

Supporting Statement for
**FERC-516C¹, Offer Caps in Markets Operated by Regional Transmission Organizations
and Independent System Operators,
in NOPR in Docket No. RM16-5-000**

The Federal Energy Regulatory Commission (FERC or Commission) requests that the Office of Management and Budget (OMB) review the information collection requirements in the Notice of Proposed Rulemaking under Docket No. RM16-5-000 and contained within the FERC-516C information collection.

The burden associated with RM16-5-000 is being submitted to the FERC-516C information collection (OMB Control No. TBD) to allow timely submission to OMB. FERC-516 is currently under review by OMB (in an unrelated Final Rule in RM15-2-000, Electric Rate Schedules and Tariff Filings; ICR No. 201511-1902-005). Any burden hours related to RM16-5 applied to FERC-516C is intended eventually to reside in FERC-516 (OMB Control No. 1902-0096).

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

FERC-516¹ (in general): The Federal Power Act Sections 205 and 206² require the Federal Energy Regulatory Commission to ensure that the rates and charges for the wholesale sale of electric energy are just and reasonable. Sections 205 and 206 also require that the rules and regulations affecting or pertaining to the rates and charges for the wholesale sale of electric energy be just and reasonable.

NOPR in RM16-5-000. In this Notice of Proposed Rulemaking, FERC proposes to revise its regulations to require that each regional transmission organization (RTO) and independent system operator (ISO) cap each resource's incremental energy offer to the higher of \$1,000/MWh or that resource's verified cost-based incremental energy offer. Under this proposal, verified cost-based incremental energy offers above \$1,000/MWh would be used for purposes of calculating Locational Marginal Prices (LMPs).

The Commission preliminarily finds that the offer cap on incremental energy offers (offer cap) may no longer be just and reasonable for several reasons. The offer cap may unjustly prevent a resource from recouping its costs by not permitting that resource to include all of its

¹ FERC-516 is the data collection cited in RM16-5-000 NOPR. It is where the burden for this NOPR should reside. However, FERC-516 is currently under OMB's review for other unrelated Commission activities (ICR No. 201511-1902-005). Instead, RM16-5-000 NOPR is being submitted under a temporary collection number (FERC-516C, OMB Control No. TBD) to ensure timely submission.

² 16 U.S.C. 824d, 824e.

short-run marginal costs within its energy supply offer (supply offer). The offer cap may result in unjust and unreasonable rates because it can suppress LMPs to a level below the marginal cost of production. Further, because of the offer cap, a resource with short-run marginal costs above that cap may choose not to offer its supply to the RTO/ISO, even though the market may be willing to purchase that supply. Finally, when several resources have short-run marginal costs above the offer cap but are unable to reflect those costs within their incremental energy offers due to the offer cap, the RTO/ISO is not able to dispatch the most efficient set of resources because it will not have access to the underlying costs associated with the multiple incremental energy offers above the offer cap.

To remedy these potential problems associated with the offer cap, the Commission proposes to require that each RTO/ISO cap each resource's incremental energy offer to the higher of \$1,000/MWh or an incremental energy offer based on that resource's short-run marginal cost (cost-based incremental energy offer). Under the proposal, the costs underlying each cost-based incremental energy offer above \$1,000/MWh must be verified before that offer could be used for purposes of calculating LMPs. Under this proposal, the Market Monitoring Unit or the RTO/ISO, as prescribed in the RTO/ISO tariff and consistent with FERC Order No. 719, must verify the costs within a cost-based incremental energy offer. The proposed offer cap would be resource neutral, that is, any resource, regardless of fuel-type, would be eligible to submit a cost-based incremental energy offer above \$1,000/MWh.

The Commission proposes to make a generic change to the offer cap applicable to all RTOs/ISOs through a rulemaking to avoid exacerbating seams issues. Seams issues could arise if one RTO/ISO has an offer cap that materially differed from a neighboring RTO/ISO's offer cap. Different offer caps in neighboring RTOs/ISOs could result in flows that depend on the level of the two offer caps as opposed to economics or reliability needs.

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

The reforms proposed in this NOPR would amend the Commission's regulations to improve the operation of organized wholesale electric power markets operated by RTOs/ISOs. The Commission proposes to require that each RTO/ISO cap a resource's incremental energy offer used for purposes of calculating LMPs in energy markets to the higher of \$1,000/MWh or that resource's cost-based incremental energy offer, as verified by the Market Monitoring Unit or the RTO/ISO. The reforms proposed in this NOPR would require one-time filings of tariffs with the Commission and potential software upgrades³ to implement the reforms proposed in this

³ Commission staff did not include the cost of potential software upgrades within this information collection request because they believe most entities will not have to conduct software upgrades. Commission staff requested comment about these costs in the NOPR and will revise (if needed) cost estimates at the Final Rule stage.

NOPR. The Commission anticipates the reforms proposed in this NOPR, once implemented, would not significantly change currently existing burdens on an ongoing basis. With regard to those RTOs/ISOs that believe that they already comply with the reforms proposed in this NOPR, they could demonstrate their compliance in the compliance filing required four months after the effective date of the final rule in this proceeding.

If the Commission does not require RTOs/ISOs to submit the tariff filings, the Commission will not be able to ensure that resources have price signals that provide incentives to conform their output to dispatch instructions, and that prices reflect operating needs at each dispatch interval.

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

FERC implemented its eTariff system (fully implemented in 2010) for the electronic filing of tariffs. (eTariff is described more fully at <http://www.ferc.gov/docs-filing/etariff.asp>). The tariff compliance filing proposed in this NOPR will be eFiled.

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 sources.

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.⁴ The SBA revised its size standard for electric utilities (effective January 22, 2014) to a standard based on the number of employees, including affiliates (from a standard based on megawatt hours).⁵

⁴ 13 CFR 121.101 (2015).

⁵ SBA Final Rule on "Small Business Size Standards: Utilities," 78 FR 77,343 (Dec. 23, 2013).

The reforms proposed in this NOPR would apply to the RTOs and ISOs, all of which are transmission organizations and are included in the NAICS code 221121 (for Electric Bulk Power Transmission and Control), which has a threshold for small businesses of 500 employees. The Commission understands that each affected RTO and ISO has more than 500 employees, so the RTOs and ISO are not small entities.

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

This collection cannot occur less frequently since these are one-time filings. For them to be conducted less frequently than once, the filings would not occur at all. Without this information, the Commission would be unable to meet its statutory responsibility under Section 206 of the FPA to ensure electric utility rates are just and reasonable. Failing to meet this responsibility could result in public utilities charging rates that are not just and reasonable.

7. EXPLAIN ANY SPECIAL CIRCUMSTANCES RELATING TO THE INFORMATION COLLECTION

The FERC-516C presents no special circumstances.

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

Each FERC activity that results in the revision of an information collection is published in the Federal Register thereby providing public utilities and licensees, state commissions, Federal agencies, and other interested parties an opportunity to submit data, views, comments or suggestions concerning the approved collections of data. The proposed rule was published in the Federal Register on 2/4/2016 (81 FR 5951).

9. EXPLAIN ANY PAYMENT OR GIFTS TO RESPONDENTS

There are no gifts or payments given to the respondents.

10. DESCRIBE ANY ASSURANCE OF CONFIDENTIALITY PROVIDED TO RESPONDENTS

The data involved and affected by the RM16-5-000 NOPR is public. In general, for all submittals to the Commission, filers may submit specific requests for confidential treatment to the extent permitted by law; details are available in 18 C.F.R. Section 388.112.

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.

This collection does not include any questions of a sensitive nature.

12. ESTIMATED BURDEN OF COLLECTION OF INFORMATION

The estimated public reporting burden due to these proposed revisions in Docket RM16-5-000 follows.

FERC-516C, as proposed by NOPR in Docket RM16-5-000						
	Number of Respondents (1)	Annual Number of Responses per Respondent (2)	Total Number of Responses (1)×(2)=(3)	Average Burden (Hours) & Cost Per Response (4)	Total Annual Burden Hours & Total Annual Cost (3)×(4)=(5)	Cost per Respondent (\$) (5)÷(1)
One-Time Tariff Filings (Year 1)	6	1	6	500 hrs.; \$36,000 ⁶	3,000 hrs.; \$216,000	\$36,000

The Commission notes that these cost estimates below do not include costs for software or hardware or for increased time spent validating cost-based incremental energy offers above \$1,000/MWh. Software or hardware upgrades may not be required.

⁶The estimated hourly cost (salary plus benefits) provided in this section are based on the salary figures for May 2014 posted by the Bureau of Labor Statistics for the Utilities sector (*available at* http://www.bls.gov/oes/current/naics2_22.htm#13-0000) and scaled to reflect benefits using the relative importance of employer costs in employee compensation from March 2015 (*available at* <http://www.bls.gov/news.release/ecec.nr0.htm>). The hourly estimates for salary plus benefits are:

- Legal (code 23-0000), \$129.87
- Computer and mathematical (code 15-0000), \$58.25
- Information systems manager (code 11-3021), \$94.55
- IT security analyst (code 15-1122), \$63.55
- Auditing and accounting (code 13-2011), \$51.11
- Information and record clerk (code 43-4199), \$37.50
- Electrical Engineer (code 17-2071), \$66.45
- Economist (code 19-3011), \$73.04
- Management (code 11-0000), \$78.04

The average hourly cost (salary plus benefits), weighting all of these skill sets evenly, is \$72.48. The Commission rounds it to \$72 per hour.

FERC-516C (OMB Control No.: TBD)
as proposed by the NOPR in Docket No. RM16-5-000 (updated 3/24/2016)
RIN: 1902-AF18

Please note that the burden associated with RM16-5-000 is being submitted to the FERC-516C temporary information collection number (OMB Control No. TBD) to allow timely submission to OMB. FERC-516 is currently under review by OMB (in an unrelated Final Rule in RM15-2-000, Electric Rate Schedules and Tariff Filings; ICR No. 201511-1902-005). Only one item per OMB Control No. can be pending review at a time. Any burden hours added to FERC-516C by Docket RM16-5 is intended eventually to reside in FERC-516 (OMB Control No. 1902-0096).

13. ESTIMATE OF THE TOTAL ANNUAL COST BURDEN TO RESPONDENTS

There are no start-up or other non-labor costs.

Total Capital and Start-up cost: \$0

Total Operation, Maintenance, and Purchase of Services: \$0

All of the costs in the proposed rule are associated with burden hours (labor) and described in Questions #12 and #15 in this supporting statement.

14. ESTIMATED ANNUALIZED COST TO FEDERAL GOVERNMENT

The estimated annualized cost to the Federal Government for FERC-516C as related to the requirements in the proposed revisions in RM16-5-000.

FERC-516C	Number of Employees (FTEs)	Estimated Annual Federal Cost
FERC-516C Analysis and Processing of filings ⁷	2.5	\$373,723
Paperwork Reduction Act Administrative Cost ⁸		\$5,193
TOTAL		\$378,916

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

⁷ \$373,723 = \$149,489 (FERC average annual salary at \$72.00/hour) * 2.5 FTEs

⁸ 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 rulemaking), and other changes to the collection.

FERC-516C (OMB Control No.: TBD)
as proposed by the NOPR in Docket No. RM16-5-000 (updated 3/24/2016)
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The existing tariff filings (covered by FERC-516) related to the electric utility industry are not affected by this NOPR in RM16-5-000. FERC requires this new information 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 206 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.

The table below represents the additional, one-time burden being added due to the proposed revisions RM16-5-000 within the FERC-516C information collection number:

FERC-516C	Total Request	Previously Approved	Change due to Adjustment in Estimate	Change Due to Agency Discretion
Annual Number of Responses	6	0	0	6
Annual Time Burden (Hr)	3,000	0	0	3,000
Annual Cost Burden (\$)	\$0	\$0	\$0	\$0

16. TIME SCHEDULE FOR PUBLICATION OF DATA

There are no tabulating, statistical or tabulating analysis or publication plans for the collection of information.

17. DISPLAY OF EXPIRATION DATE

The expiration dates are displayed in a table posted on ferc.gov at <http://www.ferc.gov/docs-filing/info-collections.asp>.

18. EXCEPTIONS TO THE CERTIFICATION STATEMENT

There are no exceptions.