

## FERC-716 and FERC-716A - Admin. request to merge FERC-716A into FERC-716

### **FERC-716 (Good Faith Request for Transmission Services and Response by Transmitting Utility under Sections 211(a) and 213a of the Federal Power Act), and FERC-716A (Application for Transmission Services under Section 211 of the Federal Power Act)**

This administrative request is to merge, into the 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), OMB Control No. 1902-0170), the reporting requirements and associated burden of the current FERC-716A (Application for Transmission Services under Section 211 of the Federal Power Act, OMB Control No. 1902-0168). Upon OMB approval of this request:

- both sets of reporting requirements will be included in FERC-716 (OMB Control No. 1902-0170)<sup>1</sup>,
- FERC-716A (and its OMB Control No. 1902-0168) will no longer exist as a separate entity,
- the consolidated FERC-716 will be renamed “Transmission Services (Good Faith Request, Response by Transmitting Utility, and Application) under Sections 211 and 213a of the Federal Power Act”.

Both FERC-716 (under ICR Reference Number 200902-1902-003) and FERC-716A (ICR Reference Number 200902-1902-004) were recently approved by OMB (on 6/12/2009). The OMB expiration dates for both are 6/30/2012.

Both of the recent public Notices<sup>2</sup> and supporting statements<sup>3</sup> (incorporated by reference) explained FERC’s plan to consolidate the two collections into the FERC-716. [Two separate supporting statements<sup>2</sup> were submitted to ensure the collections did not expire.] We received no public comments on either Notice. ***Therefore we propose that this request does not need another public Notice; we request that it be processed by OMB as an administrative type of action.***

We are **not** making any substantive changes to the reporting requirements or the current

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1 The consolidated FERC-716 includes information collections in 18CFR 2.20 and 36.1 (Attachment A).  
2 The information was included in both the 60-day and 30-day Notices (73FR 70988 on 11/24/08, and 74FR6018 on 2/4/09, respectively). See the 30-day Notice, available in FERC’s eLibrary at [http://elibrary.ferc.gov/idmws/search/intermediate.asp?link\\_file=yes&doclist=13683776](http://elibrary.ferc.gov/idmws/search/intermediate.asp?link_file=yes&doclist=13683776). It states “[i]n addition, the requirements will be labeled FERC-716 and consolidated into a single OMB control no. (OMB No. 1902-0170).” The total combined burden hours (308 hours) were included in both Notices.  
3 As stated in the supporting statement for FERC-716A (ICR Reference Number 200902-1902-004), “[b]ecause 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.” A similar statement was included in the supporting statement for FERC-716 (ICR Reference Number 200902-1902-003).

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expiration date; we are only consolidating the requirements into FERC-716.

The estimated annual burden figuresError: Reference source not found for industry follow.

FERC Data Collection	Number of Respondents Annually (1)	Number of Responses Per Respondent (2)	Average Burden Hours Per Response (3)	Total Annual Burden Hours (1)x(2)x(3)
Before consolidation -- FERC-716 <sup>4</sup> [Information exchange between parties]	3	1	100	300 <sup>5</sup>
Before consolidation -- FERC-716A <sup>6</sup> [Application submitted to FERC if parties' negotiations are unsuccessful]	3	1	2.5	8 Error: Reference source not found
<b>After Requested Consolidation, Total for FERC-716</b> Error: Reference source not found				308 Error: Reference source not found

<sup>4</sup> 18CFR 2.20 (formerly called FERC-716) including: good faith request, and reply to good faith request

<sup>5</sup> The FERC 60-day and 30-day Notices for public comment showed the consolidated burden would be 308 hours. The burdens listed in OMB's Notices of Action [approvals] showed 300 hrs. for FERC-716, and 8 hrs. for FERC-716A.

<sup>6</sup> 18CFR 36.1 (formerly called FERC716A) with: notice and sworn statement of service included in application

**e-CFR Data is current as of June 29, 2009**

**Title 18: Conservation of Power and Water Resources**

**PART 2—GENERAL POLICY AND INTERPRETATIONS**

**Statements of General Policy and Interpretations Under the Federal Power Act**

**§ 2.20 Good faith requests for transmission services and good faith responses by transmitting utilities.**

(a) *General Policy.* (1) This Statement of Policy is adopted in furtherance of the goals of sections 211(a) and 213(a) of the Federal Power Act, as amended and added by the Energy Policy Act of 1992.

(2) Under section 211(a), the Commission may issue an order requiring a transmitting utility to provide transmission services (including any enlargement of transmission capacity necessary to provide such services) only if an applicant has made a request for transmission services to the transmitting utility that would be the subject of such order at least 60 days prior to its filing of an application for such order. The requirement in section 211(a) that an applicant make such a request will be met if such an applicant has, pursuant to section 213(a) of the FPA, made a good faith request to a transmitting utility to provide wholesale transmission services and requests specific rates and charges, and other terms and conditions.

(3) It is the Commission's intention to apply the standards of this Statement of Policy when determining whether and when a valid "good faith" request for service was made.

(4) It is the Commission's intention to encourage an open exchange of information that exhibits a reasonable degree of specificity and completeness between the party requesting transmission services and the transmitting utility.

(5) The Commission intends to apply this Statement of Policy 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 FPA, access to the electric transmission system for the purposes of wholesale transactions be more widely available.

(b) *The Components of a good faith request.* The Commission generally considers the following to constitute the minimum components of a good faith request for transmission services:

(1) The identity, address, telephone number, and facsimile number of the party requesting transmission services, and the same information, if different, for the party's contact person or persons.

(2) A statement that the party requesting transmission services is, or will be upon commencement of service, an entity eligible to request transmission under sections 211(a) and 213(a) of the FPA.

(3) A statement that the request for transmission services is intended to satisfy the "request for transmission services" requirement under sections 211(a) and 213(a) of the FPA, and that the request is not a request for mandatory retail wheeling prohibited under section 212(h) of the FPA.

(4) The party requesting transmission services should specify the character and nature of the services requested. Some types of service may require more detailed information than others. Where point-to-point service is requested, the party requesting transmission services should specify the anticipated point(s) of receipt to the transmitting utility's grid and the anticipated point(s) of delivery from the transmitting utility's grid. Where a party requesting transmission services requests additional flexibility to schedule multiple resources to meet its needs ( e.g., network service), the request for services should contain a description of the requested services in sufficient detail to permit the transmitting utility to model the additional services on its transmission system.

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- (5) The names of any other parties likely to provide transmission service to deliver electric energy to, and receive electric energy from, the transmitting utility's grid in connection with the requested transmission services.
  - (6) The proposed dates for initiating and terminating the requested transmission services.
  - (7) The total amount of transmission capacity being requested.
  - (8) To the extent it is known or can be estimated, a description of the "expected transaction profile" including load factor data describing the hourly quantities of power and energy the party requesting transmission services would expect to deliver to the transmitting utility's grid at relevant points of interconnection. In the event delivery is to multiple points within the transmitting utility's electric control area, the requestor should describe, to the extent it is known or can be estimated, the expected load (over a given duration of time) at each such delivery point.
  - (9) Whether firm or non-firm service is being requested. Where a party requests non-firm service, it should specify the priority of service it is willing to accept, or the conditions under which it is willing to accept interruption or curtailment, if known.
  - (10) A statement as to whether the request is being made in response to a solicitation and a copy of the solicitation if publicly available. This will help the transmitting utility determine whether requests for transmission service are duplicative or mutually exclusive of requests filed by other parties.
  - (11) The proposed rates, terms and conditions for the requested transmission services as required by section 213(a). It is not necessary for the requestor to propose a specific numerical rate. Rather, a party requesting transmission services can fulfill the rates, terms and conditions requirement by specifying a rate methodology ( e.g., embedded or incremental cost) or by referencing an existing formula rate, transmission tariff, or transmission contract. The validity of the good faith request will not depend on the rates proposed by the party requesting transmission services. This requirement is not intended to allow utilities to delay responses to requests for transmission services, or to deny requests for transmission services on the basis of an overly rigid or technical approach to the "rates, terms and conditions" element of the request.
  - (12) Any other information to facilitate the expeditious processing of its request. Such information will improve the negotiation process, reduce costs, and will improve chances to arrange the requested transmission without resorting to section 211 application procedures before the Commission.
- (c) *Components of a Reply to a Good Faith Request.* The Commission generally considers the following to constitute the minimum components of a reply to a good faith request for transmission services under section 213(a):
- (1) Unless the parties agree to a different time frame, the transmitting utility must acknowledge the request within 10 days of receipt. The acknowledgement must include a date by which a response will be sent to the party requesting transmission services and a statement of any fees associated with responding to the request (e.g., initial studies).
  - (2) The transmitting utility may ask the applicant to provide clarification of only the information needed to evaluate and process a "good faith" request. If the person requesting transmission services believes the transmitting utility is attempting to frustrate the process by making excessive requests for clarification, it may raise this issue if, and when, it files a request for a section 211 order with the Commission.
  - (3) The transmitting utility must respond to a request within 60 days of receipt or some other mutually agreed upon response date. If both parties agree to an alternative schedule, the agreement must be in writing and signed by both parties.
  - (4) If the transmitting utility determines that it can provide all the requested services from existing capacity, it should respond by offering the party requesting transmission services an executable service agreement that at a minimum contains the following information:

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(i) A description of the proposed transmission rate and any other costs. It is not necessary for the proposed service agreement to contain a fully developed cost-of-service. However, the agreement should explain the basis for the charges for each component of service, including the unbundled components of any transmission rate as well as any other charges.

(ii) The proposed service agreement should explicitly describe all of the applicable terms and conditions of the transmission services provided under the agreement.

(iii) The transmitting utility should accompany the proposed service agreement with a clear statement of the time during which the offer to provide the transmission services will remain open. An open agreement offer may obligate the seller while imposing no countervailing obligation on the purchaser, and an unexecuted contract potentially ties up transmission facilities, thus jeopardizing the availability and price for subsequent requests that would use the same facilities. However, at a minimum, a transmitting utility should permit the party requesting transmission services sufficient time to review service agreements and coordinate multiple stages of joint transactions.

(5) If the transmitting utility determines that it must construct additional facilities or modify existing facilities to provide all or part of the requested services, it must:

(i) Identify the specific constraints and their duration that prevent it from providing all the requested services and explain how these constraints prevent it from providing all the requested services or the desired level of firmness.

(ii) Provide to the applicant all studies, computer input and output data, planning, operating and other documents, work papers, assumptions and any other material that forms the basis for determining the constraints.

(iii) Offer to the applicant an executable agreement under which the applicant agrees to reimburse the transmitting utility for all costs of performing any studies necessary to determine what changes to the transmitting utility's grid are needed to overcome the constraint and provide the requested services, their cost, and the estimated time to complete them. At a minimum, the proposed agreement should contain the following:

(A) An estimate of the cost of the study and the time required to complete it, and

(B) A commitment to supply to the party requesting transmission services all computer input and output data, planning, operating and other documents, work papers, assumptions and any other material used to perform the study.

(iv) If a transmitting utility determines that it can provide part but not all of the requested services without building new facilities, it should inform the applicant of any portion of the requested services that can be performed without constructing additional facilities or modifying existing facilities. In effect, the transmitting utility may be able to treat such a request as two separate transactions—one for service on existing facilities and the other as a request involving expansion decisions. Furthermore, where there are alternative, less expensive means of satisfying all or a portion of a transmission request, the Commission expects the transmitting utility to explore such alternatives ( e.g ., redispatching certain generating units to alleviate a constraint).

### **Title 18: Conservation of Power and Water Resources**

#### **[PART 36—RULES CONCERNING APPLICATIONS FOR TRANSMISSION SERVICES UNDER SECTION 211 OF THE FEDERAL POWER ACT](#)**

##### **§ 36.1 Notice provisions applicable to applications for transmission services under section 211 of the Federal Power Act.**

(a) *Definitions.* (1) *Affected party* means each affected electric utility, each affected State regulatory authority, and each affected Federal power marketing agency.

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(2) *Affected electric utility* means each electric utility that has made arrangements for the sale or purchase of electric energy to be transmitted pursuant to the particular application for transmission services, and each transmitting utility, as defined in section 3(23) of the Federal Power Act, 16 U.S.C. 796(23), being requested to transmit such electric energy.

(3) *Affected State regulatory authority* means a State regulatory authority, as defined in section 3(21) of the Federal Power Act, 16 U.S.C. 796(21), regulating the rates and charges of each affected electric utility.

(4) *Affected Federal power marketing agency* means a Federal power marketing agency that operates in the service area of each affected electric utility.

(b) *Additional filing requirements.* Any person filing an application for transmission services pursuant to section 211 of the Federal Power Act, 16 U.S.C. 824j, shall include the following:

(1) The applicant must include a form of notice of the application suitable for publication in the Federal Register in accordance with the specifications in §385.203(d) of this chapter. The form of notice shall be on electronic media as specified by the Secretary.

(2) A sworn statement that actual notice, including the applicant's name, the date of the application, the names of the affected parties, and a brief description of the transmission services sought (including 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 requested are firm or non-firm) has been served, pursuant to Rule 2010 of the Commission's Rules of Practice and Procedure, §385.2010 of this chapter, on each affected party. Such statement shall enumerate each person so served.

(c) *Other filing requirements.* All other filing requirements of the Commission's Rules of Practice and Procedure remain in effect for applications under this section.