

Supporting Statement for
FERC Form 1 "Annual Report for Major Electric Utilities, Licensees and Others";
FERC Form 1-F "Annual Report of Nonmajor Natural Gas Companies" and
FERC Form 3-Q "Quarterly Financial Report of Electric Utilities Licensees,
and Natural Gas Companies";

As Proposed in Docket No. RM08-5-000
(Final Rule, issued September 19, 2008)

The Federal Energy Regulatory Commission (Commission or FERC) requests Office of Management and Budget (OMB) review and approval of **FERC Form 1; FERC Form 1-F and FERC Form 3Q**. These information collections are current data requirements with modifications as proposed in Docket No. RM08-5-000 "Revisions to Forms, Statements and Reporting Requirements for Electric Utilities¹," the Commission's Final Rule issued September 19, 2008.

In the Final Rule, the Federal Energy Regulatory Commission (Commission or FERC) is amending its financial forms, statements, and reports for electric utilities and licensees, contained in FERC Form Nos. 1, 1-F and 3-Q. The Commission is making these revisions to ensure that the Commission and the public have sufficient information to assess the justness and reasonableness of public utility rates.

Background

On September 20, 2007, the Commission issued a Notice of Proposed Rulemaking (NOPR) in Docket No. RM07-9-000 regarding "**Revisions to Forms, Statements and Reporting Requirements for Natural Gas Companies.**" The purpose of that proposed rule was to improve the forms, reports and statements to provide, in greater detail, the information the Commission needs to carry out its responsibilities under the Natural Gas Act (NGA) to ensure that rates are just and reasonable, and to provide pipeline customers, state commissions, and the public the information they need to assess the justness and reasonableness of pipeline rates.

The NOPR was created in response to a Commission initiated staff review of Forms 1, 1-F, 2, 2-A, and 3-Q data in the fall of 2006. As part of this review, staff met with both filers and users of annual and quarterly reports for the purpose of reexamining the breadth of data collected by the forms and to determine the need for additional information, deletions, or other clarifications. Thereafter, on February 15, 2007, the Commission issued a Notice of Inquiry

1 Form 1 has OMB approval number 1902-0021; Form 1-F has OMB approval number 1902-0029; Form 3-Q has OMB approval number 1902-0205, and all have the expiration date of 2/28/09.

(NOI).²

After reviewing the comments, the Commission determined that each of the forms, representing different industries subject to the Commission's jurisdiction, merited its own separate review. Accordingly the NOPR issued on September 20, 2007, addressed only changes, additions, and amendments to the forms applicable to interstate natural gas companies.

The subject of this docket RM08-5-000 is a Final Rule that focuses on the Form 1, Form 1-F, and Form 3-Q.³

Since its inception, Form 1 has been amended by the Commission on numerous occasions to address and keep pace with the transformation of the electric industry. In Order No. 529, issued in 1990, the Commission modified Form 1 to improve reporting of bulk power transactions.⁴ In 1993, in Order No. 552, the Commission revised the Uniform System of Accounts (USofA) to account for allowances under the 1990 Clean Air Act Amendments, and adopted corresponding reporting schedules for Form 1.⁵

In 2002, the Commission issued Order No. 626 which required electronic filing of Form 1 beginning with the Form 1 filed for 2002.⁶ In the same year, the Commission amended the

² Assessment of Information Requirements for FERC Financial Forms, Notice of Inquiry, 72 Fed. Reg. 8316 (February 26, 2007), FERC Stats. & Regs. ¶ 35,554 (2007). While the outreach meetings addressed only Forms 1 and 2, the NOI invited comments from filers and users of Form 6 and 6-Q as well.

³ A major electric utility is one that had, in the last three consecutive years, sales or transmission services that exceeded (1) one million megawatt-hours of total sales; (2) 100 megawatt-hours of sales for resale; (3) 500 megawatt-hours of power exchanges delivered; or (4) 500 megawatt-hours if wheeling for others. Utilities and licensees that are not classified as major and had total sales in each of the last three consecutive years of 10,000 megawatt-hours or more are classified as Nonmajor. See 18 CFR Part 101.

⁴ Amendments to FERC Form Nos. 1 and 1-F, and Annual Charges, and Fuel Cost and Purchased Economic Power Adjustment Clauses, Order No. 529, 55 FR 47311, FERC Stats. & Regs. ¶ 30,904 (1990).

⁵ Revisions to Uniform System of Accounts to Account for Allowances under the Clean Air Act Amendments of 1990 and Regulatory-Created Assets and Liabilities and to Form Nos. 1, 1-F, 2 and 2-A, Order No. 552, 58 FR 17982, FERC Stats. & Regs. ¶ 30,967 (1993).

⁶ Electronic Filing of FERC Form No. 1, and Elimination of Certain Designated Schedules in Form Nos. 1 and 1-F, Order No. 626, 67 FR 36093, FERC Stats. & Regs. ¶ 31,130 (2002).

USofA to establish accounting requirements to recognize changes in the fair value of certain security investments, derivative instruments, and hedging activities, and added new schedules and accounts to Form 1.⁷

In Order No. 646, the Commission added the requirement of quarterly reporting for entities that filed Forms 1 and 1-F, and updated annual reporting requirements to add new schedules on ancillary services and electric transmission peak loads.⁸ In 2005, in Order No. 668, the Commission amended its regulations to update the accounting requirements for public utilities and licensees, including independent system operators (ISOs) and regional transmission organizations (RTOs).⁹ The Commission also revised its USofA with corresponding changes to Form 1 to accommodate the restructuring changes that occurred in the electric industry as a result of open-access transmission service and increasing competition in wholesale bulk power markets.¹⁰

Notice of Proposed Rulemaking (Docket No. RM08-5-000)

On January 18, 2008, the Commission issued a Notice of Proposed Rulemaking (NOPR) that proposed to revise the Form 1 (and Forms 1-F and 3-Q) and requested comments on several issues, including: (1) differences between Form 1 data and costs that are reflected in formula rate inputs, (2) the non-jurisdictional utility requirements and revising the Form 1-F reporting threshold for nonmajor utilities, (3) reporting for affiliate transactions, (4) filers whose reporting and accounting systems are based on a non-calendar fiscal year, (5) reporting for “Other Revenues,” and (6) the minimum threshold reporting levels for certain line-item information.¹¹ In addition, the NOPR proposed two non-form related rule changes, concerning notification of non-filing status and grants of extension of time for good cause. The NOPR also invited

⁷ Accounting and Reporting of Financial Instruments, Comprehensive Income, Derivatives and Hedging Activities, Order No. 627, 67 FR 70006, FERC Stats. & Regs. ¶ 31,134 (2002).

⁸ Quarterly Financial Reporting and Revisions to the Annual Reports, Order No. 646, FERC Stats. & Regs. ¶ 31,158, order on reh’g, Order No. 646-A, FERC Stats. & Regs. ¶ 31,163 (2004).

⁹ Accounting and Financial Reporting for Public Utilities Including RTOs, Order No. 668, FERC Stats. & Regs. ¶ 31,199 (2005), reh’g denied, Order No. 668-A, FERC Stats. & Regs. ¶ 31,215 (2006).

¹⁰ Id.

¹¹ Revisions to Forms, Statements, and Reporting Requirements for Electric Utilities and Licensees, Notice of Proposed Rulemaking, 73 FR 5136 (Jan. 29, 2008), FERC Stats. & Regs. ¶ 32,627 (Jan. 18, 2008) (NOPR).

comments on software updates, revisions to the filing instructions, requests for additional information for particular accounts or schedules, and suggestions to improve the quality, completeness and consistency of data submissions.¹²

All of the proposed changes in the NOPR are provided for under sections 304, 307 and 309 of the Federal Power Act (FPA).¹³ The Commission estimated that the annual report burden related to the proposed rule will be increased by an additional 14 hours per entity for a total of 2,837 hours under FERC Form Nos. 1, 1-F, , Form 3Q.

Final Rule (Docket No. RM08-5-000)

On September 19, 2008 the Commission issued a Final Rule amending its reporting requirements for public utilities and licensees to file financial forms, reports, and statements, including FERC Form No. 1, FERC Form No. 1-F, and FERC Form No. 3-Q. These changes are to improve the forms, reports and statements to provide, in fuller detail, the information the Commission needs to carry out its responsibilities under the Federal Power Act to ensure that rates remain just and reasonable. In addition, the changes will help provide public utility customers, state commissions, and the public information to assess the justness and reasonableness of electric rates.

Specifically, the Final Rule adopts revised reporting requirements which will enhance the Commission's and customers' review of formula rates; permit better understanding of non-power goods and services transactions with affiliates, and provide additional detail of revenues not previously specified in Form 1. In addition, the Final Rule will expedite reporting by clarifying Form 1 instructions and cross-references and making certain technical improvements in the form. Finally, the Final Rule responds to the burdens faced by filers by adopting minimum reporting thresholds for certain accounting data, eliminating the reporting requirement for certain utilities that are not otherwise subject to this Commission's reporting obligations or jurisdiction, and accommodating filers whose fiscal year does not fall in the calendar year that is used for reporting purposes.

A. Justification

¹² These proposals were listed in an appendix to the NOPR, which is updated in the Final Rule along with the Commission's responses and provided in Appendix B...

¹³ 16 U.S.C. 825a, 825f, 825h, 825j.

1. CIRCUMSTANCES THAT MAKE THE COLLECTION OF INFORMATION NECESSARY

Form 1 & Form 1-F In accordance with sections 304 and 309 of the Federal Power Act, FERC is authorized to collect and record data to the extent it considers necessary, and to prescribe rules and regulations concerning accounts, records and memoranda. The Commission may prescribe a system of accounts for jurisdictional companies and after notice and an opportunity for hearing may determine the accounts in which particular outlays and receipts will be entered, charged or credited. The Form No. 1 is a comprehensive financial and operating report submitted for Electric Rate regulation and financial audits. Major is defined as having (1) one million Megawatt hours or more; (2) 100 megawatt hours of annual sales for resale; (3) 500 megawatt hours of annual power exchange delivered; or (4) 500 megawatt hours of annual wheeling for others (deliveries plus losses). FERC Forms 1-F is designed to collect financial and operational information from nonmajor public utilities and licensees. The Commission collects Form Nos. 1 and 1-F information as prescribed in 18 CFR 141.1 and 141.2.

Form 3Q "Quarterly Financial Report of Electric Utilities, Licensees, and Natural Gas Companies," requires companies to file with the Commission a complete set of quarterly financial statements. Most of the information contained in these forms is the same information currently submitted on an annual basis.

Quarterly reporting of financial information permits the Commission to better understand trends and other factors that may affect an entity's liquidity position, its commitments of capital expenditures, and its sources of financing, along with changes in the amount of assets, liabilities, debt and equity used in its business. Transparent accountings and more frequent financial reporting play an important role in achieving vigilant oversight of market participants. More frequent financial reporting provides needed insight into the opportunities and risks facing the energy industry as the Commission considers and assesses the affects of its regulatory initiatives. The Commission shares the view that quarterly reporting enhances its overall decision making process by providing more timely, useful and relevant data to the decision making process. The Commission collects Form Nos. 3Q information as prescribed in 18 CFR 260.300.

Under the existing regulations FERC jurisdictional entities subject to its Uniform System of Accounts must annually (quarterly for the 3-Q), file with the Commission a complete set of financial statements, along with other selected financial and non financial data through the submission of FERC Annual Report Forms 1, 1-F, and 3-Q. The FERC Annual/Quarterly Report Forms provide the Commission, as well as others, with an informative picture of the jurisdictional entities financial condition along with other relevant data that is used by the Commission, as well as others, in making economic judgments about the entity or its industry.

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

These forms provide information concerning a company's past performance and its future prospects, information compiled using a standard chart of accounts contained in the Commission's Uniform System of Accounts (USofA).¹⁴ The forms contain schedules which include a basic set of financial statements: Comparative Balance Sheet, Statement of Income and Retained Earnings, Statement of Cash Flows, and the Statement of Comprehensive Income and Hedging Activities. Supporting schedules containing supplementary information are filed, including revenues and the related quantities of products sold or transported; account balances for various operating and maintenance expenses; selected plant cost data; and other information.

The information collected in the forms is used by Commission staff, state regulatory agencies and others in the review of the financial condition of regulated companies. The information is also used in various rate proceedings, industry analyses and in the Commission's audit programs and as appropriate, for the computation of annual charges based on certain schedules contained on the forms. The Commission provides the information to the public, intervenors and all interested parties to assist in the proceedings before the Commission.

Additionally, the uniformity of information helps to present accurately the entity's financial condition and produces comprehensive data related to the entity's financial history helping to act as a guide for future action. The uniformity provided by the Commission's chart of accounts and related accounting instructions permits comparability and financial statement analysis of data provided by jurisdictional entities. Comparability of data and financial statement analysis for a particular entity from one period to the next, or between entities, within the same industry, would be difficult to achieve if each company maintained its own accounting records using dissimilar accounting methods and classifications to record similar transactions and events.

As stated earlier, the Form 1 is not a substitute for a rate case filing nor is the data intended to project what might happen in future years; rather the data must provide enough detail to enable the form's users to monitor and assess a utility's rates. For example, many transmission owners operate under formula rates that are reset each year. The annual rate adjustment may not initiate a rate proceeding and the customer's recourse, if it believes the resulting rates are unjust and unreasonable, is to file a complaint under section 206 of the FPA. While the Form 1 in particular is not intended to provide all of the information that would be available in a rate case, customers nevertheless need sufficient information to enable them to perform a preliminary rate assessment and to determine whether, under the circumstances, a complaint may be warranted, and the Form 1 needs to provide that information.

¹⁴ See 18 CFR Part 201.

The FERC Annual Report Forms provide the Commission, as well as others, with an informative picture of the jurisdictional entities' financial condition along with other relevant data that is used by the Commission in making economic judgements about the entity or its industry. For financial information to be useful to the Commission, it must be understandable, relevant, reliable and timely. As financial reporting has evolved over the years, users of financial information have been willing to forgo some precision in reliability for the ability to obtain the information on more timely intervals, such as quarterly reporting.

The revisions in the Final Rule are as follows:

- adopt the NOPR's proposal that Form 1 filers should provide explanatory information when formula rate inputs differ from Form 1 reported amounts.¹⁵ That is, the Form 1 is revised to require that, if the formula rate relies on Form 1 data and if the input amounts to that formula rate differ from what is shown in the Form 1, the filer must provide a narrative explaining the reason for the difference (when formula rates do not have informational filings and must be regularly submitted to the Commission). The explanation must be provided in a footnote on the same page, line and column where the specific data is reported.
- remove the term "whether or not the jurisdiction of the Commission is otherwise involved" from §§ 141.1(b) and 141.400(b), which establish the filing requirements for Form 1 and Form 3-Q, respectively. With this change, companies that are not subject to the Commission's jurisdiction because they are not public utilities (or licensees) and need no longer file Form 1 or 3-Q. If a company is concerned that it may still fall within the revised requirements of §§ 141.1(b) or 141.400(b), but nevertheless should be exempted from filing Forms 1 and 3-Q, the company may continue to seek an individual waiver from the Commission.
- adopt the NOPR proposal and incorporate new page 429, Transactions with Associated (Affiliated) Companies. Consistent with the reporting threshold established in Order No. 710, the schedule instructions incorporate a \$250,000 threshold for reporting individual transactions.
- adopt the NOPR proposal to revise § 41.11 to accommodate filing parties who follow accounting and reporting practices under which their fiscal year does not match the calendar year. Companies seeking waiver of the calendar-year independent accountant certification requirement must request authority to file the independent accountant

¹⁵ Other than comprehensive formula rates, the Commission's regulations provide for automatic adjustment of only those costs specified in section 35.14 of the Commission's regulations (fuel adjustment clause). See Public Service Company of Oklahoma, 40 FERC ¶ 61,215, at 61,733 (1987).

certification based on their fiscal year information. Once the request is granted, however, the Commission will not require the company to annually renew the request. Instead, the company must annually notify the Commission in writing at the time that it files its initial annual report that it will continue to file the certification based on fiscal year information (or is returning to a calendar year reporting). The certification for fiscal year companies must be filed no later than 150 days after the end of their fiscal year which is a period comparable to calendar year filers.

- adopt the NOPR proposals to revise the instructions on pages 300 and 301. Several commenters requested clarifications to the scope of the additional reporting requirement for Other Revenues. In response, the Commission clarifies that a filing company is to provide in a footnote information on “any revenues” not otherwise specified in the breakdowns of Other Revenues provided on page 300 or on pages 328-330.¹⁶

In summary, without this information the Commission will not be able to respond and make decisions in a timely manner particularly to rapidly changing financial conditions of entities subject to its jurisdiction.

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

The Commission has made available to all Form 1, Form 3-Q, (also Forms 2, 2-A and Form 6 respondents), a web-based, Windows submission software necessary to file electronically through a doorway found on the FERC web site at <http://www.ferc.gov/docs-filing/eforms/form-1/elec-subm-soft.asp> and <http://www.ferc.gov/docs-filing/eforms.asp#3Q-elec> . Presently, all respondents (with the exception of Form 1-F) are using this software and doorway access.

¹⁶ Page 300 already tracks various specific sources of other revenue, including Forfeited Discounts (account 450), Sales of Water and Water Power (account 453), Rent from Electric Property (account 454), Interdepartmental Rents (account 455), Revenues from Transmission of Electricity of Others (account 456.1) and Regional Control Service Revenues (account 457.1). These accounts are not subject to the additional reporting requirement (or the \$250,000 reporting threshold). Page 300 also incorporates three general accounts, Miscellaneous Service Revenues (account 451), Other Electric Revenues (account 456), and Miscellaneous Revenues (account 457.2).

The Commission has adopted user friendly electronic filing formats and software to facilitate these required formats and software in order to generate the required electronic filings. (See 18 CFR section 385.2011 of the Commission's regulations.)

To improve access to FERC-held financial information, the Commission has made it easier for users to electronically access financial information filed with the Commission. The Commission has also worked with the Securities and Exchange Commission in an effort to establish web links between the two agencies respective web home pages so that all users can access FERC-held financial information in a timely and efficient manner.

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

The Commission's 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. The Commission's staff is continuously reviewing its various filings in an effort to alleviate duplication.

While some jurisdictional entities may file similar information with the Securities and Exchange Commission (SEC), the level of detail concerning assets, liabilities, stockholders' equity along with the revenues, expenses, gains and losses is different for the Commission and the SEC. The financial statements filed with the SEC are on a consolidated, or parent company basis. The Commission notes that a majority of the jurisdictional entities that it regulates file financial information with the SEC that consolidates their assets, liabilities and profits with their parent company, or combine the regulated and unregulated operations in the reports to the SEC. While consolidation is appropriate for SEC reporting, the Commission requires more detailed information concerning the results of operations, and the financial position of each jurisdictional entity in order to meet its regulatory needs. Therefore, the Commission has required jurisdictional entities to file financial information on a jurisdictional entity level basis using a uniform system of accounts.

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

The Commission believes that the reporting requirements contained in the final rule will not create significant burdens to industry. The Commission believes that the benefits of greater transparency and understandability of financial statements to both the Commission and the public far outweigh the costs to an individual company. As the Commission noted above, most

of the information requested is data that is maintained by the electric utility and can be transferred to existing and new schedules. The Commission finds that the burden should be minimal. It is standard practice for companies to compile and summarize accounting transactions on a monthly basis, or even more frequently depending on the operational need for selected data. Therefore, the information needed to compile quarterly financial statements is readily available. However, if the reporting requirements represent an undue burden on small businesses, the affected entity may seek a waiver of the disclosure requirements from the Commission. The Commission believes that the information specified in the proposed rule is the minimum necessary to provide a meaningful review of financial conditions and would impose the least possible burden on entities.

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

The proposed data requirements, as adopted in the final rule will require changes to existing Form Nos. 1, 1-F and 3Q which are required by the Commission to be submitted annually and in the case of the 3Q quarterly. Annual reporting is consistent with the reporting to the companies' own management, the Internal Revenue Service, state and other Federal agencies' (including Office of Management and Budget) (OMB) requirements. Likewise, the reporting requirements for quarterly reports are consistent with and compatible to the reporting of companies to their own management as discussed in this submission. OMB's guidelines also states at 5 CFR 1320.5(d)(2)(1) call for agencies to require respondents report information no less than quarterly and the proposed requirements meet that guideline. Further, Section 304(a) of the Federal Power Act (16 U.S.C. 825(c)) states the following:

“Every licensee and every public utility shall file with the Commission such annual and other periodic or special reports as the Commission may by rules and regulations or order prescribe as necessary or appropriate to assist the Commission in the proper administration of this Act. The Commission may prescribe the manner and form in which such reports shall be made, and require from such persons specific answers to all questions upon which the Commission may need information. The Commission may require that such reports shall include, among other things, full information as to assets and liabilities, capitalization, net investment, and reduction thereof, gross receipts, interest due and paid, depreciation, and other reserves, cost of project and other facilities, cost of maintenance and operation of the project and other facilities, cost of renewals and replacement of the project works and other facilities, depreciation, generation,

transmission, distribution delivery, use, and sale of electric energy. The Commission may require any such person to make adequate provision for currently determining such costs and other facts. Such reports shall be made under oath unless the Commission otherwise specifies.”

Therefore the Commission is meeting its statutory obligations as well as implementing a reporting frequency that coincides with industry business practices and OMB guidelines as noted above.

7. EXPLAIN ANY SPECIAL CIRCUMSTANCES RELATING TO THE INFORMATION COLLECTION

The requirements as adopted meet all of OMB's section 1320.5 requirements.

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 a rulemaking notice be published in the Federal Register, thereby allowing all jurisdictional entities, 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.

In response to the NOPR, the Commission received 13 timely comments, one motion to submit comments out-of-time, and one set of reply comments.¹⁷

No comments were filed objecting to the NOPR's proposals concerning (i) accommodating filers whose books close on a non-calendar fiscal year, (ii) filing notifications of changes to non-filing status, (iii) adopting a good cause requirement for reviewing requests for extension of time, and (iv) providing for separate reporting of emissions allowances, such as nitrogen oxide (NOx) and sulfur dioxide (SO₂). In fact, comments were received supporting several of these proposals, including the non-calendar year accommodation and emission allowances. Therefore, the Commission is adopting these NOPR proposals in the Final Rule.

¹⁷ A list of commenters is attached as Appendix C in the Final Rule.

Where the Commission received comments on specific issues it has identified those issues and the Commission's responses below.

Effective Date

The NOPR proposed calendar year 2009 as the effective date to implement these changes to the reporting requirements, stating:

Accordingly, companies subject to the new requirements would file their new Form 3-Qs beginning with the Form 3-Q for the first calendar quarter of 2009 and their new Forms 1 and 1-F in April 2010 for calendar year 2009.

The Commission believes that this effective date provides sufficient time for filing companies to collect the information needed to fulfill the reporting obligations proposed in the NOPR and adopted in the Final Rule. Because the changes adopted in the Final Rule are limited in scope, filers have sufficient opportunity to make the necessary changes to their reporting systems to capture the necessary data in the detail needed to complete the new requirements contained in this Final Rule. This proposed effective date thus provides an adequate time for utilities to revise their information collection procedures, and filers will have several additional months before the first reporting deadline to implement the changes needed because the first report due is the Form 3-Q, a quarterly report, due in May 2009.

Retaining Form 3-Q

In the NOPR, the Commission rejected requests that it eliminate Form 3-Q as being unnecessary. The Commission believes that the quarterly reports are important because they allow more timely evaluations of existing rates and improve the transparency and currency of financial information.

AEP, EEI, and Nevada Companies suggested that the Commission reconsider whether the burden of completing the Form 3-Q is warranted when compared to the limited value of data it provides.

Commission's Response

The Commission declines to adopt this change for the reasons it stated in the NOPR:¹⁸

18 NOPR at P 61.

The Commission believes that the increased frequency of financial information provided in Form 3-Q is important. The quarterly reports allow for timelier evaluations of existing rates and improve the transparency and currency of financial information submitted to the Commission.

Increases to Threshold Reporting Levels

The NOPR proposed to increase certain threshold levels for reporting specific cost items and invited comment. Specifically, the NOPR proposed to increase the threshold reporting levels for (i) page 216 (Construction Work in Progress) to \$1 million, (ii) pages 232, 233 and 278 (Other Regulatory Assets, Miscellaneous Deferred Debits and Other Regulatory Liabilities) to group items featuring an aggregate outstanding balance of \$100,000 or less, (iii) page 269 (Other Deferred Credits) to \$100,000, and (iv) pages 352 and 353 (Research and Development) to \$50,000.¹⁹

Several commenters supported the proposals to increase the threshold reporting levels.²⁰ BPA, however, stated that Form 1 should contain more information and detail rather than less and that no accounts or level of detail should be removed from the current Form 1 requirements. Duke and Nevada Companies each proposed alternative thresholds as detailed in the following table.

	Page No.	Title of Schedule	NOPR Proposal	Duke	Nevada Companies
1	216	Construction Work in Progress-Electric (Account 107)	\$1,000,000 or less may be grouped	Graduated scale based on total assets base	Report projects \$10,000,000 or more
2	232	Other Regulatory Assets (Account 182.3)	Amounts less than \$100,000 may be grouped by classes	\$1,000,000, or a graduated scale based on total asset base	\$1,000,000
3	233	Miscellaneous Deferred Debits (Account 186)	Amounts less than \$100,000 may be grouped by classes	\$1,000,000, or a graduated scale based on total asset base	\$1,000,000
4	269	Other Deferred Credits (Account 253)	Amounts less than \$100,000 may be grouped by classes	\$1,000,000, or a graduated scale based on total asset base	\$100,000
5	278	Other Regulatory Liabilities (Account 254)	Amounts less than \$100,000 may be grouped by classes	\$1,000,000, or a graduated scale based on total asset base	\$1,000,000
6	353	Research, Development,	Group items under	Graduated scale	n.a.

¹⁹ NOPR at P 60.

²⁰ See AEP, EEI, and FirstEnergy comments.

	and Demonstration Activities	\$50,000	based on total asset base	
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Commission’s Response

The Commission is not persuaded to adopt the alternate thresholds or graduated reporting requirements proposed by some of the commenters. The Commission believes that its proposed thresholds are reasonable and not unduly burdensome. The thresholds balance the burden on utilities, and, in fact, in raising the thresholds, lessen the burden while continuing to provide meaningful data to this Commission, state commissions, and customers that wish to review a utility’s rates. Furthermore, the uniformity of the reporting requirement helps ensure that comparable data is available for all major utilities. Therefore, the Commission is adopting the revised reporting thresholds proposed in the NOPR²¹ and rejects the alternative threshold reporting levels and proposals for graduated reporting requirements.

9. EXPLAIN ANY PAYMENTS OR GIFTS TO RESPONDENTS

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

10. DESCRIBE ANY ASSURANCE OF CONFIDENTIALITY PROVIDED TO RESPONDENTS

The Commission considers both its annual and quarterly reporting systems to be public information and, therefore, generally not confidential. The benefits of a standardized and uniform accounting system would not be realized if the financial information once compiled were withheld from public view. To ensure that these benefits are realized, and to provide transparency of economic consequences to all affected interests, the Commission has prescribed a program of periodic financial reporting that makes financial and non-financial information publicly available to all interested parties.

However, the Commission will entertain specific requests for confidential treatment to the extent permitted by law pursuant to 18 C.F.R. § 388.112.

21 Filers that use Form 1 to meet more specific reporting requirements for incentive rate treatment for construction work in progress (CWIP) or other costs must continue to meet the obligations arising with the approval of such incentive rates, despite these thresholds. *Cf., e.g., Potomac-Appalachian Transmission Highline, L.L.C.*, 122 FERC ¶ 61,188, at P 155-56 (2008); *Trans-Allegheny Interstate Line Co.*, 119 FERC ¶61,219, at P 45 (2007) (requiring reporting of financial details in Form 1 footnotes as condition of approval for CWIP rate incentive).

In response to NOI comments, the NOPR rejected calls that certain financial data should be considered confidential because of concerns raised regarding competitive risks and harm to critical infrastructure. The NOPR affirmed the Commission's commitment to maintaining the public availability of financial data filed in Form 1 and other reports and found that additional precautions or protection of financial data are not necessary.

APPA commended the Commission for continuing to improve its collection of financial data and for its commitment to maintaining the public availability of the data. AEP recommended the Commission reconsider its position and cease to require the release of what it characterizes as competitively sensitive commercial information to potential competitors that could disadvantage sellers in competitive markets.

EEI encouraged the Commission to protect commercially sensitive information, in the interest of promoting fair competition and the development of robust competitive markets. EEI further encouraged the Commission to reconsider its handling of commercially sensitive information in the financial forms, to ensure that information is not released at a plant or company level if such information may harm companies, either in their competition with others or in their negotiations with suppliers. In particular, EEI requested, as it has done in previous efforts to revise the reporting requirements that the Commission cease releasing in discrete form individual generating plant costs and operating performance information, and instead release such information only in aggregated form that, according to EEI, avoids commercial harm.

Commission's Response

As stated in the NOPR and in the Final Rule, the Commission remains committed to the public availability of cost-of-service data for public utilities. Since 1937, Form 1 data have provided a critical component of the Commission's regulatory program and that of its predecessor, the Federal Power Commission.²² While the electricity market is changing, regulated public utilities still provide jurisdictional power and transmission services for which information is needed in connection with the Commission fulfilling its statutory responsibilities. Because transmission service is a critical component in electricity service and most transmission rates are cost-based, Form 1 data are critical to evaluating the underlying costs of providing transmission service and the resulting rates. In addition, Form 1 data provide the basis for many rates for generation service (both cost-based and market-based), which may be determined on a unit by unit basis. Making this cost data publicly available provides customers with a means to monitor the reasonableness of their rates, and thus assists the Commission's efforts to ensure that rates remain just and reasonable. The Commission also has previously reviewed and rejected suggestions that it should adopt non-public status for Form 1 data.²³ Consistent with the

22 See generally Connecticut Light and Power Co., 2 FPC 853 (1944).

23 See PECO Energy Co., et al., 88 FERC ¶ 61,330 (1999); Consolidated Edison Co., 72

Commission's long-standing precedent and in light of the commenters' failure to convince it otherwise, the Commission declines to adopt non-public status for such data here.

11. PROVIDE ADDITIONAL JUSTIFICATION FOR ANY QUESTIONS OF A SENSITIVE NATURE THAT ARE CONSIDERED PRIVATE

There are no questions of a sensitive nature associated with the data requirements proposed in the subject rule.

12. ESTIMATED BURDEN COLLECTION OF INFORMATION

The Commission estimated in the NOPR that on average it will take respondents 14 hours annually to comply with the proposed requirements. The Commission believes that most of the additional information required to be reported is already compiled and maintained by the utilities, and will not substantially increase the existing reporting burden. However, in light of comments from larger transmission-owning public utilities that it may take additional time to comply with the new affiliate transaction reporting requirement added to Form 1 in this Final Rule, the Commission is revising its information collection estimates. Taking into account the comments received, the Commission estimates that on average it will take large respondents 28 hours annually to comply with the requirements adopted in the Final Rule and smaller respondents 11 hours. There are an estimated 211 major and 4 nonmajor electric utilities that will be affected by the changes adopted for Form 1 in the Final Rule, for a total of 215 respondents.²⁴ Larger utilities with more affiliate transactions may face a greater burden in reporting affiliate transaction, other revenues and formula rate information.

The Commission's estimate has taken into account the commenters' proposed burden estimates. However, the Commission has adjusted these numbers to reflect the clarifications made in the Final Rule. Thus, commenters' proposed affiliated transaction burden estimates of 100 to 300 hours are better considered to be 25 to 75 hours, to account for the fact that quarterly reporting is not required. Furthermore, because the Final Rule does not require reporting of affiliate power transactions on new page 429, the affiliate transaction reporting estimate was halved to reflect the Commission's estimate of the transactions to be reported. In addition, the Final Rule adopts the \$250,000 threshold for affiliate transaction reporting, which will result in a further reduction of the initial estimates. The Commission finds that a range of 8 to 20 hours is appropriate to estimate the annual burden of affiliate transaction reporting, and,

FERC ¶ 61,184 (1995). See also *Alabama Power Company v. FPC*, 511 F.2d 383, 390-91 (D.C. Cir. 1974) (upholding fuel purchases reporting requirement, and rejecting claims that disclosure would lead to bargaining disadvantages in future fuel contract negotiations as outweighed by benefits of disclosure).

²⁴ These numbers are based on the most recent filings.

based on its understanding that smaller entities will face a lower burden, estimates the typical burden to prepare the affiliate transaction schedule to be 12 hours. Assuming a similar burden for the formula rate footnote disclosure, the Commission estimates the total burden, including other reporting, for the revised Form 1 reporting requirements adopted in this Final Rule to be 25 hours. The Commission adopts the Form 3-Q burden of one hour as proposed in the NOPR, since neither the formula rate or affiliate transaction reporting requirements are adopted for Form 3-Q. The resulting total hours for the following collections of information will be:

Data Collection Form	Number of Respondents	Change in the Number of Hours per Respondent	Filing Periods	Change in the Total Annual Hours
(a)	(b)	(c)	(d)	(e)=(b)x(c)x(d)
FERC Form 1	211	25	1	5,275
FERC Form 3-Q	199	1	3	597
FERC Form 1-F	4	11	1	44
Relevant Totals				5,916

Total Annual Hours for Collection: (Est. Reporting + Recordkeeping (if appropriate)) = 5,916

As proposed in the NOPR:

Data Collection Form	Number of Respondents	Change in the Number of Hours per Respondent	Filing Periods	Change in the Total Annual Hours
(a)	(b)	(c)	(d)	(e)=(b)x(c)x(d)
FERC Form 1	205	11	1	2,255
FERC Form 3-Q	194	1	3	582
Relevant Totals				2,837

Total Annual Hours for Collection:
(Reporting + record keeping, (if appropriate)) = 2,837 hours.

	Current OMB	Proposed	Proposed	New
OMB				
DATA REQUIREMENT Form 1 Inventory*	In NOPR	In Final	Inventory	
Estimated number of respondents :	220	211	211	
Estimated number of responses per respondent:	1	1	1	1
Estimated number of responses per year :	220	211	211	211
Estimated number of hours per response :	1,137#	11	25	1,162#

Total estimated burden (hours per year) : 250,107 2,255 5,275 245,150

Program change in industry burden hours : + 5,275
Adjustment change in industry burden hours : - 10,232

* Based on OMB's Active Information Collections
as of September 16, 2008.
#rounded off.

Current OMB Proposed Proposed New

OMB

DATA REQUIREMENT Form 1-F	Inventory*	In NOPR	Final Rule	Inventory
Estimated number of respondents :	33	33	4	4
Estimated number of responses per respondent:	1	1	1	1
Estimated number of responses per year :	33	33	4	
	4			
Estimated number of hours per response :	105#	105	11	115.75
Total estimated burden (hours per year) :	3,454	3,454	44	463

Program change in industry burden hours : +44
Adjustment change in industry burden hours : -3,035

* Based on OMB's Active Information Collections
as of September 16, 2008.
#rounded off.

Current OMB Proposed Proposed New

OMB

DATA REQUIREMENT Form 3-Q	Inventory*	In NOPR	Final	Inventory
Estimated number of respondents :	353	194	199	358
Estimated number of responses per respondent:	3	3	3	3
Estimated number of responses per year :	1,059	582	597	1,074
Estimated number of hours per response :	161#	1	1	162#
Total estimated burden (hours per year) :	171,011	582	597	174,030#

Program change in industry burden hours : + 597
Adjustment change in industry burden hours : + 2,422

* Based on OMB's Active Information Collections
as of September 16, 2008.
#rounded off

In the NOPR, the Commission estimated that the proposed affiliate transaction and other new information requirements will take respondents 14 hours to collect and report on an average annual basis per respondent.²⁵

EI commented that, recognizing that reporting does involve substantial costs, the Paperwork Reduction Act (PRA) requires federal agencies to strive to minimize the reporting burden and avoid duplicative reporting requirements.²⁶ In prior triennial reviews, EI asked the Commission to review the Forms 1, 1-F, and 3-Q as well as other FERC forms to determine if all the information contained in the forms is truly needed and whether it is needed in as much detail.²⁷ EI reiterated that general request in response to the NOPR and encouraged the Commission to minimize the reporting burden to the maximum extent possible.

Duke estimated a burden greater than 14 hours to meet the requirements associated with the proposed Form 1, page 429 alone; similarly, EI suggested that compiling the proposed affiliate transaction information will take longer than 14 hours.²⁸ MidAmerican suggested that the proposed Form 1 affiliate transaction reporting requirement is duplicative of existing federal and state affiliate reporting requirements.

SDG&E on the other hand believed that the proposed revisions to the financial reporting obligations in the NOPR generally are appropriately balanced to fulfill the Commission's stated goal of obtaining necessary information without imposing undue burdens on the filer.

Commission's Response

The Commission's estimate of the reporting burden refers to the Commission's estimate of the additional amount of time needed to comply with the Form 1 revisions on an annual basis, over and above the time needed to prepare the Form 1 under existing requirements. Thus, while the Commission is sensitive to filing parties' individual expectations that becoming familiar with the new reporting requirements, compiling and reporting certain information may initially

25 NOPR at P 66.

26 EI cited 44 U.S.C. 3501, et seq.

27 EI stated that the Paperwork Reduction Act requires each agency to undertake a triennial review in consultation with the Office of Management and Budget (OMB) to demonstrate that information collections are as reasonable and streamlined as possible. EI comments at 2-3.

28 EI estimated that the proposed affiliate transaction schedule alone would require on the order of 100 to 300 hours per company to compile in the proposed format. AEP similarly argues that the affiliate transaction reporting would be voluminous and burdensome.

take more time than the annual estimate, these parties will not need to invest a similar effort in subsequent years. Furthermore, the revisions adopted in the Final Rule are not extensive, and largely consist of material that is already required to be maintained for other purposes.

Therefore, although the initial preparation to meet new reporting requirements established in this Final Rule may be greater, the Commission believes that the total increase in the time to meet all of the Form 1 requirements, existing as well as those adopted in this rule, is not unduly burdensome. Furthermore, the Final Rule also relieves some parties of their reporting obligations, and lessens the reporting burden for all parties through the increase in the threshold reporting requirements for certain items.

FirstEnergy, AEP, MidAmerican, and SDG&E commented on the estimated burden of the affiliate transaction reporting requirement; however, they do not offer an alternative estimate. Likewise, International Transmission and MidAmerican challenge the total 14 hour estimate but fail to offer alternative estimated burden hours.

While Duke cited how they would have to review 187,700 lines of accounting related to transactions for its four respondent companies, Duke did not specify what such a “review” would entail, nor what the estimated burden would be. Nevada Companies argued that 40 hours per quarter would be needed or 160 hours annually for the affiliate transaction reporting requirement. EEI stated it would take anywhere from 100 to 300 hours, according to its members, to fulfill the affiliated transaction requirement.

In response to Nevada Companies’ burden estimate, the Commission notes that the Final Rule only requires a reporting of transactions on an annual basis, not quarterly. Therefore, the Commission believes that Nevada Companies’ have overestimated the amount of time needed to comply with the requirements. In addition, EEI’s estimate likewise appears to be excessive and does not take into account clarifications made in this Final Rule. EEI makes several assumptions that have been resolved in a manner that would significantly decrease its estimate, including: (1) similar to Nevada Companies, EEI assumes that the revised reporting requirements are to be met on a quarterly basis, while the Final Rule largely imposes annual reporting requirements;²⁹ (2) EEI assumes that power transactions are included, while the Final Rule clarifies, that power transactions are excluded from the new page 429 affiliated transaction reporting requirement;³⁰ (3) EEI requests reporting by service type category rather than by

²⁹ See EEI comments at 6.

³⁰ EEI comments at 10.

transaction;³¹ and (4) EEI's estimate does not account for the \$250,000 affiliate transaction reporting threshold of transaction/service type adopted in response to comments.

13. ESTIMATE OF THE TOTAL ANNUAL COST BURDEN TO RESPONDENTS

The Commission estimates that the additional hours to complete the additional reporting requirements will be divided among a utility's accounting and internal and outside legal services and support staff. The total annualized costs for the information collection is \$538,356. This number is reached by multiplying the total hours to prepare responses (total: 5,916) by an hourly wage estimate of \$91 (an average that incorporates senior accountant (\$50), financial analyst (\$40), support staff rates (\$25) and legal (\$250) (salary information source: Bureau of Labor Statistics and market research). These costs will be spread over 215 utilities, however. On balance, the Commission finds that the collection costs will not be unduly burdensome. These costs are labor costs to perform the various accounting tasks to complete the schedules. Companies already have the software to perform the various changes to the schedules. Therefore, while the costs reported here are for the tasks to comply with the requirements of this final rule, because the requirements do not require the acquisition of additional technology for performing the tasks, these costs will not change what is currently reported on OMB's inventory.

14. ESTIMATED ANNUALIZED COST TO FEDERAL GOVERNMENT

<u>Data Requirement Number</u>	<u>Analysis of Data³² (FTEs)</u>		<u>Estimated Salary Per Year</u>	x	<u>FERC Forms Clearance Per Year</u>	=	<u>Total Cost One Year's Operation</u>
FERC Forms 1, 1-F , & 3Q	2	x	\$126,384	+	\$ 1,944		\$254,712.*

*Because of the fewer filings by Form 1-F respondents, only .025s FTEs (or 52 hours) are necessary to review and process these filings. This results in a cost to the Federal Government of \$3,160 (program analysis) + \$851 (information clearance) = \$4011.

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

31 The Commission does not object so long as the service is ongoing, and is not undertaken in response to a particular, non-recurring event.

32?/ An "FTE" is a "Full time Equivalent" employee that works the equivalent of 2,080 hours per year.

The information maintained and collected under the requirements of Part 141 is essential to the Commission's oversight duties. The data now reported in the forms does not provide sufficient information to the Commission and the public to permit an evaluation of the filers' jurisdictional rates. The proposed changes will allow for fuller detail and give FERC the information it needs to carry out its Federal Power Act responsibilities to ensure that rates are just and reasonable. Specifically, the Final Rule adopts revised reporting requirements which will enhance the Commission's and customers' review of formula rates; permit better understanding of non-power goods and services transactions with affiliates, and provide additional detail of revenues not previously specified in Form 1 and Form 1-F. In addition, the Final Rule will expedite reporting by clarifying Form 1 and Form 1-F instructions and cross-references and making certain technical improvements in the form. Finally, the Final Rule responds to the burdens faced by filers by adopting minimum reporting thresholds for certain accounting data, eliminating the reporting requirement for certain utilities that are not otherwise subject to this Commission's reporting obligations or jurisdiction, and accommodating filers whose fiscal year does not fall in the calendar year that is used for reporting purposes.

These forms also are important to public utility customers, state commissions and the public so that they may assess the justness and reasonableness of jurisdictional power rates.

The Commission has determined that dependable, affordable, competitive wholesale energy markets require an adequate infrastructure, balanced market rules, and vigilant oversight. This Final Rule helps in achieving the goal of vigilant oversight by providing the Commission with more timely, relevant, reliable and understandable information from jurisdictional participants in the energy markets.

The program changes reported above reflect compliance with new requirements on the Form 1, 1-F and 3-Q. As stated earlier, Forms 1 and 1-F are not substitutes for a rate case filing nor is the data intended to project what might happen in future years; rather the data must provide enough detail to enable the form's users to monitor and assess a utility's rates. For example, many transmission owners operate under formula rates that are reset each year. The annual rate adjustment may not initiate a rate proceeding and the customer's recourse, if it believes the resulting rates are unjust and unreasonable, is to file a complaint under section 206 of the FPA. While Forms 1 and 1-F in particular are not intended to provide all of the information that would be available in a rate case, customers nevertheless need sufficient information to enable them to perform a preliminary rate assessment and to determine whether, under the circumstances, a complaint may be warranted, and Forms 1 and 1-F need to provide that information.

The Commission is revising Forms 1 and 1-F to require that if the inputs to a formula rate deviate from what is currently shown in Forms 1 and 1-F, the filer must provide an explanation for the change in a footnote to the corresponding page, line and column where the specific data is reported. This requirement would apply only to utilities with formula rates that have not

made informational filings with the Commission. The Commission believes that it makes sense to require utilities to provide such explanation through a means other than the Forms 1 and 1-F. The Commission believes that this information provides additional transparency with regard to formula rates and the underlying data. It should be noted that we have included the Form 1-F because similar revisions will be made to Form 1-F for those respondents who are nonmajor public utilities who may file a formula rate case with the Commission. As noted above, a utility is defined as a "Non-Major Public Utility" if it meets the following requirement: Total annual sales of 10,000 megawatt hours or more in the three previous calendar years and not classified as "Major." Like the FERC Form 1, the Form 1-F is designed to collect financial information from jurisdictional electric utilities and licensees who have generation, transmission, distribution and/or sell electric energy within the United States and its possessions.

One user of the data reported on the FERC Form 1 and Form 1-F is the Bureau of Economic Analysis (BEA) who supports the continued collection of the data as it is crucial to key components of its economic statistics including the preparation of the national income and product accounts, the benchmark and annual input-output accounts, and gross domestic product by industry. Specifically, the Form 1-F data are used by BEA to prepare estimates of the electric utilities component of nonresidential structures, a component of gross domestic product.

In addition, the current Forms 1 and 1-F contain no information regarding affiliate transactions which can detect cross-subsidization between regulated and unregulated companies. The NOPR proposed adding and the Final Rule implements a new schedule to provide that information and ensure greater transparency. This information is important because these transactions are not conducted at arms' length and could provide opportunities for inappropriate cross-subsidization. To ensure that Forms 1 and 1-F users have access to more detailed information regarding affiliated transactions, the Commission has added a new page 429, "Transactions with Associated (Affiliated) Companies" that requires filers to report affiliated transactions. The Commission believes this new schedule will provide further transparency and improve the detection of cross-subsidization.

It should be noted that the adjustments to Forms 1, 1-F and 3Q indicated above, reflect the changing number of companies subject to the Commission's jurisdiction. With respect to the Form 1-F, the decrease may be due to either a company receiving exemptions from having to file the Form 1-F or the company has consolidated their reporting because of becoming an affiliate of a parent company who already files the Form 1.

16. TIME SCHEDULE FOR PUBLICATION OF DATA

The Commission has not published the information contained on FERC Forms 1, 1-F and 3Q. The publication of energy data became the responsibility of the Energy Information Administration when the Commission succeeded the Federal Power Commission per the Department of Energy Organization Act in October 1977. The primary purpose of the

information collected on these forms is to support the Commission's regulatory activities. However, copies of the forms submitted to the Commission are available on its Internet web site or through its Public Reference Room.

17. DISPLAY OF EXPIRATION DATE

All forms display both the OMB control number and the expiration date. In addition, this information is also displayed in the upper right-hand corner of the cover page in the appropriate electronic versions for these forms.

18. EXCEPTIONS TO THE CERTIFICATION STATEMENT

There is an exception to the Paperwork Reduction Act submission certification. Because the data collected on these forms is not used for statistical purposes, the Commission does not as stated in item no. 19(j) use "effective and efficient statistical survey methodology." The information collected is case specific to each respondent.

B. COLLECTION OF INFORMATION EMPLOYING STATISTICAL METHODS

These are not as noted above, collections of information employing statistical methods.