Supporting Statement [Updated, with Preferred Format (7/29/09)] for FERC Form 556, "Cogeneration and Small Power Production" Request for a Three-Year Extension of a Currently Approved Collection

The Federal Energy Regulatory Commission (Commission) requests that the Office of Management and Budget (OMB) review and extend its approval of FERC Form 556 (Form 556) "Cogeneration and Small Power Production." Current OMB approval expires on July 31, 2009.

A. Justification

1. CIRCUMSTANCES THAT MAKE THE COLLECTION OF INFORMATION NECESSARY

Form 556 is necessary to implement the statutory provisions governed by Section 201 of the Public Utility Regulatory Policies Act of 1978 (PURPA) (Attachment A) which added definitions to Section 3 of the Federal Power Act (FPA) (16 USC 792-828c), Section 202 of PURPA (Attachment B) which added a new FPA Section 210 and PURPA Section 210 (16 U.S.C. §2601) (Attachment C); and The Energy Policy Act of 2005 (EPAct 2005) (42 U.S.C. 15801) which added section 210(m) to PURPA. These statutes authorize the Commission to encourage cogeneration and small power production and to prescribe such rules as necessary in order to carry out these statutes. Form 556 is a necessary component of the Commission's work to encourage cogeneration and small power production, providing the information to determine whether a facility meets the necessary criteria to receive PURPA benefits. Form 556 has been codified in 18 CFR §131.80 (Attachment D) with related regulations in 18 CFR Part 292 (Attachment E).

A primary objective of PURPA is to encourage conservation of energy through efficient use of energy resources and facilities by electric utilities. One method of achieving this goal is to promote production of electric power by cogeneration facilities that use reject heat associated with commercial or industrial processes, and by small power production facilities that use other wastes and renewable resources. PURPA encourages the development of small power production facilities and cogeneration facilities through establishment of various benefits; however, these facilities must meet certain technical and corporate criteria in order to qualify for these benefits. Facilities meeting these criteria are called "qualifying facilities" (QFs).

The Commission's regulations in 18 CFR Part 292 specify the criteria that must be met to achieve QF status, and sets out the applicable certification procedures. This part of the CFR also indicates the information that must be submitted to the Commission in order to obtain QF status. It describes the PURPA benefits available to qualifying small

generation facilities and cogeneration facilities,[1] and the requirements pertaining to PURPA implementation plans regarding the transaction obligations that electric utilities have with respect to QFs, as well as a description of the conditions under which those obligations exist.

Among the PURPA benefits identified in 18 CFR Part 292, are the requirements for electric utilities: (1) to make avoided cost information and system capacity needs available to the public; (2) to purchase energy and capacity from QFs favorably priced on the basis of the avoided cost of the power that is displaced by the QF power (i.e., the incremental cost to the purchasing utility if it had generated the displaced power or purchased it from another source); (3) to sell backup, maintenance and other power services to QFs at rates based on the cost of rendering the services; (4) to provide certain interconnection and transmission services priced on a nondiscriminatory basis; and (5) to operate in "parallel" with other interconnected QFs so that they may be electrically synchronized with electric utility grids.

The Energy Policy Act of 2005 (EPAct 2005) section 1253(a), added section 210(m) to PURPA terminating the requirement that an electric utility enter into a new contract or obligation to purchase electric energy from qualifying cogeneration facilities and qualifying small power production facilities if the Commission finds that the QF has nondiscriminatory access to one of three categories of markets defined in section 210(m)(1)(A), (B) or (C).

Other PURPA benefits listed in 18 CFR Part 292 include exemption from certain corporate accounting, reporting and rate regulation requirements under the EPAct 2005, selected State laws and, in some instances, regulation under the FPA.

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

The information collected with Form 556 is used by the Commission to determine whether a small power production facility or a qualifying cogeneration facility meets the QF criteria and thus, is eligible to receive PURPA benefits.

In order to apply for QF status, an owner or operator of a small power production or cogeneration facility must first choose to either follow the procedure described in 18 CFR § 292.207(a) for self-certification of a new facility or pre-authorized Commission recertification, or the procedure described in 18 CFR §292.207(b) for Commission certification of a new facility. The information requirements for both processes are largely the same, each requiring the submission of a completed Form 556 providing the

[1] Other benefits may be available to certain QFs pursuant to other Federal, state or local laws.

information necessary to demonstrate QF qualification. If the Commission did not collect the Form 556 information, it would be impossible to determine whether a facility meets the criteria needed to be categorized as a QF.

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

There is an ongoing effort to determine the potential and the value of improved information technology to reduce the burden of gathering information. The Commission has been using information technology to reduce the amount of paperwork required in its proceedings thus more efficiently carrying out program responsibilities. In order to meet the goals of the Government Paperwork Elimination Act, the Commission established an electronic filing system that allows the *e*-filing of most documents, including the Form 556.

FERC has drafted a preferred format for collection of the FERC-556 data. The preferred format is submitted separately in ROCIS, as indicated at Attachment H. This format is expected to simplify the filing of the information and to improve the quality and usefulness of the data received. The improvements include cleaner and clearer instructions in the form (e.g., removing the need for the filer to refer to instructions and clarifications on the FERC's Qualifying Facilities [QF] web pages), and checks in the calculations to ensure the data are correctly reported. [If OMB approves this collection with the preferred format, the QF web pages will be correspondingly updated.] The regulations and reporting requirements are not changing.

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 information requirements are periodically reviewed in conjunction with the OMB renewal process. Staff reviews the Commission's regulations and information requirements and searches for other sources of this information from outside parties. Staff could find no similar sources of information that could be used to replace any of the information collected in the Form 556. The information collected in Form 556 is not likely to be collected by other government agencies since the Commission has been given sole QF oversight.

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

As Form 556 is intended to collect information from small entities, the Commission has made an effort to reduce the burden of this information collection. For example, the Commission provides respondents a glossary of QF terms in 18 CFR §§292.101 and 292.201. The Commission also allows small power producers and cogenerators to apply in advance for a QF qualification determination for a facility where an owner/operator is proposing to modify the facility to ensure that such modification will not result in the revocation of QF status, a benefit provided in 18 CFR §292.207 (d)(2).

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

Applicants submit an initial Form 556 and preauthorized Commission recertifications where changes in qualifying status criteria are concerned. This is a one-time filing requirement. Collecting the information less frequently would mean not collecting the information at all. If the information were not collected, the Commission would be unable to administer QF certifications.

7. EXPLAIN ANY SPECIAL CIRCUMSTANCES RELATING TO THE INFORMATION

If an entity chooses to submit a Form 556 in hardcopy, an original and fourteen copies must be filed. This quantity exceeds the OMB guidelines in 5 CFR 1320.5(d)(2)(iii). The filing is docketed, imaged through *e*-Library and retained as a permanent Commission record. One copy of the filing is placed in the Commission's Public Reference Room for public use. The remaining copies are distributed to staff in many Commission divisions for simultaneous review and analysis in preparation of a Commission order issuance within a mandated 90-day time limit (18 CFR §292.310(a)). Form 556, however, may be *e*-filed through the Commission web page: http://www.ferc.gov/docs-filing/efiling.asp, where no paper filing is required.

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 issued a notice to renew the Form 556 OMB approval and published it in the *Federal Register* on February 19, 2009 (Attachment F).[2] The Commission did not receive any comments in response to

[2] The notice appeared in *Federal Register* Vol. 74, No. 32 p. 7679 issued on

this notice.

9. EXPLAIN ANY PAYMENT OR GIFTS TO RESPONDENTS

There are no respondent payments or gifts required in this proposed information collection.

10. DESCRIBE ANY ASSURANCE OF CONFIDENTIALITY PROVIDED TO RESPONDENTS

The Commission generally does not consider the information filed in Form 556 to be confidential. However, the applicant may request privileged treatment, in accordance with 18 CFR §388.112, for a filing thought to contain information harmful to the competitive posture of the applicant if released to the general public.

11. PROVIDE ADDITIONAL JUSTIFICATION FOR ANY QUESTIONS OF A SENSITIVE NATURE

There are no questions of a sensitive nature associated with the reporting requirements in this information collection.

12. ESTIMATED BURDEN OF COLLECTION OF INFORMATION

	Number of Respondents	Number of Responses Per Respondent	Hours Per Response	Total Annual Hours
FERC Certification	4	1	20	80
Self-Certification	820	1	3	2,460
Total	**824**	**2**	**23**	**2,540**

See Attachment G.

13. ESTIMATE OF TOTAL ANNUAL COST OF BURDEN TO RESPONDENTS

Total Respondent Burden Hours		Number of Hours per Staff Year		Cost per Staff Employee		Total Annualized Cost
2540	÷	2,080	x	$128,297	=	$156,670.38

The estimated annual cost to respondents is $156,670.38. The cost per respondent is $190.13. There are no start-up costs because Form 556 is an existing information collection. See Attachment G.

Thursday, February 19, 2009.

14. ESTIMATED ANNUALIZED COST TO FEDERAL GOVERNMENT:

(a) Information analysis (1.6 full-time employees)	$ 205,275.20
(b) Forms clearance review	$ $1,480.00
Year of operation	$ 206,755.20

This estimated cost to the Federal Government is based on 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 the cost for information technology. Indirect or overhead costs are costs incurred by an organization in support of its mission.

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

The number of respondents has increased dramatically since this information collection was last cleared. Formerly there were 297 respondents, currently there are 824. However, the total number of burden hours dropped from 10,368 to 2,540 hours. This is due to a shift in the types of filings made. Fewer filings requesting a Commission order, the most burdensome type of filing, are now filed and more self-certification filings are made, the least burdensome type of filing. Facility owners and affiliated industry participants are not requiring as many Commission orders as confirmation that a facility meets QF requirements. See Attachment G.

The reporting requirements and regulations are not being changed at this time. We are proposing a preferred format (submitted separately in ROCIS, as indicated in Attachment H). This format is expected to simplify the filing of the information and to improve the quality and usefulness of the data received. At this time, FERC is not making additional changes to the estimated burden or cost per filing as the result of the new format.

16. TIME SCHEDULE FOR PUBLICATION OF DATA

Copies of the filings are made available to the public within two days of submission to FERC via the Commission's web site. There are no other publications or tabulations of the information.

17. DISPLAY OF EXPIRATION DATE

The OMB approval expiration date is printed on the first page of the form.

18. EXCEPTIONS TO THE CERTIFICATION STATEMENT

The Commission does not use statistical survey methodology for this information collection.

B. COLLECTION OF INFORMATION EMPLOYING STATISTICAL METHODS

Not Applicable. Statistical methods are not employed for this information collection.

ATTACHMENT A

PURPA Sec. 201. DEFINITIONS.
[5024]

Section 3 of the Federal Power Act was amended by inserting the following before the period at the end thereof:

(17)

(A) `small power production facility' means a facility which —

(i) produces electric energy solely by the use, as a primary energy source, of biomass, waste, renewable resources, or any combination thereof; and

(ii) has a power production capacity which, together with any other facilities located at the same site (as determined by the Commission), is not greater than 80 megawatts;

(B) `primary energy source' means the fuel or fuels used for the generation of electric energy, except that such term does not include, as determined under rules prescribed by the Commission, in consultation with the Secretary of Energy —

(i) the minimum amounts of fuel required for ignition, startup, testing, flame stabilization, and control uses, and (ii) the minimum amounts of fuel required to alleviate or prevent —

(I) unanticipated equipment outages, and

(II) emergencies, directly affecting the public health, safety, or welfare, which would result from electric power outages;

(C) `qualifying small power production facility' means a small power production facility —

(i) which the Commission determines, by rule, meets such requirements (including requirements respecting fuel use, fuel efficiency, and reliability) as the Commission may, by rule, prescribe; and

(ii) which is owned by a person not primarily engaged in the generation or sale of electric power (other than electric power solely from cogeneration facilities or small power production facilities);

(D) `qualifying small power producer' means the owner or operator of a qualifying small power production facility;

(18)

(A) `cogeneration facility' means a facility which produces —

(i) electric energy, and

(ii) steam or forms of useful energy (such as heat) which are used for industrial, commercial, heating, or cooling purposes;

(B) `qualifying cogeneration facility' means a cogeneration facility which —

(i) the Commission determines, by rule, meets such requirements (including requirements respecting minimum size, fuel use, and fuel efficiency) as the Commission may, by rule, prescribe; and

[5025]

(ii) is owned by a person not primarily engaged in the generation or sale of electric power (other than electric power solely from cogeneration facilities or small power production facilities);

(C) `qualifying cogenerator' means the owner or operator of a qualifying cogeneration facility;

(19) `Federal power marketing agency' means any agency or instrumentality of the United States (other than the Tennessee Valley Authority) which sells electric energy;

(20) `evidentiary hearings' and `evidentiary proceeding' mean a proceeding conducted as provided in sections 554, 556, and 557 of title 5, United States Code;

(21) `State regulatory authority' has the same meaning as the term `State commission' , except that in the case of an electric utility with respect to which the Tennessee Valley Authority has ratemaking authority (as defined in section 3 of the Public Utility Regulatory Policies Act of 1978), such term means the Tennessee Valley Authority;

(22) `electric utility' means any person or State agency which sells electric energy; such term includes the Tennessee Valley Authority, but does not include any Federal power marketing agency.

ATTACHMENT B

FED-LAW, FERCSR, [¶5062], PURPA Sec. 202. INTERCONNECTION.

[5025]

Part II of the Federal Power Act was amended by adding the following new section at the end thereof:

SEC. 210.

(a)

(1) Upon application of any electric utility, Federal power marketing agency, qualifying cogenerator, or qualifying small power producer, the Commission may issue an order requiring —

(A) the physical connection of any cogeneration facility, any small power production facility, or the transmission facilities of any electric utility, with the facilities of such applicant,

(B) such action as may be necessary to make effective any physical connection described in subparagraph (A), which physical connection is ineffective for any reason, such as inadequate size, poor maintenance, or physical unreliability,

(C) such sale or exchange of electric energy or other coordination, as may be necessary to carry out the purposes of any order under subparagraph (A) or (B), or

(D) such increase in transmission capacity as may be necessary to carry out the purposes of any order under subparagraph (A) or (B).

(2) Any State regulatory authority may apply to the Commission for an order for any action referred to in subparagraph (A), (B), (C), or (D) of paragraph (1). No such order may be issued by the Commission with respect to a Federal power marketing agency upon application of a State regulatory authority.

[5026]

(b) Upon receipt of an application under subsection (a), the Commission shall —

(1) issue notice to each affected State regulatory authority, each affected electric utility, each affected Federal power marketing agency, each affected owner or operator of a cogeneration facility or of a small power production facility, and to the public.

(2) afford an opportunity for an evidentiary hearing, and

(3) make a determination with respect to the matters referred to in subsection (c).

(c) No order may be issued by the Commission under subsection (a) unless the

Commission determines that such order —

(1) is in the public interest,

(2) would —

(A) encourage overall conservation of energy or capital,

(B) optimize the efficiency of use of facilities and resources, or

(C) improve the reliability of any electric utility system or Federal power marketing agency to which the order applies, and

(3) meets the requirements of section 212.

(d) The Commission may, on its own motion, after compliance with the requirements of paragraphs (1) and (2) of subsection (b), issue an order requiring any action described in subsection (a)(1) if the Commission determines that such order meets the requirements of subsection (c). No such order may be issued upon the Commission's own motion with respect to a Federal power marketing agency.

(e)

(1) As used in this section, the term `facilities' means only facilities used for the generation or transmission of electric energy.

(2) With respect to an order issued pursuant to an application of a qualifying cogenerator or qualifying small power producer under subsection (a)(1), the term `facilities of such applicant' means the qualifying cogeneration facilities or qualifying small power production facilities of the applicant, as specified in the application. With respect to an order issued pursuant to an application under subsection (a)(2), the term `facilities of such applicant' means the qualifying cogeneration facilities, qualifying small power production facilities, or the transmission facilities of an electric utility, as specified in the application. With respect to an order issued by the Commission on its own motion under subsection (d), such term means the qualifying cogeneration facilities, qualifying small power production facilities, or the transmission facilities of an electric utility, as specified in the proposed order.

ATTACHMENT C

FED-LAW, FERCSR, [¶5070], PURPA Sec. 210. Cogeneration and Small Power Production.

(a) COGENERATION AND SMALL POWER PRODUCTION RULES.

[5035]

Not later than 1 year after the date of enactment of this Act, the Commission shall prescribe, and from time to time thereafter revise, such rules as it determines necessary to encourage cogeneration and small power production and to encourage geothermal small power production facilities of not more than 80 megawatts capacity, which rules require electric utilities to offer to —

(1) sell electric energy to qualifying cogeneration facilities and qualifying small power production facilities and

(2) purchase electric energy from such facilities.

Such rules shall be prescribed, after consultation with representatives of Federal and State regulatory agencies having ratemaking authority for electric utilities, and after public notice and a reasonable opportunity for interested persons (including State and Federal agencies) to submit oral as well as written information, views, and arguments. Such rules shall include provisions respecting minimum reliability of qualifying cogeneration facilities and qualifying small power production facilities (including reliability of such facilities during emergencies) and rules respecting reliability of electric energy service to be available to such facilities from electric utilities during emergencies. Such rules may not authorize a qualifying cogeneration facility or qualifying small power production facility to make any sale for purposes other than resale.

(b) RATES FOR PURCHASES BY ELECTRIC UTILITIES. The rules prescribed under subsection (a) shall insure that, in requiring any electric utility to offer to purchase electric energy from any qualifying cogeneration facility or qualifying small power production facility, the rates for such purchase —

(1) shall be just and reasonable to the electric consumers of the electric utility and in the public interest, and

(2) shall not discriminate against qualifying cogenerators or qualifying small power producers.

No such rule prescribed under subsection (a) shall provide for a rate which exceeds the incremental cost to the electric utility of alternative electric energy.

(c) RATES FOR SALES BY UTILITIES.

[5036]

The rules prescribed under subsection (a) shall insure that, in requiring any electric utility to offer to sell electric energy to any qualifying cogeneration facility or qualifying small power production facility, the rates for such sale —

(1) shall be just and reasonable and in the public interest, and

(2) shall not discriminate against the qualifying cogenerators or qualifying small power producers.

(d) DEFINITION. For purposes of this section, the term "incremental cost of alternative electric energy" means, with respect to electric energy purchased from a qualifying cogenerator or qualifying small power producer, the cost to the electric utility of the electric energy which, but for the purchase from such cogenerator or small power producer, such utility would generate or purchase from another source.

(e) EXEMPTIONS.

(1) Not later than 1 year after the date of enactment of this Act and from time to time thereafter, the Commission shall, after consultation with representatives of State regulatory authorities, electric utilities, owners of cogeneration facilities and owners of small power production facilities, and after public notice and a reasonable opportunity for interested persons (including State and Federal agencies) to submit oral as well as written information, views, and arguments, prescribe rules under which geothermal small power production facilities of not more than 80 megawatts capacity, qualifying cogeneration facilities and qualifying small power production facilities are exempt in whole or part from the Federal Power Act, from the Public Utility Holding Company Act, from State laws and regulations respecting the rates, or respecting the financial or organizational regulation, of electric utilities, or from any combination of the foregoing, if the Commission determines such exemption is necessary to encourage cogeneration and small power production.

(2) No qualifying small power production facility (other than a qualifying small power production facility which is an eligible solar, wind, waste, or geothermal facility as defined in section 3(17(E) of the Federal Power Act) which has a power production capacity which, together with any other facilities located at the same site (as determined by the Commission), exceeds 30 megawatts, or 80 megawatts for a qualifying small power production facility using geothermal energy as the primary energy source, may be exempted under rules under paragraph (1) from any provision of law or regulation referred to in paragraph (1), except that any qualifying small power production facility which produces electric energy solely by the use of biomass as a primary energy source, may be exempted by the Commission under such rules from the Public Utility Holding Company Act and from State laws and regulations referred to in such paragraph (1).

(3)

[5037]

No qualifying small power production facility or qualifying cogeneration facility may be

exempted under this subsection from —

(A) any State law or regulation in effect in a State pursuant to subsection (f),

(B) the provisions of section 210, 211, or 212 of the Federal Power Act or the necessary authorities for enforcement of any such provision under the Federal Power Act, or

(C) any license or permit requirement under part I of the Federal Power Act, any provision under such Act related to such a license or permit requirement, or the necessary authorities for enforcement of any such requirement.

(f) IMPLEMENTATION OF RULES FOR QUALIFYING COGENERATION AND QUALIFYING SMALL POWER PRODUCTION FACILITIES.

(1) Beginning on or before the date one year after any rule is prescribed by the Commission under subsection (a) or revised under such subsection, each State regulatory authority shall, after notice and opportunity for public hearing, implement such rule (or revised rule) for each electric utility for which it has ratemaking authority.

(2) Beginning on or before the date one year after any rule is prescribed by the Commission under subsection (a) or revised under such subsection, each nonregulated electric utility shall, after notice and opportunity for public hearing, implement such rule (or revised rule).

(g) JUDICIAL REVIEW AND ENFORCEMENT.

(1) Judicial review may be obtained respecting any proceeding conducted by a State regulatory authority or non-regulated electric utility for purposes of implementing any requirement of a rule under subsection (a) in the same manner, and under the same requirements, as judicial review may be obtained under section 123 in the case of a proceeding to which section 123 applies.

(2) Any person (including the Secretary) may bring an action against any electric utility, qualifying small power producer, or qualifying cogenerator to enforce any requirement established by a State regulatory authority or nonregulated electric utility pursuant to subsection (f). Any such action shall be brought only in the manner, and under the requirements, as provided under section 123 with respect to an action to which section 123 applies.

(h) COMMISSION ENFORCEMENT.

(1) For purposes of enforcement of any rule prescribed by the Commission under subsection (a) with respect to any operations of an electric utility, a qualifying cogeneration facility or a qualifying small power production facility which are subject to the jurisdiction of the Commission under part II of the Federal Power Act, such rule shall be treated as a rule under the Federal Power Act. Nothing in subsection (g) shall apply to so much of the operations of an electric utility, a qualifying cogeneration facility or a qualifying small power production facility as are subject to the jurisdiction of the Commission under part II of the Federal Power Act.

(2)

(A) The Commission may enforce the requirements of subsection (f) against any State regulatory authority or nonregulated electric utility. For purposes of any such enforcement, the requirements of subsection (f) (1) shall be treated as a rule enforceable under the Federal Power Act. For purposes of any such action, a State regulatory authority or nonregulated electric utility shall be treated as a person within the meaning of the Federal Power Act. No enforcement action may be brought by the Commission under this section other than —

(i) an action against the State regulatory authority or nonregulated electric utility for failure to comply with the requirements of subsection (f) or

(ii) an action under paragraph (1).

(B) Any electric utility, qualifying cogenerator, or qualifying small power producer may petition the Commission to enforce the requirements of subsection (f) as provided in subparagraph (A) of this paragraph. If the Commission does not initiate an enforcement action under subparagraph (A) against a State regulatory authority or nonregulated electric utility within 60 days following the date on which a petition is filed under this subparagraph with respect to such authority, the petitioner may bring an action in the appropriate United States district court to require such State regulatory authority or nonregulated electric utility to comply with such requirements, and such court may issue such injunctive or other relief as may be appropriate. The Commission may intervene as a matter of right in any such action.

(i) FEDERAL CONTRACTS. No contract between a Federal agency and any electric utility for the sale of electric energy by such Federal agency for resale which is entered into after the date of the enactment of this Act may contain any provision which will have the effect of preventing the implementation of any rule under this section with respect to such utility. Any provision in any such contract which has such effect shall be null and void.

(j) NEW DAMS AND DIVERSIONS. Except for a hydroelectric project located at a Government dam (as defined in section 3(10) of the Federal Power Act) at which non- Federal hydroelectric development is permissible, this section shall not apply to any hydroelectric project which impounds or diverts the water of a natural watercourse by means of a new dam or diversion unless the project meets each of the following requirements:

(1) No substantial adverse effects. —At the time of issuance of the license or exemption for the project, the Commission finds that the project will not have substantial adverse effects on the environment, including recreation and water quality. Such finding shall be made by the Commission after taking into consideration terms and conditions imposed under either paragraph (3) of this subsection or section 10 of the Federal Power Act (whichever is appropriate as required by that Act or the Electric Consumers Protection Act of 1986) and compliance with other environmental requirements applicable to the project.

(2) Protected rivers. —At the time the application for a license or exemption for the project

is accepted by the Commission (in accordance with the Commission's regulations and procedures in effect on January 1, 1986, includ ing those relating to environmental consultation), such project is not located on either of the following:

(A) Any segment of a natural watercourse which is included in (or designated for potential inclusion in) a State or national wild and scenic river system.

(B) Any segment of a natural watercourse which the State has determined, in accordance with applicable State law, to possess unique natural, recreational, cultural, or scenic attributes which would be adversely affected by hydroelectric development.

(3) Fish and wildlife terms and conditions. —The project meets the terms and conditions set by fish and wildlife agencies under the same procedures as provided for under section 30(c) of the Federal Power Act.

(k) DEFINITION OF NEW DAM OR DIVERSION. For purposes of this section, the term "new dam or diversion" means a dam or diversion which requires, for purposes of installing any hydroelectric power project, any construction, or enlargement of any impoundment or diversion structure (other than repairs or reconstruction or the addition of flashboards or similar adjustable devices).

(l) DEFINITIONS. For purposes of this section, the terms "small power production facility", "qualifying small power production facility" , "qualifying small power producer", "primary energy source", "cogeneration facility" , "qualifying cogeneration facility", and "qualifying cogenerator" have the respective meanings provided for such terms under section 3(17) and (18) of the Federal Power Act.

(m) TERMINATION OF MANDATORY PURCHASE AND SALE REQUIREMENTS.

(1) OBLIGATION TO PURCHASE. After the date of enactment of this subsection, no electric utility shall be required to enter into a new contract or obligation to purchase electric energy from a qualifying cogeneration facility or a qualifying small power production facility under this section if the Commission finds that the qualifying cogeneration facility or qualifying small power production facility has nondiscriminatory access to —

(A)

(i) independently administered, auction- based day ahead and real time wholesale markets for the sale of electric energy; and (ii) wholesale markets for long-term sales of capacity and electric energy; or

(B)

(i) transmission and interconnection services that are provided by a Commission-approved regional transmission entity and administered pursuant to an open access transmission tariff that affords nondiscriminatory treatment to all customers; and (ii) competitive wholesale markets that provide a meaningful opportunity to sell capacity, including long-term and shortterm sales, and electric energy, including longterm, short-term and real-time sales, to buyers other than the utility to which the qualifying

facility is interconnected. In determining whether a meaningful opportunity to sell exists, the Com- mission shall consider, among other factors, evidence of transactions within the relevant market; or

(C) wholesale markets for the sale of capacity and electric energy that are, at a minimum, of comparable competitive quality as markets described in subparagraphs (A) and (B).

(2) REVISED PURCHASE AND SALE OBLIGATION FOR NEW FACILITIES.

(A) After the date of enactment of this subsection, no electric utility shall be required pursuant to this section to enter into a new contract or obligation to purchase from or sell electric energy to a facility that is not an existing qualifying cogeneration facility unless the facility meets the criteria for qualifying cogeneration facilities established by the Commission pursuant to the rulemaking required by subsection (n).

(B) For the purposes of this paragraph, the term 'existing qualifying cogeneration facility' means a facility that —

(i) was a qualifying cogeneration facility on the date of enactment of subsection (m); or

(ii) had filed with the Commission a notice of self-certification, self recertification or an application for Commission certification under 18 C.F.R. 292.207 prior to the date on which the Commission issues the final rule required by subsection (n).

(3) COMMISSION REVIEW. Any electric utility may file an application with the Commission for relief from the mandatory purchase obligation pursuant to this subsection on a service territory-wide basis. Such application shall set forth the factual basis upon which relief is requested and describe why the conditions set forth in subparagraphs (A), (B) or (C) of paragraph (1) of this subsection have been met. After notice, including sufficient notice to potentially affected qualifying cogeneration facilities and qualifying small power production facilities, and an opportunity for comment, the Commission shall make a final determination within 90 days of such application regarding whether the conditions set forth in subparagraphs (A), (B) or (C) of paragraph (1) have been met.

(4) REINSTATEMENT OF OBLIGATION TO PURCHASE. At any time after the Commission makes a finding under paragraph (3) relieving an electric utility of its obligation to purchase electric energy, a qualifying cogeneration facility, a qualifying small power production facility, a State agency, or any other affected person may apply to the Commission for an order reinstating the electric utility's obligation to purchase electric energy under this section. Such application shall set forth the factual basis upon which the application is based and describe why the conditions set forth in subparagraphs (A), (B) or (C) of paragraph (1) of this subsection are no longer met. After notice, including sufficient notice to potentially affected utilities, and opportunity for comment, the Commission shall issue an order within 90 days of such application reinstating the electric utility's obligation to purchase electric energy under this section if the Commission finds that the conditions set forth in subparagraphs (A), (B) or (C) of paragraph (1) which relieved the obligation to purchase,

are no longer met.

(5) OBLIGATION TO SELL. After the date of enactment of this subsection, no electric utility shall be required to enter into a new contract or obligation to sell electric energy to a qualifying cogeneration facility or a qualifying small power production facility under this section if the Commission finds that —

(A) competing retail electric suppliers are willing and able to sell and deliver electric energy to the qualifying cogeneration facility or qualifying small power production facility; and

(B) the electric utility is not required by State law to sell electric energy in its service territory.

(6) NO EFFECT ON EXISTING RIGHTS AND REMEDIES. Nothing in this subsection affects the rights or remedies of any party under any contract or obligation, in effect or pending approval before the appropriate State regulatory authority or non- regulated electric utility on the date of enactment of this subsection, to purchase electric energy or capacity from or to sell electric energy or capacity to a qualifying cogeneration facility or qualifying small power production facility under this Act (including the right to recover costs of purchasing electric energy or capacity).

(7) RECOVERY OF COSTS.

(A) The Commission shall issue and enforce such regulations as are necessary to ensure that an electric utility that purchases electric energy or capacity from a qualifying cogeneration facility or qualifying small power production facility in accordance with any legally enforceable obligation entered into or imposed under this section re- covers all prudently incurred costs associated with the purchase.

(B) A regulation under subparagraph (A) shall be enforceable in accordance with the provisions of law applicable to enforcement of regulations under the Federal Power Act (16 U.S.C. 791a et seq.).

(n) RULEMAKING FOR NEW QUALIFYING FACILITIES.

(1)

(A) Not later than 180 days after the date of enactment of this section, the Commission shall issue a rule revising the criteria in 18 C.F.R. 292.205 for new qualifying cogeneration facilities seeking to sell electric energy pursuant to section 210 of this Act to ensure —

(i) that the thermal energy output of a new qualifying cogeneration facility is used in a productive and beneficial manner;

(ii) the electrical, thermal, and chemical output of the cogeneration facility is used fundamentally for industrial, commercial, or institutional purposes and is not intended fundamentally for sale to an electric utility, taking into account technological, efficiency, economic, and variable thermal energy requirements, as well as State laws

applicable to sales of electric energy from a qualifying facility to its host facility; and

(iii) continuing progress in the development of efficient electric energy generating technology.

(B)

[5040]

The rule issued pursuant to paragraph (1)(A) of this subsection shall be applicable only to facilities that seek to sell electric energy pursuant to section 210 of this Act. For all other purposes, except as specifically provided in subsection (m)(2)(A), qualifying facility status shall be determined in accordance with the rules and regulations of this Act.

(2) Notwithstanding rule revisions under paragraph (1), the Commission's criteria for qualifying cogeneration facilities in effect prior to the date on which the Commission issues the final rule required by paragraph (1) shall continue to apply to any cogeneration facility that —

(A) was a qualifying cogeneration facility on the date of enactment of subsection (m), or

(B) had filed with the Commission a notice of self-certification, self- recertification or an application for Commission certification under 18 C.F.R. 292.207 prior to the date on which the Commission issues the final rule required by paragraph (1). [16 U.S. Code 824a-3.]

ATTACHMENT D

TITLE 18--CONSERVATION OF POWER AND WATER RESOURCES

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

Sec. 131.80 FERC Form No. 556, Certification of qualifying facility status for an existing or a proposed small power production or cogeneration facility.

(See Sec. 292.207 of this chapter.)

FERC FORM 556, OMB No. 1902-0075 Expires --------

Certification of Qualifying Facility Status for an Existing or a Proposed Small Power Production or Cogeneration Facility

(To be completed for the purpose of demonstrating up-to-date conformance with the qualification criteria of Section 292.203(a)(1) or Section 292.203(b), based on actual or planned operating experience)

General instructions: Part A of the form should be completed by all small power producers or cogenerators. Part B applies to small power production facilities. Part C applies to cogeneration facilities. All references to sections are with regard to Part 292 of Title 18 of the Code of Federal Regulations, unless otherwise indicated.

Part A--General Information To Be Submitted by all Applicants

1a. Full name:

Docket Number assigned to the immediately preceding submittal filed with the Commission in connection with the instant facility, if any: QF --------

Purpose of instant filing (self-certification or self-recertification [Section 292.207(a)(1)], or application for Commission certification or recertification [Sections 292.207(b) and (d)(2)]):

1b. Full address of applicant:

1c. Indicate the owner(s) of the facility (including the percentage of ownership held by any electric utility or electric utility holding company, or by any persons owned by either) and the operator of the facility. Additionally, state whether or not any of the non-electric utility owners or their upstream owners are engaged in the generation or sale of electric power, or have any ownership or operating interest in any electric facilities other than qualifying facilities. In order to facilitate review of the application, the applicant may also provide an ownership chart identifying the upstream ownership of the facility. Such chart should indicate ownership percentages where appropriate.

1d. Signature of authorized individual evidencing accuracy and authenticity of information provided by applicant:

2. Person to whom communications regarding the filed information may be addressed:

Name:
Title:
Telephone number:
Mailing address:

3a. Location of facility to be certified:

State:
County:
City or town:
Street address (if known):

3b. Indicate the electric utilities that are contemplated to transact with the qualifying facility (if known) and describe the services those electric utilities are expected to provide: utilities interconnecting with the facility and/or providing wheeling service (Section 292.303(c) and (d)): utilities purchasing the useful electric power output (Sections 292.101(b)(2), 292.202(g) and 292.303(a)): utilities providing supplementary power, backup power, maintenance power, and/or interruptible power service (Sections 292.101(b) (3) and (8), 292.303(b) and 292.305(b)):

4a. Describe the principal components of the facility including boilers, prime movers and electric generators, and explain their operation. Include transmission lines, transformers and switchyard equipment, if included as part of the facility.

4b. Indicate the maximum gross and maximum net electric power production capacity of the facility at the point(s) of delivery and show the derivation.

4c. Indicate the actual or expected installation and operation dates of the facility, or the actual or expected date of completion of the reported modification to the facility:

4d. Describe the primary energy input (e.g., hydro, coal, oil (Section 292.202(l)), natural gas (Section 292.202(k)), solar, geothermal, wind, waste, biomass (Section 292.202(a)), or other). For a waste energy input that does not fall within one of the categories on the Commission's list of previously approved wastes, demonstrate that such energy input has little or no current commercial value and that it exists in the absence of the qualifying facility industry (Section 292.202(b)).

5. Provide the average annual hourly energy input in terms of Btu for the following fossil fuel energy inputs, and provide the related percentage of the total average annual hourly energy input to the facility (Section 292.202(j)). For any oil or natural gas fuel, use lower heating value (Section 292.202(m)):

Natural gas:
Oil:
Coal (applicable only to a small power production facility):

6. Discuss any particular characteristic of the facility which the cogenerator or small power producer believes might bear on its qualifying status.

Part B--Description of the Small Power Production Facility

7. Describe how fossil fuel use will not exceed 25 percent of the total annual energy input limit (Sections 292.202(j) and 292.204(b)). Also, describe how the use of fossil fuel will be limited to the following purposes to conform to Federal Power Act Section 3(17)(B): Ignition, start-up, testing, flame stabilization, control use, and minimal amounts of fuel required to alleviate or prevent unanticipated equipment outages and emergencies directly affecting the public.

8. If the facility reported herein is not an eligible solar, wind, waste or geothermal facility, and if any other non-eligible facility located within one mile of the instant facility is owned by any of the entities (or their affiliates) reported in Part A at item 1c. above and uses the same primary energy input, provide the following information about the other facility for the purpose of demonstrating that the total of the power production capacities of these facilities does not exceed 80 MW (Section 292.204(a)):

Facility name, if any (as reported to the Commission):
Commission Docket Number: QF----------
Name of common owner:
Common primary energy source used as energy input:
Power production capacity (MW):

An eligible solar, wind, waste or geothermal facility, as defined in Section 3(17)(E) of the Federal Power Act, is a small power production facility that produces electric energy solely by the use, as a primary energy input, of solar, wind, waste or geothermal resources, for which either an application for Commission certification of qualifying status (Section 292.207(b)) or a notice of self-certification of qualifying status (Section 292.207(a)) was submitted to the Commission not later than December 31, 1994, and for which construction of such facility commences not later than December 31, 1999, or if not, reasonable diligence is exercised toward the completion of such facility, taking into account all factors relevant to construction of the facility.

Part C--Description of the Cogeneration Facility

9. Describe the cogeneration system (Sections 292.202(c) and 292.203(b)), and state whether the facility is a topping-cycle (Section 292.202(d)) or bottoming-cycle (Section 292.202(e)) cogeneration facility.

10. To demonstrate the sequentiality of the cogeneration process (Section 292.202(s)) and to support compliance with other requirements such as the operating and efficiency standards (item 11 below), provide a mass and heat balance (cycle) diagram depicting average annual hourly perating conditions. Also, provide:

Using lower heating value (Section 292.202(m)), all fuel flow inputs in Btu/hr., separately indicating fossil fuel inputs for any supplementary firing in Btu/hr. (Section 292.202(f)):

Average net electric output (kW or MW) (Section 292.202(g));

Average net mechanical output in horsepower (Section 292.202(g));

Number of hours of operation used to determine the average annual hourly facility inputs and outputs; and

Working fluid (e.g., steam) flow conditions at input and output of prime mover(s) and at delivery to and return from each useful thermal application:

Flow rates (lbs./hr.):
Temperature (deg.F):
Pressure (psia):
Enthalpy (Btu/lb.):

11. Compute the operating value (applicable to a topping-cycle facility under Section 292.205(a)(1)) and the efficiency value (Sections 292.205(a)(2) and Section 292.205(b)), based on the information provided in and corresponding to item 10, as follows:

Pt=Average annual hourly useful thermal energy output
Pe=Average annual hourly electrical output
Pm=Average annual hourly mechanical output
Pi=Average annual hourly energy input (natural gas or oil)
Ps=Average annual hourly energy input for supplementary firing (natural gas or oil)
Operating standard=5% or more
Operating value=Pt/(Pt+Pe+Pm)

Efficiency standard applicable to natural gas and oil fuel used in a topping-cycle facility:

=45% or more when operating value is less than 15%, or 42.5% or more when operating value is equal to or greater than 15%.
Efficiency value=(Pe+Pm+0.5Pt)/(Pi+Ps)

Efficiency standard applicable to natural gas and oil fuel used for supplementary firing component of a bottoming-cycle facility:
=45% or more
Efficiency value=(Pe+Pm)/Ps

For Topping-Cycle Cogeneration Facilities

12. Identify the entity (i.e., thermal host) which will purchase the useful thermal energy output from the facility (Section 292.202(h)).
Indicate whether the entity uses such output for the purpose of space and water heating, space cooling, and/or process use.

13. In connection with the requirement that the thermal energy output be useful (Section 292.202(h)):

For process uses by commercial or industrial host(s), describe each process (or group of similar processes using the same quality of steam) and provide the average annual hourly thermal energy made available to the process, less process return. For a complex system, where the primary steam header at the host-side is divided into various sub-uses, each having different pressure and temperature characteristics, describe the processes associated with each sub-use and provide the average annual hourly thermal energy delivered to each sub-use, less process return from such sub-use. Provide a diagram showing the main steam header and the sub-uses with other relevant information such as the average header pressure (psia), the temperature (deg.F), the enthalpy (Btu/lb.), and the flow (lb./hr.), both in and out of each sub-use. For space and water heating, describe the type of heating involved (e.g., office space heating, domestic water heating)

and provide the average annual hourly thermal energy delivered and used for such purpose. For space cooling, describe the type of cooling involved (e.g., office space cooling) and provide the average annual hourly thermal energy used by the chiller.

For Bottoming-Cycle Facilities

14. Provide a description of the commercial or industrial process or other thermal application to which the energy input to the system is first applied and from which the reject heat is then used for electric power production.

For New Cogeneration Facilities

15. For any cogeneration facility that was either not certified as a qualifying cogeneration facility on or before August 8, 2005, or that had not filed a notice of self-certification, self-recertification or an application for Commission certification under Sec. 292.207 of this chapter prior to February 2, 2006, also show:

(i) The thermal energy output of the cogeneration facility is used in a productive and beneficial manner; and

(ii) The electrical, thermal, chemical and mechanical output of the cogeneration facility is used fundamentally for industrial, commercial, residential or institutional purposes and is not intended fundamentally for sale to an electric utility, taking into account technological, efficiency, economic, and variable thermal energy requirements, as well as state laws applicable to sales of electric energy from a qualifying facility to its host facility.

[Order 575, 60 FR 4855, Jan. 25, 1995, as amended by Order 671, 71 FR 7867, Feb. 15, 2006]

ATTACHMENT E

PART 292_REGULATIONS UNDER SECTIONS 201 AND 210 OF THE PUBLIC UTILITY REGULATORY POLICIES ACT OF 1978 WITH REGARD TO SMALL POWER PRODUCTION AND COGENERATION--Table of Contents

Sec. 292.101 Definitions.

(a) General rule. Terms defined in the Public Utility Regulatory Policies Act of 1978 (PURPA) shall have the same meaning for purposes of this part as they have under PURPA, unless further defined in this part.

(b) Definitions. The following definitions apply for purposes of this part.

(1) Qualifying facility means a cogeneration facility or a small power production facility that is a qualifying facility under Subpart B of this part.

(i) A qualifying facility may include transmission lines and other equipment used for interconnection purposes (including transformers and switchyard equipment), if:

(A) Such lines and equipment are used to supply power output to directly and indirectly interconnected electric utilities, and to end users, including thermal hosts, in accordance with state law; or

(B) Such lines and equipment are used to transmit supplementary, standby, maintenance and backup power to the qualifying facility, including its thermal host meeting the criteria set forth in Union
Carbide Corporation, 48 FERC] 61,130, reh'g denied, 49 FERC] 61,209 (1989), aff'd sub nom., Gulf States Utilities Company v. FERC, 922 F.2d 873 (D.C. Cir. 1991); or

(C) If such lines and equipment are used to transmit power from other qualifying facilities or to transmit standby, maintenance, supplementary and backup power to other qualifying facilities.

(ii) The construction and ownership of such lines and equipment shall be subject to any applicable Federal, state, and local siting and environmental requirements.

(2) Purchase means the purchase of electric energy or capacity or both from a qualifying facility by an electric utility.

(3) Sale means the sale of electric energy or capacity or both by an electric utility to a qualifying facility.

(4) System emergency means a condition on a utility's system which is likely to result in imminent significant disruption of service to customers or is imminently likely to endanger life or property.

(5) Rate means any price, rate, charge, or classification made, demanded, observed or received with respect to the sale or purchase of electric energy or capacity, or any rule, regulation, or practice respecting any such rate, charge, or classification, and any contract pertaining to the sale or purchase of electric energy or capacity.

(6) Avoided costs means the incremental costs to an electric utility of electric energy or capacity or both which, but for the purchase from the qualifying facility or qualifying facilities, such utility would generate itself or purchase from another source.

(7) Interconnection costs means the reasonable costs of connection, switching, metering, transmission, distribution, safety provisions and administrative costs incurred by the electric utility directly related to the installation and maintenance of the physical facilities necessary to

permit interconnected operations with a qualifying facility, to the extent such costs are in excess of the corresponding costs which the electric utility would have incurred if it had not engaged in interconnected operations, but instead generated an equivalent amount of electric energy itself or purchased an equivalent amount of electric energy or capacity from other sources. Interconnection costs do not include any costs included in the calculation of avoided costs.

(8) Supplementary power means electric energy or capacity supplied by an electric utility, regularly used by a qualifying facility in addition to that which the facility generates itself.

(9) Back-up power means electric energy or capacity supplied by an electric utility to replace energy ordinarily generated by a facility's own generation equipment during an unscheduled outage of the facility.

(10) Interruptible power means electric energy or capacity supplied by an electric utility subject to interruption by the electric utility under specified conditions.

(11) Maintenance power means electric energy or capacity supplied by an electric utility during scheduled outages of the qualifying facility.

(Public Utility Regulatory Policies Act of 1978, 16 U.S.C. 2601 et seq., Energy Supply and Environmental Coordination Act, 15 U.S.C. 791 et seq. Federal Power Act, 16 U.S.C. 792 et seq., Department of Energy Organization Act, 42 U.S.C. 7101 et seq., E.O. 12009, 42 FR 46267)

[45 FR 12233, Feb. 25, 1980, as amended by Order 575, 60 FR 4856, Jan. 25, 1995]

Sec. 292.201 Scope.

Authority: Public Utility Regulatory Policies Act of 1978, (16 U.S.C. 2601, et seq.), Energy Supply and Environmental Coordination Act, (15 U.S.C. 791 et seq.), Federal Power Act, as amended, (16 U.S.C. 792, et seq.), Department of Energy Organization Act, (42 U.S.C. 7101 et seq.), E.O. 12009, 42 FR 46267, Natural Gas Policy Act of 1978, (15 U.S.C. 3301, et seq.).

This subpart applies to the criteria for and manner of becoming a qualifying small power production facility and a qualifying cogeneration facility under sections 3(17)(C) and 3(18)(B), respectively, of the Federal Power Act, as amended by section 201 of the Public Utility Regulatory Policies Act of 1978 (PURPA).

[45 FR 17972, Mar. 20, 1980]

Sec. 292.202 Definitions.

For purposes of this subpart:

(a) Biomass means any organic material not derived from fossil fuels;

(b) Waste means an energy input that is listed below in this subsection, or any energy input that has little or no current commercial value and exists in the absence of the qualifying facility industry. Should a waste energy input acquire commercial value after a facility is qualified by way of Commission certification pursuant to Sec. 292.207(b), or self-certification pursuant to Sec. 292.207(a), the facility will not lose its qualifying status for that reason. Waste includes, but is not limited to, the following materials that the Commission previously has approved as waste:

(1) Anthracite culm produced prior to July 23, 1985;

(2) Anthracite refuse that has an average heat content of 6,000 Btu or less per pound and has an average ash content of 45 percent or more;

(3) Bituminous coal refuse that has an average heat content of 9,500 Btu per pound or less and has an average ash content of 25 percent or more;

(4) Top or bottom subbituminous coal produced on Federal lands or on Indian lands that has been determined to be waste by the United States Department of the Interior's Bureau of Land Management (BLM) or that is located on non-Federal or non-Indian lands outside of BLM's jurisdiction, provided that the applicant shows that the latter coal is an extension of that determined by BLM to be waste.

(5) Coal refuse produced on Federal lands or on Indian lands that has been determined to be waste by the BLM or that is located on non-Federal or non-Indian lands outside of BLM's jurisdiction, provided that applicant shows that the latter is an extension of that determined by BLM to be waste.

(6) Lignite produced in association with the production of montan wax and lignite that becomes exposed as a result of such a mining operation;

(7) Gaseous fuels, except:

(i) Synthetic gas from coal; and

(ii) Natural gas from gas and oil wells unless the natural gas meets the requirements of Sec. 2.400 of this chapter;

(8) Petroleum coke;

(9) Materials that a government agency has certified for disposal by combustion;

(10) Residual heat;

(11) Heat from exothermic reactions;

(12) Used rubber tires;

(13) Plastic materials; and

(14) Refinery off-gas.

(c) Cogeneration facility means equipment used to produce electric energy and forms of useful thermal energy (such as heat or steam), used for industrial, commercial, heating, or cooling purposes, through the sequential use of energy;

(d) Topping-cycle cogeneration facility means a cogeneration facility in which the energy input to the facility is first used to produce useful power output, and at least some of the reject heat from the power production process is then used to provide useful thermal energy;

(e) Bottoming-cycle cogeneration facility means a cogeneration facility in which the energy input to the system is first applied to a useful thermal energy application or process, and at least some of the reject heat emerging from the application or process is then used for power production;

(f) Supplementary firing means an energy input to the cogeneration facility used only in the thermal process of a topping-cycle cogeneration facility, or only in the electric generating process of a bottoming-cycle cogeneration facility;

(g) Useful power output of a cogeneration facility means the electric or mechanical energy made available for use, exclusive of any such energy used in the power production process;

(h) Useful thermal energy output of a topping-cycle cogeneration facility means the thermal energy:

(1) That is made available to an industrial or commercial process (net of any heat contained in condensate return and/or makeup water);

(2) That is used in a heating application (e.g., space heating, domestic hot water heating); or

(3) That is used in a space cooling application (i.e., thermal energy used by an absorption chiller).

(i) Total energy output of a topping-cycle cogeneration facility is the sum of the useful power output and useful thermal energy output;

(j) Total energy input means the total energy of all forms supplied from external sources;

(k) Natural gas means either natural gas unmixed, or any mixture of natural gas and artificial gas;

(l) Oil means crude oil, residual fuel oil, natural gas liquids, or any refined petroleum products; and

(m) Energy input in the case of energy in the form of natural gas or oil is to be measured by the lower heating value of the natural gas or oil.

(n) Electric utility holding company means a holding company, as defined in section 2(a)(7) of the Public Utility Holding Company Act of 1935, 15 U.S.C. 79b(a)(7) which owns one or more electric utilities, as defined in section 2(a)(3) of that Act, 15 U.S.C 79b(a)(3), but does not include any holding company which is exempt by rule or order adopted or issued pursuant to sections 3(a)(3) or 3(a)(5) of the Public Utility Holding Company Act of 1935, 15 U.S.C. 79c(a)(3) or 79c(a)(5).

(o) Utility geothermal small power production facility means a small power production facility which uses geothermal energy as the primary energy resource and of which more than 50 percent is owned either:

(1) By an electric utility or utilities, electric utility holding company or companies, or any combination thereof.

(2) By any company 50 percent or more of the outstanding voting securities of which of which are directly or indirectly owned, controlled, or held with power to vote by an electric utility, electric utility holding company, or any combination thereof.

(p) New dam or diversion means a dam or diversion which requires, for the purposes of installing any hydroelectric power project, any construction, or enlargement of any impoundment or diversion structure (other than repairs or reconstruction or the addition of flashboards of similar adjustable devices);

(q) Substantial adverse effect on the environment means a substantial alteration in the existing or potential use of, or a loss of, natural features, existing habitat, recreational uses, water quality, or other environmental resources. Substantial alteration of particular resource includes a change in the environment that substantially reduces the quality of the affected resources; and

(r) Commitment of substantial monetary resources means the expenditure of, or commitment to expend, at least 50 percent of the total cost of preparing an application for license or exemption for a hydroelectric project that is accepted for filing by the Commission pursuant to Sec. 4.32(e) of this chapter. The total cost includes (but is not limited to) the cost of agency consultation, environmental studies, and engineering studies conducted pursuant to Sec. 4.38 of this chapter, and the Commission's requirements for filing an application for license exemption.

(s) Sequential use of energy means:

(1) For a topping-cycle cogeneration facility, the use of reject heat from a power production process in sufficient amounts in a thermal application or process to conform to the requirements of the operating
standard; or

(2) For a bottoming-cycle cogeneration facility, the use of reject heat from a thermal application or process, at least some of which is then used for power production.

(Energy Security Act, Pub. L. 96-294, 94 Stat. 611 (1980) Public Utility Regulatory Policies Act of 1978, 16 U.S.C. 2601, et seq., Energy Supply and Environmental Coordination Act, 15 U.S.C. 791 et seq., Federal Power Act, as amended, 16 U.S.C. 792 et seq., Department of Energy Organization Act, 42 U.S.C. 7101 et seq., E.O. 12009, 42 FR 46267)

[45 FR 17972, Mar. 20, 1980, as amended at 45 FR 33958, May 21, 1980; 45 FR 66789, Oct. 8, 1980; Order 135, 46 FR 19231, Mar. 30, 1981; 46 FR 32239, June 22, 1981; Order 499, 53 FR 27002, July 18, 1988; Order 575, 60 FR 4857, Jan. 25, 1995]

ATTACHMENT E

TITLE 18--CONSERVATION OF POWER AND WATER RESOURCES

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

Sec. 292.203 General requirements for qualification.

(a) Small power production facilities. Except as provided in paragraph (c) of this section, a small power production facility is a qualifying facility if it:

(1) Meets the maximum size criteria specified in Sec. 292.204(a);

(2) Meets the fuel use criteria specified in Sec. 292.204(b); and

(3) Has filed with the Commission a notice of self-certification, pursuant to Sec. 292.207(a); or has filed with the Commission an application for Commission certification, pursuant to Sec. 292.207(b)(1), that has been granted.

(b) Cogeneration facilities. A cogeneration facility, including any diesel and dual-fuel cogeneration facility, is a qualifying facility if it:

(1) Meets any applicable operating and efficiency standards specified in Sec. 292.205(a) and (b); and

(2) Has filed with the Commission a notice of self-certification, pursuant to Sec. 292.207(a); or has filed with the Commission an application for Commission certification, pursuant to Sec. 292.207(b)(1), that has been granted.

(c) Hydroelectric small power production facilities located at a new dam or diversion. (1) A hydroelectric small power production facility that impounds or diverts the water of a natural watercourse by means of a new dam or diversion (as that term is defined in Sec. 292.202(p)) is a qualifying facility if it meets the requirements of:

(i) Paragraph (a) of this section; and

(ii) Section 292.208.

(2) [Reserved]

[45 FR 17972, Mar. 20, 1980, as amended by Order 70-E, 46 FR 33027, June 26, 1981; 52 FR 5280, Feb. 20, 1987; 52 FR 9161, Mar. 23, 1987; Order 478, 52 FR 28467, July 30, 1987; Order 499, 53 FR 27002, July 18, 1988; Order 541, 57 FR 21734, May 22, 1992; Order 671, 71 FR 7868, Feb. 15, 2006]

Sec. 292.204 Criteria for qualifying small power production facilities.

(a) Size of the facility--1) Maximum size. There is no size limitation for an eligible solar, wind, waste or facility, as defined by section 3(17)(E) of the Federal Power Act. For a non-eligible facility, the power production capacity for which qualification is sought, together with the power production capacity of any other non-eligible small power production facilities that use the same energy resource, are owned by the same person(s) or its affiliates, and are located at the same site, may not exceed 80 megawatts.

(2) Method of calculation. (i) For purposes of this paragraph, facilities are considered to be located at the same site as the facility for which qualification is sought if they are located within one mile of the facility for which qualification is sought and, for hydroelectric facilities, if they use water from the same impoundment for power generation.

(ii) For purposes of making the determination in clause (i), the distance between facilities shall be measured from the electrical generating equipment of a facility.

(3) Waiver. The Commission may modify the application of paragraph (a)(2) of this section, for good cause.

(b) Fuel use. (1)(i) The primary energy source of the facility must be biomass, waste, renewable resources, geothermal resources, or any combination thereof, and 75 percent or more of the total energy input must be from these sources.

(ii) Any primary energy source which, on the basis of its energy content, is 50 percent or more biomass shall be considered biomass.

(2) Use of oil, natural gas and coal by a facility, under section 3(17)(B) of the Federal Power Act, is limited to the minimum amounts of fuel required for ignition, startup, testing, flame stabilization, and control uses, and the minimum amounts of fuel required to alleviate or prevent unanticipated equipment outages, and emergencies, directly affecting the public health, safety, or welfare, which would result from electric power outages. Such fuel use may not, in the aggregate, exceed 25 percent of the total energy input of the facility during the 12-month period beginning with the date the facility first produces electric energy and any calendar year subsequent to the year in which the facility first produces electric energy.

(Energy Security Act, Pub. L. 96-294, 94 Stat. 611 (1980) Public Utility Regulatory Policies Act of 1978, 16 U.S.C. 2601, et seq., Energy Supply and Environmental Coordination Act, 15, U.S.C. 791, et seq., Federal Power Act, as amended, 16 U.S.C. 792 et seq., Department of Energy Organization Act, 42 U.S.C. 7101, et seq.; E.O. 12009, 42 FR 46267) [45 FR 17972, Mar. 20, 1980, as amended by Order 135, 46 FR 19231, Mar. 30, 1981; Order 575, 60 FR 4857, Jan. 25, 1995]

Sec. 292.204 Criteria for qualifying small power production facilities.

(a) Size of the facility--1) Maximum size. There is no size limitation for an eligible solar, wind, waste or facility, as defined by section 3(17)(E) of the Federal Power Act. For a non-eligible facility, the power production capacity for which qualification is sought, together with the power production capacity of any other non-eligible small power production facilities that use the same energy resource, are owned by the same person(s) or its affiliates, and are located at the same site, may not exceed 80 megawatts.

(2) Method of calculation. (i) For purposes of this paragraph, facilities are considered to be located at the same site as the facility for which qualification is sought if they are located within one mile of the facility for which qualification is sought and, for hydroelectric facilities, if they use water from the same impoundment for power generation.

(ii) For purposes of making the determination in clause (i), the distance between facilities shall be measured from the electrical generating equipment of a facility.

(3) Waiver. The Commission may modify the application of paragraph (a)(2) of this section, for good cause.

(b) Fuel use. (1)(i) The primary energy source of the facility must be biomass, waste, renewable resources, geothermal resources, or any combination thereof, and 75 percent or more of the total energy input must be from these sources.

(ii) Any primary energy source which, on the basis of its energy content, is 50 percent or more biomass shall be considered biomass.

(2) Use of oil, natural gas and coal by a facility, under section 3(17)(B) of the Federal Power Act, is limited to the minimum amounts of fuel required for ignition, startup, testing, flame stabilization, and control uses, and the minimum amounts of fuel required to alleviate or prevent unanticipated equipment outages, and emergencies, directly affecting the public health, safety, or welfare, which would result from electric power outages. Such fuel use may not, in the aggregate, exceed 25 percent of the total energy input of the facility during the 12-month period beginning with the date the facility first produces electric energy and any calendar year subsequent to the year in which the facility first produces electric energy.

(Energy Security Act, Pub. L. 96-294, 94 Stat. 611 (1980) Public Utility Regulatory Policies Act of 1978, 16 U.S.C. 2601, et seq., Energy Supply and Environmental Coordination Act, 15, U.S.C. 791, et seq., Federal Power Act, as amended, 16 U.S.C. 792 et seq., Department of Energy Organization Act, 42 U.S.C. 7101, et seq.; E.O. 12009, 42 FR 46267) [45 FR 17972, Mar. 20, 1980, as amended by Order 135, 46 FR 19231, Mar. 30, 1981; Order 575, 60 FR 4857, Jan. 25, 1995]

Sec. 292.205 Criteria for qualifying cogeneration facilities.

(a) Operating and efficiency standards for topping-cycle facilities--(1) Operating standard. For any topping-cycle cogeneration facility, the useful thermal energy output of the facility must be no less than 5 percent of the total energy output during the 12-month period beginning with the date the facility first produces electric energy, and any calendar year subsequent to the year in which the facility first produces electric energy.

(2) Efficiency standard. (i) For any topping-cycle cogeneration facility for which any of the energy input is natural gas or oil, and the installation of which began on or after March 13, 1980, the useful power output of the facility plus one-half the useful thermal energy output, during the 12-month period beginning with the date the facility first produces electric energy, and any calendar year subsequent to the year in which the facility first produces electric energy, must:

(A) Subject to paragraph (a)(2)(i)(B) of this section be no less than 42.5 percent of the total energy input of natural gas and oil to the facility; or

(B) If the useful thermal energy output is less than 15 percent of the total energy output of the facility, be no less than 45 percent of the total energy input of natural gas and oil to the facility.

(ii) For any topping-cycle cogeneration facility not subject to paragraph (a)(2)(i) of this section there is no efficiency standard.

(b) Efficiency standards for bottoming-cycle facilities. (1) For any bottoming-cycle cogeneration facility for which any of the energy input as supplementary firing is natural gas or oil, and the installation of which began on or after March 13, 1980, the useful power output of the facility during the 12-month period beginning with the date the facility first produces electric energy, and any calendar year subsequent to the year in which the facility first produces electric

energy must be no less than 45 percent of the energy input of natural gas and oil for supplementary firing.

(2) For any bottoming-cycle cogeneration facility not covered by paragraph (b)(1) of this section, there is no efficiency standard.

(c) Waiver. The Commission may waive any of the requirements of paragraphs (a) and (b) of this section upon a showing that the facility will produce significant energy savings.

(d) Criteria for new cogeneration facilities. Notwithstanding paragraphs (a) and (b) of this section, any cogeneration facility that was either not certified as a qualifying cogeneration facility on or before August 8, 2005, or that had not filed a notice of self-certification, self-recertification or an application for Commission certification or Commission recertification as a qualifying cogeneration facility under Sec. 292.207 of this chapter prior to February 2, 2006, and which is seeking to sell electric energy pursuant to section 210 of the Public Utility Regulatory Policies Act of 1978, 16 U.S.C. 824a-1, must also show:

(1) The thermal energy output of the cogeneration facility is used in a productive and beneficial manner; and

(2) The electrical, thermal, chemical and mechanical output of the cogeneration facility is used fundamentally for industrial, commercial, residential or institutional purposes and is not intended fundamentally for sale to an electric utility, taking into account technological, efficiency, economic, and variable thermal energy requirements, as well as state laws applicable to sales of electric energy from a qualifying facility to its host facility.

(3) Fundamental use test. For the purposes of satisfying paragraph (d)(2) of this section, the electrical, thermal, chemical and mechanical output of the cogeneration facility will be considered used fundamentally for industrial, commercial, or institutional purposes and not intended fundamentally for sale to an electric utility if at least 50 percent of the aggregate of such output, on an annual basis, is used for industrial, commercial, residential or institutional purposes. In addition, applicants for facilities that do not meet this safe harbor standard may present evidence to the Commission that the facilities should nevertheless be certified given state laws applicable to sales of electric energy or unique technological, efficiency, economic, and variable thermal energy requirements.

(4) For purposes of paragraphs (d)(1) and (d)(2) of this section, a new cogeneration facility of 5 MW or smaller will be presumed to satisfy the requirements of those paragraphs.

(5) For purposes of paragraph (d)(1) of this section, where a thermal host existed prior to the development of a new cogeneration facility whose thermal output will supplant the thermal source previously in use by the thermal host, the thermal output of such new cogeneration facility will be presumed to satisfy the requirements of paragraph (d)(1).

[45 FR 17972, Mar. 20, 1980, as amended by Order 478, 52 FR 28467, July 30, 1987; Order 575, 60 FR 4857, Jan. 25, 1995; Order 671, 71 FR 7868, Feb. 15, 2006]

Sec. 292.207 Procedures for obtaining qualifying status.

(a) Self-certification and pre-authorized Commission recertification--1) Self-certification. (i) A small power production facility or cogeneration facility that meets the applicable criteria established in Sec. 292.203 is a qualifying facility.

(ii) The owner or operator of a facility or its representative self-certifying under this section must file with the Commission, and concurrently serve on each electric utility with which it expects to interconnect, transmit or sell electric energy to or purchase supplementary, standby, back-up and maintenance power, and the State regulatory authority of each state where the facility and each affected utility is located, a notice of self-certification which contains a completed Form 556.

(iii) Subsequent notices of self-recertification for the same facility may reference prior notices or prior Commission certifications, and need only refer to changes which have occurred with respect to the facility since the prior notice or the prior Commission certification.

(iv) Notices of self-certification or self-recertification, other than for new cogeneration facilities, will not be published in the Federal Register. Notices of self-certification or self-recertification of new cogeneration facilities will be published in the Federal Register; such self-certifications and self-recertifications should include a form of notice suitable for publication in the Federal Register.

(2) Pre-authorized Commission recertification. (i) For purposes of paragraph (b) of this section, the following alterations or modifications are not considered substantial alterations or modifications and will not result in revocation of qualifying status previously granted by the Commission pursuant to paragraph (b) of this section:

(A) A change which does not affect the upstream ownership of the facility;

(B) A change in the installation or operation date;

(C) A change in the manufacturer of the power generation equipment selected for the facility's installation when there is no change in capacity or operating characteristics;

(D) A change in the location of a cogeneration facility, or a small power production facility, if the new location would not cause the facility to violate the 80 MW limitation of Sec. 292.204(a)(1);

(E) A decrease in the amount of natural gas or oil or any change in the amount of other fuel used by a cogeneration facility, provided that the efficiency value and the operating value calculation for the facility remain at or above the values stated when the certification or recertification order was issued;

(F) A decrease in the amount of fossil fuel used by a small power production facility;

(G) A change in the primary energy source of a small power production facility, provided that the facility continues to comply with the requirements of Sec. 292.204;

(H) An additional use of a cogeneration facility's thermal output, if the original uses are as stated when the certification order was issued;

(I) An increase in the efficiency value of a cogeneration facility or an increase in the operating value of a cogeneration facility determined in accordance with Sec. 292.205;

(J) A decrease in the power production capacity of a small power production facility;

(K) A change in the power production capacity of a cogeneration facility if the efficiency value and the operating value calculation for the facility remain at or above the values stated when the certification or recertification order was issued; or

(L) A change in the purchaser of the cogeneration facility's thermal output, when there is no change in the specified thermal application or process.

(ii) The owner or operator of a qualifying facility that has been certified under paragraph (b) of this section must file with the Commission notice of each change listed in this subsection, and must concurrently serve a copy of such notice on each electric utility with which it expects to interconnect, transmit or sell electric energy to, or purchase supplementary, standby, back-up and

maintenance power, and the State regulatory authority of each state where the facility and each affected electric utility is located.

(b) Optional procedure--(1) Application for Commission certification. In lieu of the certification procedures in paragraph (a) of this section, an owner or operator of a facility or its representative may file with the Commission an application for Commission certification that the facility is a qualifying facility. The application must be accompanied by the fee prescribed by part 381 of this chapter.

(2) General contents of application. The application must include a completed Form 556.

(3) Commission action. (i) Within 90 days of the later of the filing of an application or the filing of a supplement, amendment or other change to the application, the Commission will either: inform the applicant that the application is deficient; or issue an order granting or denying the application; or toll the time for issuance of an order. Any order denying certification shall identify the specific requirements which were not met. If the Commission does not act within 90 days of the date of the latest filing, the application shall be deemed to have been granted.

(ii) For purposes of paragraph (b) of this section, the date an application is filed is the date by which the Office of the Secretary has received all of the information and the appropriate filing fee necessary to comply with the requirements of this Part.

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

(c) Notice requirements for facilities of 500 kW or more. An electric utility is not required to purchase electric energy from a facility with a design capacity of 500 kW or more until 90 days after the facility notifies the utility that it is a qualifying facility, or 90 days after the facility has applied to the Commission under paragraph (b) of this section.

(d) Revocation of qualifying status. (1)(i) If a qualifying facility fails to conform with any material facts or representations presented by the cogenerator or small power producer in its submittals to the Commission, the notice of self-certification of the qualifying status of the facility, pre-authorized Commission re-certification notice, or Commission order certifying the qualifying status of the facility may no longer be relied upon. At that point, if the facility continues to conform to the Commission's qualifying criteria under this part, the cogenerator or small power producer may file either a notice of self-recertification of qualifying status pursuant to the requirements of paragraph (a)(1) of this section, a pre-authorized Commission recertification notice pursuant to the requirements of paragraph (a)(2) of this section, or an application for Commission recertification pursuant to the requirements of paragraph (b) of this section, as appropriate.

(ii) The Commission may, on its own motion or on the motion of any person, revoke the qualifying status of a facility that has been certified under paragraph (b) of this section, if the facility fails to conform to any of the Commission's qualifying facility criteria under this part.

(iii) The Commission may, on its own motion or on the motion of any person, revoke the qualifying status of a self-certified or self-recertified qualifying facility if it finds that the self-certified or self-recertified qualifying facility does not meet the applicable requirements for qualifying facilities.

(2) Prior to undertaking any substantial alteration or modification of a qualifying facility which has been certified under paragraph (b) of this section, a small power producer or cogenerator may apply to the Commission for a determination that the proposed alteration or modification will not result in a revocation of qualifying status. This application for Commission

recertification of qualifying status should be submitted in accordance with paragraph (b) of this section.

[45 FR 17972, Mar. 20, 1980, as amended by Order 70-A, 45 FR 33603, May 20, 1980; Order 70-B, 45 FR 52780, Aug. 8, 1980; Order 225, 47 FR 19058, May 3, 1982; Order 435, 50 FR 40358, Oct. 3, 1985; Order 494, 53 FR 15381, Apr. 29, 1988; Order 575, 60 FR 4858, Jan. 25, 1995; Order 593, 62 FR 1283, Jan. 9, 1997; Order 647, 69 FR 32439, June 10, 2004; Order 671, 71 FR 7868, Feb. 15, 2006]

Sec. 292.301 Scope.

Authority: Public Utility Regulatory Policies Act of 1978, 16 U.S.C. 2601 et seq., Energy Supply and Environmental Coordination Act, 15 U.S.C. 791 et seq. Federal Power Act, 16 U.S.C. 792 et seq., Department of Energy Organization Act, 42 U.S.C. 7101 et seq., E.O. 12009, 42 FR 46267.

Source: Order 69, 45 FR 12234, Feb. 25, 1980, unless otherwise noted.

(a) Applicability. This subpart applies to the regulation of sales and purchases between qualifying facilities and electric utilities.

(b) Negotiated rates or terms. Nothing in this subpart:

(1) Limits the authority of any electric utility or any qualifying facility to agree to a rate for any purchase, or terms or conditions relating to any purchase, which differ from the rate or terms or conditions which would otherwise be required by this subpart; or

(2) Affects the validity of any contract entered into between a qualifying facility and an electric utility for any purchase.

Sec. 292.304 Rates for purchases.

(a) Rates for purchases. (1) Rates for purchases shall:

(i) Be just and reasonable to the electric consumer of the electric utility and in the public interest; and

(ii) Not discriminate against qualifying cogeneration and small power production facilities.

(2) Nothing in this subpart requires any electric utility to pay more than the avoided costs for purchases.

(b) Relationship to avoided costs. (1) For purposes of this paragraph, ``new capacity'' means any purchase from capacity of a qualifying facility, construction of which was commenced on or after November 9, 1978.

(2) Subject to paragraph (b)(3) of this section, a rate for purchases satisfies the requirements of paragraph (a) of this section if the rate equals the avoided costs determined after consideration of the factors set forth in paragraph (e) of this section

(3) A rate for purchases (other than from new capacity) may be less than the avoided cost if the State regulatory authority (with respect to any electric utility over which it has ratemaking authority) or the nonregulated electric utility determines that a lower rate is consistent with

paragraph (a) of this section, and is sufficient to encourage cogeneration and small power production.

(4) Rates for purchases from new capacity shall be in accordance with paragraph (b)(2) of this section, regardless of whether the electric utility making such purchases is simultaneously making sales to the qualifying facility.

(5) In the case in which the rates for purchases are based upon estimates of avoided costs over the specific term of the contract or other legally enforceable obligation, the rates for such purchases do not violate this subpart if the rates for such purchases differ from avoided costs at the time of delivery.

(c) Standard rates for purchases. (1) There shall be put into effect (with respect to each electric utility) standard rates for purchases from qualifying facilities with a design capacity of 100 kilowatts or less.

(2) There may be put into effect standard rates for purchases from qualifying facilities with a design capacity of more than 100 kilowatts.

(3) The standard rates for purchases under this paragraph:

(i) Shall be consistent with paragraphs (a) and (e) of this section; and

(ii) May differentiate among qualifying facilities using various technologies on the basis of the supply characteristics of the different technologies.

(d) Purchases ``as available'' or pursuant to a legally enforceable obligation. Each qualifying facility shall have the option either: (1) To provide energy as the qualifying facility determines such energy to be available for such purchases, in which case the rates for such purchases shall be based on the purchasing utility's avoided costs calculated at the time of delivery; or

(2) To provide energy or capacity pursuant to a legally enforceable obligation for the delivery of energy or capacity over a specified term, in which case the rates for such purchases shall, at the option of the qualifying facility exercised prior to the beginning of the specified term, be based on either:

(i) The avoided costs calculated at the time of delivery; or

(ii) The avoided costs calculated at the time the obligation is incurred.

(e) Factors affecting rates for purchases. In determining avoided costs, the following factors shall, to the extent practicable, be taken into account:

(1) The data provided pursuant to Sec. 292.302(b), (c), or (d), including State review of any such data;

(2) The availability of capacity or energy from a qualifying facility during the system daily and seasonal peak periods, including:

(i) The ability of the utility to dispatch the qualifying facility;

(ii) The expected or demonstrated reliability of the qualifying facility;

(iii) The terms of any contract or other legally enforceable obligation, including the duration of the obligation, termination notice requirement and sanctions for non-compliance;

(iv) The extent to which scheduled outages of the qualifying facility can be usefully coordinated with scheduled outages of the utility's facilities;

(v) The usefulness of energy and capacity supplied from a qualifying facility during system emergencies, including its ability to separate its load from its generation;

(vi) The individual and aggregate value of energy and capacity from qualifying facilities on the electric utility's system; and

(vii) The smaller capacity increments and the shorter lead times available with additions of capacity from qualifying facilities; and

(3) The relationship of the availability of energy or capacity from the qualifying facility as derived in paragraph (e)(2) of this section, to the ability of the electric utility to avoid costs, including the deferral of capacity additions and the reduction of fossil fuel use; and

(4) The costs or savings resulting from variations in line losses from those that would have existed in the absence of purchases from a qualifying facility, if the purchasing electric utility generated an equivalent amount of energy itself or purchased an equivalent amount of electric energy or capacity.

(f) Periods during which purchases not required.

(1) Any electric utility which gives notice pursuant to paragraph (f)(2) of this section will not be required to purchase electric energy or capacity during any period during which, due to operational circumstances, purchases from qualifying facilities will result in costs greater than those which the utility would incur if it did not make such purchases, but instead generated an equivalent amount of energy itself.

(2) Any electric utility seeking to invoke paragraph (f)(1) of this section must notify, in accordance with applicable State law or regulation, each affected qualifying facility in time for the qualifying facility to cease the delivery of energy or capacity to the electric utility.

(3) Any electric utility which fails to comply with the provisions of paragraph (f)(2) of this section will be required to pay the same rate for such purchase of energy or capacity as would be required had the period described in paragraph (f)(1) of this section not occurred.

(4) A claim by an electric utility that such a period has occurred or will occur is subject to such verification by its State regulatory authority as the State regulatory authority determines necessary or appropriate, either before or after the occurrence.

Sec. 292.305 Rates for sales.

(a) General rules.

(1) Rates for sales:

(i) Shall be just and reasonable and in the public interest; and

(ii) Shall not discriminate against any qualifying facility in comparison to rates for sales to other customers served by the electric utility.

(2) Rates for sales which are based on accurate data and consistent systemwide costing principles shall not be considered to discriminate against any qualifying facility to the extent that such rates apply to the utility's other customers with similar load or other cost-related characteristics.

(b) Additional services to be provided to qualifying facilities. (1) Upon request of a qualifying facility, each electric utility shall provide:

(i) Supplementary power;

(ii) Back-up power;

(iii) Maintenance power; and

(iv) Interruptible power.

(2) The State regulatory authority (with respect to any electric utility over which it has ratemaking authority) and the Commission (with respect to any nonregulated electric utility) may

waive any requirement of paragraph (b)(1) of this section if, after notice in the area served by the electric utility and after opportunity for public comment, the electric utility demonstrates and the State regulatory authority or the Commission, as the case may be, finds that compliance with such requirement will:

(i) Impair the electric utility's ability to render adequate service to its customers; or

(ii) Place an undue burden on the electric utility.

(c) Rates for sales of back-up and maintenance power. The rate for sales of back-up power or maintenance power:

(1) Shall not be based upon an assumption (unless supported by factual data) that forced outages or other reductions in electric output by all qualifying facilities on an electric utility's system will occur simultaneously, or during the system peak, or both; and

(2) Shall take into account the extent to which scheduled outages of the qualifying facilities can be usefully coordinated with scheduled outages of the utility's facilities.

Sec. 292.310 Procedures for utilities requesting termination of obligation to purchase from qualifying facilities.

(a) An electric utility may file an application with the Commission for relief from the mandatory purchase requirement under Sec. 292.303(a) pursuant to this section on a service territory-wide basis. Such application shall set forth the factual basis upon which relief is requested and describe why the conditions set forth in Sec. 292.309(a)(1), (2) or (3) have been met. After notice, including sufficient notice to potentially affected qualifying cogeneration facilities and qualifying small power production facilities, and an opportunity for comment, the Commission shall make a final determination within 90 days of such application regarding whether the conditions set forth in Sec. 292.309(a)(1), (2) or (3) have been met.

(b) Sufficient notice shall mean that an electric utility must identify with names and addresses all potentially affected qualifying facilities in an application filed pursuant to paragraph (a).

(c) An electric utility must submit with its application for each potentially affected qualifying facility: The docket number assigned if the qualifying facility filed for self-certification or an application for Commission certification of qualifying facility status; the net capacity of the qualifying facility; the location of the qualifying facility depicted by state and county, and the name and location of the substation where the qualifying facility is interconnected; the interconnection status of each potentially affected qualifying facility including whether the qualifying facility is interconnected as an energy or a network resource; and the expiration date of the energy and/or capacity agreement between the applicant utility and each potentially affected qualifying facility. All potentially affected qualifying facilities shall include:

(1) Those qualifying facilities that have existing power purchase contracts with the applicant;

(2) Other qualifying facilities that sell their output to the applicant or that have pending self-certification or Commission certification with the Commission for qualifying facility status whereby the applicant will be the purchaser of the qualifying facility's output;

(3) Any developer of generating facilities with whom the applicant has agreed to enter into power purchase contracts, as of the date of the application filed pursuant to this section, or are in discussion, as of the date of the application filed pursuant to this section, with regard to power purchase contacts;

(4) The developers of facilities that have pending state avoided cost proceedings, as of the date of the application filed pursuant to this section; and

(5) Any other qualifying facilities that the applicant reasonably believes to be affected by its application filed pursuant to paragraph (a) of this section.

(d) The following information must be filed with an application:

(1) Identify whether applicant seeks a finding under the provisions of Sec. 292.309(a)(1), (2), or (3).

(2) A narrative setting forth the factual basis upon which relief is requested and describing why the conditions set forth in Sec. 292.309(a)(1), (2), or (3) have been met. Applicant should also state in its application whether it is relying on the findings or rebuttable presumptions contained in Sec. 292.309(e), (f) or (g). To the extent applicant seeks relief from the purchase obligation with respect to a qualifying facility 20 megawatts or smaller, and thus seeks to rebut the presumption in Sec. 292.309(d), applicant must also set forth, and submit evidence of, the factual basis supporting its contention that the qualifying facility has nondiscriminatory access to the wholesale markets which are the basis for the applicant's filing.

(3) Transmission Studies and related information, including:

(i) The applicant's long-term transmission plan, conducted by applicant, or the RTO, ISO or other relevant entity;

(ii) Transmission constraints by path, element or other level of comparable detail that have occurred and/or are known and expected to occur, and any proposed mitigation including transmission construction plans;

(iii) Levels of congestion, if available;

(iv) Relevant system impact studies for the generation interconnections, already completed;

(v) Other information pertinent to showing whether transfer capability is available; and

(vi) The appropriate link to applicant's OASIS, if any, from which a qualifying facility may obtain applicant's available transfer capability (ATC) information.

(4) Describe the process, procedures and practices that qualifying facilities interconnected to the applicant's system must follow to arrange for the transmission service to transfer power to purchasers other than the applicant. This description must include the process, procedures and practices of all distribution, transmission and regional transmission facilities necessary for qualifying facility access to the market.

(5) If qualifying facilities will be required to execute new interconnection agreements, or renegotiate existing agreements so that they can effectuate wholesale sales to third-party purchasers, explain the requirements, charges and the process to be followed. Also, explain any differences in these requirements as they apply to qualifying facilities compared to other generators, or to applicant-owned generation.

(6) Applicants seeking a Commission finding pursuant to Sec. 292.309(a)(2) or (3), except those applicants located in ERCOT, also must provide evidence of competitive wholesale markets that provide a meaningful opportunity to sell capacity, including long-term and short-term sales, and electric energy, including long-term, short-term and real-time sales, to buyers other than the utility to which the qualifying facility is interconnected. In demonstrating that a meaningful opportunity to sell exists, provide evidence of transactions within the relevant market. Applicants must include a list of known or potential purchasers, e.g., jurisdictional and non-jurisdictional utilities as well as retail energy service providers.

(7) Signature of authorized individual evidencing the accuracy and authenticity of information provided by applicant.

(8) Person(s) to whom communications regarding the filed information may be addressed, including name, title, telephone number, and mailing address.

[Order 688, 71 FR 64372, Nov. 1, 2006, as amended by Order 688-A, 72 FR 35892, June 29, 2007]

Sec. 292.311 Reinstatement of obligation to purchase.

At any time after the Commission makes a finding under Sec. Sec. 292.309 and 292.310 relieving an electric utility of its obligation to purchase electric energy, a qualifying cogeneration facility, a qualifying small power production facility, a State agency, or any other affected person may apply to the Commission for an order reinstating the electric utility's obligation to purchase electric energy under this section. Such application shall set forth the factual basis upon which the application is based and describe why the conditions set forth in Sec. 292.309(a), (b) or (c) are no longer met. After notice, including sufficient notice to potentially affected electric utilities, and opportunity for comment, the Commission shall issue an order within 90 days of such application reinstating the electric utility's obligation to purchase electric energy under this section if the Commission finds that the conditions set forth in Sec. 292.309(a), (b), or (c) which relieved the obligation to purchase, are no longer met.

Sec. 292.312 Termination of obligation to sell to qualifying facilities.

(a) Any electric utility may file an application with the Commission for relief from the mandatory obligation to sell under this section on a service territory-wide basis or a single qualifying facility basis. Such application shall set forth the factual basis upon which relief is requested and describe why the conditions set forth in paragraphs (b)(1) and (b)(2) of this section have been met. After notice, including sufficient notice to potentially affected qualifying facilities, and an opportunity for comment, the Commission shall make a final determination within 90 days of such application regarding whether the conditions set forth in paragraphs (b)(1) and (b)(2) of this section have been met.

(b) After August 8, 2005, an electric utility shall not be required to enter into a new contract or obligation to sell electric energy to a qualifying small power production facility, an existing qualifying cogeneration facility, or a new qualifying cogeneration facility if the Commission has found that;

(1) Competing retail electric suppliers are willing and able to sell and deliver electric energy to the qualifying cogeneration facility or qualifying small power production facility; and (2) The electric utility is not required by State law to sell electric energy in its service territory.

[Order 688, 71 FR 64372, Nov. 1, 2006; 71 FR 75662, Dec. 18, 2006]

Sec. 292.313 Reinstatement of obligation to sell.

At any time after the Commission makes a finding under Sec. 292.312 relieving an electric utility of its obligation to sell electric energy, a qualifying cogeneration facility, a qualifying small power production facility, a State agency, or any other affected person may apply to the Commission for an order reinstating the electric utility's obligation to purchase electric energy under this section. Such application shall set forth the factual basis upon which the application is based and describe why the conditions set forth in Paragraph (b)(1) and (b)(2) of this section are no longer met. After notice, including sufficient notice to potentially affected utilities, and opportunity for comment, the Commission shall issue an order within 90 days of such application reinstating the electric utility's obligation to sell electric energy under this section if the Commission finds that the conditions set forth in paragraphs (b)(1) and (b)(2) of this section are no longer met.

Sec. 292.401 Implementation of certain reporting requirements.

Authority: Public Utility Regulatory Policies Act of 1978, 16 U.S.C. 2601 et seq., Energy Supply and Environmental Coordination Act, 15 U.S.C. 791 et seq., Federal Power Act, 16 U.S.C. 792 et seq., Department of Energy Organization Act, 42 U.S.C. 7101 et seq., E.O. 12009, 42 FR 46267.

Source: Order 69, 45 FR 12236, Feb. 25, 1980, unless otherwise noted.

Any electric utility which fails to comply with the requirements of Sec. 292.302(b) shall be subject to the same penalties to which it may be subjected for failure to comply with the requirements of the Commission's regulations issued under section 133 of PURPA.

[45 FR 12236, Feb. 25, 1980. Redesignated by Order 541, 57 FR 21734, May 22, 1992]

Sec. 292.601 Exemption to qualifying facilities from the Federal Power Act.

(a) Applicability. This section applies to qualifying facilities, other than those described in paragraph (b) of this section.

(b) Exclusion. This section does not apply to a qualifying small power production facility with a power production capacity which exceeds 30 megawatts, if such facility uses any primary energy source other than geothermal resources.

(c) General rule. Any qualifying facility described in paragraph (a) of this section shall be exempt from all sections of the Federal Power Act, except:

(1) Sections 205 and 206; however, sales of energy or capacity made by qualifying facilities 20 MW or smaller, or made pursuant to a contract executed on or before March 17, 2006 or made pursuant to a state regulatory authority's implementation of section 210 the Public Utility Regulatory Policies Act of 1978, 16 U.S.C. 824a-1, shall be exempt from scrutiny under sections 205 and 206;

(2) Section 1-18, and 21-30;

(3) Sections 202(c), 210, 211, 212, 213, 214, 215, 220, 221 and 222;

(4) Sections 305(c); and

(5) Any necessary enforcement provision of part III of the Federal Power Act (including but not limited to sections 306, 307, 308, 309, 314, 315, 316 and 316A) with regard to the sections listed in paragraphs (c)(1), (2), (3) and (4) of this section.

(Energy Security Act, Pub. L. 96-294, 94 Stat. 611 (1980) Public Utility Regulatory Policies Act of 1978, 16 U.S.C. 2601, et seq., Energy Supply and Environmental Coordination Act, 15 U.S.C. 791, et seq., Federal Power Act, as amended, 16 U.S.C. 792 et seq., Department of Energy Organization Act, 42 U.S.C. 7101, et seq.; E.O. 12009, 42 FR 46267)

[Order 135, 46 FR 19232, Mar. 30, 1981, as amended by Order 569, 59 FR 40470, Aug. 9, 1994; Order 671, 71 FR 7868, Feb. 15, 2006; 72 FR 29063, May 24, 2007]

Sec. 292.602 Exemption to qualifying facilities from the Public Utility Holding Company Act and certain State law and regulation.

(a) Applicability. This section applies to any qualifying facility described in Sec. 292.601(a), and to any qualifying small power production facility with a power production capacity over 30 megawatts if such facility produces electric energy solely by the use of biomass as a primary energy source.

(b) Exemption from the Public Utility Holding Company Act of 2005. A qualifying facility described in paragraph (a) of this section or a utility geothermal small power production facility shall be exempt from the Public Utility Holding Company Act of 2005, 42 U.S.C. 16,451-63.

(c) Exemption from certain State laws and regulations. (1) Any qualifying facility shall be exempted (except as provided in paragraph
(b)(2)) of this section from State laws or regulations respecting:

(i) The rates of electric utilities; and

(ii) The financial and organizational regulation of electric utilities.

(2) A qualifying facility may not be exempted from State laws and regulations implementing subpart C.

(3) Upon request of a state regulatory authority or nonregulated electric utility, the Commission may consider a limitation on the exemptions specified in paragraph (b)(1) of this section.

(4) Upon request of any person, the Commission may determine whether a qualifying facility is exempt from a particular State law or regulation.

(Energy Security Act, Pub. L. 96-294, 94 Stat. 611 (1980) Public Utility Regulatory Policies Act of 1978, 16 U.S.C. 2601, et seq., Energy Supply and Environmental Coordination Act, 15 U.S.C. 791, et seq., Federal Power Act, as amended, 16 U.S.C. 792 et seq., Department of Energy Organization Act, 42 U.S.C. 7101, et seq.; E.O. 12009, 42 FR 46267) [45 FR 12237, Feb. 25, 1980, as amended by Order 135, 46 FR 19232, Mar. 30, 1981; Order 671, 71 FR 7869, Feb. 15, 2006; Order 671-A, 71 FR 30589, May 30, 2006]

ATTACHMENT F

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Docket No. IC09-556-000

COMMISSION INFORMATION COLLECTION ACTIVITIES (FERC-556); PROPOSED COLLECTION; COMMENT REQUEST; EXTENSION

(February 11, 2009)

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of proposed information collection and request for comments.

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 in consideration of the collection of information are due April 17, 2009.

ADDRESSES: Comments may be filed either electronically or in paper format, and should refer to Docket No. IC09-556-000. Documents must be prepared in an acceptable filing format and in compliance with Commission submission guidelines at http://www.ferc.gov/help/submission-guide.asp.

Comments may be eFiled. The eFiling option under the Documents & Filings tab on the Commission's home web page (www.ferc.gov) directs users to the eFiling website. First-time users follow the eRegister instructions on the eFiling web page to establish a user name and password before eFiling. Filers will receive an emailed confirmation of their eFiled comments. Commenters filing electronically should not make a paper filing. If unable to make a filing electronically, deliver an original and 14 paper copies of the filing to: Federal Energy

Regulatory Commission, Secretary of the Commission, 888 First Street, NE, Washington, DC 20426.

Parties interested in receiving automatic notification of activity in this docket may do so through eSubscription. The eSubscription option under the Documents & Filings tab on the Commission's home web page directs users to the eSubscription web page. Users submit the docket numbers of the filings they wish to track and will subsequently receive an email notification each time a filing is made under the submitted docket numbers. First-time users will need to establish a user name and password before eSubscribing.

Filed comments and FERC issuances may be viewed, printed and downloaded remotely from the Commission's website. The red eLibrary link found at the top of most of the Commission's web pages directs users to FERC's eLibrary. From the eLibrary web page, choose General Search, and in the Docket Number space provided, enter IC09-556; then click the Submit button at the bottom of the page.

For help with any of the Commission's electronic submission or retrieval systems, contact FERC Online Support (email at ferconlinesupport@ferc.gov, or telephone toll-free (866) 208-3676 (TTY (202) 502-8659).

FOR FURTHER INFORMATION: Michael Miller may be reached by telephone at (202) 502-8415, by fax at (202) 273-0873, and by e-mail at michael.miller@ferc.gov.

SUPPLEMENTARY INFORMATION: The Commission uses the FERC Form No. 556, Cogeneration and Small Power Production, OMB Control Number 1902-0075, to implement the statutory provisions in Federal Power Act (FPA) section 3 (16 USC 792-828c) and sections 201 and 210 of the Public Utility Regulatory Policies Act (PURPA) of 1978 (16 USC 2601). These statutes authorize the Commission to encourage cogeneration and small power production and to

prescribe such rules as necessary in order to carry out these statutory directives. Commission regulations pertaining to FERC Form No. 556 can be found in 18 CFR 131.80 and 18 CFR Part 292.

A primary objective of PURPA, as indicated in section 2 of the FPA is the conservation of energy through efficient use of energy resources and facilities by electric utilities. One means of achieving this goal is to encourage production of electric power by cogeneration facilities which make use of reject heat associated with commercial or industrial processes, and by small power production facilities which use other wastes and renewable resources as fuel. Congress, through PURPA, established various regulatory benefits to encourage the development of small power production facilities and cogeneration facilities which meet certain technical and corporate criteria. Facilities that meet these criteria are deemed qualifying facilities (QFs).

The Energy Policy Act of 2005 (EPAct 2005)[3] and in particular section 1253(a), added section 210(m) to the PURPA providing, among other things, for termination of the requirement that an electric utility enter into a new contract or obligation to purchase electric energy from qualifying cogeneration facilities and qualifying small power production facilities (QFs) if the Commission finds that the QF has nondiscriminatory access to one of three categories of markets defined in section 210(m)(1)(A), (B) or (C). Thus, to relieve an electric utility of its mandatory purchase obligation under PURPA, the Commission has to identify which, if any, markets meet the criteria contained in 210(m)(1)(A), (B) or (C), and, if such markets are identified, it must determine whether QFs have nondiscriminatory access to those markets.

[3] Pub. L. No. 109-58, 1253, 119 Stat. 594 (2005).

In 18 CFR Part 292, the Commission provides: (1) QF certification criteria, (2) QF application information, (3) a description of some of the benefits afforded QFs,[4] and (4) transaction obligations electric utilities have with respect to QFs.

Among the PURPA benefits identified in Part 292, are the requirements for electric utilities: (1) to make avoided cost information and system capacity needs available to the public; (2) to purchase energy and capacity from QFs favorably priced on the basis of the avoided cost of the power that is displaced by the QF power (i.e., the incremental cost to the purchasing utility if it had generated the displaced power or purchased it from another source); (3) to sell backup, maintenance and other power services to QFs at rates based on the cost of rendering the services; (4) to provide certain interconnection and transmission services priced on a nondiscriminatory basis; and (5) to operate in "parallel" with other interconnected QFs so that they may be electrically synchronized with electric utility grids.

A blank FERC Form No. 556 may be downloaded from the Commission's website: http://www.ferc.gov/docs-filing/hard-fil.asp#556. Click on the Electric tab, then click the Form No. 556 link. Choose from an MS Word or RTF format in the Downloads & Links column. Examples of filings may be viewed through the Commission's eLibrary system. Click on the red eLibrary link found at the top of any of the Commission's web pages, choose General Search, then under Class/Type Info choose Type: Qualifying Facility Application or PURPA Energy Utility Filing; then click the Submit button at the bottom of the page.

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

BURDEN STATEMENT: The public reporting burden for this collection is estimated to be as follows:

[4] Other benefits may be available to certain QFs pursuant to other federal, state or local laws.

FERC-556	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)
FERC Certification	4	1	20	80
Self Certification	820	1	3	2460
TOTAL	824			2540

The estimated total cost to respondents is $154,334.31 [2,540 hours divided by 2,080 hours[5] per year, times $126,384[6] equals $154,334.31]. The cost per respondent is $187.30.

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, and utilizing 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 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 respondent's cost estimate is based on 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 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

[5] Number of hours an employee works each year.

[6] Average annual salary per employee.

function or activity.

Comments are invited on: (1) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's burden estimate of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information to be collected; and (4) ways to minimize respondent information collection burden.

Kimberly D. Bose,
Secretary.

Attachment G

For ease of comparison, we are providing the following information on the burden and cost:

1. currently approved in the OMB inventory and system
2. in this request (for clearance extension through 7/2012)

FERC-556 – Annual Estimates	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)	Annual Private Sector Costs ($)	Annual Costs to Federal Gov't. ($)
current clearance (submitted for RM05-36, Final Rule on Rehearing, (issued 5/22/06)), approved by OMB through 7/2009	297[7]	1	Error: Reference source not found	10,368	$3,967,680 (in the clearance package, but listed in OMB's system as 0)	$186,662 (in the clearance package, but listed in OMB's system as 0)
this request for extension approval through 7/2012	824	1	Error: Reference source not found	2,540	$156,670.38	$206,755.20
this request (for extension through 7/2012), as compared to existing OMB approval (expiring 7/2009)	+527	no change	Error: Reference source not found	-7,828 hours, due to adjustment in both no. of respondents (responses), types of filing option taken, and hours per filing	See responses to Questions 12 and 13. The annual cost for one FTE has changed, as has the estimate for the no. of respondents, and the filing approach they select.	See response to Question 14. The annual cost for one FTE has changed, as has the estimate for the time it takes to process an OMB clearance renewal.

[7] For the clearance through 7/2009: of the 297 respondents (and responses), 27 were FERC certification (4 hours per response), and 270 were Self-Certification (38 hours each). For this clearance extension request through 7/2012: of the 824 respondents (and responses), 4 are FERC certification (20 hours each), and 820 are self-certification (3 hrs. each). The estimated average hours per response have been modified, based on experience.

Attachment H

The proposed, preferred format for FERC-556 will be submitted in ROCIS as a separate file.