

FERC-582 (OMB Control No.: 1902-0132)
FERC-917 (OMB Control No.: 1902-0233)
as modified by the Final Rule in Docket No. RM14-11-000 (issued 3/19/2015)
[updated 6/30/2015]

Supporting Statement

**FERC-582 (Electric Fees, Annual Charges, Waivers, and Exemptions) and FERC-917
(Non-Discriminatory Open Access Transmission Tariff)**

The Federal Energy Regulatory Commission (FERC or Commission) requests that the Office of Management and Budget (OMB) review the information collection requirements in the RM14-11-000 Final Rule (Open Access and Priority Rights on Interconnection Customer's Interconnection Facilities) under OMB Control Numbers 1902-0233 (FERC-917) and 1902-0132 (FERC-582). This supporting statement is a consolidated document that covers the requirements of both information collections and how they pertain to the RM14-11-000 Final Rule.

**1. CIRCUMSTANCES THAT MAKE THE COLLECTION OF INFORMATION
NECESSARY**

FERC-582: The Commission has jurisdiction over all facilities used for the transmission of electrical energy in interstate commerce under Section 201(b) of the FPA. Any person who owns or operates facilities subject to the Commission's jurisdiction is a public utility. The Commission is charged with the responsibility to ensure that a public utility's rates, charges, and classifications are just and reasonable and not unduly discriminatory or preferential under Sections 205 and 206 of the FPA.

FERC-917: In order No. 888 relying upon its authority under Sections 205 and 206 of the FPA, the Commission established nondiscriminatory open access to electric transmission service as the necessary foundation to develop competitive bulk power markets in the United States. Order No. 888 requires that all public utilities that own, control, or operate facilities must offer transmission service to all eligible customers under standard terms and conditions. Order No. 888 (codified in 18 CFR Section 35.28) requires that any public utility that owns, controls, or operates facilities used for the transmission of electric energy in interstate commerce must file an Open Access Transmission Tariff (OATT) and comply with other related requirements.

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

The Final Rule in Docket No. RM14-11 approves the following changes to provide non-discriminatory access to Interconnection Customer's Interconnection Facilities (ICIF) to replace the current case-by-case approach for granting waivers of the OATT and priority rights declarations:

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- FERC-917: Granting Blanket Waivers to Eligible ICIF Owners. These blanket waivers result in the reduction in burden associated with avoided OATT filings and OATT waiver filings. These filings have been used to clarify the rights and obligations of owners of transmission facilities.
- FERC-582: Providing Open Access and Establishing Priority Rights to ICIF through FPA Sections 210 and 211. This process results in the reduction in burden associated with avoided petitions for declaratory order, which have been used by ICIF owners to secure priority rights to ICIF capacity for future phased generation development.
- FERC-917: Safe Harbor¹ for Early Years of Project. Creating this safe harbor necessitates the safe harbor commercial operation date filing². This information may be used by both the Commission and the public to ascertain when a safe harbor period will be in effect, which would have implications on the standard a third party would have to meet in an FPA section 210 and 211 application. Without the safe harbor commercial operation date filing, it would be more difficult for the Commission and any potentially interested third party to verify when the safe harbor period would expire, which could cause confusion as to the standard a third party would need to meet in an FPA section 210 and 211 application.
- FERC-917: Extend blanket waiver to ICIF owners that do not sell electricity. The Commission intends sections 210 and 211 of the FPA to provide a backstop means for third party access to ICIF in the wake of the blanket OATT waiver. Section 210 is only applicable to electric utilities, i.e., entities that sell electricity, and not all ICIF owners sell electricity, due to varying project ownership structures. Thus, the Commission chose to extend the blanket waiver to ICIF owners that do not sell electricity, provided that such entities file an informational statement committing to comply and be bound by the obligations and procedures applicable to electric utilities under section 210 of the FPA.

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

Filers can use eFiling in order to submit the safe harbor commercial operation date. This would allow those users to minimize their submission burden using electronic submission as opposed to more traditional means (e.g. mail, messenger-service).

4. DESCRIBE EFFORTS TO IDENTIFY DUPLICATION AND SHOW SPECIFICALLY WHY ANY SIMILAR INFORMATION ALREADY AVAILABLE

1 The “safe harbor” is a five-year period during which an ICIF owner (and associated affiliates) may establish rebuttable presumption for priority right over third parties to use excess capacity on the energy grid.

2 The “safe harbor commercial operation date” filing is necessary to ensure transparency regarding the applicability of the safe harbor period and to which owner the period will apply.

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**CANNOT BE USED OR MODIFIED FOR USE FOR THE PURPOSE(S)
DESCRIBED IN INSTRUCTION NO. 2**

The Commission periodically reviews filing requirements concurrent with OMB review or as the Commission deems necessary to eliminate duplicative filing and to minimize the filing burden. There is no information collection that duplicates the efforts in this Final Rule.

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

The Final Rule approves a reduction in burden overall for ICIF owners, some of whom may be small entities. The reduction will result from a blanket waiver of OATT, OASIS, and Standards of Conduct filing requirements, and thus an avoidance of both individual filings to request waiver as well as OATT filings. The Commission also believes that the approved regulations will reduce the need for eligible ICIF owners to file petitions for declaratory order to pre-emptively seek priority rights. These reductions will undoubtedly affect small entities.

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

The Final Rule is intended to reduce regulatory burdens and promote development of generation facilities while continuing to ensure open access to transmission facilities. Without this reform, the Commission would continue to apply its current OATT requirements to ICIF, and in doing so may impose risks and burdens on generators and create regulatory inefficiencies that are not necessary to achieve the Commission's open access goals. We also note that the only additions of burden are the safe harbor commercial operation date filing and the Section 210 statement filing (needed only if the ICIF owner does not sell electricity), which are one-time only filings for each ICIF owner.

**7. EXPLAIN ANY SPECIAL CIRCUMSTANCES RELATING TO THE
INFORMATION COLLECTION**

There are no special circumstances related to the information collection.

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

The Commission publishes each rulemaking (e.g. this Final Rule) in the Federal Register affording all public utilities and interested parties an opportunity to submit comments or

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suggestions concerning the approved information collection. This Final Rule was published³ within the Federal Register on 4/1/2015.

In response to the NOPR, the Commission received 25 comments, none of which are related to paperwork burden. The responses received are generally related to supporting the need for reform and the NOPR proposals. Commenters state that the Commission's existing policy is unduly burdensome and unnecessary and that it does not meet the goal of promoting development of generation facilities while ensuring not unduly discriminatory open access to transmission facilities. Commenters argue that ICIF owners are focused on developing new generation resources and the time, effort and cost of complying with the OATT requirements under the Commission's existing policy hinders generation development. Commenters support the Commission's goal of reducing regulatory burdens and promoting development of generation facilities while ensuring open access to transmission facilities and support the Commission's proposal to revise its current ICIF policies. Commenters offer suggestions for how the Commission could extend the reforms to ICIF owners that do not sell electricity, opine on how the reforms should apply to affiliates and generation functions of public utility transmission providers, and argue regarding the duration and starting point of the safe harbor.

On the other hand, a few commenters assert that the NOPR proposals would erode the Commission's open access transmission policies. These commenters argue that the Commission should instead address the concerns identified in the NOPR in a manner that preserves the open access underpinnings of competitive markets and its reliance on market-based rates to ensure just and reasonable wholesale sales, and meets its statutory obligation to eliminate undue discrimination in transmission service. They contend that the NOPR, as it was proposed, fundamentally erodes open access by making it effectively impossible for subsequent competitive generation developers to interconnect with the ICIF owner's facilities for long periods of time, if ever.

9. EXPLAIN ANY PAYMENT OR GIFTS TO RESPONDENTS

There are no gifts or payments given to the respondents.

10. DESCRIBE ANY ASSURANCE OF CONFIDENTIALITY PROVIDED TO RESPONDENTS

The Commission does not consider the data as part of this information collection to be confidential. Thus, the Commission provides no assurance of confidentiality.

³ 80 FR 17654

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

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

12. ESTIMATED BURDEN OF COLLECTION OF INFORMATION

The existing burden for FERC-917⁴ and FERC-582 follows:

FERC-917: 160,042 hours (\$29,923,812) mostly comprised of effort towards non-discriminatory OATTs.

FERC-582: 300 hours dealing primarily with annual charges, but also with declaratory orders, waivers and exemptions regarding the annual charges. Labor costs: \$21,000 (300 hours x \$70/hour = \$21,000).

The estimated public reporting burden due to the Final Rule in docket RM14-11-000 is as follows:

RM14-11-000 Final Rule (Open Access and Priority Rights on Interconnection Customer's Interconnection Facilities)						
	Number of Respondents (1)	Annual Number of Responses per Respondent (2)	Total Number of Responses (1)*(2)=(3)	Average Burden & Cost Per Response⁵ (4)	Total Annual Burden Hours & Total Annual Cost (3)*(4)=(5)	Average Cost per Respondent (\$) (5)÷(1)
Individual Requests for Waiver (FERC-917)	16	-1	-16	10 \$947 ⁶	-160 -\$15,146	-\$947
OATT Filings (FERC-917)	1	-1	-1	100 \$9,466	-100 -\$9,466	-\$9,466

⁴ FERC-917 and FERC-918 are included under the same OMB Control Number (1902-0233)

⁵ The estimates for cost per response are derived using the following formula: Average Burden Hours per Response * \$94.66 per Hour = Average Cost per Response. The hourly cost figure represents a combined hourly rate of an attorney (\$131.00), economist (\$71.00), engineer (\$65.34), and administrative staff (\$38.63), with a 50 percent weighting on the attorney's rate (i.e. [$\$131(1/2) + \$71.00(1/6) + \$65.34(1/6) + \$38.63(1/6)$]/4 = \$94.66. The estimated hourly costs (salary) are based on Bureau of Labor and Statistics information (*available at* http://www.bls.gov/oes/current/naics2_22.htm, and are adjusted to include benefits by assuming that salary accounts for 68.7 percent of total compensation). See <http://www.bls.gov/news.release/ecec.nr0.htm>.

⁶ This figures is rounded from \$946.63

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Petitions for Declaratory Order requesting priority rights (FERC-582)	1	-1	-1	30 \$2,840	-30 -\$2,840	-\$2,840
Safe Harbor Commercial Operation Date Filing (average of first three years) ⁷ (FERC-917)	39	1	39	1 \$95 ⁸	39 \$3,692	\$95
ICIF Owner that Does Not Sell Electric Energy Filing to Receive Blanket Waiver (average of first three years) ⁹ (FERC-917)	19	1	19	1 \$95 ¹⁰	19 \$1,799	\$95
TOTAL			40		-232 -\$21,961	-\$13,063

The total respondent totals and burden estimates for both FERC-582 and FERC-917 follow:

FERC-917:

⁷ The average number of filings for the first three years is computed as follows. The Commission expects approximately 80 safe harbor filings in the first year, which represents the number of waiver filings over a historical five-year period and thus the approximate number of existing entities which will be able to take advantage of the five-year safe harbor period as of the effective date of the Final Rule in this proceeding. In the subsequent two years, the Commission expects approximately 18 safe harbor filings per year, which represents the historical number of OATT waiver filings (16), OATT filings (1), and petitions for declaratory order (1) per year. Going forward, we would expect the entities complying with the Final Rule would avoid these filings and that the relevant entities would instead avail themselves of the safe harbor period. The average of the three-year period then is $(80 + 18 + 18) / 3 = 39$.

⁸ This figure is rounded from \$94.66

⁹ The average number of filings for the first three years is computed as follows. The Commission expects approximately 40 section 210 applicability filings in the first year, which represents half the number of waiver filings over a historical five-year period. The Commission does not know the precise number of existing ICIF owners that do not sell electric energy. Of the 80 ICIF owner that have requested waiver in the past five years, the Commission reasons that some share of them do not sell electric energy, and we use 50 percent as an estimate. While there is no five year limitation that applies to entities that may make this filing, we reason that this issue, while not new, has become more relevant in recent years because of an increase in generation owners retaining control of their ICIF; hence, we are not including in our estimate any estimate of the number of ICIF owners that do not sell electric energy that would have requested waiver prior to 2010. In the subsequent two years, the Commission expects approximately nine section 210 applicability filings per year, which represents half the historical number of OATT waiver filings (16), OATT filings (1), and petitions for declaratory order (1) per year. Going forward, we would expect the entities complying with the Final Rule would avoid these filings and that the relevant entities would instead avail themselves of the blanket ICIF waiver. The average of the three-year period then is $(40 + 9 + 9) / 3 = 19$.

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 804 respondents + 41 respondents (due to RM14-11 Final Rule) = 845 respondents.

160,042 hours (previously approved burden hours) – 202 hours (reduction due to RM14-11 Final Rule) = 159,840 hours.

FERC-582:

114 respondents – 1 respondent (due to RM14-11 Final Rule) = 113 respondents.

300 hours (previously approved burden hours) – 30 hours (reduction due to RM14-11 Final Rule) = 270 hours.

13. ESTIMATE OF THE TOTAL ANNUAL COST BURDEN TO RESPONDENTS

There are no start-up or other non-labor costs associated with the RM14-11 Final Rule.

Start-up or other non-labor costs unrelated to the RM14-11 Final Rule are::

Total Capital and Start-up cost: \$0

Total Operation, Maintenance, and Purchase of Services: FERC-917: \$7,400,000¹⁰; FERC-582: \$0

The \$7,400,000 cost (associated with the FERC-917) resulted from offsite storage of record-keeping requirements related to the RM10-23 Final Rule. That cost is not affected by the RM14-11 Final Rule.

14. ESTIMATED ANNUALIZED COST TO FEDERAL GOVERNMENT

The following table pertains only to costs associated with the Final Rule in RM14-11, not the entire collection for either FERC-582 or FERC-917.

FERC-582	Number of Employees (FTEs)	Estimated Annual Federal Cost
Analysis and Processing of filings – Existing Cost	0.05	\$7,291
Analysis and Processing of filings – Added by the Final	0.077	\$11,276

¹⁰ The cost calculation was based on square footage for recordkeeping requirements: 8,000 ft² x \$925/ft² = \$7,400,000. This cost is not associated with the current final rule in RM14-11. The estimate is the result of RM10-23-001 (ICR No. 201205-1902-005) and it is not related to burden hours. It is related to offsite storage of record-keeping requirements. This is an annual estimate of the fees related to offsite storage.

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Rule		
Paperwork Reduction Act Administrative Cost ¹¹		\$5,092
TOTAL		\$23,659

FERC-917	Number of Employees (FTEs)	Estimated Annual Federal Cost
Analysis and Processing of filings – Existing Cost	1	\$149,489
Analysis and Processing of filings – Added by the Final Rule	0.39	\$58,301
Paperwork Reduction Act Administrative Cost ⁶		\$5,193
TOTAL		\$212,983

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

The regulations approved by this Final Rule give a blanket waiver of OATT, OASIS, and Standards of Conduct filing requirements, and thus avoid both individual filings to request waiver as well as OATT filings. The Commission also believes that the approved regulations will reduce the need for eligible ICIF owners to file petitions for declaratory order to pre-emptively seek priority rights.

The change in burden due to the Final Rule in docket RM14-11-000 results from:

- **FERC-917-Granting Blanket Waivers to Eligible ICIF Owners.** These blanket waivers result in the reduction in burden associated with avoided OATT filings and OATT waiver filings. These filings have been used to clarify the rights and obligations of owners of transmission facilities. The Commission preliminarily finds that the blanket waiver is justified because the usually limited and discrete nature of ICIF and ICIF's dedicated interconnection purpose mean that such facilities do not typically present all of the

¹¹ 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 (not just Final Rule in Docket No. RM14-11), and other changes to the collection.

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concerns about discriminatory conduct that the Commission’s OATT, OASIS and Standards of Conduct requirements were intended to address. Because third-party requests to use ICIF have been relatively rare, it is more efficient to address such situations as they arise on an individual basis.

- **FERC-582**-Providing Open Access and Establishing Priority Rights to ICIF through FPA Sections 210 and 211. This process and the safe harbor proposal mentioned below result in the reduction in burden associated with avoided petitions for declaratory order, which have been used by ICIF owners to secure priority rights to ICIF capacity for future phased generation development. The Commission believes that the approved regulations will reduce the need for eligible ICIF owners to file petitions for declaratory order to preemptively seek priority rights.
- **FERC-917**-Safe Harbor for Early Years of Project. Creating this safe harbor necessitates the safe harbor commercial operation date filing resulting in the slight additional burden. This information may be used by both the Commission and the public to ascertain when a safe harbor period will be in effect, which would have implications on the standard a third party would have to meet in an FPA section 210 and 211 application. Without the safe harbor commercial operation date filing, it would be more difficult for the Commission and any potentially interested third party to verify when the safe harbor period would expire, which could cause confusion as to the standard a third party would need to meet in an FPA section 210 and 211 application.
- **FERC-917**: Extend blanket waiver to ICIF owners that do not sell electricity. The Commission intends sections 210 and 211 of the FPA to provide a backstop means for third party access to ICIF in the wake of the blanket OATT waiver. Section 210 is only applicable to electric utilities, i.e., entities that sell electricity, and not all ICIF owners sell electricity, due to varying project ownership structures. Thus, the Commission chose to extend the blanket waiver to ICIF owners that do not sell electricity, provided that such entities file an informational statement committing to comply and be bound by the obligations and procedures applicable to electric utilities under section 210 of the FPA.

The following tables reflect the changes in burden for both collections as they appear in the ROCIS metadata:

FERC-917	Total Request	Previously Approved	Change due to Adjustment in Estimate	Change Due to Agency Discretion
Annual Number of Responses	845	804	0	41
Annual Time Burden (Hr)	159,840	160,042	0	-202
Annual Cost Burden (\$)	\$7,400,000	\$7,400,000	\$0	\$0

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FERC-582	Total Request	Previously Approved	Change due to Adjustment in Estimate	Change Due to Agency Discretion
Annual Number of Responses	113	114	0	-1
Annual Time Burden (Hr)	270	300	0	-30
Annual Cost Burden (\$)	\$0	\$0	\$0	\$0

16. TIME SCHEDULE FOR PUBLICATION OF DATA

There are no tabulating, statistical or tabulating analysis or publication plans for the collection of information.

17. DISPLAY OF EXPIRATION DATE

The expiration dates are 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 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.