**SUPPORTING STATEMENT**

**FERC-583, Annual Kilowatt Generating Report (Annual Charges)**

(Three-Year Extension Requested)

The Federal Energy Regulatory Commission (FERC or Commission) requests the Office of Management and Budget (OMB) extend its approval of FERC-583, Annual Kilowatt Generating Report (Annual Charges),for an additional three years**.** FERC-583 is an existing information collection (OMB Control No. 1902-0136), consisting of a set of filing requirements and notice procedures as contained in 18 CFR Part 11.1-11.8.[[1]](#footnote-3)  No changes are being made to the reporting requirements.

**A. JUSTIFICATION**

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

The filing requirements for FERC-583 are contained in 18 CFR Part 11.1-11.8 and are mandated by Section 10(e) of the Federal Power Act (FPA) (16 U.S.C. 803(e) and section 3401 of the Omnibus Budget Reconciliation Act of 1986.

Section 10(e) of the Federal Power Act requires the Commission to collect annual charges from hydropower licensees for, among other things, the cost of administering Part I of the FPA and for use of United States dams. Part 11 of the Commission’s regulations provides the manner in which licensees are charged for such costs. Prior to the adoption of the current regulations in 1958 and 1963, administrative charges were not based on the actual costs of the government, but were in the nature of set fees that were billed for the calendar year. In addition, section 3401 of the Omnibus Budget Reconciliation Act of 1986 authorizes the Commission to “assess and collect fees and annual charges in any fiscal year in amounts equal to all of the costs incurred by the Commission in that fiscal year.”

On May 8, 1987, the Commission issued Order 469 in Docket No. RM86-2[[2]](#footnote-4) which revised the regulations governing the timing and method used to determine annual charges. In the order in Docket No. RM86-2, the Commission changed the timing of billing of reimbursable administrative charges from a calendar year to a federal fiscal year basis. This change synchronized billing procedures, so that charges are based on costs and power generation data from the same period of time.

In Docket No. RM93-7, Order No. 576,[[3]](#footnote-5) (March 15, 1995), the Commission amended its regulations governing the assessment of annual charges by allocating the charges for administrative costs among a single class of licensees and holders of hydropower exemptions,[[4]](#footnote-6) based on the respective capacity of each hydropower project, with a maximum charge and with the assessments to commence at the same time as the commencement of project construction. The final rule also eliminated annual charges for minor licensees and did not impose annual charges on holders of hydropower exemptions. The final rule retained the current practice of separate allocation for municipal and non-municipal licensees, as well as the existing formulae for allocating those costs between the two classes of major licensees. The final rule amended 18 CFR Section 11.1 to substitute kilowatts for horsepower in stating a projects’ authorized installed capacity. This change was designed to reflect modern usage in the rating of equipment used in hydropower projects. For the few hydro mechanical projects all of which are smaller projects, the Commission imputed a kilowatt figure by multiplying these projects’ existing horsepower capacity by three fourths.

In Docket No. RM96-2 in Order No. 584,[[5]](#footnote-7) the Commission reversed itself by restoring the *status quo* in the formulae for allocating annual charges among licenses, by correcting an error that occurred in Order No 576. By making the change in defining “authorized installed capacity” in terms of kilowatts instead of horsepower, the Commission inadvertently neglected to include the horsepower to kilowatt adjustment in the regulations that referred to generation. The effect of the inadvertent omission was to seriously distort the balance of capacity and generation in determining the allocation of certain annual charges. The Commission corrected the omission by adding conversion adjustments to the appropriate regulatory sections.

The United States Court of Appeals for the District of Columbia Circuit[[6]](#footnote-8) concluded that the Commission is required to determine the reasonableness of costs incurred by other Federal agencies (OFAs) related to the participation of those agencies in the Commission’s proceedings under the Federal Power Act when those agencies seek to include such costs in the administrative annual charges licensees must pay to reimburse the United States for the cost of administering Part 1. The court also remanded to the Commission issues regarding the eligibility of specific types of OFA costs for reimbursement, and issues regarding the availability of refunds for certain charges.

In an Order On Remand And Acting On Appeals Of Annual Charges Bills[[7]](#footnote-9) (issued June 18, 2004, in Project No. 2842-038, et al.), the Commission responded to the Court’s decision. The Commission established which OFA costs are eligible to be included in administrative annual charges. It also established procedures for Commission review of future OFA costs submittals and those costs currently associated with this collection.

1. **HOW, BY WHOM, AND FOR WHAT PURPOSES THE INFORMATION IS TO BE USED AND THE CONSEQUENCES OF NOT COLLECTING THE INFORMATION**

The Commission uses information collected on FERC-583 to carry out its statutory mandate. Specifically, Commission staff uses the information to determine the amount of annual charges to be assessed to licensees for reimbursable government administrative costs (including other Federal agencies) and for the use of government dams.

If the information were not collected, the Commission would be unable to have an accurate basis for assessing charges and would not be able to carry out its responsibilities under the Federal Power Act. In addition, Congress has directed the Commission to collect fees and annual charges equal to its annual appropriation. The Commission deposits the fees and annual charges that it collects into the Treasury’s general fund.

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

The information may be filed electronically through eFiling.[[8]](#footnote-10)  Hard copy filings are also accepted.

1. **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 Commission periodically reviews notice requirements as OMB review dates approach or as the Commission may see fit in carrying out its responsibilities under the FPA in order to eliminate duplication and minimize the filing burden. There is no duplication of information. A number of licensees are required to report the same information for other license conditions, but where those conditions exist, these licensees are permitted to file a single report covering all related requirements. It should be noted that the Commission has no other sources available on gross generation. Gross generation data, as opposed to net generation data, is necessary to ensure that the kilowatt hour figures are reliable for billing purposes.

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

Small entities would not have to file because they would be exempt under other provisions of the regulations. 18 CFR 11.6 describes how some State and municipal and other licensees and holders of hydropower exemptions may show and claim total or partial exemption from the assessment of Charges for Costs of Administration, Use of Tribal Lands and Other Government Lands, and Use of Government Dams. (18 CFR 11.6(i) includes the requirements for an application for exemption from payment of annual charges.)

18 CFR 11.10 addresses waiver and exemption from Charges for Headwater Benefits.

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

The information collection cannot be discontinued nor collected less frequently due to statutory requirements. The information required in 18 CFR Part 11.1-11.8 is required only once per year in order to compute annual charges that will be assessed to applicable regulated entities. These reports are required to support each assessment of annual charges.

1. **EXPLAIN ANY SPECIAL CIRCUMSTANCES RELATING TO THE INFORMATION COLLECTION**

There are no special circumstances.

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

On August 9, 2023 the Commission published a 60-day Notice requesting comments on the reporting requirements of FERC-583 (88 FR 53879). There were no comments filed in response to this Notice.

A 30-day notice requesting public comment was published in the Federal Register on November 13, 2023 (88 FR 77577).

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

No gifts or payments are made to respondents.

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

The Commission's existing regulations at 18 C.F.R. § 388.112 provide a process for filers to submit documents with a request for privileged or CEII treatment. The Commission does not consider FERC-583 information to be confidential.

1. **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.**

This collection does not contain any questions of a sensitive nature.

1. **ESTIMATED BURDEN ON COLLECTION OF INFORMATION**

The estimated annual burden and cost follow.

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **FERC-583**  **Estimated Annual Burdens** | | | | | | |
| **A.**  **Type of Response** | **B.**  **Number of Respondents** | **C.**  **Annual Number of Responses per Respondent** | **D.**  **Total Number of Responses**  **(Col. B x Col. C)** | **E.**  **Average Hours & Cost[[9]](#footnote-11) Per Response** | **F.**  **Total Annual Burden Hours & Total Annual Cost**  **(Col. D x Col. E)** | **G.**  **Cost per Respondent**  **(Col. F ÷ Col. B)** |
| Annual kilowatt generating report  18 CFR 11.1(c)(5) and 11.1(d)(4) | 550 | 1 | 550 | 2 hrs.;  $ 192 | 1,100 hrs.;  $ 105,600 | $192 |
| Application of a State or municipal licensee or older of hydropower exemption for total or partial exemption from the assessment of annual charges  18 CFR 11.6 | 50 | 1 | 50 | 2 hrs.;  $192 | 100 hrs.;  $9,600 | $192 |
| Appeals and requests for rehearing of billing for annual charges  18 CFR 11.20 | 2 | 1 | 2 | 40hrs.;  $3,840 | 80 hrs.;  $7,680 | $3,840 |
| Totals | 602 | ― | 602 | ― | 1,280 hrs,;  $122,880 | ― |

1. **ESTIMATE OF THE TOTAL COST BURDEN TO RESPONDENTS**

There is no capital or start-up cost associated with FERC-583. All costs are related to burden hours and are described further in #12 and 15.

1. **ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT**

The estimate of the cost to the Federal Government is based on salaries for professional and clerical support. Based on the staff and resources involved in processing the information, the estimated average annual cost to FERC follows.

|  |  |  |
| --- | --- | --- |
|  | **Number of Employees (FTE)** | **Estimated Annual Federal Cost** |
| Analysis and Processing of filings[[10]](#footnote-12) | 1.5 | $299,800.50 |
| PRA[[11]](#footnote-13) Administrative Cost[[12]](#footnote-14) |  | $8,286 |
| **FERC Total** |  | $308,086.50 |

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

Neither the reporting requirements nor the hours per response (2 hrs.) have changed. The increase in the number of respondents and responses (to 602 from 571) is due to normal fluctuations in the industry. For example, some projects may have had FERC-approved increases to their authorized capacity to exceed 1.5 MW, triggering their requirement to file the FERC-583 data (per 18 CFR 11.1). Other entities may have changed ownership, with each project now filing its own data, rather than a company filing for all of its projects. Fluctuations like this are normal over the years.

The following table shows the changes to burden hours (‘change due to adjustment in estimate’), current OMB-approved inventory (‘previously approved’), and the ‘total request’ for this supporting statement (as listed in ROCIS and reginfo.gov):

|  | **Total Request** | **Previously Approved** | **Change due to Adjustment in Estimate** | **Change Due to Agency Discretion** |
| --- | --- | --- | --- | --- |
| Annual Number of Responses | 602 | 571 | +31 | 0 |
| Annual Time Burden (Hr.) | 1,280 | 1,256 | +24 | 0 |
| Annual Cost Burden ($) | 0 | 0 | 0 | 0 |

1. **TIME SCHEDULE FOR THE PUBLICATION OF DATA**

The data are used for regulatory purposes in connection with processing annual charges for jurisdictional companies. The Commission does not publish the data.

1. **DISPLAY OF EXPIRATION DATE**

The expiration date is displayed in a table posted on ferc.gov at <http://www.ferc.gov/docs-filing/info-collections.asp>.

1. **EXCEPTION TO THE CERTIFICATION STATEMENT**

There are no exceptions.

1. As discussed in 18 CFR Part 11, selected federal agencies (such as the United States Fish and Wildlife Service and the National Marine Fisheries Service) submit annual reports to the Commission on their federal costs in administering Part I of the Federal Power Act. (The “Other Federal Agency Cost Submission Form” and the information provided by those other Federal agencies [OFA] are posted at <https://www.ferc.gov/docs-filing/forms.asp#ofa>.) The filing requirements imposed on those federal agencies are not collected for general statistical purposes and are not a “collection of information” as defined by 5 CFR 1320.3(c)(3), and are not discussed further here. [↑](#footnote-ref-3)
2. Posted in FERC’s eLibrary at <http://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=12073668> [↑](#footnote-ref-4)
3. <https://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=10766358> [↑](#footnote-ref-5)
4. The Commission has the authority to exempt hydropower projects from FPA Part I licensing requirements if they meet the requirements for “small hydroelectric projects” under 18 CFR Subpart K or if they meet the requirements for “small conduit” projects under 18 CFR Subpart J. [↑](#footnote-ref-6)
5. <http://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=8304780> (11/13/1995) and <http://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=8304778> (11/14/1995) [↑](#footnote-ref-7)
6. City of Tacoma, WA, et al. v. FERC, 331 F 3d 106 (D.C. Cir. 2003) (Tacoma v. FERC). [↑](#footnote-ref-8)
7. <http://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=10172019> [↑](#footnote-ref-9)
8. Additional information on eFiling is posted at <https://www.ferc.gov/docs-filing/efiling.asp>. [↑](#footnote-ref-10)
9. The Commission staff thinks that the average respondent for this collection is similarly situated to the Commission, in terms of salary plus benefits. Based upon FERC’s 2023

   annual average full-time equivalent of $199,867 per year (for salary plus benefits), the average hourly cost is $96.00 per hour. [↑](#footnote-ref-11)
10. The Commission staff considers the average cost for a respondent for this collection is similar to the Commission, in terms of salary plus benefits. Based upon FERC’s 2023

    annual average full-time equivalent of $199,867 per year (for salary plus benefits), the average hourly cost is $96.00 per hour. [↑](#footnote-ref-12)
11. Paperwork Reduction Act of 1995 (PRA) [↑](#footnote-ref-13)
12. 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. [↑](#footnote-ref-14)