

Supporting Statement for
**FERC Form 556,¹ Certification of Qualifying Facility (QF) Status
for a Small Power Production or Cogeneration Facility**

The Federal Energy Regulatory Commission (Commission or FERC) requests that the Office of Management and Budget (OMB) review and approve FERC Form 556, Certification of Qualifying Facility (QF) Status for a Small Power Production or Cogeneration Facility (OMB Control No. 1902-0075), for a three-year period. FERC Form 556 is an existing data collection of FERC Form 556 and a reporting requirement in 18 Code of Federal Regulations (CFR) Section 131.80 and Part 292, with no changes to the requirements.

1. CIRCUMSTANCES THAT MAKE THE COLLECTION OF INFORMATION NECESSARY

The Commission is obligated by statute to regulate key economic aspects of the electric, natural gas and oil industries.

FERC Form 556 is required to implement Sections 201 and 210 of the Public Utility Regulatory Policies Act of 1978² (PURPA). FERC is authorized, under those sections, to encourage cogeneration and small power production and to prescribe such rules as necessary in order to carry out the statutory directives.

A primary statutory objective is efficient use of energy resources by cogeneration facilities, which make use of reject heat associated with commercial or industrial processes, and by small power production facilities, which use renewable resources and waste. PURPA, through establishment of various regulatory benefits, encourages the development of small power production facilities and cogeneration facilities that meet certain technical and corporate criteria. Facilities that meet these criteria are called Qualifying Facilities, or QFs.

The Commission's regulations in 18 CFR Part 292 specify: a) the certification procedures which must be followed by owners or operators of small power production and cogeneration facilities; b) the criteria which must be met; c) the information which must be submitted to FERC in order to obtain qualifying status; d) the PURPA benefits which are available to QFs to encourage small power production and cogeneration; and e) the requirements pertaining to PURPA implementation plans regarding the transaction obligations that electric utilities have with respect to QFs.

18 CFR Part 292 requires electric utilities to:

- purchase energy and capacity from QFs, with such purchases priced on the basis of the avoided cost of the power that is displaced by the QF power (i.e., the incremental cost to the purchasing utility if it had generated the displaced power itself or purchased it from another source);
- sell backup, maintenance and other power services to QFs;

¹ The information collection is also called FERC-556.

² 16 USC Section 796, 824a-3.

- provide interconnection and transmission services to QFs;
- operate in “parallel” with QFs so that they may be electrically synchronized with electric utility grids; and,
- make avoided cost information and system capacity needs available to the public.

In 18 CFR Part 292, the Commission also exempts QFs from certain corporate, accounting, reporting, and rate regulation requirements of the Federal Power Act (FPA), certain state laws, and the Public Utility Holding Company Act of 2005 (PUHCA).

In Order No. 732,³ amending its regulations subsequent to the Energy Policy Act of 2005, FERC revised FERC Form 556. The Commission removed the contents and general instructions of the FERC Form 556 from 18 CFR Section 131.80, and, in their place, provided that an applicant seeking to certify QF status of a small power production or cogeneration facility complete and file the FERC Form 556 that is in effect at the time of filing. The current form is available for download from the FERC website. FERC also began requiring that the FERC Form 556 be submitted electronically.

Additionally in that order, FERC revised and reformatted the FERC Form 556 to clarify the content of the form and to take advantage of newer technologies to reduce, both, the filing burden for applicants and the processing burden for the Commission.

FERC also updated the procedures, standards, and criteria for QF status provided in 18 CFR Part 292 of its regulations to, among other things, exempt generating facilities with net power production capacities of 1 MW or less from the requirement that a generating facility, to be a QF, must file either a notice of self-certification or an application for Commission certification, and codified FERC’s authority to waive the QF-certification filing requirement for good cause.

Finally, in Order No. 732, FERC changed the exemption of QFs from the FPA) and PUHCA and certain state laws and regulations to make clear that certain small power production facilities satisfy the criteria of section 3(17)(E) of the FPA for those exemptions.

The revisions: (1) made the FERC Form 556 easier and less time consuming to complete and submit; (2) decreased opportunities for confusion and error in completing the form; (3) improved the consistency and quality of the data collected by the form; (4) decreased FERC resources dedicated to managing errors and omissions in submitted forms; and (5) clarified and corrected the regulations governing the requirements for obtaining and maintaining QF status.

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

The information collected from FERC Form 556 under 18 CFR Section 131.80 and 18 CFR Part 292 is used by the Commission to determine whether a proposed certification for QF status meets the criteria for a qualifying small power production facility or a qualifying cogeneration facility under its regulations and is eligible to receive the benefits available to it under PURPA.

³ *Revisions to Form, Procedures, and Criteria for Certification of Qualifying Facility Status for a Small Power Production or Cogeneration Facility*, Order No. 732, 130 FERC ¶ 61,214 (2010).

In order to obtain QF status and obtain PURPA benefits, an owner or operator of a small power production or cogeneration facility must follow the process indicated in FERC Form 556 and select, at its option, either the procedure set forth in 18 CFR Section 292.207(a), which requires the submission to FERC of a self-certification or self-recertification, or the procedure set forth in 18 CFR Section 292.207(b), which requires the submission to FERC of an application for Commission certification or recertification. The information requirements for these two processes are largely the same (i.e., the submittal of a completed FERC Form 556 provides the information necessary to demonstrate compliance with FERC's regulations). If FERC did not collect the FERC Form 556 information, there would be no basis for the Commission to determine whether a facility satisfies the requirements for QF status.

Since revocation of the qualifying status of a small power production or cogeneration facility may occur if the facility fails to satisfy any of the 18 CFR Part 292 criteria, private financial lenders to small power production and cogeneration power facilities occasionally require small power producers and cogenerators to follow 18 CFR Section 292.207(b) procedures (certification by FERC as opposed to self-certification) in order to reduce the risk of status revocation.

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

In Order No. 619,⁴ FERC established an electronic filing initiative to meet the goals of the Government Paperwork Elimination Act, which directed agencies to provide for optimal use and acceptance of electronic documents and signatures and electronic recordkeeping, where practical, by October 2003.

FERC has attempted to facilitate seeking QF status by electronically providing materials to potential small power producers and cogenerators to assist in their preparation of notices of self-certification and applications for Commission certification. FERC Form 556 can be downloaded from FERC's web site at: <http://www.ferc.gov/docs-filing/forms.asp#556>.

In Order No. 732, FERC required that applicants submit their QF applications (whether initial certifications or recertifications, and whether self-certifications or applications for Commission certification) electronically via the FERC website. The electronic filing process is faster, easier, less costly and less resource-intensive than hard-copy filing. An applicant filing electronically receives an acknowledgement that the Commission has received its application and a docket number for its submittal much more quickly than they would if filing in hard-copy format. Electronic filing has allowed the Commission to electronically process QF applications, reduced required staff resources and human error, and allowed the Commission to identify patterns of reporting errors and noncompliance that would be difficult to detect through manual processing. Finally, electronic filing of QF applications has facilitated the compilation of QF data. Requiring applicants to file electronically has made it possible to collect and make use of this data.

⁴ *Electronic Filing of Documents*, Order No. 619, 65 FR 57088 (Sept. 21, 2000), FERC Stats. & Regs. ¶ 31,107 (2000).

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.

FERC Form 556 is necessary in order for the Commission to remain in compliance with FPA and PURPA mandates. No similar information is, in fact, publically available. There are no other federal agencies collecting this data; no other federal agencies are responsible for certifying an electric generating facility as a QF and/or allowing a cogenerator or small power producer to determine whether it qualifies for the benefits bestowed by PURPA, including the exemptions from certain provisions of federal and state law.

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

The clarified and streamlined FERC Form 556 has made it easier for applicants to complete this form because the form leads applicants step-by-step through the compliance determinations. For example, the information collected from applicants for cogeneration facilities in lines 11a through 11f has guided the applicants in determining whether the Energy Policy Act of 2005⁵ (EPAAct 2005) cogeneration requirements apply to their facilities. Without this step-by-step guide, applicants (particularly small applicants) must independently research the requirements and determine compliance with the relatively complex EPAAct 2005 cogeneration requirements.

The FERC website has a list of frequently asked questions to help filers. It also provides the names and phone numbers of legal and technical staff at FERC that filers can call directly to get questions answered and to receive general guidance and information about FERC's QF program and policies. The website also shows an email address that can be used to submit written questions to FERC technical and legal staff.

Finally, the Commission has exempted applicants for facilities with net power production capacities of 1 MW and smaller from any filing requirement; the electronic filing requirement thus does not apply to these small QFs. The Commission believes that any applicant for a facility larger than 1 MW would have access to the resources needed to develop and make an electronic filing.

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

Applicants submit an initial FERC Form 556 and additional notices for any changes in qualifying status criteria. In view of this one-time requirement, the FERC Form 556 cannot be collected less frequently (i.e., not collected at all). If the information were not collected, as noted above, the Commission would be unable to certify the facility as a QF, and the cogenerator or small power producer would be unable to determine whether it qualifies for the benefits bestowed by PURPA, including the exemptions from certain provisions of federal and state law.

⁵ Public Law 109-58, 119 Stat. 594 (2005).

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 published a 60-day Notice⁶ in Docket No. IC19-16 providing the public an opportunity to comment. In the 60-day 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. The Commission received no comments from the 60-day Notice.

The Commission is also publishing a 30-day Notice⁷ for public comment.

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

The Commission does not consider the information collected in FERC Form 556 filings to be confidential. However, an applicant may request non-public treatment of privileged information or Critical Energy Infrastructure Information (CEII) under 18 CFR 388.112.

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 associated with FERC Form 556.

12. ESTIMATED BURDEN COLLECTION OF INFORMATION

The estimated burden and cost of the FERC-556 follow.

FERC-556: Certification of Qualifying Facility Status for a Small Power Production or Cogeneration Facility

⁶ 84 FR 9317, 3/14/2019. The Notice is also posted in the Commission's eLibrary at <https://elibrary.ferc.gov/idmws/common/OpenNat.asp?fileID=15177084>.

⁷ The Notice is posted at <https://elibrary.ferc.gov/idmws/common/OpenNat.asp?fileID=15247819>.

Facility Type	Filing Type	Number of Respondents (1)	Annual Number of Responses per Respondent (2)	Total Number of Responses (1)*(2)=(3)	Average Burden Hours & Cost Per Response ⁸ (4)	Total Annual Burden Hours & Total Annual Cost (rounded) (3)*(4)=(5)	Cost per Respondent (\$) (rounded) (5)÷(1)
Cogeneration Facility > 1 MW ⁹	Self-certification	63	1.25	78.75	1.5 hrs.; \$118.5	118.125 hrs.; \$9,332	\$148
Cogeneration Facility > 1 MW	Application for FERC certification	1	1.25	1.25	50 hrs.; \$3,950	62.5 hrs.; \$4,938	\$4,938
Small Power Production Facility > 1 MW	Self-certification	2,698	1.25	3,372.5	1.5 hrs.; \$118.5	5,058.75 hrs.; \$399,641	\$148
Small Power Production Facility > 1 MW	Application for FERC certification	0	1.25	0	50 hrs.; \$3,950	0 hrs.; \$0	\$0
Cogeneration and Small Power Production Facility ≤ 1 MW (Self-Certification) ¹⁰	Self-certification	692	1.25	865	1.5 hrs.; \$118.5	1,297.5 hrs.; \$102,503	\$148
TOTAL		3,454		4,317.5		6,536.875 hrs.; \$516,413.13	

The estimated burden in the Paperwork Reduction Act Notice on page 1 of the FERC Form 556 will be corrected to provide the current burden estimates (shown above). It will read “[t]he estimated burden for completing the FERC Form No. 556, including gathering and reporting information, is as follows: 1.5 hours for self-certification of a small power production facility, 1.5 hours for self-certifications of a cogeneration facility, 50 hours for an application for Commission certification of a small power production facility, and 50 hours for an application for Commission certification of a cogeneration facility.” The reporting requirements are not changing.

⁸ The Commission staff believes that the industry is similarly situated in terms of wages and benefits. Therefore, cost estimates are based on FERC’s 2018 average annual wage (and benefits) for a full-time employee of \$164,820 (or \$79.00/hour).

⁹ MW = megawatt.

¹⁰ Not required to file.

13. ESTIMATE OF THE TOTAL ANNUAL COST BURDEN TO RESPONDENTS

There are no non-labor start-up costs. All costs are related to burden hours and are addressed in Questions #12 and #15.

14. ESTIMATED ANNUALIZED COST TO FEDERAL GOVERNMENT

The estimate of the cost for ‘analysis and processing of filings’¹¹ is based on salaries and benefits for professional and clerical support. This estimated cost represents staff analysis, decision-making, and review of any actual filings submitted in response to the information collections. (The corresponding annual and hourly FERC costs use the figures for 2018, as noted.)

The Paperwork Reduction Act of 1995 (PRA) Administrative Cost¹² 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.

The estimated annualized cost to the Federal Government is as follows:

	Number of Employees (FTE)	Estimated Annual Federal Cost
Analysis and Processing of Filings	2	\$329,640
PRA Administrative Cost		\$4,931
FERC Total		\$334,571

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

The reporting requirements and estimated average burden per response (or filing) have not changed. The number of respondents in Question 12 is based on the number of actual filings FERC received throughout 2018. While the number of filings fluctuates from year to year, recent data on the actual number of filings is representative of the number of filings for the next three years, as the Commission received a record number of filings in 2018. The increase in number of respondents is due in part to advances in technology, the extension of production tax credits and investment tax credits by Congress available to solar and wind QFs, and the filing by a single entity of multiple (and often numerous) FERC Form 556s for multiple facilities. The number of responses per respondent has remained the same due to the fact that respondents and/or their legal representatives have gained experience over time from submitting FERC Form 556 filings and are no longer committing as many filing errors on FERC Form 556s as in

¹¹ The estimate uses the FERC’s FY 2018 average annual salary plus benefits of one FERC FTE (full-time equivalent [\$164,820 per year or \$79.00 per hour]). (These estimates were updated in May 2018.)

¹² This estimate was updated May 2018.

previous years. The average burden hours per response has also remained the same because many of the respondents filing FERC Form 556s are solar or wind small power production facilities and those FERC Form 556s are less complex than other types of qualifying facilities to review. Additionally, many of the FERC Form 556s received are from respondents who are filing multiple FERC Form 556s for each of their multiple, yet separate QFs, and reviewing these types of filings is much simpler, as the information is very similar in each FERC Form 556. Thus, the total number of responses has increased and the total estimated annual burden hours has also appropriately increased.

The following table shows the total burden of the new collection of information:

FERC Form 556	Total Request (rounded)	Previously Approved (rounded)	Change due to Adjustment in Estimate (rounded)	Change Due to Agency Discretion
Annual Number of Responses	4,318	2,693	+1,625	0
Annual Time Burden (Hours)	6,537	4,100	+2,437	0
Annual Cost Burden (\$)	\$0	\$0	\$0	\$0

With the clearance package, the cost to industry is displayed using the unit of burden hours. In accordance with the “ROCIS HOW TO Guide for Agency Users of the Information Collection Request (ICR) Module,” users should not report as a dollar cost any burden reported in hours.¹³ Therefore, Commission staff updated the industry’s annual cost burden in the ROCIS metadata to show that the Commission associates no cost to capital investment or other non-labor costs (also indicated in Question 13). The Commission estimates the monetary cost related to the burden hours in Question 12.

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

FERC Form No. 556 is available from the Commission’s website (<http://www.ferc.gov/docs-filing/forms.asp#556>) as a form that can be downloaded with the OMB expiration date on the form/instructions.

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

18. EXCEPTIONS TO THE CERTIFICATION STATEMENT

¹³https://www.rocis.gov/rocis/jsp/common/ROCIS_HOW_TO_Guide_for_AGENCY_Users_of_ICR_Module-03192012_v2.pdf, p.37.

There are no exceptions.