

FERC-516 (OMB Control No. 1902-0096)

Supplemental Notice of Proposed Rulemaking, issued 4/15/2021, in Docket No. RM20-10-000
RIN: 1902-AF70

Supporting Statement for

**FERC-516 (Electric Rate Schedules and Tariff Filings) as modified in the Supplemental
Notice of Proposed Rulemaking in Docket No. RM20-10-000**

The Federal Energy Regulatory Commission (Commission or FERC) requests that the Office of Management and Budget (OMB) approve the information collection requirements in FERC-516, as proposed for modification in the Supplemental Notice of Proposed Rulemaking (NOPR) in Docket No. RM20-10.¹

Background. In the Supplemental NOPR (SNOPR) in Docket No. RM20-10, the Commission proposes to revise its existing transmission incentives policy and corresponding regulations (Transmission Incentives Regulations)² to more appropriately balance encouraging transmission owners to join Transmission Organizations with ratepayer considerations. After the enactment of the Energy Policy Act of 2005,³ which added section 219 to the Federal Power Act (FPA),⁴ the Commission promulgated Order No. 679⁵ pursuant to FPA section 219.

After Order No. 679, the Commission last reviewed its transmission incentives policy in its 2012 Policy Statement.⁶ Even since then, the energy industry has undergone a transformation. The landscape for planning, developing, operating, and maintaining transmission infrastructure has changed considerably. Those changes include an evolution in the resource mix and an increase in the number of new resources seeking transmission service, shifts in load patterns, the impact of the implementation of the Commission's major rulemaking on transmission planning and cost allocation (Order No. 1000),⁷ and new challenges to maintaining the reliability of transmission infrastructure. **March 2020 NOPR.** On March 21, 2019, in Docket No. PL19-3-000, the Commission issued a Notice of Inquiry seeking comment on the scope and implementation of its transmission incentives policy under FPA section 219.⁸ The Commission posed several questions concerning an incentive for transmitting and electric utilities to join and remain in Trans-

¹ The Supplemental NOPR is posted at: <https://www.ferc.gov/media/rm20-10-000-041521>. A News Release is posted at <https://www.ferc.gov/news-events/news/ferc-proposes-further-reforms-electric-transmission-incentives-policy>. Staff Presentation is posted at: <https://www.ferc.gov/news-events/news/staff-presentation-electric-transmission-incentives-policy>.

² 18 CFR 35.35.

³ Energy Policy Act of 2005, Pub. L. No. 109-58, sec. 1241, 119 Stat. 594 (2005).

⁴ 16 U.S.C. 824s.

⁵ *Promoting Transmission Investment through Pricing Reform*, Order No. 679, 116 FERC ¶ 61,057, *order on reh'g*, Order No. 679-A, 117 FERC ¶ 61,345 (2006), *order on reh'g* 119 FERC ¶61,062 (2007).

⁶ *Promoting Transmission Investment through Pricing Reform*, 141 FERC ¶ 61,129 (2012) (2012 Policy Statement).

⁷ *Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities*, Order No. 1000, 136 FERC ¶ 61,051 (2011), *order on reh'g*, Order No. 1000-A, 139 FERC ¶ 61,132, *order on reh'g and clarification*, Order No. 1000-B, 141 FERC ¶ 61,044 (2012), *aff'd sub nom. S.C. Pub. Serv. Auth. v. FERC*, 762 F.3d 41 (D.C. Cir. 2014).

⁸ *Inquiry Regarding the Commission's Electric Transmission Incentives Policy*, 84 FR 11759, 166 FERC 61,208 (2019) (2019 Notice of Inquiry).

FERC-516 (OMB Control No. 1902-0096)

Supplemental Notice of Proposed Rulemaking, issued 4/15/2021, in Docket No. RM20-10-000
RIN: 1902-AF70

mission Organizations (while also posing questions about various other incentives and issues). In the March NOPR⁹, the Commission proposed to revise its Transmission Incentives Regulations to more closely align the policy with the statutory language of FPA section 219 and to reflect changes in the electric industry that have taken place since the issuances of Order Nos. 679 and 679-A.¹⁰ The Commission stated that an increased return on equity (ROE) remained an effective incentive to recognize the benefits, risks, and associated obligations of RTO membership and meet the requirements of FPA section 219(c).¹¹ The Commission proposed in the March NOPR, among other things, to continue to permit transmitting utilities and electric utilities that join an RTO/ISO to recover prudently incurred costs associated with joining the RTO/ISO in their jurisdictional rates.

Additionally, among numerous other proposals, the Commission proposed to standardize the RTO-Participation Incentive by doubling the level of the ROE adder that the Commission has commonly awarded as an incentive for electric and transmitting utilities that join and remain in Transmission Organizations, specifying that the level would be 100 basis points. The Commission also proposed to remove the existing requirement for this incentive that recipients participate in Transmission Organizations on a voluntary basis. The Commission proposed to apply the RTO-Participation Incentive prospectively to new applicants and to allow existing Transmission Organization Incentive recipients to increase the ROE level at which they receive this incentive to 100 basis points.

SNOPR, issued 4/2021. In this SNOPR, the Commission proposes to modify the return on equity (ROE) incentive available to transmitting utilities or electric utilities that join an Independent System Operator (ISO), Regional Transmission Organization (RTO), or other Commission approved Transmission Organization.¹² The Transmission Organization Incentive would be limited to three years after the utility becomes a transmission organization member. Utilities that have already been members of an eligible transmission organization for at least three years would have their Transmission Organization Incentive revoked. Furthermore, utilities that join an otherwise eligible Transmission Organization on a non-voluntary basis would not be eligible for the Transmission Organization Incentive. The proposed Transmission Organization Incentive will be a uniform 50-basis-point increase to ROE for utilities' transmission investment for utilities that turn over their wholesale facilities to the Transmission Organization. We estimate a

⁹ Electric Transmission Incentives Policy Under Section 219 of the Federal Power Act, Notice of Proposed Rulemaking, 85 FR 18784, 170 FERC ¶ 61,204, errata notice, 171 FERC ¶ 61,072 (2020) (March NOPR). Statement by Chairman Richard Glick dissenting in part to the Notice of Proposed Rulemaking issued on March 20, 2020 is available on FERC's eLibrary system (<https://elibrary.ferc.gov/eLibrary/search>) by searching in Docket No. RM20-10.

¹⁰ March NOPR, 170 FERC ¶ 61,204 at P 2.

¹¹ *Id.* P 97.

¹² A Transmission Organization is defined as an RTO, ISO, independent transmission provider, or other organization finally approved by the Commission for the operation of transmission facilities. 16 U.S.C. 796(29); 18 CFR 35.35(b)(2). The Commission is proposing to move the definition of Transmission Organization from § 35.35(b)(2) of its regulations to § 35.35(f) of the revised Transmission Incentives Regulations.

FERC-516 (OMB Control No. 1902-0096)

Supplemental Notice of Proposed Rulemaking, issued 4/15/2021, in Docket No. RM20-10-000
RIN: 1902-AF70

one-time filing (burdens and costs) associated with this SNOPR (as shown in the table on question 12) of: \$6,640 each for the 190 filers (transmitting utilities in RTOs/ISOs) of FERC-516.

1. CIRCUMSTANCES THAT MAKE THE COLLECTION OF INFORMATION NECESSARY

In this Supplemental NOPR, the Commission proposes to revise the following collection of information:

FERC-516 (Electric Rate Schedules and Tariff Filings, OMB Control No. 1902-0096)

These revisions are included in the Supplemental NOPR in Docket No. RM20-10-000. The Supplemental NOPR would update the Commission's existing transmission incentives policy and corresponding regulations. The relevant authorities are:

- Sections 205, 206, and 219 of the Federal Power Act (FPA), 16 U.S.C. 824d, 824e, and 824s;
- 18 CFR 35.35;
- Order No. 679, *Promoting Transmission Investment through Pricing Reform*, Order No. 679, 116 FERC ¶ 61,057, *order on reh'g*, Order No. 679-A, 117 FERC ¶ 61,345 (2006), *order on reh'g* 119 FERC ¶ 61,062 (2007); and
- Order No. 1000, *Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities*, Order No. 1000, 136 FERC ¶ 61,051 (2011), *order on reh'g*, Order No. 1000-A, 139 FERC ¶ 61,132, *order on reh'g and clarification*, Order No. 1000-B, 141 FERC ¶ 61,044 (2012), *aff'd sub nom. S.C. Pub. Serv. Auth. v. FERC*, 762 F.3d 41 (D.C. Cir. 2014).

FPA sections 205 and 206 pertain to rates and charges for public utilities. FPA section 219 pertains to incentive-based rates for electric transmission for the purposes of ensuring reliability and reducing transmission congestion (thereby reducing the cost of delivered power). At present, the Commission implements FPA section 219 in accordance with 18 CFR 35.35, Order Nos. 679 and 1000. The Supplemental NOPR is intended to improve the Commission's implementation of FPA section 219 by more appropriately balancing encouraging transmission owners to join Transmission Organizations with ratepayer considerations.

2. HOW, BY WHOM, AND FOR WHAT PURPOSE THE INFORMATION IS TO BE USED AND THE CONSEQUENCES OF NOT COLLECTING THE INFORMATION **Changes Proposed: Information Required to Update Rates Reflecting the Termination of the Transmission Organization Incentive**

In the Supplemental NOPR, the Commission is proposing to revise its regulations regarding a specific transmission rate incentive. This proposal would create a one-time filing (burdens and costs) (as shown in the table on question 12).

The Supplemental NOPR would revise 18 CFR 35.35(c) to reflect that the Commission authorizes a transmitting utility that joins a Transmission Organization and turns over operational control of the applicant's wholesale transmission facilities to the Transmission Organization to receive a 50-basis-point increase in return on equity for three years.

FERC-516 (OMB Control No. 1902-0096)

Supplemental Notice of Proposed Rulemaking, issued 4/15/2021, in Docket No. RM20-10-000
RIN: 1902-AF70

For transmitting utilities which have previously received this incentive, the Commission is proposing to require a showing that the rates have been updated to reflect the termination of the Transmission Organization Incentive. Respondents will be required to complete a one-time eTariff Filing in Year 1. The specific reporting requirements proposed by this Supplemental NOPR would require transmission owners to who received an incentive for joining and remaining in a transmission organization for three or more years to submit a compliance filing revising its tariff to remove the incentive from its transmission tariff. The new tariff filings (which would contain their updated rates) would show that each transmission utility complies with the change in policy where FERC has updated the incentive.

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 FERC-516 filings via eTariff. (eTariff is described at <https://www.ferc.gov/ferc-online/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 filings and to minimize the filing burden. The proposed actions here relate to a Commission jurisdictional tariff. Therefore, the Commission would be the only entity requiring this information. The Commission is unaware of any other source of this information.

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

We estimate that 190 transmitting utilities are affected by the NOPR. We estimate that approximately 87.5% (or approximately 166 transmitting utilities) of those 190 entities are small entities, according to information collected from the websites of the six RTOs/ISOs. We estimate additional one-time costs associated with the Supplemental NOPR (as shown in the table below) of \$6,640 for each transmission owner for eTariff filers (FERC-516). These costs are only incurred if an applicant had previously requested incentives on a voluntary basis. Therefore, the estimated additional annual cost per entity ranges from \$0 to \$6,640.

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. Further, without collecting this information, the Commission would not be in compliance with the Congressional mandates of FPA section 219, which requires the Commission to establish incentive-based rate treatments for the transmission of elec-

FERC-516 (OMB Control No. 1902-0096)

Supplemental Notice of Proposed Rulemaking, issued 4/15/2021, in Docket No. RM20-10-000
RIN: 1902-AF70

tric energy in interstate commerce by public utilities for the purpose of benefitting consumers by ensuring reliability and reducing the cost of delivered power by reducing transmission congestion. The information will help to ensure just and reasonable incentive-based rates by enabling the Commission to determine the appropriate incentives have been received for the proper duration.

7. EXPLAIN ANY SPECIAL CIRCUMSTANCES RELATING TO THE INFORMATION COLLECTION

FERC-516 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. The original NOPR was published 4/2/2020 (85 FR 18784). The public will have 30 days after the date of publication of the Supplemental NOPR in the Federal Register to provide comments. Reply comments are due fifteen days after the original comments are due (45 days after the date of publication in the Federal Register).

9. EXPLAIN ANY PAYMENT OR GIFTS TO RESPONDENTS

The Commission makes no payments or gifts to respondents as part of this collection.

10. DESCRIBE ANY ASSURANCE OF CONFIDENTIALITY PROVIDED TO RESPONDENTS

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

The collection does not contain any questions of a sensitive nature.

12. ESTIMATED BURDEN OF COLLECTION OF INFORMATION

The Commission estimates that the Supplemental NOPR¹³ would affect the burden¹⁴ and cost¹⁵ of FERC-516 (eTariff Filings) as follows:

Estimated One-time Change in Year 1 to FERC-516, Due to Proposed Changes in Supplemental NOPR in Docket No. RM20-10-000					
A. Area of Mod- ification	B. Number of Re- spondents	C. Total Esti- mated Number of Responses per Re- spondent	D. Total Esti- mated Number of Responses (Column B X Column C)	E. Average Burden Hours & Cost per Response (\$)	F. Total Esti- mated Bur- den Hours & Total Estimated Cost (\$) (Column D x Column E)
Filings re- garding up- dated rates reflecting the termination of the Trans- mission Or- ganization Incentive Total Pro- posed Changes for FERC-516 in Supplemen- tal NOPR in RM20-10-000	190	1	190	80 hours; \$6,640	15,200 hours; \$1,261,600
				80 hours; \$6,640	15,200 hours; \$1,261,600

For administrative purposes, we are averaging the one-time burden in Year 1 over a three-year period. The estimates in the table above match the estimates in the Supplemental NOPR. These

¹³ The March NOPR (85 FR 18784) included items relating to FERC-730 that are not being addressed by this Supplemental NOPR.

¹⁴ “Burden” is the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. For further explanation of what is included in the information collection burden, refer to 5 CFR 1320.3.

¹⁵ Commission staff estimates that respondents’ hourly wages and benefits are comparable to those of FERC employees. Therefore, the hourly cost used in this analysis is \$83.00 (\$172,329 per year).

FERC-516 (OMB Control No. 1902-0096)

Supplemental Notice of Proposed Rulemaking, issued 4/15/2021, in Docket No. RM20-10-000
RIN: 1902-AF70

estimates are not annualized. The annual average for years 1-3 will be (rounded) to the following:

- 63.33¹⁶ responses per year (190 responses/3 years)
- 5,067 hours per year (15,200 hours/3 years)

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 this Supplemental NOPR 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 estimates of the cost for analysis and processing of filings are based on salaries and benefits for professional and clerical support. The estimated one-time cost represents staff analysis, decision-making, and review of any actual filings submitted in response to the information collection.

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, other changes to the collection, and publications in the Federal Register.

	Number of Employees (Full-Time Equivalents [FTE])	Estimated Annual Federal Cost
Analysis and Processing of One-Time Filings in Year 1 for FERC-516 ¹⁷	2	\$344,658
PRA ¹⁸ Administrative Cost		\$6,475
FERC Total		\$351,133

¹⁶ Due to rounding issues in ROCIS, this number will be reflected as 63.

¹⁷ Based upon 2020 FERC FTE average annual salary plus benefits (\$172,3291/year), or \$83/hour.

¹⁸ Paperwork Reduction Act of 1995 (PRA).

FERC-516 (OMB Control No. 1902-0096)

Supplemental Notice of Proposed Rulemaking, issued 4/15/2021, in Docket No. RM20-10-000
RIN: 1902-AF70

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

FPA section 219 pertains to incentive-based rates for electric transmission for the purposes of ensuring reliability and reducing transmission congestion (thereby reducing the cost of delivered power). At present, the Commission implements FPA section 219 in accordance with 18 CFR 35.35, Order No. 679, and Order No. 1000.

The Supplemental NOPR is intended to improve the Commission’s implementation of FPA section 219 by more appropriately balancing encouraging transmission owners to join Transmission Organizations with ratepayer considerations.

This Supplemental NOPR would revise the Commission’s regulations and policy with respect to the mechanics and implementation of the Commission’s transmission incentives policy. Respondents will be required to complete a one-time eTariff Filing in Year 1. For administrative purposes, the estimated average annual responses and burden have been averaged over a three year period. FERC-516 proposes changes to the Commission’s transmission incentives policy would both help to reflect recent changes in the industry and transmission planning and more closely align with the statutory language of FPA section 219.

Supplemental NOPR in Docket RM20-10	Total Request	Previously Approved	Change due to Adjustment in Estimate	Change Due to Agency Discretion
FERC-516				
Annual Number of Responses	6,913	6,850	0	63
Annual Time Burden (Hours)	531,265	526,198	0	5,067
Annual Cost Burden (\$)	\$0	\$0	\$0	\$0

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 OMB expiration dates are posted on <https://www.reginfo.gov/public/do/PRAMain>.

18. EXCEPTIONS TO THE CERTIFICATION STATEMENT

There are no exceptions.