

FERC-516 (OMB 1902-0096), Final Rule in RM10-11-000 issued 06/22/2012
RIN 1902-AE16 (related to previously issued RIN 1902-AD95)
(updated 11/20/2012)

SUPPORTING STATEMENT FOR
FERC-516, Electric Rate Schedules and Tariff Filings
In the Final Rule on “Integration of Variable Energy Resources”
In Docket No. RM10-11-000

The Federal Energy Regulatory Commission (FERC or Commission) requests Office of Management and Budget review and approval of the modifications to the information collection requirements in FERC-516, Electric Rate Schedule and Tariff Filings (OMB Control No. 1902-0096), as contained in the final rule in Docket No. RM10-11-000 “Integration of Variable Energy Resources.” The final rule is available in FERC’s eLibrary at <http://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=13013217>.

Reason for this Submittal

FERC is amending the pro forma Open Access Transmission Tariff to remove unduly discriminatory practices and to ensure just and reasonable rates for Commission-jurisdictional services. Specifically, this final rule removes barriers to the integration of variable energy resources by requiring each public utility transmission provider to: (1) offer intra-hourly transmission scheduling; and (2) incorporate provisions into the pro forma Large Generator Interconnection Agreement [LGIA] requiring interconnection customers whose generating facilities are variable energy resources [VER]¹ to provide meteorological and operational data to the public utility transmission provider for the purpose of power production forecasting.

In conjunction with the changes to the burden due to the final rule, FERC is also requesting to remove from the inventory two information collections associated with one-time tariff filings already completed. These one-time filings total 1,092 hours and were implemented in final rules in docket nos. RM05-5-013 and RM05-5-017 respectively. Both information collections required one-time filings to incorporate business practice standards into each entity’s tariff. The one-time tariff filings were due in 2010 and 2011 respectively.

¹ 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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The Notice of Proposed Rulemaking (available in FERC's eLibrary at <http://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=12490505>) was a result of the review of those comments and was issued on 11/18/2010. In the proposed rule, the Commission explained that the composition of the electric generation portfolio is changing and that VERs are making up an increasing percentage of new generating capacity being brought on-line.⁴ Specifically, the Commission noted that in 2009, new wind generating capacity accounted for 39 percent of all newly installed generating capacity.⁵ In addition, another 85 GW of wind generating capacity has been proposed to be online by the end of 2012.⁶ Further growth is suggested by the significant developments in state and federal public policies that are facilitating the development of VERs.⁷ As the number of VERs has increased, the Commission has received a variety of proposals that seek variations from the *pro forma* Open Access Transmission Tariff

⁴ *Integration of Variable Energy Resources*, <http://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=12490505>, at P 13 (2010) (Proposed Rule).

⁵ *Id.* (citing Ryan Wisser & Mark Bolinger, Lawrence Berkeley National Laboratory, *2009 Wind Technologies Market Report* (Aug. 2010), available at http://www1.eere.energy.gov/wind/pdfs/2009_wind_technologies_market_report.pdf).

⁶ *Id.* (citing Div. of Energy Market Oversight, Fed. Energy Regulatory Comm'n, *2009 State of the Markets Report* (Apr. 2010), available at <http://www.ferc.gov/market-oversight/st-mkt-ovr/som-rpt-2009.pdf>). The amount of new solar generating capacity also has increased in recent years, adding 351 MW in 2008 and 481 MW in 2009, bringing the total solar generating capacity to more than 2,000 MW. Solar Energy Industries Ass'n, *US Solar Industry Year in Review 2009* (Apr. 2010) at 2, available at <http://seia.org/galleries/default-file/2009%20Solar%20Industry%20Year%20in%20Review.pdf>).

⁷ For example, the federal production tax credit, which has been in effect intermittently since the early 1990s, provides an inflation-adjusted credit for power produced from VERs and other renewable resources. 26 U.S.C. § 45 (2007). In February 2009, the American Recovery and Reinvestment Act not only extended the production tax credit for a period of three additional years, but also instituted an investment tax credit, which allows developers of certain renewable generation facilities to take a 30 percent cash grant in lieu of the production tax credit. American Recovery and Reinvestment Tax Act of 2009, Pub. L. No. 111-5, sec. 1101, 123 Stat. 115, 319-20 (2009). Other federal policies that provide incentives to renewable generation facilities include accelerated depreciation of certain renewable generation facilities and loan guarantee programs. As of December 2009, 30 states and the District of Columbia had a renewable portfolio standard. See Proposed Rule P 14 (citing Integrating VERs NOI, 130 FERC ¶ 61,053 at P 2 (citing Div. of Energy Market Oversight, Fed. Energy Regulatory Comm'n, *Renewable Power and Energy Efficiency Market: Renewable Portfolio Standards 1* (updated May 2011), available at <http://www.ferc.gov/market-oversight/othr-mkts/renew/othr-rnw-rps.pdf>)).

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(OATT) and/or Large Generator Interconnection Agreement (LGIA) in order to address system needs resulting from the integration of VERs.⁸

After careful review of the voluminous record in this proceeding, the Commission concludes that the additional reforms adopted in this final rule in Docket RM10-11-000 are necessary at this time to ensure that rates for Commission-jurisdictional service are just and reasonable in light of changing conditions in the industry. In addition, the Commission believes that these reforms minimize opportunities for undue discrimination by public utility transmission providers.

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 18 CFR 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.

⁸ In recent years, a number of public utility transmission providers have proposed to assess various forms of ancillary services charges to wind generating resources, while others have proposed revised interconnection standards addressing reporting requirements and additional ancillary service obligations. See, e.g., *NorthWestern Corp.*, 129 FERC ¶ 61,116 (2009) (*NorthWestern*), order on reh'g, 131 FERC ¶ 61,202 (2010); *Westar Energy Inc.*, 130 FERC ¶ 61,215 (2010) (*Westar*); *Cal. Indep. Sys. Operator Corp.*, 131 FERC ¶ 61,087 (2010); *Puget Sound Energy, Inc.*, 132 FERC ¶ 61,128 (2010) (*Puget Sound*).

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Through this final rule, we conclude that the practice of hourly scheduling and the lack of VER power production forecasting are contributing to undue discrimination and unjust and unreasonable rates in light of the entry and increasing presence of VERs on the transmission grid. Specifically, we find that requiring transmission customers to adhere to hourly schedules is unduly discriminatory and theoretically results in the inefficient use of transmission and generation resources to the detriment of consumers. We further find that a lack of VER power production forecasts theoretically increases the volume of regulation reserves held by public utility transmission providers, resulting in rates that are unjust and unreasonable. Moreover, public utility transmission providers that wish to engage in power production forecasting currently lack the means by which to require VERs to provide basic information on meteorological and operational conditions for use in developing power production forecasts.

We correct these deficiencies by implementing the following two reforms: (1) amend the pro forma OATT to require intra-hourly transmission scheduling (e.g. 15-minute scheduling); and (2) amend the pro forma LGIA to incorporate provisions requiring interconnection customers whose generating facilities are VERs to provide meteorological and operational data to public utility transmission providers for the purpose of improved power production forecasting. These reforms are necessary to ensure that VERs are not exposed to excessive or unduly discriminatory charges for generator imbalance service and to provide public utility transmission providers with information necessary to more efficiently manage reserve-related costs recovered from transmission customers through other ancillary services charges. In short, the shorter scheduling time allows VERs to more accurately schedule output (and thereby avoid paying imbalance charges), and the VERs data allows the transmission provider to implement improved power production forecasting.

In conjunction with the above two reforms, the Commission also encourages transmission providers 1) to share the power production forecast results with the customers that submitted the data used for the forecast; and 2) to share the VERs data with third parties like balancing authorities and the National Oceanic and Atmospheric Administration (NOAA).

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

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transmission or sale of electric energy in interstate commerce are just, reasonable, and not unduly discriminatory or preferential.⁹

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

We require entities to use the eTariff system to submit changes to tariffs as required in this final rule.

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).

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 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. We have not found any duplication.

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

The Commission estimates that all of the VERs and ten of the transmission providers are small entities. The Commission will accept waivers from transmission providers for the requirements in the final rule. The criteria for waiver applied under this rulemaking for small entities is unchanged from that used to evaluate requests for waiver under Order Nos. 888, 889, and 890. The Commission does not contemplate any methods to reduce the burden on the VERs. However, the costs incurred by VERs due to this rule may be

⁹ 16 U.S.C. 824d, 824e (2006).

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offset by an expected reduction in energy imbalance penalties that will be assessed to VERs in the future due to improved forecasting and reduced uncertainty across 15-minute scheduling periods compared to hour-long scheduling periods.

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

Tariff changes related to intra-hour scheduling and power production forecasting are one time events, with a compliance deadline of 12 months. Information collection related to meteorological data and power production forecasting will be determined by the transmission provider and the interconnected generator. The frequency of this information exchange will be based on the requirements of the power production forecasting program implemented by the transmission provider. Any variations in frequency based on individual transmission providers should not have an impact on the Federal program. The final rule also provides transmission customers the option of using 15-minute scheduling. As explained earlier in this document, intra-hour scheduling is meant to remedy undue discrimination and unjust rates. Some commenters supported the 15-minute interval proposed by the Commission (approximately 30), while fewer argued for either shorter (*e.g.*, 5-minute) or longer (*e.g.*, 30-minute) scheduling intervals. In evaluating these comments, the Commission has balanced the competing interests of allowing transmission customers to more closely match schedules with anticipated generation output against not unduly burdening public utility transmission providers in implementing the intra-hour scheduling reform. The Commission concludes that use of a 15-minute scheduling interval is reasonable and, therefore, adopts the proposal set forth in the proposed rule. The Commission believes that a longer scheduling interval (*e.g.*, less frequent) would not be as appropriate in remedying undue discrimination and unjust rates. However, the Commission will consider alternate scheduling intervals if proven in compliance filings to be consistent with or superior to the provision adopted in the final rule.

7. EXPLAIN ANY SPECIAL CIRCUMSTANCES RELATING TO THE INFORMATION COLLECTION

This program allows for transmission customers to submit 15 minute schedules to transmission providers. Other aspects of the collection such as submitting meteorological and forced outage data, and sharing power forecasting results may be repeated on a relatively short cycle. These reporting requirements exceed or may exceed the quarterly reporting limitation, as indicated in OMB's section 1320.5 requirements. Transmission

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scheduling, either on an hourly or intra-hourly basis, is necessary for the efficient use of the transmission grid. There would be no feasible way to coordinate power on the transmission system if schedules were reported on a quarterly basis. The timing on the frequent reporting requirements is determined by the filers and will depend on individual needs.

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

The Commission issued a Notice of Inquiry on 1/21/2010 to obtain information on barriers to the integration of variable energy resources (VER) and on the current state of VER integration in various regions of the country.

In light of the changes occurring within the electric industry, and based on comments submitted in response to the January 2010 Notice of Inquiry, the Commission issued a proposed rule on November 18, 2010, in which the Commission proposed the reforms that we adopt in this final rule. These reforms, discussed in detail in the final rule, are aimed at removing barriers to the integration of VERs by remedying operational and other challenges that may be causing undue discrimination and increased costs ultimately borne by consumers. The Commission received more than 1900 pages of initial and reply comments in response to the proposed rule. [The public comments received from the NOI and NOPR 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).]

The Commission did not receive any comments directly related to the burden estimates provided in the proposed rule. However, some commenters did respond to questions the Commission asked about the costs to implement intra-hour scheduling. Several transmission providers state that costs will depend heavily on the extent to which intra-hour scheduling is actually used by transmission customers, estimating staffing costs to be in the range of \$1-2 million per year if widely used. Other commenters imply that the proposed scheduling reforms would require changes in settlement procedures for imbalance service or the frequency of resource commitment through sub-hourly dispatch, which they state would require significant investments. One commenter estimates that upgrading such systems would cost \$2.0-2.3 million. In response, the Commission recognizes that there may be significant costs associated with moving to 15-minute scheduling. Further, many of the costs cited by commenters are related to automation of systems used to process transmission schedules. The Commission notes that it is not

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mandating automation of scheduling practices, although the Commission expects that there will be benefits to automation. In response to commenters regarding investment as they relate to settlement procedures the Commission clarifies that the final rule apply to scheduling practices, not imbalance settlement or sub-hourly dispatch.

Based on the comments, the Commission concludes that adoption of the reforms discussed in the final rule in Docket RM10-11-000 are necessary at this time to ensure that Commission-jurisdictional services are provided at rates, terms and conditions that are just and reasonable and not unduly discriminatory or preferential.

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.

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12. ESTIMATED BURDEN ON COLLECTION OF INFORMATION

The additional estimated annual public reporting burdens for the proposed reporting requirements in the final rule in RM10-11 are as follows. The information in the first column details the individual information requirements.

Data Collection FERC 516 (as contained in Final Rule in RM10-11)	Number and Type of Respondents [1]	Number of Responses Per Respondent [2]	Hours per Response [3]	Total Annual Hours [1 X 2 X 3]
Conforming tariff changes to require intra-hourly scheduling, waiver, or deviation request; and rate treatment terms for Ancillary Service	142 ¹⁰ Transmission providers	1	8 first year only	1,136 first year only
Implementation of intra-hourly scheduling	142 Transmission Providers	1	30 reoccurring	4,260 reoccurring
Conforming changes to LGIA ¹¹	142 Transmission Providers	1	20 first year only	2,840 first year only

¹⁰ The Commission estimated in the proposed rule that 134 transmission providers would have additional burdens due to the proposed rule. Since then, the Commission has identified eight additional transmission providers who are non-public utilities that file reciprocity open access transmission tariffs that are also expected to voluntarily comply with this rule.

¹¹ Consistent with the approach taken in Order No. 2003, public utility transmission providers with power production forecasting systems in place via tariff provisions and/or other mechanisms will be required to demonstrate that deviations from the *pro forma* LGIA are consistent with or superior to the *pro forma* LGIA.

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Data Collection FERC 516 (as contained in Final Rule in RM10-11)	Number and Type of Respondents [1]	Number of Responses Per Respondent [2]	Hours per Response [3]	Total Annual Hours [1 X 2 X 3]
Sharing of power production forecasting results with VER	142 Transmission Providers	1	30 reoccurring	4,260 reoccurring
Sharing of VER provided meteorological and forced outage data with third party entities (e.g. NOAA, balancing authority area)	142 Transmission Providers	1	30 reoccurring	4,260 reoccurring
Provision of meteorological and forced outage data to public utility transmission providers for use in power production forecasting ¹²	160 ¹³ Interconnection Customers with VERs per year	1	60 reoccurring	9,600 reoccurring
Totals	142 Transmission Providers; 160 Interconnection Customers with VERs per year	1	Not Applicable	26,356 ¹⁴ first year + reoccurring
				22,380 ¹⁵ subsequent years

¹² Once a data exchange is implemented, the Commission expects that this process will be automated and require little to no daily burden.

¹³ The Commission estimates that there will be approximately 160 VERs that will sign an LGIA each year during the period from July 2012- July 2015 potentially subject to this requirement. This update from the proposed rule represents more recent data.

¹⁴ First year hours total 26,356, the sum of first year and reoccurring hours.

¹⁵ Annual hours total 22,380, the sum of all reoccurring hours.

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As seen in the above table, the burden for years two and beyond is less than for year one. FERC intends to adjust the FERC-516 burden to reflect this after year one. In ROCIS, the burden shown is for year one only (with the unrelated burden reduction included).

In ROCIS, the Commission input the above burden hour information by splitting it into voluntary responses and mandatory responses.

- **Voluntary.** Eight of the transmission providers are non-public and are expected to voluntarily comply with the requirements (listed above in the rows labelled ‘conforming tariff changes to require intra-hourly scheduling, waiver, or deviation request; and rate treatment terms for Ancillary Service’, ‘implementation of intra-hourly scheduling’, and ‘conforming changes to LGIA’ [8 entities*(8+30+20 hrs.), or 464 hrs.]. Also, the ‘sharing of power production forecasting results with VER’ and ‘sharing of VER provided meteorological and forced outage data with third party entities (e.g. NOAA, balancing authority area)’ are elements of this collection that are encouraged but not required [4260 + 4260, or 8520 hrs.]. The total voluntary hours in the first year are 8,984.
- **Mandatory.** The remaining information collection provisions are mandatory (17,372 hours in the first year).

The Commission averaged the burden hours for the voluntary and mandatory categories over the applicable number of respondents and responses and input as such into ROCIS.

The next table shows how the current inventory for the FERC-516 will be affected by:

- the final rule in RM10-11 (addition of 26,356 hours and 862 responses, in Year 1) and
- unrelated to the final rule in Docket RM10-11, the removal of the completed one-time burden hours associated with the rules in Docket nos. RM05-5-013 and RM05-5-017 (subtraction of 1,092 hours and 182 responses; e.g. 26,356-1,092=25,264)).

The net program changes are shown in the column “change due to agency discretion.”

FERC-516	Total Request	Previously Approved	Change due to Adjustment in Estimate	Change Due to Agency Discretion
Annual Number of Responses	5,403	4,723	-	+680

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Annual Time Burden (Hr)	497,398	472,134	-	+25,264
Annual Cost Burden (\$)	0	143,556	-	-143,556

13. ESTIMATE OF THE TOTAL COST BURDEN TO RESPONDENTS

Cost to Comply with the Final Rule: The Commission has projected the total cost of compliance to be \$3,004,584 in the first year, and \$2,551,330 each year after.

Total Annual Hours in the first year (26,356 hours) @ \$114 an hour [average cost of attorney (\$200 per hour), consultant (\$150), technical (\$80), and administrative support (\$25)] = \$3,004,584.

Total Annual Hours in subsequent years (22,380 hours) @ \$114 an hour = \$2,551,320.

These costs are associated solely with the labor hours and as such will not be included in ROCIS.¹⁶

The Commission requests to remove the annual cost burden currently shown in ROCIS as it pertains to the two one-time information collections that are being removed in conjunction with this information collection request and is no longer applicable.

14. ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT

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

	Number of Employees (FTEs)	Estimated Annual Federal Cost¹⁷ (\$)
Data Clearance Cost ¹⁸		1,588

¹⁶ In accordance with the HOW TO Guide for Agency Users of ROCIS and with Commission practice.

¹⁷ Base on 2012 cost per FTE of \$143,540

¹⁸ This is for the burden/cost associated with obtaining OMB clearance. The Commission bases this cost upon an average of 24 hours per clearance.

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Review and Processing of filings	1.19	170,813
FERC Total		\$172,401

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

The proposed reforms will remove barriers to the integration of VERs. The Commission deems it necessary to require the information collection requirement described above in order to remove unduly discriminatory practices and to ensure just and reasonable rates for Commission-jurisdictional services and to remove barriers to the integration of VERs. The Commission estimates that total average increase in burden to be 26,356 hours (the net change is 25,264 hours because of the 1,092 unrelated burden hours being removed, 26,356-1,092 = 25,264). After the first year this figure should be reduced to 22,380 hours. The Commission is also requesting to remove 1,092 hours associated with one-time information collection requirements that have been completed and are unrelated to Docket RM10-11.

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 which is collected, filed, posted, and/or provided to third parties 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 the tariff filing are 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

The Commission does not use statistical survey methodology for this collection. In addition, this information collection does not display a control number as more fully explained in item 17 above.