

**SUPPORTING STATEMENT FOR
proposed FERC-921,¹ Ongoing Electronic Delivery of RTO/ISO Data
(as contained in the Proposed Rule, in Docket No. RM11-17-000,
“Enhancement of Electricity Market Surveillance and Analysis through Ongoing
Electronic Delivery of Data from Regional Transmission Organizations and
Independent System Operators”)**

The Federal Energy Regulatory Commission (FERC or Commission) is requesting Office of Management and Budget review and approval of proposed information collection requirements contained in new FERC-921 (Ongoing Electronic Delivery of RTO/ISO Data), Error: Reference source not found as contained in the Notice of Proposed Rulemaking (NOPR) in Docket No. RM11-17-000 (“Enhancement of Electricity Market Surveillance and Analysis through Ongoing Electronic Delivery of Data from Regional Transmission Organizations and Independent System Operators”). This NOPR was issued 10/20/2011, and is available in FERC’s eLibrary at <http://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=12795271> ; the press release is posted at <http://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=12795687> .

Overview

FERC proposes, pursuant to sections 301(b) and 307(a) of the Federal Power Act (FPA),² to amend its regulations to require each regional transmission organization (RTO) and independent system operator (ISO) to electronically deliver to the Commission, on an ongoing basis, data related to the markets that it administers. Ongoing electronic delivery of data relating to physical and virtual offers and bids, market awards, resource outputs, marginal cost estimates, shift factors, financial transmission rights (FTR), internal bilateral contracts, and interchange pricing will facilitate FERC’s development and evaluation of its policies and regulations and will enhance FERC efforts to detect anti-competitive or manipulative behavior, or ineffective market rules, thereby helping to ensure just and reasonable rates.

A. JUSTIFICATION

1. CIRCUMSTANCES THAT MAKE THE COLLECTION OF INFORMATION NECESSARY

¹ OATT compliance filings (like the one-time compliance filing here) are normally included under FERC-516 (OMB Control No. 1902-0096, approved through 7/31/2014). However, the reporting requirements (including the compliance filing) contained in the NOPR in Docket No. RM11-17 will be covered by this proposed FERC-921.

² 16 U.S.C. 825(b), 825f(a), attached in ROCIS under Supplementary Documents

FERC is statutorily obligated to ensure that sales of electricity in wholesale markets are made at just and reasonable rates,³ and to address market manipulation in connection with the purchase or sale of electricity subject to the Commission's jurisdiction.⁴ Toward that end, section 301(b) of the FPA provides that the Commission shall at all times have access to and the right to inspect and examine all accounts and records of public utilities.⁵ In this NOPR, and pursuant to its authority under section 301(b), the Commission proposes to seek ongoing electronic delivery of data including accounts and records of the RTOs/ISOs, which are public utilities.

Moreover, the Commission also has authority pursuant to section 307(a) of the FPA to investigate any facts, conditions, practices, or matters it may deem necessary or proper to determine whether any person, electric utility, transmitting utility, or other entity may have violated or might violate the FPA or the Commission's regulations, or to aid in the enforcement of the FPA or the Commission regulations, or to obtain information about wholesale power sales or the transmission of power in interstate commerce.⁶

As markets continue to evolve with increased levels of sophistication, the Commission must continue to evaluate the type of data necessary to ensure just and reasonable rates. The Commission's market monitoring and surveillance capabilities and associated data requirements must keep pace with market developments and evolve along with the markets. Further, the Commission's evaluation of the market rules, regulations, and policies should be informed by the data collection proposed herein. Electronic delivery of the types of data proposed herein will help to bring the Commission's access to RTO/ISO data in sync with the types and levels of activity in those markets and help to ensure that rates are just and reasonable.

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

To keep pace with market developments, FERC is proposing to establish ongoing, electronic delivery of data from each RTO and ISO to enhance its market monitoring and surveillance efforts. FERC will also require a one-time compliance filing. The data will help FERC detect anti-competitive or manipulative behavior, or ineffective market rules, and thus help ensure just and reasonable rates.

Among other objectives, FERC will use the data as part of automated screens and other analyses designed to detect attempts to manipulate RTO/ISO pricing and to detect abuses involving interchange transactions. Supply offer, demand bid, virtual, and FTR

³ See 16 U.S.C. 824d, 824e [attached in ROCIS under Supplementary Documents].

⁴ See 16 U.S.C. 824v [attached in ROCIS under Supplementary Documents].

⁵ 16 U.S.C. 825(b).

⁶ 16 U.S.C. 825f(a).

[updated 11/1/11]

data will assist the Commission in understanding how market participants are positioning themselves in RTO/ISO markets. For example, market participants attempting to move RTO/ISO settlement pricing might offer supply into the RTO/ISO market at uncompetitive prices. Likewise, market participants could target specific LMP prices using virtual offers and bids. Because congestion impacts are often spread across many price nodes (and result in many different LMPs) through shift factors, these virtual offers and bids need not be placed at the specific price node for which a market participant might be attempting to move the LMP. Estimated marginal cost and shift factor data will enhance the Commission's ability to identify such behavior that may be designed to impact RTO/ISO pricing. Moreover, interchange pricing data will assist the Commission's efforts to identify anomalous or uneconomic electricity interchange schedules; electricity schedules between markets that are not consistent with pricing signals could be a source of market inefficiency or raise other anti-competitive concerns.

Securing data concerning the markets that the RTOs/ISOs administer is part of FERC's broader effort to enhance its market monitoring and surveillance capabilities. Specifically, in a recently issued NOPR on FERC access to electronic tag (e-Tag) data,⁷ the Commission proposed to make e-Tag data available to FERC to assist in monitoring the market and preventing manipulation, among other things. In yet another NOPR, the Commission proposed to require additional contract and transaction data from those who file EQRs and to extend the EQR filing requirements to wholesale market participants which fall outside the Commission's FPA section 205 jurisdiction.⁸ The Commission stated that these proposals would strengthen FERC's ability to identify potential exercises of market power or manipulation. We believe that the same is true here.

Utilizing the data the Commission proposes to receive in this NOPR (and the two NOPRs addressed above) could greatly enhance the Commission's market monitoring and surveillance capabilities. The data will permit the Commission to improve its screening of market participants for illicit behavior, making such conduct more difficult to mask. In addition, the data the Commission proposes to collect in these NOPRs could provide a better picture of legitimate market activity and lessen the possibility that market monitoring and surveillance screens will result in error.

Moreover, in overseeing wholesale electricity markets, the Commission evaluates, in response to submissions or on its own motion, existing market designs and the effectiveness of market rules. The Commission proposes to use RTO/ISO market data to

⁷ *Availability of E-Tag Information to Commission Staff*, NOPR issued 4/21/2011 in Docket No. RM11-12, posted in FERC's eLibrary at <http://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=12630470>. (The information collection requirements were submitted to OMB in ICR 201104-1902-002, proposed OMB Control No. 1902-0254, FERC-740.)

⁸ *Electricity Market Transparency Provisions of Section 220 of The Federal Power Act*, NOPR issued 4/21/2011 in Docket No. RM10-12, posted at <http://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=12630477>. (The information collection requirements were submitted to OMB in ICR 201104-1902-003, OMB Control No. 1902-0255, FERC-920.)

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more effectively carry out these functions. Electronic delivery of this data will enable the Commission to better identify ineffective market rules and better inform Commission policies and decision-making, and thus help prevent anti-competitive behavior and ensure just and reasonable rates.

We believe that electronic delivery of RTO/ISO market data will provide the Commission with empirical information that will augment ongoing industry outreach in determining the effectiveness of the Commission-approved market rules and the efficiency of existing market designs in producing just and reasonable rates. Electronic delivery of the market data sought would allow the Commission to perform better ongoing analysis as markets evolve and new resources begin participating in these markets. For example, the market data sought should enable the Commission to assess both the scheduling practices of renewable resources and how renewable energy schedules compare with actual real-time performance. Because of its unique position, the Commission will be able to perform such analysis across the RTO/ISO markets. This cross-market analysis will enhance the Commission's ongoing efforts to assess the performance of different market designs and rules.

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

There is an ongoing effort to determine the potential and value of improved information technology to reduce the burden. The Commission adopted user friendly electronic formats and software in order to facilitate the required electronic formats for rate filings. In Order No. 714 (issued September 19, 2008, in RM01-5-000⁹), FERC revised its regulations to require that all tariffs, tariff revisions and rate change applications for the public utility, natural gas pipeline and oil pipeline industries be filed according to a set of standards developed in conjunction with the North American Standards Board.

Electronically filed tariffs and rate change applications improved the efficiency, convenience, and overall management of the tariff and tariff change filing process, facilitated public access to tariff information, and reduced the burden and expense associated with paper tariffs and tariff changes. The one-time compliance filing will be filed electronically.

FERC proposes that the data filed by the RTO/ISO on a recurring basis will be in an XML format and filed electronically with FERC using the Secure File Transfer Protocol (SFTP). FERC is proposing to use XML because it is commonly used by RTOs/ISOs to deliver data to market participants for other purposes.

⁹ Electronic Tariff Filings, Order No. 714, 73 FR 57515 (Oct. 3, 2008), FERC Stats. & Regs. ¶ 31,276 (2008).

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.

Electric Rate schedules and tariff filings (containing transmission, rate, and terms and conditions of service) are not available from other sources. Therefore, no use or other modification of existing information can be made to perform oversight and review responsibilities under applicable legislation (e.g. Federal Power Act, Energy Policy Act of 1992, and Energy Policy Act of 2005).

On a case by case basis, FERC may currently request the data proposed to be filed on an automated, recurring basis. By requiring an automated data delivery process that is more uniform across the 6 RTOs/ISOs, we expect to minimize burden on the RTOs/ISOs and increase the effectiveness and efficiency of FERC's analysis and oversight. Specifically, ad hoc requests may require new queries to be developed by RTO/ISO staff for every data request. By developing a routine, automated delivery process, queries will only need to be created once and maintained over time, likely limiting burden on the RTOs/ISOs.

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

The six RTO's and ISO's to which the requirements of this rule would apply do not fall within the definition of small entities.¹⁰ They are the only entities impacted directly by this proposed rule.

- CAISO is a nonprofit organization with over 54,000 megawatts of capacity and over 25,000 circuit miles of transmission lines.
- NYISO is a nonprofit organization that oversees wholesale electricity markets serving 19.2 million customers. NYISO manages a nearly 11,000-mile network of high-voltage transmission lines.

¹⁰ The RFA definition of "small entity" refers to the definition provided in the Small Business Act, which defines a "small business concern" as a business that is independently owned and operated and that is not dominant in its field of operation. See 5 U.S.C. § 601(3), citing to Section 3 of the Small Business Act, 15 U.S.C. § 632 (2000). The Small Business Size Standards component of the North American Industry Classification system defines a small utility as one that, including its affiliates, is primarily engaged in the generation, transmission, or distribution of electric energy for sale, and whose total electric output for the preceding fiscal years did not exceed 4MWh. 13 C.F.R. § 121.202 (Sector 22, Utilities, North American Industry Classification System, NAICS) (2004).

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- PJM is comprised of more than 700 members including power generators, transmission owners, electricity distributors, power marketers, and large industrial customers and serves 13 states and the District of Columbia.
- SPP is comprised of 63 members serving 6.2 million households in nine states and has 48,930 miles of transmission lines.
- Midwest ISO is a nonprofit organization with over 145,000 megawatts of installed generation. Midwest ISO has over 57,600 miles of transmission lines and serves 13 states and one Canadian province.
- ISO-NE is a regional transmission organization serving six states in New England. The system is comprised of more than 8,000 miles of high-voltage transmission lines and over 300 generators.

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

It would be more difficult to detect and deter illicit behavior in wholesale electricity markets in the event that the requested data is delivered less frequently. Specifically, the ongoing electronic delivery of data relating to physical and virtual offers and bids, market awards, resource outputs, marginal cost estimates, shift factors, financial transmission rights, internal bilateral contracts, and interchange pricing will enhance FERC's efforts to detect anti-competitive or manipulative behavior, or ineffective market rules, thereby helping to ensure just and reasonable rates. As proposed, this data is to be delivered to FERC within seven days after it is created or updated. Market fundamentals can change quickly in electricity markets due to weather events, facility outages and various other factors. If delivered less frequently, it will be more challenging for FERC to keep pace with changes in the dynamic markets that it regulates.

Less frequent delivery may also present technology challenges. If the proposed data were delivered less frequently, the size of data transferred would be considerably larger. Larger data transfers would require longer transfer, management and back-up times, potentially disrupting other data procedures managed by FERC or RTOs/ISOs.

7. EXPLAIN ANY SPECIAL CIRCUMSTANCES RELATING TO THE INFORMATION COLLECTION

This proposed 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

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 RM11-17 was published in the Federal Register (on 10/26/2011) and requests public comments.

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

The ongoing electronic delivery of data that FERC expects to receive in this proposal is, by its nature, commercially-sensitive. Disclosure of such information could result in competitive harm to market participants and the market as a whole. Accordingly, the Commission proposes that the data sought in this proceeding is to be kept non-public and not be made publicly available, except as may be directed by the Commission, or a court with appropriate jurisdiction.

The one-time compliance filing will be public.

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 and
13. ESTIMATED OF THE TOTAL COST BURDEN TO RESPONDENTS

The Commission's estimated reporting burden and cost related to the proposed rule in Docket RM11-17-000 follow.

Proposed FERC-921 (OMB Control No. 1902-nnnn)
RM11-17-000 (NOPR, issued 10/20/2011; RIN 1902-AE43)
 [updated 11/1/11]

Data Collection, Proposed FERC-921	No. of respondents	Implementing Burden		Annual Recurring Operating Burden		Average Annual Burden (implementation cost averaged over 3 yrs.)	
		Burden hrs. per respondent	Cost per respondent	Burden hrs. per respondent	Cost per respondent	Burden hrs. for all respondents	Cost for all respondents
Compliance filing	6	7	\$1,750			14	\$3,500
Web-Based Delivery	6	1040	\$100,864	40	\$3,879	2320	\$225,003
Grand Total, Average Annual Estimates	6					2334	\$228,503

The Commission recognizes that there will be an initial implementation burden associated with providing the Commission with RTO/ISO data. This includes submitting a compliance filing to the Commission (which the Commission estimates as a burden of 7 hours per RTO/ISO), and implementing a process to automatically upload data to an SFTP site for Commission use (including development, testing and production). FERC estimates a burden of 1040 hours per RTO/ISO for the development, testing and production of an automated process to provide the Commission with the data described in this NOPR. In this regard, though, RTO/ISO markets have already developed capabilities necessary to handle RTO/ISO data in an automated manner. For instance, through their Open Access Same-time Information Systems (OASIS), RTOs/ISOs already make certain market data publicly available in XML format using automated procedures. Likewise, some RTOs/ISOs have developed procedures similar to those proposed in this NOPR to deliver data to their MMUs.

For the recurring effort involved in electronically delivering RTO-ISO data to the Commission, the Commission anticipates that the additional burden associated with this rule will be minimal. Any recurring burden would be associated with addressing updates to RTO/ISO data as the data that they process changes and due to occasional errors in the data handling or data upload process.

The Commission has estimated the cost of compliance per RTO/ISO to be \$102,614 in the initial year of implementation and \$3,879 in subsequent years. The Commission expects that the compliance filing will be completed by RTO/ISO legal staff and has estimated an hourly rate at \$250/hour. The Commission estimates that a variety of staff, including legal, database administrators and IT and information security specialists, will be required to electronically deliver to the Commission the RTO/ISO data described in this NOPR. The Commission estimated the average hourly cost for this task to be \$96.98/hour (including legal staff at \$250/hour, information systems manager

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at \$105.35/hour, database administrator at \$55.61/hour, and information security analyst at \$57.67/hour).¹¹

The average annual cost for all 6 respondents of \$228,503 (in the table above) reflects the implementation costs averaged over the 3-year period of this clearance request.

14. ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT

For the reporting requirements included in the NOPR in RM11-17, the estimated average annual costs to the Commission (averaged over Years 1-3) follow.

	No. of FTE's	Annual Cost (averaged over Years 1-3)
Estimated Average Annual Figure for analysis and processing (averaged over Years 1-3) [average cost for 1 FTE (including salary + benefits) is \$142,372 per year.]	10.014	\$1,425,713
Estimated Average Annual Forms Clearance Review		\$1,575
Estimated Hardware and Software Costs (including development, testing, implementation, and maintenance) ¹² , averaged over Years 1-3		\$23,243
Total Estimated Annualized Federal Cost (averaged over Years 1-3)		\$1,450,531

Note the figures are rounded.

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

As wholesale electricity markets continue to develop and evolve, new opportunities arise for anti-competitive or manipulative behavior. The Commission's market monitoring and surveillance capabilities and associated data requirements must keep pace with market developments and evolve along with the markets. The data discussed in this NOPR will allow the Commission to more effectively identify and

¹¹ Hourly average wage is an average and was calculated using Bureau of Labor Statistics (BLS), Occupational Employment Statistics data for May, 2010 (at <http://www.bls.gov/oes/>) for the database administrator and information security analysts. The average hourly figure for legal staff and information systems manager is a composite from BLS and other resources. The following weightings were applied to estimate the average hourly cost: legal staff (1/6), information systems manager (1/6), database administrator (1/3), and information security analyst (1/3).

¹² These figures are estimates based on the NOPR in RM11-17 and are subject to change.

address such behavior; to identify ineffective market rules; to better inform Commission policies and regulations; and thus to help ensure just and reasonable rates.

See “Overview” section and the answers to questions 1 and 2 above for further discussion.

16. TIME SCHEDULE FOR THE PUBLICATION OF DATA

The data are being collected for regulatory purposes and not 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. .

18. EXCEPTION TO THE CERTIFICATION STATEMENT

The data collected for these reporting and recordkeeping requirements are not used for statistical purposes.

B. COLLECTION OF INFORMATION EMPLOYING STATISTICAL METHODS.

This is not a collection of information employing statistical methods.