

Supporting Statement for
FERC-500, Application for License/Relicense for Water Projects with More than 5 Megawatt Capacity

The Federal Energy Regulatory Commission (Commission or FERC) requests that the Office of Management and Budget (OMB) review and approve **FERC-500, Application for License/Relicense for Water Projects with More than 5 Megawatt Capacity**, for a three year period. FERC-500 (OMB Control No. 1902-0058) is an existing Commission data collection (filing requirements), as stated by 18 Code of Federal Regulations (CFR) 4.40. Additionally, other filing requirements apply to and affect this information collection:

- 4.32
- 4.38
- 4.5, 4.51
- 4.71
- 4.93
- 4.107, 4.108
- 4.201. 4.202
- 16.1, 16.10, 16.20
- 292.203, 292.208

The Federal Power Act (FPA) also affects the FERC-500 filing requirements within the following sections of 16 United States Code (USC):

- 792(e)
- 797(a)
- 798, 799

The Commission estimates the annual reporting burden for FERC-500 will be 19,053 total hours (an average of 87 hours per respondent).

A. Justification

1. CIRCUMSTANCES THAT MAKE THE COLLECTION OF INFORMATION NECESSARY

16 USC 797(e) authorizes the Commission to issue licenses to citizens of the United States, or to any corporation organized under the laws of United States or any State thereof, or to any State or municipality for the purpose of constructing, operating, and maintaining dams, water conduits, reservoirs, power houses, transmission lines, or other project works necessary or convenient for the development and improvement of navigation and for the development, transmission, and utilization of power across, along, from, or in any of the streams or other bodies of water over which Congress has jurisdiction under its authority to regulate commerce with foreign nations and among the several States, or upon any part of the public lands and reservations of the United States. The Electric Consumers Protection Act (ECPA)¹ amended the FPA to provide the Commission with the responsibility of issuing licenses for non-federal hydroelectric

¹ Public Law 99-495, 100 Stat. 1243 (10/16/1986)

plants.

Section 4(e) of the FPA requires the Commission to give equal consideration to preserving energy conservation, the protection, mitigation of damage to, and enhancement of, fish and wildlife, the protection of recreational opportunities, and the preservation of other aspects of environmental quality when approving licenses. Also, section 10(a) of the FPA stipulates conditions upon which hydroelectric licenses are issued².

The Commission requires all hydroelectric license applications to address a variety of environmental concerns. Many of these concerns address environmental requirements developed by other agencies³. The applicants must provide facts in order for the Commission to understand and resolve potential environmental problems associated with the application in the interests of the United States public.

Applicants can choose to seek licenses using of three different options: the traditional license process, alternative license process, or integrated license process (ILP). The ILP is the default process and enables potential licenses to conduct pre-filing consultation and the Commission's scoping process concurrently rather than sequentially.

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

The information collected by the FERC-500 is in the format of a written application for a license or exemption and is used by the Commission staff to determine the broad impact of the license application. Commission staff conducts systematic reviews of the prepared application with supplemental documentation provided by the solicitation of comments from other agencies and the public. These comments are received through the issuance of public notice and open meetings. These reviews ensure that the Federal Power Act, as amended by other statutory provisions, is formally administered to ensure compliance by the licensees. Greater environmental scrutiny, as well as a decision making process characterized by shared authorities, has assisted the development and utilization of hydropower as an essential renewable resource within the nation's energy mix. Projects coming up for relicense in the next several decades were originally licensed before the enactment of ECPA, the National Environmental Policy Act (NEPA), the Endangered Species Act, the Federal Water Pollution Control Amendments of 1972 (the Clean Water Act), and the Coastal Zone Management Act.

After an application is filed, the Federal agencies with responsibilities under the FPA and other statutes, the states, Indian tribes, and other participants have opportunities to request additional studies and provide comments and recommendations. Federal agencies with mandatory conditioning authority also provide their conditions. The

² 16 USC 797(e)

³ Section 4(c) of FPA; Section 18 of FPA; Section 401 of Clean Water Act; the Coastal Zone Management Act; Endangered Species Act; and the National Historic Preservation Act.

Commission staff may ask for additional information that it needs for its environmental analysis. All of this information is considered in the Commission staff's environmental review under NEPA. After a license is issued, the Commission monitors the licensee's compliance with the license conditions throughout the term of the license.

Submission of the data is necessary to fulfill the requirements of the FPA in order for the Commission to make the required finding that the proposal is economically, technically, and environmentally sound, and is best adapted to a comprehensive plan for improving/developing a waterway or waterways.

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

The Commission allows the FERC-500 application to be eFiled in v7.0 of eLibrary. Additionally, the Commission requires two paper copies to be submitted.

For current information on the FERC-500 submission guidelines, go to <http://www.ferc.gov/docs-filing/efiling/filing.pdf>.

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 Register⁴ to help identify any duplication of the information in FERC-500. The Commission received 0 comments regarding this information collection. No similar information can be used or modified.

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

The Commission delineates minor from major licensees by setting a generation criterion of five megawatts or less (for minor licensees). Naturally, the Commission considers any licensee that generates more than five megawatts of electricity to a major licensee.

The Commission utilizes eLibrary in order to minimize the burden upon all license applicants, not just small entities; therefore, the Commission takes no specific effort to minimize burden in the collection of information upon small entities.

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

The consequences of not collecting the information included within these applications would cause the degradation of the Commission's ability to fulfill the requirements of the

⁴ 77 FR 28369 (3/14/2012)

FPA in ensuring that a project proposal is economically and technically sound (to include requirements to improve/develop waterways). Additionally, the Commission would be unable to ensure environmental concerns were being properly documented and mitigated during approval of any application.

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 requirements⁵, the Commission published a 60-day notice⁶ and a 30-day notice⁷ to the public regarding this information collection on 9/13/2012 and 12/11/2012 respectively. Additionally, the Commission published a 15-day notice to the public regarding an adjustment to the estimated burden on 4/24/2013⁸. Within the public notices, 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. No comments were received from the 60-day, 30-day, or 15-day notices.

9. EXPLAIN ANY PAYMENT OR GIFTS TO RESPONDENTS

There are no payments or gifts to FERC-500 respondents.

10. DESCRIBE ANY ASSURANCE OF CONFIDENTIALITY PROVIDED TO RESPONDENTS

The Commission does not consider the information collected in FERC-500 filings to be confidential. However, the Commission will consider specific requests for confidential treatment to the extent permitted by law⁹. The Commission will review each request for confidential treatment on a case-by-case basis.

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

The Commission does not consider any of the questions within the FERC-500 of a sensitive nature that would be considered private.

⁵ 5 CFR 1320.8(d)

⁶ 77 FR 56636

⁷ 77 FR 73631

⁸ 78 FR 24188

⁹ 18 CFR 388.112(a)(1)

12. ESTIMATED BURDEN OF COLLECTION OF INFORMATION

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

FERC-500: Report of Service Interruptions				
Number of Respondents (A)	Number of Responses Per Respondent (B)	Total Number of Responses (A)x(B)=(C)	Average Burden Hours per Response (D)	Estimated Total Annual Burden (C)x(D)
6	1	6	105,839.5	635,037

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

Annual Burden Hours (1)	Estimated Hourly Cost (\$) (2)	Estimated Total Annual Cost to Respondents (\$) (1) X (2)
635,037	\$69.01 ¹⁰	\$43,823,903

13. ESTIMATE OF TOTAL ANNUAL COST OF BURDEN TO RESPONDENTS

Total Capital and Start-up Cost: \$0

Total Operation, Maintenance, and Purchase of Services: \$0

14. ESTIMATED ANNUALIZED COST TO FEDERAL GOVERNMENT

	Number of Employees (FTEs)	Estimated Annual Federal Cost
Analysis and Processing of Filings	23	\$3,301,420
PRA ¹¹ Administrative	N/A ¹³	\$1,588

¹⁰ This figure is rounded to the nearest cent

¹¹ Paperwork Reduction Act of 1995 (PRA)

Cost ¹²		
FERC Total	N/AError: Reference source not found	\$3,303,008

The Commission bases its estimate of the cost to the Federal Government on salaries for professional and clerical support.

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

The requirements within FERC-500 did not change.

The Commission initially issued public notice posing a significant reduction to the revised burden estimates. However, the Commission found the previous burden estimates to remain appropriate. So, on 4/24/2013 the Commission published a 15-day public noticeError: Reference source not found in the Federal Register for comment to reintroduce the original burden estimates.

The Commission outlines the difference between the total requested annual time burden and the previously approved annual time burden below:

FERC-500	Total Request	Previously Approved	Change due to Adjustment in Estimate	Change Due to Agency Discretion
Annual Number of Responses	6	6	0	0
Annual Time Burden (Hr)	635,037	635,037	0	0
Annual Cost Burden (\$)	\$0	\$38,587,542	-\$38,587,542	0

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 hours¹⁴. 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 FERC-500 supporting statements. Commission staff corrected the error within the current proposed clearance package.

¹² Based upon 24 hours of Commission staff time/effort

¹³ Not applicable

¹⁴

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

16. TIME SCHEDULE FOR PUBLICATION OF DATA

There are no tabulating, statistical or tabulating analysis or publication plans for the collection of information. The data are used for regulatory purposes only.

17. DISPLAY OF EXPIRATION DATE

It is not appropriate for the Commission to display the expiration date for OMB approval of the FERC-500 because the Commission does not collect information on a standard form.

18. EXCEPTIONS TO THE CERTIFICATION STATEMENT

The Commission does not use the data collected for this reporting requirement for statistical purposes. Therefore, the Commission does not use as stated in item (i) of the certification to OMB "effective and efficient statistical survey methodology." The information collected is case specific to each information collection.