

Supporting Statement for
**FERC-516 (Electric Rate Schedules and Tariff Filings),
changes due to the Final Rule in Docket No. 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 Final Rule in Docket No. 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 making 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

¹ The Final Rule (Order No. 864) is available in FERC's eLibrary system at <https://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=15409780>; it will be published in the Federal Register on 11/27/2019. The NOPR (issued 11/15/2018) is available in FERC's eLibrary system at <https://elibrary.ferc.gov/idmws/common/OpenNat.asp?fileID=15096628>.

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.

Based on analysis and comments received in response to a Notice of Inquiry issued March 2018, the Commission 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 proposed in a Notice of Proposed Rulemaking (NOPR) issued on November 15, 2018 to require public utilities with transmission formula rates to revise those rates to include these two components. Additionally, to provide greater transparency, the Commission proposed 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.²

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

In the Final Rule in Docket No. RM19-5-000, the Commission is requiring 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. These proposed revisions are also designed to address the effects of any future changes to federal, state, or local taxes that affect the ADIT balances in the transmission formula rates of the same public utility transmission providers.

² The Commission also proposed certain requirements for public utilities with transmission stated rates in the NOPR. Based on comments received, the Commission has decided not to adopt these proposals, and public utilities with transmission stated rates will have no new requirements under the final rule.

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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 rates are just and reasonable and not unduly discriminatory or preferential following the enactment of the Tax Cuts and Jobs Act.

The requirements generally fall into three categories. First, the Commission requires 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).

Second, the Commission requires 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 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.

Third, the Commission requires 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 made to account for excess or deficient ADIT by public utilities with transmission formula rates. Unlike the proposal in the NOPR, however, the Commission requires the worksheet to be populated with information from the Tax Cuts and Jobs Act to aid in its review on compliance.

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

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The Commission periodically reviews filing requirements concurrent with OMB review or as the Commission deems necessary to eliminate duplicative filings 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 Final Rule. 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 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 cost to each of these entities will be approximately \$5,040 in the Year 1 and approximately \$336 in subsequent years.

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 information will help to ensure just and reasonable rates by enabling Commission and customer review of each public utility's calculation of excess and deficient ADIT, as well as the associated amortization schedule for returning or recovering excess and deficient ADIT, respectively. The Commission and customers will also be able to track excess or deficient ADIT as it is included in the annual revenue requirement. Specifically, the information will enable the Commission and customers to review how public utilities with transmission formula rates adjust their rate bases and income tax allowances to account for excess or deficient ADIT.

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.³ On December 7, 2018, the Commission issued a notice extending the time for comments for an additional 30 days. Comments were due on 1/22/2019.

The Commission received comments from 14 entities in response to the NOPR. The Commission disagreed with arguments that the worksheet is unnecessary or administratively burdensome, or will otherwise be time consuming to create. First, arguments that information in the worksheet may overlap with information provided in FERC Form No. 1 are misplaced. The worksheet will provide more detailed information than what is included in a public utility's FERC Form No. 1. Moreover, the level of detail and manner in which regulatory liabilities are disclosed in the FERC Form No. 1 vary across public utilities and may not uniformly support amounts used as inputs to the formula rate. Second, the Commission affirmed its position in the NOPR that public utilities already gathered the information required for the worksheet when they re-measured their ADIT balances as a result of the Tax Cuts and Jobs Act. Third, the worksheet will enable interested parties and the Commission to track the amortization of excess or deficient ADIT over time. Fourth, with the information provided in the worksheet, the Commission will no longer require public utilities to make an FPA section 205 filing to include excess and deficient ADIT in rates after tax rate changes that result in excess and deficient ADIT. Instead, the Commission will rely on the worksheet to provide the requisite transparency for excess and deficient ADIT. The Commission found that relying on the worksheet instead of requiring a public utility to make an FPA section 205 filing after every tax change will result in an overall reduction in the burden of a public utility with a transmission formula rate over the long run.

Additionally, some commenters argue against the worksheet because their transmission formula rate protocols already require them to provide information on excess and deficient ADIT. To the extent that a public utility already provides information on excess and deficient ADIT due to existing requirements in its transmission formula rate protocols, the Commission found that the worksheet should not create an undue ongoing burden for the public utility. The Commission

³ NOPR was issued on 11/15/2018 and published in the Federal Register at 83 FR 59331 on 11/23/2018.

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has also required public utilities to revise their transmission formula rates to include greater detail where the Commission deemed that certain inputs to the transmission formula rate are complex enough to warrant prior understanding of their effect.

The Commission also disagreed with comments that the worksheet is redundant because it seeks the same information that public utilities must disclose following the Commission's issuance of the ADIT Treatment Following Asset Sales and Retirements Policy Statement. The FERC Form No. 1 disclosures required under this policy statement are not specific enough to identify the effect of excess and deficient ADIT for a particular transmission formula rate on file with the Commission. Therefore, the Commission found that the worksheet will provide additional transparency to the Commission and interested parties on excess and deficient ADIT.

The Commission declined to adopt a commenter's suggestion that public utilities could provide ADIT workpapers to customers through their OASIS or the Transmission Owner Rate Data section of a ISO/RTO website instead of including the worksheet as part of their transmission formula rates. The Commission found that it is appropriate to require public utilities to include the worksheet as part of their transmission formula rates because these rates already provide a Commission-approved process that allows interested parties to request information about excess and deficient ADIT and provides a well understood framework to challenge information or data contained in the worksheet. Rather than creating an entirely new process, which could create additional burdens on industry, the Commission believes that utilizing existing processes will help to ensure a fair and efficient process whenever tax rates change in the future.

The Commission did not agree that it should exempt public utilities from revising settlement agreements to account for certain "administrative requirements," such as the worksheet that documents the amortization of excess and deficient ADIT. Instead, in keeping with the Commission's decision to evaluate any revisions made in compliance with this final rule on a case-by-case basis, a public utility may show that its existing ADIT-related mechanisms, including those established by a Commission-approved settlement, meet the requirements of this final rule.

Finally, the Commission received comments that that it should modify the compliance timeline for public utilities with transmission formula rates so that those public utilities must submit compliance filings within the later of (1) 90 days of issuance of the Final Rule or (2) the public utility's next informational or true-up filing. In adopting a modified version of this proposal, the Commission found that this schedule for compliance filings will reduce the burden on public utilities by allowing them flexibility to align the compliance requirement with their annual informational filing deadlines.

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 Final Rule 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

The following table contains the estimated reporting burden and cost⁴ related to revisions in the Final Rule in Docket RM19-5-000:

⁴ The hourly figure (wages plus benefits) is based on the average of the occupational categories for 2018 found on the Bureau of Labor Statistics website

(http://www.bls.gov/oes/current/naics2_22.htm and <http://www.bls.gov/news.release/ecec.nr0.htm>):

-Accountant and Auditor (Occupation Code: 13-2011): \$ 56.09

-Management (Occupation Code: 11-0000): \$95.24

-Legal (Occupation Code: 23-0000): \$142.86

-Office and Administrative Support (Occupation Code: 43-0000): \$42.11

These various occupational categories' wage (and benefits) figures are averaged and weighted equally, giving an average of \$84.08/hour. The resulting wage figure is rounded to \$84.00/hour for use in calculating wage figures in the Final Rule in Docket No. RM19-5-000.

Changes Due to the Final Rule in Docket No. RM19-5-000						
	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)
Revising transmission formula rates so that excess ADIT is deducted and/or deficient ADIT is added to rate base (one-time) ⁵	106	1	106	8 hours; \$672	848 hours; \$71,232	\$672
Revising transmission formula rates so that any excess and/or deficient ADIT is amortized (one-time)	106	1	106	8 hours; \$672	848 hours; \$71,232	\$672
Revising transmission stated rates to return or recover excess or deficient ADIT (one-time)	0	0	0	0; \$0	0 hours; \$0	\$0

⁵ One-time burdens apply in Year 1 only. The ongoing annual burden starting in Year 2 covers the annual requirement to update the worksheet, mentioned below.

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Requiring public utilities with transmission formula rates to incorporate a new permanent worksheet that will annually track ADIT information (one-time)	106	1	106	44 hours; \$3,696	4,664 hours; \$391,776	\$3,696
Requiring public utilities with transmission formula rates to update their ADIT worksheet (annual, starting in Year 2)	106	1	106	4 hours; \$336	424 hours; \$35,616	\$336
Total (Stated Rates)⁶			0		0 hours; \$0	
Total (Formula Rates), one-time in Year 1⁷			318		6,360 hours; \$534,240	
Total (Formula Rates (annual, starting in Year 2))			106		424 hours; \$35,616	

We are averaging over Years 1-3.

- The total burden of 7,208 hours for Years 1-3 (6,360 hours in Year 1 + 424 hours each in Years 2 and 3) averaged over Years 1-3, gives 2,402.67 hours/year for Years 1-3.

⁶ Total for Public Utilities with Transmission Stated Rates.

⁷ Total for Public Utilities with Transmission Formula Rates.

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- The total number of responses is 530 (318 in Year 1, plus 106 each in Years 2 and 3) averaged over Years 1-3 gives 176.67 responses per year.

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 Final 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 additional \$292,409 (for 1.75 FTEs) is the federal cost for analysis and processing in Year 1. The additional cost in Years 2 and beyond will be de minimis and part of the existing cost of cases (which is already covered). Therefore we are averaging the additional federal cost over Years 1-3:

- for analysis and processing, giving an additional federal cost per year of \$97,470 (\$292,409/3 years), or 0.58 FTEs per year
- for the one-time PRA costs, \$1,611 (\$4,832/3 years).

\$99,080 (or \$97,470 plus \$1,611, rounded) will be added to the previous federal cost of \$4,480,672 resulting in a new annual total of \$4,579,752.

The estimated one-time additional cost (averaged over Years 1-3) to the Federal Government for FERC-516 due to the Final Rule in RM19-5 follows⁸:

FERC-516, cost due to the Final Rule in RM19-5	Number of Employees (Full-Time Equivalents [FTE])	Estimated Federal Cost (as described above)
Analysis and Processing of Filings (occurring in Year 1, and averaged here over Years 1-3)	0.58	\$97,470
Paperwork Reduction Act Administrative Cost ⁹		\$1,611 ¹⁰

⁸ This is based on FERC's 2019 FTE average annual salary plus benefits of \$167,091.

⁹ The Paperwork Reduction Act (PRA) Administrative Cost is a Federal Cost associated

TOTAL		\$99,080
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15. REASONS FOR CHANGES IN BURDEN INCLUDING THE NEED FOR ANY INCREASE

The requirements in the Final Rule address public utilities that have transmission formula rates. The requirements adopted in the Final Rule 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 formula rate so that any excess or deficient ADIT is properly reflected in its cost of service 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, incorporate, and populate a new permanent worksheet into its transmission formula rate to increase transparency.

The Final Rule requires compliance filings with the Commission by each public utility with transmission formula rates to allow the Commission the opportunity to determine whether each such public utility met the requirements detailed in this Final Rule.

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

FERC-516	Total Request	Previously Approved	Change due to Adjustment in Estimate	Change Due to Agency Discretion (rounded)
Annual Number of Responses	6,850	6,673	0	177
Annual Time Burden (Hours)	526,198	523,795	0	2,403
Annual Cost Burden (\$)	\$0	\$0	\$0	\$0

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 rulemaking), and other changes to the collection, as well as necessary publications in the Federal Register.

10 The PRA Administrative Cost of \$4,832 (revised 7/2019) is the one-time cost for 2019. It is being averaged over Years 1-3.

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16. TIME SCHEDULE FOR THE PUBLICATION OF DATA

There are no 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.