

FERC-919A (OMB Control No. 1902-TBD)  
Final Rule (issued 7/18/2019) in Docket No. RM16-17-000  
RIN: 1902-AF22  
[formerly submitted in ICR 201907-1902-001; re-submitted to OMB 11/5/2019 in ICR  
201911-1902-003]  
(updated 3/12/2020)

Supporting Statement for  
**FERC-919A, Final Rule on Data Collection for Analytics and Surveillance and  
Market-Based Rate Purposes, Docket No. RM16-17-000**

The Federal Energy Regulatory Commission (FERC or Commission) requests that the Office of Management and Budget (OMB) review and approve the FERC-919A (OMB Control Number 1902-TBD), as modified in the final rule in Docket No. RM16-17-000.<sup>1</sup>

Please note that the FERC-919A is a temporary “placeholder” information collection. The information collection requirements related to the RM16-17-000 Final Rule would normally be submitted under FERC-919 (OMB Control No. 1902-0234). However, FERC-919 is under OMB review for another unrelated Commission activity. Commission staff is using the FERC-919A information collection to facilitate a timely submission and review of the RM16-17-000 Final Rule.

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

Compliance with Federal Power Act (FPA) sections 205<sup>2</sup> and 206<sup>3</sup> make the FERC-919A information collection necessary. Specifically, section 205 of the FPA requires just and reasonable rates and charges. Section 206 allows the Commission to revoke a seller’s market-based rate authorization if it determines that the seller may have gained market power since its original authorization to charge market-based rates.

The information collection requirements for FERC-919A (prior to the modifications made by the final rule in Docket No. RM16-17-000) are:

- Initial market power analyses to qualify for authority to charge market-based rates<sup>4</sup>
- Triennial market power analysis in Category 2 seller updates<sup>5</sup>
- Notices of change in status<sup>6</sup>

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<sup>1</sup> *Data Collection for Analytics and Surveillance and Market-Based Rate Purposes*, Order No. 860, 168 FERC ¶ 61,039 (2019).

<sup>2</sup> 16 U.S.C. 824d.

<sup>3</sup> 16 U.S.C. 824e.

<sup>4</sup> 18 CFR 35.37(a).

<sup>5</sup> 18 CFR 35.37(a).

<sup>6</sup> 18 CFR 35.42.

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The final rule amends the Commission's regulations governing market-based rates for public utilities. Rather than collecting certain information through transmittal letters and attached spreadsheets, i.e., the current information collection process, the Commission instead will collect this information in a consolidated and streamlined manner through a relational database. The relational database construct modernizes the Commission's data collection processes, eliminates duplications, and renders information collected usable and accessible. With the creation of the relational database, each Seller<sup>7</sup> will enter its own assets (and those of any of its non-market-based rate affiliates) and the database will automatically add in the assets of the Seller's market-based rate affiliates, who have themselves entered their own assets. This will eliminate duplicative reporting of assets by Sellers and their market-based rate affiliates, saving Sellers time and money. The Commission does not adopt the proposal from the NOPR to collect Connected Entity data from Sellers and entities trading virtual products or holding financial transmission rights in this final rule.

With respect to the market-based rate program, the Commission adopts changes that reduce and clarify the scope of ownership information that Sellers must provide as part of their market-based rate filings. Currently a Seller is required to provide information regarding its affiliates and its upstream ownership and to trace upstream ownership until all upstream owners are identified. Sellers also must describe the business activities of their owners, explaining whether they are in any way involved in the energy industry. When the final rule takes effect, a Seller will no longer be required to describe all of its owners. Instead, a Seller will only need to provide information on its ultimate upstream affiliates, i.e., the furthest upstream affiliates in the ownership chain. In addition, the Commission modifies its regulations to change the information required in a Seller's asset appendix as well as the format through which such information must be submitted, i.e., as noted above, moving from a spreadsheet format to a relational database format. The revised regulations will require a Seller to update the relational database on a monthly basis to reflect any changes that have occurred but will also extend the change in status filing requirement to a quarterly filing obligation. Finally, the Commission modifies its regulations to eliminate the requirement that Sellers submit corporate organizational charts.

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<sup>7</sup> The term "Seller" is defined as any person that has authorization to or seeks authorization to engage in sales for resale of electric energy, capacity or ancillary services at market-based rates under section 205 of the Federal Power Act (FPA). 18 CFR 35.36(a)(1).

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

The purpose of this data collection is to modernize and streamline the Commission's data collection by requiring currently filed market-based rate information and new information to be collected in a consolidated and streamlined manner through a relational database. As discussed above, this will eliminate duplication and render information more usable and accessible to the Commission and to the public. The new information that will be collected includes unit-specific generation information and long-term firm sales information, which will support information already included in a Seller's horizontal market power indicative screens. This information will appear as part of the Seller's asset appendix, which will be automatically generated by the relational database and retrievable by the Commission and the public. This information collection will assist the Commission in ensuring that rates are just and reasonable and that a Seller does not possess horizontal market power through better validation of the information included in the Seller's horizontal market power indicative screens.<sup>8</sup> Failing to meet this statutory responsibility could result in public utilities charging rates that are not just and reasonable.

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

The final rule uses a relational database construct, which will eliminate duplication and render information collected more accessible to the Commission and to the public.

**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**

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<sup>8</sup> Currently, there is less transparency into some of the data that goes into the horizontal market power indicative screens, which sometimes necessitates Commission staff outreach to get additional information from Sellers. The submission of this information will provide more transparency into the data contained in the screens and allow staff to verify screen data quickly and more effectively.

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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.

This final rule changes the method for collecting market-based rate information in order to modernize the Commission's data collection, and render information collected more usable and accessible for the Commission and to the public.

With respect to asset appendix information currently filed by Sellers, the final rule requires that certain reporting requirements for generators be based on the Plant Name, Plant Code, Generator ID and Unit Code (if applicable) information from the Energy Information Agency (EIA) Form EIA-860 database. This aligns the Commission data collection with the EIA data collection procedures, essentially adopting the EIA nomenclature, which should simplify regulatory requirements and avoid duplication of requirements for the industry.

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

The economic impact of this final rule is directly related to the size and complexity of the organization, that is, the more generation assets it owns or controls, the more information must be reported. Therefore, it is reasonable to assume that the cost of complying for small entities will be significantly less than the cost for large ones, and the amount of information that small entities will be required to collect, maintain, and transmit is likely to be small.

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

Section 205 of the FPA mandates just and reasonable rates. The Commission requires information that comes from FERC-919A to meet its statutory requirements.

The final rule requires Sellers to update the relational database on a monthly basis, which is a change from the quarterly updates as proposed in the NOPR. Quarterly database updates would not be sufficient to maintain the level of accuracy the Commission needs for the market-based rates program, as Sellers now will be relying on information submitted by their affiliates in order for the relational database to create complete asset appendices needed for new applications, change in status filings, and triennial market-

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power updates. If the Commission were to adopt a quarterly database submission requirement, the last database update prior to the submission of filings would be due on April 30 or October 31, respectively. This means that when preparing their triennial and initial application filings, Sellers would need to rely on, and their asset appendices would contain, data that is 60 days old or older. This large time lag could result in inaccurate asset appendices. A monthly submission requirement, with submissions due by the 15th of each month, ensures that Sellers have the most current possible data for both their triennial and change in status filings. Lastly, collection of this information on a less frequent basis would affect the Commission's ability to determine whether a Seller's rates continue to be just and reasonable and the Commission's ability to provide market oversight. Currently, the Commission requires sellers to file notices of changes in status within 30 days of any relevant changes to the conditions the Commission relied upon when granting a seller market-based rate authority. The Commission modified this requirement to a quarterly requirement to reduce the number of change in status filings that will need to be made. The monthly submission requirements are significantly less burdensome than change in status filings and ensure that the Commission remains aware of any major changes. Further, the monthly submission requirement only applies when a Seller has information to update. The Commission anticipates that Sellers will not have to make submissions every month, but rather once a year or less.

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

FERC-919A has no special circumstances related to the information collection.

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

When formulating this final rule, the Commission considered the comments submitted in response to the NOPR<sup>9</sup> and has eliminated large portions of the data proposed for collection in the NOPR. Specifically, the Commission does not adopt the proposal from the NOPR to require Sellers to submit information about their Connected Entities in this final rule. Commission staff also held two technical workshops with members of the industry prior to issuing this final rule.<sup>10</sup>

<sup>9</sup> 81 FR 51726 (8/4/2016).

<sup>10</sup> See Notice of the Technical Workshop on the Draft Data Dictionary Attached to the Data Collection for Analytics and Surveillance and Market-Based Rate Purposes Notice of Proposed Rulemaking, Docket RM16-17-000 (July 21, 2016); Notice of the Second Technical Workshop on the Data Collection for Analytics and Surveillance and Market-Based Rate Purposes Notice of Proposed Rulemaking (Nov. 2, 2016). The notes from staff's technical workshop

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All comments are summarized and addressed in the final rule.

The final rule (issued July 18, 2019) was published in the Federal Register on July 26, 2019.<sup>11</sup>

## **9. EXPLAIN ANY PAYMENT OR GIFTS TO RESPONDENTS**

The Commission does not make payments or provide gifts to respondents related to FERC-919A.

## **10. DESCRIBE ANY ASSURANCE OF CONFIDENTIALITY PROVIDED TO RESPONDENTS**

The Commission does not consider the information collected in filings to be confidential. However, the Commission will consider specific requests for confidential treatment (e.g. Critical Energy/Electric Infrastructure Information [CEII] or non-public) to the extent permitted by law and Commission regulations.<sup>12</sup> The Commission will review each request for confidential treatment on a case-by-case basis. However, the Commission expects that all submissions into the relational database will be public.

## **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 that are considered private in FERC-919A.

## **12. ESTIMATED BURDEN OF COLLECTION OF INFORMATION**

### **Estimated Burden and Cost in Final Rule RM16-17-000 (FERC-919A):**

The Commission recognizes that there will be an initial implementation burden associated with providing the requested data. Sellers already submit most of the requested information to the Commission as part of their applications, notices of change in status, and triennial updated market power analyses, so the information that Sellers are

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held on August 11, 2016, are available at <http://www.ferc.gov/CalendarFiles/20160909154402-staff-notes.pdf>.

<sup>11</sup> 84 FR 36390 (7/26/2019).

<sup>12</sup> 18 CFR 388.112. More information on the CEII definition, program and requirements is posted at <http://www.ferc.gov/legal/ceii-foia/ceii.asp>.

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required to submit should be readily available to them for submission into the database . Thus, the bulk of burden is from initial implementation stemming from Sellers reformatting this data and learning how to submit it into the database. As discussed in Questions No. 1 and 5, the final rule enlarges the scope of some information to be collected while also reducing requirements for some existing collections. The estimated burden and cost in final rule in Docket No. RM16-17-000 follows:<sup>13</sup>

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<sup>13</sup>The estimated hourly cost (salary plus benefits) provided in this section are based on the figures for May 2018 posted by the Bureau of Labor Statistics for the Utilities sector (available at [http://www.bls.gov/oes/current/naics2\\_22.htm](http://www.bls.gov/oes/current/naics2_22.htm)) and updated March 2019 for benefits information (at <http://www.bls.gov/news.release/ecec.nr0.htm>). The hourly estimates for salary plus benefits are:

Legal (code 23-0000), \$142.86

Computer and Information Systems Managers (code 11-3021), \$98.81

Computer and Mathematical (code 15-0000), \$62.89

Information Security Analysts (code 15-1122), \$63.54

Information and Record Clerks, All Other (referred to as administrative work in the body) (code 43-4199), \$40.84

The following weights were applied to estimate the average hourly costs:

$$\$46 = [(.05 * \$142.86) + (.95 * \$40.84)]$$

$$\$82 = [(.16 * \$142.86) + (.16 * \$98.81) + (.33 * \$62.89) + (.33 * \$63.54)]$$

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Burden Changes in RM16-17-000											
Respondent/ Incremental Burden Category	Number of Respondents (1)	Annual Number of Responses per Respondent (2)	Total Number of Responses (1)*(2)=(3)	Burden Hours per Response (4)	Hourly Cost per Response (5)	Total Burden Cost Per Response (6)	Total Burden Hours Per Respondent (2)*(4)=(7)	Total Burden Cost Per Respondent (2)*(6)=(8)	Total Annual Burden Hours (1)*(7)=(9)	Total Annual Burden Cost (1)*(8)=(10)	
<b>First year, incremental costs associated with the collection of Market-Based Rate information</b>											
Category 1 Sellers	1,000	1	1,000	5	\$ 46	\$ 230	5	\$ 230	5,000	\$ 230,000	
Category 2 Sellers	1,500	1	1,500	8	\$ 46	\$ 368	8	\$ 368	12,000	\$ 552,000	
<b>First year, incremental cost of formatting changes and initial filing</b>											
Category 1 Sellers	1,000	1	1,000	30	\$ 82	\$ 2,460	30	\$ 2,460	30,000	\$ 2,460,000	
Category 2 Sellers	1,500	1	1,500	70	\$ 82	\$ 5,740	70	\$ 5,740	105,000	\$ 8,610,000	
<b>Ongoing monthly and quarterly reporting of additional Market-Based Rate information</b>											
Category 1 Sellers	1,000	0.33	333	4	\$ 46	\$ 184	1.3	\$ 61	1,332	\$ 61,272	
Category 2 Sellers	1,500	1	1,500	6	\$ 46	\$ 276	6	\$ 276	9,000	\$ 414,000	
<b>Sub total for Market-Based Rate</b>							<b>First year (Cat. 1)</b>	<b>35</b>	<b>\$ 2,690</b>	<b>35,000</b>	<b>\$ 2,690,000</b>
							<b>First year (Cat. 2)</b>	<b>78</b>	<b>\$ 6,108</b>	<b>117,000</b>	<b>\$ 9,162,000</b>
							<b>Ongoing (Cat. 1)</b>	<b>1.3</b>	<b>\$ 61</b>	<b>1,332</b>	<b>\$ 61,272</b>
							<b>Ongoing (Cat. 2)</b>	<b>6</b>	<b>\$ 276</b>	<b>9,000</b>	<b>\$ 414,000</b>
<b>Total burden changes due to Final Rule RM16-17-000</b>								<b>First year</b>	<b>152,000</b>	<b>\$11,852,000</b>	
								<b>Ongoing</b>	<b>10,332</b>	<b>\$ 475,272</b>	

The Commission estimates that there are 2,500 Sellers, of those approximately 1,000 are Category 1 in all regions and 1,500 are Category 2 in one or more regions. In the first year, the average Seller will spend 35 to 78 hours collecting and providing this additional information, with an ongoing burden in subsequent years of approximately 1.5 to 6 hours. Further, because Category 1 sellers are not typically affiliated with much generation, the Commission estimates that about one-third of Category 1 sellers will report ongoing monthly and quarterly information.

### 13. ESTIMATE OF THE TOTAL ANNUAL COST BURDEN TO RESPONDENTS

There are no capital or start-up costs associated with FERC-919A. All of the costs in the final rule are associated with the burden hours and accounted for in Questions #12 and 15.



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#### 14. ESTIMATED ANNUALIZED COST TO FEDERAL GOVERNMENT

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 submitted in response to the information collection. The estimates provided below include the entire FERC-919 and areas affected by the FERC-919A information collection by the Final Rule in RM16-17-000.

The estimated annual federal cost related for FERC-919 and FERC-919A follows:

		Number of Employees (FTE) <sup>14</sup>	Estimated Annual Federal Cost
Analysis and Processing of filings <sup>15</sup>	FERC-919A	2	\$334,182
	FERC-919	28	\$4,678,548
PRA <sup>16</sup> Administrative Cost <sup>17</sup>	FERC-919A		\$4,832
	FERC-919		\$4,832
Hardware/Software Development – Annual			\$91,667
Hardware/Software Maintenance – Annual			\$27,500
<b>FERC Total</b>			<b>\$5,141,561</b>

The Commission estimates an initial increase in cost of 2 FTEs during the first two years of implementing the data collection:

- 1 FTE – to train staff on how to utilize the new relational database and incorporate it into its analyses.
- 1 FTE – to provide support and educate Sellers (0.5 FTE) on how to submit information in a new format, and to develop standardized reports and queries (0.5 FTE).

<sup>14</sup> For FERC 919A, in years 1-2, the 2 FTEs include: 1 FTE (training) + .5 FTE (filer support) + .5 FTE (report development); FERC-919 currently includes 28 FTEs.

<sup>15</sup> Based upon FERC’s 2019 average salary plus benefits of one FTE (full-time equivalent): \$167,091 per year.

<sup>16</sup> The Commission bases the cost of Paperwork Reduction Act administration on staff time, and other costs related to compliance with the Paperwork Reduction Act of 1995 (PRA).

<sup>17</sup> Based upon FERC’s 2019 estimated average annual PRA Administrative Cost: \$4,832.

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After the two-year period, there is no net increase in FTEs resulting from RM16-17-000. Since the Commission already collects and tracks most of the information in this data collection, after the adaptation period, the Commission will be able to carry out its responsibilities with the number of FTEs already accounted for in FERC-919.

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

As described in Question #1, #2, and #5, the final rule amends the Commission’s regulations governing market-based rates for public utilities. The Commission will collect certain information currently filed in the market-based rate program in a consolidated and streamlined manner through a relational database. The relational database construct modernizes the Commission’s data collection processes, eliminates duplications, and renders information collected through its market-based rate program usable and accessible for the Commission.

	<b>Total Request</b>	<b>Previously Approved</b>	<b>Change due to Adjustment in Estimate</b>	<b>Change Due to Agency Discretion</b>
Annual Number of Responses	2,666	0	0	2,666
Annual Time Burden (Hr.)	60,999	0	0	60,999
Annual Cost Burden (\$)	0	0	0	0

**16. TIME SCHEDULE FOR PUBLICATION OF DATA**

There is no publication of data associated with FERC-919A information.

**17. DISPLAY OF EXPIRATION DATE**

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

**18. EXCEPTIONS TO THE CERTIFICATION STATEMENT**

There are no exceptions.