

Supporting Statement for
**FERC-725, Certification of Electric Reliability Organization; Procedures for
Electric Reliability Standards**

The Federal Energy Regulatory Commission (Commission or FERC) requests that the Office of Management and Budget (OMB) review and approve **FERC-725, Certification of Electric Reliability Organization; Procedures for Electric Reliability Standards**, for a three year period. FERC-725 (OMB Control No. 1902-0225) is an existing Commission data collection, as stated by 18 Code of Federal Regulations (CFR), 39.

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

The Energy Policy Act of 2005 added section 215 to the Federal Power Act (FPA),¹ enhancing the Commission's ability to strengthen the reliability of the interstate electric grid. Section 215 of the FPA aids the Commission's efforts to strengthen the reliability of the interstate grid through the granting of new authority to provide for a system of mandatory Reliability Standards developed by the Electric Reliability Organization (ERO) and reviewed and approved by FERC.

On February 3, 2006, the Commission issued Order No. 672² certifying a single ERO [the North American Electric Reliability Corporation (NERC)], to oversee the reliability of the United States' portion of the interconnected North American Bulk-Power System, subject to Commission oversight. The ERO is responsible for developing and enforcing the mandatory Reliability Standards. The Reliability Standards apply to all users, owners and operators of the Bulk-Power System. The Commission has the authority to approve all ERO actions, to order the ERO to carry out its responsibilities under these statutory provisions, and (as appropriate) to enforce Reliability Standards. The ERO can delegate its enforcement responsibilities to a Regional Entity. Delegation is effective only after the Commission approves the delegation agreement. A Regional Entity can also propose a Reliability Standard to the ERO for submission to the Commission for approval.

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

The FERC-725 contains the following information collection elements:

Self Assessment and ERO Application: The Commission requires the ERO to submit to

¹ Section 215 was added by the Energy Policy Act of 2005, Pub. L. No. 109-58, 119 Stat. 594 (2005) (codified at 42 USC 16451, et seq.).

² Rules Concerning Certification of the Electric Reliability Organization; and Procedures for the Establishment, Approval, and Enforcement of Electric Reliability Standards ¶ 31,204 71 FR 8662 (2006) Order on rehearing, 71 FR 19,814 (2006), FERC Statutes and Regulations ¶ 31,212 (2006).

FERC a performance assessment report every five years. The next assessment is due in 2019. Each Regional Entity submits a performance assessment report to the ERO. Submitting an application to become an ERO is also part of this collection.³

Reliability Assessments: 18 CFR 39.11 requires the ERO to assess the reliability and adequacy of the Bulk-Power System in North America. Subsequently, the ERO must report to the Commission on its findings. Regional entities perform similar assessments within individual regions. Currently the ERO submits to FERC three assessments each year: long term, winter, and summer. In addition, NERC also submits various other assessments as needed.

Reliability Standards Development: Under Section 215 of the FPA the ERO is charged with developing Reliability Standards. Regional Entities may also develop regional specific standards. Reliability Standards are one of the three principal mechanisms provided to FERC to ensure reliability on the Bulk-Power System.

Reliability Compliance: Reliability Standards are mandatory and enforceable upon approval by FERC. In addition to the specific information collection requirements contained in each standard (cleared under other information collections), there are general compliance, monitoring and enforcement information collection requirements imposed on applicable entities. Audits, spot checks, self-certifications, exception data submittals, violation reporting, and mitigation plan confirmation are included in this area.

Stakeholder Survey: The ERO uses a stakeholder survey to solicit feedback from registered entities⁴ in preparation for its three year and five year self-performance assessment. The Commission assumes that the ERO will perform another survey prior to the 2019 self- assessment.

Other Reporting: This category refers to all other reporting requirements imposed on the ERO or regional entities in order to comply with the Commission's regulations. For example, FERC may require NERC to submit a special reliability assessment. This category is mention to capture these types of one-time filings required of NERC or the Regions.

The Commission implements its responsibilities through 18 CFR Part 39.

Without the FERC-725 information, the FERC, ERO, and Regional Entities will not have the data needed to determine whether sufficient and appropriate measures are being taken to ensure the reliability of the nation's electric grid.

³ The Commission does not expect any new ERO applications to be submitted in the next five years and is not including any burden for this requirement in the burden estimate. FERC still seeks to renew the regulations pertaining to a new ERO application under this renewal but is expecting the burden to be zero for the foreseeable future. 18 CFR 39.3 contains the regulation pertaining to ERO applications.

⁴ A "registered entity" is an entity that is registered with the ERO. All Bulk-Power System owners, operators and users are required to register with the ERO. Registration is the basis for determining the Reliability Standards with which an entity must comply. See <http://www.nerc.com/page.php?cid=3%7C25> for more details.

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

All of the information that is reported to the Commission in this collection may be submitted electronically, through the Commission's eFiling system (as described at <http://www.ferc.gov/docs-filing/efiling.asp>). For the remaining information collection requirements (information not submitted to the Commission), the use of current or improved technology is not controlled by the Commission, and is therefore left to the discretion of each reporting entity. However, there is evidence that entities/regions are working together. For example, with the proposed revisions to the definition of "Bulk Electric System" the regional entities are working together to develop common forms to be used for submittal of information (covered under FERC-725J, OMB Control Number 1902-0259).

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 as the Commission may deem necessary in carrying out its responsibilities, in order to eliminate duplication and ensure that filing burden is minimized. The Commission believes there are no similar sources of information available that can be used or modified for these reporting purposes.

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

This collection impacts small registered entities. The Commission allows small entities to join a joint action agency or similar organization, which could accept responsibility for compliance with the Reliability Standards and related reporting requirements on behalf of its members. In NERC's compliance database there are 104 entries for Joint Registration Organizations (JROs). FERC does not have records to indicate how many of the 104 entries are small business entities or parties of a joint action agency or similar organization but FERC does estimate that at least half of the listed JROs are large organizations.

The Commission does not know of any barriers that prevent entities from entering into joint action agreements. Generally entities that enter into agreements do this because of shared responsibilities or geographic convenience.

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

This collection focuses on electric reliability reporting requirements that are not contained within any Reliability Standards. The Commission approves of these requirements as necessary for the reliable operation of the bulk electric system. Any reduction in frequency may diminish the ability of NERC, Regional Entities, or FERC in maintaining reliability on the bulk electric system.

7. EXPLAIN ANY SPECIAL CIRCUMSTANCES RELATING TO THE INFORMATION

There are no special circumstances related to this collection.

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 8/21/2015 and 11/5/2015 respectively. Within the public notice, 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.

9. EXPLAIN ANY PAYMENT OR GIFTS TO RESPONDENTS

There are no payments or gifts to FERC-725 respondents.

10. DESCRIBE ANY ASSURANCE OF CONFIDENTIALITY PROVIDED TO RESPONDENTS

The Commission generally does not consider the data to be confidential. However, certain actions have confidentiality provisions which prevent the disclosure of information relating to enforcement actions and critical energy infrastructure information. The following provisions may be used to prevent disclosure of confidential information under FERC 725: (1) 18 CFR § 39.7(b)(4), 39.7(e)(7), 18 CFR § 388.112, and (4) 18 CFR § 388.113.

There are procedures in 18 CFR § 39.7(b)(4), and 39.7(e)(7), which prevent disclosure of information received pursuant to Section 215 of the Federal Power Act, which pertain to violations of Reliability Standards. Section 39.7(b)(4) provides that “each violation or alleged violation shall be treated as nonpublic until the matter is filed with the Commission as a notice of penalty or resolved by an admission that the user, owner or operator of the Bulk-Power System violated a Reliability Standard or by a settlement or other negotiated disposition. The disposition of each violation or alleged violation that relates to a Cybersecurity Incident or that would jeopardize the security of the Bulk-

⁵ 5 CFR 1320.8(d)

⁶ 80 FR 50846

⁷ 80 FR 68532

Power System if publicly disclosed shall be nonpublic unless the Commission directs otherwise.” Similarly, Section 39.7(e)(7) provides that “a proceeding for Commission review of a penalty for violation of a Reliability Standard will be public unless the Commission determines that a nonpublic proceeding is necessary and lawful, including a proceeding involving a Cybersecurity Incident. For a nonpublic proceeding, the user, owner or operator of the Bulk-Power System that is the subject of the penalty will be given timely notice and an opportunity for hearing and the public will not be notified and the public will not be allowed to participate.”

In addition, 18 C.F.R. 388.112 provides that “any person submitting a document to the Commission may request privileged treatment by claiming that some or all of the information contained in a particular document is exempt from the mandatory public disclosure requirements of the Freedom of Information Act, 5 U.S.C. 552, and should be withheld from public disclosure.”

Finally, 18 CFR § 388.113 of the Commission’s rules and regulations governs access to critical energy infrastructure information (CEII). Under 18 CFR § 388.113(b), the Commission may restrict access to previously filed documents as well as Commission-generated documents which contain CEII information.⁸

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

The Commission does not consider any of the questions to be sensitive or private.

⁸ 18 CFR 388.112

12. ESTIMATED BURDEN OF COLLECTION OF INFORMATION

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

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Type of Respondent	Type of Reporting Requirement	Number of Respondents (A)	Number of Responses Per Respondent (B) ⁹	Total Number of Responses (A)x(B)=(C)	Average Burden Hours & Cost per Response (D)	Estimated Total Annual Burden Hrs. & Cost (C)x(D)
Electric Reliability Organization (ERO)Error: Reference source not found	Self-Assessment	1	.2	.2	7,800 \$716,196 ¹⁰	1,560 \$143,239
	Reliability Assessments		5.5	5.5	15,600 \$1,432,392E rror: Reference source not found	85,800 \$7,878,156
	Reliability Compliance		2	2	12,480 \$1,145,914E rror: Reference source not found	24,960 \$2,291,828
	Standards Development		1	1	28,080 \$1,865,916 ¹¹	28,080 \$1,865,916
	Other Reporting		1	1	2,080 \$270,130 ¹²	2,080 \$270,130
Regional Entities	Self-Assessment	8	.2	1.6	16,640 \$1,105,728E rror: Reference source not found	26,624 \$1,769,164
	Reliability Assessments		1	8	15,600 \$1,036,620E rror: Reference source not found	124,800 \$8,292,960

⁹ In all instances where the number of responses per respondent is “1” the Commission acknowledges that actual number of responses varies and cannot be estimated clearly.

¹⁰ Uses the weighted hourly average wage (plus benefits) for electrical engineers and lawyers obtained from the Bureau of Labor Statistics: \$91.82/hour. The weighted average used the following calculation: [(0.40) * (\$129.87/hr.) + (0.60) * (\$66.45/hr.)] = \$91.82. \$129.87/hour is the wage for lawyers. \$66.45/hour is the wage for engineers.

¹¹ Uses the hourly average wage (plus benefits) for electrical engineers obtained from the Bureau of Labor Statistics: \$66.45/hour (BLS Occupation Code: 17-2071)

¹² Uses the hourly average wage (plus benefits) for lawyers obtained from the Bureau of Labor Statistics: \$129.87/hour (BLS Occupation Code: 23-0000)

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	Reliability Compliance		1	8	40,560 \$3,724,219	324,480 \$29,793,753
	Standards Development		1	8	2,340 \$214,858 Error: Reference source not found	18,720 \$1,718,870
	Other Reporting		1	8	1,040 \$135,065 Error: Reference source not found	8,320 \$1,080,518
Registered Entities	Stakeholder Survey		.2	289	8 \$532 Error: Reference source not found	2,312 \$1,229,984
	Reliability Compliance	estimated 1446	1	1446	400 \$26,580 Error: Reference source not found	578,400 \$38,434,680
<i>Subtotals:</i>						
<i>ERO</i>						<i>142,480 hrs.</i>
<i>Regional</i>						<i>502,944 hrs.</i>
<i>Registered</i>						<i>580,712 hrs.</i>
Total Burden Hrs.						1,226,136
Total Cost						\$94,769,198

We provide below more details on the assumptions we used to calculate the burden and where we obtained our information.

ERO and Regional Entities:

Self-assessment: For the ERO we based the figure on the NERC 2015 Business Plan and Budget (in Docket No. RR14-6) and the draft 2016 Business Plan and Budget. 2014 was the last time NERC was required to submit its self-assessment. NERC must submit its next self-assessment in 2019. We assumed one Full-Time Equivalent (FTE) (2,080 hours per year) for each region. Because the assessment will only occur once in the next five years, we assumed 0.22 responses per year.

Reliability Assessments: We based the total hourly amount on information provided in the NERC 2015 Business Plan and Budget (in Docket No. RR14-06), the draft NERC 2016 Business Plan and Budget and the NERC website.¹³

¹³ See, <http://www.nerc.com/pa/RAPA/Pages/default.aspx>.

Reliability Compliance: We obtained much of the data on the information provided in the NERC’s 2015 Business Plan and Budget (in Docket No. RR14-6); 2015 Compliance, Monitoring and Enforcement Plan; 2015 Actively Monitored Reliability Standards; and the 2015 Audit Schedule. In addition, staff reviewed the draft NERC 2016 Business Plan and Budget and the NERC website.¹⁴ We estimated burden hour figures (such as hour per audit, mitigation plan and violation) based on internal staff calculations and some past interaction with NERC staff.

Standards Development: We based the total hourly amount on the information provided in the NERC 2015 Business Plan and Budget (in Docket No. RR14-6), the draft NERC 2016 Business Plan and Budget and the NERC website.

Other Reporting: We assumed one FTE for NERC and 0.5 FTE for each Regional Entity.

Registered Entities:

Stakeholder Survey: The 2014 survey contained 70 questions and 135 stakeholders responded. We assume that NERC will use a similar survey for the 2019 self-assessment. Because we are unsure of what the response rate might be for the 2019 survey, we assume that all registered entities will respond and it will require 8 hours per response. Because the survey will only occur once in the next five years we assumed .2 responses per respondent per year.

Reliability Compliance: (See “Reliability Compliance” section above.) In addition, for the Registered Entities, we assumed that all Registered Entities will require 400 hours per response.

13. ESTIMATE OF TOTAL ANNUAL COST OF BURDEN TO RESPONDENTS

Commission staff estimates annual non-labor related cost burden for the information collection remains unchanged from the last approval as:

Software costs (ERO): \$15,000/year
Software costs (Regional Entities): \$50,000/year

NOTE: All other costs are related to burden hours and are addressed in Questions #12 and #15.

14. ESTIMATED ANNUALIZED COST TO FEDERAL GOVERNMENT

	Number of Employees (FTEs)	Estimated Annual Federal Cost
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¹⁴ See, <http://www.nerc.com/pa/comp/Pages/Default.aspx>.

PRA ¹⁵ Administration Cost ¹⁶		\$5,193
Data Processing and Analysis ¹⁷	25	\$3,737,225
FERC Total		\$3,742,418

Staff then reviewed the federal effort applied to the FERC-725 in previous ICRs and determined that it was understated. So, staff reviewed the different offices that worked on the Data Processing and Analysis. Based on the number of employees involved in the projects, estimated the workload in the projects, the tasks involved and percentage of the employee time to arrive at an estimate of 25 FTEs.

The Commission bases its estimate of the “Data Processing and Analysis” cost to the Federal Government on salaries and benefits for professional and clerical support. This estimated cost represents staff analysis, decision making, and review of any actual filings made in response to the information collection.

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

The Commission first estimated the burden for this collection in 2006, at a time when the Reliability program was not yet established. In 2009 and 2012 the Commission sought renewal of this collection and was able to estimate the burden more accurately than in the initial collection. Since 2006, the ERO Enterprise has undergone continuous change in how it performs its responsibilities and which responsibilities are delegated to the Regions. In preparing the current renewal request package, the Commission closely examined the current programs and corresponding data. Based on this research, the Commission found that it is necessary to adjust the previous burden estimate.

The number of responses decreased because the reports prepared yearly by NERC, the Regional Entities and industry has decreased. Staff reviewed the information provided on the NERC website, and determined that the number of reports had decreased. For example, the timing on the self-assessments has decreased from once every three (3) years to once every five (5) years. In addition, the number of special/periodic assessments of the reliability and adequacy of the Bulk-Power System, which were directed by the Commission, has decreased. Further, due to the increased maturity of the ERO some of the previously filed responses are no longer being made by the ERO. Finally, due to the steady state of the Reliability Standards and the risk-based approach to compliance the number of response has further decreased.

The increase in burden is due primarily to a more accurate estimation of the burden

¹⁵ Paperwork Reduction Act of 1995 (PRA).

¹⁶ The PRA Administration Cost is \$5,193, and includes preparing supporting statements, notices, and other activities associated with Paperwork Reduction Act compliance.

¹⁷ The “Estimated Annual Federal Cost” uses the 2015 average annual cost (salary plus benefits) of one FERC FTE (Full Time Equivalent) which is \$149,489.

associated with reporting requirement.

The ERO generally decides what Reliability Standard will be developed, which requirements will be audited and which standards will be subject to self-certification. Some of the increase and decreases can be accounted for by NERC's decisions that Reliability Standards are at a steady state and on the new Reliability Assurance Initiative (RAI) program which determines what to include based on the level of risk in the compliance activities in a given year.

For this ICR, staff reviewed the material submitted by the ERO Enterprise, examined who would put the work together, and who would prepare it for filing with the Commission. Staff determined that the material was prepared by a number of professions (e.g. engineer, attorney and administrative) in various proportions depending upon the item. Staff based the information collection burden on the best assumptions and estimates available.

The following table shows the total burden of the collection of information. The format, labels, and definitions of the table follow the ROCIS submission system's "Information Collection Request Summary of Burden" for the metadata.

FERC-725	Total Request	Previously Approved	Change due to Adjustment in Estimate	Change Due to Agency Discretion
Annual Number of Responses	1,779	2,213	-434	0
Annual Time Burden (Hr)	1,226,136	1,202,428	165,387	0
Annual Cost Burden (\$)	65,000	65,000	0	0

The format, labels, and definitions of the table above follow the ROCIS system's "ICR Summary of Burden" for the meta-data.

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

The OMB expiration dates are posted on <http://www.ferc.gov/docs-filing/info-collections.asp>.

18. EXCEPTIONS TO THE CERTIFICATION STATEMENT

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There are no exceptions.