

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 Title 18 Code of Federal Regulations (CFR), Part 39. The reporting and recordkeeping requirements are not changing.

**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 by granting 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.

(More information on FERC's Electric Reliability program is posted at <https://www.ferc.gov/industries/electric/indus-act/reliability.asp> .)

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).

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.

1. Self Assessment and ERO Application: The Commission requires the ERO to submit to 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
2. 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.
3. Reliability Standards Development⁴: Under Section 215 of the FPA, the ERO is charged with developing Reliability Standards. Regional Entities may also develop regional specific standards.
4. 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, such as FERC-725A, FERC-725G, and FERC-725Y), 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.
5. Stakeholder Survey: The ERO uses a stakeholder survey to solicit feedback from registered entities⁵ in preparation for its three year and five year self-performance

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 this component of FERC-725 for the foreseeable future. 18 CFR 39.3 contains the regulation pertaining to ERO applications.

⁴ ‘Reliability Standards Development’ covers standards development initiated by NERC, the Regional Entities, and industry, as well as standards the Commission may direct NERC to develop or modify.

⁵ 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.

assessment. The Commission assumes that the ERO will perform another survey prior to the 2019 self- assessment.

6. 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 includes one-time filings required of NERC or the Regions.

In addition, on 8/24/2018, NERC submitted its “Request for Acceptance of 2019 Business Plans and Budgets of NERC and Regional Entities and for Approval of Proposed Assessments to Fund Budgets” (posted at <https://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=15003846>) for Commission approval. The NERC 2019 Business Plan and Budget details its budget for the various areas. For example on page 19, NERC estimates \$ 6,736,078 for its Reliability Standards program in 2019. On 10/18/2018, in Docket No. RR18-9-000, the Commission approved the NERC 2019 Business Plan and Budget (at <https://elibrary.ferc.gov/idmws/common/OpenNat.asp?fileID=15075448>).

The Commission implements its responsibilities related to FERC-725 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. 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 purposes.

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

This collection affects primarily NERC but also affects 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 46 entries for Joint Registration Organizations (JROs). FERC does not have records to indicate how many of the 46 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 requirements⁶, the Commission published a 60-day notice (83 FR 48813, 9/27/2018) requesting public comments.

Comment Summary –

⁶ 5 CFR 1320.8(d)

In response to the Notice of Information Collection and Request for Comments published in the Federal Register on September 27, 2018, the Commission received one comment from Utility Services, Inc. The comment sought clarification on certain compliance provisions contained in the Rules of Procedure of the North American Electric Reliability Corporation (NERC), which are approved by the Commission. The comment maintained that, depending on the Commission's answer, the information collection burden on applicable entities associated with the application of the NERC Rules of Procedure could be affected.

Agency Response –

The proceeding in FERC Docket No. IC18-19 is not the proper forum to request clarification regarding the scope and application of the NERC Rules of Procedure. Such requests may be directed to NERC or, more formally, through a petition to the Commission proposing changes to the NERC Rules of Procedure. Such a request, if filed with the Commission, would be addressed after notice and opportunity for comment and the development of a record. By contrast, while the comment states that the request for clarification is motivated by uncertainty among applicable entities (i.e., the commenter's unnamed clients), that assertion is unsubstantiated. In addition, the provisions in the NERC Rules of Procedure referenced by the commenter were approved by the Commission in response to a petition filed by NERC, to which no comments were received.

The Commission is also publishing a 30-day notice requesting public comment.

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/Electric Infrastructure Information (CEII).⁷ A request for material to be treated as CEII or privileged may be made under 18 CFR Part 388.

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

⁷ For more information on the Commission's CEII program (and submitting and accessing CEII materials), see <https://www.ferc.gov/legal/ceii-foia/ceii.asp>.

relates to a Cybersecurity Incident or that would jeopardize the security of the Bulk-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 CEII information. 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.

12. ESTIMATED BURDEN OF COLLECTION OF INFORMATION

The Commission estimates the average annual burden and cost⁹ in the table, below. For hourly cost (for wages and benefits), we estimate that 70% of the time is spent by Electrical Engineers (code 17-2071, at \$66.90/hr.), 20% of the time is spent by Legal (code 23-0000, at \$143.68/hr.), and 10% by Office and Administrative Support (code 43-0000, at \$41.34/hr.). Therefore, we use the weighted hourly cost (for wages and benefits) of \$79.70 {or [(0.70) * (\$66.90/hr.)] + [(0.20) * \$143.68/hr.] + [(0.10) * \$41.34/hr.]}

⁸ 18 CFR 388.112

⁹ Costs (for wages and benefits) are based on wage figures from the Bureau of Labor Statistics (BLS) for May 2017 (at https://www.bls.gov/oes/current/naics2_22.htm) and benefits information (at <https://www.bls.gov/news.release/ecec.nr0.htm>);

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Type of Respondent	Type of Reporting Requirement	No. of Respondents (A)	No. of Responses Per Respondent (B) ¹⁰	Total No. of Responses (A)x(B)=(C)	Average Burden Hours & Cost (\$) per Response (rounded) (D)	Estimated Total Annual Burden Hrs. & Cost (\$) (rounded) (C)x(D)
Electric Reliability Organization (ERO)Error: Reference source not found	Self-Assessment	1	.2	.2	4,160 hrs.; \$331,552	832 hrs.; \$66,310
	Reliability Assessments		5.5	5.5	15,600 hrs.; \$1,243,320	85,800 hrs.; \$6,838,260
	Reliability Compliance		2	2	20,280 hrs.; \$1,616,316	40,560 hrs.; \$3,232,632
	Standards Development		1	1	21,840 hrs.; \$1,740,648	21,840 hrs.; \$1,740,648
	Other Reporting				2,080 hrs.; \$165,776	2,080 hrs.; \$165,776
<i>ERO, Sub-Total</i>				9.7		151,112 hrs.; \$12,043,626
Regional Entities	Self-Assessment	7	.2	1.4	4,160 hrs.; \$331,552	5,824 hrs.; \$464,173
	Reliability Assessments		1	7	15,600 hrs.; \$1,243,320	109,200 hrs.; \$8,703,240
	Reliability Compliance		1	7	37,440 hrs.; \$2,983,968	262,080 hrs.; \$20,887,776
	Standards Development		1	7	2,340 hrs.; \$186,498	16,380 hrs.; \$1,305,486
	Other Reporting				1,040 hrs.; \$82,888	7,280 hrs.; \$580,216
<i>Regional Entities, Sub-Total</i>				29.4		400,764 hrs.; \$31,940,891
Registered Entities	Stakeholder Survey	estimated 1,409	.2	281.8	8 hrs.; \$637.60	2,254 hrs.; \$179,676
	Reliability Compliance		1	1,409	400 hrs.; \$31,880	563,600 hrs.; \$44,918,920
<i>Registered Entities, Sub-Total</i>				1,691		565,854 hrs.; \$45,098,596
Total Burden Hrs. and Cost				1,730		1,117,730 hrs.; \$89,083,113

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

ERO and Regional Entities:

¹⁰ In instances where the number of responses per respondent is “1,” the Commission Staff thinks that the actual number of responses varies and cannot be estimated accurately.

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 two Full-Time Equivalent (FTE) (4,160 hours per year) for the ERO and one FTE for each region. Because the assessment will only occur once in the next five years, we assumed 0.20 responses per year.

Reliability Assessments: We based the total hourly amount on information provided in the draft NERC 2019 Business Plan and Budget and the NERC website.¹¹

Reliability Compliance: We obtained much of the data on the information provided in the NERC's 2018 Business Plan and Budget (in Docket No. RR17-7); 2018 Compliance, Monitoring and Enforcement Plan; 2018 Actively Monitored Reliability Standards; and the 2018 Audit Schedule. In addition, staff reviewed the draft NERC 2019 Business Plan and Budget and the NERC website.¹² 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 draft NERC 2019 Business Plan and Budget¹³ 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:

¹¹ See, <http://www.nerc.com/pa/RAPA/Pages/default.aspx>.

¹² See, <http://www.nerc.com/pa/comp/Pages/Default.aspx>.

¹³ As noted in Question 2 above, on 10/18/2018, in Docket No. RR18-9-000, the Commission approved the NERC 2019 Business Plan and Budget.

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

Therefore the total estimated annual non-labor related cost is \$65,000 for the FERC-725. 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
PRA ¹⁴ Administration Cost		\$4,931
Data Processing and Analysis ¹⁵	25	\$4,120,500
FERC Total		\$4,125,431

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 actual filings.

The Paperwork Reduction Act (PRA) Administrative Cost (updated May 2018) is the average annual FERC cost associated with preparing, issuing, and submitting materials necessary to comply with the PRA for rulemakings, orders, or any other vehicle used to create, modify, extend, or discontinue an information collection. It also includes the cost of publishing the necessary notices in the Federal Register.

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

The table below shows the total burden of the collection of information, with adjustments due to the following reasons.

- As shown in Question 12 above, there was a decrease from eight to seven in the number of Regional Entities because the Southwest Power Pool dissolved in 2018.
- Other changes from previous estimates come from new data in the proposed NERC 2019 Business Plan and Budget to reflect changes in the number of FTEs working in applicable areas.
- Reviewing the NERC Compliance database we determined the number of unique U.S. entities was 1,409.
- Lastly, in several instances, the amount of time an FTE devotes to a given

¹⁴ Paperwork Reduction Act of 1995 (PRA).

¹⁵ The cost estimate is based upon FERC’s FY2018 average annual salary plus benefits per FTE (full-time equivalent) of \$164,820.

function may have been increased or decreased.

FERC-725	Total Request	Previously Approved	Change due to Adjustment in Estimate	Change Due to Agency Discretion
Annual Number of Responses	1,730	1,779	-49	0
Annual Time Burden (Hr.)	1,117,730	1,226,136	-108,406	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

There are no exceptions.