

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

As Proposed In Docket No. RM01-5-000  
(Final Rule Issued September 19, 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. This Final Rule directs 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, 2011.

The subject data collections will be affected because the Commission is revising an earlier Notice of Proposed Rulemaking for electronic tariff filing. The revised regulations will 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 date of implementation of the 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.

The Final Rule will assist the Commission' efforts to comply with the Paperwork Reduction Act<sup>1</sup>, the Government Paperwork Elimination Act (GPEA)<sup>2</sup> and E-Government Act

<sup>1</sup> Pub. L. 104-13, 109 Stat. 163, (Oct. 1, 1995).

<sup>2</sup> Title XVII, Pub. L. 105-277, 112 Stat. 2681 (Oct. 21, 1998).

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of 2002<sup>3</sup> by developing the capability to file electronically with the Commission via the Internet with uniform formats using software that is readily available and easy to use. Expanding Electronic Government is one of the five key elements of the President's Management Agenda (PMA). The PMA proposed 24 "E-Government" initiatives including Government to Business (G2B). The goals of the G2B portfolio are to reduce burdens on business, provide one-stop access to information and enable digital communication using the language of e-business (XML). G2B also directs agencies to take advantage of commercial electronic transaction protocols.

We estimate that there will be an addition of a one-time filing requirement or 37,726 hours for information requirements/collections under FERC-516, FERC-545, FERC-549 and FERC-550 as proposed in the subject Final Rule (baseline tariff filing). After the final rule takes effect, the affected entities will be able to submit their tariff and other related material electronically, it is anticipated that the total burden under the above information collection requirements will be reduced by a minimum of 37,726 hours.

All of the changes in the subject Final Rule 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

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<sup>3</sup> Pub. L. 107-347, 116 Stat. 2899 (Dec. 17, 2002)

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tariff page or pages that are being revised. In 1996 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>4</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.

While some 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 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).<sup>5</sup> At the meeting, NAESB agreed to develop these standards and report back to the Commission.

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<sup>4</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).

<sup>5</sup>NAESB is an ANSI accredited standards developer, and employs XML protocols, as suggested in G2B. The deployment of more effective technology will help to streamline the many reporting requirements as well as facilitate a more efficient means for businesses to interact with the government.

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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, intrastate natural gas pipelines, and third party software developers who worked along with Commission staff to develop the applicable standards. Between February 1, 2007 and January 23, 2008, these committees held a total of 16 meetings in various cities over 24 days. Total attendance in all the meetings was 991 participants either in person or by electronic conferencing, with an average attendance of 62 people for each meeting.

The committees determined not to use the Commission developed software, but instead to develop standards that would enable individual companies to develop or procure software for making tariff filings that would best meet the needs of each company's business requirements. 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.

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

In a Supplemental Notice of Proposed Rulemaking issued on April 17, 2008 the Commission proposed 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 NAESB. These standards are to 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 to provide companies with the flexibility to design or purchase software for making tariff filings that best fits their business needs. Upon the implementation 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

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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 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.

### ***Subsequent Final Rule (2008)***

In a Final Rule issued September 19, 2008, FERC revised its regulations to require that all tariffs, tariff revisions and rate change applications for the public utility, natural gas pipeline and oil pipeline industries be filed according to a set of standards developed in conjunction with the North American Standards Board. The standards will assist in FERC's goal of establishing a robust electronic filing environment for tariffs and tariff related material and will make it possible for FERC staff and the public to retrieve this material from a data base. Adoption of these standards and protocols will provide each company with enhanced flexibility to develop software to better integrate tariff filings with their individual tariff maintenance and business needs. These standards and protocols will also provide an open platform permitting third-party software developers to create more efficient tariff filing and maintenance applications, which will spread the development costs over larger numbers of companies.

#### **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 Final Rule 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

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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 requiring in this Final Rule 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>6</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>7</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 schema will enable the Commission to parse<sup>8</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>9</sup> that will permit the Commission and the public to search that database.

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6 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).

7 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.

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

9 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.

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

This Final Rule 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 revising 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.

The Commission's current regulations require companies to file tariff sheets that include specifically defined nomenclature to identify each sheet of the tariff.<sup>10</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 allowing 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.

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<sup>10</sup> See 18 CFR 35.9; 154.102(e).

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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**

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



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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>11</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>12</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>13</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 schema will enable the Commission to parse<sup>14</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>15</sup> that will permit the Commission and the public to search that database.

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11 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.

12 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.)

13 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.

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

15 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.

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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 were 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>16</sup>

- Tariffs may be filed as entire documents in either of two electronic formats, RTF<sup>17</sup> or PDF<sup>18</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.
- 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.

Using the new XML schema, companies, and all those authorized to make filings on behalf of the company, such as outside counsel, will make tariff related filings using the existing eFiling portal. The eTariff portal will prompt the Filer to enter the company identification

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<sup>16</sup> Section-based filings will not have to include the sheet based nomenclature as a header or footer on the tariff page.

<sup>17</sup> RTF refers to Rich Text Format which is a standardized textual format that can be produced by a number of word processors.

<sup>18</sup> PDF refers to Portable Document Format which is a format used for representing documents that closely resembles the original formatting of the document.

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number assigned during the company registration process and an associated password. After successfully passing this step, the Filer will upload an eTariff XML filing package that conforms to the XML schema. Once the filing is uploaded, the eFiling web page will indicate the filing has been submitted.

Under the standards, the tariff filing must be made in conformance with the XML schema. The schema essentially is a method by which filing entities can communicate information to the Commission. The schema prescribes the metadata elements and the textual information that must be included in the filing package. The data elements included in the XML package are required to properly identify the nature of the tariff filing, organize the tariff database, and maintain the proper relationship of tariff provisions in relation to other provisions. The XML schema will be maintained on the Commission website along with the required codes, descriptions, and other requirements, as well as information that may be useful to those developing filing software.

**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 Final Rule will be applicable to all entities regulated by the Commission, a small number of which may be small businesses. This Final Rule applies to public utilities that own, control or operate interstate transmission facilities, natural gas companies and oil pipeline companies, the majority of which are not small businesses.<sup>19</sup> The Commission has identified

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<sup>19</sup> See 5 U.S.C. § 601(3), citing Section 3 of the Small Business Act, 15 U.S.C. § 623. Section 3 of the SBA defines a "small business concern" as a business which is independently owned and operated and which is not dominant in its field of operation. The Small Business Size Standards component of the North American Industry Classification System defines a small utility as a company including its affiliates that is primarily engaged in the generation, transmission, and/or distribution of electric energy for sale and whose total electric output for the preceding fiscal year did not exceed 4 million megawatt hours. A small natural gas company is defined as a company that transports natural gas and whose annual receipts (total income plus cost of good sold) did not exceed \$6.5 million for the previous year. A small oil pipeline

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that less than 2% of these entities qualify as small entities. The Commission finds that the regulations issued 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 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 Final Rule, 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 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 would 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.

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company is defined a company with 1,500 or less employees for the year.

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If FERC is 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 revised requirements will meet all of OMB's section 1320.5 requirements. Currently, the requirements would not have met section 1320.5(d) for data provided under FERC-516, FERC-545, FERC-549 and FERC-550 which all called 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 included 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) The current distribution of multiple hard copies of a filing has been essential so that the required technical reviews and analyses can proceed simultaneously and efficiently. However, once the final rule is implemented, the Commission will eliminate the submission of paper filings. The Commission is also standardizing 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 utilities, 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.

**XML Schema and Tariff Database**

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A few commenters objected to the use of the XML schema for electronic filing and argue that the Commission should simply rely on filings in eLibrary.<sup>20</sup> They argued that documents that are maintained in standard word processing formats and filing such tariffs through eLibrary would be easier on the filer. They asserted that any tracking of such filings could be accomplished by assigning a docket number. Nevada Power, for example, argued that managing tariffs is a document management, rather than a database function. It maintained that the ability to access prior tariffs can be solved by retaining all previous effective versions of the tariff.

Those arguing for an eLibrary approach envision that tariff documents would not be filed in individual sections, but as entire documents. But not all industry members supported this entire document approach.

### **Commission's Response**

FERC's eLibrary is principally a system that manages and tracks filed documents based on individual proceedings (dockets). It was neither designed, nor will it function well, to retrieve individual sections or pages of tariffs that are filed in different dockets over the course of many years. The tariff database, on the other hand, will enable the Commission staff, as well as the public, to access all or portions of a company's tariffs and rate schedules compiled using date, text, and status criteria.

The use of a database to track individual pages or sections of tariffs is not inappropriate to the task of managing tariffs, as the comments suggest. The Commission has for over twenty years maintained the FASTR database for gas tariff filings and has made the results of that database available to the public. The XML schema on which the industry agreed will update the FASTR methodology to provide an even more effective database for managing tariffs and conducting tariff searches.

The eLibrary approach was not supported by all industry members. The gas pipelines, for example, supported the continued use of sheet based filings in which utilities file only the specific tariff sheet that is being revised.<sup>21</sup> Other tariffs are so large that filing them as a single document would be unwieldy.<sup>22</sup> The flexibility to file tariffs using different approaches was

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20 Duke Energy, EEI, Nevada Power, Southern California Edison, and PSEG.

21 Minutes of February 1, 2007 eTariff Meeting, ("Ms. Nagle [Tennessee Gas Pipeline] asked whether FERC Staff supported using a section-based tariff system (in lieu of a sheet based system) and if so does everyone need to move to the section-based system"), <http://www.naesb.org/pdf2/etariff020107fm.doc>.

22 For example, PJM's posted tariff is over 8 megabytes. <http://www.pjm.com/documents/agreements.html>, and the California ISO's tariff is over 4 megabytes. ISO New England (<http://www.iso-ne.com/regulatory/tariff/index.html>) and the New York ISO (<http://www.nyiso.com/public/documents/tariffs/oatt.jsp>) post tariffs that already are divided into sections.

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essential to developing the NAESB standards, and the industry consensus supporting those standards.<sup>23</sup> The approach suggested by the commenters would not provide the flexibility the industry sought. The use of a database utilizing the NAESB standards provides that flexibility and is the most efficient method of processing such filings in a way that will permit the easy and efficient integration of such individual filings into an entire tariff.

As the Commission stated in the Final Rule, the development of standards requires cooperation and accommodation between companies with different needs and requirements. The NAESB process provided a means by which various members of the affected industries and customers, including those from the oil pipeline industry, could develop a set of standards that reasonably meet the needs of a large range of different types of tariff filers, large and small companies, frequent and infrequent tariff filers, companies using different methods of storing tariffs, including databases, word processing software, and spreadsheets. After examining a variety of alternative approaches over 24 days of meetings, a consensus of the gas and electric industry<sup>24</sup> agreed upon the use of the data elements and XML schema as the most efficient means for electronically filing tariffs.<sup>25</sup> The Commission is therefore adopting the database approach and standards as approved through the NAESB process.

### **Testing of Software**

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.

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23 Minutes of July 27, 2008 eTariff Meeting, at P 5 (“flexibility is present to support whole document filings, sheet based filings and section based filings. This flexibility is provided for individual companies and for the industries themselves, as a given company may choose to use any of the three choices depending on the filing to be made. This flexibility is a key underlining assumption from which all the work papers were developed and as such, was reflected in the vote just taken”), <http://www.naesb.org/pdf3/etariff072707fm.doc>.

24 Although the oil pipelines and their customers did not have an official vote during the NAESB process, they participated in formulating the requirements and have supported the data elements and XML schema in their comments in this rulemaking.

25 APS, an active participant in the beta testing of the Commission’s original software, as well as a participant in the NAESB process, recognized that the standards provide “a useable platform for industry compliance with the new standardized requirements for electronic filing of tariff, as well as a convenient tool for market participants and FERC staff to access and review tariffs and agreements ... [and this methodology] to be the superior choice to implement this Commission requirement.” APS Comment, at 2. AOPL similarly recognized that compromises were necessary to meet the needs of all the industries, stating the standards “reflect significant improvements to the proposed electronic filing regulations, in light of the particular circumstances and needs of the oil pipeline industry.” AOPL Comment, at 1.

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UNICON argued that the Commission's testing site should be permanent in the event the standards are revised. It also argued that the testing site should fully simulate FERC's live eTariff environment. It maintained that regulated companies could use this testing site to verify that the XML packages being submitted are valid and can be parsed by FERC's software and validate that the filing contents within the XML packages will be processed appropriately.

EI requested that the Commission post on its website all the required information necessary to implement the eTariff approach and place all information, including code values, into a single document.

### **Commission's Response**

The Commission is committed to providing as robust an electronic testing site as it is able, within resource and budgetary constraints. When, and if, the standards are revised the Commission recognizes that it may need to provide some additional testing, and depending on those budgetary constraints. The Commission will try to maintain the electronic testing platform even after the implementation date as companies may need to experiment with different types of filings. Because much of the processing of tariff filings received by the Commission will not be automatic, but dependant on the human interaction with software on the Commission's end, the Commission cannot commit to providing companies with a complete review of all test filings, including how these will be displayed on its web viewer. The Commission's staff is, and has been, committed to making this program a success. Commission staff will conduct, perhaps with NAESB, conferences on implementation issues and staff will continue to provide as much information on particular eTariff filing issues as their time permits.

Further, as the development process continues, the Commission thinks it will be useful to continue the dialog among FERC staff and the industries involved to help the industries better understand the use of the code values as well as to discuss issues that may arise regarding methods of implementing the standards. Commission staff will therefore hold technical conferences as needed during this process.

The Commission will provide on its web site all the information needed to implement eTariff in as user friendly a means as possible. Because the industries during the NAESB process requested it, the Commission has posted code values separately so that companies can download that information more efficiently. These technical issues can be discussed at the technical conferences, and the Commission will continue to try to post information in the manner that will be most useful to industry.



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### **Implementation Date for eTariff**

In the NOPR, the Commission proposed that compliance would begin within six months to one year after the Final Rule is issued.

Many of the commenters thought that six months was too short and requested implementation periods of one year or longer.<sup>26</sup> INGAA and AOPL urged the Commission not to set a firm implementation date, but rather focus on successful implementation.

### **Commission's Response**

In order to provide companies with sufficient time to develop and test software, the Commission will provide 18 months for implementation, until April 1, 2010, with a staggered implementation schedule for companies over the next six months. Staff and industry should work out the schedule for staggered implementation during the technical conferences.

### **Baseline Tariff Filings**

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

EI requested clarification as to whether a baseline filing or tariff filings by electric utilities would be limited to OATTs. First Energy requested that prior versions of the baseline tariffs will not need to be filed.

EI, Duke, and the CAISO requested that companies be allowed to include pending compliance filings (which have not yet been accepted) in their baseline filings. They maintain

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<sup>26</sup> EI, Duke, Nevada Power (proposed two years); ISO New England and TransCanada (proposed at least one year); UNICON (proposed 18 months); FirstEnergy (proposed 18-24 months).

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that the tariff text in compliance filings reflects Commission directives that the utilities are implementing and that if compliance filings are not included in the baseline filings; the baseline tariff as displayed by the Commission could be inaccurate.

### **Commission's Response**

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

The Commission recognizes that some of the pre-existing tariffs and rates schedules, such as older rate schedules and contracts, 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 or another image format and file them in that fashion as an entire document.<sup>27</sup> Although not required, companies are encouraged to run an optical character recognition program (OCR) to convert these scanned documents into a textual format so that the text of the tariff can be searched and copied.<sup>28</sup>

The baseline tariff filing is not a substantive tariff revision. The baseline filing, therefore, should reflect the existing accepted tariff provisions, with no proposed substantive changes or revisions. The baseline tariff filings will be subject to notice and comment solely to permit customers to ensure that the proposed baseline tariff is an accurate reflection of the effective tariff. No protests involving other issues, such as the merits of various sections of the tariff, will be considered. The Commission is also providing a one-time delegation of authority to the Director of OEMR to rule on protests.

If a regulated entity has a pending or suspended tariff change filing at the time of the filing of the baseline tariff, the regulated entity should not file these pending or suspended tariff sections as part of the baseline tariff filing. When the Commission acts on pending or suspended tariffs provisions, the companies will file the tariff provisions as a compliance filing through the eTariff portal for inclusion in the database.

As discussed in the Final Rule, in filing joint tariffs, utilities have the option of designating one utility as the designated filer, as opposed to each utility filing the identical tariff. For companies adopting the designated filer option, the designated filer will file the baseline

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<sup>27</sup> As is the current practice, utilities filing scanned documents can comply with the requirement to show only the effective tariff provisions by making handwritten edits or cutting and pasting provisions.

<sup>28</sup> The Commission recognizes that OCR may not work well on some older documents. But even if the OCR version is not sufficiently legible to be filed as the tariff text, a filer could include the OCR version in the plain text field of the XML schema, so that it can be used for search purposes.

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tariff; the non-designated utility will need to include in its baseline filing a tariff section that provides the appropriate name of the tariff and identifies the utility that is the designated filer for the joint tariff. Electric utilities need to include as part of their baseline tariff filings the following three types of documents: OATTs, power sales tariffs available to any customer, and market-based rate tariffs. Only the currently accepted versions of the baseline tariffs need to be filed; historic copies should not be filed.

Because eTariff is a database system with no existing records, the baseline tariff needs to reflect the tariff as accepted by the Commission. Any subsequent tariff changes, including previously filed compliance filings, need to be filed separately so that the system can appropriately record the status of such filings. To reduce the burden on parties making baseline filings, the Commission is limiting the baseline filing obligation only to the accepted tariff provisions. Pending tariff provisions in compliance filings will be added seriatim to the database as the Commission acts on a company's compliance filings. This will reduce the number of baseline filings companies are required to make.

However, the Commission will permit companies wishing to place pending compliance filings into the database during the baseline filing process to do so. But the Commission emphasizes that baseline filings of compliance provisions are not required; this is only an option available to those companies wishing to avail themselves of it. The details of including compliance provisions as part of the baseline filing process can be discussed with staff during the technical conferences.

## **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 is amending 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. As noted above, 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 reporting requirements are as follows.<sup>29</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	20	3040	4408
Marketers	984	5	4920	20	9840	14760
RTOs/ISOs	6	362	2172	28	168	2340
FERC -545						
Small Pipelines	106	7	742	20	2120	2862
Large Pipelines	62	18	1116	20	1240	2356
NGPA(FERC-549)	200	6	1200	20	4000	5200
FERC -550 Oil	200	9	1800	20	4000	5800
<b>Totals</b>			13318		24408	37726

Total Annual Hours for Collections: 37,726.

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

<sup>29</sup> These burden estimates apply only to this Final Rule and do not reflect upon all of FERC-516, FERC-545, FERC-549 or FERC-550. Therefore not all respondents in the total universe will be subject to the requirements spelled out in the final rule.

<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

Program Changes/Adjustments as a result of the final rule:

Data Collection	Program Changes	Adjustments
FERC-516	21,508	
FERC-545	5,218	70,110
FERC-549	5,900	
FERC-550	5,800	

### **Current OMB Inventory**

Data Collection	Respondents	Responses	Hours Per Resp.	Total Hours
FERC-516	1268	4464	98.3246	438,921
FERC-545	96	96	968.1979	92,947
FERC-549	222	222	8.8839	1,990
FERC-550	199	572	11	6,292

### **As Proposed by Final Rule**

Data Collection	Respondents	Responses	Hours Per Resp.	Total Hours
FERC-516	1,268	4464	103.1427	460,429
FERC-545	168	168	1001.639	168,275
FERC-549	224	224	32.0982	7,190
FERC-550	200	575	21.087	12,125

### **Comments on the NOPR's Burden Estimates**

INGAA, EEI, TransCanada, and Southern California Edison contend that the burden estimates used by the Commission in the NOPR are understated. As part of the NAESB process, a consensus of all the industries chose the flexibility provided by using the NAESB standards, and the use of XML protocols for business communication, in place of using filing software furnished by the Commission.<sup>30</sup>

<sup>30</sup> The President's Management Agenda (PMA) encourages the development of protocols that enable digital communication using XML protocols as the language of ebusiness. E-Government Strategy, at 8 (Executive Office of the

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The industries recognized that adopting such standards would entail the building or purchasing of software compatible with the XML protocols. By adopting these standards, companies opted for the enhanced flexibility to obtain software, or modify existing tariff maintenance software, in order to better integrate tariff filings with their individual tariff maintenance and business needs. The use of the NAESB standards, as opposed to the Commission distributed software, also provides an open framework for third-party software developers to develop filing and tariff maintenance applications or processes, which, by managing tariffs for multiple parties, will enable development costs to be spread over a large number of users. The industry consensus was that the flexibility offered by the standards outweighed the added costs of developing or purchasing software to implement the standards.

But this flexibility, and the likelihood that third-party providers will reduce the costs of constructing systems, makes computing burden estimates difficult, particularly given the difficulty in separating the costs of compliance from the other business functions provided by various software systems. INGAA contends that the costs for a tariff filing system should be in the range of \$20,000 per tariff, but TransCanada argues the costs for its system suggest a \$10,000 cost estimate.

EI maintained that companies will have multiple tariffs that need to be filed as baseline tariffs. EI also maintained that FERC has underestimated the time for legal review of certain data fields. EI suggested that the estimates leave out one-time costs for evaluating software, and training on new systems.

### **Commission's Response**

The Commission developed the burden estimates in the NOPR based only on the necessary costs of developing a bare-bones filing system that would enable a company to make a filing in compliance with the standards.<sup>31</sup> But the Commission fully recognizes that, while not strictly required by this Final Rule, companies making larger numbers of tariff filings will want to obtain a more robust software package that will provide various forms of tariff management and storage in addition to simply facilitating a tariff filing. Accordingly, the Commission has determined to revise its burden estimates to include the greater cost of obtaining more robust software.

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President, April 2003) (minimization of burden on business by ... using XML or other open standards to receive transmissions), [http://www.whitehouse.gov/omb/egov/2003egov\\_strat.pdf](http://www.whitehouse.gov/omb/egov/2003egov_strat.pdf).

31 The elements for such a system include a database program; an internet browser; an XML form generator, a Base64 converter; and a ZIP file converter, many of which can be obtained for free or at low cost. See [http://www.download.com/Base64-De-Encoder/3000-2248\\_4-10571789.html?tag=lst-1](http://www.download.com/Base64-De-Encoder/3000-2248_4-10571789.html?tag=lst-1) (freeware Base 64 converter); [http://www.altova.com/products/databasespy/database\\_tool.html](http://www.altova.com/products/databasespy/database_tool.html) (XML form generator); <https://shopm.winzip.com/cgi-bin/wzct1.cgi> (ZIP file generator). We also included time and cost for hiring a computer programmer.

To address EEI's concerns, the Commission limited the baseline filing for electric companies to OATTs, power sales tariffs available to any customer, and market-based rate tariffs. In addition, the Commission has included in these revised estimates additional time for legal review of the baseline tariff filings. Since the baseline filings consist only of already accepted tariff sheets, such legal review should not be significant. For ongoing tariff filings, this rulemaking does not entail additional legal review, since attorneys generally already review the substantive tariff and attachment data contained in such filings and the metadata fields are not substantive. With respect to evaluation and training, the Commission recognizes that it did overlook such costs, and the estimates have been revised to add additional hours for evaluation and training of relevant personnel.

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

The following cost burden estimates reflect the cost to an individual company of obtaining software sufficient to meet the requirements of the regulation, as well as the cost of making the required baseline filing. Investment in electronic filing will reduce filing costs over time. Therefore, the Commission included an estimate of the cost savings per year due to the savings in mail, messenger delivery, and copying. 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 Final Rule are as follows\*:

**Baseline Tariff – Costs**

Data Collection	Number of Respondents	Cost Per Tariff	Total Filing Cost	Software Purchase & Installation	Total Cost Purchase & Installation
FERC-516					
Utilities	152	\$211	\$32,072	\$10,000	\$1,520,000
Marketers <sup>32</sup>	984	\$109	\$107,256	\$1,035	\$1,018,440
RTOs/ISOs	6	\$8,345	\$50,070	\$10,000	\$60,000
FERC -545					
Small Pipelines	106	\$171	\$18,126	\$2,070	\$219,420
Large Pipelines	62	\$423	\$26,226	\$10,000	\$620,000
NGPA(FERC-549)	200	\$132	\$26,400	\$2,070	\$414,000
FERC -550 Oil	200	\$206	\$41,200	\$10,000	\$2,000,000
<b>Totals</b>			\$301,350		\$5,851,860
<b>Combined Total</b>					\$6,153,210

\*Cost figures in OMB’s inventory reflect cumulative estimates.

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 Annum</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>32</sup> The costs for marketers assume that affiliated marketers will share a single installation.



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

Data Requirement 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.

Cost figures identified below are cumulative estimates.

Data Collection	Previous Federal	Final Rule Cost	Total/New
FERC-516	\$1,055,889	\$758,304	\$1,814,193
FERC-545	\$789,369	\$505,536	\$1,294,905
FERC-549	\$225,534	\$126,384	\$ 351,918
FERC-550	\$760,734	\$379,152	\$1,139,886

#### 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>33</sup> The provision of an electronic database of company tariffs will make such information available more efficiently and to a broader audience.

<sup>33</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.

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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>34</sup>

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

#### **16. TIME SCHEDULE FOR PUBLICATION OF DATA**

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.

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.

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<sup>34</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).

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.

#### **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.