

**Supporting Statement for
FERC-519 (Application under Federal Power Act Section 203)
Revisions Due to Final Rule in Docket No. RM19-4-000**

The Federal Energy Regulatory Commission (Commission or FERC) requests that the Office of Management and Budget (OMB) review and approve the FERC-519 (Application under Federal Power Act Section 203), as revised in the Final Rule (Order No. 855) in Docket No. RM19-4-000.

On September 28, 2018, the President signed into law an amendment to section 203 of the Federal Power Act (FPA)¹ implementing the following two changes that:

- Revise section 203(a)(1)(B)² to establish a \$10 million threshold for transactions requiring Commission approval under that section [which consequently reduces filings and burden]; and
- Require the Commission to promulgate a rule, “[n]ot later than 180 days after the date of enactment of this paragraph,” that establishes a notification requirement for transactions valued between \$1 million and \$10 million that would have been subject to the Commission’s jurisdiction under section 203(a)(1)(B) absent the newly implemented \$10 million threshold.

1. CIRCUMSTANCES THAT MAKE THE COLLECTION OF INFORMATION NECESSARY

The Commission issues this Final Rule in Docket No. RM19-4-000 to revise Part 33 of its regulations relating to mergers or consolidations by a public utility. Specifically, the Commission is revising Part 33.1 of its regulations to establish that only mergers or consolidations by a public utility of facilities subject to the jurisdiction of the Commission and have a value in excess of \$10 million are now subject to Commission authorization under amended FPA section 203. In addition, the Commission is adding Part 33.12 to its regulations to establish a notification requirement for mergers or consolidations by a public utility if the facilities to be acquired have a value in excess of \$1 million and such public utility is not required to secure Commission authorization under amended section 203. This requirement is mandated by the newly enacted legislation.

¹ Pub. L. No. 115-247, 132 Stat. 3152 “An Act to amend section 203 of the Federal Power Act” (Act)

² Section 203(a)(1)(B) grants the Commission’s jurisdiction over mergers and consolidations (i.e., acquisitions), as opposed to other forms of corporate dispositions. Prior to the new legislation, there was no dollar limit associated with mergers or consolidations that would come under the Commission’s jurisdiction, and the new legislation addressed that by adding a \$10 million threshold.

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

The Commission is required under the recent legislation to collect information under the FERC-519. It will enable the Commission to meet its statutory responsibilities regarding its FPA section 203 oversight of public utility dispositions, mergers, or consolidation of facilities, and associated oversight and enforcement responsibilities under the FPA as referenced above.

The required information to be collected in the notification filing (established by the addition of 18 CFR Part 33.12) for certain transactions includes descriptions of corporate attributes of the party or parties to the transaction and the facilities involved. These transactions are no longer subject to the full FERC-519.

For the remaining full applications that are not affected by this Final Rule, the, FERC's regulations will continue to require jurisdictional companies to:

- Corporate;
- Information Technology Management;
- General Accounting;
- Personnel and Payroll;
- Transportation;
- Tariffs and Rates;
- Insurance;
- Operations and Maintenance;
- Plant and Depreciation;
- Purchase and Stores;
- Revenue Accounting and Collection;
- Tax;
- Treasury; and
- Miscellaneous.

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

The Commission implemented the capability and requirement for filing FERC-519 in various formats including the capability of electronic filing via [eFiling](#) on FERC's webpage.

4. DESCRIBE EFFORTS TO IDENTIFY DUPLICATION AND SHOW SPECIFICALLY WHY ANY SIMILAR INFORMATION ALREADY AVAILABLE CANNOT BE USED OR MODIFIED FOR USE FOR THE PURPOSE(S) DESCRIBED IN INSTRUCTION NO. 2

Commission filings and data requirements are periodically reviewed in conjunction with OMB clearance expiration dates. This includes a review of the Commission's regulations and data requirements to identify duplication. No duplication of the FERC-519 information collection requirements has been found. In addition, the changes to filing requirements discussed herein are required by Congress.

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

The Small Business Administration (SBA) Office of Size Standards develops the numerical definition of a small entity. These standards are provided in the SBA regulations at 13 CFR 121.201.³ In Sector 22 (Utilities), NAICS code 221121 (Electric Bulk Power Transmission and Control), at 500 employees.

Small entities will typically not be affected by this rulemaking. Small entities are generally not in a position to file a FERC-519. However, the Commission does consider waivers for small entities, which serves as an option for small entities to reduce their burden. The Commission grants these waivers on a case-by-case basis.

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

FPA section 203 requires a filing on the occasion that a public utility proposes to dispose of jurisdictional facilities, merge such facilities, or acquire the securities of another public utility. If the collection was not conducted before the proposed transaction was consummated, the Commission would be unable to perform its mandated oversight and review responsibilities with respect to facilities, mergers and securities transactions.

The information collection changes apply to transactions that were jurisdictional, but (after the statutory changes) are now not. These transactions are, thus, not subject to the full FERC-519 application. These transactions are now only subject to a notification filing that requests minimal information from parties to the transaction.

³ 13 CFR 121.201. See also U.S. Small Business Administration, *Table of Small Business Size Standards Matched to North American Industry Classification System Codes* (effective Feb. 26, 2016), https://www.sba.gov/sites/default/files/files/Size_Standards_Table.pdf.

7. EXPLAIN ANY SPECIAL CIRCUMSTANCES RELATING TO THE INFORMATION COLLECTION

The FERC-519 information collection presents no special circumstances.

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

Each FERC rulemaking (both proposed and final rules) is published in the Federal Register thereby providing public utilities and licensees, state commissions, Federal agencies, and other interested parties an opportunity to submit data, views, comments or suggestions concerning the collection of data.

The Final Rule (issued 2/21/2019) was published in the Federal Register on 2/26/2019⁴.

9. EXPLAIN ANY PAYMENT OR GIFTS TO RESPONDENTS

There are no payments or gifts to respondents associated with the FERC-519 information collection.

10. DESCRIBE ANY ASSURANCE OF CONFIDENTIALITY PROVIDED TO RESPONDENTS

In general, for all submittals to the Commission, filers may submit specific requests for confidential treatment to the extent permitted by law; details are available in 18 CFR §388.112. The Commission will review each request for confidential treatment on a case-by-case basis.

11. PROVIDE ADDITIONAL JUSTIFICATION FOR ANY QUESTIONS OF A SENSITIVE NATURE, SUCH AS SEXUAL BEHAVIOR AND ATTITUDES, RELIGIOUS BELIEFS, AND OTHER MATTERS THAT ARE COMMONLY CONSIDERED PRIVATE.

There are no questions of a sensitive nature in the reporting or recordkeeping requirements of the FERC-519 information collection.

12. ESTIMATED BURDEN OF COLLECTION OF INFORMATION

⁴ 84 FR 6069

Prior to this final rule there were 141 responses filed annually and 56,055 burden hours; each filing was 397.55 hours per respondent. With this amendment, each of the 26 affected filings is reduced to 1 hour per respondent for the 26 affected entities (i.e. the entities that now only have to file the Section 203 notification filings).

In the below table on the notification filing, the number of respondents and responses is based on Commission staff's estimate that 13 percent of the approximately 200 (or 26) section 203 filings received will be affected. This represents a significant reduction in burden hours (from 397.55 to 1 hour) for these respondents and results in a 10,337 hour reduction from the FERC-519 reporting burden (The remaining 115 responses are not affected by this Final Rule.) The burden imposed by RM19-4-000 for the 26 affected responses follows:

	Number of Respondents (1)	Annual Number of Responses per Respondent (2)	Total Number of Responses (1)*(2)=(3)	Average Burden & Cost Per Response⁵ (4)	Total Annual Burden Hours (Total Annual Cost) (3)*(4)=(5)	Cost per Respondent (\$) (5)÷(1)
FERC-519 (FPA Section 203 Filings) ⁶	26	1	26	1 hr. ⁷ ; \$79.00	26 hrs.; \$2,054	\$79.00

⁵ 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 2018 annual average (for salary plus benefits) of \$164,820, the average hourly cost is \$79/hour.

⁶ Commission staff estimates that approximately 26 section 203 filings will change from full section 203 filings to the notification filing described above, and will take one burden hour to complete. The number of respondents and responses is based on Commission staff's estimate that 13 percent of the approximately 200 section 203 filings received will be affected. This represents a significant reduction in burden hours.

⁷ With this amendment each of the 26 affected entities and their related filings (i.e., the entities that now only have to file the section 203 notification filings) is reduced to 1 hour

13. ESTIMATE OF THE TOTAL ANNUAL COST BURDEN TO RESPONDENTS

There are no start-up or other non-labor costs.

Total Capital and Start-up cost: \$0

Total Operation, Maintenance, and Purchase of Services: \$0

All of the costs in the information collection are associated with burden hours (labor) and discussed in Questions #12 and #15.

14. ESTIMATED ANNUALIZED COST TO FEDERAL GOVERNMENT

The estimate of the cost for analysis and processing of filings is based on salaries and benefits for professional and clerical support. This estimated cost represents staff analysis, decision-making, and review of any actual filings submitted in response to the information collection.

The 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.

The only additional cost/changes are the clearance cost (\$4,931) to be added to the current cost of \$1,191,515 in ROCIS), giving a new total of 1,196,446

	Federal Employee Hours	Estimated Annual Federal Cost⁸
FERC-519		
Analysis and Processing of filings	No Change	No Change
PRA ⁹ Administrative Cost (for FERC-519) ¹⁰		\$4,931
<i>Total for RM19-4</i>		\$4,931

⁸ Based on FERC's Fiscal Year 2018 average cost per FTE (salary plus benefits) of \$164,820 per year (or 2,080 work hours), rounded to \$79.00 per hour.

⁹ Paperwork Reduction Act of 1995 (PRA).

¹⁰ The PRA Administration Cost is \$4,931, and includes preparing supporting statements, notices, and other activities associated with PRA compliance.

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

Prior to the revisions in the Final Rule in RM19-4-000, the Commission estimated that 141 respondents would file “full” applications under the requirements in FPA section 203. Due to the revisions, an estimated 26 respondents that would have filed a full application will now file abbreviated notification requirements under 18 CFR Part 33.12. Each of those 26 respondents/filers would have a drastically reduced burden per filing (from approximately 397.55 hours/response to 1 hour/response). After implementation of the rule, 115 respondents will continue to file full applications as filed prior to this final rule. The results is a reduction of 10,337 hours (26 responses * 397.55 hours/response) and a subsequent addition of 26 hours (26 responses * 1 hour/response).

	Total Request (rounded)	Previously Approved	Change due to New Statute	Change due to Adjustment in Estimate	Change Due to Agency Discretion (rounded)
Annual Number of Responses	141	141	0	0	0
Annual Time Burden (Hr.)	45,744	56,055	-10,311		
Annual Cost Burden (\$)	0	0		0	0

16. TIME SCHEDULE FOR PUBLICATION OF DATA

There are no publications of the information.

17. DISPLAY OF EXPIRATION DATE

The clearance information and expiration dates are available at <http://www.ferc.gov/docs-filing/info-collections.asp>.

18. EXCEPTIONS TO THE CERTIFICATION STATEMENT

There are no exceptions.