

Supporting Statement for
FERC-920, Electric Quarterly Report (EQR)
(In Final Rule in Docket No. RM10-12-000, Issued 9/21/2012)

The Federal Energy Regulatory Commission (Commission or FERC) requests Office of Management and Budget (OMB) review and approval of FERC-920, Electric Quarterly Report (EQR), as contained in the Final Rule in Docket No. RM10-12. In Docket RM10-12, the Commission issued a Final Rule (Order 768, Final Rule, available at <http://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=13069358>) on 9/21/2012 that makes revisions to the EQR filing requirements and is being submitted to OMB for review and approval.¹

In the Final Rule in RM10-12² (available at <http://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=13069358>), FERC stated the current EQR collection is part of the FERC-516 (Electric Rate Schedules and Tariff Filings; OMB Control No. 1902-0096). FERC is now modifying and moving the EQR to a newly established stand-alone FERC-920. FERC is submitting this clearance package for the EQR under FERC-920. Upon approval by OMB of the FERC-920, we plan to submit a request to OMB to remove the existing EQR reporting requirements from the FERC-516. [See Appendix A for details on the burden hours we expect to remove from FERC-516 at that time.]

Note that the changes to the EQR in this Final Rule in RM10-12 are to be made effective for data covering the third quarter (“Q3,” the period July 1 through September 30) of 2013; those data are due to FERC by 10/31/2013. The existing EQR requirements continue until that time. (The EQR web page at <http://www.ferc.gov/docs-filing/eqr.asp> provides additional information on the current requirements.)

¹ Only one item per control number can be pending OMB review at a time. Because there was an item under FERC-920 pending OMB review when the final rule in RM10-12 was issued, the final rule in RM10-12 could not be submitted to OMB until issuance of an OMB decision in the other ICR. That decision was issued on 11/27/12, so the final rule in RM10-12 is now being submitted for OMB’s PRA review.

There are two other pending dockets related to the EQR that are separate from RM10-12. Correspondence related to those proceedings should be submitted in the corresponding docket.

- The “EQR System Refresh” NOPR in Docket RM12-3 was issued 6/21/2012. It was submitted to OMB for review under the Paperwork Reduction Act (PRA) under FERC-920 (initially submitted on 7/23/2012 as ICR 201206-1902-003, which was withdrawn and re-submitted on 11/8/2012 as ICR 201211-1902-011). An OMB decision was issued on 11/27/2012.
(A final rule in RM12-3 (Order 770) was issued on 11/15/12 with an errata notice on 11/19/2012. Those materials will be submitted to OMB for its PRA review after OMB issues a decision on this RM10-12 request.)
- A NOPR was issued in Docket RM01-8-012 on 3/15/2012. It was submitted to OMB for review under FERC-516 as ICR 201203-1902-004

² The NOPR and errata in Docket RM10-12 are available at, <http://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=12630477>, and <http://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=12635677>.

BACKGROUND

To facilitate price transparency in markets for the sale and transmission of electric energy in interstate commerce, the Federal Energy Regulatory Commission proposes to revise its regulations to require market participants that are excluded from the Commission’s jurisdiction under section 205 of the Federal Power Act (FPA) and have more than a *de minimis* market presence to file Electric Quarterly Reports (EQR) with the Commission. In doing so, the Commission proposes to exercise its authority under section 220 of the FPA, as adopted in the Energy Policy Act of 2005 (EPAAct 2005). This Final Rule will allow the Commission and the public to gain a more complete picture of wholesale electric power and transmission markets in interstate commerce by providing additional information concerning price formation and market concentration in these markets. Public access to additional sales and transmission-related information in the EQR will improve market participants’ ability to assess supply and demand fundamentals and to price interstate wholesale market transactions. It also would strengthen the Commission’s ability to identify potential exercises of market power or manipulation and to better evaluate the competitiveness of the interstate wholesale markets.

In addition, the Commission revises the existing EQR filing requirements applicable to all market participants in the interstate wholesale electric markets. The Commission revises the EQRs currently filed by public utilities under FPA section 205(c) and that will be filed by non-public utility filers under FPA section 220. These revisions include the addition of transaction level detail for:

- (1) reporting the trade date and the type of rate
- (2) identifying the exchange used for a sales transaction, if applicable
- (3) reporting whether a broker was used to consummate a transaction
- (4) reporting electronic tag (e-Tag) ID for transmission, if applicable
- (5) reporting standardized prices and quantities for energy, capacity, and booked out power transactions.

The Commission also requires EQR filers to indicate whether the reporting company reports its sales transactions to an index publisher and, if so, to which index publisher(s) and, if applicable, which types of transactions are reported. The Commission will be eliminating the reporting of:

- (1) the designation of a time zone from the description of contracts and
- (2) the requirement that each reporting company identify the Data Universal Numbering System (DUNS) ID for itself and each of its customers.

These refinements to the existing EQR filing requirements reflect the evolution of interstate wholesale electric markets since the EQR reporting requirements were created in 2002, will increase market transparency for the Commission and the public, will facilitate the post-hoc review of energy transactions that the 9th Circuit Court identified as critical to allowing market forces to determine prices, and will allow market participants to file the information in the most efficient manner possible.

The Commission's regulations at 18 CFR 35.10b require public utilities to file Electric Quarterly Reports.

A. Justification

1. CIRCUMSTANCES THAT MAKE THE COLLECTION OF INFORMATION NECESSARY

The Commission set forth the EQR filing requirements in Order No. 2001 (Docket No. RM01-8-000, issued April 25, 2002, at http://elibrary.ferc.gov/idmws/search/intermediate.asp?link_file=yes&doclist=2270047). Order No. 2001 required public utilities to electronically file EQRs summarizing transaction information for short-term and long-term cost-based sales and market-based rate sales and the contractual terms and conditions in their agreements for all jurisdictional services.³ The Commission established the EQR reporting requirements to help ensure the collection of information needed to perform its regulatory functions over transmission and sales, while making data more useful to the public and allowing public utilities to better fulfill their responsibility under FPA section 205(c) to have rates on file in a convenient form and place. As noted in Order No. 2001, the EQR data is designed to “provide greater price transparency, promote competition, enhance confidence in the fairness of the markets, and provide a better means to detect and discourage discriminatory practices.”

Since issuing Order No. 2001, the Commission has provided guidance and refined the reporting requirements, as necessary, to simplify the filing requirements and to reflect changes in the Commission’s rules and regulations. For instance, in 2007 the Commission adopted an Electric Quarterly Report Data Dictionary, which provides in one document the definitions of certain terms and values used in filing EQR data.⁴ Moreover, in 2007, the Commission required transmission capacity reassignment to be reported in the EQR.⁵ Nonetheless, the evolution of

³ *Revised Public Utility Filing Requirements*, Order No. 2001, 67 FR 31043 (May 8, 2002), FERC Stats. & Regs. ¶ 31,127, *reh’g denied*, Order No. 2001-A, 100 FERC ¶ 61,074, *reh’g denied*, Order No. 2001-B, 100 FERC ¶ 61,342, *order directing filing*, Order No. 2001-C, 101 FERC ¶ 61,314 (2002), *order directing filing*, Order No. 2001-D, 102 FERC ¶ 61,334, *order refining filing requirements*, Order No. 2001-E, 105 FERC ¶ 61,352 (2003), *order on clarification*, Order No. 2001-F, 106 FERC ¶ 61,060 (2004), *order revising filing requirements*, Order No. 2001-G, 72 FR 56735 (Oct. 4, 2007), 120 FERC ¶ 61,270, *order on reh’g and clarification*, Order No. 2001-H, 73 FR 1876 (Jan. 10, 2008), 121 FERC ¶ 61,289 (2007), *order revising filing requirements*, Order No. 2001-I, 73 FR 65526 (Nov. 4, 2008), 125 FERC ¶ 61,103 (2008).

⁴ See, e.g., *Revised Public Utility Filing Requirements for Electric Quarterly Reports*, 124 FERC ¶ 61,244 (2008) (providing guidance on the filing of information on transmission capacity reassignments in EQRs); *Notice of Electric Quarterly Reports Technical Conference*, 73 FR 2477 (Jan. 15, 2008) (announcing a technical conference to discuss changes associated with the EQR Data Dictionary).

⁵ *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, 72 FR 12266 (Mar. 15, 2007), FERC Stats. & Regs. ¶ 31,241, at P 817, *order on reh’g*, Order No. 890-A, 73 FR 2984 (Jan. 16, 2008), FERC Stats. & Regs. ¶ 31,261 (2007), *order on reh’g and clarification*, Order No. 890-B, 73 FR 39092 (July 8, 2008), 123 FERC ¶ 61,299 (2008), *order on reh’g*, Order No. 890-C, 74 FR 12540 (March 25, 2009), 126 FERC ¶ 61,228 (2009), *order on*

electricity markets with an increased emphasis on exchange- and broker-based trading as well as the demonstrated use of transmission schedules for improper market behavior have created the necessity to update the EQR to incorporate data that informs on these practices.

In EAct 2005, Congress added section 220 to the FPA, directing the Commission to “facilitate price transparency in markets for the sale and transmission of electric energy in interstate commerce” with “due regard for the public interest, the integrity of those markets, fair competition, and the protection of consumers.” FPA section 220 grants the Commission authority to obtain and disseminate “information about the availability and prices of wholesale electric energy and transmission service to the Commission, State commissions, buyers and sellers of wholesale electric energy, users of transmission services, and the public.” The statute specifies that the Commission may obtain this information from “any market participant,” except for entities with a *de minimis* market presence. EAct 2005 added similar transparency provisions in the Natural Gas Act.⁶

In 2006, Commission staff conducted an extensive outreach effort to formulate options for implementing EAct 2005’s transparency provisions for wholesale natural gas and electricity markets. As a result, the Commission used its new transparency authority to adopt additional filing and posting requirements for the sale or transportation of physical natural gas in interstate commerce in Orders No. 704 and 720.⁷

FERC subsequently issued regulations to make reforms in open access electric transmission service and to consider a more general review of competition in wholesale electricity markets. As a result of these efforts, the Commission issued :

- Order No. 890, to exercise FERC’s remedial authority “to limit further opportunities for undue discrimination, by minimizing areas of discretion, addressing ambiguities and clarifying various aspects of the pro forma [Open Access Transmission Tariff].”⁸
- Order No. 719, “to improve the operation [and competitiveness] of organized wholesale electric power markets” in connection with “fulfilling its statutory mandate to ensure supplies of electric energy at just, reasonable and not unduly discriminatory or preferential rates.”⁹

clarification, Order No. 890-D, 74 FR 61511 (Nov. 25, 2009), 129 FERC ¶ 61,126.
6 15 U.S.C. 717t-2.

⁷ See *Transparency Provisions of Section 23 of the Natural Gas Act*, Order No. 704, 73 FR 1014 (Jan. 4, 2008), FERC Stats. & Regs. ¶ 31,260, at P 32 (2007), *order on reh’g*, Order No. 704-A, 73 FR 55726 (Sept. 26, 2008), FERC Stats. & Regs. ¶ 31,275, *order dismissing reh’g and clarification*, Order No. 704-B, 125 FERC ¶ 61,302 (2008), *order granting clarification*, Order No. 704-C, 75 FR 35632 (June 23, 2010), 131 FERC ¶ 61,246 (2010); see also, *Pipeline Posting Requirements under Section 23 of the Natural Gas Act*, Order No. 720, 73 FR 73494 (Dec. 2, 2008), FERC Stats. & Regs. ¶ 31,283, at P 3 (2008), *order on reh’g*, Order No. 720-A, 73 FR 73494 (Dec. 2, 2008), FERC Stats. & Regs. ¶ 31,302, *order on reh’g and clarification*, Order No. 720-B, 75 FR 44893 (July 30, 2010), FERC Stats. & Regs. ¶ 31,314 (2010), *vacated*, *Texas Pipeline Ass’n, et al. v. FERC*, 661 F.3d 258 (2011).

⁸ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 40.

⁹ *Wholesale Competition in Regions with Organized Electric Markets*, Order No. 719, 73 FR 64100 (Oct. 28, 2008), FERC

Although these Orders improved transparency in wholesale markets in a number of ways, the Commission believes the revisions in this final rule in RM10-12 are necessary to facilitate price transparency in wholesale electricity markets, to promote competition, to instill confidence in the fairness of the markets, and to provide a better means to detect and discourage discriminatory and manipulative practices.

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

EQR information from non-public utilities would allow the public to assess supply and demand fundamentals and to price interstate wholesale market transactions. This in turn would result in greater market confidence, lower transaction costs, and ultimately support competitive markets. In addition, the data filed in the EQR strengthens the Commission’s ability to exercise its wholesale electric rate and electric power transmission oversight and enforcement responsibilities in accordance with the Federal Power Act. Without this information, the Commission would lack some of the data it needs to examine and approve or modify electric rates. FERC is also authorized as appropriate to employ enforcement proceedings when violations occur.

FERC is adopting its NOPR proposal to extend EQR filing requirements to non-public utilities above the *de minimis* threshold under FPA section 220 with some modifications. The Commission modifies its NOPR proposal by excluding the following types of wholesale sales from the EQR reporting requirement for non-public utilities above the *de minimis* threshold: (1) sales by a non-public utility, such as a cooperative or joint action agency, to its members; and (2) sales by a non-public utility under a long-term, cost-based agreement required to be made to certain customers under a Federal or state statute.

Transactions made by both public utility and non-public utility market participants provide critical pricing information that market participants can use to make better-informed decisions about, among other things, sales, purchases, and infrastructure investments. Moreover, access to reliable data reduces differences in available information among various market participants, results in greater market confidence, lowers transaction costs, and ultimately supports competitive markets, which helps lower electricity costs for consumers. The NOPR also pointed out that non-public utilities have a significant presence in national and regional wholesale electric markets so that obtaining information about their sales transactions is important to unmasking how prices are formed in electric markets. Therefore, the lack of information from non-public utilities results in an incomplete picture of these markets, and hampers the ability of

Stats. & Regs. ¶ 31,281 (2008), *order on reh'g*, Order No. 719-A, 74 FR 37776 (July 29, 2009), FERC Stats. & Regs. ¶ 31,292, *order on reh'g and clarification*, Order No. 719-B, 129 FERC ¶ 61,252 (2009).

the public and the Commission to detect and address the potential exercise of market power and manipulation.

In addition, the Commission is making certain revisions to the existing EQR filing requirements and applying those revisions to all market participants filing EQRs. These refinements to the existing EQR filing requirements reflect the evolution of electricity markets, will increase market transparency for the Commission and the public, will facilitate the *post-hoc* review of energy transactions that the 9th Circuit Court identified as critical to allowing market forces to determine prices, and will allow market participants to file the information in the most efficient manner possible.

FERC concludes that the requirements in this Final Rule will allow the Commission and the public to gain a more complete picture of interstate wholesale electric power and transmission markets by providing additional information concerning price formation and market concentration in these electric markets. Public access to additional sales and transmission-related information in the EQR improves market participants’ ability to assess supply and demand fundamentals and to price interstate wholesale electric market transactions. It also strengthens the Commission’s ability to identify potential exercises of market power or manipulation and to better evaluate the competitiveness of interstate wholesale electric markets.

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

FERC has 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 filings. As of 2012, nearly all filings submitted to FERC (except for Protected materials) may be submitted in an electronic format.

Order 2001 (issued 4/25/2002) required “public utilities to electronically file Electric Quarterly Reports....” Electronically filed EQRs improved the efficiency, convenience, and overall management of the filing process, facilitated public access to wholesale contract information, and reduced the industry’s burden and expense associated with reporting and reviewing electric transactions.

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.

Filing requirements are periodically reviewed as OMB review dates arise or as the Commission may deem necessary in carrying out its regulatory responsibilities under the Act in an effort to alleviate duplication and to minimize burden. As discussed in the rule, we have reviewed existing resources, and we believe that the additional information that will be required is not available through existing sources and is necessary to provide a complete picture of price formation in interstate wholesale electric power and transmission markets.

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

For non-public utilities, the Commission will exempt under the *de minimis* market presence threshold non-public utilities that make 4,000,000 MWh or less of annual wholesale sales (based on an average of the wholesale sales it made in the preceding three years). This *de minimis* threshold will exclude small non-public utilities. Therefore, this Final Rule will not have a significant economic impact on any small non-public utility.

The Regulatory Flexibility Act (RFA)¹⁰ generally requires a description and analysis of rules that will have significant economic impact on a substantial number of small entities. The RFA mandates consideration of regulatory alternatives that accomplish the stated objectives of a rule and that minimize any significant economic impact on a substantial number of small entities. The SBA’s Office of Size Standards develops the numerical definition of a small business.¹¹ The SBA has established a size standard for electric utilities, stating that a firm is small if, including its affiliates, it is primarily engaged in the transmission, generation and/or distribution of electric energy for sale and its total electric output for the preceding twelve months did not exceed four million MWh.¹²

As discussed in Order No. 2000,¹³ in making this determination, the Commission is required to examine only the direct compliance costs that a rulemaking imposes upon small businesses. It is not required to consider indirect economic consequences, nor is it required to consider costs that an entity incurs voluntarily.

10 5 U.S.C. 601-612.

11 13 CFR 121.101.

12 13 CFR 121.201 (http://www.sba.gov/sites/default/files/files/Size_Standards_Table.pdf), Sector 22, Utilities & footnote 1.

13 See *Regional Transmission Organizations*, Order No. 2000, 65 FR 809 (January 6, 2000), FERC Stats. & Regs. ¶ 31,089, at 31,237 & n.754 (1999), *order on reh’g*, Order No. 2000-A, 65 FR 12,088 (Mar. 8, 2000), FERC Stats. & Regs. ¶ 31,092 (2000), *aff’d sub nom. Pub. Util. Dist. No. 1 of Snohomish, County Washington v. FERC*, 272 F.3d 607, 348 U.S. App. D.C. 205 (D.C. Cir. 2001) (citing *Mid-Tex Elec. Coop. v. FERC*, 773 F.2d 327 (D.C. Cir. 1985) (Commission need only consider small entities “that would be directly regulated”); *Colorado State Banking Bd. v. RTC*, 926 F.2d 931 (10th Cir. 1991) (Regulatory Flexibility Act not implicated where regulation simply added an option for affected entities and did not impose any costs)).

This Final Rule also adopts revisions to the existing EQR filing requirements, and thus will affect current EQR filers. Based on analysis of the EQR filings made in the four quarters of 2011, there are 1,783 entities that currently file an EQR, but given clearly identifiable affiliate relationships, that number is reduced to 1,215 entities. Of those, 97 reported more than 4,000,000 million MWh of wholesale sales in the EQR. Of the remaining 1,118 entities that reported less than 4,000,000 MWh of wholesales sales in the EQR, 641 filed transactions in the EQR. The rest that would be subject to this Final Rule, 477 entities, did not file transactions in any quarter of 2011; we conclude that this Final Rule will minimally affect them.

As for the remaining 641 entities, we note that there are two types of companies among those currently filing EQRs that merit additional consideration. First, there are investor-owned utilities that make both wholesale and retail sales. The SBA’s definition of a small utility is based on a utility’s total electric output for the preceding twelve months, which includes a utility’s retail sales. However, our estimate in this section is based on information available in the EQR, which includes annual wholesale sales but not retail sales. If we were able to include retail sales, we believe that most investor-owned utilities that currently file EQRs make more than 4,000,000 annual wholesale and retail sales, and thus, would not be classified as small. Second, there are power marketers that often do not own or control generation or transmission, and are frequently affiliated with companies that are not primarily engaged in the sale of electric energy (such as financial institutions or hedge funds). However, information regarding whether a power marketer is affiliated with a larger company is generally not included in an EQR filing, making it difficult to determine the number of small entities that are affiliated with a larger company, thereby leading to an inflated estimate of the number of companies affected by this Final Rule that are truly small.

Moreover, while the Final Rule adopts revisions to the existing EQR filing requirements, it does not create an entirely new reporting requirement for current EQR filers. Since 2001, the Commission has used the EQR filing requirement to meet its statutory obligation to have a public utility’s rates on file. The Commission also requires a company that has been granted market-based rate authority to file an EQR. Thus, current EQR filers already have in place a system to capture and report EQR data, and will need to modify their systems rather than create an entirely new system. Any alternative means for meeting that obligation likely will entail greater burden than the electronic collection of transaction data that has been occurring in the EQR since 2002. In addition, we believe that the burden of complying decreases the smaller the filer is because it will have less information to report. Furthermore, we note that companies may request, on an individual basis, waiver from the EQR reporting requirements.

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

If the collection were conducted less frequently, the Commission would be unable to perform its mandated oversight and review responsibilities with respect to electric rates. Further, less frequent collection would not obviate the Commission’s statutory obligation to collect this information.

This proposal would enable the Commission and the public to gain a more complete picture of wholesale power and transmission markets in interstate commerce by providing additional information concerning price formation and market concentration in these markets. Public access to additional sales and transmission-related information in the EQR would improve market participants’ ability to assess supply and demand fundamentals and to price interstate wholesale market transactions. It also would strengthen the Commission’s ability to identify potential exercises of market power or manipulation and to better evaluate the competitiveness of the interstate wholesale markets.

7. EXPLAIN ANY SPECIAL CIRCUMSTANCES RELATING TO THE INFORMATION COLLECTION

The EQR meets OMB's section 1320.5 requirements.

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

On 1/21/2010, FERC issued a Notice of Inquiry¹⁴ (at <http://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=12249482>) requesting public “comments on whether the Commission’s Electric Quarterly Report (EQR) filing requirements should be applied to market participants that are excluded from the Commission’s jurisdiction under section 205 of the Federal Power Act (FPA).” In response to the Transparency NOI, the Commission received 40 comments. Of those comments, twenty-eight discuss extending the EQR filings to non-public utilities; five discuss EQR refinements; and six discuss both. FERC reviewed the comments and issued a Notice of Proposed Rulemaking (at <http://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=12630477>) inviting further comments on these proposals.

In response to the NOPR, FERC received further public comments including some on the burden and cost. The comments are summarized and addressed in the Final Rule in Docket RM10-12 (at <http://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=13069358>) in paragraphs 76-85 (pages 57-63) and paragraphs 176-183 (pages 117-121).

9. EXPLAIN ANY PAYMENT OR GIFTS TO RESPONDENTS

¹⁴ *Electricity Market Transparency Provisions of Section 220 of the Federal Power Act*, Notice of Inquiry, 75 FR 4805 (Jan. 29, 2010), FERC Stats. & Regs. ¶ 35,565 (2010) (Transparency NOI).

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

Generally, the Commission does not consider this information to be confidential. If an entity chooses to seek confidential treatment of the information, they must submit a request for the Commission to treat this information as confidential and non-public, consistent with 18 CFR 388.112.

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 burden for the current EQR filing requirements and current filers are included in the FERC-516 (OMB Control 1902-0096). In addition to the substantive changes made in the final rule in RM10-12 to add data and some new filers to the EQR, we are administratively moving the EQR and related burden from the FERC-516 to a separate, standalone FERC-920 (which would only contain the EQR). As a result, we will provide information here on:

- the changes made by the final rule in Docket RM10-12, to the current EQR burden, cost, and no. of respondents [as currently contained in FERC-516]
- the total burden, cost, and no. of respondents that will reside in the new FERC-920, including existing and new EQR requirements (as implemented in the Final Rule in RM10-12).

After OMB approval of the FERC-920, FERC plans to submit a request to OMB to remove the burden, cost, and no. of current respondents from the FERC-516 (to avoid the double counting of the EQR requirements). The amount of burden which will be removed from the FERC-516 after the final rules and OMB approval of the FERC-920 is detailed in Appendix A.

Changes Made By The Final Rule In Docket RM10-12, To The Existing EQR Burden, Cost, And No. Of Respondents [As Currently Contained In FERC-516].

Information on the FERC’s estimate of the additional average annual Public Reporting Burden and cost¹⁵ related to the final rule in Docket RM10-12-000 follows. In developing the burden

¹⁵ For purposes of calculating the annual averages, the implementation burden and cost have been averaged, spread over the 3-year period, and added to the recurring burden and cost.

estimates, the Commission took into account the fact that filers within a corporate family should be able to benefit from cost-sharing efficiencies (such as sharing staff and EQR filing software) unavailable to independent filers. For purposes of calculating the number of respondents, we are counting each individual respondent, even though many companies submit a single filing for a number of subsidiary entities or submit several filings through a single Agent. As a rudimentary example, there are 31 filings from companies with names that begin with “FPL Energy,” 23 with “NRG,” 19 with “PPL,” 16 with “Calpine,” 14 with “GenOn,” 13 with “Covanta,” and 11 with “Dynergy,” and 11 with “Georgia-Pacific” and each identify the same person “as the Agent, usually the person who prepares the filing.”¹⁶ The Commission recognizes that not all corporate families take advantage of possible efficiencies through using common personnel to file the EQR, but it would appear that certain efficiencies are possible and should be accounted for in estimating the reporting burden.

In response to comments, provided in response to the NOPR in RM10-12, that the FERC did not account for the information technology changes required to implement these new requirements, Commission staff has increased the estimate of the additional one-time implementation burden to be 400 hours for each non-public utility, 240 hours for each current filer with transactions, and 1 hour for each current filer with no transactions. Commission staff has estimated the additional recurring burden for each quarterly filing to be 19 hours for each non-public utility, 16 hours for each current filer with transactions, and no change for current filers with no transactions. The Commission’s estimates of the additional average reporting burden and cost¹⁷ due to the Final Rule in Docket RM10-12-000 follow.

FERC-920, in the Final Rule in Docket RM10-12-000	No. of Respondents	No. of Responses per Respondent per Year	Estimated Additional Implementing (One-time) Burden per Respondent		Estimated Additional Recurring Burden per Respondent per Response		Estimated Additional Average Annual Burden Per Respondent (implementation averaged over Years 1-3)	
			Burden Hours	Cost (\$)	Burden Hours	Cost (\$)	Burden Hours	Cost (\$)
Current Public Utility Filers								
Companies within non-California	405	4	240.00	\$17,214.00	16.00	\$829.28	144.00	\$9,055.12

¹⁶ EQR Data Dictionary. Company Data

¹⁷ The burden and cost estimates provided are in addition to the estimates for the current EQR reporting requirements for current filers.

In the EQR System Refresh NOPR in Docket No. RM12-3-000 (at <http://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=13012192>), for current EQR filers and current filing requirements, the staff estimates the average burden per respondent per quarterly filing to be: 32 hours for Companies within non-California RTO, and large companies within the California RTO; 80 hours for medium/small Companies within the California RTO; 3 hours for Companies not within an RTO; and 0.083 hours [5 minutes] for Companies with no transactions.

RTO, and large cos. within Cal. RTO									
Medium/small companies within Cal. RTO	20	4	240.00	\$17,214.00	16.00	\$829.28	144.00	\$9,055.12	
Companies not within RTO	663	4	240.00	\$17,214.00	16.00	\$829.28	144.00	\$9,055.12	
Companies with no transactions	695	4	1.00	\$71.73	0.00	\$0.00	0.33	\$23.91	
New Non-Public Utility Filers									
Non-Public Utility, with >4 million MWH wholesale sales per yr.	53	4	400.00	\$28,690.00	19.00	\$984.77	209.33	\$13,502.41	

When averaging the one-time implementation burden and cost over Years 1-3, the total additional annual burden and cost for all filers (due to the Final Rule in RM10-12) are 167,998.33 burden hours and \$10,584,214.76.

The Commission recognizes that there will be an initial implementation burden for the new non-public utility filers, and an initial implementation burden related to the new data for existing filers, as indicated in the above table. To help with this implementation, the Commission intends to convene a staff-led technical conference, to be announced at a future date, to assist non-public utilities in collecting and filing EQR data. In addition, non-public utility filers are required to file EQRs beginning with the third quarter (Q3) of 2013, covering the period July through September 2013. Current filers also are required to file EQRs consistent with this Final Rule beginning with Q3 of 2013.

The Commission also proposes to direct staff to assist filers with compliance. The technical conference and staff assistance should minimize the implementation burden.

Information Collection Costs: The estimates of the additional one-time implementation cost and recurring cost are provided in the previous table. The Commission staff has estimated the implementation cost using the following professionals, hourly costs, and the estimated percent of implementation time:¹⁸

¹⁸ Hourly average wage is an average and was calculated using Bureau of Labor Statistics (BLS), Occupational Employment Statistics data for May 2011 (for NAICS 221100 - Electric Power Generation, Transmission and Distribution, at http://bls.gov/oes/current/naics4_221100.htm#00-0000) for the senior accountant, financial analyst, information

- legal staff (at \$250/hour), 10% of the implementation time
- senior accountant (at \$51.38/hr.), financial analyst (at \$68.12/hr.), and/or support staff (at \$35.99/hr.), averaged at \$51.83/hr., 10 percent of the implementation time, and 100 percent of the recurring burden
- information technology analyst (at \$57.24/hour), 60 percent of the implementation time support staff (at \$35.99/hr.), 20 percent of the implementation time.

Total Burden, Cost, and Number Of Respondents for the FERC-920, Including Existing and New EQR Requirements

To present the information more clearly, we are including a separate spreadsheet with information on the existing EQR filing burden, as well as the new totals resulting from the implementation of the Transparency final rule in RM10-12. The spreadsheet, available under “Supplementary Documents” in OMB’s ROCIS system (reginfo.gov), provides details on the burden prior to the final rule in 10-12, as well as revised totals after implementation of the final rule in RM10-12). The spreadsheet includes the:

- numbers of respondents and responses
- implementing and recurring burden and cost, related to RM10-12
- EQR filing burden prior to the final rule in RM10-12.
- totals, subsequent to the implementation of the final rule in RM10-12.

[Note that burden and cost estimates associated with the pending proceedings in Docket No. RM12-3 (EQR System Refresh) and in Docket No. RM01-8-012 are separate and will be addressed in those proceedings. They are not addressed here or in the corresponding spreadsheet. Error: Reference source not found]

13. ESTIMATE OF THE TOTAL ANNUAL COST BURDEN TO RESPONDENTS

All of the information collection costs for this collection are associated with labor hours (including the implementation burden). As such, there are no other costs on respondents that are not already explained in item 12 above.

14. ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT

In the Final Rule in RM10-12, the Commission requires non-public utilities above the *de minimis* threshold to begin filing EQRs in Q3 of 2013. The Final Rule also requires current EQR filers to file EQRs consistent with this Final Rule beginning Q3 of 2013. These new requirements are in addition to current EQR data collection requirements, unless otherwise stated. As discussed in the separate pending proposed rule (EQR System Refresh NOPR) in

technology analyst, and support staff. The average hourly figure for legal staff is a composite from BLS and other resources, taking into account the hourly cost for both in-house and contractor organizations.

Docket RM12-3, FERC has proposed two new options for filing EQRs to replace the current Visual FoxPro EQR filing system. In the EQR System Refresh NOPR, the Commission proposed that implementation of any changes to the process for filing EQRs will apply to EQR filings beginning with Q3 of 2013; however, any implementation date will depend on the outcome of Docket No. RM12-3. Comments on the EQR System Refresh NOPR were due on September 4, 2012.

Docket No. RM12-3 and OMB’s review (under OMB ICR 201206-1902-003) of that proposed rule in RM12-3 are separate from the review herein of the Final Rule in Docket RM10-12. Because the proposals described in RM10-12 and this supporting statement may be affected by the pending EQR System Refresh project in Docket RM12-3, some of those system refresh costs are mentioned below only for reference and clarity.

The estimated annualized costs to the Federal Government related only to the requirements in the Final Rule in RM10-12 (unless otherwise specified) follows.

- Analysis and Processing of Filings,¹⁹ including the new requirements and filers in RM10-12, plus the current EQR data and filers, \$ 753,585
- IT Hardware, Software, and Related Staff Work (including development, testing, implementation, and operations and maintenance, and averaging implementation cost over years 1-3) is estimated to be \$56,333 annually for only those items in RM10-12. [When including the development, implementation, and other costs related to the system replacement (discussed in the EQR Refresh NOPR in Docket RM12-3) and the EQR data elements that remain unchanged by RM10-12, the annual estimate would increase to approximately \$230,526.67, averaging implementation cost over years 1-3.]
- Annual PRA Forms Clearance and Processing²⁰ is \$1,588

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

As discussed earlier, this Final Rule would allow FERC and the public to gain a more complete picture of wholesale power and transmission markets in interstate commerce by providing additional information concerning price formation and market concentration in these markets. Public access to additional sales and transmission-related information in the EQR would improve market participants’ ability to assess supply and demand fundamentals and to price

¹⁹ 5.25 FTE’s at \$143,540 per FTE [staff year], including salary and benefits.

²⁰ This is based on an average of 24 hours of work.

interstate wholesale market transactions. It also would strengthen the FERC’s ability to identify potential exercises of market power or manipulation and to better evaluate the competitiveness of the interstate wholesale markets.

As noted earlier, FERC is transferring the burden hours for the existing EQR filings from the FERC-516, to this new collection, FERC-920. In the submittal system it appears that FERC is implementing a program change of 234,425 hours and 9,180 responses. In reality, 66,427 hours and 7,132 responses are currently approved under the FERC-516 control number for the existing EQR requirements. The remaining burden and responses (167,998 hours, and 2,048 responses) represent the actual “program change” associated with this clearance request for the final rule in RM10-12.

Burden Estimate Changes from NOPR to Final Rule in RM10-12. As a result of public comments received on the NOPR in RM10-12, the estimates of the burden to be caused by the Final Rule in Docket RM10-12 were modified. The Final Rule states in part:

“In response to comments that the Commission did not account for the information technology changes required to implement these new requirements, Commission staff has increased the estimate of the additional one-time implementation burden to be 400 hours for each non-public utility, 240 hours for each current filer with transactions, and 1 hour for each current filer with no transactions. Commission staff has estimated the additional recurring burden for each quarterly filing to be 19 hours for each non-public utility, 16 hours for each current filer with transactions, and no change for current filers with no transactions.”

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 OMB Control No. and expiration date of the current EQR requirements (included in FERC-516) are posted on www.ferc.gov at <http://www.ferc.gov/docs-filing/forms.asp#516> . If the FERC-920 requirements (that will be effective with Q3 of 2013) are approved by OMB, the OMB Control No. and expiration date will similarly be posted on [ferc.gov](http://www.ferc.gov).

18. EXCEPTION TO THE CERTIFICATION STATEMENT

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

APPENDIX A

EQR-related burden included in FERC-516 for current EQR filers, data, and system, pre-rules.

Until OMB's PRA approval of the final rules and FERC-920, the existing burden for the current filers with the current data requirements using the current system, is included in FERC-516. After completion of those steps (possibly including a future final rule in RM12-3 if/when FERC issues one), we anticipate removing burden from the FERC-516 (to eliminate double counting); the amount is detailed in the table below. The EQR will become a stand-alone requirement called FERC-920.

Electric Quarterly Report as contained in FERC-516 for current EQR filers, data, and system, and prior to rules in Dockets RM12-3-000 ('EQR System Refresh') ²¹ , RM10-12 ('Data Transparency') ²² , and RM01-8-012 ('Simultaneous Exchange') ²³					
Entities	No. of Respondents (Filers)	No. of Responses per Respondent per Year	Estimated Recurring Burden per Respondent per Quarterly Response (Hours)	Estimated Annual Recurring Burden per Respondent (Hours)	Total Annual Estimated Burden by Type of Entity (Hours)
Companies within non-California RTO, and large cos. within Cal. RTO	405	4	32.000	128.000	51,840.000
Medium/small companies within Cal. RTO	20	4	80.000	320.000	6,400.000
Companies not within RTO	663	4	3.000	12.000	7,956.000
Companies with no transactions	695	4	0.083	0.332	230.740
TOTAL	1,783				66,426.740

²¹ The proposed rule in RM12-3 was reviewed by OMB under FERC-920 (initially submitted on 7/23/2012 as ICR 201206-1902-003, which was withdrawn and re-submitted on 11/8/2012 as ICR 201211-1902-011). An OMB decision was issued on 11/27/2012.

²² The proposed rule in RM10-12 (issued 4/21/2011) was submitted to OMB under FERC-920 (ICR 201104-1902-003, OMB decision issued 8/8/2011). The RM10-12 final rule was issued on 9/21/2012 and published in the Federal Register on 10/11/2012. The final rule in RM10-12 (subject of this supporting statement) is being submitted to OMB for PRA review after conclusion of the pending OMB review of the subject NOPR in RM12-3, under FERC-920 (ICR 201206-1902-003).

²³ The proposed rule in RM01-8-012 (issued 3/15/2012) was submitted to OMB for review under FERC-516 (ICR 201203-1902-004, OMB decision issued 5/18/2012).