

Supporting Statement for  
**FERC Form 556,<sup>1</sup> Certification of Qualifying Facility (QF) Status  
for a Small Power Production or Co-generation Facility**

The Federal Energy Regulatory Commission (Commission or FERC) requests that the Office of Management and Budget (OMB) review and approve FERC Form 556, Certification of Qualifying Facility (QF) Status for a Small Power Production or Co-generation Facility (OMB Control No. 1902-0075), for a three-year period. FERC Form 556 is an existing data collection of FERC Form 556 and a reporting requirement in 18 Code of Federal Regulations (CFR) Section 131.80 and Part 292, with no changes to the requirements.

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

The Commission is obligated by statute to regulate key economic aspects of the electric, natural gas and oil industries.

FERC Form 556 is required to implement Sections 201 and 210 of the Public Utility Regulatory Policies Act of 1978<sup>2</sup> (PURPA). FERC is authorized, under those sections, to encourage co-generation and small power production and to prescribe such rules as necessary in order to carry out the statutory directives.

A primary statutory objective is efficient use of energy resources by co-generation facilities, which make use of rejected heat associated with commercial or industrial processes, and by small power production facilities, which use renewable resources and waste. PURPA, through establishment of various regulatory benefits, encourages the development of small power production facilities and co-generation facilities that meet certain technical and corporate criteria. Facilities that meet these criteria are called Qualifying Facilities, or QFs.

The Commission's regulations in 18 CFR Part 292 specify: a) the certification procedures which must be followed by owners or operators of small power production and co-generation facilities; b) the criteria which must be met; c) the information which must be submitted to FERC in order to obtain qualifying status; d) the PURPA benefits which are available to QFs to encourage small power production and co-generation; and e) the requirements pertaining to PURPA implementation plans regarding the transaction obligations that electric utilities have with respect to 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 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;

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<sup>1</sup> The information collection is also called FERC-556.

<sup>2</sup> 16 USC Section 796, 824a-3.

- provide interconnection and transmission services to QFs;
- operate in “parallel” with QFs so that they may be electrically synchronized with electric utility grids; 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), certain state laws, and the Public Utility Holding Company Act of 2005 (PUHCA).

In Order No. 732<sup>3</sup>, amending its regulations after the Energy Policy Act of 2005, FERC revised FERC Form 556. The Commission removed the contents and general instructions of the FERC Form 556 from 18 CFR Section 131.80, and in the place of it provided that an applicant seeking to certify QF status of a small power production or co-generation facility complete and file the FERC Form 556 that is in effect at the time of filing. Additionally, in that order, FERC revised and reformatted the FERC Form 556 to clarify the content of the form and to take advantage of newer technologies to reduce, both, the filing burden for applicants and the processing burden for the Commission. FERC also began requiring that the FERC Form 556 be submitted electronically, which is available for download from the FERC website.

FERC also updated the procedures, standards, and criteria for QF status provided in 18 CFR Part 292 of its regulations to, among other things, exempt generating facilities with net power production capacities of 1 MW or less from the requirement that a generating facility, to be a QF, must file either a notice of self-certification or an application for Commission certification, and codified FERC’s authority to waive the QF-certification filing requirement for good cause.

The revisions: (1) made the FERC Form 556 easier and less time consuming to complete and submit; (2) decreased opportunities for confusion and error in completing the form; (3) improved the consistency and quality of the data collected by the form; (4) decreased FERC resources dedicated to managing errors and omissions in submitted forms; and (5) clarified and corrected the regulations governing the requirements for obtaining and maintaining QF status

Finally, in Order No. 732, FERC changed the exemption of QFs from the FPA and PUHCA and certain state laws and regulations to make clear that certain small power production facilities satisfy the criteria of section 3(17)(E) of the FPA for those exemptions.

## **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 556 under 18 CFR Section 131.80 and 18 CFR 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 co-generation facility under its regulations and is eligible to receive the benefits available to it under PURPA.

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*3 Revisions to Form, Procedures, and Criteria for Certification of Qualifying Facility Status for a Small Power Production or Co-generation Facility, Order No. 732, 130 FERC ¶ 61,214 (2010).*

In order to obtain QF status and obtain PURPA benefits, an owner or operator of a small power production or co-generation facility must follow the process indicated in FERC Form 556 and select, at its option, either the procedure set forth in 18 CFR Section 292.207(a), which requires the submission to FERC of a self-certification or self-recertification, or the procedure set forth in 18 CFR Section 292.207(b), which requires the submission to FERC of an application for Commission certification or recertification. The information requirements for these two processes are largely the same (i.e., the submittal of a completed FERC Form 556 provides the information necessary to demonstrate compliance with FERC's regulations). If FERC did not collect the FERC Form 556 information, there would be no basis for the Commission to determine whether a facility satisfies the requirements for QF status.

Since revocation of the qualifying status of a small power production or co-generation facility may occur if the facility fails to satisfy any of the 18 CFR Part 292 criteria, private financial lenders to small power production and co-generation power facilities occasionally require small power producers and co-generators to follow 18 CFR Section 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<sup>4</sup>, 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 attempted to facilitate seeking QF status by electronically providing materials to potential small power producers and co-generators to assist in their preparation of notices of self-certification and applications for Commission certification. FERC Form 556 can be downloaded from FERC's website at: <http://www.ferc.gov/docs-filing/forms.asp#556>.

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 its application and a docket number for its submittal much more quickly than they would 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 collect and make use of this data.

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<sup>4</sup> *Electronic Filing of Documents*, Order No. 619, 65 FR 57088 (Sept. 21, 2000), FERC Stats. & Regs. ¶ 31,107 (2000).

**4. DESCRIBE EFFORTS TO IDENTIFY DUPLICATON 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 556 is necessary for the Commission to remain in compliance with FPA and PURPA mandates. No similar information is publicly available. There are no other federal agencies collecting this data; no other federal agencies are responsible for certifying an electric generating facility as a QF and/or allowing a co-generator 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**

The clarified and streamlined FERC Form 556 has made it easier for applicants to complete this form because the form leads applicants step-by-step through the compliance determinations. For example, the information collected from applicants for co-generation facilities in lines 11a through 11f has guided the applicants in determining whether the Energy Policy Act of 2005<sup>5</sup> (EPAct 2005) co-generation requirements apply to their facilities. Without this step-by-step guide, applicants (particularly small applicants) must independently research the requirements and determine compliance with the relatively complex EPAct 2005 co-generation requirements.

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

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

Applicants submit an initial FERC Form 556 and additional notices for any changes in qualifying status criteria. In view of this one-time requirement, the FERC Form 556 cannot be collected less frequently (i.e., not collected at all). If the information were not collected, as noted above, the Commission would be unable to certify the facility as a QF, and the co-generator 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.

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<sup>5</sup> Public Law 109-58, 119 Stat. 594 (2005).

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

There are no special circumstances.

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

In accordance with OMB requirements, the Commission published a 60-day Notice<sup>6</sup> in Docket No. IC21-40 providing the public an opportunity to comment. In the 60-day Notice, the Commission noted that it would be requesting a three-year extension of the public reporting burden with no change to the existing requirements. The Commission received no comments from the 60-day Notice.

The Commission is also publishing a 30-day Notice<sup>7</sup> for public comment.

**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 556 filings to be confidential. However, an applicant may request non-public treatment of privileged information or Critical Energy Infrastructure Information (CEII) under 18 CFR 388.112.

**11. PROVIDE ADDITIONAL JUSTIFICATION FOR ANY QUESTIONS OF A SENSITIVE NATURE, SUCH AS SEXUAL BEHAVIOR AND ATTITUDES, RELIGIOUS BELIEFS, AND OTHER MATTERS THAT ARE COMMONLY CONSIDERED PRIVATE**

There are no questions of a sensitive nature associated with FERC Form 556.

**12. ESTIMATED BURDEN COLLECTION OF INFORMATION**

The estimated burden and cost of the FERC-556 follow.

**FERC-556: Certification of Qualifying Facility Status for a Small Power Production or Co-generation Facility**

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<sup>6</sup> 86 FR 67943 11/30/2021.

<sup>7</sup> 87 FR 7826 2/20/2022

<b>Facility Type</b>	<b>Filing Type</b>	<b>Number of Respondents (1)</b>	<b>Number of Responses per Respondent (2)</b>	<b>Total Number of Responses (1)*(2) = (3)</b>	<b>Average Burden Hours &amp; Cost Per Response<sup>8</sup> (4)</b>	<b>Total Annual Burden Hours &amp; Total Annual Cost (rounded) (3)*(4)=(5)</b>	<b>Cost per Respondent (\$) (rounded) (5)÷(1)</b>
Co-generation Facility > 1 MW <sup>9</sup>	Self-certification	68	2.14	145.52	3.54 hrs; \$307.98	515.14 hrs; \$44,817.18	\$659.07
Co-generation Facility > 1 MW	Application for FERC certification	28.89	2.14	61.81	50 hrs; \$4,350	3,090.52 hrs; \$268,875.24	\$930.26
Small Power Production Facility > 1 MW	Self-certification	2,698	2.14	5,773.72	3.54 hrs; \$307.98	20,438.97 hrs; \$1,778,190.39	\$659.07
Small Power Production Facility > 1 MW	Application for FERC certification	0	2.14	0	50 hrs; \$4,350	0 hrs; \$0	\$0
Co-generation and Small Power Production Facility ≤ 1 MW (Self-Certification) <sup>10</sup>	Self-certification	697	2.14	1,491.58	3.54 hrs; \$307.98	2,237.37 hrs; \$194,651.19	\$279.27

<sup>8</sup> The Commission staff believes that industry is similarly situated in terms of wages and benefits. Therefore, cost estimates are based on FERC's 2021 average annual wage (and benefits) for a full-time employee of \$180,703 (or \$87.00/hour).

<sup>9</sup> MW = megawatt.

<sup>10</sup> The regulation at 18 CFR 292.203(d) exempts small power production facilities and co-generation facilities from self-certification if they have a net power production capacity of 1 MW or less. However, we are disclosing burdens for these filings because

<b>TOTAL</b>		<b>3,469</b>		<b>7,423.6</b>	<b>6</b>	<b>26,282 hrs;</b>	<b>\$2,286,534</b>
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The estimated burden in the Paperwork Reduction Act Notice on page 1 of the FERC Form 556 will be corrected to provide the current burden estimates (shown above). It will read “[t]he estimated burden for completing the FERC Form No. 556, including gathering and reporting information, is as follows: 1.5 hours for self-certification of a small power production facility, 1.5 hours for self-certifications of a co-generation facility, 50 hours for an application for Commission certification of a small power production facility, and 50 hours for an application for Commission certification of a co-generation facility.” The reporting requirements are not changing.

### **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’<sup>11</sup> is based on salaries and benefits for professional and clerical support. This estimated cost represents staff analysis, decision-making, and review of any actual filings submitted in response to the information collections. (The corresponding annual and hourly FERC costs use the figures for 2021, as noted).

The Paperwork Reduction Act of 1995 (PRA) Administrative Cost<sup>12</sup> 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.

The estimated annualized cost to the Federal Government is as follows:

	<b>Number of Employees (FTE)</b>	<b>Estimated Annual Federal Cost</b>
Analysis and Processing of Filings	2	\$361,406
PRA Administrative Cost		\$8,279
FERC Total		\$369,685

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some facilities seek status as qualifying facilities regardless of their capacity.

<sup>11</sup> The estimate uses the FERC’s FY 2021 average annual salary plus benefits of one FERC FTE (full-time equivalent [\$180,703 per year or \$87.00 per hour]). (These estimates were updated in May 2021.)

<sup>12</sup> This estimate was updated May 2021.

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

There were no program changes made to FERC-556. The reporting and recordkeeping requirements and estimated average burden per response (or filing) have remained the same since the last approval.

<b>FERC Form 556</b>	<b>Total Request (rounded)</b>	<b>Previously Approved (rounded)</b>	<b>Change due to Adjustment in Estimate (rounded)</b>	<b>Change Due to Agency Discretion</b>
Annual Number of Responses	7,423	7,423	0	0
Annual Time Burden (Hours)	26,282	26,282	0	0
Annual Cost Burden (\$)	\$0	\$0	\$0	\$0

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

There is no tabulating, statistical, tabulating analysis, or publication plans for the collection of information. The data are used for regulatory purposes only.

**17. DISPLAY OF EXPIRATION DATE**

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

The expiration date is also displayed in a table posted on ferc.gov at <https://www.ferc.gov/information-collections>.

**18. EXCEPTIONS TO THE CERTIFICATION STATEMENT**

There are no exceptions.

