

FERC-716 (OMB Control No. 1902-0170)

Supporting Statement

FERC-716, Good Faith Requests for Transmission Service and Good Faith Responses by Transmitting Utilities under Sections 211(a) and 213(a) of the Federal Power Act (FPA)

(Three-year extension requested)

The Federal Energy Regulatory Commission (FERC or Commission) requests that the Office of Management and Budget (OMB) review and renew the information collection requirements in FERC-716 under OMB Control No. 1902-0170. This supporting statement covers the requirements of the FERC-716 information collection. The reporting requirements in the FERC-716 are also contained in FERC's regulations in 18 Code of Federal Regulations (CFR) Parts 2.20 and 36.1.

1. CIRCUMSTANCES THAT MAKE THE COLLECTION OF INFORMATION NECESSARY

The Energy Policy Act of 1992¹ amended 16 USC 824j of the Federal Power Act (FPA) which expanded the Commission's authority to order transmission service. Under the revised 16 USC 824j (FPA Section 211), the Commission may order transmission services if it finds that such action would be in the public interest, would not unreasonably impair the continued reliability of electric systems affected by the order, and would meet the requirements of amended 16 USC 824k.

FPA allows any electric utility, federal power marketing agency, or any other person generating electric energy for sale or resale to apply for an order requiring a transmitting utility to provide transmission services to the applicant.² The Commission may issue an order only if the applicant has requested the transmission services from the transmitting utility at least 60 days before applying to the Commission. Accordingly, a request for transmission services is a condition upon which the Commission may order service under 16 USC 824j.

¹ Public Law 102-486.

² 16 USC 824j

FPA requires a response by the transmitting utility to a good faith request³. Unless the transmitting utility agrees to provide such services as rates, charges, terms and conditions acceptable to such person, the transmitting utility, within 60 days of its receipt of the request, or other mutually agreed upon period, provides such applicant with a detailed written explanation with specific reference to the facts and circumstances of the request including the basis for the proposed rates, charges, terms and conditions of such services as well as any physical constraints which would affect such service. However, the information is not filed with the Commission.

When negotiations are unsuccessful, the FERC-716 good faith request is included in the 16 USC 824j applications⁴. In addition, the Commission applies the good faith standards in order to carry out Congress' objective that, subject to appropriate terms and conditions and just and reasonable rates⁵, access to the electric transmission system for the purposes of wholesale transactions is made widely available.

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

The general policy sets forth standards by which the Commission determines whether and when a valid good faith request for transmission has been made⁶. In developing the standards, the Commission sought to encourage an open exchange of information with a reasonable degree of specificity and completeness between the party requesting transmission services and the transmitting utility. As a result, 12 components of a good faith request are identified under 18 CFR 2.20. Information in the data exchange is not filed with the Commission unless negotiations between the transmission requestor and the transmitting utility have not been successful and the transmission requestor files a Section 211 request⁷ with the Commission. The request and response may be analyzed by the Commission as part of the Section 211 proceeding.

The data exchange between the transmission requestor and the transmitting utility may:

- foster a transmission transaction between the parties without Commission action; or
- assist the Commission in its review of the Section 211 request by ensuring a good faith request has been made pursuant to 16 USC 824l of the FPA.

The requisite information in the good faith request is (1) in the form of a notice suitable for publishing in the Federal Register, and includes the applicant's name, the date of the application, the names of the affected parties, and a brief description of the transmission services sought, and (2) a sworn statement that an actual notice has been served, including the information above and

3 16 USC 824l

4 Good faith requests (previously known as FERC-716A) were combined within the FERC-716; ICR Reference Number: 200907-1902-001

5 16 USC 824k

6 16 USC 824j

7 The requirements of these requests are contained in 18 CFR 36.1.

the proposed dates for initiating and terminating the requested transmission services, the total amount of transmission capacity requested, a brief description of the character and nature of the transmission services being requested, and whether the transmission services are firm or non-firm on each affected party. This statement must enumerate each person served. The Commission uses the information from good faith request applications to issue an order, if it is in the public interest, requiring a transmitting utility to provide transmission services (including any enlargement of transmission capacity necessary to provide such services) to the applicant.

Without this information, the Commission would be unable to order a transmitting utility to provide transmission services and thus ensure equitable transmission services to all transmitting utilities. Without this information, the Commission would be unable to carry out the provisions of the Act.

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

The Commission allows eFiling for the FERC-716 information collection.

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

Filing requirements are periodically reviewed as OMB review dates arise or upon initiation by the Commission in order to eliminate duplication and ensure that filing burdens are minimized. Upon submittal of a request⁸, the applicant may file its good faith request and the transmitting utility's response to frame the issues for the Commission's review.

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

The FERC-716 information collection does not affect small entities.

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

The information is provided to 3rd parties and not filed initially with the Commission. However, if the parties cannot come to an agreement, the request/response may be filed with the

8 16 USC 824j

Commission and analyzed as part of a Section 211 proceeding. The data exchange between the transmission requestor and the transmitting utility cannot be discontinued due to statutory requirements. This includes any data provided to FERC under Section 211.

7. EXPLAIN ANY SPECIAL CIRCUMSTANCES RELATING TO THE INFORMATION COLLECTION

There are no special circumstances (as described in 5 CFR 1320.5(d)(2)) related to the FERC-716 information collection.

8. DESCRIBE EFFORTS TO CONSULT OUTSIDE THE AGENCY: SUMMARIZE PUBLIC COMMENTS AND THE AGENCY'S RESPONSE

In accordance with OMB requirements, the Commission published a 60-day notice⁹ on 4/21/2021 and published a 30-day notice¹⁰ on 6/29/2021. Within the public notices, the Commission noted that it would be requesting a three-year extension of the public reporting burden. The Commission received no comments on the 60-day notice from the public regarding this information collection.

9. EXPLAIN ANY PAYMENT OR GIFTS TO RESPONDENTS

There are no payments or gifts to respondents associated with the FERC-716.

10. DESCRIBE ANY ASSURANCE OF CONFIDENTIALITY PROVIDED TO RESPONDENTS

The Commission does not consider the information collected in FERC-716 filings to be confidential. However, the Commission will consider specific requests for confidential treatment to the extent permitted by law pursuant to 18 CFR 388.112(a)(1). 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 in the reporting requirements.

12. ESTIMATED BURDEN OF COLLECTION OF INFORMATION

9 86 FR 20685
10 86 FR 34235

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	Number of Respondents (1)	Annual Number of Responses per Respondent (2)	Total Number of Responses (1)*(2)=(3)	Average Burden & Cost Per Response¹¹ (4)	Total Annual Burden Hours & Total Annual Cost (\$) (3)*(4)=(5)	Cost per Respondent (\$) (5)÷(1)
Information exchange between parties	6	1	6	100 hrs.; \$8,300	600 hrs.; \$49,800	\$8,300
Application submitted to FERC if parties' negotiations are unsuccessful	6	1	6	2.5 hrs.; \$207.50	15 hrs.; \$1,245	\$207.50
TOTAL			12		615 hrs.; \$51,045	\$8,507.50

13. ESTIMATE OF THE TOTAL ANNUAL COST BURDEN TO RESPONDENTS

There are no non-labor costs currently associated with the FERC-716.

All of the costs are associated with burden hours (labor) and described in #12 and 15.

14. ESTIMATED ANNUALIZED COST TO FEDERAL GOVERNMENT

The estimated annualized cost to the Federal Government for FERC-716 follows:

	Number of Employees (FTE)	Estimated Annual Federal Cost
FERC-716 Analysis and Processing of filings ¹²	0.5	\$86,164.50
PRA ¹³ Administrative Cost		\$6,475
FERC Total		\$92,639.50

11 The estimates for cost per response are derived using the following formula: Average Burden Hours per Response x \$83/hour = Average Cost per Response. The cost per hour figure is the FERC 2020 average salary plus benefits. Subject matter experts found that industry employment costs closely resemble FERC's regarding the FERC-716 information collection.

12 Based upon FERC's 2020 FTE average salary plus benefits (\$172,329/year).

13 Paperwork Reduction Act of 1995 (PRA)

The Commission bases its estimate of the ‘Analysis and Processing of filings’ cost to the Federal Government on salaries and benefits for professional and clerical support. This estimated cost represents staff analysis, decision making, and review of any actual filings made in response to the information collection.

The PRA Administrative Cost is a Federal Cost associated with preparing, issuing, and submitting materials necessary to comply with the Paperwork Reduction Act (PRA) for rulemakings, orders, or any other vehicle used to create, modify, extend, or discontinue an information collection. This average annual cost includes requests for extensions, all associated rulemakings, any changes to the collection, and publication of required notices in the Federal Register.

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

There are no program changes for the FERC-716 information collection. There were updates made to the burden totals to represent the increase in the number of responses received from filings causing double the amount of filing received in the previous renewal.

FERC-716	Total Request	Previously Approved	Change due to Adjustment in Estimate	Change Due to Agency Discretion
Annual Number of Responses	12	6	6	0
Annual Time Burden (Hr.)	615	308	307	0
Annual Cost Burden (\$)	0	0	0	0

16. TIME SCHEDULE FOR PUBLICATION OF DATA

FERC does not publish any data associated with this collection.

17. DISPLAY OF EXPIRATION DATE

The expiration date is displayed at <https://www.ferc.gov/enforcement-legal/legal/information-collections>

18. EXCEPTIONS TO THE CERTIFICATION STATEMENT

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There are no exceptions.