

Supporting Statement  
**FERC-582: Electric Fees, Annual Charges, Waivers, and Exemptions**  
Three-year approval of revisions requested

The Federal Energy Regulatory Commission (FERC or Commission) requests that the Office of Management and Budget (OMB) review and approve the revisions to the FERC-582 (Annual Charges, Waivers, and Exemptions) for a three-year period under OMB Control Number 1902-0132.

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

The Independent Offices Appropriation Act of 1952<sup>1</sup> (IOAA) authorizes the Commission to establish fees “for a service or thing of value provided by the agency”. The principal interpretation of the IOAA is the Bureau of the Budget [now known as the Office of Management and Budget] Circular A-25<sup>2</sup>, which states that a fee should be assessed against each identifiable recipient for special benefits derived from Federal activities beyond those received by the general public. These benefits will accrue a charge when an activity:

- Enables the beneficiary to obtain more immediate or substantial gains or values than those in the general public;
- Provides business stability or contributes to public confidence in the business activity of the beneficiary; or
- Is performed at the request of or for the convenience of the recipient and is beyond the services regularly received by other members of the same industry or group or by the general public.

FERC Order 360<sup>3</sup> was the first of a series of rules which FERC issued on fees authorized by the IOAA for the services and benefits FERC provides.

Subsequently, Congress directed the Commission to, “assess and collect all fees and annual charges in any fiscal year in an amount equal to all of the costs incurred by the Commission in that fiscal year” via the Omnibus Budget Reconciliation Act of 1986. As stated in FERC’s Order 472<sup>4</sup>, “[t]he Budget Act’s billing authority is more comprehensive than the existing billing

<sup>1</sup> Act of Aug. 31, 1951, Ch. 376, Title V, Section 501, 65 Stat. 290, as codified, 31 U.S.C. Section 483(a) (1970).

<sup>2</sup> The current version of OMB Circular A-25 (User Charges (07/08/1993)) is available on OMB’s website at [http://www.whitehouse.gov/omb/circulars\\_a025/#4](http://www.whitehouse.gov/omb/circulars_a025/#4). It states that: “the objective of the United States Government [is] to:

- ensure that each service, sale, or use of Government goods or resources provided by an agency to specific recipients be self-sustaining;
- promote efficient allocation of the Nation’s resources by establishing charges for special benefits provided to the recipient that are at least as great as costs to the Government of providing the special benefits; and
- allow the private sector to compete with the Government without disadvantage in supplying comparable services, resources, or goods where appropriate.”

<sup>3</sup> Docket No. RM82-25-000, issued 2/6/1984.

<sup>4</sup> issued 5/29/1987

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authority under either the IOAA or the FPA (Federal Power Act)...the Budget Act requires the Commission to recover all of its costs.”

The Commission focuses its regulatory efforts predominately on ensuring nondiscriminatory, open access transmission services as opposed to power sales and power exchanges. FERC’s Order No. 888, state retail unbundling efforts, the creation of Regional Transmission Organizations in Order No. 2000 brought about open-access transmission, functional unbundling, and the movement to market-based power sales rates. The Commission’s efforts are increasingly devoted to assuring open and equal access to public utilities’ transmission systems. Competitive market forces more often discipline wholesale power sales rates than the Commission does directly. For these reasons, the Commission felt that it should assess its regulatory program costs solely on the megawatt-hours (MWh) of electric service transmitted in interstate commerce by public utilities providing transmission service, rather than, as in the past on both jurisdictional power sales and transmission volumes.

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

The Commission collects information on the FERC-582 for distinct purposes:

- To calculate annual charges;
- To provide interpretations by the Office of General Counsel, and
- To aid decisions on petitions for declaratory orders, waivers, and exemptions.

In order to determine annual charges, the Commission staff use the data submitted under FERC-582 to establish the total MWhs of transmission of electric energy in interstate commerce. All parties involved in the generation and sale of electric energy rely on the transmission system to move their product (i.e. transmitted energy). Power sellers contribute to the Commission’s recovery of electric regulatory program costs in that they will use the transmission system and any cost-based rates that these entities pay for their transmission service that they may take will be incurred as a share of the Commission’s costs.

As noted above, Congress has directed the Commission to collect fees and annual charges equal to its annual appropriation. The Commission deposits the fees and annual charges it collects into the Department of Treasury’s general fund.

The Commission's electric regulatory program includes:

- administering the provisions of Parts II and III of the Federal Power Act (FPA)<sup>5</sup> as they apply to the activities of public utilities (e.g. principally investor-owned utilities)<sup>6</sup>;
- discharging its responsibilities under various statutes involving Power Marketing Agencies (PMAs); and

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<sup>5</sup> 16 U.S.C. 824-825r.

<sup>6</sup> Under sections 211, 212 and 213 of the FPA, 16 U.S.C. 824j-l, the Commission also has authority over transmitting utilities that are not public utilities. Compare 16 U.S.C. 796(23) with 16 U.S.C. 824(b), (e).

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- implementing various provisions of the Public Utility Regulatory Policies Act of 1978 (PURPA)<sup>7</sup> involving qualifying cogenerators and small power producers (QFs).

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

The Commission converts the information filed under 18 CFR 382.201(b) to an automated file for computation of annual charges for electric utilities. Further, applicants seeking an order for a waiver may make their request electronically over the Commission's website. Finally, payments for all annual charges and most fees can be received electronically eliminating mail/courier/paper costs associated with submitting payments.

**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 the FERC-582. The Commission received no comments regarding this issue.

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

FERC-582 is mainly a regulatory filing requirement pertaining to the filing of fees for use by the Commission in its computation of annual charges. The data required imposes the least possible burden for small and large entities while collecting the information required to carry out the responsibilities under Omnibus Reconciliation Act of 1993 (OBRA-93). The Commission provides as noted, waiver provisions (18 CFR 381.106 and 382.105(a)) and requests for exemption (18 CFR 381.108) from fees and annual charges, respectively, on the basis of financial hardship.

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

FERC-582 includes an annual filing as well as filings for petitions of declaratory orders, waivers, exemptions, and Office of the General Counsel opinions.

The information required in 18 CFR 382.201(c) is required only once a year and is necessary to compute annual charges the Commission will assess to the applicable regulated entities. The information cannot be discontinued nor collected less frequently due to statutory requirements.

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<sup>7</sup> 16 U.S.C. 2601-2645.

Without the information required to petition for issuances under FERC-582 the Commission staff would be unable to process such petitions.

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

The information collection meets all 5 CFR 1320.5(d)(2) 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 notice<sup>8</sup> and a 30-day notice<sup>9</sup> to the public regarding this information collection on 5/23/2013 and 8/5/2013 respectively. Within the public notices, the Commission noted that it would be requesting a three-year extension of the public reporting burden with the changes described in those notices. The Commission received no responses from the public regarding this information collection.

The Commission also published an additional notice<sup>10</sup> on 8/30/2013 to highlight a change in the estimated total annual burden from what was shown in the 60-day and 30-day notices. In each prior notice, FERC estimated the total annual burden at 114 hours. FERC has revised the estimation of the total annual burden to 300 hours, which better reflects past burden estimates for this collection. More specifically, portions of the total annual burden were increased from 1 hour per response to 3 hours per response (Annual Charges) and 2 hours per response (Declaratory Order), consistent with estimates for this collection since the last time it was approved by OMB. These revised estimates are what are shown in #12 below.

**9. EXPLAIN ANY PAYMENT OR GIFTS TO RESPONDENTS**

There are no payments or gifts to respondents in the FERC Form 582 requirements.

**10. DESCRIBE ANY ASSURANCE OF CONFIDENTIALITY PROVIDED TO RESPONDENTS**

The information submitted to the Commission is public information and therefore is not considered confidential.

**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 that are associated with the FERC-582 reporting requirements.

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8 78 FR 30912  
9 78 FR 47310  
10 78 FR 53742

## 12. ESTIMATED BURDEN OF COLLECTION OF INFORMATION

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

<b>FERC-582: Electric Fees; Annual Charges; Waivers; and Exemptions</b>					
<b>FERC-582<sup>11</sup></b>	<b>Number of Respondents (A)</b>	<b>Number of Responses Per Respondent (B)</b>	<b>Total Number of Responses (A)x(B)=(C)</b>	<b>Average Burden Hours per Response (D)</b>	<b>Estimated Total Annual Burden (C)x(D)</b>
Annual Charges	73	1	73	3	219
Declaratory Order	40	1	40	2	80
OGC Interpretation	1	1	1	1	1
<b>TOTAL</b>	<b>114</b>		<b>114</b>		<b>300</b>

The total estimated annual cost burden to respondents is \$21,000 [ $300 * \$70/\text{hour}^{12} = \$21,000$ ].

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

There are no capital or start-up costs associated with this collection. All of the costs are associated with the burden hours and accounted for in Question #12.

## 14. ESTIMATE OF THE TOTAL ANNUAL COST TO FEDERAL GOVERNMENT

	<b>Number of Employees (FTE)</b>	<b>Estimated Annual Federal Cost</b>
Analysis and Processing of filings <sup>13</sup>	0.05	\$7,291
PRA <sup>14</sup> Administrative Cost <sup>15</sup>		\$2,250
<b>FERC Total</b>		<b>\$9,541</b>

<sup>11</sup> Includes requirements of:

- 18 CFR Part 381.105 (methods of payment), Part 381.106 (waiver), Part 381.108 (exemption), Part 381.302 (declaratory order), Part 381.303 (review of DOE remedial order), Part 381.304 (DOE denial of adjustment, and Part 381.305 (OGC interpretation).
- 18 CFR Part 382.102, Part 382.103, Part 382.105, Part 382.106, Part 382.201 (annual charges)

Parts not shown in the table are because we don't expect to see any of these filings in the next three years.

<sup>12</sup> Based on average wages and benefits for an employee at FERC. The Commission assumes that employees working on information collection activities for this collection receive, on average, similar wages and benefits as FERC employees.

<sup>13</sup> Based on 2013 FTE average salary plus benefits (\$145,818)

<sup>14</sup> Paperwork Reduction Act of 1995 (PRA)

<sup>15</sup> The Commission bases the cost of Paperwork Reduction Act administration on staff time, and other costs related to compliance with the Paperwork Reduction Act of 1995.

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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 FERC-582 information collection realized an overall increase in total annual burden. This is mostly due to an increase in the number of respondents for declaratory orders. Additionally, there were no OGC interpretation requests estimated during the last renewal cycle, but one per year is expected in this cycle estimated at one hour per response.

<b>FERC-582</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 Responses	114	79	35	0
Annual Time Burden (Hr)	300	231	69	0
Annual Cost Burden (\$)	0	0	0	0

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

The Commission provides copies of the filings to the public via the Commission’s web site. There are no other publications or tabulations of information

**17. DISPLAY OF EXPIRATION DATE**

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

**18. EXCEPTIONS TO THE CERTIFICATION STATEMENT**

The Commission will not be using statistical survey methodology for this information collection.