

## SUPPORTING STATEMENT FOR

### **FERC-717, Standards for Business Practices and Communication Protocols for Public Utilities (formerly Open Access Same-Time Information System and Standards of Conduct) and FERC-516 Electric Rate Schedule Filings,** as proposed in Docket No. RM05-05-013

#### **Standards for Business Practices and Communications Protocols for Public Utilities** (Notice of Proposed Rulemaking issued March 19, 2009)

The Federal Energy Regulatory Commission (Commission) requests the Office of Management and Budget (OMB) review and extend its approval of **FERC-717, Standards for Business Practices and Communication Protocols for Public Utilities (formerly Open Access Same-Time Information System and Standards of Conduct) and FERC-516 Electric Rate Schedule Filings**, both are existing information collections, regarding revisions to requirements contained in parts 35, 37 and 38 of the Commission's regulations. FERC-516 (**OMB Control NO. 1902-0096**) approved through March 31, 2012.<sup>1</sup> FERC-717 (**OMB Control No. 1902-0173**) is currently approved through October 31, 2011.

The subject data collections will be affected because the Commission proposes in a NOPR, RM05-5-013 “**Standards of Business Practices and Communication Protocols for Public Utilities**”, to incorporate by reference the latest version (Version 002.1) of certain business practice standards adopted by the Wholesale Electric Quadrant (WEQ) of the North American Energy Standards Board (NAESB). These revised standards update earlier versions that the Commission previously incorporated by reference into its regulations at 18 CFR 38.2 in Order Nos. 676, 676-B, 698, and 676-C,<sup>2</sup> as well as the Version 002.0 standards that NAESB filed with the Commission on September 2, 2008. The new and revised standards that NAESB adopted in its Version 002.0 and 002.1 standards implement requirements of Order Nos. 890, 890-A, and 890-

---

1 FERC-516 is currently the subject of another submission pending review and approval at OMB. Because OMB's document management system cannot accept two submissions containing the same control number simultaneously, the submission for this NOPR will be submitted under 1902-0173 with a latter, subsequent submission under FERC-516.

2 Standards for Business Practices and Communication Protocols for Public Utilities, Order No. 676, 71 FR 26,199 (May 4, 2006), FERC Stats. & Regs., Regulations Preambles ¶ 31,216 (Apr. 25, 2006), reh'g denied, Order No. 676-A, 116 FERC ¶ 61,255 (2006), Order No. 676-B, 72 FR 21,095 (Apr. 30, 2007), FERC Stats. & Regs., Regulations Preambles ¶ 31,246 (Apr. 19, 2007), Order No. 676-C, 73 FR 43,848 (July 29, 2008), FERC Stats. & Regs., Regulations Preambles ¶ 31,274 (July 21, 2008), Order No. 676-D, granting clarification and denying reh'g, 124 FERC ¶ 61,317 (2008); Standards for Business Practices for Interstate Natural Gas Pipelines, Order No. 698, 72 FR 38,757 (July 16, 2007), FERC Stats. & Regs., Regulations Preambles ¶ 31,251 (June 25, 2007), order on clarification and reh'g, Order No. 698-A, 121 FERC ¶ 61,264 (2007).

B. <sup>3</sup> In addition, NAESB developed standards to support the Commission's eTariff program, modified the Commercial Timing Table (WEQ-004 Appendix D) and Transmission Loading Relief Standards (WEQ-008) to provide clarity and align NAESB's business practice standards with the reliability standards adopted by the North American Electric Reliability Corporation (NERC), revised the Manual Time Error Correction Standards (WEQ-006) to maintain consistency with revised NERC Standard BAL-004, and amended certain ancillary services definitions appearing in the Open Access Same-Time Information Systems (OASIS) Standards (WEQ-001) relating to the inclusion of demand resources as part of ancillary services.

Incorporating these standards by reference into the Commission's regulations is intended to benefit wholesale electric customers by streamlining utility business practices and transactional processes and OASIS procedures and by adopting a formal ongoing process for reviewing and upgrading the Commission's OASIS standards and other electric business industry business practices. These practices and procedures would benefit from the implementation of generic industry standards.

We estimate that the one-time annual reporting burden related to the subject NOPR Rule will be 3,168 total hours (an average of 6 hours per respondent under FERC-516 and 12 hours under FERC-717) for adopting the changes proposed in the NOPR. After the issuance of a final rule and the affected parties have instituted these changes to reflect compliance with the standards as proposed, the total burden under FERC-516 and 717 would be reduced by 3,168 hours.

## **Background**

---

<sup>3</sup> Preventing Undue Discrimination and Preference in Transmission Service, Order No. 890, 72 FR 12,266 (March 15 2007), FERC Stats. & Regs., Regulations Preambles ¶ 31,241 (2007) (Order No. 890); order on reh'g, Order No. 890-A, 73 FR 2984 (Jan. 16, 2008), FERC Stats. & Regs., Regulations Preambles ¶ 31,261 (2007) (Order No. 890-A); order on reh'g and clarification, Order No. 890-B, 123 FERC ¶ 61,299 (2008).

NAESB's standards include business practices that streamline the transactional processes of the natural gas and electric industries, as well as communication protocols within each industry. NAESB supports all four quadrants of the gas and electric industries – wholesale gas, wholesale electric, retail gas, and retail electric. All participants in the gas and electric industries are eligible to join NAESB and participate in standards development.

In a series of Commission Orders,<sup>4</sup> the Commission has incorporated certain NAESB standards into its regulations. These standards include standards for business practices as well as standards and protocols for electronic communication, and business practice standards related to reliability standards issued by the North American Electric Reliability Corporation (NERC) and approved by the Commission. In Order No. 698 (as discussed below), the Commission also incorporated by reference into its regulations the NAESB Gas/Electric Coordination Standards. These standards established communication protocols between interstate natural gas pipelines and electric power plant operators designed to enhance reliability by improving communication between gas and electric industries relating to the scheduling of gas-fired generators.

The Commission believes that adoption of the consensus standards is appropriate because the consensus process assists the Commission in determining the reasonableness of the standards by requiring that the standards draw support from a broad spectrum of the industry. The Commission's regulations should reflect those standards that have the widest possible support.

### **ORDER No. 676**

The Commission amended its regulations under the Federal Power Act (FPA) in Order No. 676 (April 25, 2006) (71 FR 26199) to incorporate by reference standards issued by NAESB's WEQ. These reference standards established a set of business practice standards and communication protocols for the electric industry to enable industry members to achieve efficiencies by streamlining utility business and transactional processes and communication procedures. The standards replaced, with modifications, the Commission's existing Business Practice Standards for OASIS Transactions and OASIS Standards and Communication Protocols and Data Dictionary requirements. Adopting these standards established a formal ongoing process for reviewing and upgrading the Commission's OASIS standards as well as adopting other

---

<sup>4</sup> Preventing Undue Discrimination and Preference in Transmission Service, Order No. 890, 72 FR 12,266 (March 15 2007), FERC Stats. & Regs., Regulations Preambles ¶ 31,241 (2007) (Order No. 890); order on reh'g, Order No. 890-A, 73 FR 2984 (Jan. 16, 2008), FERC Stats. & Regs., Regulations Preambles ¶ 31,261 (2007) (Order No. 890-A); order on reh'g and clarification, Order No. 890-B, 123 FERC ¶ 61,299 (2008).

electric industry business practice standards. The Commission's regulations adopted in this rule were necessary to establish a more efficient and integrated wholesale electric power grid. Requiring this information ensures both a common means of communication and common business practices to provide entities engaged in the wholesale transmission of electric power with timely information and uniform business procedures across multiple transmission providers.

### **Order No. 698**

In Order No. 698 (June 25, 2007) (72 FR 38757) the Commission amended parts 38 and 284 of its open access regulations governing standards for business practices and electronic communications with interstate natural gas pipelines and public utilities. The Commission incorporated by reference standards issued by NAESB. These standards established communication protocols between interstate pipelines and power plant operators and transmission owners and operators. The goal of this incorporation is to improve coordination between the gas and electric industries in order to improve communications about scheduling of gas-fired generators. Improved communications will enhance reliability in both industries.

### **Order No. 890**

In Order No. 890 et. al. issued February 16, 2007 (72 FR 12266) amended the regulations and *pro forma* open access transmission tariff adopted in Order Nos. 888 and 889 to ensure that transmission services are provided on a basis that is just, reasonable and not unduly preferential. The Order was designed to strengthen the *pro forma* open-access transmission tariff to ensure that it achieves its original purpose of remedying undue discrimination; provide greater specificity to reduce opportunities for undue discrimination and facilitate the Commission's enforcement; and increase transparency in the rules applicable to planning and use of the transmission system. (See FERC-516 below)

One of the Commission's objectives in Order No. 890 was to reduce the potential for transmission providers to unduly discriminate when they provide transmission service by limiting their discretion to calculate available transfer capability using unknown assumptions and methodologies.

### **FERC-516**

On April 24, 1996, the Commission issued its Final Rule Order No. 888:

"Promoting Wholesale Competition Through Open Access Nondiscriminatory Transmission Services by Public Utilities; Recovery of Stranded Costs by Public Utilities and Transmitting Utilities"(Docket No. RM95-8/RM94-7). The Commission intended to remedy undue discrimination in the provision of interstate transmission services by public utilities and to address the stranded costs that may result from the transition to more competitive electricity markets.

Order No. 888 has two central components. The first required that all public utilities that own, operate or control interstate transmission facilities to offer network and point-to-point transmission services (and ancillary services) to all eligible buyers and sellers in wholesale bulk power markets, and to take transmission services for their own uses under the same rates, terms and conditions offered to others. In essence, it requires non-discriminatory (comparable) treatment for all eligible users of the transmission facilities. The non-discriminatory services required by Order No. 888, known as open access services, are reflected in a *pro forma* tariff contained in the rule. The rule also required functional separation of the utilities' transmission and power marketing functions (also referred to functional unbundling) and the adoption of an electric transmission system information network. (*See FERC-717*)

The second central component of Order No. 888 was to address whether and how utilities will be able to recover costs that could be stranded when wholesale customers use the open-access tariffs, or FPA section 211 tariffs to leave their utilities' power supply systems and shop for power elsewhere.

As described more fully below, the Commission is proposing that all public utilities subject to FERC's authority will be required to comply with the incorporated standards, as would non-jurisdictional entities voluntarily following FERC's open access requirements under reciprocity by revising their open access transmission tariffs.

### **FERC-717**

By its Final Rule issued April 24, 1996, in Docket No. RM95-9-000, the Commission proposed to adopt certain standards/information requirements for Open Access Same-Time Information System (OASIS) to be maintained by Public Utilities. More specifically, the Commission proposed to add Part 37 of Title 18, Code of Federal regulations (CFR). The Standards of Conduct were designed to prevent employees of a public utility (or any of its affiliates) engaged in marketing functions from preferential access to OASIS-related information or from engaging in unduly discriminatory business practices. Companies were required to separate their transmission operations/reliability

functions from their marketing/merchant functions and prevent system operators from providing merchant employees and employees of affiliates with transmission-related information not available to all customers at the same time through public posting on the OASIS.

### **RM05-5-013 NOPR (March 19, 2009)**

On March 19, 2009, the Commission issued a Notice of Proposed Rulemaking (NOPR). In the NOPR, the Commission proposes to incorporate by reference in its regulations at 18 CFR 38.2 the latest version (Version 002.1) of certain business practice standards adopted by the Wholesale Electric Quadrant (WEQ) of the North American Energy Standards Board (NAESB). NAESB's Version 002.1 Standards mainly modify NAESB's Version 001 Standards in response to Order Nos. 890, 890-A, and 890-B. The revised standards also include (1) eTariff related standards developed by NAESB in coordination with Commission staff and the electric, gas, and oil industries; (2) modifications to WEQ's existing interconnection time monitor standards in the Manual Time Error Corrections Standards (WEQ-006) to ensure that the NAESB standards remain consistent with NERC's BAL-004 standard; and (3) the explicit inclusion of demand resources in the definitions of certain ancillary services.

In addition, the NOPR proposes not to incorporate certain of the standards adopted by NAESB. Specifically, the NOPR does not propose to incorporate (1) Standard WEQ-009 (Standards of Conduct for Electric Transmission Providers) into the Commission's regulations because it contains no substantive standards and merely serves as a placeholder for future standards; (2) Standard WEQ-010 (Contracts Related Standards) because this standard contains an optional NAESB contract regarding funds transfers and the Commission does not require utilities to use such contracts; and (3) Standard WEQ-014 (eTariff Related Standards) because the Commission already has adopted standards and protocols for electronic tariff filing based on the NAESB standards.

The Version 002.1 standards will update the Version 001 standards currently incorporated by reference in the Commission's regulations.

In the NAESB WEQ Version 002.1 standards, NAESB has developed new standards and revised existing standards relating to OASIS to ensure consistency with certain policies articulated by the Commission in Order Nos. 890, 890-A and 890-B. Specifically, NAESB has developed business practice standards to facilitate the implementation of conditional firm service, relying on the Commission's description of the attributes of that service in Order No. 890. These standards address: (1) the

limitations and conditions under which the Conditional Curtailment Option is offered; (2) the posting requirements for information concerning a Conditional Curtailment Option reservation and its curtailment criteria; (3) the process for performing the biennial reassessment; (4) the curtailment of a Curtailment Option reservation

While many of the Version 002.0 standards simply revise or update existing standards, some of these standards prescribe new business practices to accommodate the reforms adopted in Order No. 890. For example, NAESB has developed business practice and technical standards to support conditional firm service. Additionally, NAESB developed standards for the posting of narratives explaining changes in available transfer capability and total transfer capability; underlying load forecast assumptions for available transfer capability calculations and actual peak load, as well as metrics relating to the provision of transmission service and the completion of planning studies.

The Commission is also proposing to require each electric utility to revise its open access transmission tariff (OATT) to include the applicable WEQ standards. For standards that do not require incorporating tariff provisions, FERC is proposing to permit the utility to incorporate the WEQ standard by reference in its OATT.

## **A. JUSTIFICATION**

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

#### **FERC-516**

The collection of information for electric rate filings is mandated by Sections 15, 19, 20, 205, 206 and 207 of the Federal Power Act as amended by the Energy Policy Act of 1992 (EPAAct) and section 402(a) of the Department of Energy Organization Act (DOE Act). EPAAct expands the Commission's authority in section 211 of the Federal Power Act (FPA) to order transmission services upon application and created a new category of power producers called exempt wholesale generators. EPAAct and other industry developments increased competition in wholesale electric markets. The Commission's goal has been to encourage lower electricity prices by structuring an orderly transition to competitive bulk power markets.

In addition, the Commission has a statutory obligation under section 205 and 206 of the FPA to prevent unduly discriminatory practices in transmission access. To accomplish the Commission added section 35.28 to its regulations concerning the

standards a public utility must satisfy regarding non-discriminatory open access transmission services on the utility's facilities that transmit electric energy in interstate commerce. The regulations require that all public utilities owning or controlling facilities for the transmission of electric energy in interstate commerce to file tariffs of general applicability that offer transmission services, including ancillary services, on a network and point-to-point basis. The regulations require the public utility to take transmission service for itself under the rates, terms and conditions of these tariffs.

**FERC-717** In its Final Rule Order No. 888: "Promoting Wholesale Competition through Open Access Nondiscriminatory Transmission Services by Public Utilities; Recovery of Stranded Costs by Public Utilities and Transmitting Utilities" issued on April 24, 1996, (Docket No. RM95-8/RM94-7), the Commission required that all public utilities that own, control or operate facilities used for transmitting electric energy in interstate commerce to have on file open access nondiscriminatory transmission tariffs that contain minimum terms and conditions of nondiscriminatory service.

In addition, the Commission required public utilities to establish OASIS sites to provide transmission customers with equal and timely access to information about transmission and ancillary services provided in the tariffs. The Commission does not believe that open-access nondiscriminatory transmission services can be completely realized until it removes real-world obstacles that prevent transmission customers from competing effectively with the Transmission Provider. One of the obstacles is unequal access to transmission information. The Commission believes that transmission customers must have simultaneous access to the same information available to the Transmission Provider if truly nondiscriminatory transmission services are to be a reality.

The FERC-717 data and communications standards on OASIS are required to carry out the Commission's policies in accordance with the general authority in Sections 309 and 311, of the Federal Power Act of 1935 (FPA) (16 U.S.C. 825h) and 16 U.S.C. 825j)

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

**FERC-516** The information from FERC-516 enables the Commission to exercise its wholesale electric rate and electric power transmission oversight and enforcement responsibilities in accordance with the Federal Power Act and the DOE Act as referenced above. Sufficient detail must be obtained for the Commission to make



an informed and equitable decision concerning the appropriate level of rates, and to aid customers and other parties who may wish to challenge the rate proposed by the utility. Other more abbreviated data requirements are required where utility filings involve (1) non-rate increase applications, such as changes in the points where electricity is delivered to a customer, (2) formula rates, (3) settlement rates, and (4) qualifying small power producer rates.

**FERC-717** These requirements apply to all Public Utilities owning and/or controlling facilities used for the transmission of electricity in interstate commerce. These procedures enable the Commission to ensure compliance with the functional unbundling established in the Commission's Open Access rulemaking.

The Commission's Office of Energy Market Regulation uses the information in rate and proceedings to review rate and tariff changes by public utilities, for general industry oversight, and to supplement the documentation used during the Commission's audit process. The collection of this information is necessary to meet the legal requirements, namely the statutory obligations under section 205 and 206 of the FPA, to prevent unduly discriminatory practices.

This proposed rule, if implemented would supplement the changes the Commission required in Order Nos. 890, 890-A, and 890-B to require that transmission services are provided on a basis that is just, reasonable and not unduly discriminatory. In addition this proposed rule would upgrade the Commission's current business practice and communication standards. Specifically, these standards include several modifications to the existing business practice standards as well as creating new standards to provide additional functionality for OASIS transactions. These practices will ensure that potential customers of open access transmission service receive access to information that will enable them to obtain transmission service on a non-discriminatory basis and will assist the Commission in maintaining a safe and reliable infrastructure. The implementation of these standards and regulations is necessary to increase the efficiency of the wholesale electric power grid.

Failure to issue these requirements would mean the Commission is not meeting its statutory obligations and permitting discrimination in interstate transmission services provided by the public utilities. The Commission believes the implementation of these data requirements will help the Commission carry out its responsibilities under the Federal Power Act of promoting the efficiency of the electric industry's operations.

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

In both FERC-516 and FERC-717, the Commission has shown a commitment to the use of information technology.

In Order No. 714 (RM01-5-000, 73 FR 57515) the Commission revised its regulations to require that all tariffs and tariff revisions and rate change applications for public utilities, natural gas pipelines, oil pipelines and power administrations are to be filed electronically according to a set of standards developed in conjunction with NAESB. By developing the capability to file electronically with the Commission via the Internet, this reduces the physical storage space needs and document processing times, potentially reduces mailing and courier fees, allows access to the tariff filing by multiple parties as well as the ability to download and print tariff filings and provides automatic e-mail notification to an applicant of receipt of the filing and whether or not it has been accepted.

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.

Further, the Commission's requirement for the use of OASIS to provide transmission service information to the public, demonstrates the use of information technology to reduce the burden. With a single Internet connection, transmission customers are able to access information from any utility as well as be able to display information.

**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. Electric transmission information is not available from other sources and therefore, no use or other modification of the information can be made to perform oversight and review responsibilities under applicable legislation (e.g., Federal Power Act (FPA), Energy Policy Act of 1992 (EPAAct)).

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

No small businesses are impacted under FERC-516 reporting data requirements. The proposed additions and revisions to the Commission's regulations will impact the day-to-day operations of public utilities whose operational status would exceed the SIC standards for a "small business concern" as implemented under the Regulatory Fairness Act (RFA). Likewise for FERC-717, the Commission has reviewed the provisions of the RFA and found they would not be applicable to the public utilities that will be subject to the requirements of this NOPR.

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

It is not possible to collect the data less frequently. Only public utilities owning, operating, and/or controlling facilities used for the transmission of electricity in interstate commerce are required to comply with the Commission's proposed requirements. The required information will impose the least possible burden for companies while collecting the information that will be used for promoting the efficiency of the electric industry's

operations. The Commission believes the adoption of these standards will permit industry to use the NAESB consensus process to suggest further modifications and enhancements to business practices and the OASIS standards as industry considers necessary, subject to the Commission's approval.

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.

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

There are special circumstances requiring the collection of information to be conducted in a manner inconsistent with the guidelines in 5 CFR 1320.5, as provided below:

Section 1320.5(d) limits the collection of data to an original and two copies of any document.

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) 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. As noted in item no. 3 of this submission, the Commission has issued Order No. 714 calling for the electronic filing of all tariff filings, tariff revisions and rate change applications for public utilities, natural gas pipelines, oil pipelines and power administrations. Implementation of Order 714 begins April 1, 2010 with a six-month staggered schedule. However, with the final rule's implementation, the Commission will eliminate the submission of paper filings.

It should be noted that NAESB approved the Version 002.1 standards under its

consensus procedures. The adoption of standards is appropriate because the consensus process assists the Commission in determining the reasonableness of the standards by requiring that the standards draw support from a broad spectrum of all segments of industry. Since the industry itself has to conduct business under these standards, the Commission's regulations should reflect those standards that have the widest possible support.

Section 12(d) of the National Technology Transfer and Advancement Act of 1995, requires federal agencies to use technical standards developed by voluntary consensus standards organizations, like NAESB's WEQ, as a means to carry out policy objectives or activities. The Commission believes that incorporation by reference is appropriate, and indeed the required, method for adopting copyrighted standards material.<sup>5</sup>

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

Commission procedures require that rulemaking notices be published in the Federal Register, thereby allowing all electric utilities, natural gas pipeline companies, state commissions, Federal agencies, and other interested parties an opportunity to submit views, comments or suggestions concerning the proposal. These rulemaking procedures allow for public conferences to be held as required. Comments are due 30 days after publication in the Federal Register.

The Electric Power Supply Association (EPSA) and the Edison Electric Institute (EEI) filed a joint motion in this docket, for an extension of time to file comments..<sup>6</sup> In their motion, EPSA and EEI requested that the date for filing comments on the NAESB NOPR be extended to the date when comments are due to be filed on the Commission's March 19, 2009 NOPR addressing reliability standards submitted to the Commission for approval by the North American Electric Reliability Company (NERC).<sup>7</sup> EPSA and EEI

---

<sup>5</sup> See 5 U.S.C. 552 (a)(1)(2000); 1 C.F.R. 51.7(4) (requirements established for incorporation by reference); Federal Participation in the Development and Use of Voluntary Standards, OMB Circular A-119, at 6 (a)(1) (Feb. 10, 1998), <http://www.whitehouse.gov/omb/circulars/a119/a119.html> (incorporation by reference appropriate means of adopting private sector standards under the National Technology Transfer and Advancement Act). The Commission cannot reproduce the WEQ standards in violation of the NAESB copyright. See 28 U.S.C. 1498 (government not exempt from patent and copyright infringement).

<sup>6</sup> *Standards for Business Practices and Communication Protocols for Public Utilities*, 126 FERC ¶ 61,248 (2009) (NAESB NOPR).

<sup>7</sup> *Mandatory Reliability Standards for the Calculation of Available Transfer Capability, Capacity Benefit Margins, Transmission Reliability Margins, Total Transfer Capability, and Existing Transmission Commitments and Mandatory Reliability Standards for the Bulk Power System*, 126 FERC ¶ 61,249 (2009) (NERC NOPR).

state that because of the importance of the market issues addressed in the NAESB NOPR and the NERC NOPR and because these issues impact each other, additional time is needed to adequately address both NOPRs and to submit responsive comments. The Commission upon review of the motion has given an extension of time until May 26, 2009.

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

There are no payments or gifts to respondents under any circumstance.

**10. DESCRIBE ANY ASSURANCE OF CONFIDENTIALITY PROVIDED TO RESPONDENTS**

All data filed is public information and, therefore, are not confidential. However, a company may request confidential treatment of some or all parts of the FERC-717 information requirement under the FOIA and FERC regulations at 18 CFR 388.112.

Standard 001-13.1.5 provides that the posting of information on Available Transfer Capability Information Link would be “subject to the Transmission Provider’s ability to redact certain provisions due to market, security or reliability sensitivity concerns”. In Order No. 890, the Commission acknowledged that a transmission provider may require someone seeking access to CEII materials or proprietary customer information to sign a confidentiality agreement. The Commission expects the provision in NAESB Standard 001-13.1.5 for a transmission provider to redact sensitive information from postings to be implemented by a transmission provider subject to the OATT in a manner consistent with its obligation to make that information available to those with a legitimate need to access the information, subject to appropriate confidentiality restrictions.

Each request for confidential treatment will be reviewed by the Commission on a case-by-case basis.

**11. PROVIDE ADDITIONAL JUSTIFICATION FOR ANY QUESTIONS OF A SENSITIVE NATURE**

There are no questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs and other matters that are commonly considered private in the reporting requirements.

**12. ESTIMATED BURDEN COLLECTION OF INFORMATION**

The information collection requirements of this proposed rule are based on the transition from transactions being made under the existing business practice standards to conducting such transactions under the proposed revisions to these standards and to account for the burden associated with the new standards the Commission proposes to incorporate in its regulations. The Commission estimates there are approximately 176 public utilities who own or control facilities used for the transmission of electric energy in interstate commerce and would be subject to the filing requirements of this NOPR.

The burden estimate includes the time required to implement the standards proposed in this rule, review the standards, search existing data sources, gather and maintain the data needed, and complete and review the information and file as appropriate with the Commission. Details of the burden estimates are shown in the following table:

Data Collection	No. of Respondents	No. of Responses Per Respondent	Hours Per Response	Total No. of Hours
FERC-516	176	1	6	1056
FERC-717	176	1	12	2112
Totals				3168

**DATA COLLECTION (FERC-516)**

**CUR  
RENT**

**PROP  
POSED**

**INVENTORY**

**NEW  
IN  
NOP  
R**

**OMB**

			<b>INV.</b>
Estimated Number of Respondents			1,230
			176
			1,230
Estimated number of responses/respondent/yr 3.52	3.52	1	
Estimated annual number of responses	4,330	176	4,330
Estimated hours per information requirement 98.8125	98.5686	6	
Total estimated annual burden hours	426,802	1,056	427,858
Estimated annual burden in OMB inventory#			
Increase/decrease in burden hours		+1,056	
Program Change:		+1,056	
Adjustment:		0	

#Note: FERC-516 is currently the subject of another rulemaking proceeding under review at OMB. The hours attributable to this information collection are for the proposed requirements of this rule and the inventory below reflects the most recent approval. When the final rule is issued, the Commission will make a correction to reflect the hours under 1902-0096 (FERC-516). Also the 176 respondents subject to the NOPR are a subset of the total universe of respondents who are subject to the filing requirements of FERC-516.

**DATA COLLECTION (FERC-717)**

**CUR  
RENT**

**PROP  
OSED**

**NEW**



	<b>INVENTORY</b>		<b>IN NOP R</b>	<b>OMB INV.</b>
Estimated no. of Respondents	220	176		176
Estimated no. of responses/respondent/yr			1	
			1	
Estimated annual no. of responses			1	
			220	
			176	
Estimated hours per information requirement 1,025.4318*	1,013*	12	176	
Total estimated annual burden hours				222,955
				2,112
				180,476*
Estimated annual burden in OMB inv.				
Increase/decrease in burden hours	+2,112			
Program Change:	+2,112			

Adjustment: -44,591  
 \*rounded off.

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

Annualized Capital/Startup Costs

The Commission's estimate for costs to comply with the Proposed Rule is based on a one-time implementation of the proposed standards for public utilities. The estimated hours needed to comply with this Notice of Proposed Rulemaking include the following activities:

- filing of open access transmission tariff that includes incorporated by reference of the requirements in 18 C.F.R. Part 38 of the Commission’s regulations;
- a change to their OASIS or Internet websites to disclose information relevant to posting of narratives explaining changes in available transfer capability and total transfer capability, underlying load forecast assumptions for available transfer calculations and actual peak load, as well as metrics relating to the provision of transmission service and the completion of planning services.

The following burden estimate is based on the projected costs for the industry to implement revisions to the WEQ Standards currently incorporated by reference into the Commission’s regulations at 18 CFR 38.2 and to implement the new standards adopted by NAESB that we propose here to incorporate by reference.

Information Collection Costs: The Commission is seeking comments on the costs to comply with these requirements. It has projected the average annualized cost for all respondents to be the following:<sup>8</sup>

	FERC-516	FERC-717
Annualized Capital/Startup Costs	\$390,720	\$781,440
Annualized Costs (Operations & Maintenance)	N/A	
Total Annualized Costs	\$390,720	\$781,440

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

<sup>8</sup> The total annualized costs for the information collection is \$1,172,160. This number is reached by multiplying the total hours to prepare responses (3168) by an hourly wage estimate of \$370 (a composite estimate that includes legal, technical and support staff rates, \$250+\$95+\$25=\$370), 3168 hours x \$370/hour= \$1,172,160.

The estimated annualized cost to the Federal Government for FERC-516 and FERC-717 is as follows:

**Data**

**Analysis**

**Estimated**

**FERC**

**Data**

**Total**

**Cost**

**of Data**

**Salary**

**Clearance**

**One**

**Year's**

**(FTEs)**

x

**Per**

**Year**

+

**(FY**

=

**Operation**

**Collection**

**Number**

FERC-516

2.5

\$128,297

\$

1,952

FERC-717

\$322,695

.5

	\$128,297
	\$
	1,952
	\$
	66,101
Total Cost	3.0
	\$128,297
	\$3,804
	\$388,796

The average cost per staff year reflects direct human resource's costs. These costs consist of direct labor and fringe benefit costs. The direct labor cost is that portion of staff salary that is charged to a collection of information activity. The fringe benefits cost consists of allowances and services provided to Government employees in addition to employee salaries. It is expressed as a percentage of the salary costs.

Cumulative Costs to the Federal Government:

Data Collection	Current Costs	NOPR Costs	Total
FERC-516	\$712,551	\$322,695	\$1,035,246
FERC-717	\$511,589	\$ 66,101	\$ 577,690

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

As reported in item #12, there is an increase in the annual reporting burden. The Commission's initial estimates for the annual reporting burden in the Standards for Business Practices and Communication Protocols for Public Utilities Notice of Proposed Rulemaking are anticipated to be 3,168 hours. This increase is attributable to the implementation of standards of conducts as noted preamble to this submission. This

burden increase is partially offset by a decrease in the number of respondents who have to post the information on their OASIS sites.

The Commission is proposing, consistent with its regulations at 18 CFR 35.28(c)(1)(vii), to require each public utility to revise its OATT to include Version 002.1 WEQ standards. For standards that do not require implementing tariff provisions, the Commission is proposing to permit the public utility to incorporate the WEQ standard by reference in its OATT.

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

This is not a collection of information for which results are planned to be published.

#### **17. DISPLAY OF EXPIRATION DATE**

It is not appropriate to display the expiration date for OMB approval of the information collected pursuant to Parts 35, 37 and 38 in the Code of Federal Regulations. The information collected is not collected on a standard, preprinted form which would avail itself of this display for either FERC-516 or FERC-717. However, the Commission has printed the OMB Control number and a disclaimer that respondents will not be subject to a penalty if a valid OMB control number is not displayed on the Commission's publication OASIS Standards and Communication Protocols. This publication contains the standards of conduct and communication protocols that industry must follow. The proposed reporting requirements under FERC-717 are not filed on formatted/printed forms but rather based on posting requirements for Internet web sites.

#### **B. Collections of Information Employing Statistical Methods**

These are not collections of information employing statistical methods.