

**Supporting Statement For FERC Form No. 556A,
As Proposed By the NOPR In Docket Nos. RM21-2 and RM20-20**

The Federal Energy Regulatory Commission (Commission or FERC) requests that the Office of Management and Budget (OMB) review and approve the FERC-556A (Certification of Qualifying Facility (QF) Status for a Small Power Production or Cogeneration Facility, [NOPR in RM21-2 & RM20-20]) as proposed by the Notice of Proposed Rulemaking (NOPR) in Docket Nos. RM21-2 and RM20-20.

The NOPR in Docket Nos. RM21-2 and RM20-20 affects the FERC Form No. 556 (OMB Control No. 1902-0075), as described in the NOPR. [FERC-556 is prescribed in 18 CFR Part 292 and 18 CFR 131.80 and has an OMB expiration date of 11/30/2022.]

As of 11/19/2020, packages for the unrelated Final Rule in Docket Nos. RM19-15 and AD16-16 affecting FERC-556 (ICR 202006-1902-004) [and FERC-912 (ICR 202006-1902-003)] are still pending OMB review. Because OMB can only have one item per OMB Control No. pending review at a time, we are submitting this NOPR in Docket Nos. RM21-2 and RM20-20 under interim information collection no. FERC-556A (OMB Control No. 1902-0316) in order to submit it to OMB timely. Because the proposed components here in FERC-556A should otherwise be in FERC-556, information on FERC-556 is provided here as background.

1. CIRCUMSTANCES THAT MAKE THE COLLECTION OF INFORMATION NECESSARY

The Public Utility Regulatory Policies Act of 1978 (PURPA)¹ 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.

¹ 16 U.S.C. 796(17)-(22), 824a-3.

PURPA section 210(f) requires 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.

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

The information collected from FERC Form No. 556 (and the proposed FERC-556A requirements, here) under 18 C.F.R. Part 292 and 18 C.F.R. § 131.80 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 above 1 MW for QF status must follow the process indicated in FERC Form No. 556 (and FERC-556A) 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.² If FERC did not collect the FERC Form No. 556 (or FERC-556A) information, there would be no basis for the Commission to determine whether a facility satisfies the requirements of QF status.

NOPR in RM21-2 and RM20-20. The FERC Form No. 556 is not being revised in the NOPR, but respondents with Solid Oxide Fuel Cell systems with integrated natural gas reformation equipment who are self-certifying or applying for Commission certification as a cogenerator will use the FERC Form No. 556 (proposed requirement submitted under FERC-556A, here). On page 8, item 6a of the FERC Form No. 556, those respondents should indicate "Fossil fuel, natural gas (not waste)."

² 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.

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. 619,³ FERC established an electronic filing initiative to meet the goals of the Government Paperwork Elimination Act, which directed agencies to provide for optimal use and acceptance of electronic documents and signatures and electronic recordkeeping, where practical, by October 2003.

FERC has attempted to facilitate 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 website 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.

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 component in proposed FERC-556A) is a necessary information collection for the Commission to remain in compliance with FPA and PURPA mandates. No similar 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

³ *Electronic Filing of Documents*, Order No. 619, 65 FR 57088 (Sept. 21, 2000), FERC Stats. & Regs. ¶ 31,107 (2000).

bestowed by PURPA, including the exemptions from certain provisions of federal and state law.

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

The 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.⁴ 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 FERC 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; thus, the electronic filing requirement does not apply to these small QFs. The Commission believes that any applicant for a facility larger than 1 MW would have access to the resources needed to develop and make an electronic filing.

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

Applicants submit an initial FERC Form No. 556 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.

7. EXPLAIN ANY SPECIAL CIRCUMSTANCES RELATING TO THE INFORMATION

There are no special circumstances.

⁴ The frequently asked questions are posted at <https://www.ferc.gov/about/what-ferc/frequently-asked-questions-faqs/qualifying-facilities-qf-faq>.

**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 10/15/2020) was published in the Federal Register on 10/26/2020 (85 FR 67699).⁵

9. EXPLAIN ANY PAYMENT OR GIFTS TO RESPONDENTS

There are no payments or gifts to respondents.

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

The Commission does not consider the information collected in FERC Form No. 556 (or proposed FERC-556A) 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.⁶ 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

⁵ The NOPR is available at https://www.govinfo.gov/content/pkg/FR-2020-10-26/pdf/2020-23282.pdf?utm_campaign=subscription+mailing+list&utm_source=federalregister.gov&utm_medium=email.

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

The estimates for the proposed changes to FERC-556 in the NOPR in Docket Nos. RM21-2 and RM20-20 follow.⁷

FERC-556A, Certification of Qualifying Facility Status for a Small Power Production or Cogeneration Facility, Estimates Due to NOPR in Docket Nos. RM21-2-000 and RM20-20-000 ⁸							
Facility Type	Filing Type	Number of Respondents (1)	Annual Number of Responses per Respondent (2)	Total Number of Responses (1)*(2)=(3)	Average Burden Hours & Cost Per Response (4)	Total Annual Burden Hours & Total Annual Cost (3)*(4)=(5)	Annual Cost per Respondent (\$) (5)÷(1)
Cogeneration Facility ≤ 1 MW ⁹	Self-certification	5	600 ¹⁰	3,000	1.5 hrs.; \$124.50	4,500 hrs.; \$373,500	\$74,700
Cogeneration Facility > 1 MW	Self-certification	5	20	100	1.5 hrs.; \$124.50	1,500 hrs.; \$12,450	\$2,490

⁷ As of 11/19/2020, the changes to the FERC Form No. 556, adopted in Order No. 872 (in Docket Nos. RM19-15 and AD16-16) are still pending OMB review (under ICR #202006-1902-004, submitted to OMB 9/2/2020). Those changes are separate and are not addressed in this supporting statement for the NOPR in Docket Nos. RM21-2 and RM20-20.

⁸ The estimates in this table are for the FERC-556A. This table only reflects cogeneration facilities because small power production facilities will not be affected by the proposed changes in the NOPR. Commission staff believes that the industry is similarly situated to the Commission in terms of wages and benefits. Therefore, cost estimates are based on FERC’s 2020 average hourly wage (and benefits) of \$83.00/hour.

⁹ Such facilities are not required to file but have the choice whether to do so.

¹⁰ Bloom Energy has stated they have 600 facilities, with an average size of 0.6 MW, see Bloom Energy Petition at 14, which, if they all were in fact to file, would result in as many as 600 self-certifications of below 1 MW facilities. The Commission accordingly will adopt a conservative approach and estimate 600 such responses over the course of a year, which is especially conservative given that the Commission’s regulations do not require facilities less than 1 MW to submit self-certifications.

Cogeneration Facility > 1 MW	Application for FERC certification	5	1	5	50 hrs.; \$4,150	250 hrs.; \$20,750	\$4,150
FERC-556A, TOTAL ADDITIONAL BURDEN AND COST DUE TO NOPR IN RM21-2 AND RM20-20		15		3,105		6,250 hrs.; \$406,700	

13. ESTIMATE OF THE TOTAL ANNUAL COST BURDEN TO RESPONDENTS

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

14. ESTIMATED ANNUALIZED COST TO FEDERAL GOVERNMENT

The estimate of the cost for “analysis and processing of filings”¹¹ is based on salaries and benefits for professional and clerical support. This estimated cost represents staff analysis, decision-making, and review of any actual filings submitted in response to the information collection. There are also some IT development costs.

The PRA Administrative Cost¹² is the average annual FERC cost associated with preparing, issuing, and submitting materials necessary to comply with the PRA for rulemakings, orders, or any other vehicle used to create, modify, extend, or discontinue an information collection. It also includes the cost of publishing the necessary notices in the Federal Register.

FERC-556A in NOPR in RM21-2 and RM20-20	Number of Federal Employees (FTE)	Estimated Annual Federal Cost
Analysis and	1 ¹³	\$172,329

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

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

13 The existing FERC-556 has an annual estimate of two (2) FERC FTEs. The changes

Processing of Filings		
PRA Administrative Cost		\$6,475
Total for FERC-556A		\$178,804

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

In the NOPR in Docket Nos. RM21-2 and RM20-20, the Commission proposes no changes to the FERC Form No. 556, but proposes revising its PURPA regulations to allow more entities to use the FERC Form No. 556. The related estimates are provided below for this submittal under FERC-556A.

FERC-556A	Total Request	Previously Approved	Change Due to Adjustment in Estimate	Change Due to Agency Discretion
Annual Number of Responses	3,105	0	0	3,105
Annual Time Burden (Hours)	6,250	0	0	6,250
Annual Cost Burden (\$)	0	0	0	0

16. TIME SCHEDULE FOR PUBLICATION OF DATA

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

17. DISPLAY OF EXPIRATION DATE

FERC Form No. 556 is available from the Commission’s website (<https://www.ferc.gov/industries-data/electric/general-information/electric-industry-forms>) as a standard form that can be downloaded; the expiration date for OMB approval is on the form/instructions. This information for FERC-556A will be added to the burden for FERC-556 in the future.

due to the final rule in Docket Nos. RM19-15 and AD16-16 would add one (1) FERC FTE. The changes due to the NOPR in Docket Nos. RM21-2 and RM20-20 would add one (1) more FERC FTE, giving a new total of four (4) FERC FTEs annually to analyze and process the filings. Three of those FTEs are discussed in the pending materials for FERC-556; the additional FTE due to the NOPR in Docket Nos. RM21-2 and RM20-20 is discussed here.

FERC Form No. 556A (OMB Control No. 1902-0316)
NOPR (issued 10/15/2020) in Docket Nos. RM21-2 and RM20-20
RIN: 1902-AF74

The OMB expiration dates are also posted on <http://www.ferc.gov>.

18. EXCEPTIONS TO THE CERTIFICATION STATEMENT

There are no exceptions.