested exemption will be effective only if approved by the Commission. Persons may also seek waivers for classes of transactions by filing a petition for declaratory order pursuant to Sec. 385.207(a) of this chapter justifying the request for waiver. Any person seeking such waiver shall bear the burden of demonstrating that such waiver is warranted.

(d) Procedure for notification of material change in facts. (1) If there is any material change in facts that may affect an exemption or waiver granted pursuant to paragraphs (b) or (c) of this section, the person receiving the exemption or waiver shall within 30 days of the material change in facts:

(i) Submit a new FERC-65A (exemption notification) or FERC-65B (waiver notification) or a petition for declaratory order, pursuant to paragraphs (b) or (c) of this section, as appropriate;

(ii) File a written explanation why the material change in facts does not affect the exemption or waiver; or

(iii) Notify the Commission that it no longer seeks to maintain its exemption or waiver.

(2) If there is a material change in facts that may affect the automatic exemption allowed under Sec. 366.3(a) of this subpart, the person receiving the exemption or waiver shall within 30 days of the material change in facts:

(i) Submit a FERC-65A (exemption notification) or FERC-65B (waiver notification) or a petition for declaratory order, pursuant to paragraphs (b) or (c) of this section, as appropriate;

(ii) File a written explanation why the material change in facts does not affect the exemption; or

(iii) Notify the Commission that it no longer seeks to maintain its exemption.

(e) Revocation of exemption or waiver.

(1) If a person that is exempt pursuant to Sec. 366.3(a) fails to conform to the criteria for such exemption, or if a person that has been granted an exemption or waiver pursuant to paragraphs (b) or (c) of this section either fails to conform to the criteria for such exemption or waiver or fails to conform with any material facts or representations presented in its submittals to the Commission, such person may no longer rely upon the exemption or waiver.

(2) The Commission may, on its own motion or on the complaint of any person, revoke the exemption or waiver granted under Sec. 366.3(a) or paragraphs (b) or (c) of this section, if the person fails to conform to any of the criteria under this part for

exemption or waiver.

[Order No. 667-A, 71 FR 28457, May 16, 2006, as amended by Order 699, 72 FR 45326, Aug. 14, 2007]

**ATTACHMENT C**

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

[Docket No. IC08-65A-001; FERC-65A]

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

(October 8, 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 November 14, 2007.

**ADDRESSES:** Copies of sample filings of the proposed information collection can be obtained from the Commission's website (<http://www.ferc.gov/docs-filings/elibrary.asp>) or from the Federal Energy Regulatory Commission, Attn: Michael Miller, Office of the Executive Director, , 888 First Street NE, Washington, DC 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, DC 20426 and refer to Docket No. IC08-65A-000.

Documents filed electronically via the Internet must be prepared in an acceptable filing format and in compliance with the Commission's submission guidelines. Complete filing instructions and acceptable filing formats are available at <http://www.ferc.gov/help>. To file the document, access the Commission's website at <http://www.ferc.gov>, choose the Documents & Filings tab, click on eFiling, then follow the instructions given. 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 the Commission'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, 888 First St. NE, Washington, DC 20426. He 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-65A "Exemption Notification of Holding Company Status" (OMB No. 1902-0216) is used by the Commission to implement the statutory provisions of the Public Utility Holding Company Act of 2005 (PUHCA 2005). Among other things, PUHCA 2005 was intended to give the Commission access to books and records relevant to costs incurred by a public utility or natural gas company which are necessary or appropriate for the protection of utility customers with respect to jurisdictional rates. This intention was made clear in Section 1264 of the Energy Policy Act of 2005, 42 U.S.C. § 16452. The Commission has allowed for an exemption from this requirement if the books, accounts, memoranda, and other records of any person are not relevant to the jurisdictional rates of a public utility or natural gas company; or if any class of transactions is not relevant to the jurisdictional rates of a public utility or natural gas company. Commission regulations in 18 CFR 366.3 describe the criteria in more specificity. Commission regulations in 18 CFR 366.4 designate the use of FERC-65A for exemption requests. Filings may be made submitted in hardcopy or electronically through the Commission's website.

Action: The Commission is requesting a three-year extension of the current expiration date.

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

Number of	Number of	Average Burden	Total Annual
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Respondents Annually (1)	Responses per Respondent (2)	Hours per Response (3)	Burden Hours (1)x(2)x(3)
10	1	1	10

The estimated total cost to respondents is \$607.62. [10 hours divided by 2080 hours<sup>8</sup> per year, times \$126,384<sup>9</sup> equals \$607.62]. The average cost per respondent is \$60.76

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, using technology and systems for the purposes of collecting, validating, verifying, processing, maintaining, disclosing and providing information; (3) adjusting the 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

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<sup>8</sup> Number of hours an employee works each year.

<sup>9</sup> Average annual salary per employee.

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) whether the information collection is necessary for the proper performance of the functions of the Commission; (2) the accuracy of the Commission's burden estimate of the proposed information collection, including the validity of the methodology and assumptions used to calculate the reporting burden; (3) ways to enhance the quality, utility and clarity of the information to be collected.

Kimberly Bose  
Secretary