

170 FERC ¶ 61,219
DEPARTMENT OF ENERGY
Federal Energy Regulatory Commission

18 CFR Part 35

[Docket No. RM20-11-000; Order No. 869]

(Issued March 19, 2020)

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final Rule

SUMMARY: The Federal Energy Regulatory Commission (Commission) clarifies its filing instructions for form FERC-730. The Commission makes no modifications or amendments to the Code of Federal Regulations.

DATES: This rule will become effective **[INSERT DATE 60 days after date of publication in the FEDERAL REGISTER]**

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

170 FERC ¶ 61,219
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Neil Chatterjee, Chairman;
Richard Glick and Bernard L. McNamee.

Reporting of Transmission Investments

Docket No. RM20-11-000

ORDER NO. 869

FINAL RULE

(Issued March 19, 2020)

I. Introduction

1. By this instant final rule, the Commission is amending form FERC-730, originally adopted in Order No. 679.¹ This form must be filed on an annual basis by public utilities that have been granted incentive rate treatment for transmission projects.² This instant final rule does not amend or modify the text of the Code of Federal Regulations nor does it amend or modify the information collected by the form. This instant final rule imposes no new reporting or other obligations on public utilities or on the public. Rather, at the request of the Office of Management and Budget (OMB), this instant final rule clarifies the instructions to the form, as explained below.

¹ *Promoting Transmission Investment through Pricing Reform*, Order No. 679, 71 FR 43,294 (July 31, 2006), 116 FERC ¶ 61,057 at PP 367-76, app. A (2006), *order on reh'g*, Order No. 679-A, 72 FR 1152 (Jan. 10, 2007), 117 FERC ¶ 61,345 at PP 117-20 (2006).

² 18 CFR 35.35(h).

II. Background

2. On July 20, 2006, the Commission promulgated Order No. 679, which, pursuant to section 219 of the Federal Power Act (FPA),³ provides incentives for transmission infrastructure investment.⁴ The Commission determined that it needed to collect certain data in order to meet the objectives of section 219, thus, the Commission adopted the reporting requirement FERC-730.⁵ The form was included as an appendix to the rule,⁶ but the form itself was not codified in the Commission's regulations.⁷

III. Discussion

3. The Commission is amending form FERC-730 at the request of OMB,⁸ to ensure compliance with the Administrative Procedure Act and the Paperwork Reduction Act of 1995 (PRA).⁹ Specifically, the Commission is clarifying the filing instructions. The Commission is not, however, changing the data being collected. Public utilities subject to

³ 16 U.S.C. 824.

⁴ Order No. 679, 116 FERC ¶ 61,057.

⁵ *Id.* P 78.

⁶ *Id.* at app. A.

⁷ *See* 18 CFR 35.35(h).

⁸ The three-year PRA renewal of FERC-730 was initiated in Docket No. IC19-15. FERC-730 was submitted to OMB on May 10, 2019 and is currently pending OMB review.

⁹ *See generally* 5 U.S.C. 500 *et seq.*; 44 U.S.C. 3501-21.

filing form FERC-730 will not be compelled to file new, additional, or different information.¹⁰ The frequency of filing will also remain unchanged.

4. Examples of changes to the instructions include inserting headers, incorporating instructions for eFiling, minor edits to make existing instructions clearer, and adding information about the PRA. These changes have no impact on the obligations of filers, but rather serve to improve the form and ensure compliance with federal law. The revised form FERC-730 is attached to this Order. It will be posted in the Commission's eLibrary but will not be published in the Federal Register or Code of Federal Regulations.

IV. Information Collection Statement

5. OMB's regulations require approval of certain information collection requirements imposed by agency rules.¹¹ OMB has previously assigned this information collection OMB Control Number 1902-0239. The clarifications to the instructions in this order will be submitted to OMB to supplement the pending review and request for approval. Respondents subject to the filing requirements of this rule will not be penalized for failing to respond to this collection of information unless the collection of information displays a valid OMB control number. Interested persons may obtain information on the reporting requirements by contacting: Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426 [Attention: Ellen Brown,

¹⁰ 18 CFR 35.35(h).

¹¹ 5 CFR 1320.13.

Office of the Executive Director, Phone: (202) 502-8663, e-mail:

ellen.brown@ferc.gov].

6. This instant final rule results in no new, additional, or different public reporting burden. The public reporting burden will be the same as originally determined and discussed in Order No. 679.¹² This instant final rule does not require public utilities to file new, additional, or different information, and it does not change the frequency with which they must file.

V. Environmental Analysis

7. The Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any action that may have a significant adverse effect on the human environment.¹³ Issuance of this final rule does not represent a major federal action having a significant adverse effect on the human environment under the Commission's regulations implementing the National Environmental Policy Act of 1969. Part 380 of the Commission's regulations lists exemptions to the requirement to draft an Environmental Analysis or Environmental Impact Statement. Included is an exemption for rules that are clarifying, corrective, or procedural or that do not substantially change

¹² Order No. 679, 116 FERC ¶ 61,057 at PP 406-07.

¹³ *Regulations Implementing the National Environmental Policy Act of 1969*, Order No. 486, 52 FR 47897 (1987), FERC Stats. & Regs. ¶ 30,783 (1987) (cross-referenced at 41 FERC ¶ 61,284).

the effect of the regulations being amended.¹⁴ This rulemaking is exempt under that provision.

VI. Regulatory Flexibility Act

8. The Regulatory Flexibility Act of 1980 (RFA)¹⁵ generally requires a description and analysis of final rules that will have significant economic impact on a substantial number of small entities. This instant final rule clarifies the instructions of form FERC-730, without creating any additional requirements for filers. The Commission certifies that it will not have a significant economic impact upon participants in Commission proceedings. An analysis under the RFA is therefore not required.

VII. Document Availability

9. In addition to publishing the instant final rule without the form itself in the Federal Register, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the Internet through the Commission's Home Page (<http://www.ferc.gov>) and in Commission's Public Reference Room during normal business hours (8:30 a.m. to 5:00 p.m. Eastern time) at 888 First Street, NE, Room 2A, Washington, DC 20426.

10. From the Commission's Home Page on the Internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this

¹⁴ 18 CFR 380.4(a)(2)(ii).

¹⁵ 5 U.S.C. 601-12.

document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

11. User assistance is available for eLibrary and the Commission's website during normal business hours from FERC Online Support at (202) 502-6652 (toll free at 1-866-208-3676) or email at ferconlinesupport@ferc.gov, or the Public Reference Room at (202) 502-8371, TTY (202)502-8659. E-mail the Public Reference Room at public.referenceroom@ferc.gov.

VIII. Effective Date and Congressional Notification

12. The Commission is issuing this rule as an instant final rule without a period for public comment. Under 5 U.S.C. 553(b)(3), notice and comment procedures are unnecessary when the agency finds that notice and public procedure are impracticable, unnecessary, or contrary to the public interest. This instant final rule is such a rule, as it merely clarifies the instructions of form FERC-730 to ensure that they are unambiguous and comply with relevant federal law. This instant final rule does not require public utilities to file new, additional, or different information, and it does not change the frequency with which they must file. This instant final rule does not render a determination concerning the rights or interests of affected parties, and it will not significantly affect public utilities or the general public.

13. These regulations are effective **[INSERT DATE 60 days after date of publication in the FEDERAL REGISTER]**. The Commission requires public utilities that have been granted incentive rate treatment for transmission projects to file a

Form 730 by April 18th of each year.¹⁶ The changes adopted in this instant final rule will be effective for the filings due April 18, 2020.

By the Commission.

Kimberly D. Bose,
Secretary.

Note: The following appendix will not appear in the Code of Federal Regulations.

¹⁶ 18 CFR 35.35(h).

Appendix A

FERC-730, Report of Transmission Investment Activity

Company Name: _____

Table 1: Actual and Projected Electric Transmission Capital Spending

	Actual at December 31	Projected Investment (Incremental Investment by Year for Each of the Succeeding Five Calendar Years)				
	20__	20__	20__	20__	20__	20__
Capital Spending On Electric Transmission Facilities (\$ Thousands) (1)						

Instructions for completing “Table 1: Actual and Projected Electric Transmission Capital Spending”:

(1) Transmission facilities are defined to be transmission assets as specified in the Uniform System of Accounts in account numbers 350 through 359 (*see*, 18 C.F.R. Part 101, *Uniform System of Accounts Prescribed for Public Utilities and Licensees Subject to the Provisions of the Federal Power Act*, for account definitions). The Transmission Plant accounts include: Accounts 350 (Land and Land Rights), 351 (Energy Storage Equipment- Transmission), 352 (Structures and Improvements), 353 (Station Equipment), 354 (Towers and Fixtures), 355 (Poles and Fixtures), 356 (Overhead Conductors and Devices), 357 (Underground Conduit), 358 (Underground Conductors and Devices), and 359 (Roads and Trails).

Table 2: Project Detail (1)

Project Description (2)	Project Type (3)	Expected Project Completion Date (month/year)	Completion Status (4)	Is Project On Schedule ? (Y/N)	If Project Not On Schedule, Indicate Reasons For Delay (5)

Instructions for completing “Table 2: Project Detail”:

- (1) Respondents must list all projects included in Table 1 above, Actual and Projected Electric Transmission Capital Spending, excluding those projects with projected costs less than \$20 million. Respondents should add as many additional rows as are necessary to list all relevant projects.
- (2) Respondents should include voltage level in the Project Description column.
- (3) Respondents should select between the following Project Types to complete the Project Type column: New Build, Upgrade of Existing, Refurbishment/Replacement, or Generator Direct Connection.
- (4) Respondents should select between the following designations to complete the Completion Status column: Complete, Under Construction, Pre-Engineering, Planned, Proposed, and Conceptual.
- (5) Respondents should select between the following delay designations to complete the Reasons for Delay column: Siting, Permitting, Construction, Delayed Completion of New Generator, or Other (specify).

Paperwork Reduction Act of 1995 (PRA) Statement: The PRA (44 U.S.C. 3501 et seq.) requires us to inform you the information collected in the FERC-730 is necessary for the Commission to evaluate its incentive rates policies, and to demonstrate the effectiveness of these policies. Further, the FERC-730 filing requirement allows the Commission to track the progress of electric transmission projects granted incentive-based rates, providing an accurate assessment of the state of the industry with respect to transmission investment, and ensuring that incentive rates are effective in encouraging the development of appropriate transmission infrastructure. Responses are mandatory. An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB Control Number.

Public reporting burden for reviewing the instructions, completing, and filling out this form is estimated to be 30 hours per response. This form has been assigned OMB Control Number 1902-0239. Send comments regarding the burden estimate or any other aspect of this form to DataClearance@FERC.gov, or to the Office of the Executive Director, Information Clearance Officer, Federal Energy Regulatory Commission, 888 First St. NE, Washington, DC 20426.