

Supporting Statement for
**FERC-915, Public Utility Market-Based Rate Authorization Holders –
Records Retention Requirement**

The Federal Energy Regulatory Commission (Commission or FERC) requests that the Office of Management and Budget (OMB) review and approve **FERC-915, Public Utility Market-Based Rate Authorization Holders -- Records Retention Requirement**, for a three year period. FERC-915 (OMB Control No. 1902-0223) is an existing Commission record retention requirement, as stated by 18 Code of Federal Regulations (CFR), Part 35.41(d).

A. Justification

1. CIRCUMSTANCES THAT MAKE THE COLLECTION OF INFORMATION NECESSARY

In accordance with the Federal Power Act (FPA), the Department of Energy Organization Act (DOE Act), and the Energy Policy Act of 2005 (EPAAct 2005) the Commission regulates the transmission and wholesale sales of electricity in interstate commerce, monitors and investigates energy markets, uses civil penalties and other means against energy organizations and individuals who violate Commission rules in the energy markets, administers accounting and financial reporting regulations, and oversees conduct of regulated companies.

The Commission has the regulatory responsibility under section 205 of the Federal Power Act¹ to ensure that wholesale sales of electricity are just and reasonable and provided in a non-discriminatory manner. Due to 18 CFR 35.41(d), the Commission requires all sellers with market-based rates to retain all relevant sales documents for five years. Relevant documents include all information upon which a seller billed the prices it charged for electric energy or electric energy products sold pursuant to seller's market-based rate tariff and the prices it reported for use in price indices.²

In addition to the five-year record retention requirements previously highlighted, the five-year statute of limitations applies where the Commission seeks civil penalties for violations of the Anti-Manipulation rule³ or other rules, regulations, or orders to which the price information may be relevant.

¹ 16 USC 824(d)

² 18 CFR 35.41(d)

³ 18 CFR 1c

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

The Commission uses the information maintained by the respondents under FERC-915 to monitor the entities' sales, ensure that the prices are just and reasonable, maintain the integrity of the wholesale jurisdictional sales markets, and ensure that the entities comply with the requirements of the Federal Power Act, the Commission's regulations and any orders authorizing market-based rate sales.

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

The Commission encourages responding entities to retain records in an electronic format in order to minimize the burden of storage costs.

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.

The Commission published a notice within the Federal Register⁴ to help identify any duplication of the information in FERC-915. No comments were received. There are no other Federal agencies responsible for monitoring entities' sales, ensuring that the prices are just and reasonable, and maintaining the integrity of wholesale jurisdictional sales markets. No similar information can be used or modified.

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

In most cases, the burden is proportional to the size of the entity. The number of records requiring storage is small for smaller entities and large for larger ones. The Commission encourages entities to store records in electronic format thereby reducing physical space needed for storage.

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

⁴ 77 FR 28863 (5/16/2012)

If entities did not retain these records, the Commission would not be able to fulfill its enforcement duties set out under EPCA 2005.

7. EXPLAIN ANY SPECIAL CIRCUMSTANCES RELATING TO THE INFORMATION

The Commission requires that responding entities retain records for five years. This countermands 5 CFR 1320.5(d)(2)(iv) which stipulates that OMB not approve any information collection requiring respondents to retain records, other than health, medical, governmental contract, grant-in-aid, or tax records for more than three years. The Commission requires the 5-year record retention to ensure consistency with the Anti-Manipulation Rule and its implementation of anti-manipulation provisions. Moreover, 28 CFR 2462 imposes a 5-year limitation for the enforcement of any civil fine, penalty, or forfeiture, pecuniary or otherwise except as provided by an Act of Congress.

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

In accordance with OMB requirements⁵, the Commission published a 60-day notice⁶ and a 30-day notice⁷ to the public regarding this information collection on 5/16/2012 and 8/7/2012 respectively. Within the public notice, the Commission noted that it would be requesting a three-year extension of the public reporting burden with no change to the existing requirements concerning the information collection requirements. The Commission received no comment.

9. EXPLAIN ANY PAYMENT OR GIFTS TO RESPONDENTS

There are no payments or gifts to FERC-915 respondents.

10. DESCRIBE ANY ASSURANCE OF CONFIDENTIALITY PROVIDED TO RESPONDENTS

The Commission does not consider the information collected in FERC-915 filings to be confidential. However, the Commission will consider specific requests for confidential treatment to the extent permitted by law⁸. The Commission will review each request for confidential treatment on a case-by-case basis.

⁵ 5 CFR 1320.8(d)

⁶ 77 FR 28863

⁷ 77 FR 47050

⁸ 18 CFR 388.112(a)(1)

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

There are no questions of a sensitive nature that are considered private in the FERC-915.

12. ESTIMATED BURDEN OF COLLECTION OF INFORMATION

The Commission estimates the total burden upon respondents for this information collection as:

FERC-915: Public Utility Market-Based Rate Authorization Holders—Record Retention Requirement					
	Number of Respondents (A)	Number of Responses Per Respondent (B)	Total Number of Responses (A)x(B)=(C)	Average Burden Hours per Response (D)	Estimated Total Annual Burden (C)x(D)⁹
Electric Utilities with Market-Based Rate Authority	1,730	1	1,730	1	1,730

The estimated respondent burden includes the total time, effort, and financial resources respondents spend to assemble and store the information. The Commission bases the labor cost estimate below on salaries (plus benefits) for professional and support staff and their applicability to respondent burden.

Labor Cost:

- 1,730 hours ÷ 2 = 865 hours¹⁰
- “Paper” storage cost: 865 hours * \$19/hour¹¹ = \$16,435
- Electronic storage cost: 865 hours * \$28/hour¹² = \$24,220
- \$16,435 + \$24,220 = \$40,655

13. ESTIMATE OF TOTAL ANNUAL COST BURDEN TO RESPONDENTS

⁹ Unit: hours

¹⁰ The Commission assumes 50% of responding entities utilize conventional (i.e. “paper” storage)

¹¹ 2012 average hourly wage of filing clerk working within an electric utility

¹² The Commission bases the \$28/hour figure on a FERC staff study that included estimating public utility recordkeeping costs.

The total estimated annual cost burden (non-labor) to respondents is \$328,983. The Commission bases the burden to respondents upon a set of assumptions based on expert analysis: 1) of the universe of respondents, 50% (865) electronically store records while 50% (865) use “paper” storage and 2) storage cost/wages¹³ are based on statistical averages. More specifically, the Commission calculated the storage cost based on the following assumptions and data:

“Paper” storage

- Each respondent uses an average storage volume of 56.52 ft³.
- 56.52 ft³ * 1,730 respondents = 97,782.61 ft³
- 97,782.61 ft³ ÷ 2 = 48,891.3 ft³ [50% of respondents store electronically; 50% of respondents utilize conventional (i.e. paper) storage]¹⁴
- 48,891.3 ft³ → \$315,792¹⁵

Electronic storage

- Each respondent spends \$15.25/respondent¹⁶ for electronic record retention/storage
- 1,730 respondents ÷ 2 = 865 respondents
- 865 respondents * \$15.25 = \$13,191

The total estimated annual cost burden to respondents is \$328,983 [\$315,792 (record retention/storage cost) + \$13,191 (electronic record-keeping cost) = \$328,983]

There are no start-up costs because FERC-915 is an existing information collection.

14. ESTIMATED ANNUALIZED COST TO FEDERAL GOVERNMENT

	Number of Employees (FTEs)	Estimated Annual Federal Cost
Analysis and Processing of Filings	0	\$0
PRA ¹⁷ Administrative Cost		\$1,588 ¹⁸

¹³ <http://www.bls.gov/bls/blswage.htm/>

¹⁴ The Commission bases this figure on industry archival storage costs.

¹⁵ See “FERC-915 Cost Estimates” document posted within Supplementary Documents in ROCIS for full explanation of calculations

¹⁶ Per entity; the Commission bases this figure on the estimated cost to service and to store 1 GB of data (based on the aggregated cost of an IBM advanced data protection server).

¹⁷ Paperwork Reduction Act of 1995 (PRA)

¹⁸ Based on 24 hours of FERC staff time.

FERC Total		\$1,588
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The Commission bases its estimate of the cost to the Federal Government on salaries for professional and clerical support.

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

The total estimated burden of the FERC-915 increased due to the Commission’s approval of new applications for entities to sell under market-based rates (i.e. the number of respondents increased). Therefore, the quantity of respondents increased from the previously approved information collection and the currently presented one. It is important to note that the quantity of responses is constantly in flux relative to market participation and application approval.

Conversely, the annual cost burden decreased despite the increased quantity of responses. This is due to increased reliance on electronic storage which lowered record retention costs for 50% of respondents and, thus, lowered the total resultant annual cost burden. Additionally, the previously approved information collection incorporated labor costs into the total annual cost burden to respondents. The Commission has corrected this error (i.e. labor costs are now contained within the total estimated burden upon respondents in item #12 of the supporting statement) in the data presented here and, accordingly, lowered the annual cost burden further.

The Commission outlines the differences between the total requested annual time burden and the previously approved annual time burden below:

FERC-915	Total Request	Previously Approved	Change due to Adjustment in Estimate	Change Due to Agency Discretion
Annual Number of Responses	1,730	1,150	580	0
Annual Time Burden (Hr)	1,730	1,150	580	0
Annual Cost Burden (\$)	\$328,983	\$439,408	-\$110,425	0

16. TIME SCHEDULE FOR PUBLICATION OF DATA

There are no other publications or tabulations of the information.

17. DISPLAY OF EXPIRATION DATE

The Commission cannot display the expiration date for OMB approval of the FERC-915 because this is a record retention requirement. The Commission does not store this data upon a standard form.

18. EXCEPTIONS TO THE CERTIFICATION STATEMENT

The Commission does not use the data collected for this reporting requirement for statistical purposes. Therefore, the Commission does not use as stated in item (i) of the certification to OMB "effective and efficient statistical survey methodology." The information collected is case specific to each information collection.