

Supporting Statement for  
**FERC-725, Certification of Electric Reliability Organization;  
Procedures for Electric Reliability Standards**  
(OMB Control No. 1902-0225)

The Federal Energy Regulatory Commission (Commission or FERC) requests that the Office of Management and Budget (OMB) review and approve the extension (for a three-year period) of **FERC-725, Certification of Electric Reliability Organization; Procedures for Electric Reliability Standards**.

This is the second time FERC is seeking renewal of the FERC-725 since its initial approval. During the first clearance cycle the Electric Reliability Organization (ERO) program was barely getting started. By the time of the first renewal in 2009, the Commission knew much more about the program, public burden, parties involved, and costs, and provided this information in the clearance package.

Now, after approximately three more years, the ERO program is well established and the Commission believes that the estimates provided in this package are reflective of the current program.

**A. JUSTIFICATION**

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

The Energy Policy Act of 2005 added Section 215 to the Federal Power Act (FPA)<sup>1</sup>, enhancing the Commission's ability to strengthen the reliability of the interstate electric grid. Section 215 of the FPA aids the Commission's efforts to strengthen the reliability of the interstate grid through the granting of new authority to provide for a system of mandatory Reliability Standards developed by the Electric Reliability Organization (ERO) and reviewed and approved by FERC.

On February 3, 2006, the Commission issued Order No.672<sup>2</sup> certifying a single ERO [the North American Electric Reliability Corporation (NERC)], to oversee the reliability of the United States' portion of the interconnected North American Bulk-Power System, subject to Commission oversight. The ERO is responsible for developing and enforcing the mandatory Reliability Standards. The Reliability Standards apply to all users, owners and operators of the Bulk-Power System. The Commission has the authority to approve all ERO actions, to order the

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1 Section 215 was added by the Energy Policy Act of 2005, Pub. L. No. 109-58, 119 Stat. 594 (2005) (codified at 42 USC 16451, *et seq.*)

2 Rules Concerning Certification of the Electric Reliability Organization; and Procedures for the Establishment, Approval, and Enforcement of Electric Reliability Standards ¶ 31,204 71 FR 8662 (2006) Order on rehearing, 71 FR 19,814 (2006), FERC Statutes and Regulations ¶ 31,212 (2006).

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ERO to carry out its responsibilities under these statutory provisions, and (as appropriate) to enforce Reliability Standards. The ERO can delegate its enforcement responsibilities to a Regional Entity. Delegation is effective only after the Commission approves the delegation agreement. A Regional Entity can also propose a Reliability Standard to the ERO for submission to the Commission for approval.

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

The FERC-725 contains the following information collection elements:

Self Assessment and ERO Application: The Commission requires the ERO to submit to FERC a performance assessment report every five years. The next assessment is due in 2015. Each of regional entity submits a performance assessment report to the ERO. Submitting an application to become an ERO is also part of this collection.<sup>3</sup>

Reliability Assessments: 18 CFR 39.11 requires the ERO to assess the reliability and adequacy of the Bulk-Power System in North America. Subsequently, the ERO must report to the Commission on its findings. Regional entities perform similar assessments within individual regions. Currently the ERO submits to FERC three assessments each year: long term, winter, and summer.

Reliability Standards Development: Under Section 215 of the FPA the ERO is charged with developing Reliability Standards. Regional entities may also develop regional specific standards. Reliability Standards are the principal mechanism provided FERC to ensure reliability on the Bulk-Power System.

Reliability Compliance: Reliability Standards are mandatory and enforceable upon approval by FERC. In addition to the specific information collection requirements contained in each standard (cleared under other information collections), there are general compliance, monitoring and enforcement information collection requirements imposed on applicable entities. Audits, spot checks, self-certifications, exception data submittals, violation reporting, and mitigation plan confirmation are included in this area.

Stakeholder Survey: The ERO used a stakeholder survey to solicit feedback from registered entities<sup>4</sup> in preparation for its three year performance assessment. The Commission assumes that

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<sup>3</sup> The Commission does not expect any new ERO applications to be submitted in the next three years and is not including any burden for this requirement in the burden estimate. FERC still seeks to renew the regulations pertaining to a new ERO application under this renewal but is expecting the burden to be zero for the foreseeable future. 18 CFR 39.3 contains the regulation pertaining to ERO applications.

<sup>4</sup> A “registered entity” is an entity that is registered with the ERO. All Bulk-Power System owners, operators and users are required to register with the ERO. Registration is the basis for determining the Reliability Standards with which an entity

the ERO will perform another survey prior to the 2014 performance assessment.

Other Reporting: This category refers to all other reporting requirements imposed on the ERO or regional entities in order to comply with the Commission's regulations. For example, FERC may require NERC to submit a special reliability assessment. This category is mention to capture these types of one-time filings required of NERC or the Regions. The Commission implements its responsibilities through 18 CFR Part 39.

Without the FERC-725 information, the FERC, ERO, and Regional Entities will not have the data needed to determine whether sufficient and appropriate measures are being taken to ensure the reliability of the nation's electric grid.

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

All of the information that is reported to the Commission in this collection may be submitted electronically, through the Commission's eFiling system (as described at <http://www.ferc.gov/docs-filing/efiling.asp>). For the remaining information collection requirements (information not submitted to the Commission), the use of current or improved technology is not controlled by the Commission, and is therefore left to the discretion of each reporting entity. However, there is evidence that entities/regions are working together. For example, with the proposed revisions to the definition of "Bulk Electric System" the regional entities are working together to develop common forms to be used for submittal of information (covered under FERC-725J, OMB Control Number 1902-0259).

**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**

Filing requirements are periodically reviewed as OMB review dates arise, or as the Commission may deem necessary in carrying out its responsibilities, in order to eliminate duplication and ensure that filing burden is minimized. The Commission believes there are no similar sources of information available that can be used or modified for these reporting purposes.

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

This collection impacts small registered entities. The Commission allows small entities to join a joint action agency or similar organization, which could accept responsibility for compliance

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must comply. See <http://www.nerc.com/page.php?cid=3%7C25> for more details.

with the Reliability Standards and related reporting requirements on behalf of its members. In NERC's compliance database there are 154 entries for Joint Registration Organizations (JROs). FERC does not have records to indicate how many of the 154 entries are small business entities or parties of a joint action agency or similar organization but FERC does estimate that at least half of the listed JROs are large organizations.

The Commission does not know of any barriers that prevent entities from entering into joint action agreements. Generally entities that enter into agreements do this because of shared responsibilities or geographic convenience.

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

This collection focuses on electric reliability reporting requirements that are not contained within any Reliability Standards. The Commission approves of these requirements as necessary for the reliable operation of the bulk electric system. Any reduction in frequency may diminish the ability of NERC, Regional Entities, or FERC in maintaining reliability on the bulk electric system.

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

The guidelines of 5 CFR 1320.5(d) are being followed.

**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 CFR 1320.8(d), a notice requesting comments on the reporting requirements of FERC-725 was issued in FERC Docket No. IC12-11 on 4/16/12 (at <http://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=12947696>) and published in the **Federal Register** (77 FR 24189, 4/23/12). There were no comments filed in response to this notice.

**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**

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The Commission generally does not consider the data to be confidential. However, certain actions have confidentiality provisions which prevent the disclosure of information relating to enforcement actions and critical energy infrastructure information. The following provisions may be used to prevent disclosure of confidential information under FERC 725: (1) 18 CFR § 39.7(b)(4), 39.7(e)(7), 18 CFR § 388.112, and (4) 18 CFR § 388.113.

There are procedures in 18 CFR § 39.7(b)(4), and 39.7(e)(7), which prevent disclosure of information received pursuant to Section 215 of the Federal Power Act, which pertain to violations of Reliability Standards. Section 39.7(b)(4) provides that “each violation or alleged violation shall be treated as nonpublic until the matter is filed with the Commission as a notice of penalty or resolved by an admission that the user, owner or operator of the Bulk-Power System violated a Reliability Standard or by a settlement or other negotiated disposition. The disposition of each violation or alleged violation that relates to a Cybersecurity Incident or that would jeopardize the security of the Bulk-Power System if publicly disclosed shall be nonpublic unless the Commission directs otherwise.” Similarly, Section 39.7(e)(7) provides that “a proceeding for Commission review of a penalty for violation of a Reliability Standard will be public unless the Commission determines that a nonpublic proceeding is necessary and lawful, including a proceeding involving a Cybersecurity Incident. For a nonpublic proceeding, the user, owner or operator of the Bulk-Power System that is the subject of the penalty will be given timely notice and an opportunity for hearing and the public will not be notified and the public will not be allowed to participate.”

In addition, 18 C.F.R. 388.112 provides that “any person submitting a document to the Commission may request privileged treatment by claiming that some or all of the information contained in a particular document is exempt from the mandatory public disclosure requirements of the Freedom of Information Act, 5 U.S.C. 552, and should be withheld from public disclosure.”

Finally, 18 CFR § 388.113 of the Commission’s rules and regulations governs access to critical energy infrastructure information (CEII). Under 18 CFR § 388.113(b), the Commission may restrict access to previously filed documents as well as Commission-generated documents which contain CEII information.

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

There are no questions of a sensitive nature that are considered private.

**12. ESTIMATED BURDEN OF COLLECTION OF INFORMATION; and**

The Commission estimates the total public reporting burden for this information collection as:

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FERC-725: Certification of the ERO <sup>4</sup> ; Procedures for Electric Reliability Standards						
Type of Respondent	Type of Reporting Requirement <sup>3</sup>	Number of Respondents (A)	Number of Responses Per Respondent (B) <sup>5</sup>	Total Number of Responses (A)x(B)=(C)	Average Burden Hours per Response (D)	Estimated Total Annual Burden (C)x(D)
Electric Reliability Organization (ERO) <sup>3</sup>	Self-Assessment	1	0.33	0.33	10,400	3,432
	Reliability Assessments		11	11	3,120	34,320
	Reliability Compliance		1	1	66,467	66,467
	Standards Development		1	1	51,834	51,834
	Other Reporting		1	1	2,080	2,080
Regional Entities	Self-Assessment	8	0.33	2.64	16,640	43,930
	Reliability Assessments		1	8	16,679	133,432
	Reliability Compliance		1	8	39,442.125	315,537
	Standards Development		1	8	4,142 (rounded)	33,134
	Other Reporting		1	8	1,040	8,320
Registered Entities	Stakeholder Survey	1,627	0.33	537	4	2,148
	Reliability Compliance		1	1,627	312.1 (rounded)	507,794
<i>Subtotals:</i>						
<i>ERO</i>		N/A <sup>6</sup>				158,133
<i>Regional</i>						534,353
<i>Registered</i>						509,942
<b>TOTAL</b>		1,636	N/A <sup>6</sup>	N/A <sup>6</sup>	N/A <sup>6</sup>	<b>1,202,428</b>

We provide below more details on the assumptions we used to calculate the burden and where we obtained our information.

**ERO and Regional Entities:**

<sup>5</sup> In all instances below where the number of responses per respondent is “1” the Commission acknowledges that actual number of responses varies and cannot be estimated clearly.

<sup>6</sup> N/A = not applicable

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Self-assessment: For the ERO we based the figure on the NERC 2009 Business Plan and Budget (in Docket No. RR08-6). 2009 was the last time NERC was required to submit its self-assessment. NERC must submit its next self-assessment in 2014. We assumed one Full-Time Equivalent (FTE) (2,080 hours per year) for each region. Because the assessment will only occur once in the next three years, we assumed 0.33 responses per year.

Reliability Assessments: We based the total hourly amount on the NERC 2012 Business Plan and Budget (in Docket No. RR11-07).

Reliability Compliance: We obtained much of the data from NERC’s 2012 Business Plan and Budget (in Docket No. RR11-07); 2012 Compliance, Monitoring and Enforcement Plan; 2012 Actively Monitored Reliability Standards; and the 2012 Audit Schedule. (For the latter three documents, see [http://www.nerc.com/elibrary.php?doc\\_class=&doc\\_dept=3&submit=Filter](http://www.nerc.com/elibrary.php?doc_class=&doc_dept=3&submit=Filter).) We estimated burden hour figures (such as hour per audit, mitigation plan and violation) based on internal staff calculations and some past interaction with NERC staff.

Standards Development: We based the total hourly amount on the NERC 2012 Business Plan and Budget (in Docket No. RR11-07).

Other Reporting: We assumed one FTE for NERC and 0.5 FTE for each Regional Entity.

**Registered Entities:**

Stakeholder Survey: The 2009 survey contained 70 questions and 135 stakeholders responded. We assume that NERC will use a similar survey for the 2014 self-assessment. Because we are unsure of what the response rate might be for the 2014 survey, we assume that all registered entities will respond and it will require 4 hours per response. Because the survey will only occur once in the next three years we assumed 0.33 responses per respondent per year.

Reliability Compliance: (See “Reliability Compliance” section above.)

*Note: Documents in FERC Docket numbers referenced above can be accessed at <http://www.ferc.gov/docs-filing/elibrary.asp>*

The following table shows on aggregate how the collection is impacted by the burden adjustments.

<b>FERC-725</b>	<b>Total Request</b>	<b>Previously Approved</b>	<b>Change due to Adjustment in Estimate</b>	<b>Change Due to Agency Discretion</b>
Annual Number of	2,213	1,809	+404	-

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Responses				
Annual Time Burden (Hr)	1,202,428	972,305	+230,123	-
Annual Cost Burden (\$)	65,000	59,390,474	-59,325,474	-

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

The total estimated annual cost burden related to burden hours is **\$90,934,468** (\$14,197,181 + \$41,551,289 + \$35,185,998).

ERO Cost: 158,133 hours @ \$89.78/hr = \$14,197,181

Regional Entity Cost: 534,353 hours @ \$77.76/hr = \$41,551,289

Registered Entity Cost: 509,942 hours @ \$69/hr = \$35,185,998

The hourly cost figures are loaded (i.e. includes salary and other personnel costs). The Commission used NERC's 2012 Business Plan and internal FERC salary estimates for these cost figures.

The Commission also estimates software costs related to the information collections for the ERO at \$15,000/year and for the Regional Entities at \$50,000/year. These costs are included in ROCIS/reginfo.gov. The costs associated with wages and benefits are not included in the ROCIS metadata.

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

	<b>Number of Employees (FTEs)</b>	<b>Estimated Annual Federal Cost</b>
Analysis and Processing of filings <sup>7</sup>	2.67	\$383,252
Data Clearance Cost	N/A <sup>8</sup>	\$1,588 <sup>9</sup>
<b>FERC Total</b>	N/A <sup>7</sup>	\$384,840

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

The Commission first estimated the burden for this collection in 2006, at a time when the Reliability program was not yet established. In 2009 the Commission sought renewal of this collection and was able to estimate the burden more accurately than in 2006. In preparing the current renewal request package, the Commission closely examined the current Reliability

<sup>7</sup> Based upon 2012 FTE average salary plus benefits (\$143,540)

<sup>8</sup> Not applicable

<sup>9</sup> The Commission bases the cost of data clearance on an average of 24 hours per clearance per year. The data clearance cost represents the activities and efforts of FERC staff to comply with the Paperwork Reduction Act of 1995.



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program and corresponding data. Based on this research, the Commission found that it is necessary to adjust the previous burden estimate. The data show that in the area of Reliability Compliance the number of audits, self-certifications, spot checks, and mitigation plans has increased. The ERO generally decides what Reliability Standard requirements will be audited and which standards will be subject to self-certification. Some of the increase can be accounted for by NERC's decisions on what to include and not include for compliance activities in a given year. The Commission also found that the area of Reliability Standards development was not included in prior estimates and is including the associated burden in this renewal.

The following table shows how the total burden hours for each group of entities have changed since the last renewal. The figures do not exactly match what appears in ROCIS/RegInfo.gov under the individual ICs because the prior renewal did not split up the ICs by entity type. The IC listed as "modified" (now titled "Registered Entities") in ROCIS/RegInfo.gov is the IC that did contain the entire collection prior to this submittal.

	<b>2009 Total Burden Hrs</b>	<b>2012 Total Burden Hrs</b>	<b>Difference (adjustment)</b>
ERO	47,644 <sup>10</sup>	158,133	+110,489
Regional Entities	216,880	534,353	+317,473
Registered Entities	707,781	509,942	-197,839

It is important to note that the Commission does not directly control many of the variables that cause the burden hours to need adjustment. NERC, in its role as ERO is charged with the Reliability Standard development, compliance, enforcement, and monitoring. Each year NERC issues updated information regarding the focus of audits and other compliance and monitoring activities. The regional entities also have some autonomy over compliance activities in their respective regions, subject to NERC/Commission oversight.

The increase in burden is necessary in order for FERC, NERC and the Regional Entities to continue to improve the reliability of the bulk-power system.

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

There are no tabulations, statistical analysis or publication plans for the information collection. The data are used for regulatory purposes.

**17. DISPLAY OF THE EXPIRATION DATE**

It is not appropriate to display the expiration date for OMB approval of the information collected. The information will not be collected on a standard, preprinted form which would avail itself to that display. The reporting requirements contain a mixture of narrative

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<sup>10</sup> In the 2009 clearance package this figure was "47,643.67". The number is rounded up here.

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descriptions and empirical support that varies depending on the nature of the transaction.

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

The data collected for this reporting requirement are not used for statistical purposes.