

FERC-716A (OMB Control No. 1902-0168)
Request for 3 year Extension

SUPPORTING STATEMENT FOR

**Supporting Statement for FERC-716A Application for
Transmission Services under Section 211 of the Federal Power
Act**

Request is made for a three year extension of FERC-716A "Application for Transmission Services under Section 211 of the Federal Power Act" (1902-0168). FERC-716A is currently approved through June 30, 2009. The information from FERC-716A enables the Commission to issue an order requiring a transmitting utility to provide transmission services (including any enlargement of transmission capacity necessary to provide such services) to the applicant if it is in the public interest.

Because of the interconnection between FERC-716 and FERC-716A 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.

When negotiations are unsuccessful, the FERC-716 good faith request is included in the section 211 application, FERC-716A. In addition, the Commission applies the good faith standards so as to carry out Congress' objective that, subject to appropriate terms and conditions and just and reasonable rates, in conformance with section 212 of the Act, access to the electric transmission system for the purposes of wholesale transactions is made widely available.

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

As noted above, 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. While information in the data exchange is not filed with the Commission, if the negotiations between the transmission requestor and the transmitting utility have not been successful, the transmission requestor may then file a Section 211 request, FERC-716A with the Commission. The request and response will 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,

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(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.

The requisite information in FERC-716A is (1) in the form of a notice suitable for publishing in the Federal Register, the applicant's name, the date of the application, the names of the affected parties, and a brief description of the transmission services sought, and (2) a sworn statement that an actual notice has been served, (including the information above and the proposed dates for initiating and terminating the requested transmission services, the total amount of transmission capacity requested, a brief description of the character and nature of the transmission services being requested, and whether the transmission services are firm or non-firm on each affected party. This statement must enumerate each person served. The information from FERC-716A is used to issue an order requiring a transmitting utility to provide transmission services (including any enlargement of transmission capacity necessary to provide such services) to the applicant if it is in the public interest. Without this information, the Commission would be unable to order a transmitting utility to provide transmission services and thus ensure equitable transmission services to all transmitting utilities. Without this information, the Commission would be unable to carry out the provisions of the Act.

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

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.

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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 the responsibilities under Part II of the Federal Power Act.

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

There is no time schedule for the collection of information; filings are made as the need for transmission services arise. Section 211 of the Act requires each applicant to file FERC-716A when transmission services cannot be obtained. There is no time schedule for the collection of information; filings are made as circumstances dictate. If the collection were conducted less frequently than circumstances dictate, the Commission would be unable to perform its mandated responsibilities.

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

FERC-716A is in conformance with OMB's regulations in 5 CFR 1320.5(d). However, if an applicant opts to file a paper submission, then the applicant must comply with Commission's regulations concerning Rules of Practice and Procedure, §385.2004 which calls for an original and fourteen copies which exceeds the provisions of 5 CFR 1320.5(d). It should also be noted that parties that wish to intervene in a proceeding

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before the Commission, in this instance the application for service may file their comments electronically rather than file a paper submission. 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 three-year extension of the public reporting burden with no change to the existing requirements concerning the collection of data. No comments were received. It should be noted that the Commission used a consolidated notice in the Federal Register for solicitation of comments.

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-716A filing. Each request will be reviewed on a case-by-case basis.

11. PROVIDE ADDITIONAL JUSTIFICATION FOR ANY QUESTIONS

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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

The Commission's regulations require each applicant to make a good faith request for transmission services and each transmitting utility to make a good faith response to the applicant, prior to any request for a Commission section 211 Order of transmission services. The requests contain information specified in the Commission's regulations section 2.20. 18 CFR Part 36 of the Commission's regulations require each applicant to submit a notice and a sworn statement, containing specific information in a specified format, FERC-716A.

Over the last three years, the Commission received an average of three filings per year. Based on those filings, the Commission estimates that it will take will take two and a half hours to prepare and submit an application to request the Commission direct the transmitting utility to provide transmission services. The following figures represent estimated annual burden averages:

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 8 responses/8 respondents). The estimated average burden per response is 2.5 hours, although it can vary. Estimates are based upon staff's knowledge of the time required to compile such information. Total hours requested is 8 hours. Current OMB inventory is 20 hours.
Difference: 12 hours
Program change or adjustment: - 12 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	Number of	Cost per	Total
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Respondent / Burden Hours	Hours per Staff Year	X	Staff Employee ¹	=	Annualized Cost
8 /	2,080	X	\$126,384	=	\$ 486

The average cost per respondent is \$162. 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 \$310,756 which is equivalent to:

- a) Forms Clearance Review (FY '08)(10 hrs @\$61 and hour) = \$ 610
- (b) Analysis of data (.50 FTE x \$126,384)² \$ 63,192
Estimated annual cost of FERC-716A \$ 63,802

*If a transmission request for service is filed with the Commission.

The estimate of the cost to the Federal Government is based on salaries for professional and clerical support, as well as direct and indirect overhead costs. Filings analysis reflects costs incurred for the review of the 211 request and when necessary documentation provided for both the transmission request for service and the transmitting utility's response.

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

There is an adjustment to the current OMB inventory. There is a decrease in the

1 ? 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.

2 ? An "FTE" is a Full Time Equivalent" employee that works the equivalent of 2,080 hours per year.

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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 which has resulted in more information available on transmission services on utility websites.

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 application is filed with the Commission only if the parties are unsuccessful in coming to an agreement on the 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.