

FERC-716 (OMB Control No. 1902-0170)

Request for 3 year Extension

**SUPPORTING STATEMENT FOR**  
**FERC-716, Good Faith Request for Transmission Services**  
**and Response by Transmitting Utility under Sections**  
**211(a) and 213a of the Federal Power Act (1902-0170)**

Request is made for a three year extension of FERC-716 "Good Faith Request for Transmission Service and Response by Transmitting Utility under Sections 211(a) and 213(a) of the Federal Power Act (FPA)", which implements a data exchange between a transmission requestor and a transmitting utility prior to the submission of a Section 211 request with the Commission. Components of the data exchange are identified under the Code of Federal Regulations (CFR), 18 CFR 2.20. FERC-716 (1902-0170) is currently approved through June 30, 2009. The Commission requests approval through June 30, 2012. As discussed below, FERC-716 is one component of the transmission services request. The other component is FERC-716A "Application for Transmission Services under Section 211 of the Federal Power Act" (1902-0168) and is described in a separation submission.

Because of the interconnection between the two information collections, the Commission proposes to consolidate the two information collections under one OMB control number 1902-0170. However, until that consolidation is approved, this submission will be based on separate submissions for each information collection.

**JUSTIFICATION**

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

The Energy Policy Act of 1992 amended Section 211 of the FPA and expanded the Commission's authority to order transmission service. Under the revised Section 211, the Commission may order transmission services if it finds that such action would be in the public interest, would not unreasonably impair the continued reliability of electric systems affected by the order, and would meet the requirements of amended Section 212.

Section 211(a) of the FPA allows any electric utility, Federal power marketing agency or any other person generating electric energy for sale or resale to apply for an order requiring a transmitting utility to provide transmission services to the applicant. The Commission may issue an order only if the applicant has requested the transmission services from the transmitting utility at least 60 days before applying to the Commission. Accordingly, a request for transmission services is a condition upon which the Commission may order service under Section 211.

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Section 213(a) of the FPA requires a response by the transmitting utility to a good faith request. Unless the transmitting utility agrees to provide such services as rates, charges, terms and conditions acceptable to such person, the transmitting utility, within 60 days of its receipt of the request, or other mutually agreed upon period, provides such applicant with a detailed written explanation with specific reference to the facts and circumstances of the request including the basis for the proposed rates, charges, terms and conditions of such services as well as any physical constraints which would affect such service. The information is not filed with the Commission, however, the request and response may be analyzed as part of the Section 211 proceeding.

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

The general policy sets forth standards by which the Commission determines whether and when a valid good faith request for transmission has been made under Section 211 of the FPA. In developing the standards, the Commission sought to encourage an open exchange of information with a reasonable degree of specificity and completeness between the party requesting transmission services and the transmitting utility. As a result, twelve components of a good faith request are identified under 18 CFR 2.20. Information in the data exchange is not filed with the Commission unless negotiations between the transmission requestor and the transmitting utility have not been successful and the transmission requestor files a Section 211 request (FERC-716A 1902-0168) with the Commission. The request and response may be analyzed by the Commission as part of the Section 211 proceeding.

The data exchange between the transmission requestor and the transmitting utility may:

- (1) foster a transmission transaction between the parties without Commission action; or,
- (2) assist the Commission in its review of the Section 211 request by ensuring a good faith request has been made pursuant to Section 213(a) of the FPA.

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

Currently, as the information collected under FERC-716 is not usually filed with the Commission unless it accompanies a FERC-716A filing.

On November 15, 2007, the Commission issued a Final Rule, RM07-16-000, Order No. 703, "Filing via the Internet" 73 Fed. Reg. 65659 (November 23, 2007) revising its regulations for implementing the next version of its system for filing documents via the Internet, eFiling 7.0. This Final Rule allows the option of filing all documents in Commission proceedings through the eFiling interface except for specified exceptions, and of utilizing online forms to allow "documentless" interventions in all filings.

With the advent of eFiling 7.0, the Commission has expanded its ability to receive electronic filings through its eFiling and eLibrary systems and now includes requests for transmission service filings and their associated documents.

**4. DESCRIBE EFFORTS TO IDENTIFY DUPLICATION AND SHOW SPECIFICALLY WHY ANY SIMILAR INFORMATION ALREADY AVAILABLE CANNOT BE USED OR MODIFIED FOR USE FOR THE PURPOSES DESCRIBED IN INSTRUCTION NO. 2**

Filing requirements are periodically reviewed as OMB review dates arise or upon initiation by the Commission in order to eliminate duplication and ensure that filing burdens are minimized. Upon submittal of a Section 211 request, the applicant may file its good faith request and the transmitting utility's response to frame the issues for the Commission's review.

**5. METHOD USED TO MINIMIZE BURDEN IN COLLECTIONS OF INFORMATION INVOLVING SMALL ENTITIES**

The data exchange imposes the least possible burden for small utilities requesting or providing transmission services while collecting the information required to carry out

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the responsibilities under Part II of the Federal Power Act.

**6. CONSEQUENCE TO FEDERAL PROGRAM IF INFORMATION WERE COLLECTED LESS FREQUENTLY**

The information is not filed with the Commission, however, the request and response may be analyzed as part of a section 211 proceeding. The data exchange between the transmission requestor and the transmitting utility cannot be discontinued due to statutory requirements.

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

There are no special circumstances for this data collection (FERC-716) in accordance with OMB's regulations in 5 CFR 1320.5(d). The circumstances change when the information is filed along with FERC-716A. Then an applicant may file electronically or make a paper submission as more fully explained in the FERC-716A submission. However, it should be noted that parties that wish to intervene in a proceeding before the Commission, has the option of file their comments electronically or they make a paper submission. If they should make a paper submission, then the Commission requires original and 14 copies. The distribution of multiple hard copies of a filing has been essential so that the required technical reviews and analyses can proceed simultaneously and efficiently.

Likewise, an applicant may respond to the intervention by filing comments electronically rather than make a paper submission.

As noted above, if there is an agreement among the parties then the information does not become part of a section 211 proceeding and OMB's guidelines are therefore not applicable.

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

The notice required by 5 CFR 1320.8(d) was published in the Federal Register on November 24, 2008, a notice of the proposed information collection and a request for comments was published in the Federal Register (73FR 70988). In the public notice, the Commission noted that it would be requesting a

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three-year extension of the public reporting burden with no change to the existing requirements concerning the collection of data. No comments were received.

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

There are no payments or gifts to respondents under any circumstances at any time.

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

All data filed with the Commission are public information unless as specified and requested by the respondent and therefore, not confidential. However, an applicant may request, under the Commission's regulations at 18 CFR 388.112, confidential treatment of some or all of the FERC-716 filing. Each request will be reviewed on a case-by-case basis.

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

There are no questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private in the reporting requirement.

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

Out of the universe of potential applicants, infrequent circumstances will precipitate approximately 3 responses annually which reflect 1 response for 3 individual respondents. (This is a decrease from the original submission of 20 responses/20 respondents). The estimated average burden per response is 100 hours, (40 hours for the transmission requestor and 60 hours for the transmitting utility's response) although it can vary. Estimates are based upon staff's knowledge of the time required to compile such information. Total hours requested is 300 hours.  
Current OMB inventory is 800 hours.  
Difference: 500 hours  
Program change or adjustment: - 500 hours (adjustment)

**13. ESTIMATE OF TOTAL ANNUAL COSTS (BURDEN TO RESPONDENTS)**

The estimated annualized cost to respondents is \$ 43,372.00 which is equivalent to:

Total Respondent / Burden Hours	Number of Hours per Staff Year	X	Cost per Staff Employee <sup>1</sup>	=	Total Annualized Cost
300	/ 2,080	X	\$126,384	=	\$ 18,228

The average cost per respondent is \$6,076. Of this cost it is estimated that \$2,430 will be expended by the transmission requester and \$3,646 will be expended by the transmitting utility to provide a response.

The estimate of respondents' cost is based on (1) staff knowledge and familiarity with utility practices; and (2) the effort required for respondents to compile the information under the existing degree of regulation.

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

The estimated annualized cost to the Federal Government is \$0.00. However, if a transmission request for service is filed with the Commission, then the cost would be \$63,802. For a detailed explanation see the FERC-716A submission.

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

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<sup>1</sup> ? The "Cost per Staff Employee" estimate is based on the annual allocated cost per Commission employee for Fiscal year 2008. The estimated \$126,384 "cost" consists of approximately \$102,028 in salaries and benefits and \$24,356 in overhead.

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There is an adjustment to the current OMB inventory. There is a decrease in the reporting burden. This decrease reflects an adjustment to the estimates from the Commission's last submission. In addition, there have been reductions over time because of greater access to transmission services through the open access same-time system (OASIS) which originated through Commission Order 889 and recent revisions to OASIS in subsequent rulemakings.

**16. TIME SCHEDULE FOR PUBLICATION OF DATA**

This is not a collection of information for which results are planned to be published.

**17. DISPLAY OF AN EXPIRATION DATE**

It is not appropriate to display the expiration date for OMB approval of the information collection pursuant to provisions of 44 U.S.C. Chapter 35 and in accordance with Sections 211(a) and 213(a) of the FPA. The data is not filed on a standard preprinted form which could lend itself to this display. Moreover, the data exchange is filed with the Commission only if the parties do not agree on aspects of the transmission service to be provided.

**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" nor conduct training for its staff in such 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.