

FERC Form No. 556 and FERC-912 (OMB Control Nos. 1902-0075 and 1902-0237)
Final Rule (Order 872, issued 7/16/2020) and Order 872-A (issued 11/19/2020) in Docket Nos.
RM19-15-000, RM19-15-001, AD16-16-000, and AD16-16-001
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**Supporting Statement for FERC Form No. 556 and FERC-912,
as revised by the Final Rule and Rehearing Order in Docket Nos. RM19-15 and
AD16-16¹**

The Federal Energy Regulatory Commission (Commission or FERC) requests that the Office of Management and Budget (OMB) review and approve the following two existing information collections, as revised by the final rule (Order No. 872) and rehearing order (Order No. 872-A) in Docket Nos. RM19-15 and AD16-16:^{2,3}

- FERC Form No. 556 (Certification of Qualifying Facility (QF) Status for a Small Power Production or Cogeneration Facility), OMB expiration date of 11/30/2022
- FERC-912 (PURPA Section 210(m) Notification Requirements Applicable to Cogeneration and Small Power Production Facilities), OMB expiration date of 9/30/2022.⁴

1 When the Notice of Proposed Rulemaking (NOPR) and corresponding information collection request were submitted to OMB for Docket Nos. RM19-15 and AD16-16, OMB review was pending for the regular renewal of the existing FERC Form No. 556. Only one item per OMB Control No. can be pending OMB review at a time. Therefore, we had to use a temporary (placeholder) information collection number (FERC-556A, OMB Control No. 1902-0316) in order to submit the NOPR to OMB on a timely basis. Note that the FERC-912 was not submitted for Paperwork Reduction Act (PRA) review at the NOPR stage but is being submitted here due to the Final Rule.

2 The final rule, with Commissioner Glick's dissent in part, is posted in FERC's eLibrary at <https://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=15586408>. The News Release is posted at <https://www.ferc.gov/news-events/news/ferc-modernizes-purpa-rules-ensure-compliance-reflect-todays-markets>, with a Fact Sheet at <https://www.ferc.gov/sites/default/files/2020-07/07-2020-E-1-PURPA-fact-sheet.pdf>. The Staff Presentation is posted at <https://www.ferc.gov/sites/default/files/2020-07/07-2020-E-1-staff-presentation.pdf>.

The rehearing order, with Commissioner Glick's dissent in part, is posted in FERC's eLibrary at https://elibrary.ferc.gov/eLibrary/docinfo?document_id=14908630. The News Release on the rehearing order is posted at <https://www.ferc.gov/news-events/news/ferc-affirms-clarifies-purpa-final-rule>.

3 The information collections are prescribed in 18 CFR Part 292 (both FERC Form No. 556 and FERC-912) and 131.80 (for FERC Form No. 556).

4 We inadvertently did not submit to OMB the proposed PRA-related changes to FERC-912, as discussed in the NOPR.

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We are requesting the current OMB expiration dates (noted above) continue for the collections.

The Commission previously submitted a supporting statement on September 2, 2020. This supporting statement updates the September 2, 2020 supporting statement to reflect changes the Commission made to Order No. 872 in the Rehearing Order (Order No. 872-A) issued 11/19/2020. A summary of the changes made in Order No. 872-A is provided below.

1. CIRCUMSTANCES THAT MAKE THE COLLECTION OF INFORMATION NECESSARY

The Public Utility Regulatory Policies Act of 1978 (PURPA)⁵ was enacted in 1978 as part of a package of legislative proposals intended to reduce the country's dependence on oil and natural gas, which at the time were in short supply and subject to dramatic price increases. PURPA sets forth a framework to encourage the development of alternative generation resources that do not rely on traditional fossil fuels (i.e., oil, natural gas and coal) and cogeneration facilities that make more efficient use of the heat produced from the fossil fuels that were then commonly used in the production of electricity.

To accomplish this goal, PURPA section 210(a) directs that the Commission "prescribe, and from time to time thereafter revise, such rules as [the Commission] determines necessary to encourage cogeneration and small power production," including rules requiring electric utilities to offer to sell electricity to, and purchase electricity from, QFs. PURPA section 210(f) required each state regulatory authority and nonregulated electric utility (together, states) to implement the Commission's rules.

In 1980, the Commission issued Order Nos. 69 and 70, which promulgated the required rules that, with limited exceptions, remain in effect today.

Circumstances Leading to the Commission's Re-evaluation of the PURPA Regulations and the Issuance of the NOPR.

In the NOPR in Docket Nos. RM19-15 and AD16-16, the Commission described three important changes in the circumstances that had originally prompted Congress to pass PURPA in 1978. First, as the Commission explained, the United States has seen an unprecedented change in the dynamics of the natural gas market and the relevant supply

⁵ 16 U.S.C. 796(17)-(22), 824a-3.

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and demand. Led by advancements in production technologies, primarily in accessing shale reserves, natural gas supplies increased dramatically. Further, the EIA forecasted continued supply growth over the next 25 years. In short, as the Commission found in issuing the NOPR, there are no longer shortages of natural gas supply.

Second, the Commission found that, since 1978, the outlook for the development of alternatives to natural gas and oil-fired generation resources, such as renewable resources, has changed equally dramatically. The once-nascent renewables industry has grown and matured over the past 40 years and has only accelerated subsequent to the Energy Policy Act of 2005's (EPA 2005) amendment of PURPA. The Commission noted that the cost of building renewable facilities has decreased substantially to the point that the cost of renewable resources is now or is shortly expected to approach the cost of traditional electric generation. The Commission also recognized that renewable resources (including hydro) provide a significant share of the electricity currently generated in the United States, that most renewable resources today are not QFs, and that 65 percent of capacity additions in 2019 were expected to come from renewable resources.

Third, the introduction of QFs as competing sources of electricity to the incumbent electric utilities has led to the development of significant non-QF independent power production. In addition, RTOs and ISOs have developed competitive wholesale electric markets that serve roughly two-thirds of electricity consumers in the United States.

In PURPA section 210(a), Congress directed not only that the Commission prescribe regulations, but that the Commission revise those regulations "from time to time thereafter." The Commission determined in the NOPR that, in light of these dramatic changes in circumstances since the passage of PURPA, it was appropriate to review the PURPA Regulations to determine whether changes to those regulations were warranted.

Summary of Changes to the PURPA Regulations Implemented by the final rule (Order No. 872).

In Order No. 872, the Commission revised its PURPA Regulations based on the record of this proceeding, including comments submitted in the technical conference in Docket No. AD16-16-000 (Technical Conference), the record evidence cited in the NOPR, and the comments submitted in response to the NOPR. These changes, including modifications to the proposals made in the NOPR, are summarized below.

First, the Commission granted states the flexibility to require that energy rates (but not capacity rates) in QF power sales contracts and other legally enforceable obligations (LEOs) vary in accordance with changes in the purchasing electric utility's as-available

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avoided costs at the time the energy is delivered. Under this change, if a state exercises this flexibility, a QF would no longer have the ability to elect to have its energy rate be fixed, but would continue to be entitled to a fixed capacity rate for the term of the contract or LEO.

Second, the Commission granted states additional flexibility to allow QFs to have a fixed energy rate, but to provide that such state-authorized fixed energy rate can be based on projected energy prices during the term of a QF's contract based on the anticipated dates of delivery.

Third, the Commission granted states flexibility to set "as-available" QF energy rates as follows: the Commission established a rebuttal presumption, rather than a per se rule as proposed in the NOPR, that the locational marginal price (LMP) established in the organized electric markets defined in 18 C.F.R. § 292.309(e), (f), or (g) represents the as-available avoided costs of electric utilities located in these markets. So long as this presumption is not rebutted, a state can, at its option, establish as-available energy avoided cost rates for QFs selling to such electric utilities at the LMP. With respect to QFs selling to electric utilities located outside of the organized electric markets defined in 18 C.F.R. § 292.309(e), (f), or (g), states have the option to set as-available energy avoided cost rates at competitive prices from liquid market hubs or calculated from a formula based on natural gas price indices and specified heat rates, provided that the states first determine that such prices represent the purchasing electric utilities' avoided costs. The states would have the flexibility to choose to adopt one or more of these options or to continue setting QF rates under the standards long established in the PURPA Regulations.

Fourth, the Commission provided states the flexibility to set energy and capacity rates pursuant to a competitive solicitation process conducted pursuant to transparent and non-discriminatory procedures consistent with the Commission's *Allegheny* standard.⁶

Fifth, the Commission modified its "one-mile rule" for determining whether generation facilities are considered to be at the same site for purposes of determining whether they exceed the statutory 80 MW size limit on small power production QFs. Specifically, the Commission allowed electric utilities, state regulatory authorities, and other interested parties to provide evidence to show that affiliated small power production facilities that use the same energy resource and are more than one mile apart and less than 10 miles apart actually are at the same site (with distances one mile or less apart still irrebuttably at the same site, and distances 10 miles or more apart irrebuttably at separate sites). The Commission also allowed a small power production facility seeking QF status to provide

⁶*Allegheny Energy Supply Co., LLC*, 108 FERC ¶ 61,082 (2004).

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further information in its certification (whether a self-certification or an application for Commission certification) or recertification (whether a self-recertification or an application for Commission recertification) to defend preemptively against subsequent challenges, by identifying factors affirmatively demonstrating that its facility is indeed at a separate site from other affiliated small power production QFs. The Commission further added a definition of the term “electrical generating equipment” to the PURPA Regulations to clarify how the distance between facilities is to be calculated.

Sixth, the Commission allowed an entity to protest an initial self-certification or self-recertification without being required to file a separate petition for declaratory order and to pay the associated filing fee. However, the Commission clarified in Order No. 872 that such protests may be made to new certifications (both self-certifications and applications for Commission certification) but to only self-recertifications and applications for Commission recertifications making substantive changes to the existing certification.

Seventh, the Commission revised its regulations implementing PURPA section 210(m), which provide for the termination of an electric utility’s obligation to purchase from a QF with nondiscriminatory access to certain markets. Prior to Order No. 872, there was a rebuttable presumption that QFs with a net capacity at or below 20 MW do not have nondiscriminatory access to such markets. The Commission in Order No. 872 updated the rebuttable presumption for small power production facilities (but not cogeneration facilities) from 20 MW to 5 MW and, in the Order No. 872, revised the regulations to include examples of factors, among others, that QFs may argue show that they lack nondiscriminatory access to such markets.

Finally, the Commission clarified that a QF must demonstrate commercial viability and a financial commitment to construct its facility pursuant to objective and reasonable state-determined criteria before the QF is entitled to a contract or LEO. States may not impose any requirements for a LEO other than a showing of commercial viability and a financial commitment to construct the facility.

As explained in the Order No. 872, these changes enable the Commission to continue to fulfill its statutory obligations under sections 201 and 210 of PURPA. These changes are effective prospectively for new contracts or LEOs and for new facility certifications and recertifications filed on or after the effective date of Order No. 872; the Commission does not by Order No. 872 rule permit disturbance of existing contracts or LEOs or existing facility certifications.

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*Summary of Changes to the PURPA Regulations Implemented by the rehearing order
(Order No. 872-A)*

In the rehearing order, the Commission either dismisses or disagrees with most arguments raised on rehearing. The Commission also provides further clarification on (1) states' use of tiered avoided cost pricing; (2) states' use of variable energy rates in QF contracts and the availability of utility avoided cost data; (3) the role of independent entities overseeing competitive solicitations; (4) the circumstances under which a small power production QF needs to recertify; (5) application of the rebuttable presumption of separate sites for the purpose of determining the power production capacity of small power production facilities; and (6) the PURPA section 210(m) rebuttable presumption of nondiscriminatory access to markets and accompanying regulatory text. The Commission expects that the clarification regarding the circumstances under which a small power production QF needs to recertify will reduce the burden on filers, as described below.

The Commission in Order No. 872-A disagrees with arguments that the “[10]-mile rule” adds unnecessary regulatory burdens, finding instead that the changes to the one-mile rule and the corresponding changes to the Form No. 556 are necessary to provide the Commission the information it needs to determine whether a facility qualifies to be a QF. In response to requests for rehearing, the Commission in Order No. 872-A modifies Order No. 872 to reduce the recertification burden. The Commission concludes that with that modification lessening the burden, the burden estimates, as reported in Order No. 872, continue to be reasonable.

FERC-556 and FERC-912 and Reason for Changes in Docket No. RM19-15.

FERC-556. FERC Form No. 556 is required to implement sections 201 and 210 of PURPA. The Commission's regulations in 18 CFR Part 292 specify: a) the certification procedures which must be followed by the applicant (legal entity on whose behalf qualifying facility status is sought) of small power production and cogeneration facilities; b) the criteria which the applicant must meet; c) the information which the applicant must submit to FERC in order to obtain qualifying status; d) the PURPA rights which are available to QFs to encourage small power production and cogeneration; and e) the requirements pertaining to arrangements between electric utilities and 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

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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;
- provide interconnection and transmission services to QFs;
- offer to operate in “parallel” with QFs pursuant to standards determined by a state regulatory authority (with respect to any electric utility over which it has ratemaking authority) or nonregulated electric utility to ensure system safety and reliability of interconnected operations; 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) and the Public Utility Holding Company Act of 2005.

In Order No. 732,⁷ the Commission provided that an applicant seeking to certify QF status of a small power production or cogeneration facility complete and file the FERC Form No. 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 No. 556 be submitted electronically.

FERC-912. The use of FERC-912 is necessary to provide the Commission with the information needed to determine whether an order is appropriate to either terminate or reinstate the purchasing or selling of energy under the PURPA section 210(m).

- The Commission’s implementing regulations, found in 18 C.F.R. Part 292, provide the following -
- §292.310: an electric utility’s application for the termination of its obligation to purchase energy from a QF,
- §292.311: an affected entity or person’s application to the Commission for an order reinstating the electric utility’s obligation to purchase energy from a QF,
- §292.312: an electric utility’s application for the termination of its obligation to sell energy and capacity to QFs, and
- §292.313: an affected entity or person’s application to the Commission for an order reinstating the electric utility’s obligation to sell energy and capacity to QFs.

In Docket No. RM19-15, and as modified in Docket No. RM19-15-001, the Commission makes changes to the current FERC-556 (affected by both orders) and FERC-912

⁷ *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).

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(affected only by Order 872) to implement the revised regulations as described above.
As a result of these changes to the FERC-556 and FERC-912, the Commission also
updates the information collection statement.

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

FERC-556. The information collected from FERC Form No. 556 under 18 C.F.R. § 131.80 and 18 C.F.R. 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 Commission regulations and is eligible to receive the benefits available to a QF under PURPA.

In order to obtain QF status and obtain PURPA benefits, an applicant for QF status must follow the process indicated in FERC Form No. 556 and select, at its option, either the procedure set forth in 18 C.F.R. § 292.207(a), which requires the submission to FERC of a self-certification or self-recertification, or the procedure set forth in 18 C.F.R. § 292.207(b), which requires the submission to FERC of an application for Commission certification or recertification.⁸ If FERC did not collect the FERC Form No. 556 information, there would be no basis for the Commission to determine whether a facility satisfies the requirements of QF status.

The revised FERC Form No. 556 with instructions is an attachment to Order No. 872-A and included in ROCIS and reginfo.gov.

FERC-912. The Commission uses the information collected by FERC-912 to determine if an order is appropriate and required under PURPA section 210(m).⁹ Without this collection of information, the Commission would not be able to carry out its obligations under PURPA section 210(m).

⁸ Since FERC may revoke the QF status of a small power production or cogeneration facility if the facility fails to comply with any of the 18 C.F.R. Part 292 criteria, private financial lenders to small power production and cogeneration power facilities occasionally require small power producers and cogenerators to follow 18 C.F.R. § 292.207(b) procedures (certification by FERC as opposed to self-certification) in order to reduce the risk of status revocation.

⁹ As amended by P.L. 109-58 Section 1253 (EPAAct 2005).

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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. 619,¹⁰ 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-556. FERC has attempted to facilitate the process of 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 No. 556 can be downloaded from FERC's web site at: <https://www.ferc.gov/industries-data/electric/general-information/electric-industry-forms>.

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 the application and a docket number for the submittal much more quickly than 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 make better use of this data.

FERC-912. Applicants use the eFiling system to file the required information to the Commission.

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 No. 556 and FERC-912 are necessary information collections for the Commission to remain in compliance with FPA and PURPA mandates. No similar

¹⁰ *Electronic Filing of Documents*, Order No. 619, 65 FR 57088 (Sept. 21, 2000), FERC Stats. & Regs. ¶ 31,107 (2000).

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information is, in fact, publicly available. There are no other Federal agencies collecting this data, as there are no other Federal agencies 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

FERC-556. The FERC Form No. 556 and accompanying instructions have made it easier for applicants to file for QF status because the form leads applicants step-by-step through the compliance determinations. Without this step-by-step process applicants (particularly small applicants) must independently research the requirements and determine compliance with PURPA and the Commission's regulations.

The FERC website has a list of frequently asked questions to help filers.¹¹ It also provides the names and phone numbers of legal and technical staff at FERC that filers can call directly to get answers to questions and to receive general guidance and information about FERC's QF program and policies. The website also provides email addresses 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.

FERC-912. The FERC-912 is related to the Commission's regulations implementing PURPA section 210(m), which provide for the termination of an electric utility's obligation to purchase from a QF with nondiscriminatory access to certain markets. As such, the direct reporting burden of the FERC-912 falls on electric utilities located within such markets wishing to be relieved from the purchase obligation. Seeking such relief is voluntary, and if such electric utilities were small entities, they would decide whether to seek such relief based on the same considerations as larger entities, i.e., whether the cost savings from being relieved of the purchase obligation exceed the cost of seeking such relief. The Commission believes these considerations are appropriate for entities of all

¹¹ The frequently asked questions are posted at <https://www.ferc.gov/about/what-ferc/frequently-asked-questions-faqs/qualifying-facilities-qf-faq>.

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sizes, and is aware of no way to further minimize this voluntary burden on small electric utilities.

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

FERC-556. Applicants submit an initial form and additional forms for any changes in QF status criteria. If the information were not collected and kept up-to-date, or if any changes that affect the QF status occur, 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.

FERC-912. Respondents file the FERC-912 information only when circumstances in 18 C.F.R. Part 292 are met, and only if the respondent chooses to make the filing. This is not a recurring collection. The Commission cannot conduct this information collection less frequently. The only way to conduct this collection less frequently would be to discontinue it. That would result in the Commission failing to meet its statutory mandates.

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

Each FERC rulemaking (both proposed and final rules) is published in the Federal Register thereby providing public utilities and licensees, state commissions, Federal agencies, and other interested parties an opportunity to submit data, views, comments or suggestions concerning the proposed collection of data. The NOPR (issued 9/19/2019) was published in the Federal Register (84 FR 53246, 10/4/2019).

Comments on the NOPR and FERC Responses

FERC received 12 comments on the NOPR related to PRA issues. Comment summaries and FERC's responses follow.

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Public Comments in Response to the NOPR: The Southeast Public Interest Organizations and SC Solar Alliance stated that Order No. 872 will make recertification burdensome, citing generally the increased burden of reporting affiliates within 10 miles and having to defend against challenges to QF status based on such affiliation within 10 miles.¹² Similarly, Solar Energy Industries were concerned that QFs may need to defend numerous self-certifications over a facility's lifetime, and assert that QFs could be forced to recertify any time the information represented in the Form No. 556 changes, including ownership changes to affiliated facilities located within 10 miles.¹³

Several commenters stated that there will be substantial costs associated with allowing a party to protest a self-certification or self-recertification of a facility without being required to file a separate petition for declaratory order and pay the associated filing fee, that will fall on ratepayers and QFs.¹⁴ Several commenters stated that the proposed changes will lead to increased administrative burden and expense.¹⁵ However, several commenters stated that this change would increase the efficiency of the process, reduce administrative costs, and could solve potential certification problems before they even begin.¹⁶

Solar Energy Industries stated that the proposed changes to the one-mile rule will substantially increase the regulatory burden on QFs and the self-certification process will no longer be quick.¹⁷ Solar Energy Industries asserted that a QF could be forced to recertify any time the information represented changes, including ownership changes to affiliated facilities located within ten miles.¹⁸ Solar Energy Industries stated that the

¹² Southeast Public Interest Organizations Comments at 29; SC Solar Alliance Comments at 18.

¹³ Solar Energy Industries at 57.

¹⁴ Con Edison Comments at 5; ENGIE Comments at 4; Public Interest Organizations Comments at 97; Solar Energy Industries Comments at 58.

¹⁵ Ares Comments at 6; Borrego Solar Comments at 4; Con Edison Comments at 5; Public Interest Organizations Comments at 97-98; Solar Energy Industries Comments at 51-52, 54, 57-58; SC Solar Alliance Comments at 15-18; Southeast Public Interest Organizations Comments at 29, 35; sPower Comments at 14.

¹⁶ Indiana Municipal Comments at 10; NRECA Comments at 21-22; Portland General Comments at 21-22.

¹⁷ Solar Energy Industries Comments at 52.

¹⁸ *Id.* at 57.

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NOPR's estimate of an additional eight hours and \$632 per docket for each QF self-certification or re-certification is a substantial underestimation.¹⁹ Solar Energy Industries estimated that it would require an additional approximately 90 to 120 hours per year to comply with the new requirements.²⁰ Solar Energy Industries asserted that the flood of self-certification filings and updates would be a substantial burden on Commission staff and provide little value to the Commission or the public.²¹

Commission Response in Order No. 872: The Commission in Order No. 872 found that any increased administrative burden imposed by the new rule is justified by the need to ensure that QFs meet the statutory criteria for QF status. With regard to recertifications, the Commission granted legacy treatment to existing QFs under certain circumstances.

The Commission limited protests under Order No. 872. Protests may be filed to an initial certification (both self-certification and application for Commission certification) filed on or after the effective date of Order No. 872, but only to a recertification (both self-recertification and application for Commission recertification) that makes substantive changes to the existing certification and that are filed on or after the effective date of Order No. 872. The Commission found that recertifications (both self-recertifications and applications for Commission recertifications) making "administrative only" changes should not be subject to a protest pursuant to Order No. 872.²²

The Commission in Order No. 872 did not agree with Solar Energy Industries' estimates. First, the Commission noted that 18 C.F.R. § 292.207(d) (which the Commission did not alter in Order No. 872 except to renumber as 18 C.F.R. § 292.207(f)) already states that, if a QF fails to conform with any material facts or representations presented in the certification, the QF status of the facility may no longer be relied upon,²³ and hence it is long-standing practice that a QF must recertify when material facts or representations in the Form No. 556 change.

¹⁹ *Id.*

²⁰ *Id.* at 58.

²¹ *Id.* at 53-54.

²² As noted in Order No. 872, our allowing protests does not eliminate the ability to file a petition for declaratory order seeking revocation of QF status.

²³ 18 C.F.R. § 292.207(d), which this final rule will renumber to 18 C.F.R. § 292.207(f).

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Second, the Commission in Order No. 872 stated that certifications and recertifications are already subject to protests, albeit in the form of petitions for declaratory order, and therefore dealing with objections to a certification or recertification is not new. The Commission anticipated that most, though not all, of the protests filed pursuant to the new 18 C.F.R. § 292.207(a) will relate to the new more-than-one-but-less-than-10-miles rebuttable presumption.²⁴ Such protests will necessarily be limited because not all certifications and recertifications will be subject to the new more-than-one-but-less-than-10-miles rebuttable presumption. Only small power production facilities seeking QF status that have an affiliated small power production QF more than one but less than 10 miles away and that uses the same energy resource are subject to the rebuttable presumption. Small power production facilities that do not have multiple small power production facilities or affiliates will not be affected by the new rebuttable presumption. Nor will cogeneration QFs be affected by the new rebuttable presumption.²⁵ Additionally, in general as described above, protests may only be made to an initial certification (both self-certification and application for Commission certification) filed on or after the effective date of Order No. 872, and only to a recertification (self-recertification or application for Commission recertification) that makes substantive changes to the existing certification that are filed after the effective date of Order No. 872.

Third, the Commission also instituted time limits on protests that may be filed under Order No. 872. The Commission adopted the NOPR proposal that interested parties will have 30 days from the date of the filing of the Form No. 556 at the Commission to file a protest (without paying a fee).²⁶

²⁴ While the Commission anticipates that most protests will involve interested persons or entities attempting to rebut the presumption of separate sites for affiliated small power production QFs that are more than one and less than 10 miles apart, we note that protesters may also protest any fact or representation in the Form No. 556, or other aspect of a QF's filing they believe is inconsistent with PURPA or our PURPA Regulations.

²⁵ The 80 MW limit and same site determination only apply to small power production facilities, not cogeneration facilities. *See* 16 U.S.C. § 796(17)(A).

²⁶ The Commission notes that section 292.207(c) of the PURPA Regulations requires the applicant to concurrently with its filing serve a copy of the filing on each applicable electric utility as well as the applicable State regulatory authority. The Commission expects an applicant seeking QF status (or recertifying its status) to timely comply with that regulation. Therefore, a utility should also receive the filing at the same time that the filing is made at the Commission.

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Fourth, regarding Solar Energy Industries' concern that a QF may have to engage in multiple defenses of its status, in addition to the above limits on protests, once the Commission has affirmatively certified an applicant's QF status in response to a protest opposing a self-certification or self-recertification, or in response to an application for Commission certification or Commission recertification, any later protest to a recertification (self-recertification or application for Commission recertification) making substantive changes to a QF's existing certification, e.g., asserting that the entity seeking QF status is at the same site as affiliated small power production QFs more than one but less than 10 miles from it, must demonstrate changed circumstances from the facts on which the Commission acted on the certification filing that call into question the continued validity of the earlier certification.

Finally, the Commission in Order No. 872 noted that even if it indeed takes *some* small power production facilities an additional 90 to 120 hours (and we think that unlikely), that is not an unreasonable burden to impose to ensure that a generating facility that seeks to be a QF is, in fact, entitled to QF status and complying with PURPA.²⁷ However, the Commission thought it highly unlikely that any small power production facility's burden will increase by 90 to 120 hours, and posit that, to the extent this might occur, it would be an anomaly.²⁸

The Commission also reduced the burden on rooftop solar photovoltaic (PV) developers by permitting rooftop solar PV developers an alternative option to file their recertification applications. That is, rather than be required to file for recertification each time the rooftop solar developer adds or removes a rooftop facility, a rooftop solar PV developer may recertify on a quarterly basis. However, if in any quarter a rooftop solar PV developer either has no changes or only has changes of power production capacity of 1 MW or less, then it would not be required to recertify until cumulatively over the quarters since its last filing, it has accumulated changes greater than 1 MW.

²⁷ The regulations adopted in Order No. 872 explicitly make self-certifications and self-recertifications effective upon filing and allow them to remain effective even if challenged until such time as the Commission finds that a facility does not qualify to be a QF. Additionally, entities seeking QF status can file self-certifications years in advance of facility operation, such that the few months contemplated by the new process should not cause delay. Finally, with regard to the time it may take to fill in the Form No. 556, the Commission noted that while an entity seeking QF status *may choose* to preemptively defend against claims that it should be considered to be at the same site as affiliated small power production QFs located more than one but less than 10 miles from it, this is optional, not required.

²⁸ The Commission provides below a further response to this argument.

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Public Comments Related to Corresponding Changes to the FERC Form No. 556 in Response to the NOPR

Solar Energy Industries and the Southeast Public Interest Organizations contended that the proposed new item 8b that requests a list of all affiliated facilities within one to 10 miles from the certifying QF would be a significant increase in information collection, time, effort, and cost of QF certification.²⁹ Solar Energy Industries argued that this is not a mere information collection requirement, but a request for information that is not otherwise publicly available and is inconsistent with the Commission's finding on the burden of collecting Connected Entity information.³⁰

The Southeast Public Interest Organizations objected that the obligation to show how distances are calculated and to identify electrical generating equipment and their associated geographic coordinates are overly burdensome for facilities that are presumed to be separate.³¹

Commission Response in Order No. 872:

The Commission found that the added information collected by changes to the FERC Form No. 556 is necessary to implement the changes made to the regulations in Order No. 872, and thus justifies the increase in reporting burden. The Commission found that item 3c (geographic coordinates) and the Geographic Coordinates instructions on page 4 of the current FERC Form No. 556 will be revised to require all applicants to report the applicant facility's geographic coordinates, rather than only for applications where there is no street address (as was the case previously). The Commission found that such information will provide more transparency regarding the location of each site, and that such transparency may be useful for both the public and Commission staff in monitoring compliance with the Commission's QF regulations.

Regarding Solar Energy Industries' concern regarding the expansion of the information collection requirements, the Commission found that the added information collected by item 8 of the Form No. 556 is necessary to implement the changes made to the regulations in Order No. 872, and thus justifies the increase in reporting burden. Regarding Solar Energy Industries contention regarding the currently pending Connected

²⁹ Solar Energy Industries Comments at 56; Southeast Public Interest Organizations Comments at 36-37.

³⁰ Solar Energy Industries Comments at 56-57.

³¹ Southeast Public Interest Organizations Comments at 37-38.

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Entity proceeding, the Commission found that that is a separate proceeding and beyond the scope of this proceeding.³²

The Final Rule in Docket Nos. RM19-15 and AD16-16 was issued by the Commission on 7/16/2020³³ and published in the Federal Register on 9/2/2020 (85 FR 54638).

Comments on the Final Rule (Order No. 872) and FERC Responses in Order No. 872-A (Rehearing Order) in Docket Nos. RM19-15-001 and AD16-16-001.

The Commission also received arguments on rehearing. In Order No. 872-A, the Commission addresses the arguments raised on rehearing and clarifies, in part, its final rule adopting revisions to its regulations implementing sections 201 and 210 of the Public Utility Regulatory Policies Act of 1978 (PURPA). The Commission received two comments related to PRA issues. Comment summaries and the Commission's responses follow.

Public Comment in Response to Order No. 872:

Solar Energy Industries' argues that the "[10]-mile rule" adds unnecessary regulatory burdens, making the self-certification process no longer "quick and not unduly burdensome."³⁴ Public Interest Organizations argue that Order No. 872's requirement to list in Form No. 556 all "affiliated small power production QFs using the same energy resource within one mile," as well as "all affiliated small power production QFs using the same energy resource whose nearest electrical generating equipment is less than 10 miles

³² Moreover, the data collection at issue in that proceeding does not eliminate the need for the Commission to collect the data required by the FERC Form No. 556 so that the Commission has the information it needs to determine whether a facility qualifies to be a QF consistent with the standards laid out in the statute. In any event, we note that the Connected Entity rulemaking was about market-based rate sellers, not QFs, and it is likely that the Connected Entity rulemaking would not apply to many QFs in the first place since they often neither seek nor have the authority to sell at market-based rates.

³³ The Final Rule is posted in FERC's eLibrary at <https://elibrary.ferc.gov/eLibrary/filedownload?fileid=15586408>.

³⁴ Solar Energy Industries Request for Rehearing and/or Clarification at 34, 52.

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from the electrical generating equipment of the entity seeking small power production QF status,³⁵ would impose a significant burden.³⁶

Public Interest Organizations contend that the basis for the Commission's estimate that Order No. 872 would impose 62 hours of administrative work on every small power production facility over 1 MW with affiliated facilities between one and 10 miles away is not clear.³⁷ Public Interest Organizations note that Solar Energy Industries extensively raised and documented the expected regulatory burden of the new rule, and refer to Solar Energy Industries' estimate that the new rule would require an additional 90 to 120 hours per year to comply.³⁸ Public Interest Organizations assert that the Commission dismissed Solar Energy Industries' estimates without providing additional justification or explanation for the Commission's time and expense estimates.³⁹ Public Interest Organizations also point out Southeast Public Interest Organizations' comment that the change to the one-mile rule would have implications for nearly every existing QF in North Carolina and its map that shows that facilities in compliance with the original one-mile rule are within 10 miles from other QFs and could trigger the new rule on recertification.⁴⁰

Commission Response in Order No. 872-A:

Solar Energy Industries' comment on the NOPR and the Commission's responses in Order No. 872 are discussed on pages 11-13 of this supporting statement. In Order No. 872-A, the Commission determined that the assertions of unreasonable burden have no merit. First, the Commission noted that Solar Energy Industries did not independently support its estimate of increased burden of 90 to 120 hours. Rather, Solar Energy Industries relied on a separate rulemaking proceeding for a different regulatory program administered by the Commission,⁴¹ and stated, without justification, that it believed the

³⁵ *Id.*

³⁶ *Id.* (citing Order No. 872, 172 FERC ¶ 61,041 at PP 485, 539-42, 577-83).

³⁷ *Id.* at 117 (citing Order No. 872, 172 FERC ¶ 61,041 at P 587).

³⁸ *Id.* at 129 (citing Solar Energy Industries Comments, Docket No. RM19-15-000, at 52 (Dec. 3, 2019)).

³⁹ *Id.* at 129-30.

⁴⁰ *Id.* at 130-31 (citing Southeast Public Interest Organizations Comments, Docket No. RM19-15-000, at 31 (Dec. 3, 2019)).

⁴¹ See *Data Collection for Analytics and Surveillance and Market-Based Rate Purposes*,

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estimates for an ultimately withdrawn portion of that rulemaking (the proposed Connected Entity Information requirement) are a reasonable approximation of the burden that QFs would face in complying with the new requirements in Order No. 872.⁴² While both rulemakings require the disclosure of affiliate information, the Commission concluded that the comparison of Order No. 872 and the referenced separate rulemaking has no merit. The withdrawn “Connected Entity Information” proposal would have also required reporting of certain information not required by Order No. 872, such as detailed employee information.⁴³ Furthermore, Order No. 872 limits the information geographically to require the listing of only those affiliated entities that are less than 10 miles away, whereas the withdrawn Connected Entity Information requirement from the other proceeding would have required filers to report information regarding affiliates nation-wide rather than for a limited geographic area as in Order No. 872.

Moreover, the Commission believes that Solar Energy Industries’ estimate vastly overstates the regulatory burden. First, the Commission explained in Order No. 872 that 18 C.F.R. § 292.207(d) (which the Commission did not alter in Order No. 872 except to renumber as 18 C.F.R. § 292.207(f)) already states that if a QF fails to conform with any material facts or representations presented in the certification, the QF status of the facility may no longer be relied upon,⁴⁴ and hence it is long-standing practice that a QF must recertify when material facts or representations in the Form No. 556 change.

Second, with regard to the new Form No. 556 requirement to identify all affiliated small power production QFs using the same energy resource that are less than 10 miles from the electrical generating equipment of the certifying facility, the Commission notes that Order No. 872 expanded the requirement to identify such facilities to less than 10 miles away, but the requirement to identify such facilities less than one mile already existed.

Third, the Commission notes that not all QFs will be affected by this expanded requirement. Only small power production QFs that have an affiliated small power production QF more than one but less than 10 miles away that uses the same energy resource will be subject to the new requirement to list the affiliated small power

Order No. 860, 168 FERC ¶ 61,039 (2019) (adopting rules concerning data collection for public utilities with market-based rates).

⁴² Solar Energy Industries Comments, Docket No. RM19-15-000, at 57-58 (Dec. 3, 2019).

⁴³ See *Data Collection for Analytics and Surveillance and Market-Based Rate Purposes*, Notice of Proposed Rulemaking, 156 FERC ¶ 61,045, at P 52 (2016).

⁴⁴ 18 C.F.R. § 292.207(d), which the final rule renumbered to 18 C.F.R. § 292.207(f).

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production QF. QFs that have no affiliated small power production QFs will not be affected, nor will those whose only affiliates are more than 10 miles away. Moreover, those QFs that have only a few affiliated small power production QFs more than one but less than 10 miles away will only see a small increase in burden to list these affiliated facilities. The only facilities that may see a more significant burden—from the new requirement to identify affiliated facilities that use the same energy resource more than one and less than 10 miles away—are facilities with multiple facilities close together, and it is precisely this group of facilities from whom the Commission needs this information, in order to determine whether those facilities should be considered to be at the same site.

The Commission disagrees with Solar Energy Industries’ arguments that the “[10]-mile rule” adds unnecessary regulatory burdens, making the self-certification process no longer “quick and not unduly burdensome.” The changes to the one-mile rule and the corresponding changes to the Form No. 556 are necessary to provide the Commission the information it needs to determine whether a facility qualifies to be a QF, consistent with the standards laid out in the statute. In particular, the new requirement to list affiliated small power production QFs⁴⁵ is needed to assess whether the applicant facility and other affiliated facilities using the same energy resource are located at the same site and ultimately whether they meet the statutory 80 MW limit. Moreover, the requirement is to list *affiliated* small power production QFs; thus, only facilities with affiliates will be affected by this information requirement — single, unaffiliated QFs will face no additional burden. Similarly, for QF applicants with few affiliated facilities less than 10 miles from the applicant facility, this listing requirement should be only minimally burdensome. The requirement to list affiliates less than 10 miles from the applicant facility would likely require more time when a project owner owns many QFs less than 10 miles from the applicant facility, which will likely be a larger, more sophisticated QF developer that has resources to prepare the form. Even then, it is a necessary burden in order to ensure compliance with PURPA.

However, in light of Public Interest Organizations’ and Solar Energy Industries’ renewed assertion that the regulatory burden on QFs is substantial,⁴⁶ the Commission modifies and clarifies our requirements regarding the identification of affiliated small power production QFs in Order No. 872-A, in order to further ensure that the regulatory burden

⁴⁵ Specifically, the new requirement is to list affiliated small power production QFs using the same energy resource whose nearest electrical generating equipment is less than 10 miles from the electrical generating equipment of the entity seeking small power production QF status, both on initial certification and recertification.

⁴⁶ Public Interest Organizations Request for Rehearing at 127-29; *see* Solar Energy Industries Request for Rehearing and/or Clarification at 34.

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on small power production facilities is within reasonable limits. The Form No. 556, as revised by Order No. 872, requires that a facility filing a certification or recertification after the effective date of Order No. 872 identify, in item 8a of the Form No. 556, any affiliated small power production QFs that use the same energy resource and are located less than 10 miles from the electrical generating equipment of the applicant facility, by including in the Form No. 556 each affiliated facility's: (1) location, including geographic coordinates; (2) root docket number, if any; (3) maximum net power production capacity; and (4) common owners. Section 292.207(d) of the Commission's regulations, which Order No. 872 renumbered to 18 C.F.R. § 292.207(f), states that if a QF fails to conform with any material facts or representations presented in the certification the QF status of the facility may no longer be relied upon.⁴⁷

As a result, when any of a small power production QF's affiliated facilities less than 10 miles away changes any of the items listed above, Order No. 872 would require a small power production QF to recertify its own Form No. 556 to reflect its affiliated facility's updated information. This represents an expansion from the requirement prior to Order No. 872 that a small power production QF reflect the updated information of its affiliated small power production facilities one mile or less away.⁴⁸ Moreover, in order to maintain an up-to-date Form No. 556 and recertify with the correct affiliated facility information, under Order No. 872 a small power production QF would need to monitor continually all of its affiliated small power production QFs that are less than 10 miles away for changes. This also is an expansion from the requirement, prior to Order No. 872, that a small power production QF monitor its affiliated small power production QFs one mile or less away for changes.⁴⁹

In Order No. 872-A, the Commission changed the filing requirement in Form No. 556 to lessen the burden on filers to address these concerns. In Order No. 872-A, the

⁴⁷ 18 C.F.R. § 292.207(d), which Order No. 872 renumbered to 18 C.F.R. § 292.207(f).

⁴⁸ Item 8a of the Form No. 556 effective prior to Order No. 872 required an applicant to "[i]dentify any facilities with electrical generating equipment located within 1 mile of the electrical generating equipment of the instant facility . . ." Section 292.207(d) of the Commission's regulations, which Order No. 872 renumbered to 18 C.F.R. § 292.207(f), states that if a QF fails to conform with any material facts or representations presented in the certification the QF status of the facility may no longer be relied upon. While the requirement, prior to Order No. 872, that a small power production QF update its Form No. 556 with the updated information of its affiliated small power production facilities one mile or less away, is not explicit, we believe that this requirement is the logical result of the intersection of the above.

⁴⁹ See *supra* note 48.

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Commission modifies Order No. 872 to state that a small power production QF evaluating whether it needs to recertify does *not* need to recertify: (1) due to a change in the information it has previously reported regarding its affiliated small power production QFs that are more than one mile but less than 10 miles from its electrical generating equipment, including adding or removing an affiliated small power production QF more than one mile but less than 10 miles away, or (2) if an affiliated small power production QF more than one mile but less than 10 miles away and previously reported in item 8a makes a modification, unless that change also impacts any other entries on the evaluating small power production QF's Form No. 556.

The Commission will continue to require that a small power production QF, as the QF was required prior to Order No. 872, recertify its Form No. 556 to update information in item 8a due to a change at any of its affiliated small power production facilities that use the same energy resource and are located one mile or less from its electrical generating equipment.⁵⁰ The Commission will also still require that a small power production QF recertify due to a change in material fact or representation to its own facility.

At such time as the small power production QF makes a recertification due to a change in material fact or representation to its own facility or at any of its affiliated small power production facilities that use the same energy resource and are located one mile or less from its electrical generating equipment, the Commission will require that the small power production QF update item 8a for all of its affiliated small power production QFs within 10 miles, including adding or deleting affiliated small power production QFs, and recording changes to previously listed small power production QFs, so that the information in its Form No. 556 is complete, accurate, and up-to-date.⁵¹

The Commission believes that this modification reduces the burden on small power production QFs because they will not be required to continually monitor their affiliated small power production QFs more than one mile but less than 10 miles away for changes, nor will the Commission require a small power production QF that is evaluating whether it must recertify its facility to recertify to update item 8a due to a change at its affiliated small power production facilities more than one mile but less than 10 miles from the evaluating facility's electrical generating equipment.⁵² However, the affiliated QF of that

⁵⁰ See *supra* note 48.

⁵¹ If a small power production QF that was certified prior to the effective date of Order No. 872-A is required to recertify due to a material change to its own facility, then at that time it will be required to identify affiliates less than 10 miles from the applicant facility.

⁵² The Commission notes that it is maintaining the final rule's alternative option for rooftop solar PV developers to file their recertification applications. See Order No. 872,

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evaluating small power production QF will need to recertify if the affiliated QF makes a material change to its information in its Form No. 556.

After reviewing the rehearing requests, and implementing the modification described above, the Commission concludes in Order No. 872-A that this requirement strikes an appropriate balance between the need to address improper circumvention of the one-mile rule and the need to avoid unduly burdening small power production QFs. With the modification described above, the Commission finds that our burden estimates, as reported in Order No. 872, are reasonable, especially now that we have lessened the requirements as compared to Order No. 872 by making this change on rehearing. The Commission does not believe that the change we have made today to the Form No. 556 to implement the above modification adds any additional burden to the information collection. The Commission also notes that, in retaining the pre-final rule requirement that a small power production facility recertify information on affiliate small power production facilities one mile or less away,⁵³ the Commission is not adding any additional burden.

Though on rehearing Public Interest Organizations and Solar Energy Industries questioned the Commission's estimates provided in Order No. 872, the Commission provided ample justification for why the burden and cost estimates would increase as a result of Order No. 872. In Order No. 872-A, the Commission reiterates that in Order No. 872, the Commission estimated that the annual burden hours and costs for the information collection for the Form No. 556 would increase as a result of the changes to the "one-mile rule" in Order No. 872.⁵⁴ The Commission explains that it was implementing new requirements for applicants to report the QF's geographic coordinates, list affiliated small power production QFs using the same energy resource one mile or less from the applicant facility, list affiliated small power production QFs using the same energy resource whose nearest electrical generating equipment is greater than one mile and less than 10 miles from the electrical generating equipment of the applicant facility, and list the geographic coordinates of the nearest "electrical generating equipment" of both its own facility and the affiliated small power production QF in question.⁵⁵ The Commission also suggests that if applicants anticipate a protest to their certifications, they could provide explanations as to why the affiliated small power production QFs

172 FERC ¶ 61,041 at P 560.

⁵³ See *supra* note 48.

⁵⁴ Order No. 872, 172 FERC ¶ 61,041 at P 699.

⁵⁵ *Id.* P 698.

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using the same energy resource that are more than one mile and less than 10 miles from the electrical generating equipment of the applicant facility should be considered at separate sites from the applicant's facility.⁵⁶

Additionally, the Commission in Order No. 872-A reiterates that the Commission in Order 872 noted that as a result of the changes to the PURPA Regulations made in Order No. 872, small power production QFs will have to spend more time identifying any affiliated small power production QFs that are less than one mile, between one and 10 miles, and more than 10 miles, apart. The Commission in Order No. 872 further expected that there will be an increase in the burden hours and cost due to the new ability of entities to protest without a fee, which will affect initial self-certifications, applications for Commission certification, or recertifications that make substantive changes to an existing certification after the effective date of Order No. 872.⁵⁷

The Commission in Order No. 872-A nevertheless provides the following further explanation for its burden estimates.

1. QFs Submitting Self-Certifications

Prior to Order No. 872, the estimated burden for a small power production facility greater than 1 MW filing a self-certification was 1.5 hours.⁵⁸

- a. *Small Power Production Facility Greater Than 1 MW, and Less Than One Mile from an Affiliated Small Power Production QF*

In Order No. 872, given the implementation of the new 10-mile rule, the Commission estimated that it would take a small power production facility greater than 1 MW, and less than one mile from an affiliated facility, two hours in addition to the prior estimated 1.5 hours to fill out the new version of the Form No. 556 for a self-certification.⁵⁹ In making this estimate of two additional hours, the Commission took into consideration that the applicant would now be required to additionally provide its geographic

⁵⁶ *Id.*

⁵⁷ *Id.* P 699.

⁵⁸ *Commission Information Collection Activities (FERC-556); Comment Request; Extension*, Docket No. IC19-16-000 (issued May 15, 2019).

⁵⁹ Order No. 872, 172 FERC ¶ 61,041 at P 699.

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coordinates.⁶⁰ While it would also be required to identify and provide the geographic coordinates for any small power production QFs located less than 10 miles from the applicant facility, the current Form No. 556 already required filers to identify any facilities located within one mile of the applicant facility. The Commission reasoned that the applicant may need to take some additional time to ascertain that there were no additional facilities located more than one mile from the applicant facility. The Commission therefore reasoned that, for this category, it may take an applicant facility an additional two hours to complete the Form No. 556.⁶¹

b. Small Power Production Facility Greater than 1 MW, and More than One Mile but Less than 10 Miles from an Affiliated Small Power Production QF

In Order No. 872, given the implementation of the new 10-mile rule, the Commission estimated that it would take a small power production facility greater than 1 MW, and more than one mile but less than 10 miles from an affiliated facility, eight hours in addition to the prior estimated 1.5 hours to fill out the new version of the Form No. 556 for a self-certification.⁶² In making this estimate of eight additional hours, the Commission took into consideration that the applicant would now be required to additionally provide its geographic coordinates and to identify and provide the geographic coordinates for any affiliated small power production QFs located less than 10 miles from the applicant facility. If the applicant chose, it could provide explanations as to why the affiliated small power production QFs using the same energy resource that are more than one mile and less than 10 miles from the electrical generating equipment of the applicant facility should be considered to be at separate sites from the applicant's facility.⁶³ The Commission therefore reasoned that, for this category, it may take an applicant facility an additional eight hours to complete the Form No. 556.⁶⁴

⁶⁰ *Id.* P 698.

⁶¹ *Id.* P 699.

⁶² *Id.*

⁶³ *Id.* P 698.

⁶⁴ *Id.* P 699.

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c. Small Power Production Facility Greater than 1 MW and 10 Miles or More from an Affiliated Small Power Production QF

In Order No. 872, given the implementation of the new 10-mile rule, the Commission estimated that it would take a small power production facility greater than 1 MW and 10 miles or more from an affiliated facility two hours in addition to the prior estimated 1.5 hours to fill out the new version of the Form No. 556 for a self-certification.⁶⁵ In making this estimate of two additional hours, the Commission took into consideration that the applicant would now be required to additionally provide its geographic coordinates but would not be required to identify and provide the geographic coordinates for any affiliated small power production QFs located more than 10 miles from the applicant facility. The Commission reasoned that the applicant may need to take some additional time to ascertain that there were no additional affiliated facilities located less than 10 miles from the applicant facility. The Commission therefore reasoned that, for this category, it may take an applicant facility an additional two hours to complete the Form No. 556.⁶⁶

2. QFs Submitting Applications for Commission Certification

Nothing in the Commission's regulations dictates which certification procedures, i.e., the self-certification procedures addressed above or the Commission certification procedures described in this section, that a small power production QF should use.

Prior to Order No. 872, the estimated burden for a small power production facility greater than 1 MW filing an application for Commission certification was 50 hours.⁶⁷

a. Small Power Production Facility Greater than 1 MW, and Less than One Mile from an Affiliated Small Power Production QF

In Order No. 872, given the implementation of the new 10-mile rule, the Commission estimated that it would take a small power production facility greater than 1 MW, and less than one mile from an affiliated facility, six hours in addition to the prior estimated 50 hours to fill out the new version of the Form No. 556 as part of an application for

⁶⁵ *Id.*

⁶⁶ *Id.*

⁶⁷ *Commission Information Collection Activities (FERC-556); Comment Request; Extension*, Docket No. IC19-16-000 (issued May 15, 2019).

FERC Form No. 556 and FERC-912 (OMB Control Nos. 1902-0075 and 1902-0237)
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Commission certification.⁶⁸ In making this estimate of six additional hours, the Commission took into consideration that the applicant would now be required to additionally provide its geographic coordinates. Also, while the applicant would also be required to identify and provide the geographic coordinates for any affiliated small power production QFs located less than 10 miles from the applicant facility, the current Form No. 556 already required identifying any affiliated facilities located within one mile of the applicant facility. The Commission reasoned that the applicant may need to take some additional time to ascertain that there were no additional affiliated facilities located more than one mile from the applicant facility. Unlike a self-certification, the application for Commission certification also requires the applicant to pay a filing fee, and applicants for a Commission certification generally provide more explanation and a narrative filing. The Commission therefore reasoned that, for this category, it may take an applicant facility an additional six hours to complete the Form No. 556.⁶⁹

b. Small Power Production Facility Greater than 1 MW, and More than One Mile but Less than 10 Miles from an Affiliated Small Power Production QF

In Order No. 872, given the implementation of the new 10-mile rule, the Commission estimated that it would take a small power production facility greater than 1 MW, and more than one mile but less than 10 miles from an affiliated facility, 12 hours in addition to the prior estimated 50 hours to fill out the new version of the Form No. 556 for an application for Commission certification.⁷⁰ In making this estimate of 12 additional hours, the Commission took into consideration that the applicant would now be required to additionally provide its geographic coordinates and to identify and provide the geographic coordinates for any small power production QFs located less than 10 miles from the applicant facility. If the applicant chose, it could also provide explanations as to why the affiliated small power production QFs using the same energy resource, that are more than one mile and less than 10 miles from the electrical generating equipment of the applicant facility, should be considered to be at separate sites from the applicant's facility.⁷¹ Unlike a self-certification, the application for Commission certification also requires the applicant to pay a filing fee, and applicants for a Commission certification

⁶⁸ Order No. 872, 172 FERC ¶ 61,041 at P 699.

⁶⁹ *Id.*

⁷⁰ *Id.*

⁷¹ *Id.* P 698.

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generally provide more explanation and a narrative filing. Therefore, the Commission reasoned that, for this category, it may take an applicant facility an additional 12 hours to complete the Form No. 556.⁷²

c. Small Power Production Facility Greater than 1 MW and 10 Miles or More from an Affiliated Small Power Production QF

In Order No. 872, given the implementation of the new 10-mile rule, the Commission estimated that it would take a small power production facility greater than 1 MW and 10 miles or more from an affiliated facility six hours in addition to the prior estimated 50 hours to fill out the new version of the Form No. 556 for an application for Commission certification.⁷³ In making this estimate of six additional hours, the Commission took into consideration that the applicant would now be required to additionally provide its geographic coordinates, but the applicant would not be required to identify and provide the geographic coordinates for any small power production QFs located more than 10 miles from the applicant facility. The Commission reasoned that the applicant may need to take some additional time to ascertain that there were no additional affiliated facilities located less than 10 miles from the applicant's facility. Unlike a self-certification, the application for Commission certification also requires the applicant to pay a filing fee, and applicants for a Commission certification generally provide more explanation and a narrative filing. The Commission reasoned that, for this category, it may take an applicant facility an additional six hours to complete the Form No. 556.⁷⁴

3. Calculations for Additional Burden and Cost

Lastly, the Commission explained in Order No. 872 that it believed that FERC's 2020 average hourly wage and benefits were appropriate to use here. Therefore, estimates for the annual cost of additional burden are based on FERC's 2020 average hourly wage (and benefits) of \$83.00 per hour.⁷⁵ In order to determine the cost per response in the column titled "Increased Average Burden Hours & Cost Per Response (\$) (4)," the Commission multiplied the number of additional burden hours by the average hourly wage (including benefits) of \$83.00 per hour. For example, for small power production facilities greater than 1 MW located less than one mile from affiliated small power production QFs, the

⁷² *Id.* P 699.

⁷³ *Id.*

⁷⁴ *Id.*

⁷⁵ *Id.* P 699 n.1050.

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Commission determined that the increased average burden hours as a result of Order No. 872 was two hours. The two-hour increase in the average burden hours, multiplied by an average hourly wage of \$83.00 per hour, equals \$166 cost per response.⁷⁶ In order to determine the increased total annual burden hours and total annual cost in the column titled “Increased Total Annual Burden Hours & Total Annual Cost (\$) (3)*(4)=(5),” the Commission multiplied the numbers in the column titled “Total Number of Responses (1)*(2)=(3)” by the numbers in the column titled “Increased Average Burden Hours & Cost Per Response (\$) (4).” For example, for small power production facilities greater than 1 MW located less than one mile from affiliated small power production QFs, the Commission multiplied the increased average burden hours of two hours by the total number of responses of 1,123.75 for increased total annual burden hours of 2,247.5 hours. The Commission then multiplied the increased cost per response of \$166 by the total number of responses of 1,123.75 for an increased total annual cost of \$186,542.50.⁷⁷

Public Comments in Response to Order No. 872, Related to Corresponding Changes to the FERC Form No. 556:

Public Interest Organizations state that Order No. 872 would impose 62 hours of administrative work on every small power production facility over 1 MW with affiliated facilities between one and 10 miles away and the basis for [the 62-hour] calculation is not clear.⁷⁸

Commission Response on Rehearing:

Public Interest Organizations misread Order No. 872 on this point. Order No. 872 provided a total burden estimate of 9.5 hours for *self-certifications* of small power producers over 1 MW with affiliated small power production QFs more than one but less than 10 miles apart that use the same energy resource, but 62 hours for an *application for Commission certification* of a small power production facility over 1 MW with affiliated small power production QFs more than one but less than 10 miles that use the same energy resource.⁷⁹ The estimate is not that *every* small power production facility over 1

⁷⁶ *Id.* P 699.

⁷⁷ *Id.*

⁷⁸ Public Interest Organizations Request for Rehearing at 117 (citing Order No. 872, 172 FERC ¶ 61,041 at P 587).

⁷⁹ See Order No. 872, 172 FERC ¶ 61,041 at P 587. The majority of QFs choose the less burdensome option to self-certify pursuant to 18 C.F.R. § 292.207(a), by filing a Form

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MW with affiliated facilities between one and 10 miles away will have a total burden of 62 hours, but *only those who chose to apply for Commission certification* (as opposed to use the self-certification process). For those who self-certify, the burden estimate is 9.5 hours.

In response to Public Interest Organizations’ assertion that the basis for the burden calculation is not clear, below the Commission explains the calculation it provides in Order No. 872-A. Prior to Order No. 872, “[t]he estimated burden for completing the Form No. 556, including gathering and reporting information, [was] as follows: 1.5 hours for self-certification of a small power production facility . . . 50 hours for an application for Commission certification of a small power production facility”⁸⁰ The Information Collection Section of Order No. 872 showed changes due to Order No. 872 and estimated an additional 8 hours for the category “self-certifications” and 12 hours for the category “applications for Commission certification” of small power production facilities greater than 1 MW that are more than one but less than 10 miles from affiliated small power production QFs. Therefore, the total burden estimate as provided in Order 872 is as follows: 1.5 hours plus 8 hours for a total of 9.5 hours for self-certifications, and 50 hours plus 12 hours for a total of 62 hours for applications for Commission certification.

In light of the modification to Order No. 872 described in section III.D, in Order No. 872-A the Commission further modifies the “Recertification” section in page one of the instructions of the Form No. 556, which was added by Order No. 872. The “Recertification” section currently reads “A QF must file a recertification whenever the qualifying facility ‘fails to conform with any material facts or representations presented . . . in its submittals to the Commission.’ 18. C.F.R. § 292.207(f).” To this, the Commission in Order No. 872-A adds “Among other possible changes in material facts that would necessitate recertification, a small power production QF is required to recertify to update item 8a due to a change at an affiliated facility(ies) one mile or less from its electrical generating equipment. A small power production QF is *not* required to recertify due to a change at an affiliated facility(ies) listed in item 8a that is more than one mile but less than 10 miles away from its electrical generating equipment, unless that change also impacts any other entries on the Form 556.”

No. 556. An application for Commission certification pursuant to 18 C.F.R. § 292.207(b) also requires filing the Form No. 556, but applicants for Commission certification typically additionally prepare a written petition arguing why the Commission should grant QF status.

⁸⁰ *Commission Information Collection Activities (FERC-556); Comment Request; Extension*, Docket No. IC19-16-000, at 5 (issued May 15, 2019).

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The Commission issued the Order on Rehearing in Docket Nos. RM19-15-001 and AD16-16-001 on 11/19/2020⁸¹ and the order will be published in the Federal Register.

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 Form No. 556 and FERC-912 filings to be confidential. However, the Commission will consider specific requests for confidential treatment (e.g., Critical Energy/Electric Infrastructure Information (CEII) or non-public) to the extent permitted by law.⁸² The Commission will review each request for confidential treatment on a case-by-case basis.

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 FOR COLLECTION OF INFORMATION

The estimated changes due to Order No. 872 and Order No. 872-A in Docket Nos RM19-15-000 and -001 and AD16-16-000 and -001 follow. (Note that FERC-912 is not affected by the rehearing order.)

FERC-556, Changes Due to Docket Nos. RM19-15 and AD16-16⁸³

⁸¹ The Final Rule is posted in FERC's eLibrary at <https://elibrary.ferc.gov/eLibrary/filedownload?fileid=15586408>.

⁸² 18 C.F.R. § 388.112. More information on the CEII definition, program and requirements is posted at <http://www.ferc.gov>.

⁸³ The figures in this table reflect estimated changes to the current OMB-approved inventory for the FERC Form No. 556 (approved by the Office of Management and Budget (OMB) on November 18, 2019). Where "no change" is indicated, the current

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| Facility Type | Filing Type | Number of Respondents (1) | Annual Number of Responses per Respondent (2) | Total Number of Responses (1)*(2)=(3) | Increased Average Burden Hours & Cost Per Response (\$) (4) | Increased Total Annual Burden Hours & Total Annual Cost (\$) (3)*(4)=(5) | Increased Annual Cost per Respondent (\$) (5)÷(1)=(6) |
|--|------------------------------------|-------------------------------|---|---------------------------------------|---|--|---|
| Cogeneration and Small Power Production Facility ≤ 1 MW ⁸⁴ | Self-certification | no change (692) | no change (1.25) | no change (865) | no change (1.5 hrs.); \$0 | no change (1,297.5 hrs.); \$0 | \$0 |
| Cogeneration Facility > 1 MW | Self-certification | no change (63) | no change (1.25) | no change (78.75) | no change (1.5 hrs.); \$0 | no change (118.125 hrs.); \$0 | \$0 |
| Cogeneration Facility > 1 MW | Application for FERC certification | no change (1) | no change (1.25) | no change (1.25) | no change (50 hrs.); \$0 | no change (62.5 hrs.); \$0 | \$0 |
| Small Power Production Facility > 1 MW, ≤ 1 Mile from Affiliated Small Power Production QF | Self-certification | no change (899) ⁸⁵ | no change (1.25) | no change (1,123.75) | 2 hrs.; \$166 | 2,247.5 hrs.; \$186,542.5 | \$207.5 |

figure is included parenthetically for information only. Those parenthetical figures are not included in the final total for column 5. Commission staff believes that the industry is similarly situated in terms of wages and benefits. Therefore, cost estimates are based on FERC’s 2020 average hourly wage (and benefits) of \$83.00/hour. (The submittal to and approval of OMB in 2019 for FERC Form No. 556 was based on FERC’s 2018 average annual wage hourly rate of \$79.00/hour. Because the change from the \$79.00 hourly rate to the current \$83.00 hourly rate was not due to the final rule, this chart does not depict this increase.)

84 Not required to file.

85 In the FERC Form No. 556 approved by OMB in 2019, for the category “Small Power Production Facility > 1 MW, Self-certification,” we estimated the number of respondents at 2,698. We have now divided that category into three categories: “Small Power Production Facility > 1 MW, ≤ 1 Mile from Affiliated Small Power Production QF,” “Small Power Production Facility > 1 MW, > 1 Mile, < 10 Miles from Affiliated Small Power Production QF,” “Small Power Production Facility > 1 MW, ≥ 10 Miles from Affiliated Small Power Production QF.” In this column, the numbers 899, 900, and 899 are a distribution of those same estimated 2,698 respondents across the three categories.

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| | | | | | | | |
|--|------------------------------------|------------------------------|---------------------|--------------------------------|-------------------|-------------------------------------|---------|
| Small Power Production Facility > 1 MW, ≤ 1 Mile from Affiliated Small Power Production QF | Application for FERC certification | no change (0) | no change (1.25) | no change (0) | 6 hrs.; \$498 | no change (0 hrs.); \$0 | \$0 |
| Small Power Production Facility > 1 MW, > 1 Mile, < 10 Miles from Affiliated Small Power Production QF | Self-certification | no change (900) | no change (1.25) | no change (1,125) | 8 hrs.; \$664 | 9,000 hrs.; \$747,000 | \$830 |
| Small Power Production Facility > 1 MW, > 1 Mile, < 10 Miles from Affiliated Small Power Production QF | Application for FERC certification | no change (0) | no change (1.25) | no change (0) | 12 hrs.; \$996 | no change (0 hrs.); \$0 | \$0 |
| Small Power Production Facility > 1 MW, ≥ 10 Miles from Affiliated Small Power Production QF | Self-certification | no change (899) | no change (1.25) | no change (1,123.75) | 2 hrs.; \$166 | 2,247.5 hrs.; \$186,542.5 | \$207.5 |
| Small Power Production Facility > 1 MW, ≥ 10 Miles from Affiliated Small Power Production QF | Application for FERC certification | no change (0) | no change (1.25) | no change (0) | 6 hrs.; \$498 | no change (0 hrs.); \$0 | \$0 |
| FERC-556, TOTAL ADDITIONAL BURDEN AND COST DUE TO FINAL RULE AND REHEARING ORDER | | no change (3,454) | | no change (4,317.5) | | 13,495 hrs.; \$1,120,085 | |

FERC-912, Changes Due to Final Rule in Docket Nos. RM19-15-000 and AD16-16-000

| (termination of obligation to purchase) | Number of Respondents (1) | Annual Number of Responses per Respondent (2) | Total Number of Responses (1)x(2)=(3) | Increased Average Hours & Cost Per Response (\$) (4) | Increased Total Annual Burden Hours & Total Annual Cost (\$) (3)*(4)=(5) | Increased Annual Cost Per Respondent (at \$83/hr.) (5)/(1)=(6) |
|--|------------------------------|--|--|---|---|---|
| Electric utility burden of reducing 210(m) rebuttable presumption from 20 MW to 5 MW ⁸⁶ | 30 | 1 | 30 | 12 hrs.; \$996 | 360 hrs.; \$29,880 | \$996 |

⁸⁶ Staff estimates a total of 90 discretionary responses may be submitted in Years 1-3,

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| | | | | | | |
|---|----|---|----|----------------|--------------------|-------|
| FERC-912, TOTAL ADDITIONAL BURDEN AND COST DUE TO FINAL RULE | 30 | 1 | 30 | 12 hrs.; \$996 | 360 hrs.; \$29,880 | \$996 |
|---|----|---|----|----------------|--------------------|-------|

After implementation of Order Nos. 872 and 872-A, the total estimated annual figures (including current inventory and changes due to Order Nos. 872 and 872-A) will be as follows.

| | No. of Responses | Burden Hrs. |
|----------|------------------|-------------|
| FERC-556 | 4,318 (rounded) | 20,032 |
| FERC-912 | 39 | 460 |

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”⁸⁷ 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 collection. There are also some IT development costs.

The PRA Administrative Cost⁸⁸ 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.

with an annual average of 30.

⁸⁷ FERC’s 2020 average salary plus benefits for one FTE (full-time equivalent) is \$172,329 per year (\$83.00/hour).

⁸⁸ This estimate is based upon FERC’s 2020 estimated average annual PRA Administrative Cost of \$6,475 for each collection.

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| | Number of Federal Employees (FTE) | Estimated Annual Federal Cost |
|------------------------------------|--|--------------------------------------|
| FERC-556 | | |
| Analysis and Processing of Filings | 3 ⁸⁹ | \$516,987 |
| PRA Administrative Cost | | \$6,475 |
| IT Development Cost | | \$37,071 ⁹⁰ |
| Total for FERC-556 | | \$560,533 |
| FERC-912 | | |
| Analysis and Processing of Filings | 3 ⁹¹ | \$516,987 |
| PRA Administrative Cost | | \$6,475 |
| Total for FERC-912 | | \$523,462 |

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

In Order Nos. 872 and 872-A in Docket Nos. RM19-15-000, and -001, and AD16-16-000 and -001, the Commission makes the following changes to the FERC Form No. 556 and FERC-912.

FERC-556. Order No. 872 does the following:

89 The existing FERC-556 has an annual estimate of two (2) FERC FTEs. The changes due to the final rule in Docket Nos. RM19-15 and AD16-16 would add one (1) FERC FTE, giving a new total of three (3) FERC FTEs annually to analyze and process the filings.

90 This estimate is preliminary and is subject to change.

91 The existing FERC-912 has an annual estimate of .3 FERC FTEs, which is based on the fact that PURPA section 210(m) petitions are occasionally submitted by electric utilities who did not make such submissions in the past. This new final rule also makes it possible for electric utilities who already petitioned under PURPA section 210(m) for QFs above 20 MW, to now file new petitions for QFs larger than 5 MWs but no greater than 20 MW. Accordingly, this estimate assumes that the final rule will require two (2) dedicated FTEs from the Office of Energy Market Regulation and the equivalent of one (1) additional FTE comprised of staff from the Office of General Counsel and the Office of Energy Policy and Innovation, and that the occasional first-time submittals of PURPA section 210(m) petitions will be processed, at least during this FERC-912 authorization period, by the same staff.

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- Allows an interested person or other entity challenging a QF certification the opportunity to file a protest, without a fee, to an initial certification (both self-certification and application for Commission certification) filed on or after the effective date of Order No. 872, or to a recertification (self-recertification or application for Commission recertification) that makes substantive changes to the existing certification that is filed on or after the effective date of Order No. 872.
- Requires all applicants to report the applicant facility's geographic coordinates, rather than only for applications where there is no street address.
- Changes the current requirement to identify any affiliated facilities with electrical generating equipment within one mile of the applicant facility's electrical generating equipment to instead require applicants to list only affiliated small power production QFs using the same energy resource one mile or less from the applicant facility.
- Additionally requires applicants to list affiliated small power production QFs using the same energy resource whose nearest electrical generating equipment is greater than one mile and less than 10 miles from the electrical generating equipment of the applicant facility.
- Requires the applicant to list the geographic coordinates of the nearest "electrical generating equipment" of both its own facility and the affiliated small power production QF in question based on the definitions adopted in Order No. 872.
- Provides space for the applicant to explain, if it chooses to do so, why the affiliated small power production QFs using the same energy resource, that are more than one mile and less than 10 miles from the electrical generating equipment of the applicant facility, should be considered to be at separate sites from the applicant's facility, considering the relevant physical and ownership factors identified in Order No. 872.

As relevant here, Order No. 872-A does the following:

- Modifies the "Recertification" section in page one of the instructions of the Form No. 556, which was added by Order No. 872, to clarify the circumstances under which a small power production QF needs to recertify and thereby lessen the burden on filers. The "Recertification" section currently reads "A QF must file a recertification whenever the qualifying facility 'fails to conform with any material facts or representations presented . . . in its submittals to the Commission.' 18. C.F.R. § 292.207(f)." To this, the Commission will add "Among other possible changes in material facts that would necessitate recertification, a small power production QF is required to recertify to update item 8a due to a change at an affiliated facility(ies) one mile or less from its electrical generating equipment. A small power production QF is *not* required to recertify due to a change at an affiliated facility(ies) listed in item 8a that is more than one mile but less than 10

FERC Form No. 556 and FERC-912 (OMB Control Nos. 1902-0075 and 1902-0237)
 Final Rule (Order 872, issued 7/16/2020) and Order 872-A (issued 11/19/2020) in Docket Nos.
 RM19-15-000, RM19-15-001, AD16-16-000, and AD16-16-001
 RIN: 1902- AF67
 (Updated 12/1/2020)

miles away from its electrical generating equipment, unless that change also impacts any other entries on the Form 556.”

FERC-912. Order No. 872 allows potential respondent electric utilities to seek relief from the mandatory purchase obligation with respect to smaller QFs than permitted before issuance of Order No. 872. This change is necessary to continue to comply with the requirement of the EPAct 2005 that the mandatory purchase obligation should be terminated where QFs have nondiscriminatory access to certain wholesale electricity markets.

| | Total Request | Previously Approved | Change Due to Adjustment in Estimate | Change Due to Agency Discretion |
|----------------------------|----------------------|----------------------------|---|--|
| FERC-556 | | | | |
| Annual Number of Responses | 4,318 | 4,318 | 0 | 0 |
| Annual Time Burden (Hours) | 20,032 | 6,537 | 0 | 13,495 |
| Annual Cost Burden (\$) | 0 | 0 | 0 | 0 |
| FERC-912 | | | | |
| Annual Number of Responses | 39 | 9 | 0 | 30 |
| Annual Time Burden (Hours) | 460 | 100 | 0 | 360 |
| Annual Cost Burden (\$) | 0 | 0 | 0 | 0 |

16. TIME SCHEDULE FOR PUBLICATION OF DATA

There are no plans for publication. The data are used for regulatory purposes only.

17. DISPLAY OF EXPIRATION DATE

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

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

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Final Rule (Order 872, issued 7/16/2020) and Order 872-A (issued 11/19/2020) in Docket Nos.
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18. EXCEPTIONS TO THE CERTIFICATION STATEMENT

There are no exceptions.