

Supporting Statement for  
**Proposed FERC-740**  
**Availability of E-Tag Information to Commission Staff**

The Federal Energy Regulatory Commission (Commission or FERC) requests that the Office of Management and Budget (OMB) review and approve, for a three-year period, the proposed FERC-740 in the Notice of Proposed Rulemaking (NOPR) in Docket No. RM11-12.

In this NOPR, the Commission proposes, pursuant to § 307(a) of the Federal Power Act (FPA),<sup>1</sup> to amend its regulations to require the Electric Reliability Organization (ERO) certified by the Commission under § 39.3 of the Commission's regulations<sup>2</sup> to make available to Commission staff, on an ongoing basis, access to the complete electronic tags (e-Tags) used to schedule the transmission of electric power interchange transactions in wholesale markets.<sup>3</sup> The Commission proposes to require the ERO to provide access to e-Tags, rather than requiring individual market participants to provide such access, so as to avoid imposing this burden on market participants of submitting e-Tags with both the ERO and the Commission.

### **Background**

The North American Electric Reliability Corporation (NERC), formerly known as the North American Electric Reliability Council, was established in 1968, in response to the 1965 electricity blackout in the northeast. At that time, the industry-created council included nine regional reliability groups, began regional planning coordination, and developed voluntary operations criteria and guides. Over the years, NERC modified its membership rules and governing structure and, in 2006, the Commission approved NERC's application to become the ERO for the United States.<sup>4</sup>

The North American Energy Standards Board (NAESB) is a non-profit standards development organization established in January 2002 that serves as an industry forum for the development of business practice standards. NAESB has developed a number of business practice standards that the Commission has incorporated by reference into its regulations, thus making compliance with these standards a mandatory Commission requirement.<sup>5</sup>

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1 16 U.S.C. 791a, *et seq.*

2 18 C.F.R. § 39.3 (2010).

3 For purposes of this NOPR, "complete e-Tags" refers to (1) e-Tags for interchange transactions scheduled to flow into, out of or within the United States' portion of the Eastern or Western Interconnections, or into or out of the Electric Reliability Council of Texas and into or out of the United States' portion of the Eastern or Western Interconnections, and (2) information on every aspect of the e-Tag, including all applicable e-Tag-IDs, transaction types, market segments, physical segments, profile sets, transmission reservations, and energy schedules.

4 *North American Electric Reliability Corporation*, 116 FERC ¶ 61,062 (2006), *order on reh'g*, 117 FERC ¶ 61,126 (2006), *order on compliance*, 118 FERC ¶ 61,030 (2007).

5 *See, e.g., Standards for Business Practices and Communication Protocols for Public Utilities*, Order No. 676,

NERC and NAESB coordinate the development of business practices and reliability standards for the wholesale electric industry. The members and staff of NERC and NAESB actively participate in both organizations, and NERC is a member of the NAESB Wholesale Electric Quadrant. NAESB representatives participate in NERC technical committees and regularly attend meetings of the Member Representatives Committee and Board of Trustees.

NERC and NAESB use a joint coordination procedure to ensure tight integration of their respective standards development processes where reliability and commercial needs are closely related. Some examples where such coordination has been required are electronic tagging, transmission loading relief (TLR) procedures, and determination of available transfer capability. This coordination includes joint meetings, inter-organizational reviews of standards and comments, and often jointly developed filings. E-Tags, also known as Requests for Interchange, are used to schedule interchange transactions<sup>6</sup> in wholesale markets.<sup>7</sup> NERC collects all e-Tag data in near real-time to assist Reliability Coordinators in identifying transactions that need to be curtailed for relieving overload when transmission constraints occur. E-Tags are included in the business practice standards adopted by NAESB and incorporated by reference into its regulations and public utility tariffs by the Commission.<sup>8</sup>

E-Tagging was first implemented by NERC on September 22, 1999, as a process to improve the speed and efficiency of the tagging process, which had previously been accomplished by e-mail, facsimile, and telephone exchanges.<sup>9</sup> E-Tags require that, prior to scheduling transactions, one of the market participants involved in a transaction must submit certain transaction-specific information, such as the source and sink control areas (now referred to as Balancing Authority Areas) and control areas along the contract path, as well as the transaction's level of priority and transmission reservation OASIS

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FERC Stats. & Regs., Regulations Preambles ¶ 31,216 (2006), *reh'g denied*, Order No. 676-A, 116 FERC ¶ 61,255 (2006).

<sup>6</sup> NERC's *Glossary of Terms Used in Reliability Standards* (updated April 20, 2009) defines an interchange transaction as "[a]n agreement to transfer energy from a seller to a buyer that crosses one or more Balancing Authority Area boundaries." See [http://www.nerc.com/files/Glossary\\_2009April20.pdf](http://www.nerc.com/files/Glossary_2009April20.pdf) (page 10 of 21) (last visited on March 23, 2011).

<sup>7</sup> E-Tag Transaction Tags are part of the Interchange Distribution Calculator and Websas that are used in the TLR procedure IRO-006-4.1 and WECC Unscheduled Flow Standard IRO-STD-006-0 for the Eastern and Western Interconnection, respectively.

<sup>8</sup> NAESB Wholesale Electric Quadrant (WEQ) Business Practice Requirement 004-2 states that the "primary method of submitting the Request for Interchange (RFI) to the Interchange Authority shall be an e-Tag using protocols in compliance with the *Electronic Tagging Functional Specification, Version 1.8*." See NAESB Wholesale Electric Quadrant (WEQ) Business Practice Standards (Version 002.1), published March 11, 2009. More recently, NERC has updated its tagging specifications, see n.12 *infra*, but this update is not reflected in the WEQ Version 002.1 business practice standards incorporated by reference by the Commission.

<sup>9</sup> *Open-Access Same-Time Information System and Standards of Conduct*, 90 FERC ¶ 61,070 at 61,258-59 (2000) (Order Denying Cease and Desist Order).

reference numbers, to control area operators and transmission operators on the contract path.<sup>10</sup>

Communication, submission, assessment, and approval of an e-Tag must be completed before the interchange transaction is implemented.<sup>11</sup> The Interchange Scheduling and Coordination (INT) group of Reliability Standards sets forth requirements for implementing interchange transactions through e-Tags. E-Tags are submitted pursuant to the business practices set forth by NAESB. Those business practices set forth the requirements for a proper e-Tag to permit an Interchange Authority to accept and process the e-Tag.

## **RM11-12 NOPR**

In this NOPR, the Commission proposes to require the Commission-certified ERO to make available to Commission staff on an ongoing, non-public basis the complete e-Tags used to schedule the transmission of electric power in wholesale markets. In addition, while not specifically proposed in this NOPR, the Commission is inviting comments on whether the Commission should require that complete e-Tags be made available to entities involved in market monitoring of RTOs and ISOs, or Market Monitoring Units (MMUs).

### **A. JUSTIFICATION**

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

Currently, the Commission and its staff do not have access to the complete e-Tags used for interchange transactions. Access to this information would enhance the Commission staff's efforts to monitor market developments and prevent market manipulation, assure just and reasonable rates, and to monitor compliance with certain NAESB business practice standards.

In this NOPR, the Commission proposes, pursuant to § 307(a) of the Federal Power Act (FPA),<sup>12</sup> to amend its regulations to require the Electric Reliability Organization (ERO) certified by the Commission under § 39.3 of the Commission's regulations<sup>13</sup> to make available to Commission staff, on an ongoing basis, access to the

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<sup>10</sup> *Id.*

<sup>11</sup> See *Mandatory Reliability Standards*, Order No. 693, FERC Stats. & Regs. ¶ 31,242 at P 795, *order on reh'g*, Order No. 693-A, 120 FERC 61,053 (2007); see also *Revised Mandatory Reliability Standards for Interchange Scheduling, Coordination*, Order No. 730 at P 7 & n.19. E-Tags are implemented through the requirements set forth in the *NAESB Electronic Tagging Functional Specifications*, Version 1.8.1 (Oct. 27, 2009).

<sup>12</sup> 16 U.S.C. 791a, *et seq.*

<sup>13</sup> 18 C.F.R. § 39.3 (2010).

complete electronic tags (e-Tags) used to schedule the transmission of electric power interchange transactions in wholesale markets.<sup>14</sup>

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

Obtaining access to complete e-Tag data will help the Commission to detect anti-competitive or manipulative behavior or ineffective market rules, monitor the efficiency of the markets, and better inform Commission policies and decision-making. Thus, the Commission proposes to require the ERO to provide access to complete e-Tag data on a non-public basis to Commission staff. For example, by using e-Tag data, in coordination with other resources,<sup>15</sup> the Commission will be able to better identify interchange schedules that appear anomalous or inconsistent with rational economic behavior. In this regard, access to e-Tag data would allow the Commission's staff to examine more effectively situations where interchange schedules are absent even when transmission capacity is available and pricing differences between the two locations ought to be sufficient to encourage transactions between those locations. Such a circumstance could signal a market failure or other problem. In addition, Commission access to e-Tags would help facilitate Commission audits or investigations in cases where e-Tags are relevant. The Commission is also considering making the data available to MMUs.

Without the e-Tag data it will be more difficult for the Commission to fulfill its mission to assure just and reasonable rates.

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

The Commission intends to obtain the e-Tag data in an electronic format.

**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**

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<sup>14</sup> For purposes of this NOPR, "complete e-Tags" refers to (1) e-Tags for interchange transactions scheduled to flow into, out of or within the United States' portion of the Eastern or Western Interconnections, or into or out of the Electric Reliability Council of Texas and into or out of the United States' portion of the Eastern or Western Interconnections, and (2) information on every aspect of the e-Tag, including all applicable e-Tag-IDs, transaction types, market segments, physical segments, profile sets, transmission reservations, and energy schedules.

<sup>15</sup> For instance, in Docket No. RM10-12-000, the Commission is issuing a NOPR concurrently with the NOPR in Docket No. RM11-12, whereby the Commission proposes that e-Tag IDs be included in the transaction details reported in Electric Quarterly Reports. The NOPR and associated reporting requirements in Docket RM10-12 will be submitted separately to OMB for review.

In the NOPR, the Commission proposes to require the ERO (NERC) rather than individual market participants to provide access to the e-Tag data to avoid burdening market participants with a requirement to submit the same data with both NERC and the Commission. In addition, obtaining access from one entity (i.e., NERC) will avoid burdening the Commission with developing and maintaining a new system to capture such data from individual market participants.

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

As explained in item 4, the Commission is proposing to obtain access to the e-Tag data from the ERO, instead of requiring market participants to submit the same data with both NERC and the Commission. This method should avoid putting any additional burden on small entities.

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

Less frequent access to the e-Tag data means an increased chance of unchecked anti-competitive or manipulative behavior among market participants.

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

The guidelines of 5 C.F.R. 1320.5(d) are being followed.

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

Each FERC rulemaking (both proposed and final rules) is published in the Federal Register, thereby providing public utilities and licensees, state commissions, Federal agencies, and other interested parties an opportunity to submit data, views, comments or suggestions concerning the proposed collection of data. This Notice of Proposed Rulemaking in Docket RM11-12 was published in the Federal Register on April 27, 2011 (76 FR 23516), and requests public comments.

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

No payments or gifts have been made to respondents.

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

The Commission is proposing to keep the e-Tag data non-public, but recognizes that persons wishing to access this data could file a request to obtain it through a request under the Freedom of Information Act. While such a request would necessarily be limited to data within the Commission’s custody, the NOPR invites comment on whether the Commission would need to decide such claims on a case-by-case basis or could simply rule that such information would not be released because it is exempt from release under one or more of the exemptions to disclosure provided in the FOIA.

**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 OF COLLECTION OF INFORMATION**

The proposed rule makes information available to Commission staff, but does not require, as part of the proposals in this NOPR, that NERC collect any new information, repackage the information into any kind of report, or make any computations or adjustments to the raw information.<sup>16</sup> This being the case, the Commission estimates that the reporting burden associated with compliance with this proposed rule is *de minimis*, and is limited to reviewing the Commission ruling and providing permission for staff to access the information.

<b>Proposed Data Collection</b>	<b>No. of Respondents Annually (1)</b>	<b>No. of Responses Per Respondent (2)</b>	<b>Hours Per Response (3)</b>	<b>Total Annual Burden Hours (1)X(2)X(3)</b>
<b>FERC-740</b>	1	1	7	7

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<sup>16</sup> While the exact details regarding the Commission’s access to this data have not been finalized, it is assumed that the Commission will contract with a 3<sup>rd</sup> party that would provide the data or access to it in some form. The burden hours associated with the work done by the 3<sup>rd</sup> party are estimated to be 1242 hours in the initial year and 877 hours for each year thereafter. These hours are not included in this collection since the Commission is paying for the services received. Only the burden hours associated with NERC directly are included.

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

The Commission has projected the annualized cost to be the following:

Total Annualized Cost= \$840 (7 hours @ \$120/hr<sup>17</sup>)

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

The estimate of the cost to the Federal Government is based on salaries for professional and clerical support, as well as direct and indirect overhead costs. Direct costs include all costs directly attributable to providing this information, such as administrative costs and the cost for information technology. Indirect or overhead costs are costs incurred by an organization in support of its mission. These costs apply to activities which benefit the whole organization rather than any one particular function or activity. Based on the staff and resources involved in processing the information, the estimated average annual cost to FERC follows:

Data Clearance (yearly): \$1,575

Cost for Obtaining, Processing and Analyzing the data:

- Initial year: \$654,488
- Ongoing: \$629,488

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

There is an estimated program increase of 7 hours. This proposed collection does not require any new information to be collected by NERC or any other entity but does require existing information to be made available for Commission staff. The increase in burden is necessary in order for the Commission to be able to obtain access to e-Tag data. The Commission believes the benefit to be obtained from the data more than outweighs the minimal cost imposed on the ERO.

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

There is no publication of the data.

**17. DISPLAY OF THE EXPIRATION DATE**

It is not appropriate to display the expiration date for OMB approval of the information collected. The information will not be collected on a standard, preprinted form which would avail itself to that display.

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<sup>17</sup> This is a composite figure taking into account legal (\$200/hr) and technical (\$40/hr) staff.

**18. EXCEPTIONS TO THE CERTIFICATION STATEMENT**

The data collected for this reporting requirement is not used for statistical purposes. Therefore, the Commission does not use, as stated in item (i) of the agency certification, "effective and efficient statistical survey methodology."

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

This is not a collection of information employing statistical methods.