

Supporting Statement
FERC-600: Rules of Practice and Procedure: Complaint Procedures
Request for Three-Year Extension

The Federal Energy Regulatory Commission (FERC or Commission) requests that the Office of Management and Budget (OMB) review and approve FERC-600 (Rules of Practice and Procedure: Complaint Procedures) for another three-year period under OMB Control Number 1902-0180. The information collection requirements are contained in the Commission's regulations including 18 CFR 385.206 and Part 343. There are no changes to the existing requirements.

1. CIRCUMSTANCES THAT MAKE THE COLLECTION OF INFORMATION NECESSARY

In accordance with 18 CFR 385.206, any person may file a complaint seeking Commission action against any other person alleged to be in violation of "any statute, rule, order, or other law administered by the Commission, or for any other alleged wrong over which the Commission may have jurisdiction." Regulations at 18 CFR Part 343 provide for additional procedures and information collection requirements for complaints and other filings that pertain to oil pipelines under the Interstate Commerce Act.

As discussed below, FERC-600 authorizes persons to file complaints that assist in the Commission's implementation of the Federal Power Act (FPA), the Public Utility Regulatory Policies Act (PURPA), the Natural Gas Act (NGA), the Natural Gas Policy Act (NGPA), and the Interstate Commerce Act (ICA).

FPA

Under section 19 of the FPA (16 U.S.C. 812), and as a condition of a hydropower license, the Commission may, upon complaint of any person aggrieved or upon its own initiative, exercise regulation and control over services, rates, and charges within a State if the State has not provided for such regulation and control. This authority endures only until the State has provided a commission or other authority for such regulation and control.

Section 206(a) of the FPA (16 U.S.C. 824e(a)) authorizes the Commission to hold a hearing upon complaint or upon its own motion, in order to determine whether any of the following items pertaining to a public utility are unjust, unreasonable, unduly discriminatory, or preferential: (1) rate, (2) charge, (3) classification, (4) rule, (5) regulation, (6) practice, or (7) contract. A complaint submitted pursuant to section 206(a) or motion of the Commission to initiate a proceeding pursuant to section 206(a) must state the proposed change(s) and the reasons for such change(s).

Section 215(d)(5) of the FPA (16 U.S.C. 824o(d)(5)) provides that the Commission, upon its own motion or upon complaint, may order the Commission-certified Electric Reliability Organization (ERO) to submit to the Commission a proposed reliability standard or a modification to a reliability standard that addresses a specific matter if the Commission considers such a new or modified reliability standard appropriate to carry out section 215. (The North American Electric Reliability Corporation is the Commission-certified ERO.)

Section 306 of the FPA (16 U.S.C. 825e) provides that any person, electric utility, State, municipality, or State commission may complain of anything done or omitted to be done by any licensee, transmitting utility, or public utility in contravention of the FPA.

Section 307(a) of the FPA (16 U.S.C. 825f(a)) provides that the Commission may investigate any facts, conditions, practices or matters which it may find necessary or proper in order to determine whether any person, electric utility, transmitting utility, or other entity has violated or is about to violate any provision of the FPA or any rule, regulation, or order thereunder, or to aid in the enforcement of the FPA. Section 307(a) permits any person, electric utility, transmitting utility, or other entity to file a statement in writing, under oath or otherwise, as to any or all facts and circumstances concerning a matter which may be the subject of an investigation.

PURPA

Section 210(h)(2)(B) of PURPA (16 U.S.C. 824a-3(h)(2)(B)) provides that any electric utility, qualifying co-generator, or qualifying small power producer may petition the Commission to enforce the requirements of the Commission's PURPA regulations.

NGA

Section 5(a) of the NGA (15 U.S.C. 717d(a)) authorizes the Commission to hold a hearing upon its own motion or upon complaint of any State, municipality, State commission, or gas distribution company. The purpose of such hearing is to determine whether any of the following items pertaining to a natural-gas company are unjust, unreasonable, unduly discriminatory, or preferential: (1) rate, (2) charge, (3) classification, (4) rule, (5) regulation, (6) practice, or (7) contract.

Section 5(b) of the NGA (15 U.S.C. 717d(b)) provides that the Commission, upon its own motion or upon a request of a State commission, may investigate and determine the cost of the production or transportation by a natural-gas company in cases where the Commission has no authority to establish a rate governing the transportation or sale by such natural-gas company.

Section 13 of the NGA (15 U.S.C. 717l) provides that any State, municipality, or State commission may complain of anything done or omitted to be done by any natural-gas company in contravention of the NGA. Such petition must briefly state the facts.

Section 14(a) of the NGA (15 U.S.C. 717m) provides that the Commission may investigate any facts, conditions, practices or matters which it may find necessary or proper in order to determine whether any person has violated or is about to violate any provision of the NGA or any rule, regulation, or order thereunder, or to aid in the enforcement of the NGA. Section 14(a) permits any person to file a statement in writing, under oath or otherwise, as to any or all facts and circumstances concerning a matter which may be the subject of an investigation.

NGPA

Section 311 of the NGPA (15 U.S.C. 3371) provides that the Commission may, upon complaint of any interested person or on its own initiative, and after affording an opportunity for oral presentation of views and arguments, terminate previously authorized sales of natural gas by an intrastate pipeline to an interstate pipeline or to a local distribution company served by an interstate pipeline.

ICA

The Hepburn Act of 1906 added oil pipelines to the list of “common carriers” that were regulated by the Interstate Commerce Commission (ICC). In the 1970s Congress transferred to the Commission the authority to regulate rates and services of oil pipelines (*see* 49 U.S.C. 60502). The Commission implements that authority under the 1988 edition of the Interstate Commerce Act (ICA), 49 App. U.S.C. 1, *et seq.*

Section 1(5)(a) of the ICA authorizes the Commission to regulate rates and charges of common carriers engaged in the transportation of oil, and requires the relevant rates and charges to be just and reasonable. Section 6 of the ICA governs the filing of tariffs by oil pipelines. Section 13 of the ICA provides that any person may file a complaint regarding anything done or omitted to be done by an oil pipeline. Section 15(7) of the ICA authorizes the Commission, upon complaint or upon its own motion, to investigate any newly filed rates charged by oil pipeline companies subject to its jurisdiction.

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

Complaints and similar information collection activities increase the likelihood that the Commission can take remedial action to implement its statutory responsibilities, and collectively serve the Commission's interest in preventing unlawful rates, operations, and

practices. In addition, the information may facilitate the Commission's examination and oversight programs. These benefits could not be achieved if the Commission did not collect the information.

Respondents provide the information in FERC-600 voluntarily. The information enables the Commission to evaluate efficiently, and take appropriate action on, a variety of public and industry concerns. Depending on the statutory provision involved, the Commission may use the information to determine whether or not to issue an order addressing the matters at issue, provide relief, undertake further investigation, hold a hearing, or refer the matter to a regulated entity.

18 CFR 385.206, Complaints

In accordance with 18 CFR 385.206, any person may file a complaint seeking Commission action against any other person alleged to be in violation of "any statute, rule, order, or other law administered by the Commission, or for any other alleged wrong over which the Commission may have jurisdiction." Paragraph (b) of section 385.206 states that a complaint must:

- Clearly identify the action or inaction which is alleged to violate applicable statutory standards or regulatory requirements;
- Explain how the action or inaction violates applicable statutory standards or regulatory requirements;
- Set forth the business, commercial, economic or other issues presented by the action or inaction as such relate to or affect the complainant;
- Make a good faith effort to quantify the financial impact or burden (if any) created for the complainant as a result of the action or inaction;
- Indicate the practical, operational, or other nonfinancial impacts imposed as a result of the action or inaction, including, where applicable, the environmental, safety or reliability impacts of the action or inaction;
- State whether the issues presented are pending in an existing Commission proceeding or a proceeding in any other forum in which the complainant is a party, and if so, provide an explanation why timely resolution cannot be achieved in that forum;
- State the specific relief or remedy requested, including any request for stay or extension of time, and the basis for that relief;
- Include all documents that support the facts in the complaint in possession of, or otherwise attainable by, the complainant, including, but not limited to, contracts and affidavits;
- State whether the Enforcement Hotline, Dispute Resolution Service, tariff-based dispute resolution mechanisms, or other informal dispute resolution procedures were used, or why these procedures were not used;

- State whether the complainant believes that alternative dispute resolution (ADR) under the Commission's supervision could successfully resolve the complaint;
- State what types of ADR procedures could be used
- State any process that has been agreed on for resolving the complaint
- Include a form of notice of the complaint on electronic media suitable for publication in the Federal Register in accordance with the specifications in 18 CFR 385.203(d); and
- Explain with respect to requests for Fast Track processing pursuant to 18 CFR 385.206(h), why the standard processes will not be adequate for expeditiously resolving the complaint.

Any person filing a complaint must serve a copy of the complaint on the respondent, affected regulatory agencies, and others the complainant reasonably knows may be expected to be affected by the complaint. Service must be simultaneous with filing at the Commission for respondents. Simultaneous service may be accomplished by electronic mail in accordance with 18 CFR 385.2010(f)(3), facsimile, express delivery, or messenger.

Unless otherwise ordered by the Commission, answers, interventions, and comments to a complaint must be filed within 20 days after the complaint is filed. In cases where the complainant requests privileged treatment for information in its complaint, answers, interventions, and comments are due within 30 days after the complaint is filed. In the event there is an objection to the protective agreement, the Commission will establish when answers will be due.

18 CFR 385.218 Simplified Procedure for Complaints Involving Small Controversies

The procedures under section 385.218 are available to complainants if the amount in controversy is less than \$100,000 and the impact on other entities is *de minimis*. A complaint filed under this section must contain:

- The name of the complainant;
- The name of the respondent;
- A description of the relationship to the respondent;
- The amount in controversy;
- A statement why the complaint will have a *de minimis* impact on other entities;
- The facts and circumstances surrounding the complaint, including the legal or regulatory obligation breached by the respondent; and
- The requested relief.

The complainant is required to simultaneously serve the complaint on the respondent and any other entity referenced in the complaint. Public notice of the complaint will be issued by the Commission.

Answers, interventions, and comments must be filed within 10 days after the complaint is filed. In cases where the complainant requests privileged treatment for information in its complaint, answers, interventions, and comments must be filed within 20 days after the complaint is filed. In the event there is an objection to the protective agreement, the Commission will establish when answers, interventions, and comments are due.

If a complainant seeks privileged treatment for any documents submitted with the complaint, a complainant must use the procedures described in section 385.206(f). If a respondent seeks privileged treatment for any documents submitted with the answer, a respondent must use the procedures described in section 385.213(c)(5).

18 CFR Part 343, Procedural Rules Applicable to Oil Pipeline Proceedings

Regulations at 18 CFR Part 343 provide for additional procedures and information collection requirements for protests and complaints¹ that pertain to most carriers (i.e., oil pipelines) under the Interstate Commerce Act.² Two sections of Part 343 (i.e., sections 343.2(c)(1) and 343.2(c)(2)) apply to protests and complaints against pipelines' increased proposed or established rates. Both of these sections provide that protests and complaints must comply with 18 CFR 385.206, and require protestors and complainants to allege reasonable grounds for asserting that an increased rate is so substantially in excess of the pipeline's actual cost increases that it is unjust and unreasonable. Alternatively, one of the regulations that is focused on rates (i.e., 18 CFR 343.2(c)(1)) authorize protests and complaints to allege that the challenged rate exceeds an applicable ceiling level.

A third section of Part 343 (i.e., section 343.2(c)(3)) addresses complaints against a pipeline's operations or practices, other than rates. Complaints under this regulation must allege reasonable grounds for asserting that the operations or practices violate a provision of the Interstate Commerce Act or violate a provision of the Commission's regulations. Like the other two sections of Part 343 discussed above, this section requires complaints to comply with 18 CFR 385.206.

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

¹ Protests apply to rates proposed by oil pipelines. Complaints apply to established rates of oil pipelines.

² The regulations at Part 343 do not apply to the Trans-Alaska Pipeline or to any pipeline delivering oil directly or indirectly to the Trans-Alaska Pipeline. See 18 CFR 342.0(b).

Respondents may use the Commission's eFiling system to submit FERC-600 information electronically, reflecting the Commission's commitment to using information technology to minimize the burden on respondents and maximize the usefulness of the data reported.

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 any duplication.

Each complaint contains information specific to the relevant factual situation and time. There are no similar sources of information to the FERC-600 information that are available and that can be used or modified for use for the purpose described in Item 1.

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

Both small and large entities, as well as individuals, may be affected by the FERC-600 information reporting requirements. The Commission's regulations impact the day-to-day operations of shippers, the public, major and non-major oil and natural gas pipelines, electric and hydroelectric companies. Specific efforts (such as the Enforcement Hotline and Dispute Resolution Service) have been made by the Commission to minimize the burden imposed on the public, shippers, and jurisdictional companies.

The FERC-600 information reporting requirements were designed to further the goals of promoting early resolution of complaints and contested matters by focusing on consensual settlements, administrative dispute resolution, and expeditious decision making.

In addition, the Commission has instituted procedures (18 CFR 385.218) for complaints involving small claims where the amount in controversy is less than \$100,000 and the impact on other parties is minimal.

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

The Commission has not mandated the filing of complaints nor prescribed the frequency for filing complaints. Complaints are made to resolve disputes between parties as they may arise from time to time. That is, they are voluntary filings made by parties as events

occur and at times where the disputes cannot be resolved consensually by the parties. Conducting this collection of information less frequently likely would mean that the Commission and some parties would miss opportunities to resolve disputes.

7. EXPLAIN ANY SPECIAL CIRCUMSTANCES RELATING TO THE INFORMATION COLLECTION

There are no special circumstances related to the information collection.

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 (88 FR 17206) on March 22, 2023. The public comment period ended on May 22, 2023. The Commission received no comments from the public regarding this information collection.

The Commission again provided an opportunity for public comments by publishing a 30-day notice on July 17, 2023 (88 FR 45411).

9. EXPLAIN ANY PAYMENT OR GIFTS TO RESPONDENTS

There are no payments or gifts to respondents in the FERC Form 600 requirements.

10. DESCRIBE ANY ASSURANCE OF CONFIDENTIALITY PROVIDED TO RESPONDENTS

The Commission generally does not consider the information filed in a complaint to be confidential. A complainant nevertheless may request privileged treatment of information contained in a complaint to the extent permitted by law and pursuant to 18 CFR 388.112 of the Commission's regulations.

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 the FERC-600 reporting requirements.

12. ESTIMATED BURDEN OF COLLECTION OF INFORMATION

The Commission staff expects that the average respondent for this collection is situated similarly to the average Commission employees in terms of salary plus benefits. The FERC 2022 average salary plus benefits for one FERC full-time equivalent (FTE) is \$188,922/year (or \$91.00/hour). The hourly cost per response in the table below is \$91.00/hour.

The Commission estimates the public reporting burden for the FERC-600 information collection as follows:

FERC-600 (Rules of Practice and Procedure: Complaint Procedures)						
	Column A Number of Respondent s	Column B Annual Number of Responses per Respondent	Column C Total Number of Responses (Column A x Column B)	Column D Average Burden & Cost Per Response	Column E Total Annual Burden & Total Annual Cost (Column C x Column D)	Cost per Respondent (\$) (Column E ÷ Column A)
FERC-600	62	1	62	160 hrs.; \$14,560	9,920 hrs.; \$902,720	\$14,560

This burden estimate comprises the entirety of the FERC-600 information collection burden. The total annual burden (9,920 hours) includes all of the ongoing burden for this collection.

13. ESTIMATE OF THE TOTAL ANNUAL COST BURDEN TO RESPONDENTS

There are no capital or start-up costs associated with this collection. All of the costs are associated with the burden hours and accounted for in the response to Question #12.

14. ESTIMATE OF THE TOTAL ANNUAL COST TO FEDERAL GOVERNMENT

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 submitted in response to the information collection. The calculation of this estimate uses the FERC 2022 average salary plus benefits for one FERC full-time equivalent, i.e., \$188,922/year (or \$91.00/hour).

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 (FTE)	Estimated Annual Federal Cost
Analysis and Processing of filings	4	\$755,688
PRA Administrative Cost		\$7,694
FERC Total		\$763,382

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

There are no program changes or revisions to FERC-600 reporting requirements.

The following table shows the burden. The table reflects the format used in reginfo.gov and ROCIS.

	Total Request	Previously Approved	Change due to Adjustment in Estimate	Change Due to Agency Discretion
Annual Number of Responses	62	62	0	0
Annual Time Burden (Hrs)	9,920	9,920	0	0
Annual Cost Burden (\$)	0	0	0	0

16. TIME SCHEDULE FOR THE PUBLICATION OF DATA

There are no tabulations, statistical analysis, or publications of information planned for the FERC-600 information collection. The Commission intends to use the data for regulatory purposes only.

17. DISPLAY OF EXPIRATION DATE

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

The reporting requirements under FERC-600 are based on regulations and are not filed on formatted/printed forms. Thus, there is no data instrument on which to display an OMB expiration date.

18. EXCEPTIONS TO THE CERTIFICATION STATEMENT

There are no exceptions.