

Supporting Statement for  
**FERC-510: Application for Surrender of a Hydropower License**  
(Three-year extension requested)

The Federal Energy Regulatory Commission (FERC or Commission) requests the Office of Management and Budget (OMB) approve **FERC-510: Application for Surrender of a Hydropower License**, for three years. FERC-510 is an existing data collection (filing application) whose filing requirements are contained in Title 18 C.F.R., Sections 6.1 through 6.4, as authorized by Sections 4(c), 6 and 3 of the Federal Power Act.

## **A. JUSTIFICATION**

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

The Federal Energy Regulatory Commission is responsible for licensing of Non-Federal hydropower projects if they are on lands or waters subject to Congressional authority. Part I of the Federal Power Act <sup>1</sup>(FPA) gives the Commission the authority to issue licenses for hydroelectric projects on these waters. The Commission issues licenses for terms up to 50 years for projects “best adapted to a comprehensive plan” for improving a waterway for beneficial public purposes. Benefits include power generation, irrigation, flood control, navigation, fish and wildlife, municipal water supply, and recreation. To adequately protect, mitigate for damage to, and enhance fish and wildlife, along with their habitats, each license includes a set of terms and conditions. These fish and wildlife conditions, along with conditions relating to other environmental resources and engineering issues, are determined through the Commission’s independent analysis on the basis of federal and state fish and wildlife agency recommendations and input from the applicant, affected Indian tribes and the public. After a license is issued, the Commission monitors the licensee’s compliance with the license conditions throughout the term of the license.

Licenses may be surrendered, but only after the licensee fulfills all obligations of the license, as well as any conditions imposed by FERC relating to disposition of constructed facilities if any. The surrender of a license may be desired by a licensee when a licensed project is retired or not constructed or natural catastrophes have damaged or destroyed the project facilities. Implied surrender may be occasioned by a licensee’s abandonment of a licensed project. To protect the environment and the public, a license may be surrendered only upon agreement between the licensee and the Commission. The authority for the application to

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<sup>1</sup> 16 U.S.C. Sections 791a et seq. (1982 and supp. IV 1986).

surrender a licensee is pursuant to the Commission's defined role as mandated by Part 1 of the Federal Power Act as elaborated above.

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

The information collected under the designation FERC-510 is in the form of a written application for surrender of a hydropower license. The information is used by the Commission's staff to determine the broad impact of such surrender and by careful review of the prepared application and of comments from the public and other agencies in response to a solicitation for comments. The information collected under the requirements of FERC-510 "Application for Surrender of Hydropower Licenses" is used by the Commission to implement the statutory provisions of sections 4(e), 6 and 13 of the Federal Power Act (FPA) 16 U.S.C. sections 797(e), 799, and 806. Section 4(e) gives the Commission authority to issue licenses for the purposes of constructing, operating and maintaining dams, water conduits, reservoirs, powerhouses, transmission lines or other project works necessary or convenient for developing and improving navigation, transmission and utilization of power over water which Congress has jurisdiction. Section 6, gives FERC the authority to prescribe the conditions of licenses including the revocation or surrender of license. Section 13 defines the Commission's authority to delegate time periods for when a license must be terminated if project construction has not begun.

The Commission will issue a notice soliciting comments from the public and prepare a surrender of License Order. The order is the result of the analysis of the information produced (i.e. economic, environmental, etc.). This is examined to determine if the application for surrender is warranted. This order implements the existing regulations and is inclusive for application for surrender of all types of hydropower licenses issued by FERC and its predecessor the Federal Power Commission. The Commission implements these filing requirements in the Code of Federal Regulations, Title 18, C.F.R. sections 6.1 through 6.4.

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

There is an ongoing effort to determine the potential and value of improved information to reduce burden. Currently most of the filings for this collection are submitted via the Commission eFiling system thus streamlining the submittal process.

**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**

Filings are periodically reviewed in conjunction with OMB clearance expiration dates. This includes a review of the Commission's reporting requirements to identify duplication of data requirements. FERC staff has determined that there is no duplication of information in this collection. The information submitted with each filing is specific to each application for surrender. This is a specific use of information as required under Part 1 of the Federal Power Act and not a general collection of information.

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

The minimization of impact on small businesses would not be applicable. The burden will vary between respondents, even though the application is specific and uniform for all respondents. Any information collected is unique to the applicant and the hydropower site for which the filing is made. Therefore, there isn't a set format or form. The data required impose the least possible burden on applicants, while collecting information required to be processed.

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

If the information contained in the FERC-510 were not collected, the Commission would be unable to establish facts and pertinent information as to why a licensee desires not to continue the work as provided for by the license. Without the establishment of these facts there would be no basis for accepting the surrender of the license.

In the case of FERC-510, the reporting burden cannot be reduced at this time because of the following factors:

- a) the applicant for surrender must satisfy the Commission's requirements through documentation that all lands and property have been restored to their original state (this is in the case of a constructed project);
- b) the complete documentation must be submitted with the application showing that all financial obligations involving the project have been resolved;
- c) and the applicant has to satisfy local, state, and federal statutes, policies and directives upon the surrender of a license.

The collection could not be made less frequently since it is made only once upon the filing of the surrender application. The Commission cannot limit the applicants who apply for surrender of their licenses.

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

The number of copies of a surrender application to be filed may include an electronic media submission along with an original and seven hard copies. The number of copies to be filed is more than prescribed by OMB in their guidelines at 5 CFR 13200.5(d)(2). The additional copies are used by various offices within the Commission to review and analyze the application. However, the Commission encourages the electronic filing of these applications.

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

Prior to adopting regulations that require the collection of data, the Commission's procedures require that rulemaking notices be published in the Federal Register, thereby allowing all applicants, state commissions, federal agencies, and other interested parties an opportunity to submit comments, or suggestions concerning the proposal.

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

No payments or gifts have been made to respondents.

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

The information submitted to the Commission is public information and therefore is not considered confidential. Specific requests for confidential treatment to the extent submitted by law will be entertained pursuant to 18. C.F.R. Section 388.110.

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

No data of a sensitive nature is requested.

#### **12. ESTIMATED BURDEN OF COLLECTIONS**

The following burden table shows the currently approved inventory, the proposed adjustment to the burden, and the proposed new inventory.

<b>FERC-510 Data Collection</b>	<b>Number of Respondents Annually (1)</b>	<b>Number of Responses Per Respondent (2)</b>	<b>Average Burden Hours Per Response (3)</b>	<b>Total Annual Burden Hours (1)x(2)x(3)</b>
Current Inventory	8	1	10	80
<i>Change due to Adjustment in Agency Estimate</i>	+8	no change	no change	+80
Proposed Inventory	16	1	10	160

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

The costs for this collection are entirely burden hour related and for the proposed new inventory are as follows:

<b>Total annual burden hours for respondents (1)</b>	<b>Person hours per year (2)</b>	<b>Estimated cost per person<sup>2</sup> (3)</b>	<b>Total annual cost to respondents [(1)/(2)]x(3)</b>
160	2,080	\$142,372	\$10,952

The total cost per respondent is estimate at \$685 (rounded). The previous cost figures for this collection were \$4,861 total annual cost and \$608 per respondent (8 respondents). The increase in cost is due to an increase in the estimated cost per person since this collection was last renewed in 2008.

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

	<b>No. of Employees (FTE's)</b>	<b>Estimated Annual Federal Cost in (\$) based on a cost per FTE of \$142,372</b>
<b>Total FERC costs</b>	1.94	\$276,202
<b>Forms Clearance</b>		\$1,575

<sup>2</sup> This figure represents both salary and benefits.

<b>FERC total</b>		\$277,777
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## **15. REASONS FOR CHANGES IN BURDEN INCLUDING ANY INCREASE**

The Commission has adjusted the estimate on the number of filers per year from 8 to 16. This increase is due to a program the Commission has initiated in which it contacts licensees of inoperative projects or projects that are in noncompliance and either encourages or facilitates the licensee to apply for a license surrender or if the Commission considers the project to be abandoned, then initiates an implied surrender proceeding.

The Commission does not consider this to be program change due to agency discretion because it is not modifying the requirements of the application for a surrender of license. The initiative described above is meant to encourage those who should be submitting these applications to actually do so.

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

Not applicable, there are no tabulations, statistical analysis or publication plans for the information collection. The data are used for regulatory purposes.

## **17. DISPLAY OF EXPIRATION DATE**

It is not appropriate to display the expiration date for OMB approval of the information collected pursuant to Sections 4(e) and 6 of the Federal Power Act and Part 4 of the Commission's regulations. The information submitted to the Commission is not collected on a standard preprinted form which would avail itself to this display. Rather applicants for declaring their intention prepare and submit information that reflects the unique or specified circumstances related to jurisdictional transaction. In addition, the information contains a mixture of narrative descriptions and empirical support that varies depending on the nature of the filing requirement.

## **18. EXCEPTIONS TO THE CERTIFICATION STATEMENT**

The data collected for this reporting requirement is not used for statistical purposes. Therefore, the Commission does not use "effective and efficient statistical survey methodology" as stated in the certification statement. The information collected is case specific to each respondent.

## **B. COLLECTION OF INFORMATION EMPLOYING STATISTICAL METHODS**

Not applicable.