

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 FERconveyanceC-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).<sup>1,2</sup> The reporting requirements have not changed.

**A. Justification**

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

The Federal Power Act (FPA) (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)<sup>3</sup> amended the FPA to provide the Commission with the responsibility of issuing licenses for non-federal hydroelectric plants.

Section 4(e) of the FPA requires the Commission to give equal consideration to:

- preserving energy conservation
- protection, mitigation of damage to, and enhancement of, fish and wildlife
- protection of recreational opportunities and
- preservation of other aspects of environmental quality when approving licenses.

Also, section 10(a) of the FPA stipulates conditions upon which hydroelectric licenses

<sup>1</sup> Attachment A lists the sections of 18 CFR covered by the FERC-500 reporting requirements.

Please note that some of the FERC-500 reporting requirements and the associated burden were inadvertently omitted from the 60-day Notice issued in Docket IC16-4 on 12/14/2015. The estimates have been corrected in the 30-day Notice and this supporting statement to include all FERC-500 components.

<sup>2</sup> FERC currently has 458 licenses for projects with an installed capacity more than 5 MW (reporting requirements covered by FERC-500) and 573 licenses for projects 5 MW or less (reporting requirements covered by FERC-505 (OMB Control No. 1902-0115) and not addressed here).

<sup>3</sup> Public Law 99-495, 100 Stat. 1243 (10/16/1986)

are issued.<sup>4</sup>

The Commission requires all hydroelectric license applications to address a variety of environmental concerns. Many of these concerns address environmental requirements<sup>5</sup> developed by federal and state resource agencies, including the U.S. Fish and Wildlife Service and National Marine Fisheries Service, and federal land management agencies, (such as the U.S. Forest Service), Bureau of Land Management, National Park Service, U.S. Army Corps of Engineers (depending on location of dam), Indian Tribes, State Departments of Natural Resources, and State Historic Preservation Officers. 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.

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

Pursuant to the Federal Power Act, the Commission is authorized to issue licenses and exemptions 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.

FERC-500 is an application (for water projects with more than 5 megawatt capacity) for a hydropower license/relicense or exemption, annual conveyance report,<sup>6</sup> comprehensive plans, etc. The FERC-500 includes the reporting requirements in 18 CFR listed in Attachment A.

The FERC-500 filing requirements for a major hydropower license/relicense include project description, schedule, resource allocation, project operation, construction schedule, cost, and financing; and an environmental report. Applicants can choose to seek FERC hydropower licenses using 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

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<sup>4</sup> 16 USC 797(e)

<sup>5</sup> 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.

<sup>6</sup> Annual conveyance reports are filed for both major and minor licenses. 80% of the reports are related to major licenses.

Commission's scoping process concurrently rather than sequentially.<sup>7</sup> After an application for a major license is filed, the Federal agencies with responsibilities under the Federal Power Act (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.

In addition, the Federal Power Act (at 16 USC 803) states in part:

**“§803. Conditions of license generally**

All licenses issued under this subchapter shall be on the following conditions:

**(a) Modification of plans; factors considered to secure adaptability of project; recommendations for proposed terms and conditions**

(1) That the project adopted, including the maps, plans, and specifications, shall be such as in the judgment of the Commission will be best adapted to a comprehensive plan for improving or developing a waterway or waterways for the use or benefit of interstate or foreign commerce, for the improvement and utilization of water-power development, for the adequate protection, mitigation, and enhancement of fish and wildlife (including related spawning grounds and habitat), and for other beneficial public uses, including irrigation, flood control, water supply, and recreational and other purposes referred to in section 797(e) of this title <sup>1</sup> if necessary in order to secure such plan the Commission shall have authority to require the modification of any project and of the plans and specifications of the project works before approval.

(2) In order to ensure that the project adopted will be best adapted to the comprehensive plan described in paragraph (1), the Commission shall consider each of the following:

(A) The extent to which the project is consistent with a comprehensive plan (where one exists) for improving, developing, or conserving a waterway or waterways affected by the project that is prepared by-

(i) an agency established pursuant to Federal law that has the authority to prepare such a plan; or

(ii) the State in which the facility is or will be located.”

These comprehensive plans<sup>8</sup> are submitted to FERC by Federal and State agencies. As discussed in FERC Order 481-A<sup>9</sup> (issued on 4/27/1988 in Docket No. RM87-36 et. al.), “the Commission will treat as a comprehensive plan under section 10(a)(2)(A) of the FPA a plan that (1) is prepared by an agency established by Federal law that has the authority to prepare such a plan, or by a state agency authorized to conduct such planning

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<sup>7</sup> More information on the licensing process is available at <http://www.ferc.gov/industries/hydropower/gen-info/licensing.asp>.

<sup>8</sup> The comprehensive plans are available in eLibrary by doing a search on Docket No. ZZ09-5, or the comprehensive plan document type.

<sup>9</sup> Order 481-A is available in FERC's eLibrary at [http://elibrary-backup.ferc.gov/idmws/file\\_list.asp?document\\_id=1000750](http://elibrary-backup.ferc.gov/idmws/file_list.asp?document_id=1000750).

pursuant to state law; (2) is a comprehensive study of one or more of the beneficial uses of a waterway or waterways; (3) articulates the standards applied, the data relied upon, and the methodology used; and (4) is filed with the Secretary of the Commission.”

Submittal of the FERC-500 information (including the license/re-license application, comprehensive plans, annual conveyance reports) is necessary to fulfill the requirements of the FPA in order for the Commission to be able 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. If the Commission issues a major hydropower license/relicense, the original license is valid for a period up to 50 years, and the re-license is typically valid for a period of 30-50 years.<sup>10</sup>

**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 applications and reports to be electronically filed through eFiling.<sup>11</sup> For some materials, the Commission also requires two paper copies to be submitted.<sup>12</sup>

**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 information collection is specifically tailored to the proposed project. No similar information can be used or modified.

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

To reduce the burden on entities for certain smaller capacity, “major” projects, the Commission sets the reporting requirements for major projects with an installed capacity of five megawatts or less to be the same as for minor licenses (i.e., projects with an

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<sup>10</sup> Section 15(e) of the FPA provides that any new license issued shall be for a term that the Commission determines to be in the public interest, but not less than 30 years or more than 50 years. [16 U.S.C. § 808(e) (2012)] At this time, the Commission’s general policy is to establish 30-year terms for projects with little or no redevelopment, new construction, new capacity, or environmental mitigation and enhancement measures; 40-year terms for projects with a moderate amount of such activities; and 50-year terms for projects with extensive measures. [See *Consumers Power Co.*, 68 FERC ¶ 61,077, at 61,383-84 (1994).]

<sup>11</sup> Details on eFiling are posted at <http://www.ferc.gov/docs-filing/efiling.asp>.

<sup>12</sup> Details are posted at <http://www.ferc.gov/docs-filing/efiling/filing.pdf>.

installed capacity of 1.5 megawatts or less).<sup>13</sup> The Commission requires any license for a project that generates or proposes to generate more than five megawatts of electricity to be covered by FERC-500 reporting requirements.

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

The license application is only submitted when an applicant requests FERC approval to build or modify a project. If the FERC did not receive the information, FERC would not be able to fulfill the requirements of the 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**

There are no special circumstances.

**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 issued a 60-day Notice (and Errata Notice) Error: Reference source not found<sup>14</sup> in Docket No. IC16-4. FERC received no public comments.

The Commission is issuing the 30-day Notice to solicit public comment and will also publish it in the Federal Register.

**9. EXPLAIN ANY PAYMENT OR GIFTS TO RESPONDENTS**

There are no payments or gifts to respondents.

**10. DESCRIBE ANY ASSURANCE OF CONFIDENTIALITY PROVIDED TO RESPONDENTS**

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<sup>13</sup> The reporting requirements related to applications of five megawatts or less are covered by FERC-505 (OMB Control No. 1902-0115), Small Hydropower Projects and Conduit Facilities including License/Relicense, Exemption, and Qualifying Conduit Facility Determination.

<sup>14</sup> The 60-day Notice (7780 FR 79322, 12/21/2015) is posted at <http://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=14070183>. The Errata Notice (81 FR 6844, 2/9/2016) is posted at <http://elibrary.ferc.gov/idmws/common/OpenNat.asp?fileID=14137028>.

In general, the Commission does not consider the information collected in FERC-500 filings to be confidential. However, some of the information may be Critical Energy Infrastructure Information (CEII).<sup>15</sup> The Commission will consider specific requests for confidential treatment to the extent permitted by law.<sup>16</sup> 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**

Based on the historical figures for FY2012-FY2015, the average annual burden and cost for the upcoming three years is estimated as follows. Additional information on the historical figures (which serve as the basis for these estimates) is provided in #15. [Note that in the 60-day Notice we inadvertently included only the responses and burden associated with major license/re-license applications or modifications; the estimates have been corrected in the 30-day Notice and this supporting statement.] The hourly cost (wages plus benefits) for the annual conveyance reports (filed by industry) and comprehensive plans (filed by federal and state agencies who have comprehensive plan status pursuant to 18 CFR 2.19) is estimated to be \$72.00.<sup>17</sup>

Type of Filing	No. of Respondents (1)	Annual No. of Responses per Respondent (2)	Total No. of Responses (1)*(2)=(3)	Average Burden Hours & Cost (\$) Per Response (4)	Total Annual Burden Hours & Total Annual Cost (\$) (3)*(4)=(5)	Cost per Respondent (\$) (5)÷(1)
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<sup>15</sup> CEII is defined as specific engineering, vulnerability, or detailed design information about proposed or existing critical infrastructure (physical or virtual) that:

- o Relates details about the production, generation, transmission, or distribution of energy;
- o Could be useful to a person planning an attack on critical infrastructure;
- o Is exempt from mandatory disclosure under the Freedom of Information Act; and
- o Gives strategic information beyond the location of the critical infrastructure.

Additional information on CEII is posted at <http://www.ferc.gov/legal/ceii-foia/ceii.asp>.

<sup>16</sup> 18 CFR 388.112

<sup>17</sup> FERC staff estimates that respondents are similarly situated to FERC in terms of the hourly cost for salary plus benefits. Therefore, we are using the FERC FY 2015 hourly cost (salary plus benefits) of \$72/hour.

FERC-500 (OMB Control No. 1902-0058)  
(updated 5/24/2016)

License/ Re- license (applicati on or modificat ion)	9	1	9	35,705.52 hrs.; \$2,570,797. 42	321,349.68 hrs.; \$23,137,176.82	\$2,570,797.,42
Annual Conveya nce Reports (under 18CFR1 41.15)	41 <sup>18</sup>	1	41	3 hrs.; \$216	123 hrs.; \$8,856	\$216
Compreh ensive Plans (under 18CFR 2.19) <sup>19</sup>	33	1	33	1 hr.; \$72	33 hrs.; \$2,376	\$72
<b>Total</b>	53		83		321,505.68 hrs.; \$23,148,408.82	

**13. ESTIMATE OF TOTAL ANNUAL COST OF BURDEN TO RESPONDENTS**

There are no capital, start-up, or maintenance costs associated with PRA-related items.

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 <sup>20</sup>	18	\$2,690,802
PRA <sup>21</sup> Administrative	N/A <sup>23</sup>	\$5,193

<sup>18</sup> Order 540 changed the reporting requirement to state that licensees are only to report if they convey lands/waters under the standard land use article. Over the last 4 years, the number of filings averaged 26, however the number of filings is expected to increase. 80% of the conveyance reports are for major projects.

<sup>19</sup> The comprehensive plans apply to all projects, minor and major. These plans are not capacity-specific, so the complete estimated number of filings is included here under FERC-500, however some plans would also apply to FERC-505.

<sup>20</sup> The federal cost of analysis and processing of filings is based upon FERC's 2015 FTE (full time equivalent) average salary plus benefits of \$149,489 (or \$72 per hour). Based on a more detailed evaluation, we are providing an improved estimate of the number of FERC FTEs involved in processing and analyzing the FERC-500 data.

Cost <sup>22</sup>		
<b>FERC Total</b>	N/A	\$2,695,995

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<sup>24</sup>**

In the OMB Notices of Action dated 5/14/2013 and 9/4/2014, the Terms of Clearance state ‘[t]he agency has offered to continue to monitor actual burden hours on respondents and to adjust estimates accordingly upon resubmission.’ FERC has reviewed the number of the license/re-license applications submitted during FY2012-2015 as well as the *actual cost figures* provided there by the filers; updated estimates for the number of annual responses and the average burden and cost per response are discussed below.

**Changes in Burden and Cost Estimates Related to the License/Re-License Part of FERC-500.** The reporting requirements have not changed. The change in number of estimated responses and burden is based on:

1. actual filings during FY2012-2015, and
2. the associated actual costs reported by those filers in license/re-license applications.

FERC then converted the cost figures reported by the filers to burden hours, using the estimated average hourly cost of wages plus benefits. Based on that data, the estimated annual number of license/re-license applications is increased to 9 (from 6), and the estimated average hourly burden per response is being reduced to 35,705.52 (from 105,839).

An applicant for a license/re-license is required to include an estimate of their cost to prepare the license application, which would include nearly all of the reporting requirements in FERC-500.<sup>25</sup> Because the requirements for an exemption application are largely the same as that of a license application, the license application costs are a good

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<sup>21</sup> Paperwork Reduction Act of 1995 (PRA)

<sup>22</sup> 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.

<sup>23</sup> Not applicable

<sup>24</sup> Note that in the 60-day Notice we inadvertently included only the responses and burden associated with major license/re-license applications or modifications; the estimates have been corrected in the 30-day Notice and this supporting statement.

<sup>25</sup> Exceptions would be 18 CFR §§ 2.19, 4.201, 4.202, 4.303, 4.35, 8.1, 8.2, 16.19, 141.15, and 292.208, none of which directly relate to preparation of a license or exemption application for a project greater than 5 MW.



estimate of the exemption application costs and of the overall burden of preparing license and exemption applications for projects greater than 5 MW.

To estimate the total annual burden for the upcoming three years, we averaged the reported license/re-license application costs for proposed projects greater than 5 MW filed in FY 2012 through FY 2015. The results follow.

<b>Fiscal Year (FY)</b>	<b>FY2012</b>	<b>FY2013</b>	<b>FY2014</b>	<b>FY2015</b>
<b>Number of Major License/Re-license Applications (Responses)</b>	9	7	15	2
<b>Average Cost per Response</b>	\$2,059,828	\$1,234,987	\$3,776,864	\$500,000
<b>Total Cost</b>	\$18,538,451	\$8,644,909	\$56,652,960	\$1,000,000

The average burden cost per application for a major license/re-license over the period FY 2012 through FY 2015 was approximately \$2,570,797<sup>26</sup>. We estimate a cost (salary plus benefits) of \$72/hour.<sup>27</sup> Using this hourly cost estimate, the average burden for each major license/re-license application filed from FY 2012 to FY 2015 is 35,706 hours (a decrease from the previous estimate of 105,839.5 hours each). *As described in this supporting statement, the decrease (of 66%) in the number of average burden hours per response for license/relicense applications for major projects [the vast majority of FERC-500] is due to having more accurate data which was provided by the actual industry filers. The cost estimates (which we converted here to burden estimates) are actual figures provided by the filers of license/re-license applications, as described above.*

**Changes in Burden Estimates Due to Details Related to Conveyance Reports and Comprehensive Plans, in FERC-500.** In addition, FERC has improved estimates for the annual number of conveyance reports and comprehensive plans.<sup>28</sup> These types of filings [responses] are split out as follows (and included in #12):

<sup>26</sup> \$84,836,320 (Total burden cost from FY2012-2015) ÷ 33 (total number of applications received from FY2012-2015) = \$2,570,797.

<sup>27</sup> FERC staff estimates that industry is similarly situated in terms of the hourly cost for salary plus benefits. Therefore, we are using the FERC FY 2015 hourly cost (salary plus benefits) of \$72/hour.

<sup>28</sup> These additional filings (responses) are not new requirements, however more detailed information is provided on them here (where they may have formerly been inadvertently subsumed in the enormous burden estimates related to licenses/re-licenses).

FERC-500 (OMB Control No. 1902-0058)  
(updated 5/24/2016)

- 41 conveyance reports, taking 3 hours each (totaling an annual estimate of 123 hrs.)
- 33 comprehensive plans, taking 1 hour each (totaling an annual estimate of 33 hours).

It should be noted that these detailed 74 responses represent only 156 total hours annually (or 0.0485% out of the total estimated annual burden of FERC-500 of 321,505.68 hrs.). [The remaining burden related to licensing/re-licensing covers more than 99.95% of the entire burden of FERC-500.]

**Overall Figures.** Below, the Commission provides the difference between the total requested annual time burden and number of responses with the current OMB-approved inventory figures:

<b>FERC-500</b>	<b>Total Request</b>	<b>Previously Approved</b>	<b>Change due to Adjustment in Estimate</b>	<b>Change Due to Agency Discretion</b>
Annual Number of Responses	83	6	+77	0
Annual Time Burden (Hr.), rounded	321,506	635,037	-313,531	0
Annual Cost Burden (\$)	\$0	\$0	\$0	\$0

#### **16. TIME SCHEDULE FOR PUBLICATION OF DATA**

There are no publication plans. The Commission uses the data for regulatory purposes only.

#### **17. DISPLAY OF EXPIRATION DATE**

The clearance information and expiration date are available at <http://www.ferc.gov/docs-filing/info-collections.asp>.

#### **18. EXCEPTIONS TO THE CERTIFICATION STATEMENT**

There are no exceptions.

**Attachment A**

FERC-500 (Application for License/Relicense for Water Projects with More than 5 Megawatt Capacity) includes the following sections of 18CFR. Please note that some of the references cover both major and minor hydro project applications and reporting requirements. FERC-500 covers the components only as they apply to applications for projects greater than 5 megawatts. (FERC-505, under OMB Control No. 1902-0115, covers the components as they apply to applications for projects of 5 megawatts or less.) FERC-500 includes comprehensive plans and annual conveyance reports.

2.19
4.201
4.202
4.301
4.303 <sup>29</sup>
4.35
4.38
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4.51
5.11
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5.21
5.27

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<sup>29</sup> FERC staff has not received any application filings pertaining to the regulations described under 18 CFR 4.303 in over 20 years. It remains in 18 CFR and is included in FERC-500.

FERC-500 (OMB Control No. 1902-0058)  
(updated 5/24/2016)

5.4
5.5
5.6
8.1
8.2
16.10
16.11
16.12
16.14
16.19
16.20
16.26
16.4
16.6
16.7
16.8
16.9
141.15
4.36(b)
4.36(c)
5.15(b)
5.15(c)
5.15(d)
5.15(e)
5.15(f)
5.18(d)
5.23(b)
5.3(c)(1)
5.3(c)(2)
5.3(d)(1)

FERC-500 (OMB Control No. 1902-0058)  
(updated 5/24/2016)

292.208