

Supporting Statement for
**Form No. 556, “Certification of Qualifying Facility (QF) Status for a Small
Power Production or Cogeneration Facility”**

The Federal Energy Regulatory Commission (Commission or FERC) requests that the Office of Management and Budget (OMB) review and approve Form No. 556, “Certification of Qualifying Facility (QF) Status for a Small Power Production or Cogeneration Facility” (Form No. 556), for a three year period. Form No. 556 (OMB No. 1902-0075) is an existing data collection and reporting requirement in 18 Code of Federal Regulations (CFR) Section 131.80 and 18 CFR Part 292.

1. CIRCUMSTANCES THAT MAKE THE COLLECTION OF INFORMATION NECESSARY

The Commission is obligated by statute to regulate key economic aspects of the electric, natural gas and oil industries. The law requires the Commission’s economic regulatory activity because the transmission of electricity, natural gas, and oil has often been a natural monopoly.

In enacting Part II of the Federal Power Act (FPA) in 1935, one of the primary Congressional goals was to protect electric ratepayers from abuses of market power. To accomplish this goal, Congress directed the FERC to oversee sales for resale and transmission service provided by public utilities in interstate commerce. One of FERC’s overarching goals is to promote competition in wholesale power markets, having determined that effective competition, as opposed to traditional forms of price regulation, can best protect the interests of ratepayers. Market power, however, can be exercised to the detriment of effective competition.

Form No. 556 is required to implement the statutory provisions in Sections 201 and 210 of the Public Utility Regulatory Policies Act of 1978¹ (PURPA). FERC is authorized to encourage cogeneration and small power production and to prescribe such rules as necessary in order to carry out the statutory directives.

A primary statutory objective is the conservation of energy through efficient use of energy resources and facilities by electric utilities. One means of achieving this goal is to encourage production of electric power by cogeneration facilities which make use of reject heat associated with commercial or industrial processes, and by small power production facilities which use other wastes and renewable resources. PURPA, through establishment of various regulatory benefits, encourages the development of small power production facilities and cogeneration facilities which meet certain technical and corporate criteria. Facilities that meet these criteria are called Qualifying Facilities or QFs.

¹ 16 U.S.C. §2601.

The Energy Policy Act of 2005 (EPAcT 2005) imposed new requirements for QF status for “new” cogeneration facilities. The Commission issued Order No. 671² to implement the EPAcT 2005 requirements.

The Commission’s regulations in 18 CFR Part 292, specify: a) the certification procedures which must be followed by owners or operators of small power production and cogeneration facilities; b) the criteria which must be met; c) the information which must be submitted to FERC in order to obtain qualifying status; d) the PURPA benefits which are available to QFs to encourage small power production and cogeneration; and e) the requirements pertaining to PURPA implementation plans regarding the transaction obligations that electric utilities have with respect to QFs.

Among PURPA provisions in 18 CFR Part 292, are requirements for electric utilities to:

- purchase energy and capacity from QFs favorably priced on the basis of the avoided cost of the power that is displaced by the QF power (i.e., the incremental cost to the purchasing utility if it had generated the displaced power or purchased it from another source);
- sell backup, maintenance and other power services to QFs at rates based on the cost of rendering the services;
- provide certain interconnection and transmission services priced on a nondiscriminatory basis;
- operate in “parallel” with other interconnected QFs so that they may be electrically synchronized with electric utility grids; and
- make available to the public avoided cost information and system capacity needs.

In 18 CFR Part 292, the Commission exempts QFs from certain corporate, accounting, reporting and rate regulation requirements, certain state laws and in certain instances, regulation under the FPA and the Public Utility Holding Company Act of 2005.

By amending its regulations in March 2010 with Order No. 732³, FERC satisfied statutory mandates and its continuing obligation for policies that encourage

² “Revised Regulations Governing Small Power Production and Cogeneration Facilities,” Order No. 671, 71 FR 7852 (Feb. 2, 2006), FERC Stats. & Regs. ¶ 31,203 (2006), order on reh’g, Order No. 671-A, 71 FR 30585 (May 22, 2006), FERC Stats. & Regs. ¶ 31,219 (2006).

³ “Revisions to Form, Procedures, and Criteria for Certification of Qualifying Facility Status for a Small Power Production or Cogeneration Facility,” Order No. 732, 130 FERC ¶ 61,214 (2010).

cogeneration and small power production, energy conservation, efficient use of facilities and resources by electric utilities and equitable rates for energy customers.

In Order No. 732 FERC removed from 18 CFR Section 131.80 the contents and general instructions of the Form No. 556, and, in their place, provided that an applicant seeking to certify QF status of a small power production or cogeneration facility complete and file the Form No. 556 that is in effect at the time of filing. The current form is available for download from the FERC.gov website. FERC also began requiring that the Form No. 556 be submitted electronically.

Additionally in that order, FERC revised and reformatted the Form No. 556 to clarify the content of the form and to take advantage of newer technologies to reduce both the filing burden for applicants and the processing burden for the Commission.

FERC also updated the procedures, standards and criteria for QF status provided in 18 CFR Part 292 of its regulations to accomplish the following: (1) exemption of generating facilities with net power production capacities of 1 MW or less from the requirement that a generating facility, to be a QF, must file either a notice of self-certification or an application for Commission certification; (2) codification of the FERC's authority to waive the QF certification requirement for good cause; (3) extension to all applicants for QF certification the requirement (previously applicable only to applicants for self-certification of QF status) to serve a copy of a filed Form No. 556 on the affected utilities and state regulatory authorities; (4) elimination of the requirement for applicants to provide a draft notice suitable for publication in the Federal Register; and (5) clarification, simplification or correction of certain sections of the regulations.

Finally, in Order No. 732, FERC changed the exemption of QFs from the Federal Power Act and the Public Utility Holding Company Act of 2005 and certain State laws and regulations to make clear that certain small power production facilities that satisfy the criteria of section 3(17)(E) of the Federal Power Act qualify for those exemptions.

The revisions described above: (1) made the Form No. 556 easier and less time consuming to complete and submit; (2) decreased opportunities for confusion and error in completing the form; (3) improved consistency and quality of the data collected by the form; (4) decreased FERC resources dedicated to managing errors and omissions in submitted forms; and (5) clarified and corrected the regulations governing the requirements for obtaining and maintaining QF status.

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

Since 1935, the Commission has regulated certain electric utility activities under the Federal Power Act. Under FPA sections 205 and 206, FERC oversees the rates, terms and conditions of sales for resale of electric energy and transmission service in interstate commerce by public utilities. The Commission must ensure that those rates, terms and conditions are just and reasonable, and not unduly discriminatory or preferential.

The information collected from Form No. 556 under 18 CFR Section 131.80 and 18 CFR Part 292 is used by the Commission to determine whether an application for certification meets the criteria for a qualifying small power production facility or a qualifying cogeneration facility under its regulations and is eligible to receive the benefits available to it under PURPA.

In order to obtain QF status and obtain PURPA benefits, an owner or operator of a small power production or cogeneration facility must follow the process indicated in Form No. 556 and select, at its option, either the procedure set forth in 18 CFR Section 292.207(a), which requires the submission to FERC, of a self-certification or self-recertification, or the application for Commission certification or recertification set forth in 18 CFR Section 292.207(b). The information requirements for these two processes are largely the same, i.e., the submittal of a completed Form No. 556 which provides the information necessary to demonstrate compliance with FERC's regulations. If FERC did not collect the FERC No. 556 information, there would be no basis for the Commission to determine whether a facility satisfies all of the QF requirements.

Since revocation of the qualifying status of a small power production or cogeneration facility may occur if the facility fails to comply with any of the 18 CFR Part 292 criteria, private financial lenders to small power production and cogeneration power facilities often require small power producers and cogenerators to follow 18 CFR Section 292.207(b) procedures (certification by FERC as opposed to self-certification) in order to reduce the risk of status revocation.

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

There is an ongoing effort to determine the potential and value of improved information technology to reduce the burden. Specifically, in order to increase the

efficiency with which it carries out its program responsibilities, the Commission has been implementing measures to use information technology to reduce the amount of paperwork required in its proceedings. In Order No. 619⁴, FERC established an electronic filing initiative to meet the goals of the Government Paperwork Elimination Act, which directed agencies to provide for optimal use and acceptance of electronic documents and signatures and electronic recordkeeping, where practical, by October 2003.

FERC has attempted to facilitate the granting of QF status by providing materials to potential small power producers and cogenerators to assist in their preparation of notices of self-certification and preparation of applications for certification. Form No. 556 can be downloaded from FERC's web site at: <http://www.ferc.gov/docs-filing/forms.asp#556> .

In Order No. 732, FERC required that applicants submit their QF applications (whether initial certifications or recertifications, and whether self-certifications or applications for Commission certification) electronically via the FERC website. The electronic filing process is faster, easier, less costly and less resource-intensive than hardcopy filing. An applicant filing electronically receives an acknowledgement that the Commission has received their application and a docket number for their submittal much more quickly than they would by filing in hardcopy format. Electronic filing has allowed the Commission to electronically process QF applications, reduced required staff resources and human error, and allowed the Commission to identify patterns of reporting errors and noncompliance that would be difficult to detect through manual processing. Finally, electronic filing of QF applications has facilitated the compilation of QF data. Each year Commission staff field a number of requests for QF certification data from private organizations, researchers and other government agencies. Requiring applicants to file in electronic format has made it possible to respond to many more such requests.

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 Register to help identify any duplication of the information in Form No. 556. The Commission received no comments regarding this collection. No similar information can be used or modified. There are no other Federal agencies responsible for certifying an electric generating facilities as a QF and/or allowing a cogenerator or small power

⁴ "Electronic Filing of Documents," Order No. 619, 65 FR 57088 (Sept. 21, 2000), FERC Stats. & Regs. ¶ 31,107 (2000).

producer to determine whether it qualifies for the benefits bestowed by PURPA, including the exemptions from certain provisions of federal and state law. Form No. 556 is a necessary information collection in order for the Commission to remain in compliance with FPA and PURPA mandates.

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

The clarified and streamlined Form No. 556 has made it easier for applicants to complete this form because the form leads applicants step-by-step through the compliance determinations. For example, the information collected from applicants for cogeneration facilities in lines 11a through 11f has guided the applicants in determining whether the EAct 2005 cogeneration requirements apply to their facilities. Without this step-by-step guide, applicants (particularly small applicants) must independently research the requirements and determine compliance with the relatively complex EAct 2005 cogeneration requirements.

The FERC website has a list of frequently asked questions to help filers. It also provides the names and phone numbers of FERC legal and technical staff filers can call directly to get questions answered as well as general guidance and information about FERC's QF program and policies. The website also shows an email address that can be used to submit written questions to FERC technical and legal staff.

Finally, the Commission has exempted applicants for facilities with net power production capacities of 1 MW and smaller from any filing requirement; the electronic filing requirement does not apply to these small QFs. The Commission believes that any applicant for a facility larger than 1 MW should have access to the resources needed to make an electronic filing.

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

Applicants submit an initial Form No. 556 and additional notices for any changes in qualifying status criteria. In view of the one-time requirement, the PURPA objective of conservation through encouragement of small power production and cogeneration would be undercut if Form No. 556 information were to be collected less frequently (i.e., not collected at all). If the information were not to be collected as noted above, the Commission would be unable to certify the facility as a QF, and the cogenerator or small power producer would be unable to determine whether it qualifies for the benefits bestowed by PURPA, including the exemptions from certain provisions of Federal and state law.

7. EXPLAIN ANY SPECIAL CIRCUMSTANCES RELATING TO THE INFORMATION

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 TO THESE COMMENTS

In accordance with OMB requirements, the Commission published a 60-day notice⁵ and a 30-day notice⁶ to the public regarding this information collection on 12/31/2012 and 3/15/2013 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 respondents in the requirements contained in this collection.

10. DESCRIBE ANY ASSURANCE OF CONFIDENTIALITY PROVIDED TO RESPONDENTS

The Commission does not generally consider the information collected in Form No. 556 filings to be confidential. However, the applicant may request non-public treatment of privileged information or Critical Energy Infrastructure Information (CEII) under 18 CFR 388.112 or 18 CFR 383.

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

There are no questions of a sensitive nature associated with the reporting requirements.

12. ESTIMATED BURDEN COLLECTION OF INFORMATION

The Commission breaks down the filings by facility type (small power production facility or cogeneration facility), in addition to filing type.

FERC Form No. 556					
Facility Type	Filing Type	Number of Respondents (A)	Number of Responses per Respondent (B)	Average Burden Hours Per Response (C)	Estimated Total Annual Burden Hours (A)x(B)x(C)
cogeneration facility > 1MW	self-certification	53	2	8	848
cogeneration facility > 1 MW	application for FERC certification	2	2	50	200
small power production facility > 1 MW	self-certification	690	2	3	4,140
small power production facility > 1 MW	application for FERC certification	0	0	6	0
cogeneration and small power production facility ≤ 1MW (not required to file)	self-certification	192	2	3	1,152
Totals		937			6,340

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

Annual Burden Hours (1)	Estimated Hourly Cost (\$) ⁷ (2)	Estimated Total Annual Cost to Respondents (\$) (1)x(2)
6,340	\$59.11	\$374,757.40

Form No. 556 respondents incur the costs related to the time and expertise it takes to prepare the contents of Form No. 556 filings, i.e. self-certifications, applications for certification, changes and cancellations. Depending on the filer, there may be costs, such as legal costs, associated with preparing the Form No. 556 filings. Therefore, an average hourly cost for attorney fees, engineering consultation, and administrative support is used to calculate the cost.

13. ESTIMATE OF THE TOTAL ANNUAL COST BURDEN TO RESPONDENTS

The Form No. 556 requires filers to gather information and fill out Form 556 including instances of cancellations or change requests. The form is fillable, fileable and does not require any special hardware or software to complete. There is no capital, start-up, or operational cost related to filling out the Form No. 556 not already accounted for in the burden hours.

14. ESTIMATED ANNUALIZED COST TO FEDERAL GOVERNMENT

	Number of Employees (FTE)	Estimated Annual Federal Cost
Analysis and Processing of filings ⁸	2	\$287,080
PRA ⁹ Administrative Cost ¹⁰		\$1,588

⁷ The cost figures are derived by multiplying the total hours to prepare a response (hours) by an hourly wage estimate of \$59.11 (a composite estimate that includes legal, engineering and support staff wages and benefits obtained from the Bureau of Labor Statistic data at http://bls.gov/oes/current/naics3_221000.htm and <http://www.bls.gov/news.release/ecec.nr0.htm>).

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

⁹ Paperwork Reduction Act.

¹⁰ Based upon 24 hours of Commission staff time/effort.

FERC Total		\$288,668
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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 increase in the number of Form No. 556 filings results primarily from the Administration’s encouraging a greater role for renewable energy resources in the American energy mix.

We based the number of responses on the most recent full year of actual filings we received. While the number of filings does fluctuate from year to year, we believe recent data on the actual number of filings is representative of the number of filings over the next three years.

FERC-556	Total Request	Previously Approved	Change due to Adjustment in Estimate	Change Due to Agency Discretion
Annual Number of Responses	1,874	504	+1,370	-
Annual Time Burden (Hr)	6,340	2,156	+4184	-
Annual Cost Burden (\$)	\$0	\$251,540	-\$251,540	-

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 hours.¹¹ 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 #12 (above). This was done erroneously in previous Form No. 556 supporting

¹¹ [https://www.rocis.gov/rocis/jsp/common/ROCIS HOW TO Guide for AGENCY Users of ICR Module-03192012 v2.pdf](https://www.rocis.gov/rocis/jsp/common/ROCIS_HOW_TO_Guide_for_AGENCY_Users_of_ICR_Module-03192012_v2.pdf), p.37.

statements. Commission staff corrected the error within the current proposed clearance package.

16. TIME SCHEDULE FOR PUBLICATION OF DATA

Copies of the filings are made available to the public via the Commission's web site. There are no other publications or tabulations of the information.

17. DISPLAY OF EXPIRATION DATE

Form No. 556 is available from the Commission's website (<http://www.ferc.gov/docs-filing/forms.asp#556>) as a standard form that can be downloaded and the expiration date for OMB approval is on the form/instructions.

18. EXCEPTIONS TO THE CERTIFICATION STATEMENT

The Commission will not be using statistical survey methodology for this information collection. This is the only exception to the certification statement.