

**FERC-516 (OMB Control No. 1902-0096) and FERC-920 (OMB Control No. 1902-0255)
as modified in the Proposed Rule in Docket No. RM15-2
RIN: 1902-AE96**

Supporting Statement for
**FERC-516, Electric Rate Schedules and Tariff Filings and
FERC-920, Electric Quarterly Report (EQR),**
as modified by the Proposed Rule in Docket No. RM15-2 (issued on 2/19/2015)

The Federal Energy Regulatory Commission (Commission or FERC) requests that the Office of Management and Budget (OMB) review FERC-516 (Electric Rate Schedule and Tariff Filings) and FERC-920¹ (Electric Quarterly Report). This is a consolidated supporting statement (related to the Notice of Proposed Rulemaking (NOPR) in Docket No. RM15-2²); it will be submitted to OMB under the two different Information Collection Requests (one each for FERC-516 and FERC-920).

In this NOPR in RM15-2, FERC is proposing to revise its regulations to foster competition in the sale of primary frequency response service. Specifically, the Commission proposes to amend its regulations to revise Subpart H to Part 35 of Title 18 of the Code of Federal Regulations governing market-based rates for public utilities pursuant to the Federal Power Act (FPA) to permit the sale of primary frequency response service at market-based rates by sellers with market-based rate authority for energy and capacity.

1. CIRCUMSTANCES THAT MAKE THE COLLECTION OF INFORMATION NECESSARY

FERC-516. The Federal Power Act Section 205³ requires the Federal Energy Regulatory Commission to ensure that the rates and charges for the wholesale sale of electric energy are just and reasonable. Section 205 also requires that the rules and regulations affecting or pertaining to the rates and charges for the wholesale sale of electric energy be just and reasonable.

FERC-920. FERC set forth the EQR filing requirements in Order No. 2001⁴ which requires 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. FERC established the EQR reporting requirements to obtain data needed to perform its regulatory functions over

1 Prior to FERC's Final Rules in Docket Nos. RM10-12 and RM12-3 and the related OMB Notices of Action, the EQR (now FERC-920) had been included in FERC-516 (for years).

2 The NOPR is posted at <http://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=13775964>; the news release is posted at <http://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=13776953>.

3 16 U.S.C. 824d(a)

4 Order No. 2001 (in Docket RM01-8-000) issued 4/25/2002 and posted at http://elibrary-backup.ferc.gov/idmws/File_list.asp?document_id=2270047

**FERC-516 (OMB Control No. 1902-0096) and FERC-920 (OMB Control No. 1902-0255)
as modified in the Proposed Rule in Docket No. RM15-2
RIN: 1902-AE96**

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.”

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

FERC-516. The NOPR proposes to permit the sale of primary frequency response service at market-based rates by sellers with market-based rate authority for energy and capacity. As one condition applicable to such sales, and consistent with FPA section 205, sellers must amend their market-based rate tariffs to include primary frequency response service as a product they are authorized to sell, and this minor tariff filing constitutes the one-time FERC-516 burden resulting from this NOPR.

FERC-920. 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. The Ninth Circuit Court of Appeals has held that the ability to perform an ex post analysis of whether a seller with market-based rate authority has obtained excessive market share since it was granted authorization to transact at market-based rates is a necessary element in determining whether the Commission’s market-based regulatory regime fulfills the requirement for the Federal Power Act. The Court upheld the Commission’s market-based rate regulatory scheme because it relies on a “system [that] consists of a finding that the applicant lacks market power (or has taken sufficient steps to mitigate market power), coupled with strict reporting requirements to ensure that the rate is ‘just and reasonable’ and that markets are not subject to manipulation.” The EQR constitutes the strict reporting requirements that helps differentiate the Commission’s market based rate program from impermissible market deregulation. As relevant to this NOPR, any sales of primary frequency response service at wholesale must be reported in the EQR for the same reasons discussed above.

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

FERC-516. FERC implemented its eTariff system (fully implemented in 2010) for the electronic filing of tariffs.

**FERC-516 (OMB Control No. 1902-0096) and FERC-920 (OMB Control No. 1902-0255)
as modified in the Proposed Rule in Docket No. RM15-2
RIN: 1902-AE96**

FERC-920. EQR is also filed electronically.

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

FERC rules and data requirements are periodically reviewed in conjunction with OMB clearance expiration dates. This includes a review of FERC's regulations and data requirements to identify duplication. The information to be submitted, generated, kept, or posted, pursuant to this NOPR is not readily available from other.

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

The Small Business Administration's (SBA) Office of Size Standards develops the numerical definition of a small business.⁵ The SBA recently revised its size standard for electric utilities (effective January 22, 2014) from a standard based on megawatt hours to a standard based on the number of employees, including affiliates.⁶ Under SBA's current size standards, the entities with market-based rates which are affected by this NOPR likely come under the following SBA categories with the indicated thresholds (in terms of number of employees):

- Hydroelectric Power Generation, 500 employees
- Fossil Fuel Electric Power Generation, 750 employees
- Nuclear Electric Power Generation, 750 employees
- Solar Electric Power Generation, 250 employees
- Wind Electric Power Generation, 250 employees
- Geothermal Electric Power Generation, 250 employees
- Biomass Electric Power Generation, 250 employees
- Other Electric Power Generation, 250 employees.

The categories for the applicable entities have a size threshold ranging from 250 employees to 750 employees. For the analysis in this proposed rule, we are using the threshold of 750 employees for all categories. We anticipate that a maximum of 82 percent of the entities potentially affected by this NOPR are small. In addition, we expect that not all of those entities will be able to or will choose to offer primary frequency response service.

⁵ 13 CFR 121.101 (2014).

⁶ SBA Final Rule on "Small Business Size Standards: Utilities," 78 FR 77,343 (Dec. 23, 2013).

**FERC-516 (OMB Control No. 1902-0096) and FERC-920 (OMB Control No. 1902-0255)
as modified in the Proposed Rule in Docket No. RM15-2
RIN: 1902-AE96**

We expect a one-time burden cost of \$576 (including the burden cost related to filing both the FERC-516 and FERC-920) for each entity that decides to offer primary frequency response service.

The Commission does consider waivers for small entities, which serves as an option for small entities to reduce their burden. The Commission grants these waivers on a case-by-case basis.

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

FERC-516. FERC requires this information (much of which is unaffected by this NOPR) in order to perform its mandated oversight and review responsibilities with respect to electric market-based rates being just and reasonable. Without this information, the Commission would be unable to meet its statutory responsibility under Section 205 of the FPA to ensure electric utility rates and tariffs are just and reasonable. Failing to meet this responsibility could result in public utilities charging rates that are not just and reasonable.

FERC-920. The Commission created the quarterly filing requirement to balance concerns about the potential business sensitivity of the data with the FPA Section 205(c) requirement to have rates on file in a convenient form and place. Instead of requiring daily or weekly filings of EQR transaction data, the Commission determined (in Order No. 2001) that a lag of 30 to 120 days would be sufficient to reduce “any potential harm to competitors that could result from the disclosure of price data .” A less frequent collection would extend the time under which charged electric rates would not be on file at the Commission, affecting the Commission and the public’s ability to perform oversight and review as anticipated in FPA section 205(c).

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

FERC-516 and FERC-920 are consistent with the guidelines in 5 CFR 1320.5(d).

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

The NOPR in RM15-2 is requesting public comment and being published in the Federal Register.

9. EXPLAIN ANY PAYMENT OR GIFTS TO RESPONDENTS

**FERC-516 (OMB Control No. 1902-0096) and FERC-920 (OMB Control No. 1902-0255)
as modified in the Proposed Rule in Docket No. RM15-2
RIN: 1902-AE96**

There are no payments or gifts to respondents associated with these collections.

10. DESCRIBE ANY ASSURANCE OF CONFIDENTIALITY PROVIDED TO RESPONDENTS

Data filed are public information and, therefore, not confidential. However, a company may request confidential treatment of some or all parts of the information requirement under the FERC regulations at 18 CFR 388.112. The Commission will review each request for confidential treatment on a case-by-case basis.

11. PROVIDE ADDITIONAL JUSTIFICATION FOR ANY QUESTIONS OF A SENSITIVE NATURE, SUCH AS SEXUAL BEHAVIOR AND ATTITUDES, RELIGIOUS BELIEFS, AND OTHER MATTERS THAT ARE COMMONLY CONSIDERED PRIVATE.

There are no questions of a sensitive nature in the reporting requirements.

12. ESTIMATED BURDEN OF COLLECTION OF INFORMATION

FERC-516. The current total estimated OMB-approved burden is 498,250 hours. The vast majority of these hours (approximately 400,000) are due to general tariff filings related to the electric utility industry and are not affected by this NOPR in RM15-2.

FERC-920. The current total estimated OMB-approved burden is 246,312 hrs.

13. ESTIMATE OF THE TOTAL ANNUAL COST BURDEN TO RESPONDENTS

There are no non-labor costs associated with the NOPR in RM15-2.

All of the costs in the proposed rule are associated with labor (burden hours), are addressed in Questions 12 and 15, and are not shown in ROCIS metadata.

14. ESTIMATED ANNUALIZED COST TO FEDERAL GOVERNMENT

The estimated annualized cost to the Federal Government for the NOPR in RM15-2 follows:

	Federal Employee Hours	Estimated Annual Federal Cost
	FERC-516	

**FERC-516 (OMB Control No. 1902-0096) and FERC-920 (OMB Control No. 1902-0255)
as modified in the Proposed Rule in Docket No. RM15-2
RIN: 1902-AE96**

FERC-516 Analysis and Processing of filings ⁷	402 ⁸	\$28,944
PRA ⁹ Administrative Cost (for FERC-516)		\$5,193
Sub-Total for FERC-516		\$34,137
FERC-920		
Addition of new EQR category label in product picklist		\$1,000
PRA Administrative Cost (for FERC-920)		\$5,193
Sub-Total for FERC-920		\$6,193
FERC Total for FERC-516		\$40,330

⁷ The federal cost of analysis and processing of filings is based upon FERC’s 2015 FTE (full time equivalent) average salary plus benefits of \$149,489 (or \$72 per hour).

⁸ As discussed under Question 15, our burden estimate assumes 213 new market-based rate applicants and 134 existing market-based rate sellers per year will opt to begin selling primary frequency response service as a result of this NOPR. For purposes of this question (Question 14), we project no incremental NOPR-related burden on FERC staff associated with the 213 new market-based rate applications because the NOPR requires no support different from a standard market-based rate application, and thus no change in the FERC staff review of such an application from what it would have been absent the NOPR. With respect to the 134 existing market-based rate sellers assumed to begin offering primary frequency response service each year, we assume 50% will wait to include the NOPR-related tariff filing with other market-based rate tariff filings they would have otherwise made anyway, and we project no incremental NOPR-related burden on FERC staff from this type of filing either. We anticipate that the only NOPR-related incremental burden on FERC staff will be associated with those existing market-based rate sellers who make a tariff filing only to add the primary frequency response language required by the NOPR. We project that processing such a basic tariff filing will require at most 6 hours to analyze the filing and prepare and review a delegated order accepting or rejecting the filing. Accordingly, our estimate of NOPR-related burden on FERC staff related to FERC-516 is 402 hours/year, based on 6 hours per filing for 67 (i.e., 50% of 134) filings per year.

⁹ The PRA Administrative Cost is a Federal Cost associated with preparing, issuing, and submitting materials necessary to comply with the Paperwork Reduction Act (PRA) for rulemakings, orders, or any other vehicle used to create, modify, extend, or discontinue an information collection. This average annual cost includes requests for extensions, all associated rulemakings (not just this proposed rule), and other changes to the collection.

**FERC-516 (OMB Control No. 1902-0096) and FERC-920 (OMB Control No. 1902-0255)
as modified in the Proposed Rule in Docket No. RM15-2
RIN: 1902-AE96**

and FERC-920		
---------------------	--	--

These additional costs for the NOPR in RM15-2 will be added to the existing Federal costs for

- FERC-516, of \$2,808,964¹⁰, giving a new total of \$2,843,101
- FERC-920, of \$518,940, giving a new total of \$525,133

The Commission bases its estimate of the ‘Analysis and Processing of filings’ cost to the Federal Government on salaries and benefits for professional and clerical support. This estimated cost represents staff analysis, decision making, and review of any actual filings made in response to the information collections.

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

With respect to both FERC-516 and FERC-920, FERC requires this information (much of which is unaffected by this NOPR) in order to perform its mandated oversight and review responsibilities with respect to electric market-based rates being just and reasonable. Without this information, the Commission would be unable to meet its statutory responsibility under Section 205 of the FPA to ensure public utility rates and tariffs are just and reasonable. Failing to meet this responsibility could result in public utilities charging rates that are not just and reasonable.

There is a one-time increase in the burden for both the FERC-516 and FERC-920 information collections. The following burden estimates are based on the projected burden for the industry to implement the new requirements in this NOPR, and the gradual phase-in that we expect of filers choosing to provide new primary frequency response service.

10 The supporting statement for ICR 201409-1902-005 (for the final rule in Docket No. RM05-5-022) says in part that “... the total additional Federal Cost for the FERC-516 is \$371,570 These additional costs will be added to the existing Federal costs for a total of \$2,437,394 for the FERC-516”

However, it appears that the additional \$371,570 for the final rule in RM05-5-022 was inadvertently not added to the meta-data field for federal cost in reginfo.gov and ROCIS because that figure is \$2,437,394. Therefore the federal cost field for FERC-516 should be \$2,437,394 + \$371,570 + \$34,137, or \$2,843,101 after implementation of this NOPR in RM15-2.

**FERC-516 (OMB Control No. 1902-0096) and FERC-920 (OMB Control No. 1902-0255)
as modified in the Proposed Rule in Docket No. RM15-2
RIN: 1902-AE96**

Changes Proposed in NOPR in RM15-2¹¹					
Number of Respondents (a)	Annual Number of Responses per Respondent (b)	Total Number of Responses (a)X(b)=(c)	Average Burden & Cost Per Response (d)	Total Annual Burden Hours & Total Annual Cost (c)X(d)=(e)	Cost per Response (e)/(c)
FERC-516 (Electric Rate Schedules and Tariff Filings) (one time, phased in)					
1,551 ¹²	0.166 ¹³	258	6 \$432	1,548 \$111,456	\$432
FERC-920 (Electric Quarterly Report) (one-time, phased in)					

11 We think that industry staff members are similarly situated to FERC, in terms of hourly cost per full time employee. Therefore, the estimated average hourly cost (salary plus benefits) is \$72.00.

12 The 1,551 respondent universe includes existing sellers (1,965 total market-based rate sellers - 697 Category 1 sellers + 70 Category 1 sellers = 1,338 sellers estimated to sell primary frequency response services) plus 213 new market-based rate applicants (as estimated in Docket No. RM14-14). (We estimate that ten percent (or 70, as indicated above) of the Category 1 sellers may choose to sell primary frequency response services.)

13 We expect respondents to enter the primary frequency response market gradually. For each of the next three years, we expect all 213 new market-based rate applicants per year (or 639 total during Years 1-3), to include the primary frequency response language in their tariffs.

Additionally, during the three-year period, we expect a total of ten percent of the existing 1,338 respondents (or 134 respondents), to decide to sell primary frequency response services and to make the corresponding FERC-516 rate filing. The corresponding annual estimate is 45 of the existing respondents (an average of 3.3% annually). Therefore, the annual estimate, including both new respondents and existing respondents, is an average of 258 (213 + 45) respondents and responses per year.

**FERC-516 (OMB Control No. 1902-0096) and FERC-920 (OMB Control No. 1902-0255)
as modified in the Proposed Rule in Docket No. RM15-2
RIN: 1902-AE96**

1,551	0.166 ¹⁴	258	2 \$144	516 \$37,152	\$144
-------	---------------------	-----	------------	-----------------	-------

The following two tables show the current OMB-approved inventory, as well as the estimated annual impact of the changes discussed in this NOPR and supporting statement.

FERC-516	Total Request	Previously Approved	Change due to Adjustment in Estimate	Change Due to Agency Discretion
Annual Number of Responses	5,805	5,547	0	+258
Annual Time Burden (Hr)	499,798	498,250	0	+1,548
Annual Cost Burden (\$)	0	0	0	0

FERC-920	Total Request	Previously Approved	Change due to Adjustment in Estimate	Change Due to Agency Discretion
Annual Number of Responses	11,274	11,016	0	+258
Annual Time Burden (Hr)	246,828	246,312	0	+516
Annual Cost Burden (\$)	0	0	0	0

16. TIME SCHEDULE FOR PUBLICATION OF DATA

¹⁴ As respondents decide to sell primary frequency response services, they would report the new offering in their Electric Quarterly Report (FERC-920), and would continue to report in subsequent EQRs. When a filer adds the new service, we estimate the one-time burden to be two hours. We expect any additional burden associated with reporting the new service in the EQR to be negligible after the first implementation as it would become part of the respondent's normal reporting practice in the EQR and would only involve selecting the 'primary frequency response' option from a list of product names. On average, we expect filers of the new primary frequency response service to phase in:

- Year 1, 258 respondents or 16.6 percent of EQR filers
- Year 2, 258 respondents or 16.6 percent of EQR filers
- Year 3, 258 respondents or 16.6 percent of EQR filers

**FERC-516 (OMB Control No. 1902-0096) and FERC-920 (OMB Control No. 1902-0255)
as modified in the Proposed Rule in Docket No. RM15-2
RIN: 1902-AE96**

Unless confidential treatment is sought, the FERC-516 NOPR-related tariff filing is publicly posted in our eTariff and eLibrary web-based systems when filed. Similarly, the FERC-920 data, including any NOPR-related primary frequency response EQR data, is filed on a quarterly basis and made publicly available on the Commission's website. However, FERC does not publish any other data associated with either of these collections.

17. DISPLAY OF EXPIRATION DATE

The clearance information and expiration dates are available at <http://www.ferc.gov/docs-filing/info-collections.asp>.

18. EXCEPTIONS TO THE CERTIFICATION STATEMENT

The FERC-920 data collected for this reporting requirement are used for regulatory purposes, rather than statistical purposes. However the staff may perform various statistical analyses of the data as part of their enforcement efforts.