

**FERC-516 (OMB 1902-0096), Proposed Rule in RM10-11-000 issued 11/18/2010  
RIN 1902-AE16 (related to previously issued RIN 1902-AD95)**

**SUPPORTING STATEMENT FOR  
FERC-516, Electric Rate Schedules and Tariff Filings  
Docket No. RM10-11-000 (NOPR on “Integration of Variable Energy Resources”)**

The Federal Energy Regulatory Commission (FERC or Commission) requests Office of Management and Budget review and approval of a revision to the information collection requirements contained in FERC-516, Electric Rate Schedule and Tariff Filings (OMB Control No. 1902-0096), as proposed in the Notice of Proposed Rulemaking (NOPR) in Docket No. RM10-11-000 “Integration of Variable Energy Resources” (available in FERC’s eLibrary at <http://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=12490505>). This NOPR was issued on 11/18/2010.<sup>1</sup> FERC-516 is currently approved through February 28, 2014.

**Overview**

In the Notice of Proposed Rulemaking in RM10-11, FERC proposes to reform the *pro forma* Open Access Transmission Tariff to remove unduly discriminatory practices and to ensure just and reasonable rates for Commission-jurisdictional services. The NOPR would: (1) require public utility transmission providers to offer intra-hourly transmission scheduling; (2) incorporate provisions into the *pro forma* Large Generator Interconnection Agreement requiring interconnection customers whose generating facilities are variable energy resources to provide meteorological and operational data to public utility transmission providers for the purpose of power production forecasting; and (3) add a generic ancillary service rate schedule through which public utility transmission providers will offer regulation service to transmission customers delivering energy from a generator located within the transmission provider’s balancing authority area. The proposed reforms will remove barriers to the integration of variable energy resources.<sup>2</sup>

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<sup>1</sup> OMB’s ROCIS system allows only one submittal per OMB Control No. to be pending OMB review at a time. Because ICR 201010-1902-001 (for the Final Rule in FERC Docket RM10-22), and then ICR 2010-1902-006 (for the Final Rule in FERC Docket RM10-13), under this OMB Control No., were pending OMB review (each at separate times), this request for review of the NOPR in RM10-11 could not immediately be submitted to OMB for review.

<sup>2</sup> The term variable energy resource (VER) refers to an electric generating facility that is characterized by an energy source that: (1) is renewable; (2) cannot be stored by the facility owner or operator; and (3) has variability that is beyond the control of the facility owner or operator. (This includes, for example, wind, solar thermal and photovoltaic, and hydrokinetic generating facilities.)

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**A. JUSTIFICATION**

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

The Commission has a statutory obligation under Sections 205 and 206 of the Federal Power Act (FPA) to prevent unduly discriminatory practices in transmission access. FPA section 205 specifies that all rates and charges, and related contracts and service conditions, for wholesale sales and transmission of energy in interstate commerce be filed with the Commission and must be “just and reasonable”. In addition, FPA section 206 requires the Commission, upon complaint or its own motion, to modify existing rates or services that are found to be unjust, unreasonable, unduly discriminatory or preferential. FPA section 207 further requires the Commission, upon complaint by a state commission and a finding of insufficient interstate service, to order the rendering of adequate interstate service by public utilities, the rates for which would be filed in accordance with FPA sections 205 and 206.

Because “just and reasonable” is not defined by the FPA, the Commission and the courts historically have interpreted this standard in the context of public utilities possessing market power. The courts generally have held that electric rates should be limited to rate levels sufficient to compensate the utility for the cost of rendering service to its customers, including a fair return on the utility’s investment devoted to the service at issue.

The Commission routinely evaluates the effectiveness of its regulations and policies in light of changing industry conditions. Consistent with this practice, the Commission issued the Integrating VERs NOI (Notice of Inquiry) on January 21, 2010, to better understand the challenges associated with the large-scale integration of VERs on the interstate transmission system and the extent to which existing operational practices may be imposing barriers to their integration.<sup>3</sup> The Commission explained that the changing characteristics of the nation’s generation portfolio compelled a fresh look at existing policies and practices.<sup>4</sup> Therefore, in the Integrating VERs NOI, the Commission sought comments. This Notice of Proposed Rulemaking is a result of the

<sup>3</sup> Integrating VERs NOI, 130 FERC ¶ 61,053 at P 9; posted at <http://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=12249880>.

<sup>4</sup> *Id.*

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review of those comments.

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

The information from FERC-516 enables the Commission to exercise its wholesale electric power and transmission oversight responsibilities in accordance with the Federal Power Act. The Commission needs sufficient detail to make an informed and reasonable decision concerning the appropriate level of rates, and the appropriateness of non-rate terms and conditions, and to aid customers and other parties who may wish to challenge the rates, terms, and conditions proposed by the utility.

The major portion of data requested in the Part 35 regulations specifies the rates, terms and conditions of service to support the wholesale customers in a service the utility is proposing to provide. Submission of the information is necessary because of the complexity of the utility conditions and terms to provide service. Sufficient detail must be obtained for the Commission to make informed and equitable decisions concerning the appropriate levels of rates and service, and to aid customers and other parties who may wish to challenge the rate proposed by the utility. Through this data collection process, the Commission is able to regulate public utilities and licensees by exercising oversight and review of the reported rate schedules and tariffs.

Many public comments were received from the Notice of Inquiry on Variable Energy Resources. Error: Reference source not found Based on those comments, FERC in this NOPR in RM10-11 is proposing reforms that mean:

- VERs and other resources will be able to adjust schedules within the operating hour, allowing public utility transmission providers to commit fewer generation and non-generation resources to provide reserves
- public utility transmission providers will have better meteorological and operational information from interconnection customers whose generating facilities are VERs and will be able to use this information to develop power production forecasts for use in operating their systems, thus mitigating the volume of regulation reserves they deploy
- public utility transmission providers will have a generic schedule from which to recover the costs of providing generator regulation service, and customers and other market participants will know the cost of such service.

These proposed reforms are intended to ensure that the requirements set forth in the *pro*

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*forma* OATT result in the provision of Commission-jurisdictional services at rates that are just and reasonable, and not unduly discriminatory or preferential, consistent with the Commission's responsibilities under sections 205 and 206 of the Federal Power Act (FPA).

Without this information, the Commission would be unable to discharge its responsibility to approve or modify electric utility tariff filings and ensure that all rates charged for the transmission or sale of electric energy in interstate commerce are just, reasonable, and not unduly discriminatory or preferential.<sup>5</sup>

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

The Commission's electronic filing program started in 10/2000<sup>6</sup>. Since that time, there has been an ongoing effort to expand the program and adopt user friendly electronic formats, media, and software.

Electronically filed tariffs and rate change applications: (1)improve the efficiency and overall management of the tariff and tariff change filing process, (2)facilitate public access to tariff information and the FERC's monitoring of the energy markets, and (3)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).Error: Reference source not found

**4. DESCRIBE EFFORTS TO IDENTIFY DUPLICATION AND SHOW SPECIFICALLY WHY ANY SIMILAR INFORMATION ALREADY**

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<sup>5</sup> 16 U.S.C. 824d, 824e (2006).

<sup>6</sup> The initial notice, issued 10/6/2000, is available at <http://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=8036619> . Details on the current state of the eFiling program are posted at <http://www.ferc.gov/docs-filing/efiling.asp>.

Information on the eTariff program is posted at <http://www.ferc.gov/docs-filing/etariff.asp>. In Order No. 714, the Commission required that all tariffs, tariff revisions and rate change applications be filed electronically starting April 1, 2010, with final implementation by September 30, 2010.

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**AVAILABLE CANNOT BE USED OR MODIFIED FOR USE FOR THE  
PURPOSE(S) DESCRIBED IN INSTRUCTION NO. 2.**

Electric Rate schedules and tariff filings contain cost and transmission information that are not available from other sources. In addition, the meteorological and operational data of the VERS contains data specific to the project, location, and time and date. The Commission's public information collections are subject to analysis and review by Commission staff and are examined for redundancy.

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

This Proposed Rule applies to public utilities that own, control or operate interstate transmission facilities other than those that have received waiver of the obligation to comply with Order Nos. 888, 889, and 890. The total estimated number of public utility transmission providers that, absent waiver, would have to modify their current OATTs by filing the revised *pro forma* OATT is 134. Of these public utility transmission providers, an estimated 10 filers, or 7.5 percent, have output of four million MWh or less per year.<sup>7</sup> The Commission does not consider this a substantial number and, in any event, each of these entities may seek waiver of these requirements. The criteria for waiver that would be applied under this rulemaking for small entities is unchanged from that used to evaluate requests for waiver under Order Nos. 888, 889, and 890.

To the extent that interconnection customers whose generating facilities are VERCs are also impacted by the Proposed Rule, such impacts only apply to those interconnection customers subject to standard generator interconnection agreements for VERCs larger than 20 MW,<sup>8</sup> which exceeds the threshold of the small business size standard of the Small

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<sup>7</sup> A "small entity" as referenced in the RFA refers to the definition provided in section 3 of the Small Business Act where a firm is "small" if, including its affiliates, it is primarily engaged in the generation, transmission, and/or distribution of electric energy for sale and its total electric output for the preceding fiscal year did not exceed 4 million megawatt hours. Based on the filers of the annual FERC Form 1 and Form 1-F, as well as the number of companies that have obtained waivers, we estimate that 7.5 percent of the filers are "small."

<sup>8</sup> Standard generator interconnection agreements and procedures are segmented into large generators which are greater than 20 MW and small generators which are 20 MW or less. This proposed rule applies only to generators in the Large Generator Interconnection Agreement category of more than 20 MWs.

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Business Administration. The proposed rule will not have a significant economic impact on a substantial number of small entities.

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

It is not possible to collect this data less frequently. The NOPR applies to public utilities that own, control or operate interstate transmission facilities other than those that have received waiver of the obligation to comply with Order Nos. 888, 889, and 890, and indirectly to VERs over 20MW. The required information should impose the least possible burden for companies to comply with the Commission's open access policies, while removing barriers to the integration of variable energy resources.

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

This program meets all of OMB's section 1320.5 requirements.

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

This NOPR proposes reforms to the *pro forma* Open Access Transmission Tariff (OATT) that derive from the Integration of Variable Energy Resources Notice of Inquiry (NOI).Error: Reference source not found The Commission initiated that inquiry to obtain information on barriers to the integration of variable energy resources (VER)Error: Reference source not found and on the current state of VER integration in various regions of the country. [The public comments received from the NOI are available in eLibrary (<http://www.ferc.gov/docs-filing/elibrary.asp>, by using the general, advanced, or docket search, and entering Docket No. RM10-11).]

Not unexpectedly, commenters on the NOI indicated that VER presence is not uniform throughout the country. Commenters also described their experiences integrating VERs and the on-going industry efforts designed to address issues posed by increasing numbers of VERs. Many of these industry efforts are significant in scope and have the potential to address issues confronting regions where large concentrations of VERs are located.

Accordingly, in this NOPR, the Commission has decided to propose a limited set of reforms to existing operational procedures that FERC preliminarily finds to be unduly discriminatory and leading to unjust and unreasonable rates for transmission service. Specifically, the Proposed Rule addresses transmission scheduling practices, VER power

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production forecasts, and the recovery of capacity charges associated with generator imbalance service (*i.e.*, generator regulation service).

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

Not applicable. The Commission does not provide compensation or remuneration to entities subject to its jurisdiction.

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

An entity seeking confidential treatment of the information must ask the Commission to treat this information as confidential and non-public, consistent with the Commission’s regulations at 18 CFR 388.112. Generally, the Commission does not consider this information to be confidential.

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

There are no questions of a sensitive nature that are considered private.

**12. ESTIMATED BURDEN ON COLLECTION OF INFORMATION**

The additional estimated annual public reporting burdens for the proposed reporting requirements in the NOPR in RM10-11 are as follows.

<b>Data Collection FERC 516 (as proposed in NOPR in RM10-11)</b>	<b>Number of Respondents [1]</b>	<b>Number of Responses Per Respondent [2]</b>	<b>Hours per Response [3]</b>	<b>Total Annual Hours [1 X 2 X 3]</b>
Conforming tariff changes to require intra-hourly scheduling or deviation request (18 CFR 35.28(c)(1)(vi))	134	1	3	402
Implementation of intra-hourly scheduling (15-minute intervals)	134	1	6 initial set up, 2 maintena	804 initial year; 268 subsequent years

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			nce and operation	
Addition of ancillary service rate schedule, Schedule 10 or deviation request (18 CFR 35.28(c)(1)(vi))	134	1	5	670
Conforming changes to LGIA (for meteorological and operational data provided by Interconnection Customers with VERs) or deviation request (18 CFR 35.28(f)(1)(v))	134	1	7	938
Provision of meteorological and operational data by Interconnection Customers with VERs to public utility transmission providers	270 <sup>9</sup>	1	4 initial set up, 2 maintenance and operation	1,080 initial year; 540 subsequent years
<b>Totals</b>				3,894 initial year; 2,818 subsequent years <sup>10</sup>

<sup>9</sup> The Commission estimates that there are approximately 270 VERs under construction, permitted, with an application pending, or proposed to come online 2010-2011 potentially subject to this requirement.

<sup>10</sup> The total additional burden associated with the NOPR in RM10-11 is estimated to be: 3,894 hours in Year 1, and 2,818 in both Year 2 and Year 3. For the meta-data in OMB's ROCIS system, an annual average of 3,176.667 hours over the 3 years [(3,894+2,818+2,818)/3=3,176.667] will be used.



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The following annual estimates include the current inventory plus the proposed requirements in the NOPR in RM10-11.

<b>Data Collection, FERC-516</b>	<b>No. of Respondents</b>	<b>No. of Responses</b>	<b>Total Hours</b>
Current OMB Inventory	1,230	4,650	462,501
Changes in inventory due to proposed reporting requirements in the NOPR in RM10-11	+270	+806	3,177Error: Reference source not found
<b>Proposed total after adding in the changes from RM10-11</b>	1,500	5,456	465,678 <sup>11</sup>

**13. ESTIMATED OF THE TOTAL COST BURDEN TO RESPONDENTS**

The Commission has projected the cost of compliance with the proposed burdens associated with the NOPR in RM10-11 to be:

- \$443,916 in the initial year and
- \$321,252 in subsequent years.

[Total Annual Hours for Collection in initial year (3,894 hours) X \$114 an hour<sup>12</sup> = \$443,916. Total Annual Hours for Collection in subsequent years (2,818 hours) X \$114 an hourError: Reference source not found = \$321,252.]

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

The estimated annual costs to the FERC, associated with the NOPR in RM10-11, are:

Review and processing (6.5FTEs X \$137,874/FTE)	\$896,181
<u>Forms Clearance</u>	<u>\$ 1,528</u>
Total FERC Costs	\$897,709

<sup>11</sup> Using the average annual additional burden [over the 3-year period] related to the NOPR in RM10-11 (3,176.667 hours as discussed in Footnote 10), the proposed revised total burden for FERC-516 would be 463,757.667 (460,581 + 3,176.667). This figure will be used for the metadata in OMB's ROCIS.

<sup>12</sup> \$114 per hour is the average hourly cost of an attorney (\$200), consultant (\$150), technical (\$80), and administrative support (\$25).

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

The proposed reforms will remove barriers to the integration of variable energy resources. See Overview above for further discussion.

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

The data are case specific and are not required for the purposes of publication.

**17. DISPLAY OF EXPIRATION DATE**

The information collected is not collected on standardized filing formats or a preprinted form that would avail itself of displaying the OMB control number. The control numbers for these information collections is displayed on the eTariff instructional manual posted on the Commission’s web site at <http://www.ferc.gov/docs-filing/etariff/implementation-guide.pdf>.

**18. EXCEPTION TO THE CERTIFICATION STATEMENT**

There are exceptions to the Paperwork Reduction Act Submission certification. The data collected for these reporting and recordkeeping requirements are not used for statistical purposes, so the Commission does not use (as stated in item 19(I)) “effective and efficient statistical survey methodology.” In addition, as noted in no. 17, this information collection does not fully meet the standard set in 19 (g) (vi.).

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

This is not a collection of information employing statistical methods.