SUPPORTING STATEMENT FOR

FERC-731, Demand Response/Time Based Rate Programs and Advanced Metering Survey

As proposed in Docket No. IC09-731-000 (Notice of Proposed Information Collection and Request for Comments issued August 7, 2009).[1]

The Federal Energy Regulatory Commission (Commission) requests the Office of Management and Budget (OMB) review and approve the information collection (for a three-year period through December 2012) of **FERC-731, Demand Response/Time Based Rate Programs and Advanced Metering Survey.** This information collection supports the requirements of section 1252(e)(3) of the Energy Policy Act of 2005 (EPAct 2005).[2]

We estimate that the annual reporting burden related to this information collection will be 13,772 total hours (3,443 surveys and an average of 4 hours per respondent). After the Commission has tabulated and analyzed the responses of the survey it will prepare and publish a report to send to Congress in 2010.

I. Background

Section 1252(e)(3) of the EPAct 2005, requires the Commission to prepare and publish an annual report, by appropriate region, that assesses demand response resources, including those available from all consumer classes. Specifically, EPAct 2005 section 1252(e)(3) requires that the Commission identify and review:

(A) saturation and penetration rate of advanced meters and communications technologies, devices and systems;
(B) existing demand response programs and time-based rate programs;
(C) the annual resource contribution of demand resources;
(D) the potential for demand response as a quantifiable, reliable resource for regional planning purposes;
(E) steps taken to ensure that, in regional transmission planning and operations, demand resources are provided equitable treatment as a quantifiable, reliable

1 74 Fed. Reg. 39,682 (2009).

2 Pub. L. No. 109-58, § 1252(e)(3), 119 Stat. 594, 966 (2005) (see Attachment A which contains demand response excerpts from EPAct 2005).

resource relative to the resource obligations of any load-serving entity, transmission provider, or transmitting party; and

(F) regulatory barriers to improved customer participation in demand response, peak reduction and critical period pricing programs.

In 2006 and 2008, the Commission designed and used OMB approved collections FERC-727, *Demand Response and Time Based Rate Programs Survey* (OMB Control No. 1902-0214), and FERC-728, *Advanced Metering Survey* (OMB Control No. 1902-0213), to collect and convey to Congress the requested demand response and advanced metering information. The collection proposed herein will update the information filed previously in the FERC-727 and FERC-728 surveys. The Commission investigated alternatives, including using data from the North American Electric Reliability Corporation (NERC) and the Energy Information Administration (EIA), to fielding and collecting data using a FERC-designed survey. However, as explained below, the data cannot be obtained by the Commission in time to complete the 2010 report to Congress.

II. Justification

1. CIRCUMSTANCES THAT MAKE THE COLLECTION OF INFORMATION NECESSARY

The Commission will use the information obtained by the survey to prepare and publish a report, as required by section 1252(e)(3) of EPAct 2005, by appropriate region that assesses demand response resources, including those available from all consumer classes, and that describes the saturation and penetration rate of advanced meters. With respect to other issues the Commission must address in the report, the Commission will seek assistance from state regulators and members of the industry in presenting a comprehensive and well informed report to Congress. The proposed report will be the fifth annual such report, and the third based on FERC-collected survey data. The continuation of the survey and reporting allows the Commission, Congress and the public to assess and follow trends in the saturation and penetration rates of advanced meters, resource contributions of demand response, and other related issues.

The information collected in previous surveys and the proposed collection support important Commission objectives. In June 2009, the Commission issued a National Assessment of Demand Response Potential,[3] as required by the Energy Independence and Security Act of 2007 (EISA 2007).[4] The Assessment used data collected in 2008 under

3 FERC, *A National Assessment of Demand Response Potential* (June 2009), *available at* http://www.ferc.gov/legal/staff-reports/06-09-demand-response.pdf.

4 Pub. L. No. 110-140, § 529, 121 Stat. 1492, 1664 (2007) (to be codified at

FERC-727 and FERC-728 to estimate advanced metering penetration and demand response program capabilities. Also pursuant to EISA, the Commission is currently developing a National Action Plan on Demand Response. The Commission's 2009-2014 strategic plan identifies demand-side energy resources as an important component in meeting the Commission's statutory mandate under the Federal Power Act (FPA)[5] that rates, terms and conditions for wholesale sales and transmission of electricity are just and reasonable and not unduly discriminatory or preferential. For example, the strategic plan includes long term performance goals to identify and eliminate barriers to participation of demand resources in wholesale electric markets and to explore and, as appropriate, implement best practices for demand response products in such markets.[6] The information collected in FERC-731 will support these efforts, and will also prove useful to market participants for planning and benchmarking.

A. Advanced Metering and Demand Response

The following discussion on advanced metering and demand response is from our *Assessment of Demand Response & Advanced Metering*,[7] that explains these important concepts at length.

1. Advanced Metering

Advanced metering is defined as a metering system that records customer consumption (and possibly other parameters) hourly or more frequently and provides for daily or more frequent transmittal of measurements over a communication network to a central collection point.

Provisions promoting advanced metering in EPAct 2005 and in the EISA 2007, along with state regulatory policies, are key drivers of growth in advanced metered infrastructure (AMI) sales, especially among large investor-owned utilities. In addition to enacting federal directives in support of advanced metering, Congress has also encouraged state policies in support of advanced metering. Several of the largest investor-owned utilities that are readying full deployments are located in states that have

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National Energy Conservation Policy Act, 42 U.S.C. §§ 8241-8287d, 8279).

5 16 U.S.C. § 791, *et seq.* (2006).

6 FERC, *The Strategic Plan FY 2009-2014* at 8-9 (Sept. 2009) *available at* http://www.ferc.gov/about/strat-docs/FY-09-14-strat-plan-print.pdf.

7 FERC, *Assessment of Demand Response & Advanced Metering: Staff Report* (Dec.. 2008) *available at* http://www.ferc.gov/legal/staff-reports/12-08-demand-response.pdf.

policies and incentives promoting and in some cases requiring use of advanced metering, such as Texas and California. Some states are implementing less traditional approaches to rate regulation, *e.g.*, accelerated depreciation, to provide an incentive (or remove a disincentive) for utilities to invest in advanced metering. Some utilities prefer, however, to request recovery via surcharge rather than through base rates so that they can track AMI costs separately from other equipment costs included in their rate base.

Advanced metering may be considered one component of a smart grid system, and Congress has shown strong recent support for the smart grid concept. Congress included a number of directives in Title XIII of EISA 2007 calling for both federal and state encouragement of smart grid development. Title XIII characterizes smart grid as including a variety of operational and energy measures, such as smart meters, smart appliances, renewable energy resources, and energy efficiency resources."[8] In addition, EISA 2007 directs that states:

> "shall consider requiring that, prior to undertaking investments in nonadvanced grid technologies, an electric utility of the State demonstrate to the State that the electric utility considered an investment in a qualified smart grid system based on appropriate factors, including: (i) total costs; (ii) cost effectiveness; (iii) improved reliability; (iv) security; (v) system performance; (vi) and societal benefit. [9]

2. Demand Response

For the purposes of FERC-727, FERC-728 and FERC-731, Demand Response is defined as "[c]hanges in electric usage by end-use customers from their normal consumption patterns in response to changes in the price of electricity over time, or to incentive payments designed to induce lower electricity use at times of high wholesale market prices or when system reliability is jeopardized."[10] Demand response programs are categorized as either incentive-based demand response programs or time-based rate programs. The following describes the programs that fit into these two categories.

Incentive-based programs involve an inducement or incentive for customers to reduce their electricity consumption. This is in contrast to the second type, which involves the direct price signals associated with time-based rates. Incentive-based demand response programs generally provide a direct means for controlling load and are

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8 EISA 2007, Pub. L. No. 110-140, § 1301; 121 Stat. 1783-4.

9 EISA 2007, Pub. L. No. 110-140, § 1307; 121 Stat. 1791-2.

10 U.S. Department of Energy, *Benefits of Demand Response in Electricity Markets and Recommendations for Achieving Them: A Report to the United States Congress Pursuant to Section 1252 of the Energy Policy Act of 2005* (Feb. 2006).

therefore used by load-serving entities, electric utilities, or grid operators to manage costs and maintain reliability, especially in emergency conditions when immediate and predictable demand response is required. The kinds of incentive-based programs include:

• Direct load control: A demand response activity in which the program sponsor remotely shuts down or cycles a customer's electrical equipment (like an air conditioner or water heater) on short notice.

• Interruptible/curtailable rates: Curtailment options integrated into retail rates that provide a rate discount or bill credit for agreeing to reduce load during system contingencies.

• Emergency Demand Response: Emergency demand response programs provide incentive payments to customers for reducing their loads during reliability-triggered events, but curtailment is voluntary. Customers can choose to forgo the payment and not curtail when notified. If customers do not curtail consumption, they are not penalized. The level of the payment is typically specified beforehand.

• Capacity Market Programs: In capacity-market programs, customers commit to providing pre-specified load reductions when system contingencies arise, and are subject to penalties if they do not curtail when directed. In exchange for being obligated to curtail load when directed, participants receive guaranteed payments. Capacity market programs are typically offered by wholesale market providers such as RTOs and ISOs that operate installed capacity (ICAP) markets, and are the organized market analog of interruptible/curtailable tariffs.

Demand response is also accomplished through the use of direct price signals associated with time-based rates. There are several types of time-based rates, including time-of-use rates, real-time pricing, and critical peak pricing.

Time-of-use rates typically establish two or more periods within a day that reflect hours when the system load is higher (peak) or lower (off-peak), and charge a higher rate during peak hours. Off-peak hours usually cover some part of the evening and night, as well as weekends. The length of the on-peak period varies, but typically would be between 8 a.m. and 8 p.m. The choice of the hours for the time-of-use periods differs widely among utilities, based on the timing of their peak system demands over the day, week, or year. Some time-of-use rates have only two prices, one for peak and one for off-peak periods, while others also have a third period with a "shoulder period" rate. Some seasonal rates have different rates for two or more seasons. Time-of-use rates for large customers may include time-based capacity as well as energy charges.

Under real-time pricing, retail electricity prices vary at least hourly during the day, directly reflecting the underlying cost of electricity. The direct connection between the varying cost of power and retail rates made possible by real-time pricing introduces price responsiveness into the retail market if retail customers are directly exposed to such prices

Critical peak pricing is a relatively new form of retail time-of-use rate that specifies a very high price for electricity use only when needed to manage a critical peak problem. Critical peak pricing events may be triggered by system contingencies or when the utility faces extremely high prices when procuring power in the wholesale market or operating high-cost peaking units. Unlike time-of-use blocks, which are typically in place for six to ten hours during every day of the year (or season), the times when critical peaks occur are not designated in the rate. They are determined on short notice, as needed, for a limited number of days during the year. Critical peak pricing can be used together with either a time-of-use or a time-invariant rate. Critical peak pricing can be considered a reliability-based demand response program since it is implemented in real time when reliability is threatened.

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

The Commission is working to ensure the comparable treatment of demand response resources in wholesale markets. For example, in October 2008, the FERC issued a final rule on competition in organized markets that, in part, removes several barriers to demand response participation in the organized wholesale markets. Among other provisions, it requires all regional transmission organizations (RTOs) and independent system operators (ISOs) under FERC's jurisdiction to allow comparable treatment of demand response resources in ancillary services markets, eliminate certain charges to buyers for reducing load during a system emergency, permit demand response aggregators to bid demand response on behalf of retail customers directly into the organized energy market, and change the pricing rules as necessary to allow the market price of power to reflect the value of lost load during an operating reserve shortage.

Demand response resources have played a critical role in ensuring the reliability of the electricity grid during periods of severe strain in the past. Demand response resources helped meet peak load in California, the Mid-Atlantic, and New York; helped respond to other system emergencies, including addressing sudden changes in generation output in Texas; and participated in capacity markets in the PJM Interconnection and ISO-New England.

The National Association of Regulatory Utility Commissioners and FERC established two collaborative efforts to address issues crucial to the effective implementation of demand response and the related topic of smart grids. There is growing attention to demand response measurement and verification, with many entities such as the FERC, RTOs and ISOs, the North American Energy Standards Board, state electric regulatory commissions, and several regional research entities all examining how to develop measurement and verification protocols or standards that accurately measure load reductions.

However, many obstacles remain. One such barrier is the limited number of retail customers on time-based rates. Another is restrictions on customer access to meter data, making information retrieval for customers and their independent aggregators of retail customers' time consuming and expensive. Timely access to customer meter data allows aggregators to assess the demand reductions achieved by their customers. There is also an increased need to accurately measure load reductions so as to ensure confidence in the ability of demand response providers to actually provide demand response service when needed. Another barrier is the scale of financial investment required to deploy enabling technologies during an economic downturn. Finally, the availability of only a limited variety of demand response programs that accommodate the operating needs of potential demand response providers may also be a barrier.

B. 2010 Proposed Survey

The Commission proposes to continue to use a voluntary survey on the use of advanced metering and demand response.

The Commission will use the collected information to meet its statutory requirements under section 1252(e)(3) of EPAct 2005 by analyzing and compiling the information and presenting it to Congress and the public in the *2010 Assessment of Demand Response and Advanced Metering* report. Without the information collected in FERC-731, the Commission would be unable to continue to report to Congress or the public updated information about demand response programs and advanced meters. The Commission would be deprived of data that informs its efforts to increase participation of demand-side energy resources in wholesale electric markets and to develop an effective National Action Plan for Demand Response.

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

As it has in the past, the Commission will conduct this survey using a form provided by the Commission, and that is based on the same software used by the Commission in other OMB-approved surveys, such as FERC Form 1. FERC staff has designed a survey that will impose minimal burden on respondents by providing an easy-to-complete, fillable form that will include such user friendly features as pre-populated fields and drop-down menus. It is a streamlined and simplified version of past surveys and can be electronically filed. A paper version of the survey may be filed by those who are unable to file electronically.

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 2

Commission filings and data requirements are periodically reviewed in conjunction with OMB clearance expiration dates. Adequate information is not collected from other sources. In addition to creating the demand response and advanced metering requirements, EPAct 2005 enacted section 215 of the FPA titled "Electric Reliability," authorizing the Commission to approve and enforce reliability standards for the reliability of the interstate grid.[11] Section 215 of the FPA authorized FERC to certify an Electric Reliability Organization (ERO) to develop the reliability standards for the Nation's bulk power system, subject to Commission review and approval. NERC has been certified by the Commission as the ERO for the United States.[12] Among many other things, NERC has begun to collect demand response data on dispatchable and non-dispatchable resources that it needs to conduct its reliability work. The Demand Response Data Task Force at NERC is in the process of developing a Demand Response Availability Data System (DADS) to collect demand response program information. NERC is planning a limited trial run of DADS in 2010 followed by a full-scale version, with disaggregated information on utility/load serving entity demand response programs, in 2011. NERC will not be collecting the 2009 data that the Commission plans to collect in its proposed survey. Moreover, NERC proposes to collect detailed demand response data on a quarterly basis for the year 2010, beginning in June 2010, and plans to publish the annual data for 2010 by May 1, 2011. Thus, the Commission will not be able to use the 2010 data that NERC proposes to collect for the FERC's 2010 report to Congress.

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11 Pub. L. No. 109-58, § 1211(a), 119 Stat. 594, 941 (codified at 16 U.S.C. § 824o (2006)).

12 *N. Am. Elec. Reliability Corp.*, 116 FERC ¶ 61,062, *order on reh'g and compliance*, 117 FERC ¶ 61,126 (2006), *order on compliance*, 118 FERC ¶ 61,030, *order on compliance*, 118 FERC ¶ 61,190, *order on reh'g*, 119 FERC ¶ 61,046 (2007).

In addition, the EIA collects aggregated information on energy efficiency and load management as well as advanced metering data in its EIA-861, "*Annual Electric Power Industry Report*." The data collected by EIA does not identify existing demand response programs or time-based rate programs, but it does support the Commission's advanced metering data needs. Unfortunately, the finalized advanced metering data for 2009 will not be available before January 2011. Therefore, the EIA data will not be available to the Commission in time to use in its 2010 report to Congress.

Therefore, because the alternatives will not provide data in a timely manner for the 2010 report, the Commission proposes to conduct a survey with a response deadline of April 30, 2010. This survey has been designed to be consistent with the NERC's data collection such that, in future years, the Commission may be able to use the NERC data when it becomes available, phase out the FERC demand response survey and still comply with EPAct 2005 section 1252(e)(3).

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

There may be small entities that are affected by the FERC-731 reporting data requirements. However, because the Commission has developed a survey based on the same software used by the Commission in other OMB-approved surveys, such as FERC Form 1, and because the information should be readily available to all respondents, we believe that the burden imposed on small entities should be minimal.

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

It is not possible to collect the data less frequently. Section 1253(e)(3) requires that the Commission prepare annual reports to Congress. In addition to meeting a statutory requirement, the Commission will also obtain up-to-date information on demand response programs and advanced metering systems that supports Commission programs described above.

7. EXPLAIN ANY SPECIAL CIRCUMSTANCES RELATING TO THE INFORMATION COLLECTION

All of the information will be transmitted over the Internet to the Commission. Because all of the information will be transmitted electronically, these surveys meet the guidelines of 5 C.F.R. § 1320.5(d) (2009).

C. Notice Seeking Comments and Comments on 2010 Proposed Survey

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

In accordance with OMB requirements in 5 C.F.R. § 1320.8(d) (2009), a Notice requesting comments on the proposed information collection of FERC-731 was issued in FERC Docket No. IC09-731-000 on July 31, 2009 (at http://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=12098366) and published in the Federal Register on August 7. 2009 (74 Fed. Reg. 39,682). Three comments were filed in response to this Notice, and Commission staff received other informal comments as well. The Commission's responses to the comments are shown in the attached Notice of Submission to OMB for its Review and Approval of the Voluntary Survey on Advanced Metering and Demand Response Programs, and are also shown here.

The Commission staff appreciate the useful comments on the survey questions submitted in response to the July 31 Notice. Within the limits of the available survey instrument, the Commission staff made revisions to improve the clarity of the questions, to update the survey to capture technological advances, and to reduce the burden in responding. In certain cases, the Commission staff did not make the suggested changes because more detailed information is needed to respond to the specific statutory provisions in EPAct 2005, to provide useful data, or to ensure that the survey is consistent with previous surveys. Commenters noted that this survey is much more concise than previous ones and will help reduce the collection burden significantly. The Commission staff agrees, and proposes that with the updates and the changes that have been made, the survey will not be onerous to complete. Commission staff plans to encourage all potential respondents to complete the survey. A higher response rate will enable the Commission staff to obtain more precise information. Below is a summary of the major changes to the survey and responses to the concerns expressed by commenters.

1. Guidance on Responding to Survey Questions

In response to a request for instructions or other guidance on how to calculate the potential reductions for price-based (time-based) and other voluntary programs, the Commission staff has revised the survey instructions to describe possible methodologies, such as the methodologies used in *A National Assessment of Demand Response Potential*.[13] These methodologies are just examples and respondents are not required to use them. Furthermore, in order to increase transparency, the instructions request that the

13 FERC, *A National Assessment of Demand Response Potential* (June 2009), *available at* http://www.ferc.gov/legal/staff-reports/06-09-demand-response.pdf.

respondents describe their estimation method in the comment field associated with the program. The Commission staff acknowledges that it may be difficult for some respondents to estimate the potential reductions for price-based programs, and recognizes that estimates of reductions for price-based programs may be less reliable than for incentive-based programs. However, the Commission staff has collected this information in past surveys and sees value in the ability to compare the past and current data.

The Commission staff received a general comment that even though the survey includes definitions, the lack of a single set of industry-wide definitions will lead to inaccurate results. According to the commenter, potential respondents who are aware that their data will be released publicly in an identifiable form, and that the public will likely draw comparisons from the data between respondents, may choose not to respond, or will be compelled to portray themselves in a light most favorable to its intended audience. In either situation, there is a risk that reported data will be less accurate. The Commission staff agrees that the lack of industry-wide standards and precise definitions may reduce the accuracy and comparability of the survey results. However, it is not possible for the Commission staff to specify each and every parameter that may be required to formulate survey responses for demand response programs that vary by geography, participation, type and sponsorship. Nevertheless, efforts are underway by the North American Energy Standards Board (NAESB) and NERC to develop such standards and definitions. The Commission staff encourages survey recipients to consider the NAESB and NERC efforts and to use their best efforts to provide accurate responses.

In addition, the Commission received comments related to whether the results should be publicly released or aggregated so as to mask the identity of individual respondents. A commenter argues that the data should either be kept confidential or be aggregated because potential respondents may consider much of it competitively sensitive. Another argues that publicly releasing the data will lead to low survey response levels. However, another commenter requests that the Commission continue to publicly release the data collected in spreadsheet format that allows the public to match and sort programs by entity, region, state, and customer class. The Commission staff recognizes that confidentiality is a concern for particular sub-sets of respondents, such as curtailment service providers. However, the Commission staff also recognizes that publicly releasing the information collected in the survey is useful to the public. Several researchers and market participants have told Commission staff that they are using the data. While the Commission staff could attempt to aggregate the data so as to mask company origin, doing so would complicate the analysis, making it more difficult for the Commission to meet its statutory requirement for regional reporting, and make the 2010 data less comparable to the data collected in 2006 and 2008. In those surveys, the Commission allowed case-by-case requests for confidential treatment and will do so again in 2010.

Several commenters requested clarification on the definition of advanced meters, and one commenter suggested that the Commission should distinguish between the recording capability of the meter and its reporting intervals. The Commission staff clarifies that the definition of advanced meters includes meters with one-way communication capability, as well as two-way communication capability, and declines to distinguish between the recording and reporting functions. The objective of the survey is to assess the penetration of advanced metering rather than to draw distinctions between meter varieties or to enumerate the frequency of meter reading.

A commenter argues that the use of the terms "number of meters" and "number of customers" in Questions Three and Seven is ambiguous. They suggest that, if the terms are synonymous, only one be used, and if the terms are not synonymous, then the difference be explained. Question Three explicitly asks for the number of customers and for the number of meters in each of three customer classes. The Commission staff does not agree that the terms are ambiguous or that only a single term can be used. Some large customers have multiple meters, and some customers are unmetered, so there is not a one-to-one correspondence between the two terms. Question Seven requests only the "number of retail customers," and does not use the term "number of meters."

The Commission staff clarifies that respondents may answer with either coincident or non-coincident demand. Coincident data is not always readily available and requiring respondents to provide this information would create an additional burden. The Commission staff also clarifies that Question Four requests information about the number of customers that have the capability to receive data through the listed methods, rather than the number of customers who actually receive data through the listed methods.

2. Revisions to the Survey Definitions and Questions

According to one commenter, many respondents do not employ as many customer class categories as are requested in the previous surveys. Therefore respondents must either develop a system for developing the requested data by customer class, thus increasing the filing burden, or estimate their responses, reducing the accuracy of the data. In response the Commission staff has reduced the number of customer class categories to three in the 2010 survey: residential, commercial and industrial, and other. Doing so will reduce the burden on respondents and encourage more entities to participate, without significantly reducing the value of the collected information.

The Commission staff declines to accept a suggestion to specify in the instructions whether responses should enumerate "processes, loads, sites, or data streams" to reduce double counting of meters. While double counting may occur in the circumstances that the commenter describes, the Commission staff expects such installations to be relatively uncommon. Further, it is not clear which of the suggested categories best meets the

Commission's data collection objective, or precisely how a "process" differs from a "load," for instance.

A commenter suggests that Question Five should ask whether demand response programs are pilot programs, or full-scale programs. Another suggests that the Commission request information about if and when respondents plan to conduct pilot programs, studies or testing, and if programs have been or will be phased out. The Commission staff declines to ask whether reported demand response programs are pilot programs, or full-scale programs, as one commenter suggests. The incremental information gained from this question is not sufficient to justify the additional response burden and survey redesign. In addition, the amount of demand response reported for each program is an indicator of whether it is a pilot or full-scale program.

A commenter suggests including a question asking respondents to identify primary reasons leading to the implementation of a demand response program, for example, economic, reliability, emergency response, or voltage. The Commission staff finds it unnecessary to adopt such a question. The list of program types that appear in the survey (for example, Critical Peak Pricing, Spinning Reserves, and Emergency Demand Response) already reflect the primary reasons for which most demand response programs are implemented.

For further clarity, the Commission staff has revised the survey's definition of demand response programs to explicitly include both incentive-based and time-based programs. The word "Service" now follows the word "Regulation" in the list of program types in order to make it consistent with the glossary and improve clarity. The Commission staff has replaced the term "regional entity" with the term "NERC Regional Entity" to avoid confusion with other uses of the term "entity." The survey now includes a field in Question Eight to collect the number of times the respondent called on the demand response program during the year. An entry of zero in the new field will indicate that the program was not called.

D. Other Issues

9. EXPLAIN ANY PAYMENT OR GIFTS TO RESPONDENTS

There are no payments or gifts to respondents under any circumstance.

10. DESCRIBE ANY ASSURANCE OF CONFIDENTIALITY PROVIDE TO RESPONDENTS

All data filed are public information and, therefore, are not confidential. However, a respondent has the option to seek confidential treatment of some or all parts

of the information requirement under FERC regulations at 18 C.F.R. § 388.112 (2009). Each request for confidential treatment will be reviewed by the Commission on a case-by-case basis. No such requests were received during the surveys conducted in 2006 and 2008 under FERC-727 and FERC-728.

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

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

12. ESTIMATED BURDEN OF COLLECTION OF INFORMATION

The estimated average public reporting burden and cost for FERC-731 follow.

Data Collection	No. of Respondents	No. of Responses	Hours Per response	Total Hours
FERC-731	3,443	1	4	13,772

DATA COLLECTION (FERC-731)

	INVENTORY	CURRENT	PROPOSED	NEW IN ICR	OMB INV.
Estimated Number of Respondents					0

			3,443
			3,443
Estimated number of responses/respondent/yr			
			0
			1
			1
Estimated annual number of responses	0	3,443	3,443
Estimated hours per information requirement	0	4	4
Total estimated burden hours	0	13,772	13,772
Estimated annual burden in OMB inventory	0		
Increase/decrease in burden hours		+13,772	

Total hours FERC-731= 13,772 hours.

13. ESTIMATE OF THE TOTAL ANNUAL COST BURDEN TO RESPONDENTS

The estimated total cost to respondents is $787,345 [13,772 hours divided by 2,080 hours per year, times $118,912.73]. The average cost per respondent is $228.68.

Annualized Capital/Startup Costs

Note: As indicated above, the Commission conducted the predecessor surveys (FERC-727 and FERC-728) in 2006 and in 2008. The same biannual schedule will continue with FERC-731, but it is possible that a collection will not be necessary in 2012 if alternate sources are adequate (see discussion at 4, above). The burden and cost information below are therefore based on a single instance of conducting the survey, rather than on an annualized basis.

14. ESTIMATE ANNUALIZED COST TO THE FEDERAL GOVERNMENT

The estimated annualized cost to the Federal Government for FERC-731 is as follows:

Data

Analysis

Collection Number	Estimated FERC Data Clearance One Year's (FTEs) Per Year	x Total Cost of Data Salary + (FY '10) = Operation
FERC-731	3.0	$141,092 $1,486
Total Cost	3.0	$424,762 $141,092 $1,486

$424,762

The average cost per staff year reflects direct human resources' costs. These costs consist of direct labor and fringe benefit costs. The direct labor cost is that portion of staff salary that is charged to a collection of information activity. The fringe benefits cost consists of allowances and services provided to Government employees in addition to employee salaries. It is expressed as a percentage of the salary costs. These costs are based on estimated FY 2010 allocations of $112,873.63 average salary per FTE and $28,218.41 for benefits per FTE. (Source: FY 2010 Budget est. for OEPI + FY 2010 OED 2010 estimate with 26 hours for data clearance @$57.17 an hour)

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

As reported above, there is an increase in the reporting burden. The Commission's estimate for completing this survey is 13,772 hours. This increase is attributable to compliance with the statutory requirements of EPAct 2005 section 1253(e)(3), to support of EISA section 529, and Commission strategic objectives, as noted above.

16. TIME SCHEDULE FOR THE PUBLICATION OF DATA

The collected information will be published in the fifth annual Demand Response and Advanced Metering report and will be submitted to Congress before December 31, 2010. The survey responses will also be available in database or spreadsheet format on the Commission's website.

17. DISPLAY OF EXPIRATION DATE

Upon approval, the survey will display the OMB control number and expiration date. The survey instructions will contain an estimate of the reporting burden and the location where respondents may submit comments about the burden estimate and ways to improve the data collection. The instructions will also have a disclaimer that no response is required unless the survey displays a valid OMB control number.

18. EXCEPTIONS TO THE CERTIFICATION STATEMENT

The Commission is use statistical survey methodology for this information collection as more fully described in Part B of this submission.

III. <u>Collections of Information Employing Statistical Methods</u> (attached).