

Supporting Statement

FERC-716, Good Faith Requests for Transmission Service and Good Faith Responses by Transmitting Utilities under Sections 211(a) and 213(a) of the Federal Power Act (FPA)

The Federal Energy Regulatory Commission (Commission or FERC) requests that the Office of Management and Budget (OMB) review and approve **FERC-716, Good Faith Requests for Transmission Service and Good Faith Responses by Transmitting Utilities under Sections 211(a) and 213(a) of the Federal Power Act (FPA)**, for a three year period.

1. CIRCUMSTANCES THAT MAKE THE COLLECTION OF INFORMATION NECESSARY

The Energy Policy Act of 1992 amended 16 USC 824j of the Federal Power Act (FPA) which expanded the Commission's authority to order transmission service. Under the revised 16 USC 824j (FPA Section 211), the Commission may order transmission services if it finds that such action would be in the public interest, would not unreasonably impair the continued reliability of electric systems affected by the order, and would meet the requirements of amended 16 USC 824k.

FPA allows any electric utility, Federal power marketing agency or any other person generating electric energy for sale or resale to apply for an order requiring a transmitting utility to provide transmission services to the applicant¹. The Commission may issue an order only if the applicant has requested the transmission services from the transmitting utility at least 60 days before applying to the Commission. Accordingly, a request for transmission services is a condition upon which the Commission may order service under 16 USC 824j.

¹ 16 USC 824j

FPA requires a response by the transmitting utility to a good faith request². Unless the transmitting utility agrees to provide such services as rates, charges, terms and conditions acceptable to such person, the transmitting utility, within 60 days of its receipt of the request, or other mutually agreed upon period, provides such applicant with a detailed written explanation with specific reference to the facts and circumstances of the request including the basis for the proposed rates, charges, terms and conditions of such services as well as any physical constraints which would affect such service. The information is not filed with the Commission, however, the request and response may be analyzed as part of 16 USC 824j.

When negotiations are unsuccessful, the FERC-716 good faith request is included in the 16 USC 824j applications³. In addition, the Commission applies the good faith standards in order to carry out Congress' objective that, subject to appropriate terms and conditions and just and reasonable rates⁴, access to the electric transmission system for the purposes of wholesale transactions is made widely available.

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

The general policy sets forth standards by which the Commission determines whether and when a valid good faith request for transmission has been made⁵. In developing the standards, the Commission sought to encourage an open exchange of information with a reasonable degree of specificity and completeness between the party requesting transmission services and the transmitting utility. As a result, twelve components of a good faith request are identified under 18 CFR 2.20. Information in the data exchange is not filed with the Commission unless negotiations between the transmission requestor and the transmitting utility have not been successful and the transmission requestor files a Section 211 request with the Commission. The request and response may be analyzed by the Commission as part of the Section 211 proceeding.

The data exchange between the transmission requestor and the transmitting utility may: (1) foster a transmission transaction between the parties without Commission action; or, (2) assist the Commission in its review of the Section 211 request by ensuring a good faith request has been made pursuant to 16 USC 824l of the FPA.

The requisite information in the good faith request is (1) in the form of a notice suitable for publishing in the Federal Register, the applicant's name, the date of the application, the names

2 16 USC 824l

3 Good faith requests (previously known as FERC-716A) are combined within the FERC-716; ICR Reference Number: 200907-1902-001

4 16 USC 824k

5 16 USC 824j

of the affected parties, and a brief description of the transmission services sought, and (2) a sworn statement that an actual notice has been served, (including the information above and the proposed dates for initiating and terminating the requested transmission services, the total amount of transmission capacity requested, a brief description of the character and nature of the transmission services being requested, and whether the transmission services are firm or non-firm on each affected party. This statement must enumerate each person served. The Commission uses the information from good faith request applications to issue an order requiring a transmitting utility to provide transmission services (including any enlargement of transmission capacity necessary to provide such services) to the applicant if it is in the public interest. Without this information, the Commission would be unable to order a transmitting utility to provide transmission services and thus ensure equitable transmission services to all transmitting utilities. Without this information, the Commission would be unable to carry out the provisions of the Act.

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

On November 15, 2007, the Commission issued a Final Rule, RM07-16-000, Order No. 703, "Filing via the Internet"⁶ (November 23, 2007) revising its regulations for implementing the next version of its system for filing documents via the Internet, eFiling 7.0. This Final Rule allows the option of filing all documents in Commission proceedings through the eFiling interface except for specified exceptions, and of utilizing online forms to allow "documentless" interventions in all filings.

With the advent of eFiling 7.0, the Commission has expanded its ability to receive electronic filings through its eFiling and eLibrary systems and now includes requests for transmission service filings and their associated documents.

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

Filing requirements are periodically reviewed as OMB review dates arise or upon initiation by the Commission in order to eliminate duplication and ensure that filing burdens are minimized. Upon submittal of a request⁷, the applicant may file its good faith request and the transmitting utility's response to frame the issues for the Commission's review.

6 73 FR 65659
7 16 USC 824j

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

This collection does not affect small entities.

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

The information is not filed with the Commission. However, the request/response may be analyzed as part of a section 211² proceeding. The data exchange between the transmission requestor and the transmitting utility cannot be discontinued due to statutory requirements.

7. EXPLAIN ANY SPECIAL CIRCUMSTANCES RELATING TO THE INFORMATION COLLECTION

There are no special circumstances as described in 5 CFR 1320.5(d)(2) relating to this information collection.

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

In accordance with OMB requirements, the Commission published a 60-day notice⁸ on 11/17/2014 and published a 30-day notice⁹ on 2/17/2015. Within the public notices, the Commission noted that it would be requesting a three-year extension of the public reporting burden. The Commission received no comments on the 60-day notice from the public regarding this information collection.

9. EXPLAIN ANY PAYMENT OR GIFTS TO RESPONDENTS

There are no payments or gifts to respondents associated with this collection.

10. DESCRIBE ANY ASSURANCE OF CONFIDENTIALITY PROVIDED TO RESPONDENTS

The Commission does not consider the information collected in FERC-716 filings to be confidential. However, the Commission will consider specific requests for confidential

8 79 FR 68424
9 80 FR 8301

treatment to the extent permitted by law pursuant to 18 CFR 388.112(a)(1). 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, SUCH AS SEXUAL BEHAVIOR AND ATTITUDES, RELIGIOUS BELIEFS, AND OTHER MATTERS THAT ARE COMMONLY CONSIDERED PRIVATE.

There are no questions of a sensitive nature in the reporting requirements.

12. ESTIMATED BURDEN OF COLLECTION OF INFORMATION

The Commission estimates the annual public reporting burden for the information collection as:

FERC-716: Good Faith Request for Transmission Services and Response by Transmitting Utility under Sections 211(a) and 213(a) of the Federal Power Act					
	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)
Information exchange between parties	3	1	3	100	300
Application submitted to FERC if parties' negotiations are unsuccessful	3	1	3	2.5	8 ¹⁰
TOTAL	N/A	N/A	N/A	102.5	308

13. ESTIMATE OF THE TOTAL ANNUAL COST BURDEN TO RESPONDENTS

There are no non-labor costs currently associated with the FERC-716 information collection.

All costs in this information collection are associated with burden hours (i.e. labor) and are described in Questions #12 and #15.

14. ESTIMATED ANNUALIZED COST TO FEDERAL GOVERNMENT

¹⁰ 2.5 * 3 = 7.5; rounded to a value of "8"

The following table contains the annualized effort and cost for the FERC-716.

	Number of Employees (FTE)	Estimated Annual Federal Cost
FERC-716 Analysis and Processing of filings ¹¹	0.5	\$73,296
PRA ¹² Administrative Cost ¹³		\$5,092
FERC Total		\$78,388

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

There is neither an increase nor decrease in hourly burden for FERC-716 information collection. The number of responses doubled in value (from 3 to 6) due to a better understanding of how each entity is required to file their responses (i.e. an entity may submit one category of responses and not the other or that same entity may be required to submit both). Both categories of responses are not necessarily submitted by the same entity and, thus, should not count as the same filing. It should also be noted that despite the change in number of responses, the total annual burden remains the same.

FERC-716 (Good Faith Requests for Transmission Service and Good Faith Responses by Transmitting Utilities Under Sections 211(a) and 213(a) of the Federal Power Act (FPA))						
	Number of Respondents (1)	Annual Number of Responses per Respondent (2)	Total Number of Responses (1)*(2)=(3)	Average Burden & Cost Per Response ¹⁴ (4)	Total Annual Burden Hours & Total Annual Cost (3)*(4)=(5)	Cost per Respondent (\$) (5)÷(1)
Information exchange between parties	3	1	3	100 \$7050	300 \$21,150	\$7050

11 Based upon FERC's 2014 FTE average salary plus benefits (\$146,591)

12 Paperwork Reduction Act of 1995 (PRA)

13 The PRA Administrative Cost is a Federal Cost associated with preparing, issuing, and submitting materials necessary to comply with the Paperwork Reduction Act (PRA) for rulemakings, orders, or any other vehicle used to create, modify, extend, or discontinue an information collection. This average annual cost includes requests for extensions, all associated rulemakings, and other changes to the collection.

14 The estimates for cost per response are derived using the following formula: Average Burden Hours per Response * \$70.50 per Hour = Average Cost per Response. The cost per hour figure is the FERC average salary plus benefits. Subject matter experts found that industry employment costs closely resemble FERC's regarding the FERC-716 information collection.

FERC-716 information collection (OMB Control No. 1902-0170)

Application submitted to FERC if parties' negotiations are unsuccessful	3	1	3	2.5 \$176.25	7.5 \$528.75	\$176.25
TOTAL			6		307.5 \$21,678.75	\$7,226.25

FERC-716	Total Request	Previously Approved	Change due to Adjustment in Estimate	Change Due to Agency Discretion
Annual Number of Responses	6	3	3	0
Annual Time Burden (Hr)	308	308	0	0
Annual Cost Burden (\$)	0	0	0	0

16. TIME SCHEDULE FOR PUBLICATION OF DATA

FERC does not publish any data associated with these collections.

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>.

18. EXCEPTIONS TO THE CERTIFICATION STATEMENT

The data collected for this reporting requirement is not used 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."