

2019 - SUPPORTING STATEMENT

0572-0089

“Wholesale Power Contract”

A. JUSTIFICATION

1. Explain the circumstances that make the collection of information necessary.

This package is being submitted under a regular clearance as an extension of a currently approved collection. There was a program adjustment to account for a decrease in the estimated number of respondents from 13 to 10 resulting in a decrease of estimated burden hours from 78 to 60. All of the respondents were Rural Utilities Service (RUS) electric program borrowers

The Rural Electrification Act of 1936 (RE Act) as amended (7 U.S.C. 901 et seq.), authorizes the Administrator of RUS to make and guarantee loans in the States and Territories of the United States that will enable rural consumers to obtain electric power. Section 4 of the RE Act (7 U.S.C. 904) authorizes the Administrator to establish terms and conditions of loans to determine that the security for the loan is reasonably adequate and that the loan will be repaid within the time agreed.

In response to the RE Act, rural consumers formed non-profit electric distribution cooperatives. Groups of these distribution cooperatives then banded together to form generation and transmission cooperatives (G&T's) that generate or purchase power and transmit the power to the distribution systems. For a RUS loan to a distribution system, a lien on the borrower's assets generally represents an adequate means to protect the Federal Government's security interest. However, since most G&T revenues flow from its distribution members, RUS requires as a condition of a loan or loan guarantee to a G&T that its distribution members enter into a long-term requirements wholesale power contract to purchase power from the G&T at rates that cover all the G&T's expenses, including debt service and margins.

2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.

All RUS G&T borrowers will enter into a Wholesale Power Contract with their distribution members. In turn, RUS will approve the executed Wholesale Power Contract. As a result of Shoshone¹ case law, the agency is required to use Amendment 1 to the Wholesale Power Contract which was developed for the protection of the Federal government's security. Amendment 1 does not require additional information collection

¹ Tri-State Generation and Transmission Association, Inc. v. Shoshone River Power, Inc., 874 F2d 1346 (10th Cir. 1989).

or reporting requirements from the borrower. When RUS determines that it is acceptable, the information submitted will be used by the agency to improve the credit quality and credit worthiness of loans and loan guarantees to G&T borrowers to fulfill the purposes of the RE Act.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g. permitting electronic submission of responses, and the basis for the decision for adopting this means of collection.

RUS is committed to meeting the requirements of the E-government Act, which requires Government agencies in general to provide the public the option of submitting information or transacting business electronically to the maximum extent possible. The agency encourages borrowers to submit an electronic draft for review and comment. A hard copy of the Wholesale Power Contract, however, is required to be submitted with signatures for final approval.

4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 2 above.

Because the information collected is associated with a particular borrower and pertains to a specific wholesale power contract, it is unavailable from other sources and must be provided by the respondents. There is no duplication as the required information is specific to each G&T borrower and distribution cooperative member.

5. If the collection of information impacts small businesses or other small entities (item 5 of OMB Form 83-1), describe any methods used to minimize burden.

Ninety percent of RUS electric program borrowers meet the Small Business Administration criteria for a small business. RUS staff is aware of paperwork burdens and makes every effort to ensure that the burden on the small entities is the minimum necessary to effectively administer the agency programs and not impact small businesses or other small entities.

6. Describe the consequences to Federal program or policy activities if the collection is not conducted or conducted less frequently, as well as any technical or legal obstacles to reducing burden.

As a condition of a loan or a loan guarantee to a G&T, RUS requires that its distribution members enter into a long-term requirements wholesale power contract to purchase power from the G&T at rates that cover all the G&T's expenses, including debt service and margins. Since the collection of information occurs at the time of a request by a G&T borrower for a loan or a loan guarantee from RUS, the collection could not be performed less frequently or not at all without damaging loan security. If the information were not

collected, the agency could not determine whether the Federal security interest would be adequately protected.

7. Explain any special circumstances that would cause an information collection to be conducted in a manner:

a. Requiring respondents to report information more than quarterly.

There are no requirements to report more than quarterly.

b. Requiring written responses in less than 30 days.

There are no requirements for written responses in less than 30 days.

c. Requiring more than an original and two copies.

RUS requires three originals of the Wholesale Power Contract be sent in for RUS approval. After RUS approval, one original is kept in the RUS files and two originals with RUS approval cover letters will be sent back for the G&T and distribution member files.

d. Requiring respondents to retain records for more than 3 years.

There is no requirement for respondents to retain records for more than 3 years.

e. In connection with a statistical survey, that is not designed to produce valid and reliable results that can be generalized to the universe of study.

This collection is not a survey.

f. Requiring use of statistical sampling which has not been reviewed and approved by OMB.

This collection does not employ statistical sampling.

g. Requiring a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impeded sharing of data with other agencies for compatible confidential use.

No pledge of confidentiality is required.

h. Requiring respondents to submit proprietary trade secrets, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.

There is no requirement for submission of trade secrets.

8. If applicable, identify the date and page number of publication in the Federal Register of the agency's notice soliciting comments on the information collection. Summarize public comments received and describe actions taken by the agency in response to these comments. Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, reporting format (if any), and on data elements to be recorded, disclosed, or reported.

As required by 5 CFR 1320.8(d), a Notice to request comments was published in the Federal Register on April 1, 2019, at Vol. 84 number 62, page 12193. No comments were received.

RUS maintains contact with borrowers through general field representatives (GFRs) and headquarters staff. GFRs have direct contact with borrowers in connection with their responsibilities in fulfillment of RUS requirements, including filling out the various forms. Borrowers may consult RUS' GFRs, field accountants, and headquarters' staff with comments or suggestions on procedures, forms, regulations, etc. During information collection activity, the general public is invited to comment during the Federal Register notice comment periods. Suggestions and comments are invited and are considered by the agency and RUS remains committed to pursuing further reductions in both the burdens placed upon our borrowers/customers and the total volume of regulations imposed. RUS also maintains a website containing general information about the agency, and specific information about the electric program with directory of program staff.

RUS works closely with lending institutions such as the National Rural Utilities Cooperative Finance Corporation and CoBank, a nationwide network of lending institutions and part of the Farm Credit System, which provide supplemental loan funds to borrowers. The agency also works with national and statewide associations representing electric, telecommunications, and water and waste borrowers such as: National Rural Electric Cooperative Association; National Rural Telecom Association; National Telephone Cooperative Association; United States Telephone Association; Western Rural Area Telephone Association; Organization for the Preservation and Advancement of Small Telephone Companies; National Rural Water Association; National Association of Development Organizations; Rural Community Assistance Program; and, American Public Power Association, among others. RUS also works with various Federal agencies including the Federal Communications Commission, U. S. Environmental Protection Agency, Department of Justice, as well as State utility regulatory agencies.

The agency interviewed the following three parties familiar with the collection to discuss the information collection:

Paul Smith
Chief Financial Officer
Big Rivers Electric Corporation
201 Third Street
Henderson, KY 42419
Telephone: 270-844-6194
Email: Paul.Smith@ bigrivers.com

Jacob Olberding
Vice President, Power Supply
Corn Belt Power Cooperative
1300 13th Street North
Humboldt, IA 50548
Phone (515) 332-7775
Email: jacob.olberding@cbpower.coop

General Counsel to Hoosier Energy Rural Electric Cooperative, Inc.
Huber, Goffinet & Hagedorn
644 12th Street
Tell City, IN 47586
812-547-7081
Cgoffinetlaw@psci.net

Each of the respondents interviewed for this information collection were familiar with the information collected and reported that the data provided was readily available to them and was necessary in order for RUS to review and establish loan security. Respondents stated the information is collected only at the time the G&T requests a loan or loan guarantee from RUS and they acknowledged the data is what would be expected in the banking industry from any lending institution. The interviewees confirmed the agency estimate of the time required for respondents to obtain, assemble and submit the required information is accurate.

9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.

Payments or gifts are not provided to respondents.

10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.

No assurance of confidentiality has been provided to respondents.

11. Provide additional justification for any question of a sensitive nature, such as sexual behavior or attitudes, religious beliefs, and other matters that are commonly considered private.

The collection does not contain questions of a sensitive nature.

12. Provide estimates of the hour burden of the collection of information.

The estimated burden hours are 60 hours, a decrease of 18 from the last reporting period when the total hours were 78. Based on the average of the numbers of respondents for the last three years, the agency estimates that it will receive an average of 9 amendments to the Wholesale Power Contract per year. The number of respondents decreased from 13 to 10 and the estimate was calculated by reviewing previous amendments to Wholesale Power Contracts for the last three-year period. Over the last three years the agency received 14 amendments to the Wholesale Power Contract in 2016, 16 in 2017, and 12 amendments in 2018 for an average of 9 amendments per year.

Each response is estimated to require 6 hours and will require 4 hours of Professional time and 2 hours of clerical/administrative time to prepare and submit. The wage rates for the wage categories are selected from the Department of Labor, Bureau of Labor Statistics, May 2017 National Occupational Employment and Wage estimates located at http://www.bls.gov/oes/current/oes_nat.htm. The professional category is General and Operations Manager (Occupational Code 11-1021) at a median of \$48.27 per hour. The clerical/administrative category is Office and Administrative Support Workers (Occupational Code 43-0000) at a median of \$16.70 per hour. Data provided by the Bureau of Labor Statistics indicates that employer cost for employee benefits for the private industry was 39.4%. See; Bureau of Labor Statistics Employer Costs for Employee Compensation – December 2018, <http://www.bls.gov/news.release/ecec.t10.htm>. After calculating employer cost for employee benefits, the total wage rate for Professional is \$67.29, and the total wage rate for clerical administrative personnel is \$23.28.

The estimated hours to prepare and submit the material in connection with amendments to the Wholesale Power Contract requirement of the regulation is \$3,158. The cost calculation is shown in the table below:

Job Category	Hours per response	Total Annual Responses	Total Hourly Wage	Cost
Professional Manager	4	10	\$67.29	\$2,692
Clerical Admin.	2	10	\$23.28	\$466
				\$3158

13. Provide an estimate of the total annual cost burden to respondents or recordkeepers resulting from the collection of information.

(a) Total capital and start-up cost component (annualized over its expected useful life); and

There are no capital or start-up costs associated with this collection.

(b) Total operation and maintenance and purchase of services component.

There are no operation or maintenance costs associated with this collection.

14. Provide estimates of annualized cost to the Federal Government.

The estimated annualized cost to the Federal Government to collect and evaluate this information is estimated to be \$4,572. Wage rates used to calculate federal costs were found at the Office of Personnel Management, 2019 General Schedule tables at https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2019/DCB_h.pdf. For each wholesale power contract received for review, RUS estimates that 6 hours of federal employee time is needed to review and process the document. Of the 6 hours, 5.5 hours of an engineer's time is required, and one-half hour is required from administrative/clerical staff. The Engineer salary is based on GS 13/Step 9 (\$60.19 per hour), and the clerical time is based on a GS 6/Step 7 (\$24.33 per hour). With the addition of the cost of benefits², the hourly wage cost per hour is \$82.00 for the engineer and \$33.14 for the clerical/administrative. The cost to the federal government is calculated as follows:

Professional time:	10 responses x 5.5 hours x \$82.00	=	\$ 4,510
Clerical time:	10 responses x 0.5 hour x \$33.14	=	<u>\$ 166</u>
Total estimated cost to the Government		=	\$ 4,676

15. Explain the reasons for any program changes or adjustments reported in items 13 or 14 of the OMB Form 83-I.

This renewal package requests an extension of a currently approved collection. Since the last submission, the number of respondents decreased due to borrowers opting to prepay RUS loans and a decrease in the number of electric program borrowers and in the numbers of borrowers submitting amendments to Wholesale Power Contracts. Respondents decreased by 3, from 13 to 10 annual respondents. The decrease in the number of respondents directly affected the annual burden hours resulting in an adjustment decrease of 18 annual burden hours from 78 to 60 annual burden hours.

² Cost of total benefits as a percentage of total hourly compensation for Federal Government employees has been calculated by multiplying 36.25% by the hourly OPM wage in accordance with OMB Memorandum M-08 13.

16. For collection of information whose results will be published, outline plans for tabulation and publication.

There are no plans for publication of information.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.

The agency is not seeking such approval.

18. Explain each exception to the certification statement identified in item 19 on OMB 83-1.

None requested.

B. Collection of Information Employing Statistical Methods.

This collection does not employ statistical methods.