

Supporting Statement for
FERC-523, “Application for Authorization of Issuance of Securities”

The Federal Energy Regulatory Commission (FERC or the Commission) requests that the Office of Management and Budget (OMB) review and extend its approval for a three year period, of the FERC-523, "Application for Authorization of Issuance of Securities" (OMB Control No. 1902-0043). FERC-523 is an existing information collection.

A. Justification

1. CIRCUMSTANCES THAT MAKE THE COLLECTION OF INFORMATION NECESSARY

Federal Power Act (FPA) section 204, 16 U.S.C. 824c, (Attachment A) prohibits public utilities and licensees from issuing any security and assuming any obligation or liability as guarantor, endorser, surety, or otherwise in respect of any security of another person, unless they have submitted an application to the Commission and receive Commission authority to do so.

To support this directive, the Commission through 18 CFR part 34, and sections 131.43 and 131.50 (Attachment B) collects FERC-523 information. Included in this collection is a variety of information. Filers describe the securities that the company proposes to issue. They tell the purpose of the securities and whether or not the company will file any part of the application with any state. Filers provide a detailed statement of the facts upon which the applicant relies as well as a statement of the bond indentures or other limitations on interest and dividend coverage. They identify the effects of the limitations on the issuance of additional debt or equity securities. And finally, filers must provide a brief statement of any rate changes made effective during the subject period.

The Commission issues an approval order if it finds that the security issue or assumption meets three criteria. First, it is for “lawful object” within the corporate purposes of the applicant and compatible with the public interest. Second, it is necessary or appropriate for or consistent with the proper performance by the applicant as a public utility. Third, it will not impair the applicant’s ability to perform service and is reasonably necessary or appropriate to perform service.

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

The Commission uses this information to determine whether to approve an application for authorization to issue securities or to assume an obligation or liability by the public utilities and their licensees who make these applications. If the information were not collected, the Commission would not be able to comply with the FPA directives.

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

In Commission Order No. 657 (Attachment C), the Commission amended its regulations, effective in April 2006, to require the electronic filing of FERC-523¹. Previous to Order No. 657, the Commission required the filings in hard copy. The type of financial data that jurisdictional entities submit in this application was already routinely stored in electronic format by filers, making hard copy filing of such information burdensome.

Order No. 657 was the result of a review conducted by FERC's Information Assessment Team (FIAT). FIAT was a Commission initiative to identify current information collections, evaluate their original purposes and current uses, and propose ways to reduce the reporting burden on industry through the elimination, reduction, streamlining or reformatting of current collections.

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

Filing requirements are periodically reviewed as OMB review dates arise or as the Commission may deem necessary in carrying out its responsibilities under the FPA in order to eliminate duplication and ensure that filing burden is minimized. There are no similar sources of information available that can be used or modified for these reporting purposes.

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

The Commission collects FERC-523 information from both large and small utilities. In an effort to minimize burden on small utility filers, the Commission collects information in this filing that is readily available through the utility's internal records.

¹ Filers seeking protected treatment of materials must file a hard copy. All other filers are able to file via eFiling.

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

The FERC-523 is filed only as needed by the utilities seeking to Commission approval of security issuances. Utilities are allowed to include authorizations for multiple types of securities within a single filing. This eliminates the need for multiple individual filings. Filing less frequently while still meeting mandated responsibilities is not possible.

7. EXPLAIN ANY SPECIAL CIRCUMSTANCES RELATING TO THE INFORMATION COLLECTION

The collection presents no special circumstances.

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

In accordance with OMB requirements in 5 CFR §1320.8(d), the Commission's intent to renew the FERC-523 information collection was noticed in the Federal Register on June 20, 2011² (Attachment D). No comments were filed in response to this notice.

9. EXPLAIN ANY PAYMENT OR GIFTS TO RESPONDENTS

No payments or gifts are made to respondents.

10. DESCRIBE ANY ASSURANCE OF CONFIDENTIALITY PROVIDED TO RESPONDENTS

The Commission generally does not consider the information filed to be confidential. However, requests for confidential treatment to the extent permitted by law are considered pursuant to 18 CFR 388.112.

11. PROVIDE ADDITIONAL JUSTIFICATION FOR ANY QUESTIONS OF A SENSITIVE NATURE THAT ARE CONSIDERED PRIVATE

There are no questions of a sensitive nature.

12. ESTIMATED BURDEN OF COLLECTION OF INFORMATION

² 76 FR 35870.

Applications are filed as approvals are needed. The estimated burden of the collection of information is based on Commission staff experience with the filings.

Current inventory

Number of Respondents Annually (1)	Number of Responses Per Respondent (2)	Average Burden Hours Per Response (3)	Total Annual Burden Hours (1)x(2)x(3)
60	1	70.4	4,224

New inventory due to agency adjustment

Number of Respondents Annually (1)	Number of Responses Per Respondent (2)	Average Burden Hours Per Response (3)³	Total Annual Burden Hours (1)x(2)x(3)⁴
78	1.7	70.4	9,363

This adjustment shows an increase from 60 to 78 utilities filing annually. An increase from 1 to 1.7 filings per utility annually was also seen.

13. ESTIMATE OF THE TOTAL ANNUAL COST BURDEN TO RESPONDENTS

The estimated total cost to respondents is \$640,879 (rounded) [9,363 hours/2080 hours per year, times \$142,372 equals \$640,879]. The cost per respondent annually is \$8,216 (rounded).⁵ The Commission considers this a normal fluctuation due to market activities and filing times chosen. Utilities file periodically, therefore the number of filings are expected to continue to fluctuate from year-to-year.

14. ESTIMATED ANNUALIZED COST TO FEDERAL GOVERNMENT

Data Clearance Program	\$1,575
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³ This figure was incorrectly reported in the 60 and 30 day public notices as 88 hours per response. 88 hours was the estimate used *prior* to the last approval of this collection. The correct hours per response figure is 70.4. To correct this oversight, the Commission has issued an errata notice on September 14, 2011, explaining the correction.

⁴ This total is calculated by rounding after each step of the formula. For example $78 \times 1.7 = 132.6$. This was number was rounded up to 133 prior to multiplying by 70.4.

⁵ The cost figures presented here are different than those presented in the 60 and 30 day public notices due to correcting the average burden hours per response figure. See FN 3 for more details.

Information Analysis (2.0 FTE) \$284,744

Year of Operation \$286,319

The estimated total cost to the Federal Government is \$286,319 [2 FTEs⁶ times \$142,372⁷, plus \$1,575, equals \$286,319]. The estimate of the cost to the Federal Government is based on salaries for professional and clerical support.

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

There was an increase from 60 to currently 78 utilities filing annually. An increase from 1 to 1.7 filings per utility annually was also seen. This results in a net burden increase of 5,139 hours for this collection. The Commission considers this a normal fluctuation due to market activities and filing times chosen. Utilities file periodically, therefore the number of filings are expected to continue to fluctuate from year-to-year.

16. TIME SCHEDULE FOR THE PUBLICATION OF DATA

After submission to FERC, filings are made available to the public within four hours if filed electronically, two days if filed in hard copy. FERC filings may be viewed through the Commission's web-based eLibrary system. There are no other publications or tabulations of the information.

17. DISPLAY OF THE EXPIRATION DATE

It is not appropriate to display the expiration date for OMB approval of the information collected. The information is not collected on a standard, preprinted form which would avail itself to that display. Rather, public utilities prepare and submit filings that reflect unique or specific circumstances related to the filing. In addition, the information contains a mixture of narrative descriptions and empirical support that varies depending on the nature of the transaction.

18. EXCEPTIONS TO THE CERTIFICATION STATEMENT

There are two exceptions to the Certification Statement. The first is because it is not possible to display the expiration date for OMB approval of the information collected. The information is not collected on a standard, preprinted form which would avail itself to that display.

⁶ An "FTE" is a "Full Time Equivalent" employee that works the equivalent of 2,080 hours per year.

⁷ Average annual salary per employee (including overhead).

The second exception is because the information collected for this reporting requirement is not used for statistical purposes therefore the use of an "effective and efficient statistical survey methodology" does not apply.

B. Collection of Information Employing Statistical Methods.

This is not a collection of information employing statistical methods.

ATTACHMENT A
Enabling Statute

**FED-LAW, FERCSR ¶5254, FPA, SEC. 204. ISSUANCE OF SECURITIES;
ASSUMPTION OF LIABILITIES**

[¶5254]

Issuance of Securities; Assumption of Liabilities

Sec. 204. (a) No public utility shall issue any security, or assume any obligation or liability as guarantor, indorser, surety, or otherwise in respect of any security of another person, unless and until, and then only to the extent that, upon application by the public utility, the Commission by order authorizes such issue or assumption of liability. The Commission shall make such order if it finds that such issue or assumption (a) is for some lawful object, within the corporate purposes of the applicant and compatible with the public interest, which is necessary or appropriate for or consistent with the proper performance by the applicant of service as a public utility and which will not impair its ability to perform that service, and (B) is reasonably necessary or appropriate for such purposes. The provisions of this section shall be effective six months after this Part takes effect.

(b) The Commission, after opportunity for hearing, may grant any application under this section in whole or in part, and with such modifications and upon such terms and conditions as it may find necessary or appropriate, and may from time to time, after opportunity for hearing and for good cause shown, make such supplemental orders in the premises as it may find necessary or appropriate, and may by any such supplemental order modify the provisions of any previous order as to the particular purposes, uses, and extent to which, or the conditions under which, any security so theretofore authorized or the proceeds thereof may be applied, subject always to the requirements of subsection (a) of this section.

(c) No public utility shall, without the consent of the Commission, apply any security or any proceeds thereof to any purpose not specified in the Commission's order, or supplemental order, or to any purpose in excess of the amount allowed for such purpose in such order, or otherwise in contravention of such order.

(d) The Commission shall not authorize the capitalization of the right to be a corporation or of any franchise, permit, or contracts for consolidation, merger, or lease in excess of the amount (exclusive of any tax or annual charge) actually paid as the consideration for such right, franchise, permit, or contract.

(e) Subsection (a) shall not apply to the issue or renewal of, or assumption of liability on, a note or draft maturing not more than one year after the date of such issue, renewal,

or assumption of liability, and aggregating (together with all other then outstanding notes and drafts of a maturity of one year or less on which such public utility is primarily or secondarily liable) not more than 5 per centum of the par value of the other securities of the public utility then outstanding. In the case of securities having no par value, the par value for the purpose of this subsection shall be the fair market value as of the date of issue. Within ten days after any such issue, renewal, or assumption of liability, the public utility shall file with the Commission a certificate of notification, in such form as may be prescribed by the Commission, setting forth such matters as the Commission shall by regulations require.

(f) The provisions of this section shall not extend to a public utility organized and operating in a State under the laws of which its security issues are regulated by a State commission.

(g) Nothing in this section shall be construed to imply any guarantee or obligation on the part of the United States in respect of any securities to which the provisions of this section relate.

(h) Any public utility whose security issues are approved by the Commission under this section may file with the Securities and Exchange Commission duplicate copies of reports filed with the Federal Power Commission in lieu of the reports, information, and documents required under section 7 of the Securities Act of 1933 and section 12 and 13 of the Securities and Exchange Act of 1934.

ATTACHMENT B

18 CFR Part 34 - Application for Authorization of the Issuance of Securities or the Assumption of Liabilities.

18 CFR §131.43 - Report of securities issued.

18 CFR §131.50 - Reports of proposals received.

§ 34.1 Applicability; definitions; exemptions in case of certain State regulation, certain short-term issuances and certain qualifying facilities.

(a) *Applicability.* This part applies to applications for authorization from the Commission to issue securities or assume an obligation or liability which are filed by:

(1) Licensees and other entities pursuant to sections 19 and 20 of the Federal Power Act (41 Stat. 1073, 16 U.S.C. 812, 813) and part 20 of the Commission's regulations; and

(2) Public utilities pursuant to section 204 of the Federal Power Act (49 Stat. 850, 16 U.S.C. 824c).

(b) *Definitions.* For the purpose of this part:

(1) The term *utility* means a licensee, public utility or other entity seeking authorization under sections 19, 20 or 204 of the Federal Power Act;

(2) The term *securities* includes any note, stock, treasury stock, bond, or debenture or other evidence of interest in or indebtedness of a utility;

(3) The term *issuance or placement of securities* means issuance or placement of securities, or assumption of obligation or liability; and

(4) The term *State* means a State admitted to the Union, the District of Columbia, and any organized Territory of the United States.

(c) *Exemptions.* (1) If an agency of the State in which the utility is organized and operating approves or authorizes, in writing, the issuance of securities prior to their issuance, the utility is exempt from the provisions of sections 19, 20 and 204 of the Federal Power Act and the regulations under this part, with respect to such securities.

(2) This part does not apply to the issue or renewal of, or assumption of liability on, a note or draft maturing one year or less after the date of such issue, renewal, or assumption of liability, if the aggregate of such note or draft and all other then-outstanding notes and drafts of a maturity of one year or less on which the utility is primarily or secondarily liable, is not more than 5 percent of the par value of the other then-outstanding securities of the utility as of the date of issue or renewal of, or assumption of liability on, the note or draft. In the case of securities having no par value, the par value for the purpose of this part is the fair market value, as of the date of issue or renewal of, or assumption of liability on, the note or draft.

(3) *For certain qualifying facilities.* Any cogeneration or small power production facility which is exempt from sections 19, 20 and 204 of the Federal Power Act pursuant to §292.601 of this chapter shall be exempt from the provisions of this part.

[Order 182, 46 FR 50514, Oct. 14, 1981, as amended at 48 FR 9851, Mar. 9, 1983; Order 575, 60 FR 4852, Jan. 25, 1995]

§ 34.2 Placement of securities.

(a) *Method of issuance.* Upon obtaining authorization from the Commission, utilities may issue securities by either a competitive bid or negotiated placement, provided that:

(1) Competitive bids are obtained from at least two prospective dealers, purchasers or underwriters; or

(2) Negotiated offers are obtained from at least three prospective dealers, purchasers or underwriters; and

(3) The utility:

(i) Accepts the bid or offer that provides the utility with the lowest cost of money for securities with fixed or variable interest or dividend rates, or

(ii) Accepts the bid or offer that provides the utility with the greatest net proceeds for securities with no specified interest or dividend rates, or

(iii) The utility has filed for and obtained authorization from the Commission to accept bids or offers other than those specified in paragraphs (a)(3)(i) or (a)(3)(ii) of this section.

(b) *Exemptions.* The provisions of paragraph (a) of this section do not apply where:

(1) The securities are to be issued to existing holders of securities on a pro rata basis;

(2) The utility receives an unsolicited offer to purchase the securities;

(3) The securities have a maturity of one year or less; or

(4) The securities are to be issued in support of or to guarantee securities issued by governmental or quasi-governmental bodies for the benefit of the utility.

(c) *Prohibitions.* No securities will be placed with any person who:

(1) Has performed any service or accepted any fee or compensation with respect to the proposed issuance of securities prior to submission of bids or entry into negotiations for placement of such securities; or

(2) Would be in violation of section 305(a) of the Federal Power Act with respect to the issuance.

[Order 575, 60 FR 4853, Jan. 25, 1995]

§ 34.3 Contents of application for issuance of securities.

Each application to the Commission for authority to issue securities shall contain the information specified in this section. In lieu of filing the information required in paragraphs (e), (i) and (j) of this section, a specific reference may be made to the portion of the registration statement filed under §34.4(f), which includes the information required in these paragraphs.

- (a) The official name of the applicant and address of its principal business office.
- (b) The State in which the utility is incorporated, the date of incorporation, and each State in which it operates.
- (c) The name, address and telephone number of a person within the utility authorized to receive notices and communications with respect to the application.
- (d) The date by which Commission action is requested.
- (e) A full description of the securities proposed to be issued, including:
 - (1) Type and nature of securities;
 - (2) Amount of securities (par or stated value and number of units);
 - (3) Interest or dividend rate, if any;
 - (4) Dates of issuance and maturity;
 - (5) Institutional rating of the securities—or if the securities are not rated, an explanation as to why they are not rated, and if the securities will be rated, an estimate of the rating; and
 - (6) Any stock exchange on which the securities will be listed.
- (f) The purpose for which the securities for which application is made are to be issued:
 - (1) If the purpose of such issuance is the construction, completion, extension, or improvement of facilities, describe in reasonable detail the construction program for which the funds were or are to be used.
 - (2) If the purpose for such issuance is for the refunding of obligations, describe in detail the obligations to be refunded, including the character, principal amounts, applicable discount or premium, dates of issuance and maturity, and all other material facts concerning such obligations.

(3) If the purpose for such issuance is for other than construction or refunding, explain such other purpose(s) in detail.

(g) A statement as to whether or not any application with respect to the transaction or any part thereof is required to be filed with any State regulatory body.

(h) A detailed statement of the facts relied upon by the applicant to show that the issuance:

(1) Is for some lawful object, within the corporate purposes of the applicant and compatible with the public interest, is necessary or appropriate for or consistent with the proper performances by the applicant of service as a public utility and will not impair its ability to perform that service, and

(2) Is reasonably necessary or appropriate for such purposes.

(i) A detailed statement of the bond indenture(s) or other limitations on interest and dividend coverage, and the effects of such limitations on the issuance of additional debt or equity securities.

(j) A brief summary of any rate changes which were made effective during the period for which financial statements are submitted or which became or will become effective after the period for which statements are submitted.

[Order 182, 46 FR 50514, Oct. 14, 1981, as amended by Order 390, 49 FR 32505, Aug. 14, 1984; Order 575, 60 FR 4853, Jan. 25, 1995; Order 593, 62 FR 1283, Jan. 9, 1997; Order 647, 69 FR 32438, June 10, 2004; Order 737, 75 FR 43403, July 26, 2010]

§ 34.4 Required exhibits.

(a) *Exhibit A.* The applicant must file the statement of corporate purposes from its articles of incorporation.

(b) *Exhibit B.* A copy of all resolutions of the applicant's directors authorizing the issuance of securities for which the application is made; and copies of the resolution of the stockholders approving such issuance if approval of the stockholders has been obtained.

(c) *Exhibit C.* The Balance Sheet and attached notes for the most recent 12-month period for which financial statements have been published, provided that the 12-month period ended no more than 4 months prior to the date of the filing of the application, on both an actual basis and a pro forma basis in the form prescribed for the "Comparative Balance Sheet" of FERC Form No. 1, "Annual Report for major electric utilities, licensees and others." Each adjustment made in determining the pro forma basis must be clearly identified.

(d) *Exhibit D.* The Income Statement and attached notes for the most recent 12-month period for which financial statements have been published, provided that the 12-month period ended no more than 4 months prior to the date of the filing of the application, on both an actual basis and a pro forma basis in the form prescribed for the “Statement of Income for the Year” of FERC Form No. 1, “Annual Report for major electric utilities, licensees and others.” Each adjustment made in determining the pro forma basis must be clearly identified.

(e) *Exhibit E.* A Statement of Cash Flows and Computation of Interest Coverage on an actual basis and a pro forma basis for the most recent 12-month period for which financial statements have been published, provided that the 12-month period ended no more than 4 months prior to the date of the filing of the application. The Statement of Cash Flows must be in the form prescribed for the “Statement of Cash Flows” of the FERC Form No. 1, Annual Report for major electric utilities, licensees and others,” followed by a computation of interest coverage, in the form of the following worksheet:

Federal Energy Regulatory Commission worksheet for computation of interest coverage	Actual for the year ended mm-dd-yy	OMB control No. 1902–0043, pro forma for the year ended mm-dd-yy
Net income		
Add: Interest on Long-Term Debt, Interest on Short-Term Debt, Other Interest Expense, Total Interest Expense		
Federal and State Income Taxes		
Income Before Interest and Income Taxes		
Computation of Interest Coverage		
Income Before Interest and Income Taxes ÷ Total Interest Expense = Interest Coverage		

(f) *Exhibit F.* A copy of registration statement and exhibits which are filed with the Securities and Exchange Commission for the proposed security issuance.

[Order 182, 46 FR 50514, Oct. 14, 1981, as amended by Order 390, 49 FR 32505, Aug. 14, 1984; Order 575, 60 FR 4853, Jan. 25, 1995; 60 FR 27882, May 26, 1995]

§ 34.5 Additional information.

The Commission may, in its discretion, require the filing of additional information which appears necessary to reach a determination on any particular application.

§ 34.6 Form and style.

Each application pursuant to this part 34 shall conform to the requirements of subpart T of part 385 of this chapter.

[Order 182, 46 FR 50514, Oct. 14, 1981, as amended by Order 225, 47 FR 19056, May 3, 1982]

§ 34.7 Filing requirements.

Applications must be filed with the Secretary of the Commission in accordance with filing procedures posted on the Commission's Web site at <http://www.ferc.gov>.

[Order 737, 75 FR 43403, July 26, 2010]

§ 34.8 Verification.

[Link to an amendment published at 70 FR 35375, June 20, 2005.](#)

The original application shall be signed by an authorized representative of the applicant, who has knowledge of the matters set forth therein, and it shall be verified under oath.

§ 34.9 Reports.

The applicant must file reports under §131.43 and §131.50 of this chapter no later than 30 days after the sale or placement of long-term debt or equity securities or the entry into guarantees or assumptions of liabilities pursuant to authority granted under this part.

[Order 575, 60 FR 4853, Jan. 25, 1995. Redesignated by Order 737, 75 FR 43403, July 26, 2010]

PART 131 FORMS--Table of Contents Sec. 131.43 Report of securities issued.

(See Sec. 34.10 of this chapter.)

(Submit in electronic format in accordance with Sec. 385.2003 of this chapter.)

[Name of respondent]

Report of Securities Issued

Description of security.....

Description	Amount
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1. Face value or principal amount.....
2. Plus premium or less discount.....
3. Gross proceeds.....

	=====
4. Underwriter's spread or commission.....	.....
5. Securities and Exchange Commission registration fee.....	.....
6. State mortgage registration tax.....	.....
7. State commission fee.....	.....
8. Fee for recording indenture.....	.....
9. United States document tax.....	.....
10. Printing and engraving expenses.....	.....
11. Trustee's charges.....	.....
12. Counsel fees.....	.....
13. Accountant's fees.....	.....
14. Cost of listing.....	.....
15. Miscellaneous expenses of issue.....	.....
(Describe large items) .....	.....

16. Total deductions.....	.....
	=====
17. Net amount realized.....	.....

[Order 141, 12 FR 8591, Dec. 19, 1947, as amended by Order 182, 46 FR 50517, Oct. 14, 1981]

§ 131.50 Report of proposals received.

(a) No later than 30 days after the sale or placement of long-term debt or equity securities or the entry into guarantees or assumptions of liabilities (collectively referred to as “placement”) pursuant to authority granted under Part 34 of this chapter, the applicant must file, in electronic format, a summary of each proposal or proposals received for the placement. The proposal or proposals accepted must be indicated. The information to be filed must include:

- (1) Par or stated value of securities;
- (2) Number of units (shares of stock, number of bonds) issued;
- (3) Total dollar value of the issue;
- (4) Life of the securities, including maximum life and average life of sinking fund issue;
- (5) Dividend or interest rate;
- (6) Call provisions;

- (7) Sinking fund provisions;
- (8) Offering price;
- (9) Discount or premium;
- (10) Commission or underwriter's spread;
- (11) Net proceeds to company for each unit of security and for the total issue;
- (12) Net cost to the company for securities with a stated interest or dividend rate.

(b) This report must be filed with the Commission as prescribed in §385.2003 of this chapter and as indicated in the instructions set out in this report. This report is an electronic file that is classified as a “qualified document” in accordance with §385.2003(c)(1) and (2). As a qualified document, no paper copy version of the filing is required unless there is a request for privileged or protected treatment or the document is combined with another document as provided in §385.2003(c)(3) or (4).

ATTACHMENT C
Commission Order 657

111 FERC ¶ 61,282
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

18 CFR Parts 34 and 131

(Docket No. RM05-11-000; Order No. 657)

Electronic Filing of the Application for Authorization for the Issuance of Securities or the Assumption of Liabilities

(Issued May 27, 2005)

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final Rule.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is amending its regulations to provide for electronic filing of Applications for Authorization for the Issuance of Securities or the Assumption of Liabilities. The Commission is making these changes as part of its effort to modernize its reporting and filing requirements and to eliminate unnecessary filing burdens for those entities that file applications or reports with the Commission pursuant to 18 CFR Part 34. The proposed revisions will reduce the Commission's and the respondent's costs by allowing the submission of financial information in electronic format in lieu of the present hard copy format; the type of financial data that jurisdictional entities submit in this application is already routinely stored in electronic format, making hard copy filing of such information burdensome. In this Final Rule the Commission continues to move toward electronic filing, as the Government Paperwork Elimination Act, 44 U.S.C. 3501 *et seq.*, mandates. The modifications in this Final Rule are the result of a review conducted by the Commission's Information Assessment Team (FIAT), identifying the Commission's current information collections, evaluating their original purposes and current uses, and proposing ways to reduce the reporting burden on industry through the elimination, reduction, streamlining or reformatting of current collections.

EFFECTIVE DATE: The rule will become effective at the time of the next e-filing release during the Commission's next fiscal year, i.e., no earlier than October 1, 2005.

FOR FURTHER INFORMATION CONTACT:

Patricia Morris (Technical Information)

FERC-523

OMB Control Number: 1902-0043

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UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;
Nora Mead Brownell, Joseph T. Kelliher,
and Suedeen G. Kelly.

Electronic Filing of the Application for
Authorization for the Issuance of Securities
or the Assumption of Liabilities

Docket No. RM05-11-000

ORDER NO. 657
FINAL RULE
(Issued May 27, 2005)

I. Introduction

1. This Final Rule revises the Commission's regulations found in 18 CFR Part 34 and Part 131 to require the electronic filing of Applications for Authorization for the Issuance of Securities or the Assumption of Liabilities (FERC-523). The filing is now made entirely in paper format. Commencing with the Commission's next e-filing release, which is presently slated to occur in the Commission's next fiscal year, i.e., no earlier than October 1, 2005, there will be no further requirement for paper filings. Instead, jurisdictional entities will submit their filings in electronic format.
2. This rulemaking yields significant benefits to the respondents and the Commission. These benefits include a reduction in filers' printing and handling costs and a reduction in the Commission's processing and maintenance costs. The move to electronic filing also helps achieve the Commission's goal of vigilant oversight by providing the Commission with more timely and usable information.

II. Background

3. Under Federal Power Act (FPA) section 204, 16 U.S.C. 824c, no public utility or licensee shall issue any security, or assume any obligation or liability as guarantor, endorser, surety, or otherwise in respect of any security of another person, unless and until, upon application by the public utility, the Commission by order authorizes the issuance of the securities or the assumption of the liability. The Commission implements this statute through its regulations, which are found at 18 CFR Part 34; sections 131.43 and 131.50 of 18 CFR Part 131 prescribe the required format for the filings.
4. FERC-523 collects the following: a description of the securities that the company

proposes to issue, the purpose of the securities, whether or not the company will file any part of the application with any state, a detailed statement of the facts upon which the applicant relies, a statement of the bond indentures or other limitations on interest and dividend coverage, the effects of such limitations on the issuance of additional debt or equity securities, and a brief statement of any rate changes made effective during the subject period. The Commission uses this information to determine whether to approve an application for authorization to issue securities or to assume an obligation or liability by the public utilities and their licensees who make these applications. The Commission receives about sixty applications annually.

III. Discussion

5. In this Final Rule, the Commission is eliminating the requirement to make paper submissions of FERC-523, and to substitute a requirement to file FERC-523 electronically.

6. Current filing regulations for FERC-523 require the respondents to make paper submissions, which the Commission then scans into its document management system (the Commission's Electronic Library (eLibrary)). The scanned filing is converted to PDF format. Those wishing to view the filed information can access and view it through eLibrary; all publicly-available documents are viewable in eLibrary. Currently, most of the FERC-523 submissions, while filed as hardcopy, are originally created by electronic means and are thus already in an electronic format. Allowing submitters to "eFile" reduces the burden of converting an electronic document into a paper submission which the Commission then converts back to an electronic document; and eliminates the cost of sending paper submissions, the Commission's elimination of the FERC-523 paper submissions should benefit those making such filings and should not have an adverse impact on information users.

7. This Final Rule is part of the Commission's efforts to revise and streamline its existing reporting requirements, reduce the filing burden on reporting companies, and meet the requirements of the Government Paperwork Elimination Act of 1998, 44 U.S.C. 35.

VI. Information Collection Statement

8. The Office of Management and Budget's (OMB) regulations require OMB to approve certain information collection requirements imposed by agency rule.⁸ Comments are solicited on the Commission's need for this information, whether the information will have practical utility, the accuracy of the provided burden estimates, ways to enhance the quality, utility and clarity of the information to be collected, and any suggested methods for minimizing respondents' burden, including the use of automated information techniques.

⁸ 5 CFR 1320.11.

Estimated Annual Burden

9. The current reporting burden for this information collection is as follows:

Data Collection	Number of Respondents	Number of Responses	Number of Hours Per Response	Total Annual Hours
FERC-523	60	1	110	6,600
Totals				6,600

The Commission expects a burden reduction of 22 hours per response as a result of the electronic filing implementation. This reduces total annual hours to 5,280, a reduction of 1320 hours annually.

Title: Application for Authorization of the Issuance of Securities or the Assumption of Liabilities (FERC-523)

Action: Electronic Filing of Information

OMB Control No. 1902-0043

Respondents: Businesses or other for profit

Frequency of Responses: Occasional.

Necessity of the information: This Final Rule will revise the filing requirements for applications for Commission authorization to issues securities or to assume liabilities, to require the electronic filing of this information and thus reducing the burden on respondents and allowing more expeditious analysis by the Commission (and others). The information filed with the Commission is used to make a determination to grant or deny authorization to issue securities or to assume a liability. By assessing this information, the Commission can evaluate the financial health of the company and the potential impact on current and future ratepayers.

Internal Review: The Commission has reviewed the proposed amendments to its regulations to modify the filing method and standardize the format. The revisions to the regulations will provide more effective and efficient information by providing current data by electronic submission. This method of filing will reduce data errors and thus preserve the integrity of the data. The Commission will be able to conduct further analysis of filed data in a more timely fashion and provide a more timely response. The Commission has assured itself, by means of internal review, that there is specific, objective support for the burden estimates associated with the information collection requirements.

9. Interested persons may obtain information on the information requirements by contacting the following: The Federal Energy Regulatory Commission, 888 First Street, NE, Washington, D.C. 20426 [Attention: Michael Miller, Office of the Executive Director, ED-33, Phone (202)502-8415, Fax: (202)273-0873, e-mail: michael.miller@ferc.gov.]

10. To submit comments concerning the collection of information(s) and the associated burden estimate(s), please send your comments to the contact listed above and to the Office

of Management and Budget, Office of Information and Regulatory Affairs, Washington, D.C. 20503, [Attention: Desk Officer for the Federal Energy Regulatory Commission, phone: (202)395-4650, fax: (202)395-7285].

IV. Regulatory Flexibility Act Certification

11. The Regulatory Flexibility Act (RFA) requires rulemakings to contain either a description and analysis of the effect that the rule will have on small entities or to contain a certification that the rule will not have a significant economic impact on a substantial number of small entities.⁹

12. The Commission concludes that this rule would not have such an impact on small entities. Most public utilities to which the Final Rule would apply do not fall within the RFA's definition of a small entity.¹⁰ Further, electronic filing would not be a significant burden since the filing is typically prepared in an electronic format in the first place. Consequently, the Commission certifies that this Final Rule will not have “a significant economic impact on a substantial number of small entities.”

V. Environmental Analysis

13. 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.¹¹ The Commission has categorically excluded certain actions from these requirements as not having a significant effect on the human environment.¹² The actions proposed to be taken here fall within the categorical exclusions in the Commission’s

9 5 U.S.C. 601-12.

10 5 U.S.C. 601(3), citing to section 3 of the Small Business Act, 15 U.S.C. 632. Section 3 of the Small Business Act defines a "small-business concern" as a business which is independently owned and operated and which is not dominant in its field of operation. In addition, the RFA definition of “small entity” refers to the definition provided in the Small Business Act, which defines a “small business concern” as a business that is independently owned and operated and that is not dominant in its field of operation. 15 U.S.C. 632. The Small Business Size Standards component of the North American Industry Classification System defines a small electric utility as one that, including its affiliates, is primarily engaged in the generation, transmission, and/or distribution of electric energy for sale and whose total electric output for the preceding fiscal year did not exceed 4 million MWh. 13 CFR 121.201.

11 *Regulations Implementing the National Environmental Policy Act*, Order No. 486, 52 FR 47897 (Dec. 17, 1987), FERC Stats. & Regs. ¶ 30,783 (1987).

12 18 CFR 380.4(a)(2)(ii).

regulations for rules that involve information gathering, analysis, and dissemination¹³ and that involve issuances of securities and assumptions of liabilities. Therefore, an environmental assessment is unnecessary and has not been prepared for this rulemaking.

IX. Document Availability

14. In addition to publishing the full text of this document 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 the Commission's Public Reference Room during normal business hours (8:30 a.m. to 5:00 p.m. Eastern time) at 888 First Street, N.E., Room 2A, Washington D.C. 20426.

15. From the Commission's Home Page on the Internet, this information is available in eLibrary. The full text of this document is available in the eLibrary both in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number, excluding the last three digits of this document, in the docket number field.

16. User assistance is available for eLibrary and the Commission's website during normal business hours. For assistance contact FERC Online Support at FERCOnlineSupport@ferc.gov or toll-free at (866)208-3676, or for TTY, contact (202)502-8659. E-Mail the Public Reference Room at public.referenceroom@ferc.gov or 202-502-8371.

X. Effective Date And Congressional Notification

17. This Final Rule will take effect commencing with the Commission's next e-filing release, which is presently slated to occur in the Commission's next fiscal year, i.e., no earlier than October 1, 2005. The Commission has determined, with the concurrence of the Administrator of the Office of Information and Regulatory Affairs of the Office of the Management and Budget that this rule is not a major rule within the meaning of section 251 of the Small Business Regulatory Enforcement Fairness Act of 1996.¹⁴ The Commission will submit the Final Rule to both Houses of Congress and the General Accountability Office.¹⁵

13 18 CFR 380.4(a)(5)

14 See 5 U.S.C. 804(2).

15 See 5 U.S.C. 801(a)(1)(A).

List of subjects in 18 CFR Part 34

Statements, reporting and recordkeeping requirements

List of subjects in 18 CFR Part 131

Forms, reporting and recordkeeping requirements

By the Commission.

(S E A L)

Linda Mitry,
Deputy Secretary.

In consideration of the foregoing, the Commission proposes to amend Parts 34 and 131, Chapter I, Title 18 of the Code of Federal Regulations, as follows:

PART 34 – APPLICATION FOR AUTHORIZATION OF THE ISSUANCE OF SECURITIES OR THE ASSUMPTION OF LIABILITIES

1. The authority citation for Part 34 continues to read as follows:

Authority: 16 U.S.C. 791a-825r, 2601-2645; 31 U.S.C. 9701; 42 U.S.C. 7101-7352.

2. Section 34.7 is revised to read as follows:

§ 34.7 – **Filing requirements.**

Each applicant shall submit to this Commission an electronic version of each application pursuant to this part 34. The electronic version shall be considered a "qualified document" in accordance with § 385.2003(c)(1) and (2). As a qualified document, no paper copy version of the filing is required unless there is a request for privileged or protected treatment or the document is combined with another document as provided in § 385.2003(c)(3) or (4). Submit each application in electronic format in accordance with § 385.2003.

3. Section 34.8 is revised to read as follows:

§ 34.8 – **Verification.**

An application verification shall be signed under oath by an authorized representative of the applicant, who has knowledge of the matters set forth therein and as provided in § 385.2005 of this chapter, and retained at the applicant's business location until the relevant proceeding has been concluded.

4. Section 34.9 is revised to read as follows:

§ 34.9 – **Filing fee.**

Each application shall be accompanied by the submission of a filing fee if one is prescribed in part 381 of this chapter.

PART 131- FORMS

5. The authority citation for Part 131 continues to read as follows:

Authority: 16 U.S.C. 791a-825r, 2601-2645; 31 U.S.C. 9701; 42 U.S.C. 7101-7352.

6. Section 131.43 is revised to read as follows:

§ 131.43 – **Report of securities issued.**

(See § 34.10 of this chapter)

(Submit in electronic format in accordance with § 385.2003.)

* * * * *

7. Section 131.50 is revised to read as follows:

§ 131.50 – **Report of proposals received.**

(a) No later than 30 days after the sale or placement of long-term debt or equity securities or the entry into guarantees or assumptions of liabilities (collectively referred to as “placement”) pursuant to authority granted under Part 34 of this chapter, the applicant must file, in electronic format, a summary of each proposal or proposals received for the placement. The proposal or proposals accepted must be indicated. The information to be filed must include:

- (1) Par or stated value of securities;
- (2) Number of units (shares of stock, number of bonds) issued;
- (3) Total dollar value of the issue;
- (4) Life of the securities, including maximum life and average life of sinking fund issue;

- (5) Dividend or interest rate;
- (6) Call provisions;
- (7) Sinking fund provisions;
- (8) Offering price;
- (9) Discount or premium;
- (10) Commission or underwriter's spread;
- (11) Net proceeds to company for each unit of security and for the total issue;
- (12) Net cost to the company for securities with a stated interest or dividend rate.

(b) This report must be filed with the Commission as prescribed in § 385.2003 of this chapter and as indicated in the instructions set out in this report. This report is an electronic

file that is classified as a "qualified document" in accordance with § 385.2003(c) (1) and (2). As a qualified document, no paper copy version of the filing is required unless there is a request for privileged or protected treatment or the document is combined with another document as provided in § 385.2003(c)(3) or (4).

* * * * *

ATTACHMENT D

FEDERAL REGISTER NOTICE

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

[Docket No. IC11-523-000]

COMMISSION INFORMATION COLLECTION ACTIVITIES (FERC-523);
COMMENT REQUEST; EXTENSION

(June 14, 2011)

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of proposed information collections and request for comments.

SUMMARY: In compliance with the requirements of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, 44 USC 3506(c)(2)(A) (2006), (Pub. L. No. 104-13), the Federal Energy Regulatory Commission (Commission or FERC) is soliciting public comment on the proposed information collection activities described below.

DATES: Comments in consideration of the collection of information are due [insert date that is 60 days after publication in the Federal Register].

ADDRESSES: Comments may be filed either electronically (eFiled) or in paper format, and should refer to Docket No. IC11-523-000. Documents must be prepared in an acceptable filing format and in compliance with Commission submission guidelines at

<http://www.ferc.gov/help/submission-guide.asp>. eFiling instructions are available at:

<http://www.ferc.gov/docs-filing/efiling.asp>. First time users must follow eRegister

instructions at: <http://www.ferc.gov/docs-filing/eregistration.asp>, to establish a user name

and password before eFiling. The Commission will send an automatic acknowledgement to

the sender's e-mail address upon receipt of eFiled comments. Commenters making an

Filing should not make a paper filing. Commenters that are not able to file electronically must send an original of their comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street, NE, Washington, DC 20426.

Users interested in receiving automatic notification of activity in this docket may do so through eSubscription at <http://www.ferc.gov/docs-filing/esubscription.asp>. (If docket number contains an alpha at the end then the following sentence should be used instead of the previous one: Due to a system issue, eFiling and eSubscription are not available for this docket.) All comments and FERC issuances may be viewed, printed or downloaded remotely through FERC's eLibrary at <http://www.ferc.gov/docs-filing/elibrary.asp>, by searching on Docket No. IC11-523. For user assistance, contact FERC Online Support by e-mail at ferconlinesupport@ferc.gov, or by phone at: (866) 208-3676 (toll-free), or (202) 502-8659 for TTY.

FOR FURTHER INFORMATION: Ellen Brown may be reached by e-mail at DataClearance@FERC.gov, telephone at (202) 502-8663, and fax at (202) 273-0873.

SUPPLEMENTARY INFORMATION: The information collection is under the requirements of FERC-523, "Applications for Authorization for Issuance of Securities or the Assumption of Liabilities", OMB Control No. 1902-0043.

Under Federal Power Act (FPA) section 204, 16 USC 824c, no public utility or licensee shall issue any security, or assume any obligation or liability as guarantor, endorser, surety, or otherwise in respect of any security of another person, until the public utility applies for and receives Commission approval by order authorizing the issue or assumption

of the liability. The Commission issues an order if it finds that such issue or assumption (a) is for lawful object, within the corporate purposes of the applicant and compatible with the public interest, which is necessary or appropriate for or consistent with the proper performance by the applicant as a public utility and which will not impair its ability to perform that service, and (b) is reasonably necessary or appropriate for such purposes.

The Commission uses the information contained in filings to determine its acceptance and/or rejection of applications for authorization to either issue securities or to assume an obligation or liability by the public utilities and their licensees who make these applications.

The Commission implements this statute through its regulations, which are found at 18 CFR Part 34; and 18 CFR sections 131.43 and 131.50. Part 131 prescribes the required filing format. The information is filed electronically.

Action: The Commission is requesting a three-year extension of the current expiration date with no changes to the current reporting requirements.

Burden Statement: Public reporting burden for this collection is estimated as:

Number of Responses Annually (1)	Number of Responses Per Respondent (2)	Average Burden Hours Per Response (3)	Total Annual Burden Hours (1)x(2)x(3)
78	1.7	88	11,669

The estimated total cost to respondents is \$798,721 [11,669 hours/2080 hours¹⁶ per year, times \$142,372¹⁷ equals \$798,721]. The cost per respondent annually is \$10,240.

This is an increase from 60 to currently 78 utilities filing annually. An increase from 1 to 1.7 filings per utility annually was also seen. The Commission considers this a normal fluctuation due to market activities and filing times chosen. Utilities files periodically, therefore the number of filings are expected to continue to fluctuate from year-to-year.

The reporting burden includes the total time, effort, or financial resources expended to generate, maintain, retain, disclose, or provide the information including: (1) reviewing instructions; (2) developing, acquiring, installing, using technology and systems for the purposes of collecting, validating, verifying, processing, maintaining, disclosing and providing information; (3) adjusting the existing ways to comply with any previously applicable filing instructions and requirements; (4) training personnel to respond to this collection of information; (5) searching data sources; (6) completing and reviewing the collection of information; and (7) transmitting, or otherwise disclosing the information.

¹⁶ Number of hours an employee works each year.

¹⁷ Average annual salary per employee (including overhead).

The cost estimate for respondents is based upon salaries for professional and clerical support, as well as direct and indirect overhead costs. Direct costs include all costs directly attributable to providing this information, such as administrative costs and the cost for information technology. Indirect or overhead costs are costs incurred by an organization in support of its mission. These costs apply to activities which benefit the whole organization rather than any one particular function or activity.

Comments are invited on: (1) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology e.g. permitting electronic submission of responses.

Nathaniel J. Davis, Sr.,
Deputy Secretary.