

Supporting Statement for  
**FERC-729, Electric Transmission Facilities: Proposed Modifications in Notice of Proposed Rulemaking (RM22-7-000)**

The Federal Energy Regulatory Commission (Commission or FERC) requests that the Office of Management and Budget (OMB) provides comment and continue the proposed modifications to FERC-729 (Electric Transmission Facilities, OMB Control No. 1902-0238) as stated in the Notice of Proposed Rulemaking (NOPR) issued on December 15, 2022, in docket number RM22-7-000.

FERC-729 is an existing information collection under 18 Code of Federal Regulations (CFR) part 50.<sup>1</sup>

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

The purpose of FERC-729 is to implement the information collection requirements for entities seeking to construct electric transmission facilities pursuant to the Commission's authority under section 216 of the Federal Power Act (FPA).<sup>2</sup> Specifically, section 216(b) of the FPA authorizes the Commission, under certain circumstances, to issue permits for the construction of electric transmission facilities within national interest electric transmission corridors designated by the Secretary of Energy.

Pursuant to this statutory authority, on November 16, 2006, the Commission issued Order No. 689, which implemented new regulations for FPA section 216 permit applications by adding part 50 to the Commission's regulations.<sup>3</sup> In addition, Order No. 689 adopted certain modifications to the Commission's regulations implementing the National Environmental Policy Act of 1969 (NEPA)<sup>4</sup> in part 380 to ensure that the Commission is provided sufficient information to conduct an environmental analysis of a proposed electric transmission project.<sup>5</sup> In 2009, the U.S. Court of Appeals for the Fourth Circuit (Fourth Circuit), among other things, vacated the Commission's transmission-related amendments to its part 380 regulations implementing NEPA.<sup>6</sup> Notwithstanding the Fourth Circuit's vacatur, the NEPA amendments set forth in Order No. 689 are still reflected in part 380 of the Commission's regulations.

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<sup>1</sup> 18 CFR pt. 50.

<sup>2</sup> 16 USC 824p.

<sup>3</sup> *Regulations for Filing Applications for Permits to Site Interstate Elec. Transmission Facilities*, Order No. 689, 71 FR 69440 (Dec. 1, 2006), 117 FERC ¶ 61,202 (2006) (Order No. 689 Final Rule), *reh'g denied*, 119 FERC ¶ 61,154 (2007) (Order No. 689 Rehearing Order).

<sup>4</sup> 42 USC 4321-4370j.

<sup>5</sup> 18 CFR pt. 380.

<sup>6</sup> The Fourth Circuit found that the Commission had failed to consult with the Council on Environmental Quality before adopting the revisions.

The NPR proposes to amend the Commission's regulations in parts 50 and 380 to ensure consistency with the Infrastructure Investment and Jobs Act of 2021 amendments to FPA section 216, to modernize certain regulatory requirements, and to incorporate other updates and clarifications to provide for the efficient and timely review of permit applications. The NPR proposes to, among other things, require applicants to:

- maintain an affected landowner contact log, provide certain information to affected landowners, file an affirmative statement with the Commission indicating the applicant's intent to comply with the Applicant Code of Conduct, and include compliance updates as part of the monthly status reports required during the pre-filing process;<sup>7</sup>
- provide additional congestion and system analysis information during the pre-filing process and as part of the application;
- develop and file an environmental justice public engagement plan describing completed and planned targeted outreach efforts during the pre-filing process and after an application has been submitted;
- develop and file a new resource report describing the proposed project's impacts on Tribal resources;
- develop and file a new resource report describing the proposed project's impacts on environmental justice communities;
- develop and file a new resource report describing the proposed project's impact on air quality and environmental noise;
- provide additional information describing the proposed project's visual impacts; and
- provide additional information as part of the following existing resource reports: *General project description; Water use and quality; Fish, wildlife, and vegetation; Soils; Land use, recreation, and aesthetics; and Reliability and safety.*

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

The purpose of the Commission's regulations is to provide for efficient and timely review of requests for permits for the siting of proposed electric transmission facilities under section 216 of the FPA. As described in response to number one above, the NPR proposes to amend the Commission's existing regulatory requirements.

This information collection cannot be discontinued nor collected less frequently because of statutory requirements. Without this information, the Commission would be unable to evaluate electric transmission facilities permit applications, which are required to fulfill its statutory obligations under the FPA and NEPA.

## **3. DESCRIBE ANY CONSIDERATION OF THE USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN AND THE**

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<sup>7</sup> These requirements would only apply to applicants who elect to comply with the Applicant Code of Conduct set forth in proposed § 50.12.

**TECHNICAL OR LEGAL OBSTACLES TO REDUCING BURDEN**

There is an ongoing effort to determine the potential for improved information technology to reduce burden, and the Commission encourages the use of electronic filing. As posted at: <https://www.ferc.gov/sites/default/files/2020-05/filing.pdf>, the FERC-729 information may be electronically filed through the Commission's eFiling system.

**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**

To identify duplication, Commission staff periodically review filing requirements before the expiration of the information collection and as the Commission may deem necessary in carrying out its statutory responsibilities. There is no other source of this information.

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

The Commission expects entities seeking to construct electric transmission facilities pursuant to the Commission's authority under section 216 of the FPA to be major developers capable of financing complex and expensive projects. To date, only one entity has participated in the Commission's pre-filing process, and that was a major electric utility company. Therefore, the Commission does not anticipate that these information collection requirements would impose a burden on small entities. Additionally, all applicants have the option of filing information electronically through the Commission's eFiling system.

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

This information collection is triggered by an applicant filing for a permit to construct electric transmission facilities under section 216 of the FPA. Without this information, the Commission would be unable to fulfill its statutory obligations under the FPA and NEPA.

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

FERC-729 meets OMB's section 1320.5 requirements with the exception of 1320.5(d)(2)(iii).<sup>8</sup> Specifically, section 50.3(b)<sup>9</sup> of the Commission's regulations requires an original and seven conformed copies of the information to be submitted for the Commission to conduct its review. The NPR proposes to revise section 50.3(b) to eliminate this requirement and only require applicants to make submissions in electronic format.

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<sup>8</sup> 5 CFR 1320.5 (d)(2)(iii).

<sup>9</sup> 18 CFR 50.3(b).

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

The NOPR was published in the Federal Register on January 17, 2023, with a 90-day comment period. Because some of the burden and cost estimates are novel, the Commission solicited comments on these estimates in the NOPR. The Commission would address comments in any final rule issued in RM22-7-000. As described in the NOPR, the Commission will also consult with the Council on Environmental Quality on the NEPA regulations in part 380.

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

There are no payments or gifts to FERC-729 respondents.

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

The Commission does not consider the information collected in FERC-729 filings to be confidential. Filers may request privileged or Critical Energy Infrastructure Information treatment of a filing that may contain information the applicant deems harmful if released to the general public.<sup>10</sup>

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

There are no questions of a sensitive nature in this information collection.

**12. ESTIMATED BURDEN OF COLLECTION OF INFORMATION**

The Commission estimates the annual public reporting burden for the requirements contained in the NOPR as:

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<sup>10</sup> 18 CFR 388.112.

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RIN: 1902-AG08  
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<b>Annual Changes Proposed by the NOPR in Docket No. RM22-7-000</b>					
	<b>No. of Respondents (1)</b>	<b>No. of Responses<sup>11</sup> per Respondent (2)</b>	<b>Total No. of Responses (1)X(2)=(3)</b>	<b>Avg. Burden Hrs. &amp; Cost Per Response<sup>12</sup> (4)</b>	<b>Total Annual Burden Hours &amp; Total Annual Cost (3)X(4)=5</b>
<b>Current FERC 729 Collection</b>					
FERC-729	1	1	1	9,600 hrs. \$873,600	9,600 hrs. \$873,600
<b>Proposed Revisions in RM22-7-000</b>					
Applicant Code of Conduct <sup>13</sup>	1 <sup>14</sup>	1	1	136 hrs; \$12,376	136 hrs.; \$12,376
Environmental Justice Public Engagement Plan	1	1	1	24 hrs.; \$2,184	24 hrs.; \$2,184
Congestion and System Analysis Data <sup>15</sup>	1	1	1	160 hrs.; \$14,560	160 hrs.; \$14,560

<sup>11</sup> We consider the filing of an application, including the mandatory pre-filing information, to be a “response.”

<sup>12</sup> The estimates for cost per response are derived using the following formula: Average Burden Hours per Response \* \$91 per Hour = Average Cost per Response. The hourly cost figure is the FY2022 FERC average annual salary plus benefits (\$188,922/year or \$91/hour). Commission staff estimates that industry costs for salary plus benefits are similar to Commission costs.

<sup>13</sup> Notwithstanding that compliance with the Applicant Code of Conduct is voluntary, we are providing the estimated burden hours associated with such compliance.

<sup>14</sup> After implementation of this proposed rule, we estimate one application for a permit to site electric transmission facilities will be filed per year.

<sup>15</sup> This category covers the proposed updates to the congestion and system analysis data that an applicant must provide during the pre-filing process and as part of the application in Exhibit H, *System analysis data*.

<b>Annual Changes Proposed by the NOPR in Docket No. RM22-7-000</b>					
	<b>No. of Respondents (1)</b>	<b>No. of Responses per Respondent (2)</b>	<b>Total No. of Responses (1)X(2)=(3)</b>	<b>Avg. Burden Hrs. &amp; Cost Per Response (4)</b>	<b>Total Annual Burden Hours &amp; Total Annual Cost (3)X(4)=5</b>
Other Updates to 18 CFR pt. 50 <sup>16</sup>	1	1	1	28 hrs.; \$2,548	28 hrs.; \$2,548
Resource Report: Tribal Resources	1	1	1	40 hrs.; \$3,640	40 hrs.; \$3,640
Resource Report: Environmental Justice	1	1	1	80 hrs.; \$7,280	80 hrs.; \$7,280

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<sup>16</sup> This category covers additional proposed updates to part 50 of the Commission’s regulations that involve minor increases in burden (e.g., adding an interactive mapping feature to an applicant’s project website and including additional material in the project notifications mailed to affected landowners) as well as a reduction in burden associated with eliminating the requirement that an applicant provide seven paper copies of an application, exhibits, and other submittals.

<b>Annual Changes Proposed by the NOPR in Docket No. RM22-7-000</b>					
	<b>No. of Respondents (1)</b>	<b>No. of Responses per Respondent (2)</b>	<b>Total No. of Responses (1)X(2)=(3)</b>	<b>Avg. Burden Hrs. &amp; Cost Per Response (4)</b>	<b>Total Annual Burden Hours &amp; Total Annual Cost (3)X(4)=5</b>
Resource Report: Air Quality & Environmental Noise	1	1	1	296 hrs.; \$26,936	296 hrs.; \$26,936
Information on Visual Impacts	1	1	1	100 hrs.; \$9,100	100 hrs.; \$9,100
Other Updates to 18 CFR pt. 380 <sup>17</sup>	1	1	1	148 hrs.; \$13,468	148 hrs.; \$13,468
<b>PROPOSED TOTAL</b>			9 <sup>18</sup>		1,012 hrs.; \$92,092
<b>CURRENT AND PROPOSED TOTAL</b>			10		10,612 hrs.; \$965,692

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

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

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

<sup>17</sup> This category covers a variety of non-substantial proposed updates to § 380.16 of the Commission’s regulations that, if adopted, would require an applicant to develop and submit additional information as part of the following resource reports: *General project description; Water use and quality; Fish, wildlife, and vegetation; Soils; Land use, recreation, and aesthetics; and Reliability and safety.*

<sup>18</sup> The NOPR includes a typo indicating that there are eleven responses, which we have corrected here. This reflects the number of entries for the ROCIS submission system as included in response to number fifteen below; however, these nine entries in the table would be part of a single pre-filing request and application filing.

The Commission estimates the annualized cost to the federal government for this information collection as:

	<b>Number of Employees (FTEs)</b>	<b>Estimated Annual Federal Cost</b>
PRA <sup>19</sup> Administration Cost <sup>20</sup>	-	\$7,694
Analysis and Processing of Filings <sup>21</sup>	9 <sup>22</sup>	\$1,700,298
<b>FERC Total</b>		<b>\$1,707,992</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.

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

There are currently no proposed projects in the Commission’s pre-filing or application review processes.

The increase in burden is due to the proposed changes in the NOPR, as described above. The total increase in burden is 1,012 hours.

The following table shows the total burden for 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.

<b>FERC-729</b>	<b>Total Request</b>	<b>Previously Approved</b>	<b>Change Due to Adjustment in Estimate</b>	<b>Change Due to Agency Discretion</b>
Annual Number of Responses	10	1	0	9
Annual Time Burden (Hours)	10,612	9,600	0	1,012

<sup>19</sup> The Paperwork Reduction Act of 1995 (PRA).

<sup>20</sup> The PRA Administration Cost includes preparing supporting statements, notices, and other activities associated with PRA compliance.

<sup>21</sup> The cost figure is the FY2022 FERC average annual salary plus benefits (\$188,922/year or \$91/hour).

<sup>22</sup> Because of the expected size and complexity of proposed projects, additional staff would be necessary to review and process pre-filing requests and application filings.

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Annual Cost Burden (\$)	0	0	0	0
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**16. TIME SCHEDULE FOR PUBLICATION OF DATA**

The Commission does not publish any data associated with this information collection.

**17. DISPLAY OF EXPIRATION DATE**

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

**18. EXCEPTIONS TO THE CERTIFICATION STATEMENT**

There are no exceptions.