

Supporting Statement for
FERC-516 (Electric Rate Schedules and Tariff Filings)
as modified by the Notice of Proposed Rulemaking (NOPR) in Docket RM19-5-000

The Federal Energy Regulatory Commission (Commission or FERC) requests that the Office of Management and Budget (OMB) review the FERC-516 (Electric Rate Schedules and Tariff Filings) as modified by the NOPR in RM19-5-000¹.

1. CIRCUMSTANCES THAT MAKE THE COLLECTION OF INFORMATION NECESSARY

On December 22, 2017, the President signed into law the Tax Cuts and Jobs Act of 2017 (Tax Cuts and Jobs Act), reducing the federal corporate income tax rate from 35 percent to 21 percent, effective January 1, 2018. Importantly, the tax rate reduction will also result in a reduction in Accumulated Deferred Income Taxes (ADIT) liabilities and ADIT assets on the books of rate-regulated companies. ADIT balances are recorded on the regulated books and records of public utilities based on the requirements of the Commission's Uniform System of Accounts. ADIT arises from timing differences between the method of computing taxable income for reporting to the IRS and the method of computing income for regulatory accounting and ratemaking purposes. As a result of the Tax Cuts and Jobs Act reducing the federal corporate income tax rate from 35 percent to 21 percent, ADIT liability and ADIT asset balances on the books of public utilities have also been reduced. Further, a portion of an ADIT liability that was collected from customers will no longer be due from public utilities to the IRS and is considered excess ADIT, and therefore, must be returned to customers. Conversely, public utilities will have collected insufficient amounts to fund any ADIT asset. Commission regulations require that public utilities return or recover these excess or deficient amounts by including provisions in their costs of service and that public utilities advance some method to do so in their next cases.

Since the Commission promulgated its existing regulations on excess and deficient ADIT, the landscape of public utility transmission rates has changed dramatically; that is, the vast majority of public utilities now use formula rates rather than stated rates. Whereas stated rates are updated only through a rate case initiated by a Federal Power Act (FPA) section 205 application by the public utility or an FPA section 206 action by the Commission or a complaining third party, inputs to formula rates are updated annually without Commission action to derive a charge assessed to customers. Therefore for formula rates, certain provisions must be included to accurately reflect excess or deficient ADIT in a public utility's cost of transmission service.

¹ The NOPR (issued 11/15/2018) is available in FERC's eLibrary system at <https://elibrary.ferc.gov/idmws/common/OpenNat.asp?fileID=15096628>.

Based on analysis and comments received in response to a Notice of Inquiry issued March 2018, the Commission has determined that this near-industry-wide transition from stated to formula rates has caused a gap in the transmission formula rates of public utilities such that many, if not most, of those rates do not contain provisions to fully reflect any excess or deficient ADIT following a change in tax rates, as required by the Commission's regulations. Two components are necessary to maintain an accurate cost of service following a change in income tax rates, such as that caused by the Tax Cuts and Jobs Act: (1) preservation of rate base neutrality through the removal of excess ADIT from or addition of deficient ADIT to rate base; and (2) the return of excess ADIT to or recovery of deficient ADIT from ratepayers.

A review of public utility transmission formula rates suggests that only some transmission formula rates contain the first component, while even fewer contain the second. Consequently, the Commission proposes to require public utilities with transmission formula rates to revise those rates to include these two components. Additionally, to provide greater transparency, the Commission proposes to require all public utilities with transmission formula rates to incorporate a new permanent worksheet into their transmission formula rates that will annually track ADIT information related to these two components.

While the next rate case requirement remains relevant for stated rates, to increase the likelihood that those customers who contributed to the related ADIT accounts receive the benefit of the Tax Cuts and Jobs Act, the Commission proposes to require public utilities with transmission stated rates to (1) determine any excess or deficient ADIT caused by the Tax Cuts and Jobs Act and (2) return or recover this amount to or from customers.

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

In the NOPR in Docket No. RM19-5-000, the Commission is proposing to require all public utility transmission providers with transmission rates under an Open Access Transmission Tariff (OATT), a transmission owner tariff, or a rate schedule to revise those rates to account for changes caused by the Tax Cuts and Jobs Act. These proposed reforms are designed to address the effects of the Tax Cuts and Jobs Act on ADIT reflected in all transmission rates under an OATT, a transmission owner tariff, or a rate schedule of public utility transmission providers.

The proposed reforms are intended to ensure that ratepayers receive the benefits of the Tax Cuts and Jobs Act, and that the public utility transmission formula and stated rates are just and reasonable and not unduly discriminatory or preferential following the enactment of the Tax Cuts and Jobs Act. The proposed reforms are also intended to ensure that transmission formula and stated rates meet the Commission's tax normalization requirements such that the income tax

component of those rates is calculated as though the taxable income were recognized in the same period and amount by the Internal Revenue Service (IRS) and the Commission.

The proposed reforms generally fall into three categories and apply to public utilities with transmission formula rates and stated rates in different ways. First, the Commission proposes to require all public utilities with transmission formula rates to include a mechanism in their formula rates to deduct any excess ADIT from or add any deficient ADIT to their rate bases. This will ensure that rate base continues to be treated in a manner similar to that prior to the Tax Cuts and Jobs Act (i.e., that rate base neutrality is preserved). As for public utilities with transmission stated rates, we do not propose any new requirements regarding rate base neutrality.

Second, the Commission proposes to require all public utilities with transmission formula rates to include a mechanism in their formula rates that decreases or increases their income tax allowances by any amortized excess or deficient ADIT, respectively. This reform will help to ensure that public utilities with transmission formula rates return excess ADIT to or recover deficient ADIT from ratepayers. As a result, ratepayers who contributed to excess ADIT balances will receive the benefit of the Tax Cuts and Jobs Act. With regard to public utility transmission providers with stated rates, the Commission proposes requiring these entities to determine the excess and deficient ADIT caused by the Tax Cuts and Jobs Act based on the ADIT amounts approved in their last rate case and then to return this amount to or recover this amount from customers. This reform is intended to increase the likelihood that those customers who contributed to the related ADIT accounts receive the benefits of the Tax Cuts and Jobs Act.

Third, the Commission proposes to require all public utilities with transmission formula rates to incorporate a new permanent worksheet into their transmission formula rate that will annually track information related to excess or deficient ADIT. The Commission believes that this reform will increase the transparency surrounding the adjustment of rate bases and income tax allowances to account for excess or deficient ADIT by public utilities with transmission formula rates. The Commission does not propose any additional worksheets for public utilities with transmission stated rates because it is believed that existing regulations require sufficient transparency.

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

Commission staff expects to receive all filings via eTariff. In 2010, the Commission fully implemented its eTariff system for the electronic filing of tariffs.

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

The Commission periodically reviews filing requirements concurrent with OMB review or as the Commission deems necessary to eliminate duplicative filing and to minimize the filing burden. The proposed actions here relate to a Commission jurisdictional tariff and the company filing changes to its tariff(s) with the Commission in conformance with the NOPR. Therefore, the Commission would be the only entity requiring this information. The Commission is unaware of any other source of information related to the ADIT of public utilities with transmission formula or stated rates.

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

The Commission estimates that the total number of public utility transmission providers with formula rates affected by this NOPR is 106. Of these, the Commission estimates that approximately 43 percent (approximately 46 entities) are small entities. The Commission estimates the average total cost to each of these entities will be between \$5,152 in the first year of compliance and approximately \$0 in subsequent years.

Additionally, the Commission estimates that the total number of public utility transmission providers with stated rates that will have to calculate the excess/deficient income tax to return to customers is 31 (approximately 13 of which are small). Each of these entities is estimated to incur an average total cost of \$1,380 in the first year with a cost of \$0 in subsequent years. The Commission makes no specific concession with regard to entity size and requisite reporting requirements.

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

To conduct these filings less frequently (i.e., not conducting them at all), the Commission would be unable to fulfill its statutory obligation to ensure that rates are just and reasonable and not unduly discriminatory or preferential. The proposed requirements within this NOPR have several beneficial effects for ratepayers. For example, the NOPR will help to ensure that ratepayers receive the benefits of the Tax Cuts and Jobs Act in a timely manner. The proposed requirements also increase transparency which will help the Commission to ensure that the

public utility transmission formula and stated rates are just and reasonable and not unduly discriminatory or preferential following the enactment of the Tax Cuts and Jobs Act.

7. EXPLAIN ANY SPECIAL CIRCUMSTANCES RELATING TO THE INFORMATION COLLECTION

FERC-516 information collection has no special circumstances.

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

Each FERC rulemaking (both proposed and final rules) 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 proposed collections of data.

In the NOPR, the Commission stated that it would solicit comments for 30 days after publication in the Federal Register.² On December 7, 2018, the Commission issued a notice extending the time for comments for an additional 30 days. Comments are were due on 1/22/2019.

9. EXPLAIN ANY PAYMENT OR GIFTS TO RESPONDENTS

No payments or gifts have been made to respondents.

10. DESCRIBE ANY ASSURANCE OF CONFIDENTIALITY PROVIDED TO RESPONDENTS

The data involved and affected by the revisions proposed in this NOPR are public. In general, for all submittals to the Commission, filers may submit specific requests for confidential treatment to the extent permitted by law, as set forth in 18 CFR 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 contain any questions of a sensitive nature.

12. ESTIMATED BURDEN OF COLLECTION OF INFORMATION

² NOPR was issued on 11/15/2018 and published in the Federal Register at 83 FR 59331 on 11/23/2018.

The following table contains the estimated reporting burden and cost related to revisions in the NOPR in Docket RM19-5-000:

RM19-5-000 NOPR						
(Public Utility Transmission Rate Changes to Address Accumulated Deferred Income Taxes)						
	Number of Respondents (1)	Annual Number of Responses per Respondent (2)	Total Number of Responses (1)*(2)=(3)	Average Burden & Cost Per Response³ (4)	Total Annual Burden Hours & Total Annual Cost (3)*(4)=(5)	Cost per Respondent (\$) (5)÷(1)
Revising formula rates so that excess ADIT is deducted and/or deficient ADIT is added to rate base (one-time) ⁴	106	1	106	8 hours; \$736	848 hours; \$78,016	\$736
Revising formula rates so that any excess and/or deficient ADIT is amortized (one-time)	106	1	106	8 hours; \$736	848 hours; \$78,016	\$736
Revising transmission stated rates to return or recover excess or deficient ADIT (one-time)	31	1	31	15 hours; \$1,380	465 hours; \$42,780	\$1,380

³ The loaded hourly wage figure (includes benefits) is based on the average of the occupational categories for 2017 found on the Bureau of Labor Statistics website (http://www.bls.gov/oes/current/naics2_22.htm):

Accountant (Occupation Code: 13-2011): \$56.59

Management (Occupation Code: 11-0000): \$94.28

Legal (Occupation Code: 23-0000): \$143.68

Office and Administrative Support (Occupation Code: 43-0000): \$41.34

These various occupational categories' wage figures are averaged and weighted equally as follows: (\$94.28/hour + \$61.55/hour + \$66.90/hour + \$143.68/hour) ÷ 4 = \$91.60/hour. The resulting wage figure is rounded to \$92.00/hour for use in calculating wage figures in the NOPR in Docket No. RM19-5-000.

⁴ One-time burdens apply in Year One only. There will be no subsequent burden in Years 2 and beyond.

Requiring public utilities with transmission formula rates to incorporate a new permanent worksheet that will annually track ADIT information (one-time)	106	1	106	40 hours; \$3,680	4,240 hours; \$390,080	\$3,680
Total (Stated Rates)⁵			31		465 hours; \$42,780	
Total (Formula Rates)⁶			318		5,936 hours; \$546,112	
TOTAL			349		6,532 hours; \$588,892	

The one-time burden for stated rates (465 hours) will be averaged over Years 1-3 ($465 \div 3 = 155$ hours/year).

The one-time burden for formula rates (5,936 hours) will be averaged over Years 1-3 ($5,936 \text{ hours} \div 3 = 1,979$ hours/year).

The responses for stated rates (31) will be averaged over Years 1-3 ($31 \div 3 = 10.3$ responses/year). Similarly, the responses for formula rates (318) will also be averaged over Years 1-3 ($318 \div 3 = 106$ responses/year).

The one-time responses and burden averaged over Years 1-3 are:

- 116 responses [(10 responses for stated rates) + (106 responses for formula rates)]
- 2,134 hours [(155 hours annually for stated rates) + (1,979 hours annually for formula rates)].

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 NOPR are associated with burden hours (labor) and described in Questions #12 and #15 in this supporting statement.

⁵ Total for Public Utilities with Transmission Stated Rates

⁶ Total for Public Utilities with Transmission Formula Rates

14. ESTIMATED ANNUALIZED COST TO FEDERAL GOVERNMENT

The additional \$829,031 (detailed below) will be added to the previous federal cost of \$3,651,641 resulting in a new total of \$4,480,672.

The estimated one-time additional cost to the Federal Government for FERC-516 due to the NOPR in RM19-5 follows⁷:

FERC-516	Number of Employees (FTEs)	Estimated Federal Cost
Analysis of Filings	2.5	\$412,050
Processing of Filings	2.5	\$412,050
Paperwork Reduction Act Administrative Cost ⁸		\$4,931 ⁹
TOTAL		\$829,031

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

The reforms proposed in the NOPR address public utilities that have transmission formula rates and transmission stated rates. The reforms related to transmission formula rates represent new requirements for these entities under the Commission’s regulations, which the Commission believes are necessary. These new requirements would require each public utility with a transmission formula rate to revise its rate so that any excess or deficient ADIT is properly reflected in its revenue requirement following a change in tax rates, such as those established by the Tax Cuts and Jobs Act. Additionally, each public utility with a transmission formula rate would be required to develop and incorporate a new permanent worksheet into its transmission formula rate to increase transparency.

The reforms required by the NOPR would require each public utility with stated rates to calculate the excess and deficient ADIT caused by the Tax Cuts and Jobs Act and to return to or recover from customers those amounts. This reform is intended to increase the likelihood that

⁷ Based upon FERC’s 2018 FTE average annual salary plus benefits (\$164,820)

⁸ The Paperwork Reduction Act (PRA) Administrative Cost is a Federal Cost associated with preparing, issuing, and submitting materials necessary to comply with the 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 NOPR), and other changes to the collection, as well as necessary publications in the Federal Register.

⁹ The PRA Administrative Cost (revised May 2018) is for 2018.

customers who contributed to the excess ADIT balance timely receive the benefits of the Tax Cuts and Jobs Act.

The reforms proposed in this NOPR would require compliance filings with the Commission by each public utility with transmission stated or formula rates to allow the Commission the opportunity to determine whether each such public utility met the requirements detailed in this NOPR.

A summary of the current OMB-approved inventory and the changes to FERC-516 information collection due to the NOPR in RM19-5-000 follows:

FERC-516	Total Request	Previously Approved	Change due to Adjustment in Estimate	Change Due to Agency Discretion
Annual Number of Responses	6,789	6,673	0	116
Annual Time Burden ¹⁰	525,929	523,795	0	2,134
Annual Cost Burden (\$)	\$0	\$0	\$0	\$0

16. TIME SCHEDULE FOR THE PUBLICATION OF DATA

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

17. DISPLAY OF THE EXPIRATION DATE

The expiration date is 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.

¹⁰ The units of measurement applied to “annual time burden” are hours.