

FERC-583 (OMB Control No. 1902-0136)
(9/24/2014)

SUPPORTING STATEMENT
FERC-583, Annual Kilowatt Generating Report (Annual Charges)
(Three Year Extension Requested)

The Federal Energy Regulatory Commission (FERC or Commission) requests the Office of Management and Budget (OMB) extend its approval of **FERC-583, Annual Kilowatt Generating Report (Annual Charges)**, for an additional three years. FERC-583 is an existing information collection (OMB Control No. 1902-0136), consisting of a set of filing requirements and notice procedures as contained in 18 CFR Part 11. (No changes are being made to the reporting requirements.)

A. JUSTIFICATION

11840.CIRCUMSTANCES THAT MAKE THE COLLECTION OF INFORMATION NECESSARY

The filing requirements for FERC-583 are contained in 18 CFR Part 11 and are mandated by Section 10(e) of the Federal Power Act (FPA) (16 U.S.C. 803(e)).

Section 10(e) of the Federal Power Act requires the Commission to collect annual charges from hydropower licensees for, among other things, the cost of administering Part I of the FPA and for use of United States dams. Part 11 of the Commission's regulations provides the manner in which licensees are charged for such costs. Prior to the adoption of the current regulations in 1958 and 1963, administrative charges were not based on the actual costs of the government, but were in the nature of set fees that were billed for the calendar year. In addition, section 3401 of the Omnibus Budget Reconciliation Act of 1986 authorizes the Commission to "assess and collect fees and annual charges in any fiscal year in amounts equal to all of the costs incurred by the Commission in that fiscal year."

On May 8, 1987, the Commission issued Order 469 in Docket No. RM86-2¹ which revised the regulations governing the timing and method used to determine annual charges. In the order in Docket No. RM86-2, the Commission changed the timing of billing of reimbursable administrative charges from a calendar year to a federal fiscal year basis. This change synchronized billing procedures so that charges are based on costs and power generation data from the same period of time.

¹ Posted in FERC's eLibrary at <http://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=12073668>

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In Docket No. RM93-7, Order No. 576,² (March 15, 1995), the Commission amended its regulations governing the assessment of annual charges by allocating the charges for administrative costs among a single class of licensees and exemptees, based on the respective capacity of each hydropower project as measured in kilowatts, with a maximum charge and with the assessments to commence at the same time as the commencement of project construction. The final rule also eliminated annual charges for minor licensees and did not impose annual charges on exempt applications. The final rule retained the current practice of separate allocation for municipal and non-municipal licensees, as well as the existing formulae for allocating those costs between the two classes of major licensees. The final rule amended 18 CFR Section 11.1 to substitute kilowatts for horsepower in stating a projects' authorized installed capacity. This change was designed to reflect modern usage in the rating of equipment used in hydropower projects. For the few hydro mechanical projects all of which are smaller projects, the Commission imputed a kilowatt figure by multiplying these projects' existing horsepower capacity by three fourths.

In Docket No. RM96-2 in Order No. 584,³ the Commission reversed itself by restoring the *status quo* in the formulae for allocating annual charges among licenses, by correcting an error that occurred in Order No 576. By making the change in defining "authorized installed capacity" in terms of kilowatts instead of horsepower, the Commission inadvertently neglected to include the horsepower to kilowatt adjustment in the regulations that referred to generation. The effect of the inadvertent omission was to seriously distort the balance of capacity and generation in determining the allocation of certain annual charges. The Commission corrected the omission by adding conversion adjustments to the appropriate regulatory sections.

The United States Court of Appeals for the District of Columbia Circuit⁴ concluded that the Commission is required to determine the reasonableness of costs incurred by other Federal agencies (OFAs) related to the participation of those agencies in the Commission's proceedings under the Federal Power Act when those agencies seek to include such costs in the administrative annual charges licensees must pay to reimburse the United States for the cost of administering Part 1. The court also remanded to the Commission issues regarding the eligibility of specific types of OFA costs for reimbursement, and issues regarding the availability of refunds for certain charges.

² <http://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=3008006>

³ <http://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=8304780> (11/13/1995) and

<http://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=8304778> (11/14/1995)

⁴ City of Tacoma, WA, *et al.* v. FERC, 331 F 3d 106 (D.C. Cir. 2003) (*Tacoma v. FERC*).

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In an Order On Remand And Acting On Appeals Of Annual Charges Bills⁵ (issued June 18, 2004, in Project No. 2842-038, et al.), the Commission responded to the Court's decision. The Commission established which OFA costs are eligible to be included in administrative annual charges. It also established procedures for Commission review of future OFA costs submittals and those costs currently under appeal. Finally, it introduced a form⁶ for such federal agency cost submittals and announced a technical conference.

11841.HOW, BY WHOM, AND FOR WHAT PURPOSES THE INFORMATION IS TO BE USED AND THE CONSEQUENCES OF NOT COLLECTING THE INFORMATION

The Commission uses information collected on FERC-583 to carry out its statutory mandate. Specifically, the Commission staff uses the information to determine the amount of annual charges to be assessed licensees for reimbursable government administrative costs (including other Federal agencies) and for the use of government dams.

If the information were not collected, the Commission would be unable to have an accurate basis for assessing charges and would not be able to carry out its responsibilities under the Federal Power Act. In addition, Congress has directed the Commission to collect fees and annual charges equal to its annual appropriation. The Commission deposits the fees and annual charges that it collects in the Treasury's general fund.

11842.DESCRIBE ANY CONSIDERATION FOR THE USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN AND TECHNICAL OR LEGAL OBSTACLES TO REDUCING BURDEN

The Commission allows for the information filed under 18 CFR Part 11 to be filed using an automated file for computation of annual charges for hydro facilities. Manually computed filings are still accepted as well.

11843.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 periodically reviews notice requirements as OMB review dates arise or as the Commission may see fit in carrying out its responsibilities under the FPA in order

⁵ <http://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=10172019>

⁶ The current version is posted at <http://www.ferc.gov/docs-filing/forms/form-ofa/form-ofa.doc>.

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to eliminate duplication and minimize the filing burden. There is no duplication of information. A number of licensees are required to report the same information for other license conditions, but where those conditions exist, these licensees are permitted to file a single report covering all related requirements. It should be noted that the Commission has no other sources available on gross generation. Gross generation data, as opposed to net generation data, is necessary to ensure that the kilowatt hour figures are reliable for billing purposes.

11844.METHODS USED TO MINIMIZE BURDEN IN COLLECTION OF INFORMATION INVOLVING SMALL ENTITIES

- Based on SBA's former definition,⁷ none of the electric utilities or hydropower facilities affected by FERC-583 regulations are small businesses or small entities.⁸ If small entities were affected, they would not have to file because they would be exempt under other provisions of the regulations. 18 CFR 11.6 describes how some State and municipal and other licensees and exemptees may show and claim total or partial exemption from the assessment of Charges for Costs of Administration, Use of Tribal Lands and Other Government Lands, and Use of Government Dams.
- 18 CFR 11.10 addresses waiver and exemption from Charges for Headwater Benefits.

11845.CONSEQUENCE TO FEDERAL PROGRAM IF COLLECTION WERE CONDUCTED LESS FREQUENTLY

The information collection cannot be discontinued nor collected less frequently due to statutory requirements. The information required in 18 CFR Part 11 is required only once per year in order to compute annual charges that will be assessed to applicable regulated entities. These reports are required to support each assessment of annual charges.

7 13CFR121.201 (in 2013), Footnote 1, for utilities stated that “[a] firm is small if, including its affiliates, it is primarily engaged in the generation, transmission, and/or distribution of electric energy for sale and its total electric output for the preceding fiscal year did not exceed 4 million megawatt hours.”

8 The Small Business Administration's (SBA's) Office of Size Standards develops the numerical definition of a small business. The SBA recently revised its size standard for electric utilities (effective January 22, 2014) to a standard based on the number of employees, including affiliates (from a standard based on megawatt hours). [Refer to the SBA Final Rule on “Small Business Size Standards: Utilities” at 78 FR 77343 (12/23/2013), and to SBA's regulations at 13 CFR 121.201, Sector 22, Utilities.] FERC does not yet have specific data on the number of small entities using the new SBA definition.

11846.EXPLAIN ANY SPECIAL CIRCUMSTANCES RELATING TO THE INFORMATION COLLECTION

The Commission meets the guidelines set by out by OMB in 5 C.F.R. 1320.5.

11847.DESCRIBE EFFORTS TO CONSULT OUTSIDE THE AGENCY: SUMMARIZE PUBLIC COMMENTS AND AGENCY'S RESPONSE TO THESE COMMENTS

In accordance with OMB requirements in 5 C.F.R. 1320.8(d), FERC issued a Notice requesting comments on the reporting requirements of FERC-583 in Docket No. IC14-10 on 4/2/2014 (at <http://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=13500998>) and published in the Federal Register (79FR19888, 4/10/2014). There were no comments filed in response to this Notice.

A 30-day notice requesting public comment is also being published in the Federal Register.

11848.EXPLAIN ANY PAYMENT OR GIFTS TO RESPONDENTS

No gifts or payments have been made to respondents.

11849.DESCRIBE ANY ASSURANCE OF CONFIDENTIALITY PROVIDED TO RESPONDENTS

The Commission's existing regulations at 18 C.F.R. § 388.112 provide a process for filers to submit documents with a request for privileged treatment. The Commission does not consider FERC-583 information confidential.

11850. PROVIDE ADDITIONAL JUSTIFICATION FOR ANY QUESTIONS OF A SENSITIVE NATURE, SUCH AS SEXUAL BEHAVIOR AND ATTITUDES, RELIGIOUS BELIEFS, AND OTHER MATTERS THAT ARE COMMONLY CONSIDERED PRIVATE.

This collection does not contain any questions of a sensitive nature.

11851.ESTIMATED BURDEN ON COLLECTION OF INFORMATION

The current OMB-approved annual estimates in ROCIS and reginfo.gov follow.

FERC-583, Annual Kilowatt Generating Report (Annual Charges)	Annual Number of Responses	Annual Total Burden Hours	Annual Total Burden Hour Cost for Industry
	459	918	\$62,835

See #15, below, for information on the proposed estimated changes to burden and the proposed new inventory figures.

11852.ESTIMATE OF THE TOTAL COST BURDEN TO RESPONDENTS

There is no capital or start-up cost associated with FERC-583. All costs are related to burden hours (\$62,835) and are shown in #12 and 15.

11853.ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT

The estimated annual cost to the Federal government is as follows:

Activity	Estimated Cost
PRA ⁹ Administrative Cost ¹⁰	\$5,092
Analysis and Processing of Filings and Data (1.5 FTE) ¹¹	\$219,887
Total	\$224,979

11854.REASONS FOR CHANGES IN BURDEN INCLUDING THE NEED FOR ANY INCREASE

The Commission's updated estimates for the annual public reporting burden for the information collection are:

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⁹ Paperwork Reduction Act of 1995 (PRA)

¹⁰ 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.

¹¹ FTE=Full-Time Equivalent (2080 hours/year). For 2014, the average FTE (salary plus benefits) is \$146,591 per year or \$70.50 per hour.

Number of Respondents¹² (1)	Annual Number of Responses per Respondent (2)	Total Number of Responses (1)*(2)=(3)	Average Burden Hours & Cost Per Response¹³ (4)	Total Annual Burden Hours & Total Annual Cost (3)*(4)=(5)	Cost per Respondent (\$) (5)÷(1)
517	1	517	2 \$141	1,034 \$72,897	\$141

Note that neither the reporting requirements nor the hours per response (2 hrs.) have changed.

Summary table of changes to burden hours, with current approved inventory, as listed in ROCIS and reginfo.gov are:

	Total Request	Previously Approved	Change due to Adjustment in Estimate	Change Due to Agency Discretion
Annual Number of Responses	517	459	+58	0
Annual Time Burden (Hr.)	1,034	918	+116	0
Annual Cost Burden (\$)	0	0	0	0

We estimate an adjustment of +58 responses annually. The increase in the number of responses is due to improved data analysis and reporting efforts, as well as normal fluctuations in the industry. (For example, some projects may have had FERC-approved increases to their authorized capacity to exceed 1.5 MW, triggering their requirement to file the FERC-583 data (per 18CFR11.1). Other entities may have changed ownership, with each project now filing its own data, rather than a company filing for all of its projects. Fluctuations like this are normal over the years.)

11855.TIME SCHEDULE FOR THE PUBLICATION OF DATA

The data are used for regulatory purposes in connection with processing annual charges for jurisdictional companies. The Commission does not publish the data.

¹² Based on data from Fiscal Year 2013, there were 517 projects, owned by 241 FERC-regulated private and public licensees. Many of the licensees owned multiple projects and made filings on behalf of more than one project

¹³ The estimates for cost per response are derived using the following formula: Average Burden Hours per Response * \$70.50 per hour.

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11856.DISPLAY OF EXPIRATION DATE

It is not appropriate to display the expiration date of OMB approval of the information collection. The information is not collected on a standard printed form. Applicants prepare and submit a notice that is in a format (notice) that meets the Commission's requirements.

11857.EXCEPTION TO THE CERTIFICATION STATEMENT

The data collected for this reporting requirement is not used for statistical purposes.