Supporting Statement for
FERC-729, Electric Transmission Facilities

The Federal Energy Regulatory Commission (Commission or FERC) requests that the Office of Management and Budget (OMB) review and approve FERC-729, Electric Transmission Facilities, for a three year period. FERC-729 (OMB Control No. 1902-0238) is an existing Commission data collection, as stated by 18 Code of Federal Regulations (CFR), Parts 50 and 380.

1. CIRCUMSTANCES THAT MAKE THE COLLECTION OF INFORMATION NECESSARY

The blackout of August 2003 highlighted the need to bolster the nation's electric transmission system. However, even after the blackout, construction of interstate transmission remained relatively stagnant. This prompted Congress to require that the Department of Energy (DOE) identify transmission constraints. Specifically, the Energy Policy Act of 2005 (EPAct 2005) mandates that DOE conduct a study of electric transmission congestion within one year of enactment and every three years thereafter. After DOE conducts the study, EPAct 2005 requires that DOE issue a report, based on the study, designating any geographic areas experiencing electric energy transmission capacity constraints or congestion that adversely affects consumers as a National Interest Electric Transmission Corridor (NIETC).

Section 1221 of EPAct 2005 added a new Section 216 to the Federal Power Act (FPA). Section 216(c)(2) of the FPA requires that the Commission issue rules specifying the form of and the information to be contained in an application for proposed construction or modification of electric transmission facilities in a designated NIETC, and the manner of service of notice of the permit application on interested persons.[1] The Commission implemented these requirements in a new Part 50 of existing subchapter B of the Commission's regulations. The new procedures required certain modifications to other existing regulations, including the Commission's regulations implementing the National Environmental Policy Act of 1969 (NEPA) in Part 380.

The purpose of these regulations is to implement the Commission's mandates under EPAct 2005 Section 1221 which authorizes the Commission to issue permits under FPA Section 216(b) for electric transmission facilities and the Commission's delegated responsibility to coordinate all other federal authorizations under FPA Section 216(h). 18 CFR Section 50.2(b) and (c) requires any entity seeking a permit to construct electric transmission facilities to file all the information required by the proposed regulations for Commission consideration. The Commission considers the requirements of Part 50 a direct obligation. All filing requirements necessary to issue a construction permit must be filed unless the prospective applicant or applicant provides a specific showing of why

[1] Federal eminent domain authority is also conveyed with the construction permit. The coordination of federal actions and eminent domain authority helps to ensure that any project that receives a construction permit is built.

something was not filed. Finally, under Section 50.2(d), the burden of proof of providing all the information in an intelligible form and justification for omitted data lies on the prospective applicant.

As noted above, in developing the requirements, the Commission satisfied the requirements of Section 1221 of EPAct 2005. These regulations provide a timely review process for siting of proposed electric transmission facilities. These regulations provide for (among other things) an extensive pre-application process that will facilitate maximum participation from all interested entities and individuals to provide them with a reasonable opportunity to present their views and recommendation with respect to the need for and impact of the facilities early on in the planning stages of the proposed facilities as required under FPA Section 216(d).

Additionally, under FPA Section 216(b)(1)(C), the Commission has the authority to issue a permit to construct electric transmission facilities if a state has withheld approval for more than a year or has conditioned its approval in such a manner that it will not significantly reduce transmission congestion or is not economically feasible. The Commission envisions that under certain circumstances the Commission's review of the proposed facilities may take place after one year of the state's review. Accordingly, under Section 50.6(e)(3) the Commission will not accept applications until one year after the state's review and then from applicants who can demonstrate that a state may withhold or condition approval of proposed facilities to such an extent that the facilities will not be constructed.[2] In cases where the Commission's jurisdiction rests on FPA Section 216(b)(1)(C),[3] the pre-filing process should not commence until one year after the relevant State applications have been filed. This will give the States one full year to process an application without any intervening federal proceedings, including both the pre-filing and application processes. Once that year is complete, an applicant may seek to commence FERC's pre-filing process. Thereafter, once the pre-filing process is complete, the applicant may submit its application for a construction permit.

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

The data filed in FERC-729 enables the Commission to exercise its wholesale electric rate and electric power transmission oversight and enforcement responsibilities in accordance with the Federal Power Act, the Department of Energy Organization Act

[2] However, the Commission will not issue a permit authorizing construction of the proposed facilities until it finds that the state has, in fact, withheld approval for more than a year or had so conditioned its approval.

[3] In all other instances (i.e. where the state does not have jurisdiction to act or otherwise to consider interstate benefits, or the applicant does not qualify to apply for a permit with the State because it does not serve end use customers in the State), the pre-filing process may be commenced at any time.

(DOE Act)13[4], EPAct 2005 and the National Environmental Policy Act of 1969 (NEPA)[5].

The Commission established a two-step process for approving permits to construct electric transmission facilities. The first step involves an intense pre-application process that will facilitate maximum participation from all interested entities and individuals, commence coordination of other federal authorization/review processes, and assist the applicant in preparing a complete application. Section 50.1(f) defines a prospective applicant as a person or entity proposing to construct electric transmission facilities in a NIETC.

The prospective applicant must develop a Participation Plan that will detail their outreach activities that will provide for maximum input from all interested individuals and entities. Section 50.1 defines several of these individuals and entities. Specifically, Section 50.1(a) defines affected landowner by referring to Section 50.4(b) that defines an affected landowner as owners of property interests, as noted in the most recent tax notice, whose property is: (1) directly affected, crossed or used, by the proposed project; or (2) abuts either side of an existing right-of-way or proposed facility site or right-of-way.

Section 50.1(g) defines a stakeholder as a federal, state, or interstate, or local agency, Indian tribes, non-governmental organizations, affected landowners, and other interested person. In other words, a stakeholder is anyone who has expressed an interest in the proposed project.

Under its delegated authority, the Commission will coordinate all federal authorizations that are required to construct the proposed facility. Section 50.1(b) defines federal authorization to include such permits, special use authorizations, certifications, opinions, or other approvals that may be required under federal law to site a transmission facility, as defined in FPA section 216(h)(B). Additionally, Section 50.1(e) defines a permitting entity as any entity, including federal, state, or multistate, or local agencies that are responsible for conducting reviews for any federal authorization that will be required to construct an electric transmission facility in a NIETC.

The Commission currently conducts extensive environmental reviews under NEPA[6] of natural gas pipelines under the Natural Gas Act[7] and hydroelectric projects under the FPA.[8] As part of these reviews, the Commission regularly coordinates efforts with Indian tribes, federal, state, and local agencies, and other interested parties. The Commission also ensures compliance with other federal statutes including, but not limited to, the

[4] 42 USC 7172.
[5] 42 USC 4321
[6] 42 U.S.C. 4321
[7] 15 U.S.C. 717
[8] 16 U.S.C. 791

Endangered Species Act of 1973[9] and the National Historic Preservation Act of 1966.[10]

Additionally, under its FPA jurisdiction, the Commission consults regularly with the Electric Reliability Organization as approved by the Commission under the amended FPA Section 215 and with regional transmission organizations and independent system operators that operate the transmission grid. The Commission also regulates electric transmission access (and appropriate rates), terms and conditions of electricity transmission in interstate commerce.

DOE determined that in order to provide the most expedited review of a proposed electric transmission facility, it would be beneficial to use the Commission's existing expertise and experience to coordinate and process all federal authorizations and related environmental reviews for the proposed projects

Specifically, DOE delegated its lead agency responsibilities for the purpose of coordinating all applicable federal authorizations and related environmental reviews and to prepare a single environmental review document that will be used as the basis for all federal authorizations for the proposed facility in a designated NIETC.[11] In developing the environmental document, the Commission is responsible to: (1) provide for an expeditious pre-application process for the processing of all federal authorizations; (2) establish prompt and binding intermediate milestones and ultimate deadlines for the review; and (3) ensure that all federal permits and reviews for proposed facilities in designated NIETCs are completed within a year or as soon as practicable thereafter. [12]

Under Section 50.5(b), an applicant must meet with the Director of FERC's Office of Energy Projects (OEP) before filing its pre-filing materials. During that meeting, Commission staff will review the applicant's proposed project description (including the status of the applicant's progress towards collecting the data needed to commence the pre-filing process), any preliminary contacts the applicant has had with stakeholders, and preliminary details about the project.

Commission staff will also review the applicant's eligibility for Commission approval of a proposed facility, outline the pre-filing process, and provide guidance as to what further

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[9] 16 U.S.C. 1531

[10] 16 U.S.C. 470

[11] DOE's delegation excludes the Secretary's responsibilities as they pertain to the permitting of transmission facilities within corridors designated under Section 503 of the Federal Land Policy Management Act (43 U.S.C. 1763).

[12] Section 1221(a)(2) of EPAct 2005 states: "After considering alternatives and recommendations from interested parties (including an opportunity for comment from affected States), the Secretary [of Energy] shall issue a report, based on the study, which may designate any geographic area experiencing electric energy transmission capacity constraints or congestion that adversely affects consumers as a national interest electric transmission corridor." Additional information on DOE's work on the National Interest Electric Transmission Corridors is available on DOE's website.

work is necessary to prepare the pre-filing request. Commission staff will also review the proposed project to determine if the applicant will be required to hire a third-party contractor to assist in preparing a NEPA document under the direction of the Commission staff. The use of a third-party contractor can ensure that the environmental review of a proposed project proceeds expeditiously.

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

FERC-729 applicants can use the eFiling system to file the required information to the Commission. Applicants should visit the eFiling website (http://www.ferc.gov/docs-filing/efiling.asp) to find information on what file formats are acceptable.

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 regulatory responsibilities under the Act in an effort to alleviate duplication. All Commission information collections are subject to analysis by Commission staff and are examined for redundancy. There is no other source of this information.

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

The Commission expects entities seeking approval for interstate transmission siting will be major transmission utilities capable of financing complex and costly transmission projects. The Commission anticipates that the high cost of construction of transmission facilities will not be conducive to small entities' entry into this field, as small entities are defined by the Regulatory Flexibility Act (RFA). Therefore, the Commission concludes that these requirements would not have a significant economic impact on a substantial number of small entities.

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

If the collection were conducted less frequently, the Commission would be unable to perform its mandated oversight and review responsibilities with respect to the electric infrastructure. Competitive energy markets require a secure, high quality and environmentally responsive infrastructure. The Commission's role is to provide consistent policies that promote needed infrastructure development. Fully competitive markets will require extensive regional planning. Transmission constraints in one area can have wide ranging effects for customers throughout a region, including the negative

effects that transmission upgrades in one place can have on other parts of the grid. Infrastructure projects inevitably involve competing economic, environmental and landowner interests. To avoid delays in approving electric transmission facility applications, the Commission is seeking to reconcile those interests.

The regulations provide for, among other things, an extensive pre-filing process in Section 50.5 to facilitate maximum participation from all stakeholders, to provide them with an opportunity to present their views and recommendations, with respect to the need for and impact of, the facilities early on in the planning stages of the proposed facilities as required under FPA Section 216(d). The pre-filing process also will assist the applicant in compiling the information needed to file a complete application so that all reviews under federal law can be completed within one year after the application is filed or as soon thereafter as is practicable. During the pre-filing process, the Commission will work with the applicant and other permitting entities to coordinate the reviews and compile the information necessary for all required federal authorizations for the proposed facilities.[13]

Because of the potential for differences between projects, the Commission does not propose to set exact timeframes for the pre-filing process. The timeframe will depend upon, among other things, the size of the project, stakeholder participation, and the applicant's preparedness. The Commission expects that the pre-filing process for large, multi-state "greenfield" projects, will take longer than the pre-filing process for minor modifications to existing facilities.[14] The Commission anticipates that the pre-filing process for extensive projects may take at least a year to complete. Additionally, the environmental resource reports required under Section 380.16 will require comprehensive field work and study to compile the information necessary to comply with the Commission's obligations under NEPA.

Without FERC-729 information, the Commission would be unable to fulfill its statutory responsibilities under the FPA, NEPA and the Energy Policy Act of 2005.

7. EXPLAIN ANY SPECIAL CIRCUMSTANCES RELATING TO THE INFORMATION

FERC-729 meets OMB's Section 1320.5 requirements. In accordance with 18 CFR 125.3, "the original or reproduction of engineering records, drawings, and other supporting data for proposed or as-constructed utility facilities: Maps, diagrams, profiles, photographs, field survey notes, plot plan, detail drawings, records of engineering studies, and similar records showing the location of proposed or as-constructed facilities" must be "retained until retired". Those record retention requirements are cleared under FERC-555 (OMB No. 1902-0098) and are not included in FERC-729.

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[13] Section 50.1(c) defines federal authorization to include such permits, special use authorizations, certifications, opinions, or other approvals that may be required under federal law to site a transmission facility, as defined in FPA section 216(h)(B).

[14] "Greenfield" facilities are facilities that primarily will be located in new rights-of-way.

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

In accordance with OMB requirements[15], the Commission published a 60-day notice[16]to the public regarding this information collection on 04/20/2019. The Commission published a 30-day notice in the Federal Register on XXXXXXX. Within the public notice the Commission will note that it would be requesting a three-year extension of the public reporting burden with no change to the existing requirements concerning the collection of data. No comments were received in the 60-day notice.

9. EXPLAIN ANY PAYMENT OR GIFTS TO RESPONDENTS

There are no payments or gifts to FERC-729 respondents.

10. DESCRIBE ANY ASSURANCE OF CONFIDENTIALITY PROVIDED TO RESPONDENTS

The Commission does not consider the information collected in FERC-729 filings to be confidential. Information provided with the filing may be submitted with a specific request for confidential treatment to the extent permitted by law and pursuant to FERC's regulations[17]

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

The Commission does not consider any of the questions within the FERC-729 of a sensitive nature that would be considered private.

12. ESTIMATED BURDEN OF COLLECTION OF INFORMATION

The Commission estimates the Public Reporting Burden for this information collection as:

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[15] 5 CFR 1320.8(d)
[16] 84 FR 18015
[17] 18 CFR 388.112

	Number of Respondents (1)	Annual Number of Responses per Respondent (2)	Total Number of Responses (1)*(2)=(3)	Average Burden & Cost Per Response[18] (4)	Total Annual Burden Hours & Total Annual Cost (3)*(4)=(5)	Cost per Respondent ($) (5)÷(1)
Electric Transmission Facilities	1	1	1	9,600 $758,400	9,600 $758,400	$758,400

13. ESTIMATE OF TOTAL ANNUAL COST OF BURDEN TO RESPONDENTS

There are no non-labor start-up costs. All costs are related to burden hours and are addressed in Questions #12 and #15.

14. ESTIMATED ANNUALIZED COST TO FEDERAL GOVERNMENT

	Number of Employees (FTEs)	Estimated Annual Federal Cost
PRA[19] Administration Cost[20]	-	$4,931
Data Processing and Analysis[21]	0.3	$49,446
FERC Total		$54,377

The Commission bases its estimate of the "Analysis and Processing of filings" cost to the Federal Government on salaries and benefits for professional and clerical support. This estimated cost represents staff analysis, decision making, and review of any actual filings

[18] The estimates for cost per response are derived using the following formula: Average Burden Hours per Response * $79.00/hour = Average cost/response. The figure is the 2018 FERC average hourly cost (for wages and benefits) of $79.00 (and an average annual salary of $164,820/year). Commission staff is using the FERC average salary because we consider any reporting requirements completed in response to the FERC-729 to be compensated at rates similar to the work of FERC employees.

[19] Paperwork Reduction Act of 1995 (PRA).

[20] The PRA Administration Cost is $4,931, and includes preparing supporting statements, notices, and other activities associated with Paperwork Reduction Act compliance.

[21] The FTE cost figure uses the 2018 FERC average salary plus benefits ($164,820/year or $79/hour).

made in response to the information collection.

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

FERC does not currently have any applications pending or any proposed projects in the pre-filing process.

The following table shows the total burden for the collection of information. The format, labels, and definitions of the table follow the ROCIS submission system's "Information Collection Request Summary of Burden" for the metadata.

FERC-729	Total Request	Previously Approved	Change due to Adjustment in Estimate	Change Due to Agency Discretion
Annual Number of Responses	1	1	0	0
Annual Time Burden (Hr)	9,600	9,600	0	0
Annual Cost Burden ($)	0	0	0	0

16. TIME SCHEDULE FOR PUBLICATION OF DATA

There are no tabulating, statistical or tabulating analysis or publication plans for the collection of information. The data are used for regulatory purposes only.

17. DISPLAY OF EXPIRATION DATE

The OMB expiration dates are posted on http://www.ferc.gov/docs-filing/info-collections.asp .

18. EXCEPTIONS TO THE CERTIFICATION STATEMENT

There are no exceptions.