

Supporting Statement for
FERC-733, Demand Response/Time-Based Rate Programs and Advanced Metering¹

The Federal Energy Regulatory Commission (FERC or Commission) requests that the Office of Management and Budget (OMB) review the information collection requirements in the FERC-733 information collection (OMB Control No. 1902-0271) and extend its approval of this information collection for three years.

1. CIRCUMSTANCES THAT MAKE THE COLLECTION OF INFORMATION NECESSARY

Section 1252(e)(3) of the Energy Policy Act of 2005,² requires the Commission to prepare and publish an annual report, by appropriate region, that assesses demand response resources, including those available from all consumer classes. Specifically, EPAct 2005 section 1252(e)(3) requires that the Commission identify and review:

- saturation and penetration rate of advanced meters and communications technologies, devices and systems;
- existing demand response programs and time-based rate programs;
- the annual resource contribution of demand resources;
- the potential for demand response as a quantifiable, reliable resource for regional planning purposes;
- steps taken to ensure that, in regional transmission planning and operations, demand resources are provided equitable treatment as a quantifiable, reliable resource relative to the resource obligations of any load-serving entity, transmission provider, or transmitting party; and
- regulatory barriers to improved customer participation in demand response, peak reduction and critical period pricing programs.

The Commission will use the information obtained by the survey to prepare and publish a report, as required by section 1252(e)(3) of EPAct 2005.

In 2006, 2008, 2010, 2012, and 2014 the Commission designed and used OMB approved collections FERC-727 (2006), FERC-728 (2008), FERC-731 (2010 and 2012), and the current FERC-733 (designed in 2014) to collect and convey to Congress the requested demand response and advanced metering information.

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

¹ <https://elibrary-backup.ferc.gov/idmws/common/opennat.asp?fileID=14495429>

² Pub. L. No. 109-58, § 1252(e)(3), 119 Stat. 594, 966 (2005) (EPAct 2005).

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The Commission proposes to use the information collected on the voluntary survey to meet its statutory requirements under section 1252(e)(3) of EPCA 2005 by analyzing and compiling the information and presenting it to Congress and the public in the *2016 Assessment of Demand Response and Advanced Metering* report³. The information proposed to be collected in FERC-733 will enable the Commission to produce a timely and comprehensive report to Congress and the public using updated information on demand response programs and advanced metering in the United States.

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

As it has in the past, the Commission will conduct this survey using a fillable electronically “fileable” form provided by the Commission. FERC staff has designed a survey that will impose minimal burden on respondents by providing an easy-to-complete, fillable form that will include such user friendly features as pre-populated fields and drop-down menus. It is a streamlined and simplified version of past surveys and can be electronically filed. A paper version of the survey may be filed by those who are unable to file electronically.

Respondents maintain a wide array of back office systems built according to different architectural preferences (e.g., some back office systems are maintained separately by different divisions, while other companies have taken steps to integrate their back office systems to be able to communicate internally, but each entity undertakes these steps according to their internal business preferences). Moreover, respondents use a variety of software packages and computer programming languages to conduct internal operations. Developing an automated data collection system therefore likely would be both cost prohibitive and time intensive, as it would require both respondents and FERC IT support to build, test, and implement new infrastructure and software in an attempt to facilitate the desired automatic data collection. In addition, given the variety of tools and methods, there is a strong likelihood that the data collected would not be comparable or able to produce meaningful results.

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 2

The Commission investigated alternatives to FERC-733, including using data from the North American Electric Reliability Corporation (NERC) and the Energy Information Administration (EIA). However, as explained below, the data is not currently collected

³ <https://www.ferc.gov/legal/staff-reports/2016/DR-AM-Report2016.pdf>

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nor is it possible for it to be obtained by the Commission in time to complete the 2016 report to Congress.

NERC, as the Electric Reliability Organization for the United States⁴ as certified by the Commission, has begun to collect demand response data on dispatchable and non-dispatchable resources for its reliability work. Reporting demand response information in the Demand Response Availability Data System (DADS) is mandatory for all entities that are part of NERC's functional model. The Demand Response Data Task Force at NERC developed DADS to collect demand response program information. DADS currently collects information on dispatchable and controllable demand response resources. DADS does not currently collect and report information on several key demand response program types including economic, and time-based rate programs. Because DADS does not currently collect and report data which is specifically required by EAct 2005, the system cannot be relied upon for FERC's reporting purposes. EAct 2005 specifically requires FERC to identify and review time-based rate programs.

NERC plans to require its registered entities to report information on these other demand response program types in the future, but it is unclear at this time when NERC may begin to collect these additional data or whether the new data will be available or suitable for FERC staff to use to prepare their reports to Congress.

The EIA collects aggregated information on energy efficiency and load management as well as advanced metering data in its EIA-861⁵, "Annual Electric Power Industry Report." The data collected in this survey does not identify specific demand response programs or time-based rate programs, but it does support the Commission's advanced metering data needs. Unfortunately, the finalized advanced metering data for 2016 will not be available until the fourth quarter of 2017 under EIA's proposed schedule.

There is no duplication between EIA-861 and FERC-733. The differences between the two surveys include: the specific markets surveyed (retail and/or wholesale markets); the level of demand response detail; and the voluntary versus mandatory nature of the survey instrument. With respect to the markets surveyed, EIA-861 collects information on demand response participation in only retail markets, while the FERC-733 collects demand response information in both retail and wholesale markets. Additionally, the FERC-733 collects demand response data by specific program type across eleven categories (e.g., Direct Load Control, Interruptible Load, Critical Peak Pricing with Controls, Spinning Reserves) with an "Other" catch all. EIA collects general load management aggregate information by

⁴ North American Electric Reliability Corp., 116 FERC ¶ 61,062, order on reh'g & compliance, 117 FERC ¶ 61,126 (2006), appeal docketed sub nom. Alcoa, Inc. v. FERC, No. 06-1426 (D.C. Cir. Dec. 29, 2006).

⁵ <https://www.eia.gov/electricity/data/eia861/>

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utility without program breakouts to provide actual and potential energy and demand savings (i.e., aggregate MWH and MW data). Last, the FERC-733 is a voluntary survey, while EIA-861 is a mandatory survey. The FERC-733 is submitted to over 3,400 entities comprising all parts of the electric industry, including RTOs and Curtailment Service Providers, but not to generators. EIA-861 is a mandatory survey required of large entities, while smaller entities are statistically sampled via EIA-861S. As a result, EIA collects minimal data from smaller entities. The universe of respondents is the same, except for RTOs, Curtailment Service Providers, and generators. The FERC-733 collects data from RTOs and Curtailment Service Providers, while EIA-861 does not survey these entities. EIA-861 collects generator data, which is not surveyed in FERC-733.

The Commission proposes to revise the structure of its question on advanced meters to comport with recent changes approved by OMB for the EIA in Form EIA-861, Schedule 6, Part D. “Advanced Metering and Customer Communication.” The Commission also proposes to eliminate certain data elements requested by the 2012 FERC-731 including: the respondents’ number of customers by customer sector in Question 3 and the request for the respondents’ long-range (4 to 6 years) plans for demand response programs in Question 5.

The Commission believes that the above changes should result in more accurate and streamlined data collection that will reduce respondent burden.

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

There may be small entities that are affected by the FERC-733 reporting data requirements. However, because the information should be readily available to all respondents, we believe that the burden imposed on small entities for this collection should be minimal.

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

It is not possible to collect the data less frequently. Section 1253(e)(3) requires that the Commission prepare annual reports to Congress. In addition to meeting a statutory requirement, the Commission will also obtain up-to-date information on demand response programs and advanced metering systems that supports Commission programs.

7. EXPLAIN ANY SPECIAL CIRCUMSTANCES RELATING TO THE INFORMATION COLLECTION

There are no special circumstances related to this information collection.

**1. DESCRIBE EFFORTS TO CONSULT OUTSIDE THE AGENCY;
SUMMARIZE PUBLIC COMMENTS AND THE AGENCY'S RESPONSE TO
THESE COMMENTS**

Each FERC activity that results in the revision of an information collection is published in the Federal Register thereby providing interested parties an opportunity to submit data, views, comments or suggestions concerning the approved collections of data. 60-day notice⁶ and a 30-day notice⁷ to the public regarding this information collection on 12/16/2016 and 02/24/2017 respectively. Within the public notice, the Commission noted that it would be requesting a three-year approval of the information collection requirements.

The Commission did not receive any comments in response to the 60-day public notice.

9. EXPLAIN ANY PAYMENT OR GIFTS TO RESPONDENTS

There are no payments or gifts to respondents of this collection.

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

All data filed are public information and, therefore, are not confidential. The instructions to the FERC-733 notify respondents that the information reported in the FERC-733 is considered public and may be publicly released in identifiable form. A respondent has the option to seek confidential treatment of some or all parts of the information requirement under FERC regulations at 18 C.F.R. § 388.112.⁸ Each request for confidential treatment will be reviewed by the Commission on a case-by-case basis.

**11. PROVIDE ADDITIONAL JUSTIFICATION FOR ANY QUESTIONS OF A
SENSITIVE NATURE THAT ARE CONSIDERED PRIVATE**

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

12. ESTIMATED BURDEN OF COLLECTION OF INFORMATION

The estimated average annual public reporting burden and cost for FERC-733 follow.

681 FR 91160, 12/16/2016

782 FR 11570, 02/24/2017

⁸ Request for privileged treatment and Critical Energy Infrastructure Information (CEII) treatment for documents submitted to the Commission.

FERC-733: Demand Response/Time-Based Rate Programs and Advanced Metering						
	Number of Respondents (1)	Annual Number of Responses per Respondent (2)	Total Number of Responses (1)*(2)=(3)	Average Burden & Cost Per Response ⁹ (4)	Total Annual Burden & Total Annual Cost (3)*(4)=(5)	Cost per Respondent (\$) (5)÷(1)
Entities that serve wholesale and retail customers	3,400	1	3,400	3.5 hrs.; \$260.75	11,900 hrs.; \$886,550	\$260.75

The total estimated cost burden to respondents for the 2017 survey is \$886,550 (11,900 hours/year × \$74.50/hour¹⁰ = \$886,550). The estimated cost per respondent for the survey is \$260.75 (3.5 hours/survey × \$74.50/hour = \$260.75).

The above burden hours and cost are shown for one instance of the survey. As this survey is done every two years, and OMB approval is generally for three years, the Commission adds the total burden across three years (11,900 hours + 11,900 hours = 23,800 hours) and divides the total by the number of years in the approval period (23,800 hours ÷ 3 years = 7,933.33 hours per year) to arrive at an annual burden amount of 7,932 hours.¹¹ We estimate the total annual burden per entity as 2.33 hours. Similarly, the responses are added across three years (3,400 responses + 3,400 responses = 6,800 responses) and divided by the number of years in the period (6,800 responses ÷ 3 years = 2,266 responses per year.¹²

Respondent burden is primarily due to filling out individual cells within the survey instrument itself. Respondents do not maintain data on advanced metering and demand response in industry standardized formats or datasets in a manner that facilitates automatic collection.

1. ESTIMATE OF THE TOTAL ANNUAL COST BURDEN TO RESPONDENTS

There are no start-up or other non-labor costs.

Total Capital and Start-up cost: \$0

⁹ The estimates for cost per response are derived using the 2016 FERC average salary plus benefits of \$154,647/year (or \$74.50/hour). Commission staff finds that the work done for this information collection is typically done by wage categories similar to those at FERC.

¹⁰ *Id.*

¹¹

¹²

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

All of the costs in the proposed rule are associated with burden hours (labor) and described in Questions #12 and #15 in this supporting statement.

14. ESTIMATE ANNUALIZED COST TO THE FEDERAL GOVERNMENT

	Number of Employees (FTE)	Estimated Annual Federal Cost
Analysis and Processing of filings ¹³	1	\$154,647
PRA ¹⁴ Administrative Cost ¹⁵		\$5,481
FERC Total		\$160,128

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 review¹⁷ of any actual filings submitted in response to the information collection.

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

The Commission does not expect any increase in respondent burden hours with the renewal of the survey instrument.

FERC-733	Total Request	Previously Approved	Change due to Adjustment in Agency Estimate	Program Change Due to Agency Discretion
Annual Number of Responses	2,226	2,226	0	0
Annual Time Burden	7,932	7,932	0	0

¹³ The estimates for cost per response are derived using the 2016 FERC average salary plus benefits of \$154,647/year (or \$74.50/hour). Commission staff finds that the work done for this information collection is typically done by wage categories similar to those at FERC.

¹⁴ Paperwork Reduction Act.

¹⁵ The Commission bases the cost of Paperwork Reduction Act administration on staff time, and other costs related to compliance with the Paperwork Reduction Act of 1995.

¹⁶ The links for the instructions will be activated prior to release of the survey instrument.

¹⁷ These figures do not include any contract cost or contractual services. In the past, the Commission has used a contractor. A decision on whether to use a contractor would be made after the Commission decides whether and when to perform the survey.

(Hours)				
Annual Cost Burden (\$)	\$0	\$0	\$0	\$0

16. TIME SCHEDULE FOR THE 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 date is displayed in a table posted on ferc.gov at <http://www.ferc.gov/docs-filing/info-collections.asp>.

1. EXCEPTIONS TO THE CERTIFICATION STATEMENT

There are no exceptions.