

FERC Form 580 (OMB Control No. 1902-0137)

Supporting Statement

FERC Form 580: Interrogatory on Fuel and Energy Purchase Practices Pursuant to Section 205 of the Federal Power Act

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 Form 580 (Interrogatory on Fuel and Energy Purchase Practices, pursuant to Section 205(f)(2) of the Federal Power Act) for a three-year period under OMB Control Number 1902-0137.

Commission staff proposes changes to the FERC Form 580 in the form of adding or removing various data fields in order to streamline the form's use.

1. CIRCUMSTANCES THAT MAKE THE COLLECTION OF INFORMATION NECESSARY

When Congress passed the Public Utility Regulatory Policies Act of 1978 (PURPA), it amended Federal Power Act (FPA) Section 205 to mandate: "not less frequently than every 2 years ... the Commission shall review, with respect to each public utility, practices under any automatic adjustment clauses of such utility to insure efficient use of resources (including economical purchase and use of fuel and electric energy) under such clauses". This mandate was the impetus for the Commission's first investigation of automatic adjustment clauses (AACs) and ordering subsequent investigations of automatic adjustment clause practices in Docket No. IN79-6. In Order 623, the Commission stated:

"Pursuant to this requirement, the Commission intends to institute such a review of practices under automatic adjustment clauses employed by each public utility. This initial review will be conducted in addition to the ongoing field audits of the Commission, which will continue to examine all aspects of utility operations, including fuel programs, purchasing practices, management systems and other matters. The review will utilize the results of audits and other data filed with the Commission, in addition to the materials developed specifically by the review."

The requirements established in the investigation were not set out in the Code of Federal Regulations (CFR).

The first Commission interrogatory issued in 1979 and subsequent interrogatories issued every two years thereafter. The 2014 interrogatory will be the Commission's 18th investigation. As the review is congressionally mandated, Commission investigations of automatic adjustment clauses will continue until Congress abolishes the requirement.

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

The FERC Form 580 interrogatory is conducted every two years. Through it, the Commission collects information from public utilities subject to its jurisdiction that own or operate power plants that generate a minimum of 50MW. Presently there are approximately 82 public utilities subject to this requirement.

The Commission uses the information collected through the FERC Form 580 interrogatory to review utility purchase and cost recovery practices through AACs in order to ensure efficient use of resources¹. The Commission uses the information to evaluate costs in individual rate filings and to supplement periodic utility audits. The public also uses the information in this manner. Without the FERC Form 580 interrogatory, the Commission would not have the requisite information available to conduct the necessary review the FPA mandates.

3. DESCRIBE ANY CONSIDERATION OF THE USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN AND 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. 619², 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.

The Commission collects Form 580 information in an electronic form fillable Adobe Acrobat PDF (Portable Document Format). The Commission developed and implemented this form four years ago. As a result of comments from utilities during the last two filing cycles and analysis of the information by Commission staff, the Commission is making some adjustments to the form to support information entry and analysis.

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 Form 580. The Commission received no comments regarding this issue.

¹ In compliance with Commission regulations in 18 CFR 35.14

² "Electronic Filing of Documents," Order No. 619, 65 FR 57088 (Sept. 21, 2000), FERC Stats. & Regs. ¶ 31,107 (2000).

The Commission uses the information collected in the Form 580 together with information from the Energy Information Administration (EIA) to compile a complete data set necessary for adjustment clause analysis. The information from EIA supplements the Form 580 data and analyses, but it is not duplicative. Specifically, the fuel contract data the Commission collects in the Form 580 has significantly greater granularity and the Commission does not collect their transportation data. There is no other known source of the FERC Form 580 information.

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

This investigation does not collect information from small entities.

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

The Commission collects Form 580 information every other year as required under Section 205(f)(2) of the FPA as amended by Section 208 of PURPA. If the collection were conducted less frequently, the Commission would not be able to carry out the reviews required by this statute.

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 notice³ and a 30-day notice⁴ to the public regarding this information collection on 5/8/2013 and 7/22/2013 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. Two utilities responded to the 60-day notice and the Commission addressed their comments in the 30-day notice as well as in the following section. The amended form accompanies this supporting statement.

All received public comments are posted in ROCIS as part of this clearance package and

³ 78 FR 26766.

⁴ 78 FR 43871

outlined in further detail below.

Proposed changes to the Form 580 and comments received in response to those proposed changes:

Question 1

- Repair the email field to eliminate error messages.

Question 2

- Add a column labeled “Is this AAC a fuel adjustment clause?”
- Add a column labeled “Tariff volume number containing”. This information will aid staff in locating AACs.
- Remove the column and thus the request for information titled:
 - o “Type/s of AAC”
 - o “Type of costs that were passed through the AAC - if fuel, state fuel type”

There has been an increasing number of AAC-related cost types. This field makes it difficult for Commission staff to repopulate the dropdowns for this column without additional OMB approval. The information otherwise gained from respondents that supply the information collected in these columns will not be lost. Staff will locate and recover the information from Commission rate filings by using the AAC identification information given by respondents in the first three columns of Question 2.

- Rename Question 2 columns as follows to correct typographical errors:

From	To
Identify service agreement within rate schedule containing AAC	Identify service schedule, if any, where the AAC is located within the rate schedule.
If rate schedule superseded or abandoned during 2012-2013	Was rate schedule superseded or abandoned during 2012-2013?

Additional changes to Question 2 table:

- Add a check box to enable the utility to indicate that it had no non-transmission related AACs during the reporting years, if the situation applies. This box, when checked, clearly indicates that there were no AACs to report.
- Add a “Copy Row” button to facilitate data entry.

Utilities with no fuel adjustment clauses only need to respond to Questions 1 and 2. Utilities with a fuel adjustment clause (FAC) will continue to complete the entire form.

Question 3

- Reword the question from:

From	To
If during the 2010 and 2011 period, the Utility had any contracts or agreements for	If during the 2012-2013 period, the Utility had any contracts or agreements for the

<p>the purchase of either energy or capacity under which all or any portion of the purchase costs were passed through the AAC, for each purchase provide the information requested in the table below. Provide the information separately for each reporting year 2010 and 2011. Do not report purchased power where none of the costs were recovered through an AAC.</p>	<p>purchase of either energy or capacity under which all or any portion of the purchase costs were passed through a fuel adjustment clause (FAC), for each purchase from a PURPA Qualifying Facility (QF) or Independent Power Producer (IPP) provide the information requested in the non-shaded columns of the table below. Provide the information separately for each reporting year 2012 and 2013. Do not report purchased power where none of the costs were recovered through an FAC. For each purchase where costs were flowed through an FAC, fill-in the non-shaded columns and either “Only energy charges” or “The total cost of the purchase of economic power” columns, whichever apply</p>
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The Commission is only interested in QF and IPP information here and not every power purchase contract/agreement. The language will be similar to what was used in Form No. 580 interrogatories prior to 2010.

- Remove the request for information and thus the columns titled:
 - o Was an after-the-fact comparison made of actual avoided costs against the purchase costs?
 - o Were purchases made on an hourly economic dispatch basis?

From the information provided in the 2010 and 2012 filings the Commission has found that it can fully evaluate regulatory compliance without this information.

Question 6

-Change the question as follows:

From	To
<p>For each fuel supply contract, where costs were subject to 18 CFR 35.14, (including informal agreements with associated companies), in force at any time during 2012 and/or 2013, of longer than one year in duration, provide the requested information. Report the data individually, for each contract, for each calendar year. [No response to any part of Question 6 for fuel oil no. 2 is necessary.] Report all fuels consumed for</p>	<p>For each fuel supply contract, of longer than one year in duration, in force at any time during 2012 and/or 2013, where costs were subject to 18 CFR 35.14, (including informal agreements with associated companies), provide the requested information. Report the data individually for each contract for each calendar year. No response to any part of Question 6 for fuel oil no. 2 is necessary. Report all fuels consumed for electric power</p>

<p>electric power generation and thermal energy associated with the production of electricity. Information for only coal, natural gas, and oil should be reported. Information for ALL FUELS e.g. fossil fuels, wood chips), EXCEPT URANIUM, should be reported</p>	<p>generation and thermal energy associated with the production of electricity. Information for only coal, natural gas, and oil should be reported.</p>
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- As with the request for transportation information that was eliminated in 2010, the Commission has found alternative information sources and analytical approaches sufficient to eliminate the request for fuels other than coal, natural gas and oil.
- Add a “Copy Contract” button.

Question 6a

- Add a column labeled “Is contract evergreen?”
- Add a column labeled “Pipeline quality? (Y/N)”.

Question 6b

- Add a new column to the fuel quantity section labeled: “Coal (x10³tons) not delivered by end of contract year.”
- Add a column labeled “Pipeline quality? (Y/N)”.

Public Comment: Southern Company Services, Inc. (SCS) requested clarification addressing why the Commission proposes to add a new column in Question 6b titled “Coal (x10³ tons) not delivered by end of contract year.” SCS states that proper contextualization of annual variances between actual deliveries and contract quantities could impact confidential negotiations, and that it is commercially sensitive business information. Further, SCS states that the efficiencies gained by the other revisions proposed by the Commission are outweighed by the addition of this new column. SCS states that if the Commission deems that such inquiry is appropriate for Form 580, the Commission should provide more context around its intent in proposing such an addition.

FERC Response: The proposal to add the new column to Question 6b originated with the Form 580 filers. Their issue is that it is not possible in the current form to report coal delivered in, for example, 2012 under a 2011 contract. Without the new column, the Commission would have no way of knowing that a delivered coal quantity less than its contract quantity was coal truly not delivered, that it wasn’t merely a typographical error in the form. Likewise, the Commission would assume all coal reported as delivered, was delivered during the contract year when it may not have been but was reported as delivered because there was no means provided in the form to report that it was not delivered. Not having the information that the column would provide, potentially results in assumptions leading to skewed data calculations. Further, coal contract amounts, delivery amounts, and shortage amounts have been determined for decades to be public information. In addition, the data requested in the new column is data routinely calculated by the utility and is readily available to enter into the form. Lastly, given the significant amount of information that the Commission proposes to eliminate from the

Form 580 for the 2014 reporting cycle, the reporting burden will not increase by adding this one column.

Questions 7 and 8. There are no proposed changes.

Glossary: Define Evergreen contracts as follows: Evergreen contract: a contract that is renewed automatically or by notice from year to year until canceled by either party.

Public Comment: Pacific Gas and Electric Company (PG&E) requested *de minimis* benchmarks from the Commission so that filers will know whether or not they are required to answer a question in the form without filing for a waiver. They believe that in cases where the burden of providing the information requested is outweighed by the information provided would be a simple matter to quantify up front.

FERC response: In some cases, the Commission has found it unnecessarily burdensome for utilities to answer a particular question based on the information gained from them doing so. Not surprisingly, the *de minimis* determination requires a case-specific analysis using a utility-by-utility approach. Any utility that believes that their burden is not worth the information that the Commission would gain is welcome to request a waiver and in doing so should provide detailed case-specific information supporting its claim. This has been the procedure used in prior years by the Commission.

Public Comment: PG&E also requests clarification of the term “Type of Request” stated at page 2 of FERC’s Notice.

FERC response: OMB requires approval/renewal of approvals of all collections of information every three years. The three year period does not refer to the collection frequency, but the period of time beyond which OMB’s approval of a collection of information would expire if not renewed.

DESK REFERENCE:

- Added/deleted instructions to the Desk Reference, as appropriate, to support the changes in the form described herein. It accompanies this document.

REPORTING BURDEN:

- The reporting burden for the previous round included 900 hours to cover training related to use of the new form. Two collections have been conducted since this time. Therefore, the 900 hours will be removed from this round. Burden related to training time required to address the recent changes to the FERC Form 580 are minimal for this clearance.

9. EXPLAIN ANY PAYMENT OR GIFTS TO RESPONDENTS

There are no payments or gifts to respondents in the FERC Form 580 requirements.

10. DESCRIBE ANY ASSURANCE OF CONFIDENTIALITY PROVIDED TO RESPONDENTS

The Commission does not consider the information collected in Form 580 filings to be confidential. However, the filer may request non-public treatment of privileged information for Question 5, so the Commission provides a separate file for the Privileged filing (at the filer's discretion) of Question 5 on www.ferc.gov, on in www.reginfo.gov, and ROCIS.

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 the Form 580 reporting requirements.

12. ESTIMATED BURDEN OF COLLECTION OF INFORMATION

The Commission breaks down the filings by respondents with and without FACs as follows:

FERC Form 580: Interrogatory on Fuel and Energy Purchase Practices					
	Number of Respondents (A)	Number of Annual Responses Per Respondent (B)	Total Number of Annual Responses (A)x(B)=(C)	Average Burden Hours per Response (D)	Estimated Total Annual Burden⁵ (C)x(D)
Respondents with FACs	37	0.5	18.5	103	1,905.5
Respondents with AACs, but no FACs	10	0.5	5	20	100
Respondents with no AACs nor FACs	35	0.5	17.5	2	35
TOTAL	82				2,040.5

The total estimated annual cost burden to respondents is \$142,835 [2,040.5 * \$70/hour⁶ = \$142,835].

⁵ The Form itself is only collected biennially but the data on the form is annual data. Therefore we maintain the convention of showing burden on an annual basis.

⁶ Average salary (per hour) plus benefits per full-time equivalent employee

FERC Form 580 respondents incur the costs related to the time and expertise it takes to gather and fill-in the information.

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

	Number of Employees (FTE)	Estimated Annual Federal Cost
Analysis and Processing of filings ⁷	0.5	\$72,909
PRA ⁸ Administrative Cost ⁹		\$2,250
FERC Total		\$75,159

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 changes to the FERC Form 580 do not affect the information collection burden. However, Commission staff has noted a decrease in the number of respondents (and resultant responses) to the FERC Form 580 due to previous overestimations in the number of respondents.

More specifically, Commission staff reduced the estimated number of:

- Respondents with AACs, but not FACs. Commission staff adjusted this number of respondents from a previous estimate of 125 respondents to 10 to reflect actual respondent activity. The total estimated burden changed mostly due to the shift in that number of respondents.
- Respondents with FACs: the number of respondents decreased by eight respondents (from 45 to 37) between the previous and current burden estimates.
- Respondents with no AACs nor FACs: the number of respondents decreased by five respondents (from 40 to 35) between the previous and current burden estimates.

The reason for the general decrease in the number of responses is because Commission staff overestimated the response numbers in the previous clearance. Commission staff have adjusted the numbers to better reflect an accurate burden estimate for this clearance period.

⁷ Based upon 2013 FTE average salary plus benefits (\$145,818)

⁸ Paperwork Reduction Act of 1995 (PRA)

⁹ Based upon 24 hours of Commission staff time/effort

In addition, we are removing a one-time reporting burden of 900 hours associated with the learning of new software, an effort that has completed.

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 hours¹⁰. Commission staff corrected the 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 Question #12 (above). This was done erroneously in the previous FERC-580 supporting statement. Commission staff corrected the error within the current proposed clearance package.

FERC-580	Total Request	Previously Approved	Change due to Adjustment in Estimate	Change Due to Agency Discretion
Annual Number of Responses	41	63	-22	0
Annual Time Burden (Hr)	2,041	4,500	-2,459	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

FERC Form 580 is available from the Commission’s website as a standard downloadable form. The expiration date of 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.

¹⁰ https://www.rocis.gov/rocis/jsp/common/ROCIS_HOW_TO_Guide_for_AGENCY_Users_of_ICR_Module-03192012_v2.pdf, p.37