

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

[Docket No. IC18-1-000]

COMMISSION INFORMATION COLLECTION ACTIVITIES (FERC-598);
COMMENT REQUEST; EXTENSION

(December 5, 2017)

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of information collection and request for comments.

SUMMARY: In compliance with the requirements of the Paperwork Reduction Act of 1995, 44 USC 3506(c)(2)(A), the Federal Energy Regulatory Commission (Commission or FERC) is soliciting public comment on the currently approved information collection, FERC-598 (Self-Certification for Entities Seeking Exempt Wholesale Generator Status or Foreign Utility Company Status).

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

ADDRESSES: You may submit comments (identified by Docket No. IC18-1-000) by either of the following methods:

- eFiling at Commission's Web Site: <http://www.ferc.gov/docs-filing/efiling.asp>
- Mail/Hand Delivery/Courier: Federal Energy Regulatory Commission,
Secretary of the Commission, 888 First Street, NE, Washington, DC 20426.

Instructions: All submissions must be formatted and filed in accordance with submission guidelines at: <http://www.ferc.gov/help/submission-guide.asp>. 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.

Docket: Users interested in receiving automatic notification of activity in this docket or in viewing/downloading comments and issuances in this docket may do so at

<http://www.ferc.gov/docs-filing/docs-filing.asp>.

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:

Title: FERC-598, Self-Certification for Entities Seeking Exempt Wholesale Generator Status or Foreign Utility Company Status

OMB Control No.: 1902-0166

Type of Request: Three-year extension of the FERC-598 information collection requirements with no changes to the current reporting requirements.

Abstract: The Commission uses the data in the FERC-598 information collection to implement the statutory provisions of Title XII, subtitle F of the Energy Policy Act of 2005 (EPAAct 2005).¹

EPAAct 2005 repealed the Public Utility Holding Company Act of 1935 (PUHCA 1935),² and adopted in its place the Public Utility Holding Company Act of 2005 (PUHCA 2005).³ While providing for the Commission's regulation of holding

¹ Energy Policy Act of 2005, Pub. L. No. 109-58, 119 Stat. 594, 972 *et seq.* (2005) (codified at 42 U.S.C. §§ 16451 *et seq.*).

² *Id.* § 1263, 119 Stat. 594, 974.

³ *Id.* § 1261, 119 Stat. 594, 972.

companies, PUHCA 2005 also provided an exemption from such regulation for those holding companies that are subject to Commission regulation as holding companies solely due to their holding exempt wholesale generators (EWG) and foreign utility companies (FUCO).⁴ To carry out this statutory directive, the Commission amended its regulations (in Order No. 667⁵) to, among other things, add procedures for not only defining what entities would qualify as EWGs and FUCOs, but also the self-certification by entities seeking EWG and FUCO status, coupled with the self-certification of the exemption of their holding companies, in turn, from Commission regulation.⁶ This self-certification for EWGs and FUCOs is similar to the process available to entities that seek qualifying facility status.⁷

An EWG is defined as “any person engaged directly, or indirectly through one or more affiliates ...and exclusively in the business of owning or operating, or both owning and operating, all or part of one or more eligible facilities and selling electric energy at wholesale.”⁸ A FUCO is defined as “any company that owns or operates facilities that are not located in any state and that are used for the generation, transmission, or distribution of electric energy for sale or the distribution at retail of natural or manufactured gas for heat, light, or power, if such company: (1) derives no part of its

⁴ *Id.* § 1266(a), 119 Stat. 594, 975 (codified at 42 U.S.C. § 16454(a)).

⁵ *Repeal of the Public Utility Holding Company Act of 1935 and Enactment of the Public Utility Holding Company Act of 2005*, 70 FR 75592, FERC Stats. & Regs. ¶ 31,197 (2005), *order on rehearing*, Order 667-A, 71 FR 28446, FERC Stats. & Regs. ¶ 31,213 (2006), *order on rehearing*, Order 667-B, 71 FR 42750, FERC Stats. & Regs. ¶ 31,244 (2006), *order on rehearing*, Order 667-C, 118 FERC ¶ 61,133 (2007).

⁶ 18 CFR 366.1, 366.3(a), 366.4, 366.7.

⁷ 18 CFR 292.207.

⁸ 18 CFR 366.1.

income, directly or indirectly, from the generation, transmission, or distribution of electric energy for sale or the distribution at retail of natural or manufactured gas for heat, light, or power, within the United States; and (2) [n]either the company nor any of its subsidiary companies is a public-utility company operating in the United States.”⁹

An EWG, FUCO, or its representative seeking to self-certify its status as an EWG or FUCO must file with the Commission a notice of self-certification (FERC-598) demonstrating that it satisfies the definition of EWG or FUCO. In the case of EWGs, the person filing a notice of self-certification must also file a copy of the notice of self-certification with the state regulatory authority of the state in which the facility is located and that person must also represent to the Commission in its submission that it has filed a copy of the notice with the appropriate state regulatory authority.¹⁰

Submission of the information collected by FERC-598 is necessary for the Commission to carry out its responsibilities under section 1266(a) of EPAAct 2005.¹¹ The Commission implements its responsibilities through the Code of Federal Regulations (CFR), Title 18, Part 366. These filing requirements are mandatory for entities seeking to self-certify their EWG or FUCO status, in order to, in turn, exempt their holding companies from Commission regulation.

Type of Respondents: EWGs and FUCOs.

⁹ *Id.*

¹⁰ 18 CFR 366.7.

¹¹ 42 U.S.C. § 16454(a).

*Estimate of Annual Burden*¹²: The Commission estimates the total annual burden and cost¹³ for this information collection as follows.

| FERC-598 (Self-Certification for Entities Seeking Exempt Wholesale Generator Status or Foreign Utility Company Status) | | | | | |
|---|--|--|---|--|---|
| Number of Respondents (EWGs and FUCOs) (1) | Annual Number of Responses per Respondent (2) | Total Number of Responses (1)*(2)=(3) | Average Burden Hrs. & Cost (\$) Per Response (4) | Total Annual Burden Hours & Total Annual Cost (3)*(4)=(5) | Average Cost per Respondent (\$) (5)÷(1) |
| 147 | 1 | 147 | 6 hrs.; \$459 | 882 hrs.; \$67,473 | \$459 |

Comments: Comments are invited on: (1) whether the 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 and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Kimberly D. Bose,
Secretary.

¹² "Burden" is the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. For further explanation of what is included in the information collection burden, refer to Title 5 Code of Federal Regulations 1320.3.

¹³ Subject matter experts found that industry employment costs (for salary plus benefits) for the FERC-598 information collection closely resemble the Commission's. FERC's 2017 average annual salary plus benefits per FTE (full-time equivalent) is \$158,754 (or \$76.50 per hour).