

Supporting Statement for
**FERC-912, PURPA Section 210(m) Notification Requirements Applicable to
Cogeneration and Small Power Production Facilities**

The Federal Energy Regulatory Commission (Commission or FERC) requests that the Office of Management and Budget (OMB) review and approve FERC-912, PURPA Section 210(m) Notification Requirements Applicable to Cogeneration and Small Power Production Facilities, for a three-year period. FERC-912 (OMB Control No. 1902-0237) is an existing Commission data collection, as stated by 18 Code of Federal Regulations (CFR) Part 292.

FERC Form 912 was previously modified in Docket No. RM19-15-000 which revised the Commission's regulations in 18 CFR 292.309 – 292.313 to account for industry changes. However, this renewal does not change the existing collection.

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

The Public Utility Regulatory Policies Act of 1978 (PURPA) 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 2019, the Commission revised its regulations in 18 CFR 292.309 – 292.313 in Docket No. RM19-15-000 to account for industry changes. These industry changes include: the decrease in reliance on oil and natural gas, the increase of natural gas supply due to access of shale reserves, and the decreasing costs of renewable energy sources. Due to the modifications in the rulemaking, the Commission revised its information collection requirements. The Commission now collects the following information on FERC Form 912:

- §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.¹

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 PURPA section 210(m).

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

The Commission uses the information collected by FERC-912 to determine if an order is appropriate and required under PURPA section 210(m).² Without this collection of information, the Commission would not be able to carry out its obligations under PURPA section 210(m).

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

FERC-912 applicants use the eFiling system to file the required information to the Commission. Applicants should visit the eFiling website (<http://www.ferc.gov/docs-filing/efiling.asp>) to find information on what file formats are acceptable.

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 information filed in FERC-912 is unique in the universe of publicly available electric energy information. Commission staff searched for other sources of this information and found none.

¹ 18 CFR 292.311 and 292.313.

² As amended by P.L. 109-58 Section 1253 (EPAAct 2005).

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

Resulting from Order No. 671, the Commission established a rebuttable blanket presumption that all QFs with a net capacity less than or equal to 20 MW do not have nondiscriminatory access to wholesale markets described in section 210(m).

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

Respondents file the FERC-912 information only when circumstances in 18 CFR Part 292 require the filing. This is not a recurring collection. The Commission cannot collect this information 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 relating to the information collection.

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

The Commission issued a 60-day Notice³ in Docket No. IC22-9-000 on 3/23/2022 (published in Federal Register on 3/29/2022 (87 FR18009). No comments were received on the 60-day notice. The Commission also published a 30-day notice⁴ in the Federal Register (87 FR 36121) on 6/15/2022.

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-912 filings to be confidential. However, the filer may request privileged treatment of a filing that may

³ The 60-day Notice was posted on 3/23/2022 in FERC's eLibrary at:

https://elibrary.ferc.gov/eLibrary/docinfo?accession_number=20220323-3003

⁴ 87 FR 36121: Federal Register : Commission Information Collection Activities (FERC-912); Comment Request; Extension

contain information harmful to the competitive posture of the applicant if released to the public.⁵

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

The questions are not sensitive in nature or private.

⁵ 18 CFR 388.112.

12. ESTIMATED BURDEN OF COLLECTION OF INFORMATION

The Commission estimates the annual burden and cost, as follows:⁶

FERC-912 (IC22-9-000): Cogeneration and Small Power Production, PURPA Section 210(m) Regulations for Termination or Reinstatement of Obligation to Purchase or Sell						
	Number of Respondents	Number of Responses Per Respondent	Total Number of Responses	Average Burden Hours & Average Cost per Response (\$)⁷	Total Annual Burden Hours & Total Annual Cost (\$)	Cost per Respondent (\$)
	(1)	(2)	(1) x (2) = (3)	(4)	(3) x (4) = (5)	(5) ÷ (1) = (6)
Termination of obligation to purchase	10	1.5	15	12 \$1,044	180 \$15,660	\$1,566
Termination of obligation to sell	2	1	2	8 \$696	16 \$1,392	\$696
Total			17		196 hours \$17,052	\$2,262

(See #15 for an explanation of the rows showing 0 filings which are expected in the next 3 years.)

13. ESTIMATE OF TOTAL ANNUAL COST OF 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

	Number of Employees (FTEs)	Estimated Annual Federal Cost
PRA ⁸ Administration		\$8,279

⁶ The estimates for cost per response are derived using the following formula: Average Burden Hours per Response * \$87.00 per Hour = Average Cost per Response. The hourly cost figure comes from the FERC average salary (\$180,702/year). Commission staff believes the 2021 FERC average salary to be a representative wage for industry respondents.

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⁸ Paperwork Reduction Act of 1995 (PRA).

Cost		
Data Processing and Analysis ⁹	0.5	\$90,351
FERC Total		\$98,630

The Commission bases its estimate of the “Data Processing and Analysis” 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 actual filings.

The Paperwork Reduction Act (PRA) Administrative Cost 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.

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

Over the past three years, there have not been any filings for the reinstatement of the obligation to purchase and for the reinstatement of the obligation to sell. The regulations remain active and part of this OMB Control No., but staff does not expect any filings to be made in the next three years in those areas. (Question #12 shows zero filings expected for those areas.)

Over the past three years, the Commission has received a total average of 10 filings per year for the termination of the obligation to purchase and the termination of the obligation to sell, thus warranting the numbers seen in the tables. The changes are due to normal business fluctuations in energy markets.

The following table shows the total burden of the collection of information. The format, labels, and definitions of the table follow the ROCIS submission system’s “Information Collection Request Summary of Burden” for the metadata.

FERC-912	Total Request	Previously Approved	Change due to Adjustment in Estimate	Change Due to Agency Discretion
Annual Number of Responses	17	39	-22	0
Annual Time	196	460	-264	0

⁹ The FERC 2021 average salary plus benefits for one FTE \$180,702/year (or \$87.00/hour).

Burden (Hr.)				
Annual Cost Burden (\$)	0	0	0	0

The format, labels, and definitions of the table above follow the ROCIS system’s “ICR Summary of Burden” for the metadata.

16. TIME SCHEDULE FOR PUBLICATION OF DATA

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

17. DISPLAY OF EXPIRATION DATE

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

18. EXCEPTIONS TO THE CERTIFICATION STATEMENT

There are no exceptions.