

FERC-516, FERC-519, and FERC-555 (OMB Control Nos. 1902-0096, 1902-0082, and 1902-0098), as modified in the Policy Statement (issued 5/19/2016) in Docket No. PL15-3-000 (updated for FERC-516 only, 8/16/2016)

Supporting Statement for
**FERC-516 (Electric Rate Schedules and Tariff Filings), FERC-519 (Application under Federal Power Act Section 203), and FERC-555 (Preservation of Records for Public Utilities and Licensees, Natural Gas and Oil Pipeline Companies),
as modified by the Policy Statement in Docket No. PL15-3-000**

The Federal Energy Regulatory Commission (Commission or FERC) requests that the Office of Management and Budget (OMB) review and approve the changes made in the Policy Statement in Docket No. PL15-3-000.¹ This consolidated supporting statement will be submitted to OMB under three Information Collection Requests, one each for the existing collection affected by the Policy Statement:

1. FERC-516 (Electric Rate Schedules and Tariff Filings)
2. FERC-519 (Application under Federal Power Act Section 203) and
3. FERC-555 (Preservation of Records for Public Utilities and Licensees, Natural Gas and Oil Pipeline Companies),

1. CIRCUMSTANCES THAT MAKE THE COLLECTION OF INFORMATION NECESSARY

The Commission issues this Policy Statement in Docket No. PL15-3 to provide guidance regarding future implementation of hold harmless commitments offered by applicants as ratepayer protection mechanisms to mitigate adverse effects on rates that may result from transactions that are subject to section 203 of the Federal Power Act (FPA). First, the Commission clarifies the scope and definition of the costs that should be subject to hold harmless commitments. Second, the Commission adopts the proposal that applicants offering hold harmless commitments should implement controls and procedures to track the costs from which customers will be held harmless. The Commission identifies the types of controls and procedures that applicants offering hold harmless commitments should implement. Third, the Commission declines to adopt its proposal to no longer accept hold harmless commitments that are limited in duration. Fourth, the Commission clarifies that, in connection with certain types of FPA section 203 transactions, an applicant may be able to demonstrate that the transaction will not have an adverse effect on rates without the need to make any hold harmless commitment.

FERC-516. The Federal Power Act Section 205² 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.

¹The Proposed Policy Statement Hold Harmless Commitments (issued 1/22/2015) is available at <http://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=13747468> and at 80 FR 4231 (1/27/2015). The related News Release is posted in FERC's eLibrary at <http://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=13747711>. The Policy Statement (issued 5/19/2016) is posted at <http://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=14251967>.

² 16 U.S.C. 824d(a)

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FERC-519. According to Section 203 of the FPA, FERC approval is required for transactions in which a public utility disposes of jurisdictional facilities, merges such facilities with facilities owned by another person, or acquires the securities of another public utility. Under the statute, FERC must find that the proposed transaction will be consistent with the public interest.

FERC-555. Both the FPA and the Natural Gas Act require jurisdictional companies to keep records that the Commission may prescribe "as necessary or appropriate for purposes of administration" of these acts. In 1977, the Commission assumed jurisdiction over transportation of oil by oil pipeline companies from the Interstate Commerce Commission under 705(a) of the Department of Energy Organization Act. Section 20 of the Interstate Commerce Act requires oil pipeline companies to keep records that the Commission determines are necessary to effectively regulate those companies.

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 information collected in the FERC-516 pursuant to the Policy Statement, allows the Commission to ensure that the commitments accepted in prior applications are adhered to and continue to be consistent with the public interest and be found to be just and reasonable.

FERC-519. The information collected under the FERC-519 enables the Commission to meet its statutory responsibilities regarding public utility disposition, merger, consolidation of facilities, purchase, or acquisition oversight and enforcement in accordance with the FPA as referenced above.

The required information includes descriptions of corporate attributes of the party or parties to the proposed transaction (e.g. a sale, lease, or other disposition, merger, or consolidation of facilities, or purchase of other acquisition of the securities of a public utility and the facilities or other property involved in the transaction), statements about effect of the transaction, and the applicant's proof that the transaction will be consistent with the public interest.

FERC-555. The official records maintained by jurisdictional companies in accordance with the Schedules provided in the Code of Federal Regulations (CFR) Title 18 Parts 125, 225 and 356 are used by these companies as the basis for rate filings and reports for the Commission. In addition, the records are used by the Commission's audit and compliance staffs during the periodic compliance reviews and special analyses performed as deemed necessary by the Commission.

In general, FERC's regulations require jurisdictional companies to maintain the following types of records:

- Corporate
- Information Technology Management
- General Accounting

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- Personnel and Payroll
- Transportation
- Tariffs and Rates
- Insurance
- Operations and Maintenance
- Plant and Depreciation
- Purchase and Stores
- Revenue Accounting and Collection
- Tax
- Treasury
- Miscellaneous

See 18 CFR Parts 125, 225, and 356 for the specific items and retention periods.

The information contained in Parts 125, 225, and 356 is used by jurisdictional companies to determine the minimum length of time to maintain their records subject to the requirements of the Commission.

In general, the requirements in these three information collections (reporting and recordkeeping requirements) are the minimum necessary to comply with the statutes. If this information were not collected or retained, there would be no data available to determine whether violations of the laws had occurred.

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-519. The data can be filed electronically.

FERC-555. The Commission's regulations state that the storage media selected must have a life expectancy at least equal to the applicable record retention period unless there is a quality transfer of the data from one media to another with no loss of data. The Commission purposefully does not mandate a specific media type to allow companies flexibility in the selection of media which would provide the ability to adapt quickly to changes in technology without the necessity of obtaining Commission approval of the use of media not provided for in the regulations. The Commission believes that the current regulations provide for efficiencies and savings from reduced retention periods and unrestricted use of storage media.

4. DESCRIBE EFFORTS TO IDENTIFY DUPLICATION AND SHOW SPECIFICALLY WHY ANY SIMILAR INFORMATION ALREADY AVAILABLE

FERC-516, FERC-519, and FERC-555 (OMB Control Nos. 1902-0096, 1902-0082, and 1902-0098), as modified in the Policy Statement (issued 5/19/2016) in Docket No. PL15-3-000 (updated for FERC-516 only, 8/16/2016)

**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, retained, or posted, pursuant to this Policy Statement is not readily available from other sources.

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

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.

FERC-516. Small entities will typically not be affected by the Policy Statement. Small entities are generally not in a position to file a FERC-516 which would be subject to hold harmless ratepayer protection which is the subject of the Policy Statement.

FERC-519. Small entities will typically not be affected by the Policy Statement. Small entities are generally not in a position to file a FERC-519. Additionally it may not be necessary in many cases to show that the particular transaction has no adverse effect on rates because most small entities lack captive customers that require rate protection. The Policy Statement provides other avenues to make such a showing.

FERC-555. There is no change to FERC-555 for those entities that do not make hold harmless commitments in connection with their section 203 applications.

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

FERC-516. FERC requires this information (much of which is unaffected by this Policy Statement) 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-519. FPA Section 203 requires a filing on the occasion that a public utility proposes to dispose of jurisdictional facilities, merge such facilities, or acquire the securities of another public utility. If the collection was not conducted before the proposed transaction was consummated, the Commission would be unable to perform its mandated oversight and review responsibilities with respect to facilities, mergers and securities transactions.

FERC-555. These records are not filed with the Commission but are retained by jurisdictional companies to be used as previously noted. Absent the availability of obtaining these records, the

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Commission would not be able to carry out its regulatory responsibilities as authorized by the Federal Power Act, the Natural Gas Act and the Interstate Commerce Act.

7. EXPLAIN ANY SPECIAL CIRCUMSTANCES RELATING TO THE INFORMATION COLLECTION

FERC-516 and FERC-519 are consistent with the guidelines in 5 CFR 1320.5(d).

FERC-555. The Commission needs sufficient data available for scrutiny in order to carry out its regulatory mandates. For rate case filings, it is imperative that the Commission, and its staff, have access to supporting rate-case documentation, as well as documentation that might be pertinent to complaint proceedings. For these reasons, many record schedules are set for longer than the three year period generally applicable and described in 5 CFR 1320.5(d).

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

The Proposed Policy Statement was issued 1/22/2015 for public comment. The Commission received 10 public comments. EEI and EPSA contend that the Commission should not require tracking and inclusion of costs incurred prior to the announcement because doing so would be premature, burdensome, and costly.³ EEI states that long term strategic planning including investigating potential transactions is part of the routine daily operations of any company and should not be singled out for separate tracking, which it asserts would be unwieldy and misleading because staff would conceivably have to bill their time separately for every potential project or transaction they analyze, just in case that project or transaction came to fruition.⁴ EEI states that the burden of this proposal exceeds the benefits due to the number of transactions that may be explored and could provide a disincentive for companies to investigate transactions that could ultimately benefit customers.⁵

The Commission responded explaining its concern “is that an applicant will use its existing employees to both perform normal utility activities as well as transaction-related activities and not make a distinction between the two activities. As a result, the applicant would recover transaction-related labor costs without demonstrating that they are offset by benefits. Thus, an appropriate labor cost allocation is needed to ensure the applicant’s ratepayers are not paying for transaction-related activities without a showing of offsetting benefits.”

The final Policy Statement addresses all of the public comments and will also be published in the Federal Register on 5/26/2016.

9. EXPLAIN ANY PAYMENT OR GIFTS TO RESPONDENTS

³ See EPSA Comments at 4-6 (“Such a commitment is tantamount to asking a couple who are only on a second date to pick out their wedding china.”); EEI Comments at 14.

⁴ EEI Comments at 14.

⁵ EEI Comments at 15.

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

10. DESCRIBE ANY ASSURANCE OF CONFIDENTIALITY PROVIDED TO RESPONDENTS

Generally, the 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 or recordkeeping requirements.

12. ESTIMATED BURDEN OF COLLECTION OF INFORMATION

The following table shows the Commission’s estimates for the additional annual burden and cost,⁶ as contained in the Policy Statement:

Revisions, in the Policy Statement in Docket No. PL15-3					
Requirements	Number and Type of Respondents (1)	Number of Responses per Respondent (2)	Total Number of Responses (1)*(2)=(3)	Average Burden Hours & Cost Per Response (4)	Total Burden Hours & Total Cost (3)*(4)
FERC-519 (FPA Section 203 Filings) ⁷	18	1	18	20 hrs.; \$1,440	360 hrs.; \$25,920
FERC-516 (FPA Section 205, Rate and Tariff Filings)	1	1	1 ⁸	103.26 hrs.; \$7,434.72	103.26 hrs.; \$7,434.72

⁶ The hourly cost figures are based on data for salary plus benefits. The Commission staff thinks that industry is similarly situated to FERC in terms of the average cost of a full time employee. Therefore, we are using the 2015 FERC hourly average for salary plus benefits of \$72 per hour.

⁷ Commission staff estimates that, due to the Policy Statement, 18 of the FPA Section 203 filings will take 20 additional burden hours. The estimated number of filings is not changing.

⁸ Commission staff estimates that one additional FPA section 205 filing may be made annually subject to the Policy Statement.

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FERC-555, Record Retention ⁹	18	1	18	4 hrs.; \$288	72 hrs.; \$5,184
TOTAL					535.26 hrs.; \$38,538.72

13. ESTIMATE OF THE TOTAL ANNUAL COST BURDEN TO RESPONDENTS

There are no non-labor costs associated with the Policy Statement in PL15-3. All of the costs related to the Policy Statement are associated with labor (burden hours), are addressed in Questions 12 and 15.

14. ESTIMATED ANNUALIZED COST TO FEDERAL GOVERNMENT

The estimated additional annualized costs¹⁰ to the Federal Government related to the Policy Statement in PL15-3 and the associated reporting and recordkeeping requirements follow.

	Federal Employee Hours	Estimated Annual Federal Cost
FERC-516		
Analysis and Processing of filings	120 ¹¹	\$8,640
PRA ¹² Administrative Cost (for FERC-516)		\$5,193
<i>Sub-Total for FERC-516</i>		\$13,833
FERC-519		
Analysis and Processing of filings	0 ¹³	0
PRA Administrative Cost (for		\$5,193

9 This represents 4 additional hours for 18 respondents; the number of respondents and responses are not changing.

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

11 As discussed under Questions 12 and 15, our burden estimate assumes one additional filing per year pursuant to the guidance in the Policy Statement, which would take Commission staff 120 collective hours to analyze and process.

12 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 Policy Statement), and other changes to the collection.

13 Commission staff anticipates no increase in FERC staff time because the Policy Statement clarifies an existing aspect of some applications. The number of applications is not changing.

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FERC-519)		
<i>Sub-Total for FERC-519</i>		\$5,193
FERC-555		
Analysis and Review of records (e.g., audits) ¹⁴	0	0
PRA Administrative Cost (for FERC-555)		\$5,193
<i>Sub-Total for FERC-555</i>		\$5,193
Total FERC Cost, related to info. collection requirements in Policy Statement in PL15-3		\$24,219

These additional costs for the Policy Statement in PL15-3 (above) will be added to the existing Federal costs for

- FERC-516, of \$2,843,101, giving a new total of \$2,856,934
- FERC-519, of \$1,186,322, giving a new total of \$1,191,515
- FERC-555¹⁵, \$10,760,218, giving a new total of \$10,765,411

The Commission bases its estimates of the costs for ‘Analysis and Processing of filings’ and ‘analysis and review of records’ 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 submitted and records retained in response to the information collections.

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

The majority of the current estimated OMB-approved burdens for FERC-516, -519, and -555 are not affected by the Policy Statement in PL15-3.

Below, we discuss the reasons and expected increases in burden as a result of this Policy Statement.

FERC-516. Entities that previously recovered costs of their hold harmless commitment without additional scrutiny will now be required to prepare a filing to justify the recovery of such costs. Preparing such a filing will increase the burden on those entities who wish to recover certain transaction-related costs and show the effected rate to be just and reasonable. We estimate that

¹⁴ There will be no additional cost to FERC audit staff as a result of PL15-3.

¹⁵ The estimates for FERC staff for analysis and review (audits) of FERC-555 records were inadvertently omitted from ICR 201312-1902-003 (approved by OMB 5/27/2014). As of May 2016, Commission staff estimates that approximately 71.98 FTEs work on financial audits at a cost of \$10,760,218 (using the 2015 figure of \$149,489 per FERC FTE per year).

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the Commission will see fewer hold harmless commitments going forward, as it is clear that a hold harmless commitment may not be needed in many cases. We also believe that some entities will make clear that they will not recover any costs subject to their hold harmless commitment and therefore will not be subject to this policy. This combined with our experience in receiving filings leads us to estimate one additional FERC-516 filing per year.

FERC-519. Entities pursuing section 203 transactions will maintain the same burden to demonstrate that their proposed transaction has no adverse effect on rates. The increased burden will only apply to entities that disagree and then must justify a different categorization of transaction-related costs. Applicants must formulate which costs they must account for and express those in advance. We estimate as additional 20 hours of burden for 18 of these filings (and related respondents) per year; the number of filings is not changing.

FERC-555. We estimate an additional 4 hours of burden per year related to records retention for 18 of the respondents. The number of responses and respondents are not changing.

Summary. The following table shows the current OMB-approved inventory, as well as the estimated annual impact of the changes discussed in this Policy Statement in PL15-3 and supporting statement.

	Total Request (rounded)	Previously Approved	Change due to Adjustment in Estimate	Change Due to Agency Discretion (rounded)
FERC-516				
Annual Number of Responses	5,807	5,806	0	+1
Annual Time Burden (Hr.)	499,907	499,804	0	+103
Annual Cost Burden (\$)	0	0	0	0
FERC-519				
Annual Number of Responses	141	141	0	0
Annual Time Burden (Hr.)	56,055	55,695	0	+360
Annual Cost Burden (\$)	0	0	0	0
FERC-555				
Annual Number of Responses	509	509	0	0
Annual Time Burden (Hr.)	2,656,034	2,655,962	0	+72

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Annual Cost Burden (\$)	\$78,242,971	\$78,242,971	0	0
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16. TIME SCHEDULE FOR PUBLICATION OF DATA

Unless confidential treatment is sought, the FERC-516 and FERC-519 are publicly available. FERC-555 covers records retention and is not submitted to FERC.

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

There are no exceptions.