

Supporting Statement for  
**FERC-511 (Transfer of Hydropower License)<sup>1</sup>**

The Federal Energy Regulatory Commission (Commission or FERC) requests that the Office of Management and Budget (OMB) review and approve FERC- 511 (Transfer of Hydropower License; OMB Control No. 1902-0069) for a three-year period. FERC-511 is an existing data collection with reporting requirements in 18 Code of Federal Regulations (CFR) Part 9.

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

Part 1 of the Federal Power Act<sup>2</sup> (FPA) gives the Commission authority to issue licenses for hydroelectric projects on the waters over which Congress has jurisdiction.

Section 4(e)<sup>3</sup> of the FPA authorizes the Commission to issue licenses for the construction, operation and maintenance of dams, water conduits, reservoirs, power houses and transmission lines or other facilities necessary for development and improvement of navigation and for the development, transmission, and utilization of power from bodies of water over which Congress has jurisdiction.

Section 8 of the Federal Power Act (16 U.S.C. 801) provides that the voluntary transfer of any license can only be made with the written approval of the Commission. Any successor to the licensee may assign the rights of the original licensee but is subject to all the conditions of the license.

The FPA requires FERC approval of the transfer of a hydroelectric license. Among other things, the Commission ensures that the transferee qualifies under the FPA to be a licensee, e.g., foreign citizens or corporations cannot hold a license. Licenses may be issued to citizens of the United States, or to any association of such citizens, or to any corporation organized under the laws of the United States or any individual state, or to any state or municipality.

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

The information collected by FERC is in the format of a written application for transfer of a license, executed jointly by the parties to the proposed transfer. The transfer of a license may be occasioned by the sale or merger of a licensed hydropower electric project. It is used by FERC staff to determine the qualifications of the proposed transferee to hold the license, and to prepare the transfer of the license order.

18 CFR 9.2 states that the application “shall set forth in appropriate detail the qualifications of the transferee to hold such license and to operate the property under license, which qualifications

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<sup>1</sup> The title is being updated to Transfer of Hydropower License (rather than Transfer of Electric License, or Application for Transfer of Hydropower License).

<sup>2</sup> 16 U.S.C. Sections 791a et. seq. (2000)

<sup>3</sup> 16 U.S.C. 797. (2000)

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shall be the same as those required of applicants for license.” The application for approval of transfer of license is detailed in 18 CFR131.20 (also included in ROCIS and reginfo.gov). It includes items such as:

- evidence of compliance with applicable State laws
- certified copies of all instruments of conveyance whereby title to the project properties is conveyed to it, upon the completion of such conveyance, if and when the Commission shall have given its approval to the proposed transfer
- transferor certifies that it has fully complied with the terms and conditions of its license, as amended, and that it has fully satisfied and discharged all of its liabilities and obligations thereunder to the date hereof, and obligates itself to pay all annual charges accrued under the license to the date of transfer;

Commission staff conducts a systematic review of the prepared application with supplemental documentation provided in the filing. The research that the Commission staff conduct as part of this review includes examining maps and land ownership records of the lands and waters affected by the project. Such sites are generally on streams other than those defined as U.S. navigable waters, and over which Congress has jurisdiction under its authority to regulate foreign and interstate commerce. Before approving a transfer, the Commission reviews the proposed transferee’s compliance history and scrutinizes marginal projects for potential compliance problems. In particular, Commission staff reviews the license document for any significant anticipated expenses to ensure that the purpose of the transfer is not to shift the financial burden of compliance to an entity that is unlikely to satisfy these obligations. Commission staff consults in-house with the Office of General Counsel and the Office of Energy Projects dam safety inspectors for their review and comment.

Notices of transfer applications are published in the Federal Register and in a local newspaper near the project site. FERC seeks to ensure that states, other federal agencies, local communities, and other interested groups are provided the opportunity to address any issues related to the project transfer.

The review process requires the Commission to determine whether the transfer is in the public interest. Commission approval is made contingent on transfer of the title to properties under the license. If the information contained in FERC-511 were not collected, the Commission would be unable to establish facts and pertinent information as to why a licensee desires to transfer the license and if the proposed transferee can operate and maintain the project under the terms and conditions of the license. Without the establishment of these facts, there would be no basis for accepting the application for a transfer of a license.

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

The FERC-511 application may be eFiled through FERC’s eFiling system. [See <http://www.ferc.gov/docs-filing/efiling.asp> for more information.]

**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.**

Filings are periodically reviewed in conjunction with OMB clearance expiration dates. This includes a review of the Commission's reporting requirements to identify duplication of data requirements. To date, no duplication of the data has been found. The information is case specific to the applicant and project.

There are no similar sources of information available that can be used or modified for use because the information collected is unique to the applicant and the site for which the filing is made.

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

The data required impose the least possible burden on applicants, while collecting the information required to process the application for transfer of the license. The burden will vary because the application is specific to each applicant and project.

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

The data required are necessary to process the application for transfer and are collected only when an application for transfer is needed. The information cannot be collected less frequently.

**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 notice (84 FR 45489, August 29, 2019) providing the public with an opportunity to comment. The Commission received no comments. The Commission also published a 30-day notice<sup>4</sup> for public comment.

FERC did not otherwise consult with members of the public concerning this information

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<sup>4</sup>The 30-day Notice was issued on 11/7/2019 and is posted in the Commission's eLibrary at <https://elibrary.ferc.gov/idmws/common/OpenNat.asp?fileID=15400810> . It published in the Federal Register on 11/15/2019 (84 FR 62525).

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 collection pursuant to 5 CFR 1320.8(d)(1).

**9. EXPLAIN ANY PAYMENT OR GIFTS TO RESPONDENTS**

There are no payments or gifts to respondents of the collections.

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

The information submitted to the Commission is public information and therefore is not considered confidential. Specific requests for confidential treatment may be made pursuant to 18 C.F.R. Section 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.

**12. ESTIMATED BURDEN COLLECTION OF INFORMATION**

The Commission estimates the annual burden and cost<sup>5</sup> for the information collection as follows.

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	<b>Number of Respondents (1)</b>	<b>Annual Number of Responses per Respondent (2)</b>	<b>Total Number of Responses (1)*(2)=(3)</b>	<b>Average Burden Hrs. &amp; Cost (\$) Per Response (4)</b>	<b>Total Annual Burden Hours &amp; Total Annual Cost (\$) (3)*(4)=(5)</b>	<b>Cost per Respondent (\$) (5)÷(1)</b>
Hydropower Project Licensees	46	1	46	40 hrs.; \$3,200	1,840 hrs.; \$147,200	\$3,200

**13. ESTIMATE OF THE TOTAL ANNUAL COST BURDEN TO RESPONDENTS**

There are no non-labor or 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**

<sup>5</sup> The FERC 2019 average salary plus benefits for one FERC full-time equivalent (FTE) is \$167,091/year (or \$80.00/hour). Commission staff estimates that the industry’s skill set (wages and benefits) for completing and filing FERC-511 is comparable to the Commission’s skill set.

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The estimate of the cost for ‘analysis and processing of filings’ 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 Paperwork Reduction Act (PRA) Administrative Cost 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.

<b>FERC-511</b>	<b>Number of Employees (FTE)</b>	<b>Estimated Annual Federal Cost (rounded)</b>
Analysis and Processing of Filings <sup>6</sup>	1.5	\$250,637
PRA <sup>7</sup> Administrative Cost		\$4,832
<b>FERC Total</b>		<b>\$255,469</b>

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

The Commission is making no changes to reporting requirements.

The following table shows the annual total burden of the collections 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.

<b>FERC-511</b>	<b>Total Request</b>	<b>Previously Approved</b>	<b>Change due to Adjustment in Estimate</b>	<b>Change Due to Agency Discretion</b>
Annual Number of Responses	46	46	0	0
Annual Time Burden (Hours)	1,840	1,840	0	0
Annual Cost Burden (\$)	\$0	\$0	\$0	\$0

#### **16. TIME SCHEDULE FOR PUBLICATION OF DATA**

There are no publication plans for the collection of information. The data are used for regulatory purposes only.

#### **17. DISPLAY OF EXPIRATION DATE**

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<sup>6</sup> The FERC 2019 average salary plus benefits for one FERC full-time equivalent (FTE) is \$167,091/year (or \$80.00/hour).

<sup>7</sup> Paperwork Reduction Act of 1995 (PRA).

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The expiration date is displayed in a table posted on ferc.gov at

<http://www.ferc.gov/docs-filing/info-collections.asp>.

**18. EXCEPTIONS TO THE CERTIFICATION STATEMENT**

There are no exceptions.