

Supporting Statement

**FERC-65 (Notice of Holding Company Status), FERC-65A (Exemption Notification of Holding Company Status), and FERC-65B (Waiver Notification of Holding Company Status)**

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-65, FERC-65A, and FERC-65B under OMB Control No. 1902-0218 for three years. The reporting requirements in the FERC-65, FERC-65A, and FERC-65B are contained in FERC's regulations and in 18 CFR Part 366.

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

Section 1264 of Public Utility Holding Company Act of 2005 (PUHCA)<sup>1</sup> generally provides that holding companies and associated entities are required to give the Commission access to books and records relevant to costs incurred by a public utility that are necessary or appropriate for the protection of utility customers with respect to jurisdictional rates. Section 1275 of PUHCA<sup>2</sup> addresses the Commission's review and authorization for the allocation of costs for non-power goods or administrative or management services when requested by a holding company system or state commission.

In addition, the Commission's rate authorities under the Federal Power Act (FPA)<sup>3</sup> enables the Commission to detect and disallow from jurisdictional rates any imprudently incurred, unjust or unreasonable, or unduly discriminatory or preferential costs resulting from affiliate transactions between companies in the same holding company system. This includes both power transactions and non-power goods or services transactions between Commission-regulated companies that have captive customers and their unregulated affiliates. The Commission routinely places code of conduct restrictions on power sales at market-based rates between regulated and unregulated affiliates and has also placed conditions on non-power goods and services transactions involving public utilities to help ensure these businesses engage in appropriate market behavior.

In 2005, the Commission issued Order No. 667<sup>4</sup> to implement the repeal of the Public Utility Holding Company Act of 1935 and the enactment of the Public Utility Holding Company Act of 2005. The Securities and Exchange Commission (SEC) specifies a number of reporting requirements for holding companies in 17 CFR 250.1, 250.26, 250.80, 250.93, 250.94, and 259.313. With Order No. 667, the Commission adopted, modified, and streamlined some of the

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1 Pub. L. No. 109-58, 119 Stat. 594 (2005), 42 United States Code (USC) 16452.

2 Pub. L. No. 109-58, 119 Stat. 594 (2005), 42 United States Code (USC) 16462.

3 16 USC 824(D-E)

4 Public Utility Holding Company Act of 2005, Order No. 667, 70 FR 75592 (Dec. 20, 2005)

SEC reporting requirements for holding companies in its own regulations. The Commission adapted the SEC reporting regulations—instead of incorporating them in their entirety—because it determined that the information in some of the SEC reporting requirements is not relevant to the costs incurred by jurisdictional entities or is not necessary or appropriate for the protection of utility customers with respect to jurisdictional rates.

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

The FERC-65, FERC-65A and FERC-65B collections inform the Commission which entities (within holding company systems) are within Commission’s jurisdiction. Those entities meeting the definition of a holding company found in 18 CFR 366.1 are required to submit FERC-65.

The Commission collects the following information in the FERC-65;

- the identity of the holding company and of the public utilities/natural gas companies in the holding company system; and
- the identity of service companies, including special-purpose subsidiaries providing non-power goods and services; and
- the identity of all affiliates and subsidiaries as well as their corporate relationship to each other.

The Commission uses the information from the FERC-65 to track changes in the corporate identities of public utility and natural gas companies as well as the organizational structure of business unit constituents in current and new holding company systems. The Commission needs this information to discern whether the reported businesses fall within its jurisdiction. Moreover, the information can provide context and background information to the Commission in its electric market-based rates work and as it analyzes and addresses other corporate activity issues.

Information from the FERC-65A and FERC-65B sets forth the reasons why companies may be exempt from PUHCA 2005 or eligible for a waiver of the related FERC regulations. The information filed in the FERC-65A is needed to support a company’s position that they qualify for an exemption from PUHCA 2005. The exemption applies to those who belong to one or more of the types of entities, persons or classes of transactions that 18 CFR 366.3 specifies as exempt. The exemptions benefit many small entities. The burden on small entities would be significant without this exemption.

FERC-65B is submitted by those entities requesting a waiver from the PUHCA 2005 Section 1264 requirements. The Commission has allowed waivers of these requirements for any holding company that fits into one or more of the following groups;

1. Single state holding company systems;
2. Holding companies that own generating facilities totaling 100 MW or less in size and are used fundamentally for their own load or for sales to affiliated end-users; and
3. Investors in independent, transmission-only companies.

**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 encourages electronic filing of documents. Several years ago, the advent of eFiling 7.0 expanded the Commission’s ability to receive electronic filings through its eFiling and eLibrary systems and included these self-certification filings. As part of the self-certification filing, forms of notice suitable for publication in the Federal Register are submitted via eFiling. Submission guidelines can be found here: <http://www.ferc.gov/docs-filing/efiling/filing.pdf>.

The Commission allows the option of filing all documents in proceedings through the eFiling interface except for specified exceptions, and of utilizing online forms to allow “document-tless” interventions in all filings.

**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**

The Commission published a notice within the Federal Register to help identify any duplication of the information in FERC-65, FERC-65A and FERC-65B. No other Federal agencies are responsible for rate regulation and other regulatory activities of electric and natural gas holding companies within FERC’s jurisdiction. The information in each of FERC-65, FERC-65A and FERC-65B is unique to the filer and its activities as they relate to Commission rate regulation. Because the Commission requires new holding companies to make these filings within 30 days of formation, the information is timely, comprehensive, and responsive to current Commission policies regarding the applicability, exemption and waiver of Commission regulatory activities. No similar information can be used or modified.

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

Most companies who are required to complete the FERC-65 filing requirements are not small entities. The FERC-65A and FERC-65B filing requirements exist to benefit small entities. They allow for an exemption or waiver, respectively, from the books and records provisions of 18 CFR 366. All three of these FERC filings are one-time filings, which are effective until there is a material change of facts. This further minimizes the effect on small entities.

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

If FERC-65 and subsequent filings were not collected or were collected less frequently, the Commission would have no assurance that the actions of all jurisdictional entities within holding company systems would receive the required regulatory oversight. The initial FERC-65 filing deadline was 6/15/2006 for all holding companies in existence on 2/8/2006. Holding companies formed after 2/8/2006 must file within thirty days of becoming a holding company. A subsequent filing is not required unless there is a material change in facts.

FER- 65A and FERC-65B are one-time filings that cannot occur less frequently because their purpose is to benefit small entities if a new holding company either seeks a waiver or exemption from FERC regulation (in contrast to FERC-65). The waivers and exemptions remain in effect unless there is a material change in facts.

## **7. EXPLAIN ANY SPECIAL CIRCUMSTANCES RELATING TO THE INFORMATION COLLECTION**

There are no special circumstances related to the FERC-65, FERC-65A, or the FERC-65B information collection.

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

In accordance with OMB requirements<sup>5</sup>, the Commission published a 60-day notice (86 FR 23953) and a 30-day notice (86 FR 37144) to the public regarding this information collection on 5/5/2021 and 7/14/2021 respectively. 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 from the public in response to the 60-day notice regarding the FERC-65, FERC-65A, and FERC-65B information collections.

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

The Commission makes no payments or gifts to respondents as part of this collection.

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

The Commission does not consider the information collected in FERC-65, FERC-65A, and FERC-65B filings to be confidential. In general, for all submittals to the Commission, filers may submit specific requests for confidential treatment to the extent permitted by law, as set forth in

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<sup>5</sup> 5 CFR 1320.8(d)

18 CFR section 388.112. 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<sup>6</sup>**

The following table provides the estimated annual burden and cost related to information collection requirements for FERC-65, 65A and 65B:

<b>FERC-65 (Notification of Holding Company Status), FERC-65A (Exemption Notification of Holding Company Status), and FERC-65B (Waiver Notification of Holding Company Status)</b>						
	<b>Number of Respondents (1)</b>	<b>Annual Number of Responses per Respondent (2)</b>	<b>Total Number of Responses (1)*(2)=(3)</b>	<b>Average Burden &amp; Cost Per Response<sup>7</sup> (4)</b>	<b>Total Annual Burden Hours &amp; Total Annual Cost (\$) (3)*(4)=(5)</b>	<b>Cost per Respondent (\$) (5)÷(1)</b>
FERC-65	12	1	12	3 \$249.00	36 \$2,988	\$249.00
FERC-65A	4	1.25	5	1 \$83.00	5 \$415.00	\$103.75
FERC-65B	4	1.75	7	1 \$83.00	7 \$581.00	\$145.25
<b>TOTAL</b>			<b>24</b>		<b>48 \$3,984.00</b>	

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

There are no non-labor costs currently associated with the FERC-65, FERC-65A, or FERC-65B information collections.

<sup>6</sup> Burden is defined as the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. For further explanation of what is included in the information collection burden, refer to 5 CFR 1320.3.

<sup>7</sup> The Commission staff estimates that the average respondent for this collection is similarly situated to the Commission, in terms of salary plus benefits. Based on FERC’s 2020 annual average of \$172,329 (for salary plus benefits), the average hourly cost is \$83/hour.

Total Capital and Start-up cost: \$0

Total Operation, Maintenance, and Purchase of Services: \$0

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

#### 14. ESTIMATED ANNUALIZED COST TO FEDERAL GOVERNMENT

The estimated annualized cost to the Federal Government for FERC-65, FERC-65A, and FERC-65B follows:

	Number of Employees (FTE)	Estimated Annual Federal Cost
FERC-65, 65A, and 65B Analysis and Processing of filings <sup>8</sup>	0.5	\$86,164.50
PRA <sup>9</sup> Administrative Cost		\$6,475
<b>FERC Total</b>		<b>\$92,639.50</b>

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, other changes to the collection, and publications in the Federal Register.

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

There are no program changes or changes to reporting requirements for the FERC-65, 65A, and 65B information collections. The increase in the total annual cost is due to FERC’s 2020 FTE salary estimate. The average burden per response category remains unchanged.

FERC-65, 65A, and 65B	Total Request	Previously Approved	Change due to	Change Due to

<sup>8</sup> Based upon FERC’s 2020 FTE average salary plus benefits (\$172,329).

<sup>9</sup> Paperwork Reduction Act of 1995 (PRA)

			<b>Adjustment in Estimate</b>	<b>Agency Discretion</b>
Annual Number of Responses	24	24	0	0
Annual Time Burden (Hr.)	48	48	0	0
Annual Cost Burden (\$)	0	0	0	0

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

There is no publication of data associated with this collection of information.

**17. DISPLAY OF EXPIRATION DATE**

The OMB expiration date is displayed at

<https://www.ferc.gov/enforcement-legal/legal/information-collections>

**18. EXCEPTIONS TO THE CERTIFICATION STATEMENT**

There are no exceptions.