

Supporting Statement for
FERC-915, Public Utility Market-Based Rate Authorization Holders-Records Retention Requirements

The Federal Energy Regulatory Commission (Commission or FERC) requests that the Office of Management and Budget (OMB) review and approve FERC- 915, Public Utility Market-Based Rate Authorization Holders-Records Retention Requirements, for a three-year period. FERC-915 (OMB Control No. 1902-0250) is an existing Commission data collection (filing requirements) as stated in 18 Code of Federal Regulation (CFR) 35.41(d).

1. CIRCUMSTANCES THAT MAKE THE COLLECTION OF INFORMATION NECESSARY

Pursuant to the Federal Power Act (FPA), the Department of Energy Organization Act (DOE Act), and the Energy Policy Act of 2005 (EPAAct 2005), the Commission regulates the transmission and wholesale sales of electricity in interstate commerce, monitors and investigates energy markets, uses civil penalties and other means against energy organizations and individuals who violate Commission rules in the energy markets, and administers accounting and financial reporting regulations and oversees conduct of regulated companies.

FERC-915 is necessary to protect the integrity of the wholesale electric markets by preserving documentation of relevant price-related data in the event of an investigation of possible wrongdoing. The requirement ensures that documentation is retained for a period consistent with the parameters of the generally applicable statute of limitations for the Commission to assess civil penalties against a wholesale electricity seller for violations of the FERC's rules, regulations, or orders.

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

The Commission is required under legislation to ensure just and reasonable rates in wholesale gas and electric markets. Critical to its mission is the ability to monitor jurisdictional markets and assess civil penalties when wrongdoing affects the integrity of the market. FERC-915, under 18 CFR 35.41(d), ensures that sellers in the wholesale electric market retain their relevant price-related documentation in the event the

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Commission needs to evaluate their behavior. Electricity sellers are required to retain price-related data and information for five years, consistent with the applicable statute of limitations for the Commission to assess civil penalties for wrongdoing. Those data and information tend to be retained electronically. Without the record retention requirements of FERC-915, it would be more difficult to prove whether (or not) a given seller manipulated the market or engaged in other violations, making it easier for sellers to do so.

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

The record retention requirement under 18 CFR 35.41(d) does not specify the media or manner of storage. It is the understanding of the Commission that affected entities retain records in an electronic format thereby reducing the burden of storage costs.

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.

Commission filings and data requirements are periodically reviewed in conjunction with OMB clearance expiration dates. This includes a review of the Commission's regulations and data requirements to identify duplication. No duplication of the FERC-915 information collection requirements has been found.

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

The Commission encourages both large and small entities to store records in electronic format thereby reducing physical space needed for storage. Any benefit of reduced necessary space is experienced by both large and small entities.

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

The record retention requirement of FERC-915 is consistent with statute of limitation standards. The Commission cannot conduct this information collection less frequently. If entities did not retain these records, the Commission would be unable to accomplish its mission to ensure the integrity of wholesale electric markets.

7. EXPLAIN ANY SPECIAL CIRCUMSTANCES RELATING TO THE INFORMATION COLLECTION

There is one special circumstance related to this information collection. OMB's guidelines at 5 CFR 1320.5(d)(2)(iv) direct that agencies should not require respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records for more than three years. The Commission is requiring that respondents retain records for a period of five years. This is necessary to ensure consistency with the EPOA 2005 anti-manipulation provisions and the generally applicable five-year statute of limitations where the Commission seeks civil penalties for violations of the anti-manipulation rules or other rules, regulations, or orders to which the price information may be relevant.

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

In accordance with OMB requirements¹, the Commission published a 60-day notice² and a 30-day notice³ to the public regarding this information collection on 10/6/2022 and 12/30/2022 respectively. The Commission noted that it would be requesting a three-year extension of the public reporting burden with no change to the existing requirements concerning the collection of data. No comments were received.

9. EXPLAIN ANY PAYMENT OR GIFTS TO RESPONDENTS

There are no payments or gifts to respondents associated with the FERC-915 information collection.

10. DESCRIBE ANY ASSURANCE OF CONFIDENTIALITY PROVIDED TO RESPONDENTS

FERC-915 requires sellers to retain their own records, so confidentiality protection remains at the discretion of the seller. If those retained records are requested during the course of an investigation, all information and documents obtained are treated as

¹ 5 CFR 1320.8(d)

² 87 FR 560677

³ 87 FR 80528

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confidential unless otherwise expressly released under the provisions of 18 CFR §1b.9. Further, in general, for all submittals to the Commission, filers may submit specific requests for confidential treatment to the extent permitted by law; details are available in 18 CFR §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 or recordkeeping requirements of the FERC-915 information collection.

12. ESTIMATED BURDEN OF COLLECTION OF INFORMATION

The Commission estimates the annual burden and cost⁴ (rounded) for the information collection as follows:

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FERC Requirement	Number of Respondents (1)	Annual Number of Responses per Respondent (2)	Total Number of Responses (1)*(2)=(3)	Average Burden & Cost Per Response (4)	Total Annual Burden Hours & Cost (3)*(4)=(5)	Annual Cost per Respondent (\$) (5)÷(1)
FERC-915	2,510	1	2,510	1 hr.; \$34.00	2,510 hrs.; \$85,340	\$34.00
Total:			2,510		2,510 hrs.; \$85,340	

13. ESTIMATE OF THE TOTAL ANNUAL COST BURDEN TO RESPONDENTS

⁴ The estimated hourly cost (for wages plus benefits) provided in this section are based on the figures posted by the Bureau of Labor Statistics (BLS) for the Utilities section available (at https://www.bls.gov/oes/current/naics2_22.htm) and benefits information (for June 2022, issued March 2022, at <https://www.bls.gov/news.release/ecec.nr0.htm>). The hourly estimates for salary plus benefits are:

File Clerk (Occupation code: 43-4071), \$34.38 an hour. We are rounding the hourly cost to \$34.00.

In addition, there are records storage costs. For all respondents, we estimate a total of 65,000 cu. ft. of records in off-site storage. Based on an approximate storage cost of \$0.24 per cubic foot, we estimate total annual storage cost to be \$15,600.00 (or \$6.22 annually per respondent). The total annual cost for all respondents (burden cost plus off-site storage) is \$100,940.00 (or \$85,340 + \$15,600); the average total annual cost per respondent is \$40.22 (\$6.22 + \$34.00).⁵

All of the costs associated with burden hours are described in Questions #12 and #15 in this supporting statement.

14. ESTIMATED ANNUALIZED COST TO FEDERAL GOVERNMENT

The estimate of the cost for analysis and processing of filings 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.

The 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.

	Number of Employees (FTEs)	Estimated Annual Federal Cost
PRA Administration Cost		\$7,694
Analysis and Processing of filings	0	0
FERC Total		\$7,694

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

There were no changes to the reporting and recordkeeping requirements.

⁵ Given that the Commission has found (1) that Sellers use standard computer-based methods to store the retained information automatically on electronic media and (2) that storage space needed costs pennies per Gigabyte, estimating burden and storage assuming use of traditional paper records provides an extreme boundary on the estimated costs.

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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-915	Total Request	Previously Approved	Change due to Adjustment in Estimate	Change Due to Agency Discretion
Annual Number of Responses	2,510	2510	0	0
Annual Time Burden (Hr.)	2,510	2,510	0	0
Annual Cost Burden (\$)	\$15,600	\$15,600	0	\$0

16. TIME SCHEDULE FOR PUBLICATION OF DATA

There are no publications of the information.

17. DISPLAY OF EXPIRATION DATE

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

18. EXCEPTIONS TO THE CERTIFICATION STATEMENT

There are no exceptions.