

FERC-600 (OMB Control No. 1902-0180)

Supporting Statement for FERC-600, Rules of Practice and Procedures: Complaint Procedures

The Federal Energy Regulatory Commission (FERC or Commission) requests Office of Management and Budget (OMB) review and approval of an existing information collection requirement, FERC-600, Rules of Practice and Procedures: Complaint Procedures (OMB Control No. 1902-0180). The Commission is requesting that OMB approve FERC-600 (as detailed in 18 CFR Parts 343 and 385.206) for an additional three years. The reporting requirements are not changing.

Background

The industries that the Commission oversees are now operating in an environment which is increasingly driven by competitive market forces. Because of, for example, the short-term transactional nature of the electric and gas markets, and the fact that competitive changes happen quickly, timely and effective resolution of complaints is crucial. If the Commission is to use lighter-handed forms of regulation, to maintain balance and equity it must have an organized and fair complaint process to ensure that complainants will receive adequate protection and redress under the statutes administered and enforced by the Commission. An effective complaint process enables the Commission to monitor activities in the marketplace and provides an early warning system for identifying potential problems.

The Commission's regulations encourage and support the resolution of disputes by the parties themselves prior to the filing of a formal complaint with the Commission.¹ If the potential complaint can be resolved or the number of issues in a potential complaint can be reduced informally, the Commission is then able to focus on the significant remaining issues raised in the formal complaints ultimately filed with the Commission.

A. Justification

1. CIRCUMSTANCES THAT MAKE THE COLLECTION OF INFORMATION NECESSARY

The information is used by the Commission to implement the statutory provisions of the Federal Power Act (FPA), 16 USC 791a-825r; the Natural Gas Act (NGA), 15 USC 717-717w; the Natural Gas Policy Act (NGPA), 15 USC 3301-3432; the Public Utility Regulatory Policies Act of 1978 (PURPA), 16 USC 2601-2645; the Interstate Commerce Act (ICA), 49 App. USC 1 *et seq.*; the Outer Continental Shelf Lands Act, 43 USC 1301-1356; and the Energy Policy Act of 2005, (PL 109-58) 119 Stat. 594.

¹ Additional information on filing complaints and resources for resolution is available at <http://www.ferc.gov/legal/complaints.asp>.

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For the natural gas industry, section 14(a) of the NGA² provides that the Commission may permit any person to file with it a statement in writing, under oath or otherwise, as it shall determine, as to any or all facts and circumstances concerning a matter which may be the subject of an investigation.

For public utilities, section 307(a) of the FPA³ provides that the Commission may permit any person to file with it a statement in writing, under oath or otherwise, as it shall determine, as to any or all facts and circumstances concerning a matter which may be the subject of an investigation.

Section 215(d) (5) of the FPA⁴ provides that the Commission, upon its own motion or upon complaint, may order the Electric Reliability Organization to submit to the Commission a proposed reliability standard or a modification to a reliability standard that addresses a specific matter if the Commission considers such a new or modified reliability standard appropriate to carry out this section.

For hydropower projects, section 19 of the FPA⁵ provides that, as a condition of a license, jurisdiction is conferred upon the Commission, upon complaint of any person aggrieved or upon its own initiative, to exercise such regulation and control over services, rates, and charges until such time as the State shall have provided a commission or other authority for such regulation and control.

For qualifying facilities, section 210(h)(2)(B) of PURPA⁶ provides that any electric utility, qualifying cogenerator, or qualifying small power producer may petition the Commission to enforce the requirements of the Commission's PURPA regulations.

For oil pipelines, in Part 1 of the Interstate Commerce Act, sections 1, 6 and 15 (recodified by PL 95-473 and found as an appendix to Title 49 USC),⁷ the Commission is authorized to investigate the rates charged by oil pipeline companies subject to its jurisdiction. If such rate has been filed and allowed by the Commission to go into effect without suspension and hearing, the Commission can investigate the effective rate on its own motion or by complaint filed with the Commission. Section 13 of the ICA⁸ provides that any person can file a complaint complaining of anything done or omitted to be done by an oil pipeline.

2 15 USC 717m; accord 15 USC 717d.

3 16 USC 825f(a); accord 16 USC 824e.

4 16 USC 824o(d)(5).

5 16 USC 812.

6 16 USC 824a-3(h)(2)(B).

7 49 App. USC 1 et seq (1988).

8 *Id.* 13.

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In Order No. 602,⁹ the Commission revised its regulations governing complaints filed with the Commission under the above statutes. Order No. 602 was designed to encourage and support consensual resolution of complaints, and to organize the complaint procedures so that all complaints are handled in a timely and fair manner. In order to achieve this result, the Commission revised Rule 206 of its Rules of Practice and Procedure (18 CFR 385.206) to require that a complaint satisfy certain informational requirements, to require that answers be filed in a 20-day time frame, and to provide that parties may employ various types of alternative dispute resolution procedures to resolve their disputes.

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

Complaints may be filed by interested/affected parties regarding oil, natural gas, electric and hydropower operations, facilities, and services. The data in complaints are used by the Commission in establishing a basis to make an initial determination regarding the merits of the complaint and whether or not to undertake further investigation or provide relief. Investigations may range from whether there is undue discrimination in rates or services to questions regarding market power of regulated entities to environmental concerns. In order to make an informed determination, it is important to know the specifics underlying any oil, gas, electric, and hydropower complaint “up-front” in a timely manner and in sufficient detail to allow the Commission to act swiftly. In addition, such complaint data help the Commission and interested parties to monitor, e.g., the market for undue discrimination or exercises of market power. The information submitted is voluntary but submitted pursuant to prescribed filing requirements. The Commission implements these filing requirements in the Code of Federal Regulations (CFR) under 18 CFR Parts 343 and 385.206.

If the FERC-600 information was not required, the Commission would be unable to efficiently evaluate and react to a variety of public/industry concerns within the Commission’s jurisdiction.

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

The reporting requirements for persons filing complaints were created to reflect the Commission’s commitment to using information technology to both reduce the burden on reporting entities and to increase the usefulness of the data reported. Complainants thus may submit their complaints electronically through the Commission’s eFiling 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

⁹ 64 FR 17087 (April 8, 1999)

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Commission filings and data requirements are periodically reviewed in conjunction with OMB clearance expiration dates. This includes a review of the Commission's regulations and data requirements to identify any duplication. There are no similar sources of information available that can be used or modified for use for the purpose described in Item 1. Each complaint contains information specific to the situation and time.

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

Large businesses -- as well as some small businesses and individuals -- may be affected by the FERC-600 reporting/data requirements; these filing requirements pertain to all complaint filings as indicated in Item 1. The Commission's regulations impact the day-to-day operations of shippers, the general public, major and non-major oil and natural gas pipelines, electric and hydroelectric companies. Specific efforts (such as the Enforcement Hotline and Dispute Resolution Service) have been made by the Commission to minimize the burden imposed on the general public, shippers, and jurisdictional companies.

The FERC-600 data requirements were designed to further the goals of promoting early resolution of contested matters and complaints by focusing on consensual decision making, administrative dispute resolution and expeditious decision making. In addition, the Commission has instituted procedures for resolving complaints involving small claims where the amount in controversy is less than \$100,000 and the impact on other parties is minimal in order to reduce where possible the burden imposed on small businesses.

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

The Commission receives complaint information under FERC-600 on an ongoing basis. The Commission has not prescribed the frequency for filing complaints. They are received as voluntary filings by parties as events occur and at times where disputes cannot be resolved among the parties. These filings are made to the Commission to resolve these differences.

7. EXPLAIN ANY SPECIAL CIRCUMSTANCES RELATING TO THE INFORMATION COLLECTION

The complaint procedure meets 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

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In accordance with OMB requirements in 5 CFR 1320.8(d), a 60-day notice requesting comments on FERC-600 was issued on 2/3/2014 in Docket No. IC14-6.¹⁰ There were no comments filed in response to the 60-day notice.

The 30-day notice was issued on 4/23/2014 and is being published in the Federal Register on 4/30/2014.¹¹

9. EXPLAIN ANY PAYMENT OR GIFTS TO RESPONDENTS

There are no payments or gifts to respondents/complainants associated with the information collection.

10. DESCRIBE ANY ASSURANCE OF CONFIDENTIALITY PROVIDED TO RESPONDENTS

The Commission generally does not consider the data filed in complaint filings to be confidential. A complainant nevertheless may request privileged treatment of information contained in a complaint to the extent permitted by law and pursuant to 18 CFR Section 388.112 of the Commission's regulations.

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

There are no questions of a sensitive nature associated with this data collection.

12. ESTIMATED BURDEN OF COLLECTION OF INFORMATION

The estimated burden for the collection is:

¹⁰ The notice is available in FERC's eLibrary system at <http://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=13453684> (published at 79FR7651, 2/10/2014).

¹¹ The 30-day notice is available in FERC's eLibrary at <http://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=13523823> .

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	Number of Respondents (1)	Annual Number of Responses per Respondent (2)	Total Number of Responses (1)*(2)=(3)	Average Burden Hours & Cost Per Response (4)	Total Annual Burden Hours & Total Annual Cost (5)	Average Annual Cost per Respondent (6)
FERC-600	62	1	62	160 \$11,280 ¹²	9,920 ¹³ \$699,360 ¹⁴	\$11,280

More information on the changes in the estimates is provided in #15, below.

13. ESTIMATE OF TOTAL ANNUAL COST BURDEN TO RESPONDENTS

There are no capital or start-up costs associated with FERC-600.

14. ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT

	Number of Employees (FTEs)	Estimated Annual Federal Cost¹⁵
Analysis of Filings	4	\$586,364
PRA Administration Cost ¹⁶	-	\$5,092
Total		\$591,456

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

There are no program changes or revisions to FERC-600 reporting requirements. However, for this 2014 clearance request, we have re-evaluated the time and effort involved in preparing and filing a complaint, in light of the current complexities of the industries regulated by FERC. There thus are adjustments to:

¹² We assume that the respondents to this collection are similarly situated to FERC employees in terms of salary plus benefits. Therefore, we are using an estimate of \$70.50/hour (the average hourly cost of a FERC employee (salary plus benefits) for Fiscal Year 2014).

Average cost per response=Average burden hours per response [160 hours] * \$70.50 per hour.

¹³ Total annual burden hours=Total number of responses [62] * Average burden hours per response [160].

¹⁴ Total annual cost=Total annual burden hours [9,920] * hourly cost [\$70.50].

¹⁵ The cost per FTE (for salary and benefits) in 2014 is \$146,591.

¹⁶ The PRA (Paperwork Reduction Act) Administration Cost is based on the Commission's estimated staff time and resources to comply with the requirements of the PRA.

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- Increase the burden per response (to 160 hours, rather than 14 hours) to reflect the current complexities of the industries, and the issues that have not been resolved between the parties and are being submitted to FERC
- Decrease the average number of annual respondents and responses (to 62, rather than 88). (This figure fluctuates annually, and reflects more current data.)

The following table shows the change to the burden due to the adjustments mentioned above. The table reflects format used in reginfo.gov and ROCIS.

FERC-600	Total Request	Previously Approved	Change due to Adjustment in Estimate	Change Due to Agency Discretion
Annual Number of Responses	62	88	-26	0
Annual Time Burden (Hr.)	9,920	1,232	+8,688	0
Annual Cost Burden (\$)	0	0	0	0

16. TIME SCHEDULE FOR PUBLICATION OF DATA

The data are situation-specific and are not collected for the purpose of a publication.

17. DISPLAY OF EXPIRATION DATE

The expiration date is displayed in a table posted on ferc.gov at <http://www.ferc.gov/docs-filing/info-collections.asp>. The reporting requirements under FERC-600 are based on regulations and are not filed on formatted/printed forms. Thus, there is no data instrument on which to display an OMB expiration date.

18. EXCEPTIONS TO THE CERTIFICATION STATEMENT

This collection does not employ statistical methods.