

Supporting Statement for  
**FERC-516, Electric Rate Schedule Filings,  
FERC-545 Gas Pipeline Rates: Rate Change Non-Formal;  
FERC-550 Oil Pipeline Rates: Tariff Filings  
and FERC-549 Gas Pipeline Rates: NGPA Title III and NGA Blanket Certificate  
Transactions**

As Proposed In Docket No. RM01-5-000  
(Notice of Supplemental Proposed Rulemaking Issued April 17, 2008)\*

The Federal Energy Regulatory Commission (FERC)(Commission) requests Office of Management and Budget (OMB) review and approval of **FERC-516, Electric Rate Schedule Filings, FERC-545 Gas Pipeline Rates: Rate Change Non-Formal; FERC-550 Oil Pipeline Rates: Tariff Filings and FERC-549 Gas Pipeline Rates: NGPA Title III and NGA Blanket Certificate Transactions.** FERC-516, 545, 549 and 550 are existing data requirements that amend Parts 35, 154, 284, 341, 344, 346-348 of the Commission regulations governing tariffs, tariff revisions and rate change applications for the public utility, natural gas pipeline, and oil pipeline industries. The NOPR proposes that these documents be filed electronically. FERC-516 (OMB Control No. 1902-0096) is currently approved by OMB through May 31, 2010, FERC-545 (OMB Control No. 1902-0154) is currently approved by OMB through September 30, 2010, FERC-549 (OMB Control No. 1902-0086 is currently approved through September 30, 2009, and FERC-550 (OMB Control No. 1902-0089) is currently approved through July 31, 2008.# \*An earlier NOPR as discussed more fully below was issued on July 7, 2004, in this same Docket No., RM01-5-000. #FERC-516 and FERC-550 are the subject of other submissions currently pending before OMB. For this submission, they will be designated with temporary numbers. FERC-516 will be designated as FERC-921 and FERC-550 will be designated as FERC-923.

The subject data collections will be affected because the Commission is proposing to revise its previous Notice of Proposed Rulemaking for electronic tariff filing. The revised proposal would require that all tariffs and tariff revisions and rate change applications to be filed electronically according to a set of standards developed in conjunction with the North American Energy Standards Board. Upon the effective date of a final rule in this proceeding, the Commission will no longer accept tariff filings submitted in paper format.

Electronically filed tariffs and rate change applications should improve the efficiency and administrative convenience and improve the overall management of the tariff and tariff change filing process, facilitate public access to tariff information, and reduce the burden and expense associated with paper tariffs and tariff changes. In addition, electronically filed tariffs should improve access and research capabilities with and among applicant's tariffs. This feature should help facilitate the Commission's monitoring of the energy markets, to the benefit of the customers and all involved. It should also enhance competition within industries by providing the customers with an electronic means of comparing the rates, terms and conditions, and other provisions applicable to the regulated entities.

We estimate that there will be an addition of a one-time filing requirement or 32,556 hours for information requirements/collections under FERC-516, FERC-545, FERC-549 and FERC-550 as proposed in the subject NOPR (baseline tariff filing). After issuance of a final rule and the affected entities are able to submit their tariff and other related material electronically, the total burden under the above information collection requirements will be reduced by a minimum of 32,556 hours.

All of the proposed changes in the subject NOPR are provided for under sections 205 of the Federal Power Act, sections 4, 5, 9, and 16 of the Natural Gas Act (NGA), Title III, section 311, of the Natural Gas Policy Act (NGPA) and section 20 of the Interstate Commerce Act (ICA).

### **Background**

As part of its statutory responsibilities, the Commission requires regulated entities to file tariffs that include their respective rates, their terms and conditions of service. In addition, the Commission's regulations require regulated entities that are amending tariffs to file material accompanying the proposed tariff changes. This material can range from a filing including a letter of transmittal, an explanation of the basis of the filing, and a form of notice to a full rate case filing, including required schedules detailing the derivation of the rates. (The term *tariff* means the compilation of any rates, schedules, rate schedules, contracts, application, rule, or similar matter that clearly and specifically sets forth all rates and charges for any services subject to the Commission's jurisdiction). These classifications, practices, rules and regulations that affect rates and charges, and all contracts that impact or relate to rates, charges, classifications, services, rules, regulations or practices are the components of the tariff.

The Commission has previously undertaken changes to provide for electronic submission of tariff filings and other material. In 1988, the Commission required natural gas pipelines to file formatted electronic versions of certain tariffs on diskette in addition to filing paper copies. These requirements retained the tariff page concept. Each pipeline files electronically only the tariff page or pages that are being revised. In Order No. 888, the Commission required that public utilities submit a complete electronic version of all open access transmission tariffs (OATT) and service agreements in a word processor format, with the diskette labeled as to the format (including version) used, initially and each time changes are filed. The electronic filing requirements did not extend to oil pipelines, which to this date are required only to file paper copies of their tariffs.

### ***Initial NOPR (2004)***

In a Notice of Proposed Rulemaking (NOPR) issued on July 8, 2004, the Commission proposed to require public utilities, gas and oil pipelines to file tariff and tariff related material

electronically.<sup>1</sup> The Commission's initial proposal contemplated that tariff filings would be made using electronic tariff filing software developed by the Commission. The Commission developed a tariff database that would store tariff and tariff related information for retrieval by Commission staff and the public. In order to implement a tariff database system that would permit such functionality, Commission staff developed a software system for tariff filings similar to that used in filing forms with the Commission. Commission staff worked with many industry representatives and experts to test this software and held public meetings to demonstrate and receive comment on the software.

### ***Subsequent NOPR (2008)***

In a Supplemental Notice of Proposed Rulemaking issued on April 17, 2008 the Commission proposes to revise its previous Notice of Proposed Rulemaking for electronic tariff filing. The revised proposal would require that all tariffs and tariff revisions and rate change applications for the public utility, natural gas pipeline, and oil pipeline industries be filed electronically according to a set of standards developed in conjunction with the North American Energy Standards Board. These standards will enable the Commission to develop a tariff database for use by the Commission staff, the industry, and the public to view and research tariffs, and also provides companies the flexibility to design or purchase software for making tariff filings that best fits their business needs. Upon the effective date of a final rule in this proceeding, the Commission will no longer accept tariff filings submitted in paper format.

On April 16, 2008, NAESB filed the standards with the Commission along with a record of the NAESB proceedings. This material included questions about the policies to be followed in using the standards to make tariff filings. While NAESB retains a copyright of its eTariff standards, NAESB has granted the Commission a limited waiver of copyright permitting the posting of excerpts of the eTariff standards and eTariff work products that the Commission deems appropriate. These excerpts will be available for companies to reproduce only for their own internal use.

Electronically filed tariffs and rate case filings should improve the efficiency of the administrative process by providing time and resource savings for all stakeholders. Respondents should see savings by reducing the number of personnel required to assemble and submit paper filings, and a reduction in duplication and mailing expenses. Users of the information will be able to access the data at lower costs due to efficiencies provided by electronic filing and retrieval. Data filed electronically can be processed faster than paper filings. This is due in part because procedural steps related to verifying the applicant, receiving the tariff filing, routing the tariff filing, entering the tariff filing into FERC's official record, public tariff maintenance, public access to the tariff and tariff filing, and confirming receipt of the tariff filing largely can be automated. Also the speed at which tariff filings can be processed electronically can increase

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<sup>1</sup> Electronic Tariff Filings, Notice of Proposed Rulemaking, 69 FR 43,929 (July 23, 2004) FERC Stats. & Regs., Proposed Regulations ¶ 32,575, 2004 NOPR), Notice of Additional Proposals and Procedures, 70 FR 40941 (July 15, 2005), FERC Stats. & Regs. ¶ 35,551, 2005), 112 FERC ¶61,043 (2005 Notice).

the integrity of the data by speeding the process by which the applicants and public can view the filings and identify errors, and facilitating rapid filing of corrections. This capability is beneficial as many tariff filings involve statutory processing deadlines.

## **A. Justification**

### **1. CIRCUMSTANCES THAT MAKE THE COLLECTION OF INFORMATION NECESSARY**

Pursuant to sections 4, 5, 9 and 16 of the NGA, (15 USC 717c - 717o, P.L. 75-688, 52 Stat. 822 and 830), and Title III of the NGPA, (15 USC 3301-3432, P.L. 95-621), section 205 of the Federal Power Act and section 20 of the Interstate Commerce Act, companies subject to the Commission's jurisdiction are required to submit tariffs, rates, or contracts. The companies or entities covered by this NOPR are those that submit tariffs, rates, or contracts with the Commission pursuant to the Natural Gas Act (NGA), the Natural Gas Policy Act of 1978 (NGPA), the Federal Power Act (FPA), the Interstate Commerce Act (ICA), the Flood Control Act, the Bonneville Power Act, the Northwest Power Planning Act, any other relevant statutes. Included among the companies or entities proposed to be covered by the requirements are: regional transmission organizations (RTOs) and independent system operators (ISOs); power authorities and federal power marketing administrations which file rates, contracts, or tariffs at the Commission; intrastate natural gas pipelines that file rates and operating conditions pursuant to the NGPA; interstate natural gas pipelines subject to the NGA which serve only an industrial customer; and companies or entities that may make voluntary tariff filings, such as reciprocity filings pursuant to Order No. 888.

The Commission is proposing in this NOPR to require regulated entities filing under Parts 35, 154, 284, 300 and 341 to make all tariff and rate case filings, as well as other material involved in these filings (see above) electronically. The creation of an electronic database will provide easier access to tariffs and allow the viewing of proposed tariff sections in context. One of the principal benefits of such a database is the ability to do historical research into tariffs. For example, proceedings such as complaints may involve past tariff provisions that have already been revised by the utility by the time the complaint is considered by the Commission. In order to expeditiously process such filings, the Commission, the parties, and the public need to be able to obtain the tariff provision that apply to the time period under review, rather than the currently effective tariff provision.<sup>2</sup>

The set of NAESB protocols and standards provides a foundation for building such a database. The standards define an extensible markup language (XML) schema<sup>3</sup> that will permit

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<sup>2</sup> See *FPL Energy Marcus Hook, L.P. v. PJM Interconnection, LLC*, 118 FERC ¶ 61,169, at P 11, n.9 (2007) (parties litigated a complaint case based on a superseded tariff provision).

<sup>3</sup> XML schemas facilitate the sharing of data across different information systems, particularly via the Internet, by structuring the data using tags to identify particular data elements. For example, each filed tariff change will include tags for the relevant information, such as the utility name, the tariff section being changed, the name for that section, the

filers to assemble a filing package that includes the tariff changes, the accompanying tariff-related documents, such as the transmittal letter, rate schedules, and spreadsheets that are required to accompany various tariff filings, and other required information such as the proposed effective date of the filing. Upon the receipt of the filing electronically, the XML schema will enable the Commission to parse<sup>4</sup> (divide) the filed package into its component parts, place the filed documents into its eLibrary system, organize the tariff database and provide a metadata<sup>5</sup> that will permit the Commission and the public to search that database.

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

This proposal is a continuation of the Commission's efforts to meet its responsibilities in implementing the goals of the legislative and executive branches of the federal government with respect to substituting electronic means of communication and information storage for paper means. For example, the Government Paperwork Elimination Act directs agencies to provide for the optional use and acceptance of electronic documents and signatures, and electronic recordkeeping, where practical. Likewise, OMB's Circular A-130 requires agencies to use electronic information collection techniques, where such means will reduce the burden on the public, increase efficiency, reduce costs, and help provide better service. The benefits of this endeavor for all concerned—regulated industries, state commissions, parties to Commission proceedings, Commission staff, other persons impacted by the tariffs and tariff filings and the general public are to provide for easier access, a more efficient delivery and distribution system for the information filed with the Commission and to provide for historical research.

As a result, the Commission is proposing to revise its regulations and procedures to accommodate the way industry maintains tariffs. The Commission believes that the protocols and standards that have been developed will provide a robust framework for the filing of tariff and tariff related materials with the Commission and the development of a Commission database to enable staff, industry, and the public to access and search those data.

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effective date, and certain sections of tariff text. The tagged information could then be extracted and separately searched.  
4 Parse means to capture the hierarchy of the text in the XML file and transform it into a form suitable for further processing.

5 The term metadata is based on the Greek word "meta" meaning after or beyond and in epistemology means "about." Thus, metadata is data or information beyond or about other data. Digital Libraries, by William Arms (M.I.T. Press 2000), <http://www.cs.cornell.edu/wya/DigLib/MS1999/Chapter1.html> (visited April 11, 2008); The University of Queensland, <http://www.library.uq.edu.au/iad/ctmeta4.html> (visited April 11, 2008); The Linux Information Project, <http://www.linfo.org/metadata.html> (visited April 11, 2008). For example, in the XML schema, one required element is a proposed effective date and another element is the text of the tariff provision. The proposed effective date would be considered metadata relative to the tariff text.

The Commission's current regulations require companies to file tariff sheets that include specifically defined nomenclature to identify each sheet of the tariff.<sup>6</sup> A company is required to file only the tariff sheets containing the tariff revisions or changes.

As a result of the implementation of electronic tariff filing, the exchange of information between Commission staff and the various industries during the NAESB process, and the comments submitted to NAESB, the Commission is proposing to allow far more flexibility in the structure and identification of tariffs. Companies may determine to structure their tariffs either using the existing tariff sheet format or as sections. Companies will also be given more flexibility to file tariffs either by dividing the tariff into sheet or sections and filing only the changed sheet or section, or for a wide range of tariff documents, by filing the entire tariff document for each change. In order to ensure that the Commission and the public have the ability to identify specific tariff provisions (either sections or pages), the version for each tariff filing will still need to be identified, but the versioning information has been simplified and will be included as metadata in the XML package, except for certain documents filed as PDFs.

The implementation of these data requirements will help the Commission to carry out its responsibilities under the Federal Power Act, the Natural Gas Act, the Natural Gas Policy Act and the Interstate Commerce Act to monitor the activities and evaluate transactions of public utilities, natural gas and oil pipeline companies, regional transmission organizations and power marketing associations to assure the improved efficiency of the industry's operations. Requiring such information ensures both a common means of communication and provides administrative convenience for both regulated entities and the Commission, and facilitates public access to tariffs.

The Commission's Office of Energy Market Regulation and the Office of the General Counsel will use the data in rate proceedings to review rate and tariff changes by public utilities and others, natural gas companies and oil pipeline companies for the transportation of gas and oil, for general industry oversight, and to supplement the documentation used during the Commission's audit process.

Failure by the Commission to collect this information would mean that it is unable to monitor and evaluate transactions and operations of entities subject to its jurisdiction and perform its regulatory functions to ensure that rates are just and reasonable.

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

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<sup>6</sup> See 18 CFR 35.9; 154.102(e).

On November 15, 2007, the Commission issued a Final Rule, RM07-16-000, Order No. 703, “Filing via the Internet” 73 Fed. Reg. 65659 (November 23, 2007) revising its regulations for implementing the next version of its system for filing documents via the Internet, eFiling 7.0. The Final Rule allows the option of filing all documents in Commission proceedings through the eFiling interface except for specified exceptions, and of utilizing online forms to allow “documentless” interventions in all filings and quick comments in P (Hydropower Project), PF (Pre-Filing NEPA activities for proposed gas pipelines), and CP (Certificates for Interstate Natural Gas Pipelines) proceedings.

With the advent of eFiling 7.0, the Commission has been expanding its ability to receive electronic filings through its eFiling and eLibrary systems. While eLibrary works very well as a document repository that stores, and permits retrieval of, all documents filed in individual docketed proceedings, it is not well suited to the processing of tariff and tariff related filings. Tariff filings occur in many different dockets over time, and in order for the Commission and the public to obtain a complete picture of a company’s tariff, these various provisions need to be integrated into a single system that will provide information as to the status of tariff provisions, permit the assembly of a complete tariff, and permit tariff related research. Prior to the advent of electronic filing, the Commission would keep tariff books, open to the public, in which new pages would be inserted to reflect revisions and ensure that the tariff reflects the currently effective tariff.<sup>7</sup> The provision of an electronic database of company tariffs will make such information available more efficiently and to a broader audience.

The database will provide easier access to tariffs and allow the viewing of proposed tariff sections in context. One of the principal benefits of such a database is the ability to do historical research into tariffs. For example, proceedings such as complaints may involve past tariff provisions that have already been revised by the utility by the time the complaint is considered by the Commission. In order to expeditiously process such filings, the Commission, the parties, and the public need to be able to obtain the tariff provision that apply to the time period under review, rather than the currently effective tariff provision.<sup>8</sup>

The set of NAESB protocols and standards provides a foundation for building such a database. The standards define an extensible markup language (XML) schema<sup>9</sup> that will permit filers to assemble a filing package that includes the tariff changes, the accompanying tariff-related documents, such as the transmittal letter, rate schedules, and spreadsheets that are required to accompany various tariff filings, and other required information such as the proposed effective date of the filing. Upon the receipt of the filing electronically, the XML

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<sup>7</sup> In fact, companies themselves would often arrange to view those tariffs to try and recreate either effective tariffs or the tariff in effect during the time period of a particular proceeding.

<sup>8</sup> See *FPL Energy Marcus Hook, L.P. v. PJM Interconnection, LLC*, 118 FERC ¶ 61,169, at P 11, n.9 (2007) (parties litigated a complaint case based on a superseded tariff provision.)

<sup>9</sup> XML schemas facilitate the sharing of data across different information systems, particularly via the Internet, by structuring the data using tags to identify particular data elements. For example, each filed tariff change will include tags for the relevant information, such as the utility name, the tariff section being changed, the name for that section, the effective date, and certain sections of tariff text. The tagged information could then be extracted and separately searched.

schema will enable the Commission to parse<sup>10</sup> (divide) the filed package into its component parts, place the filed documents into its eLibrary system, organize the tariff database and provide a metadata<sup>11</sup> that will permit the Commission and the public to search that database.

The NAESB standards and protocols also will provide flexibility to companies making tariff filings. In contrast to the Commission's prior approach, the standards will enable each regulated company to design or purchase software for creating tariff filings that will best accommodate its filing patterns and the needs of its business.

As a result of using the NAESB XML standards, the Commission needed to make revisions in the regulations it previously proposed and in the method by which tariff related filings will be made at the Commission. In addition, several issues were raised regarding Commission policies for filing tariffs in the comments filed with NAESB. Some of the most significant changes and proposals are the following:

- Tariffs may be filed either using the current sheet based nomenclature or using section-based numbering at the choice of the filer.<sup>12</sup>
- Tariffs may be filed as entire documents in either of two electronic formats, RTF<sup>13</sup> or PDF<sup>14</sup>, except with respect to open access transmission tariffs for electric utilities and interstate natural gas companies which will be required to be filed as individual sheets or as sections in RTF format as defined in the proposed regulations.
- Tariff filings can be served electronically using the same approach used for electronic service of other Commission filings.
- Filings of joint tariffs (tariffs covering two regulated entities) may be made with a single tariff filing by the entity designated to make the filing.
- Tariff filings for tariffs shared among companies (such as RTO tariffs) can be made individually by any of the companies with rights to file tariff changes.

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10 Parse means to capture the hierarchy of the text in the XML file and transform it into a form suitable for further processing.

11 The term metadata is based on the Greek word "meta" meaning after or beyond and in epistemology means "about." Thus, metadata is data or information beyond or about other data. Digital Libraries, by William Arms (M.I.T. Press 2000), <http://www.cs.cornell.edu/wya/DigLib/MS1999/Chapter1.html> (visited April 11, 2008); The University of Queensland, <http://www.library.uq.edu.au/iad/ctmeta4.html> (visited April 11, 2008); The Linux Information Project, <http://www.linfo.org/metadata.html> (visited April 11, 2008). For example, in the XML schema, one required element is a proposed effective date and another element is the text of the tariff provision. The proposed effective date would be considered metadata relative to the tariff text.

12 Section-based filings will not have to include the sheet based nomenclature as a header or footer on the tariff page.

13 RTF refers to Rich Text Format which is a standardized textual format that can be produced by a number of word processors.

14 PDF refers to Portable Document Format which is a format used for representing documents that closely resembles the original formatting of the document.



- During initial baseline implementation of electronic tariff filing, only open access transmission tariffs and agreements need to be filed.
- After implementation of electronic tariff filing, all new tariffs and agreements must be filed using the standards. Existing agreements need to be filed only when they are revised.

The Commission recognizes that after the final rule, companies and third-party vendors developing tariff filing software will need time for development as well as a mechanism for testing their software to make sure that their filings will be accepted by the Commission. The Commission will therefore provide a testing site where companies can make test electronic filings to determine whether their XML packages can be received and can be parsed in order to determine if the XML package can be opened and broken into its constituent parts, and to verify whether the metadata supplied meets the requirements of the XML schema.

**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 any duplication. To date, no duplication of the proposed data requirements has been found. The Commission staff is continuously reviewing its various filings in an effort to alleviate duplication. There are no similar sources of information available that can be used or modified for use for the purpose described in Item A (1.).

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

The proposed rule will be applicable to all entities regulated by the Commission, a small number of which may be small businesses. The Commission finds that the regulations proposed here should not have a significant impact on these few small businesses as they should be able to acquire relevant software. Software to create XML files is available from several internet websites as shareware or subject to low-cost licensing options. Moreover, by eliminating the requirement to file numerous paper copies of tariffs and documents associated with rate filings, these regulations are designed to reduce the filing burden on all companies, including small businesses. Accordingly, the Commission finds that these regulations will not impose a significant economic impact on small businesses.

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

The proposed changes in the regulations should reduce the burden on all companies as identified in item no. 1 above. Requiring the provisions of all tariff and related material be filed electronically will provide easier access, including search and copy to all material. In order to make their initial tariff compliance filing, regulated entities will have to electronically cut and paste their existing tariffs into the software in order to submit the material using the Internet. After the issuance of the NOPR, the Commission will be posting on its website instructions for downloading the proposed software that companies will use to make their tariff and rate case filings.

It is not possible to collect the data less frequently. Tariffs are filed on occasion to obtain a benefit. The required information especially under the proposed electronic filing provisions will impose the least possible burden for companies while collecting the information used in monitoring tariffs, rates, terms and conditions of. In addition, the information will be available to others (including small distribution utilities, independent power producers, marketers, local distribution companies, shippers and state commissions).

FERC is required to determine for natural gas and oil pipelines whether the pipeline may implement rates for new service or changes in rates for transportation service. Tariff filings are made on occasion to obtain a benefit. If the data were not updated regularly, the Commission and Industry would be placed at a disadvantage by not having the most current data for competitive and regulatory purposes available. In addition, FERC will be unable to fulfill its statutory mandates under the NGA, NGPA and the ICA. Furthermore, Section 205 of the FPA mandates that the information be filed every time a licensee or public utility proposes to change its rates.

If FERC unable to fulfill its responsibilities, companies would not be allowed to legally implement rates for new service or changes in transportation service. The Commission needs access to up-to-date information to monitor self-implementing activities of the transmission providers to ensure that transmission services are being provided in a nondiscriminatory manner.

## **7. EXPLAIN ANY SPECIAL CIRCUMSTANCES RELATING TO THE INFORMATION COLLECTION**

The current program meets all of OMB's section 1320.5 requirements with the exception of part "d" thereof. Section 1320.5(d) limits the collection of data to an original and two copies of any document. The current requirements for data provided under FERC-516, FERC-545, FERC-549 and FERC-550 calls for the submission of paper copies. In particular, FERC-516 calls for the submission of six copies of all tariffs, rate schedules, contracts and material related to these filings. (See section 35.7) FERC-545 includes informal and formal rate changes and would be filed by the respondents to comply with the provisions as indicated in Item A (1.). An

electronic filing (diskette) and five paper (hard) copies of any rate schedule or any change in rate schedule or tariff related filing (see Section 154.4 of the Commission's regulations) are required by the Commission to conduct its regulatory review. FERC-550 filings are currently submitted in paper copies only and oil pipelines must submit an original and three copies. (See sections 341.2 and 341.3) Currently the distribution of multiple hard copies of a filing is still essential so that the required technical reviews and analyses can proceed simultaneously and efficiently. However, once the final rule is issued, the Commission will eliminate the submission of paper filings. The Commission also proposes to standardize the process for withdrawals and amendments to tariff filings.

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

The Commission's procedures require that the rulemaking notice be published in the Federal Register, thereby allowing all pipeline companies, state commissions, federal agencies, and other interested parties an opportunity to submit comments, or suggestions concerning the proposal. The rulemaking procedures also allow for public conferences to be held as required.

Based on the comments on the initial proposal, the Commission in a 2005 Notice, proposed two changes to the 2004 NOPR intended to ease utilities' burdens in complying and to expand the efficiency of the electronic filing process. Comments were filed on the proposed changes to the regulations and the software.<sup>15</sup> While some of the commenters supported using the Commission-provided software as an acceptable solution, others were concerned that this software might not work well for making tariff filings. Some also were concerned that the Commission software would not integrate well with their existing tariff management systems and that formatting tariffs to fit the parameters of the software could be difficult or time consuming.

As a result of the review of the comments, on February 1, 2007, a public meeting was held with the North American Energy Standards Board (NAESB) to discuss NAESB's assistance in the process of developing the protocols, standards, and data formats needed to provide tariff and related data to enable the Commission to develop a database to track electronic tariff and rate schedules filings. At the meeting, NAESB agreed to develop these standards and report back to the Commission.

NAESB established two committees, a business eTariff Subcommittee and an eTariff Technical Task Force. These committees included representatives from the wholesale natural gas industry, wholesale electric industry, oil pipelines, and intrastate natural gas pipelines who worked along with Commission staff to develop the applicable standards. Between February 1,

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<sup>15</sup> Comments on the proposed changes and the software were due August 1, 2005 and May 31, 2006, respectively.

2007 and January 23, 2008, these committees held a total of 16 meetings in various cities over 24 days. An average of 61 people participated in these meetings either in person or by electronic conferencing. The Executive Committees for both the Wholesale Gas and Wholesale Electric Quadrants of NAESB approved the standards on March 4, 2008, and the NAESB membership ratified the standards on April 4, 2008.

On April 16, 2008, NAESB filed the standards with the Commission along with a record of the NAESB proceedings. This material included questions about the policies to be followed in using the standards to make tariff filings. While NAESB retains a copyright of its eTariff standards, NAESB has granted the Commission a limited waiver of copyright permitting the posting of excerpts of the eTariff standards and eTariff work products that the Commission deems appropriate. These excerpts will be available for companies to reproduce only for their own internal use.

The Commission staff in collaboration with the wholesale electric and gas quadrants of the North American Energy Standards Board (NAESB), and representatives from the Association of Oil Pipelines (AOPL) have developed a set of standards to be used by companies in making tariff and tariff related filings at the Commission. The Commission is proposing to adopt those standards as the requirement for making tariff and tariff related filings. As a result of the adoption of these standards, and additional considerations raised in the comments at NAESB, the Commission is proposing several revisions to the manner in which companies will make tariff and tariff related filings.

### **Versioning**

The Commission currently requires each tariff page to include a version number that can be used to identify the particular revision of that page (e.g., First Revised Sheet No. 1 would replace Original Sheet No. 1). Because tariff provisions change, often frequently, over time this convention is useful for identifying and referring to particular tariff provisions in orders. A number of the comments filed with NAESB maintain that the existing versioning requirement is unnecessarily complex for certain types of filings and urged the Commission to eliminate the requirement to include versioning associated with every page or section of the tariff. The comments maintain that the XML schema includes a revised versioning requirement that would be satisfactory for identifying particular tariff provisions.

### **Commission's Response**

The Commission recognizes that in many proceedings, the official tariff designation is not used by the parties and may not be of critical importance. However, in proceedings in

which past tariff language is of importance, the ability to have a unique reference to the precise tariff provision is still needed. As the Commission moves to electronic tariff filing, it believes that with the adoption of the standards the Commission's versioning requirement can be modified and made less complicated.

The XML schema requires that each sheet, section, or entire tariff be identified with a version number in an x.y.z format. The x.y.z format will accommodate the same level of identification as the Commission's existing nomenclature, including items such as squeezed and retroactive sheets. Some companies may want to continue this detailed approach to better identify the placement and relative position of tariff sheets and sections, and the x.y.z format will accommodate such identification. Other companies do not believe that their tariffs require such a detailed hierarchy of changes. As long as each tariff section, sheet, or entire document is identified uniquely, the Commission proposes to allow companies to choose how complex to make their identification. Companies, for example, may choose simply to numerically number each section, sheet, or entire tariff document as they file it, using just the x field.

The comments also raise questions about whether any such identification must continue to appear in the text of the filed documents. Except in the case of tariffs filed in PDF, the Commission does not propose to require that identification be placed on the individual tariff revisions that are filed; companies however may choose to include such identification if they desire. Because the requisite versioning information is in the XML schema and will be made available to staff and the public in the tariff database, companies do not need to include that information in their filing. However, in order to ensure that the versioning information is available to the public on eLibrary, the Commission will use the metadata provided in the XML schema to generate a document on eLibrary that contains the appropriate versioning information. Because the Commission is creating this document by electronically combining information from the database, the formatting of the versions and tariff text may not appear identical to the filing made by the company.

The only exception to this rule is for tariff documents filed using PDF. Because PDF is not a textual format and does not permit easy electronic manipulation, the Commission cannot generate a document for eLibrary that contains the correct versioning information. For these documents, therefore, the first page of the tariff document must include the required information: company name, tariff title (if applicable), and the appropriate version number.

### **Joint, Shared, and Section 206 Filings**

An issue raised in the comments by the electric industry is how companies are to make joint and shared tariff filings and section 206 filings. Joint filings refer to tariffs applicable to more than one company. Shared tariffs refer to a tariff that can be amended by one or more parties. Shared tariffs principally refer to ISO or RTO tariffs sections of which can be revised by the ISO and RTO as well as by individual transmission owners. Section 206 tariff filings again relate principally to ISOs and RTOs, which may not have the ability to make tariff filings

under section 205 of the FPA, but have the right to make such filings under section 206 of the FPA. The comments are concerned that the filing process for such tariffs not be unduly complicated. The Commission has developed approaches to the filing of these more complicated tariffs that it believes will ensure that all parties with rights can make appropriate filings without undue burden.

### **Joint Tariff Filings**

Section 35.1(a) of the Commission's regulations establishes two methods by which public utilities that are parties to the same rate schedule may file the rate schedule with the Commission: (1) each public utility can file the rate schedule itself, or (2) "or the rate schedule may be filed by one such public utility and all other parties having an obligation to file may post and file a certificate of concurrence."<sup>16</sup> Prior to Order No. 614, when filers made a single filing, Commission staff would copy the rate schedule or tariff for the number of joint filers, place the appropriate designations on the tariffs, and put them in the tariff books. In Order No. 614, the Commission stated in the preamble that "on joint services, each utility offering a service must file its own tariff sheets."<sup>17</sup> Currently, the Commission therefore receives a single filing usually from a designated filer with identical tariff sheets for each joint filing utility, except that each utility's tariff contains the appropriate sheet designation for that utility. Given the prevalence of joint tariff filings, the electric utilities request that they not be required to make separate tariff filings for each utility covered by the tariff, including all supporting materials in place of the single filing now permitted.

### **Commission's Response**

In the Commission's current state of software development, it is not in a position to permit a single designated filer to submit tariff sheets on behalf of multiple entities. The Commission, however, recognizes the inefficiency and confusion for the filer, the staff, and the public in having multiple identical filings made on behalf of different companies. The Commission therefore has developed what it thinks is a reasonable approach for handling such filings that will minimize the burden on the filer but provide ready access to the tariff.

The Commission proposes to no longer require utilities to follow the Order No. 614 preamble instructions to file multiple copies of a tariff. Instead, the joint filers will be permitted to designate one filer to submit a single tariff filing for inclusion in its database that reflects the joint tariff, along with the requisite certificates of concurrence. The non-designated joint filers would include in their tariff database a tariff section consisting of a single page or section that

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<sup>16</sup> 18 CFR 35.1(a).

<sup>17</sup> Designation of Electric Rate Schedule Sheets, Order No. 614, FERC Stats. & Regs. ¶ 31,096, at 31,503 (2000).

would provide the appropriate name of the tariff and identify which utility is the designated filer for the joint tariff. In this way, the staff or the public will be able to find quickly the appropriate tariff in the database, without the need for multiple filings by each of the filers.

While this issue arose in the context of joint filings by public utilities, the solution proposed here should be equally applicable to other industries that have joint tariffs.

### **Shared Tariffs**

Shared tariffs refer principally to ISO and RTO tariffs, portions of which may be revised by FPA section 205 filings by the ISO/RTO or other transmission owners. Depending on the tariff section involved, one party may have exclusive rights to modify the section or multiple parties may have rights to modify the section. The structures of all ISO and RTO tariffs as well as their filings rights are different.

In order to file shared tariffs today, parties with joint filing rights have to share information about the tariff, such as the current section numbering and sheet designations as well as the text of the provisions. Some ISOs and RTOs provide in their tariffs that the ISO/RTO is responsible for administering the Transmission Tariff.<sup>18</sup>

### **Commission's Response**

Electronic filing should provide parties with shared tariffs with greater opportunities to develop electronic filing methods that fit their respective tariff structure and filing rights: (1) parties in organized markets can develop or commission filing software to be shared among those with filing rights that imposes restrictions on filing rights as applicable under the individual ISO or RTO tariff; (2) ISOs and RTOs can agree to make all filings on behalf the members in order to maintain administrative control over the tariff; or (3) each of the respective parties with filing rights can continue to make individual filings as they do today by sharing certain relevant tariff and relevant metadata among the parties with shared rights.

Since the comments focus on the third option, individual filings by each company, the Commission will describe how such filings can be made securely. The party initiating the filing (Company A) would need to have an eRegistered party (Filer) log-on to make the filing. The Filer would have to know Company A's company registration number and password. In order to make such a filing, the ISO and RTO would have to share with Company A the company identifier and tariff identifier used in the XML schema for the ISO or RTO's tariff along with other required metadata for making the filing.<sup>19</sup>

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<sup>18</sup> See Midwest ISO Transmission Tariff, Appendix K, § F.

[http://mktweb.midwestiso.org/publish/Document/469a41\\_10a26fa6c1e\\_-6d790a48324a/TOA%20\(As%20Accepted%20on%2012-03-07%20EC07-89\).pdf?action=download&\\_property=Attachment](http://mktweb.midwestiso.org/publish/Document/469a41_10a26fa6c1e_-6d790a48324a/TOA%20(As%20Accepted%20on%2012-03-07%20EC07-89).pdf?action=download&_property=Attachment).

<sup>19</sup> The ISO or RTO, however, would not have to share its own company registration number or password.

Currently, for some ISOs and RTOs, when a transmission owner makes a section 205 filing to revise an ISO or RTO tariff, the ISO or RTO is notified only through service. In order to provide greater security and more immediate notification to the ISO or RTO, the Commission will provide an email to the ISO or RTO when the XML filing passes verification checks. Although the Commission has not experienced unauthorized filings to date through its paper or eFiling system, this notification will ensure that the ISO or RTO can detect immediately any potential unauthorized filing. Moreover, because the person making the filing will eRegistered and will be using the company registration number of the filer (Company A), the Commission will be able to easily identify who made the filing in case any questions are raised.

### **Section 206 Filings Related to ISOs/RTOs**

ISOs and RTOs sometimes have tariff or operating agreement provisions that require a certain percentage of stakeholder support for making FPA section 205 filings. As a result, if the requisite stakeholder approval is not obtained, ISOs and RTOs have retained rights to make filings pursuant to § 206 of the FPA, and may make a single filing under both section 205 and section 206.<sup>20</sup> In addition, transmission owners that are part of the RTO also may file complaints under FPA section 206 contending that the ISO or RTO tariff is unjust and unreasonable. In the comments included in the NAESB submission, a question was asked about the appropriate method of making such filings, in particular whether the section 206 filing should be made using the Commission's eFiling complaint mechanism, with the ISO or RTO filing through the eTariff to amend its tariff only if the Commission's ruling requires tariff changes.

### **Commission's Response**

For ISO or RTO transmission owners filing a complaint against the ISO or RTO, the Commission thinks the complaint should be filed pursuant to the standard complaint mechanism. While these transmission owners may have legal rights to make section 205 filings to change certain aspects of the ISO or RTO tariff, they do not have any different rights than any other party to file complaints under section 206. If the Commission agrees with the complainant, the ISO or RTO would then be directed to submit a compliance filing through the eTariff portal to make the required tariff changes.

However, the Commission proposes that the RTO or ISO making a filing to revise its own tariff pursuant to section 206 should make such a filing through the eTariff portal with the appropriate tariff revisions and XML metadata. Because such a filing relates to the ISO's or RTO's own tariff, and the ISO or RTO has a reserved a right to make such a § 206 filing, such a filing is more similar to a standard tariff filing by a utility as opposed to a complaint filing. In addition, since RTOs or ISOs may make a single filing in one proceeding under both sections

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<sup>20</sup> See, e.g., PJM Interconnection, LLC, 115 FERC ¶ 61,079 (2006).



205 and 206, it seems appropriate to have such a filing made using the standard eTariff mechanism.

**9. EXPLAIN ANY PAYMENTS OR GIFTS TO RESPONDENTS**

There are no payments or gifts to respondents in the proposed rule.

**10 and 11. DESCRIBE ANY ASSURANCE OF CONFIDENTIALITY PROVIDED TO RESPONDENTS & PROVIDE ADDITIONAL JUSTIFICATION FOR ANY QUESTIONS OF A SENSITIVE NATURE THAT ARE CONSIDERED PRIVATE**

Although most tariff filings do not contain confidential information, in some cases such information, including maps or other critical energy infrastructure information, may be included. The tariff filing submission process will abide with all applicable federal laws with regard to filing sensitive material with a government agency over the Internet. In cases in which confidential information is included, the filer will have to file the confidential information and a redacted version of the document. In addition, in cases where the confidential information is germane to a filing, the filer should have a protective order prepared that will permit parties to the case to review such information so they can knowledgeably participate in the proceeding.

**12. ESTIMATED BURDEN COLLECTION OF INFORMATION**

The Commission proposes to amend its regulations to require that all tariffs, tariff revisions and rate change applications for natural gas, oil pipeline and public utilities be filed electronically based on standards developed by the electric, gas, and oil industries through the NAESB process. During the NAESB process, the industries opted for the flexibility provided by the standards in place of using the filing software developed by the Commission. The standards provide companies with the ability to obtain software, or modify existing tariff maintenance software, that better integrates with their individual tariff maintenance and business needs. The public reporting and records retention burdens for the proposed reporting requirements and the records retention requirement are as follows.<sup>21</sup>

**Baseline Tariff – Hours**

Data Collection	Number of Respondents	Hours Per Tariff	Total Hours	Installation Hours	Total Install Hours	Total Hours
FERC-516						
Utilities	152	9	1368	16	2432	3800
Marketers	984	5	4920	16	7872	12792

<sup>21</sup> These burden estimates apply only to this NOPR and do not reflect upon all of FERC-516, FERC-545, FERC-549 or FERC-550.

Data Collection	Number of Respondents	Hours Per Tariff	Total Hours	Installation Hours	Total Install Hours	Total Hours
RTOs/ISOs	6	362	2172	24	144	2316
FERC -545						
Small Pipelines	96	7	672	16	1536	2208
Large Pipelines	60	18	1080	16	960	2040
NGPA	200	6	1200	16	3200	4400
FERC -550 Oil	200	9	1800	16	3200	5000
<b>Totals</b>			13212		19344	32556

Total Annual Hours for Collections: 32,556.

Traditionally the total estimated reporting burden per filing for tariffs has been as follows:

<b>Data Collection</b>	<b>No. of hours per filing</b>
FERC-516	183 hours per filing
FERC-545	52 hours per filing
FERC-549	5.8 hours per filing
FERC-550	10.9 hours per filing

### **13. ESTIMATE OF THE TOTAL ANNUAL COST BURDEN TO RESPONDENTS**

The use of the NAESB standards, in place of Commission distributed software, also provides an open framework for third-party software developers to develop filing applications or processes, which, by handling multiple parties' filings, may prove less expensive than the cost to each company of building its own system. Because cost estimates for such third party programs are not available, the following burden estimates reflect the cost to an individual company of obtaining software, including open access software, and programming time, that is sufficient to meet the requirements of the regulation, as well as the cost of making the required baseline filing. These costs are one-time compliance costs. Individual companies' costs may differ depending on their internal business needs and the features they need. In addition, the use of electronic filing will save the costs of making and serving paper filings on an ongoing basis due to savings in mail and messenger delivery and copying, and the Commission provides estimates of those savings below for one year.

The estimated costs to respondents related only to the data collection/requirements as proposed in the subject NOPR is as follows:

**Baseline Tariff – Costs**

Data Collection	Number of Respondents	Cost Per Tariff	Total Filing Cost	Software Purchase & Installation	Total Cost
FERC-516					
Utilities	152	\$211	\$32,027	\$1,690	\$256,880
Marketers <sup>22</sup>	984	\$109	\$107,448	\$845	\$831,480
RTOs/ISOs	6	\$8,345	\$50,072	\$2,450	\$14,700
FERC -545					
Small Pipelines	96	\$171	\$16,429	\$1,690	\$162,240
Large Pipelines	60	\$423	\$25,391	\$1,690	\$101,400
NGPA	200	\$132	\$26,484	\$1,690	\$338,000
FERC -550 Oil	200	\$206	\$41,152	\$1,690	\$338,000
<b>Totals</b>			\$299,003		\$2,042,700
<b>Combined Total</b>					\$2,341,703

The second component of the cost estimate is the impact on regulated entities after the proposed regulations go into effect. The Commission estimates that the costs associated with having to print, assemble and mail tariff filings to the Commission will be reduced by approximately \$2.9 million per year. This estimate does not include the additional cost savings that may result should the Commission grant requests of regulated entities to electronically provide service of their filings.

**Going Forward Costs Savings per Year**

<b>Going Forward Cost Savings Per Year</b>			
	<b>Total Number of Filings</b>	<b>Cost Per Filing</b>	<b>Total Cost</b>
Oil	689	\$110	\$75,790
Electric	4,445	\$406	\$1,804,670
Gas	2,548	\$406	\$1,034,488
<b>Total</b>			\$2,914,948

**14. ESTIMATED ANNUALIZED COST TO FEDERAL GOVERNMENT**

<sup>22</sup> The costs for marketers assumes that affiliated marketers will share a single installation.

The estimated annualized cost to the Federal government related only to the data collections/requirements as proposed in the subject NOPR are shown below:

Data Requirement of Data Number	Analysis (FTEs)#	Estimated Salary * Per Year	Total Cost One Year's Operation
FERC-516	6.0	\$126,384	\$ 758,304
FERC-545	4.0	\$126,384	\$ 505,536
FERC-549	1.0	\$126,384	\$ 126,384
FERC-550	<u>-3.0-</u>	<u>\$126,384</u>	<u>\$ 379,152</u>
Total	13.0	\$126,384	\$1,769,376

- "Salary" represents the allocated cost per program employee at the Commission based on its appropriated budget for fiscal year 2008. The \$126,384 "salary" consists of salaries and benefits.
- An "FTE" is a "Full Time Equivalent" employee that works the equivalent of 2,080 hours per year.

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

As was noted above, the Commission would keep prior to the advent of electronic filing, tariff books, and open to the public, in which new pages would be inserted to reflect revisions and ensure that the tariff reflects the currently effective tariff.<sup>23</sup> The provision of an electronic database of company tariffs will make such information available more efficiently and to a broader audience.

The database will provide easier access to tariffs and allow the viewing of proposed tariff sections in context. One of the principal benefits of such a database is the ability to do historical research into tariffs. For example, proceedings such as complaints may involve past tariff provisions that have already been revised by the utility by the time the complaint is considered by the Commission. In order to expeditiously process such filings, the Commission, the parties, and the public need to be able to obtain the tariff provision that apply to the time period under review, rather than the currently effective tariff provision.<sup>24</sup>

The Proposed rule will assist the Commission's efforts to comply with the Government Paperwork Elimination Act (GPEA) by developing the capability to file electronically with the Commission via the Internet with uniform formats using software that is readily available and

<sup>23</sup> In fact, companies themselves would often arrange to view those tariffs to try and recreate either effective tariffs or the tariff in effect during the time period of a particular proceeding.

<sup>24</sup> See *FPL Energy Marcus Hook, L.P. v. PJM Interconnection, LLC*, 118 FERC ¶ 61,169, at P 11, n.9 (2007) (parties litigated a complaint case based on a superseded tariff provision).

easy to use and also achieve the President's Management Agenda initiatives of expanding electronic government.

## 16. TIME SCHEDULE FOR PUBLICATION OF DATA

Each utility will be required to make a filing to establish its baseline tariffs. In the 2005 Notice, the Commission proposed to reduce the burden in making the baseline filing and limit such filings to tariffs of generally applicability. As applied to filings by electric utilities, the baseline filing would include open access transmission tariffs (OATTs), power sales tariffs available to any customer, and market-based rate tariffs. Individually negotiated rate schedules and agreements would not have to be included as part of the baseline filing. Interstate natural gas pipelines would have to file their existing Volume No. 1 tariffs, but would not have to file special rate schedules included in Volume No. 2 tariffs, or any existing negotiated rate or non-conforming service agreements. Intrastate pipelines would have to file their statement of operating conditions including their interstate service rates. Oil pipelines would need to file their tariff publications. Other pre-existing tariffs, rate schedules, and agreements do not need to be included in the baseline filing, although companies are free to include these agreements in their baseline filings, and the Commission would encourage them to do so.

After implementation, all new tariffs and rates schedules would have to be filed using the XML schema. Existing tariffs and rate schedules not included as part of the baseline filing would need to be filed electronically only when they are revised or amended.

The Commission recognizes that some of the pre-existing tariffs and rates schedules may not exist in electronic form. Companies having or electing to file such agreements do not need to retype the entire agreement. They may scan these agreements into PDF format and file them in that fashion as an entire document. Although not required, companies should run an optical character recognition program (OCR) to convert these scanned documents into text so that the text of the tariff can be searched and copied. The Commission recognizes that OCR may not work well on some older documents, but even if the OCR version is not filed as the tariff text, it should be included in the plain text field of the XML schema for search purposes.

While the Commission would like to move as quickly as possible to electronic tariff filing and the tariff database (and the Commission believes that industries also would like to take advantage of the ease of electronic filing and electronic service), the Commission recognizes that it needs to provide sufficient time for software development and testing to ensure that the filing of tariffs electronically has as few bugs as possible. As a general matter, the Commission envisions that compliance with the electronic filing should be able to begin **within six months to one year after the final rule is issued**, but the Commission will not propose a firm deadline or structure for compliance at this point.

## 17. DISPLAY OF EXPIRATION DATE

The data requirements under FERC-516, FERC-545, FERC-549 and FERC-550 are based on regulations and not filed on formatted/printed forms. Thus, the subject data requirements do not have currently an appropriate format to display an OMB expiration date. However, the Commission is posting an instruction manual for the proposed requirements for electronic filing of tariffs that will contain the appropriate OMB control nos. (Copy attached)

#### **18. EXCEPTIONS TO THE CERTIFICATION STATEMENT**

Not applicable. The information gathered under FERC-516, 545, 549 and FERC-550 is not used for statistical purposes.

#### **B. COLLECTION OF INFORMATION EMPLOYING STATISTICAL METHODS**

Not applicable. The Commission does not use statistical methodology when collecting the information concerning tariffs and related material.