

Supporting Statement

FERC-914, Cogeneration and Small Power Production—Tariff Filings

The Federal Energy Regulatory Commission (Commission or FERC) requests that the Office of Management and Budget (OMB) review and approve FERC-914, Cogeneration and Small Power Production, for a three year period. FERC-914 (OMB Control No. 1902-0231) is an existing Commission data collection (reporting requirements), as stated by 18 Code of Federal Regulations (CFR) 35.¹

1. CIRCUMSTANCES THAT MAKE THE COLLECTION OF INFORMATION NECESSARY

Section 1253(a) and (b) of the Energy Policy Act of 2005 (EPACT 2005) modified Section 210 of the Public Utility Regulatory Policies Act of 1978 (PURPA). The modification included changing the exemptions from the Federal Power Act (FPA) and from the Public Utilities Holding Company Act (PUHCA) available to qualifying cogeneration and small power production facilities.

The Commission implemented the Congressional mandate of the Energy Policy Act of 2005 (EPAct 2005) to establish criteria for new qualifying cogeneration facilities by:

- amending the exemptions available to qualifying facilities from the FPA and from PUHCA (resulting in the burden imposed by FERC-914, the subject of this statement);
- ensuring that these facilities are using their thermal output in a productive and beneficial manner; that the electrical, thermal, chemical and mechanical output of new qualifying cogeneration facilities is used fundamentally for industrial, commercial, residential or industrial purposes; and there is continuing progress in the development of efficient electric energy generating technology;
- amending the FERC Form 556 (OMB Control No. 1902-0075) to reflect the criteria for new qualifying cogeneration facilities; and
- eliminating ownership limitations for qualifying cogeneration and small power production facilities. The Commission satisfied the statutory mandate and its continuing obligation to review its policies encouraging cogeneration and small power production, energy conservation, efficient use of facilities and resources by electric utilities and equitable rates for energy customers.

The Commission issued Orders Nos. 671² and 671-A to revise related regulations. The Commission eliminated certain exemptions from rate regulation that were previously available to

¹ Includes filers not exempted by 18 CFR 292

² Order 671 and 671A were issued in February 2006 and May 2006 respectively. Neither of these orders expanded the number of qualifying cogenerators and small power production facilities required to report to the FERC-914.

FERC-914 (OMB Control No. 1902-0231)
updated 11/20/2012

qualifying facilities (QFs). New QFs may need to make tariff filings if they do not meet the new exemption requirements.

In the FERC-914, those qualifying cogeneration and small power production facilities, required to do so, will submit to FERC:

- FPA Section 205, 206 and 207 filings,
- Change of status notifications.

Section 205 filings refer to Section 205(c) of the Federal Power Act (FPA) which requires that every public utility have all of its jurisdictional rates and tariffs on file with the Commission and make them available for public inspection, within such time and in such form as the Commission may designate. Section 205(d) of the FPA requires that every public utility must provide notice to the Commission and the public of any changes to its jurisdictional rates and tariffs, file such changes with the Commission, and make them available for public inspection, in such manner as directed by the Commission. In addition, FPA section 206 requires the Commission, upon complaint or its own motion, to modify existing rates or services that the Commission finds to be unjust, unreasonable, unduly discriminatory or preferential. FPA section 207 requires the Commission, upon complaint by a state commission and a finding of insufficient interstate service, to order the rendering of adequate interstate service by public utilities, the rates for which would be filed in accordance with FPA sections 205 and 206.

Finally, the QFs and small power production facilities must provide the Commission with change of status notifications.

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

The information filed under FERC-914 enables the Commission to exercise its wholesale electric rate and electric power transmission oversight and enforcement responsibilities in accordance with the FPA, and the Department of Energy Organization Act and EPOA 2005. It also allows Commission staff and other parties to examine and evaluate the cost element of rates (as well as other financial information) and to determine whether and how much of these elements should be included in the utility's rates.

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

The Commission provides ongoing effort to apply improved information technology to reduce the burden related to this information collection. Most documents may be filed electronically with the Commission via the Internet (e.g. via eFiling, eForms, eTariff). These efforts are part of

FERC-914 (OMB Control No. 1902-0231)
updated 11/20/2012

FERC compliance with the Paperwork Reduction Act, the Government Paperwork Elimination Act, and the E-Government Act of 2002.

By issuing Order No. 714 in 2008, the Commission revised its regulations to require electronic filing of all tariffs, tariff revisions and rate change applications for public utilities, natural gas pipelines, oil pipelines and power administrations starting in April 2010.

FERC-914 data can be embedded within the XML schema of the new eTariff system. Off-the-shelf software and computers provide all eTariff filers with what they need to prepare the data and submit it within an xml schema. New FERC-914 filers must only request and obtain a Company ID from FERC to login and use the eTariff system for submitting their data. FERC provides an eTariff viewer and eLibrary so all filed tariff materials can be viewed over the Internet by all interested parties. Filings in eTariff are also available through the FERC document storage system, eLibrary. The latter is also easily accessible through the Internet. Providing FERC-914 filers with the eTariff system for submitting information reduced physical storage space needs and document processing time. It has also provided easier tracking of document filing activity and reduced mailing and courier fees. The eTariff system allows concurrent access to FERC-914 tariff filings by multiple parties as well as the ability to download and print tariff filings. It automatically sends filers an email indicating their filing has arrived at FERC and of its acceptance. All FERC-914 filings are also available electronically in FERC's eLibrary system.

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 Register² to help identify any duplication of the information in FERC-914. The Commission received no comments regarding this collection. No similar information can be used or modified. There are no other Federal agencies responsible for addressing the operations of the cogeneration and/or the small power production facility who makes the filing on behalf of its customers as reflected in the related tariff.

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

The Commission minimizes burden imposed upon all companies that file the FERC-914 by using a collaborative process to adopt eTariff and permitting a transitive period for implementation of eTariff. Additionally, the Commission attempts to impose the least burden possible upon respondents in any requirements for data and any requisite filings made.

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

Any assessment of the frequency of collection of FERC-914 data is irrelevant since there is no set filing cycle. Once a qualifying cogeneration facility or small power producer submits an initial filing, the Commission requires additional filings only when a change of the tariff is necessary. There is a no substantial relationship between the collection frequency of FERC-914 data and the efficacy of the information collection.

7. EXPLAIN ANY SPECIAL CIRCUMSTANCES RELATING TO THE INFORMATION COLLECTION

The information collection meets all of OMB's section 1320.5 requirements.

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

In accordance with OMB requirements, the Commission published a 60-day notice³ and a 30-day notice⁴ to the public regarding this information collection on 5/25/2012 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 collection of data. The Commission received no comments.

9. EXPLAIN ANY PAYMENT OR GIFTS TO RESPONDENTS

There are no payments or gifts to FERC-914 respondents.

10. DESCRIBE ANY ASSURANCE OF CONFIDENTIALITY PROVIDED TO RESPONDENTS

The Commission does not consider the information collected in FERC-914 filings to be confidential. However, the filer may request privileged treatment of a filing that may contain information harmful to the competitive posture of the applicant if released to the general public.⁵

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

3 77 FR 31342
4 77 FR 47049
5 18 CFR 388.112

The Commission considers the questions within the FERC-914 neither sensitive in nature nor private.

12. ESTIMATED BURDEN OF COLLECTION OF INFORMATION

The Commission estimates the Public Reporting Burden for this information collection as:

FERC-914: Cogeneration and Small Power Production—Tariff Filings					
	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)
FPA Section 205 filings ⁶	50	1	50	183	9,150
Change of Status ⁵	50	1	50	3	150
TOTAL					9,300

The following table shows the labor cost associated with the burden hours.

FERC-914	Annual Burden Hours (1)	Estimated Hourly Cost (\$) (2)	Estimated Total Annual Cost to Respondents (\$) (1) X (2)
	9,300	\$69.01 ⁷	\$641,793

Commission staff originally estimated the universe of respondents to be 100. However, The Commission has since revised its burden estimate to 50 after further, more accurate analysis.

Specifically, the change in the number is a result of both the removal of new qualifying facilities larger than 20 MW and the previous estimate of 100 respondents erroneously containing small power production facilities larger than 30 MW [which have always been subject to the requirements of sections 205 and 206 of the Federal Power Act; the Commission does not have statutory authority to exempt qualifying small power production facilities that exceed 30 MW from the requirements of the Federal Power Act]). The Commission bases the maximum number of 50 on a two-year average of filings of new qualifying facilities for 2011 and year-to-date 2012 annualized. It is a maximum number because it assumes that all new qualifying cogenerators that exceed 20 MW and all new qualifying small power production facilities larger than 20 MW and up to 30 MW would be subject to the filing requirements of Section 205 and 206 of the Federal Power Act. However, in fact, qualifying cogenerators and qualifying small power production facilities that do not exceed 30 MW are exempt (by Commission regulation) from the

⁶ For qualifying facilities and small power producers

⁷ This figure is rounded to the nearest cent

FERC-914 (OMB Control No. 1902-0231)
updated 11/20/2012

requirements of Sections 205 and 206 of the Federal Power Act if the sales are being made pursuant to a State's implementation of Public Utility Regulatory Policies Act of 1978 (PURPA). Commission staff estimates that a significant portion of the 50 affected facilities do, in fact, sell pursuant to a State's implementation of PURPA so that the number of facilities affected by the extension of FERC-914 will be fewer than 50 facilities.

FERC issued an errata public notice on 11/16/12 to correct the estimated number of respondents from 100 to 50 facilities (posted at <http://elibrary.ferc.gov/idmws/common/OpenNat.asp?fileID=13110534>).

13. ESTIMATE OF THE TOTAL ANNUAL COST BURDEN TO RESPONDENTS

The eTariff system became operational in 2010. Since then, all public utilities, natural gas pipelines, oil pipelines and power marketing authorities have been required to file tariffs, tariff revisions and rate change applications electronically using an xml schema through eTariff. There have been no changes to using the eTariff process since start up and no changes are planned at this time during the upcoming 2012-2015 reporting period for the FERC-914. Therefore, projections are there will be no start up and maintenance costs for new respondents using the eTariff system to file FERC-914 tariffs, tariff revisions and rate change applications. Our experience shows that most of the new facilities that would be required to file FERC-914 are affiliated with electric utilities that are already filing in eTariff.

FERC-914 respondents incur the costs related to the time and expertise it takes to prepare the contents of FERC 914 filings, i.e. tariffs, tariff revisions, and rate changes. Depending on the filer, there may be costs, such as legal costs, associated with preparing the tariff filings.

Total Capital and Start-up cost: \$0

Total Operation, Maintenance, and Purchase of Services: \$0

14. ESTIMATED ANNUALIZED COST TO FEDERAL GOVERNMENT

	Number of Employees (FTEs)	Estimated Annual Federal Cost
Analysis and Processing of filings ⁸	1.6	\$229,664
PRA ⁹ Administrative Cost ¹⁰		\$1,588
FERC Total		\$231,252

8 Based upon 2012 FTE average salary (\$143,540)

9 Paperwork Reduction Act of 1995 (PRA)

10 Based upon 24 hours of Commission staff time/effort

The Commission bases its estimate of the “Analysis and Processing of filings” cost to the Federal Government on salaries and benefits for professional and clerical support. This estimated cost represents staff analysis, decision-making, and review of any actual filings submitted in response to the information collection.

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

The requirements within FERC-914 did not change. However, previous burden estimates included Electronic Quarterly Reports (EQR) within the burden upon respondents for FERC-914. The Commission already accounts for the burden of all EQR filings in FERC-920 (ICR Reference No: 201206-1902-003) [including any/all burden incurred by cogenerators or small power producers (i.e. any respondent of the FERC-914)]. The Commission proposes the removal of the EQR hourly burden from FERC-914 to avoid the redundant counting of those burden hours.

Additionally, the Commission did not accurately depict the annual aggregate number of responses within earlier clearance packages. The Commission estimated four annual responses per respondent for EQR filings for established facilities. The Commission estimates every other type of filing within this information collection at one annual response per respondent. These factors resulted in a total of 600 responses for the FERC-914 over three years, not 400 responses as previously (and erroneously) presented as the yearly average. This correction along with the aforementioned removal of EQR responses and subsequent analysis¹¹ resulted in 100 total annual (i.e. total for each year) responses for the current FERC-914 clearance package.

The table below illustrates the aggregate burden (and any corresponding changes).

FERC-914	Total Request	Previously Approved	Change due to Adjustment in Estimate	Change Due to Agency Discretion
Annual Number of Responses	100	400	-300	0
Annual Time Burden (Hr)	9,300	43,400	-34,100	0
Annual Cost Burden (\$)	\$0	\$2,676,966	-\$2,676,966	\$0

With the clearance package, the cost to industry is displayed using the unit of burden hours. In accordance with the “ROCIS HOW TO Guide for Agency Users of the Information Collection Request (ICR) Module”, users should not report as a dollar cost any burden reported in hours¹².

11 <http://elibrary.ferc.gov/idmws/common/OpenNat.asp?fileID=13110534>

12 https://www.rocis.gov/rocis/jsp/common/ROCIS_HOW_TO_Guide_for_AGENCY_Users_of_ICR_Module-03192012_v2.pdf, p.37

FERC-914 (OMB Control No. 1902-0231)
updated 11/20/2012

Therefore, Commission staff corrected the industry's annual cost burden within the ROCIS metadata to show that the Commission associates no cost to capital investment or other non-labor costs. The Commission estimates the monetary cost related to the burden hours in #13 (above). This was done erroneously in previous FERC-914 supporting statements. Commission staff corrected the error within the current proposed clearance package.

The format, label, and definitions of the table above follow the ROCIS system's "ICR Summary of Burden" for the meta-data.

16. TIME SCHEDULE FOR PUBLICATION OF DATA

There are no tabulating, statistical or tabulating analysis or publication plans for the collection of information. The Commission uses the data for regulatory purposes only.

17. DISPLAY OF EXPIRATION DATE

It is not appropriate to display the expiration date for OMB approval of the information collection. The Commission does not collect the information upon a standard form which would facilitate the display of the expiration date for OMB approval.

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.