

**Supporting Statement for
FERC-919A, Order Adopting Revisions to Information Collection for
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 1902-0317), as modified by the order adopting revisions to the information collection in Docket No. RM16-17-000 (Order).¹

1. CIRCUMSTANCES THAT MAKE THE COLLECTION OF INFORMATION NECESSARY

Compliance with Federal Power Act (FPA) sections 205² and 206³ 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, Order No. 860,⁴ in Docket No. RM16-17-000 as well as the information collection revisions adopted in the Order) are:

- Initial market power analyses to qualify for authority to charge market-based rates⁵
- Triennial market power analysis in Category 2 seller updates⁶
- Notices of change in status⁷

As background, Order No. 860 amended the Commission's regulations governing market-based rates for public utilities. Rather than collecting certain information through

¹ 176 FERC 61,109.

The Order is posted in FERC's eLibrary at https://elibrary.ferc.gov/eLibrary/filelist?accession_number=20210819-3088&optimized=false.

² 16 U.S.C. 824d.

³ 16 U.S.C. 824e.

⁴ *Data Collection for Analytics and Surveillance and Market-Based Rate Purposes*, Order No. 860, 168 FERC ¶ 61,039 (2019), *order on reh'g and clarification*, Order No. 860-A, 170 FERC ¶ 61,129 (2020).

⁵ 18 CFR 35.37(a).

⁶ 18 CFR 35.37(a).

⁷ 18 CFR 35.42.

transmittal letters and attached spreadsheets, the Commission now collects this information in a consolidated and streamlined manner through a relational database. With the relational database, each Seller⁸ now enters its own assets (and those of any of its non-market-based rate affiliates) and the database automatically generates asset appendix reports, that include the assets of the Seller's market-based rate affiliates, who have themselves entered their own assets. In addition, as relevant here, under Order No. 860, Sellers are now required to provide information on their ultimate upstream affiliates⁹ in the relational database to facilitate this auto-generation of asset appendices.

On March 18, 2021, the Commission issued a notice seeking comments¹⁰ on a proposal to collect additional data from certain Sellers through revisions to the data dictionary and XML schema that accompany the relational database established in Order No. 860 (MBR Data Dictionary). Specifically, the Commission proposed revising the MBR Data Dictionary to require that Sellers whose ultimate upstream affiliate(s) own their voting securities pursuant to a FPA section 203(a)(2)¹¹ blanket authorization provide, in the relational database, three additional data fields: the docket number of the FPA section 203(a)(2) blanket authorization, the Utility_ID_Type_CD of the utility whose securities were acquired under the corresponding section 203(a)(2) blanket authorization docket number, and the Utility_ID of that utility.¹² In the Order that issued on August 19, 2021, the Commission adopted the revisions (i.e., the three additional data fields) proposed in the March Notice.

⁸ 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).

⁹ "Ultimate upstream affiliate" is defined as the furthest upstream affiliate(s) in the ownership chain - i.e., each of the upstream of affiliate(s) of a Seller, who itself does not have 10% or more of its outstanding securities owned, held or controlled, with power to vote, by any person (including an individual or company). Order No. 860, 168 FERC ¶ 61,039 at P 5 n.10; see also 18 CFR 35.36(a)(10). "Upstream affiliate" means any entity described in § 35.36(a)(9)(i). 18 CFR 35.36(a)(10).

¹⁰ *Data Collection for Analytics & Surveillance & Mkt.-Based Rate Purposes*, 86 FR 17823 (Apr. 6, 2021), 174 FERC ¶ 61,214 (2021) (March Notice).

¹¹ 16 U.S.C. 824b.

¹² The March Notice defined "utilities" as transmitting utilities, electric utility companies, or holding company systems containing such entities. March Notice, 174 FERC ¶ 61,214 at P 1 n.4.

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 ensure that Sellers' asset appendices correctly auto-generate based on either their ultimate upstream affiliates or their upstream affiliates whose voting securities are owned by an ultimate upstream affiliate pursuant to an FPA section 203(a)(2) blanket authorization. The inclusion of these three additional data fields will allow the system to do so while also striking the appropriate balance between ensuring the accuracy of auto-generated asset appendices and minimizing the burden on Sellers.

There are approximately 2,647 Sellers that submit information into the relational database. Six institutional investors currently have FPA section 203(a)(2) blanket authorizations, which collectively own approximately 110 upstream affiliates that themselves own Sellers. In the March Notice the Commission estimated an average of four sellers for every ultimate upstream affiliate, equaling 440 affected respondents in total. Of these 440 affected entities discussed in the Order, the Commission estimates that none of these will be small entities. These revisions would not impose any additional reporting requirements for Sellers whose ultimate upstream affiliates do not hold their voting securities pursuant to section 203(a)(2) blanket authorizations.

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. 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 Order introduces three additional data fields in the existing relational database construct, which was created to 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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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 Order adds three new data fields in one of the 12 tables collecting market-based rate information. These new fields are necessary to modernize the Commission's data collection, and render information collected more usable and accessible for the Commission and to the public.

The inclusion of these three additional data fields strike the appropriate balance between ensuring the accuracy of auto-generated asset appendices and minimizing the burden on Sellers.

With respect to asset appendix information currently filed by Sellers, this Order requires sellers that have ultimate upstream affiliates to report institutional investors who own 10% percent or more of their voting shares pursuant to section 203(a)(2) blanket authorizations as their reportable ultimate upstream affiliate in the relational database. As there are no other data sources of this information, these are the minimum number of fields to prevent the generation of duplicative or incorrect asset appendices.

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

The economic impact of this Order 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.

There are approximately 2,647 Sellers that submit information into the relational database. Six institutional investors currently have FPA section 203(a)(2) blanket authorizations, which collectively own approximately 110 upstream affiliates that themselves own Sellers. In the March Notice the Commission estimated an average of four sellers for every ultimate upstream affiliate, equaling 440 affected respondents in total. Of these 440 affected entities discussed in the Order, the Commission estimates that none of these will be small entities. Of these 440 affected entities discussed in the Order, the Commission estimates that none of these will be small entities. Accordingly, the Commission certifies that the Order will not have a significant economic impact on a substantial number of small entities.

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.

Order No. 860 requires Sellers to update the relational database on a monthly basis when there are changes in the facts or circumstances on which the Commission relied when granting Sellers' market-based rate authority. Less frequent database updates would not be sufficient to maintain the level of accuracy the Commission needs for the market-based rates program, as Sellers rely 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-power updates. If the Commission were to adopt less frequent database submission requirements, these time lags from stale data could result in inaccurate asset appendices. The 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. 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

Members of the public were given 60 days to comment on the March Notice. Most commenters support the proposal to collect the information proposed in the March Notice.

Summary of PRA-Related Public Comment. One commenter argues that there is little to no value in reporting ultimate upstream affiliates that are institutional investors with section 203(a)(2) blanket authorizations to the relational database. This commenter also argues that the revisions proposed in the March Notice will result in another delay in implementation of the relational database. This commenter consequently requests that the Commission not move forward with the proposal to collection information about institutional investor upstream affiliates in the relational database. However, if the Commission moves forward with its

proposal to collect such information, this commenter requests several modifications and clarifications to the proposed information collection.

FERC Response: In response to this commenter, the Commission noted that it has repeatedly emphasized the importance of both identifying and tracking institutional investor ultimate upstream affiliates in the relational database. The Commission further noted that this order makes no new determinations regarding affiliation and instead implements the technical components necessary to ensure the relational database functions as contemplated in *NextEra Energy, Inc.*¹³ and Order Nos. 860 and 860-A. The Commission concluded that requests for the Commission to not move forward with the proposals in these orders are thus collateral attacks on those orders.

The Commission did agree with the commenter regarding the merits of certain modifications and clarifications to the proposed information collection and revised the MBR Data Dictionary, as further discussed in the Order.

The Order, which issued on August 19, 2021, was published in the Federal Register on 8/26/2021.¹⁴

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.¹⁵ 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

¹³ 174 FERC ¶ 61,213, *granting clarification*, 175 FERC ¶ 61,214 (2021).

¹⁴ 86 FR 47562.

¹⁵ 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>.

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

There are approximately 2,647 Sellers that will submit information into the relational database. Six institutional investors currently have FPA section 203(a)(2) blanket authorizations, which collectively own approximately 110 upstream affiliates that themselves own Sellers. In the March Notice, the Commission estimated an average of four Sellers affected for every upstream affiliate, equaling 440 total Sellers. This order reaffirms the estimate of the number of Sellers impacted by the revisions herein.

Burden Estimate: The estimated burden and cost¹⁶ for the requirements in this order are as follows. Information on estimated burden from Order No. 860 is displayed for background only.

Table 1

A.	B.	C.	D.	E.	F.	G.	H.
Respondent / Incremental Burden Category	Number of Respondents	Number of Responses per Respondent	Number of Responses (B * C)	Burden Hours per Response	Hourly Cost (\$) per Response	Total Annual Burden Hours (D * E)	Total Cost (\$) (F * G)
<i>First Year, proposed incremental cost associated with the collection of reporting connections to an entity whose securities were acquired pursuant to a blanket authorization (Increase due to the March Notice)</i>							
Impacted Sellers, as implemented in this Order	440	1	440	2 ¹⁷	88.54	880	\$77,915.20
<i>Ongoing (beginning in Year 2) collection of reporting connections to an entity whose securities were acquired pursuant to a blanket authorization</i>							
Impacted Sellers, as implemented	440	1	440	68	88.54	29,920	\$2,649,116

¹⁶ The estimated hourly cost burden for respondents — \$88.54 — is the average of mean hourly wages from the May 2020 Bureau of Labor Statistics (BLS) data at http://www.bls.gov/oes/current/oes_nat.htm, and BLS benefits data at <http://www.bls.gov/news.release/ecec.nr0.htm> for the following occupations: Legal Occupations (23-0000) \$142.25, Computer and Information Systems Managers (11-3021) \$103.61, Computer and Mathematical Occupations (15-0000) \$65.73, and Information and Record Clerks (43-4199) \$42.57.

¹⁷ The two hours represents the additional time required to address the three new fields.

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in this Order							.80
Total Burden for Impacted Sellers in this Order	440	1	440	70	88.54	30,800	\$2,727,032 .00
<i>Impacted Sellers have an offsetting decrease in reporting requirements compared to those required to be reported in Order 860.</i>							
<i>Reduction in Burden of Order 860 Reporting Requirements for Impacted Sellers¹⁸</i>	440	1	-440	70 [former estimate, being replaced]	88.54	-30,800 [former estimate, being replaced]	- \$2,727,032 .00 [former estimate, being replaced]
Therefore, there is no net change in burden for Impacted Sellers due to these revisions.¹⁹							

There are approximately 2,647 Sellers that submit information into the relational database. Six institutional investors currently have FPA section 203(a)(2) blanket authorizations, which collectively own approximately 110 upstream affiliates that themselves own Sellers. In the March Notice, the Commission estimated an average of four sellers for every ultimate upstream affiliate, equaling 440 affected respondents in total. Of these 440 affected entities discussed in the Order, the Commission estimates that none of these will be small entities.

New IC Due to August 2021 Order. For the purposes of the submittal to OMB for PRA review, we are averaging the burden for the new IC due to the August 2021 Order over Years 1, 2, and 3 as shown in Table 2. This new burden is offset by decreases elsewhere (in the existing ICs), giving no net change to the total burden estimate for FERC-919A (other than the 1 hour of burden due to ROCIS rounding, as discussed in #15).

¹⁸ Order No. 860, 168 FERC ¶ 61,039 at P 323.

¹⁹ We estimate that the additional burden (440 hours) due to these revisions of reporting this information will not have a net change in overall burden because sellers will no longer be affiliated through common ultimate upstream affiliates with blanket authorizations, as contemplated in Order Nos. 860 and 860-A. We conservatively estimate that the net change on the impacted sellers reporting this information will be zero. The net additional cost calculations were determined by subtracting the total burden for impacted sellers for these revisions from the estimated burden in Order No. 860 which results in no change in burden.

Table 2

Information Related to New IC for RM16-17, Due to August 2021 Order	Respondents	Responses per respondent per year	Total Responses	Burden Hrs. per Response	Total Annual Burden Hrs.
Year 1, one-time	440.00	1.00	440.00	2.00	880.00
Year 2	440.00	1.00	440.00	68.00	29,920.00
Year 3	440.00	1.00	440.00	68.00	29,920.00
Total for Years 1-3			1,320.00		60,720.00
ANNUAL AVERAGE FOR YEARS 1-3			440.00		20,240.00

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.

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 encompasses the two-month oversight of the development and testing of the inclusion of the three new data fields. These FTE estimates over the two-month period were then annualized for the final estimate. The estimates provided below include areas affected by the FERC-919A information collection by the Final Rule in RM16-17-000 and do not include cost calculations of FERC-919.

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

	Number of Employees (FTE)²⁰	Estimated Annual Federal Cost
Analysis and Processing of filings ²¹ (initial increase as noted below)	0.83	\$149,983.49
PRA Administrative Cost ²²		\$8,279.00
Hardware/Software Development (one-time)		\$100,000.00 (one-time)
FERC Total		\$258,262.49

The Commission estimates an initial increase in cost of 0.83 FTEs during the first year of implementing the modifications:

- 5 FTEs – to develop and test the modifications to the relational database and incorporate it into the Commission’s analyses in the first two months.

After the two-month period, there is no net increase in FTEs resulting from RM16-17-000. This calculation is only related to the Order and FERC-919A, and not the original FERC-919.

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.

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

Order 860 provided burden estimates based on Category 1 and Category 2 sellers. However, here, the estimate is inclusive of both categories of sellers. Thereby, the original categories of Sellers were not used. Instead, the Commission estimated that six institutional investors currently have FPA section 203(a)(2) blanket authorizations, which collectively own approximately 110 upstream affiliates that themselves own Sellers. In

²⁰ For FERC 919A, 5 FTE are required over a two-month period as the initial costs of oversight as a result of the changes in the Order. Therefore, we calculate 5 FTEs/12 months (annually)* 2 months= 0.83 FTEs (rounded).

²¹ Based upon FERC’s 2021 average wages plus benefits of one FTE (full-time equivalent): \$180,703 per year.

²² Based upon FERC’s 2021 estimated average annual PRA Administrative Cost: \$8,279.

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the March Notice the Commission estimated an average of four sellers for every ultimate upstream affiliate, equaling 440 affected respondents in total. Of these 440 affected entities discussed in the Order, the Commission estimates that none of these will be small entities.

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.

The Commission estimates that the initial, additional burden due to these revisions of reporting this information will have no net change in overall burden because sellers will no longer be affiliated through common ultimate upstream affiliates with blanket authorizations, as contemplated in Order Nos. 860 and 860-A. The Commission conservatively estimates that the net change on the impacted sellers reporting this information will be zero. The net additional cost calculations were determined by subtracting the total burden for impacted sellers for these revisions from the estimated burden in Order No. 860 which resulted in no change in burden.

Program Decrease.- In Order 860 and Order 860-A, the Commission contemplated that Sellers would be required to be affiliated through common ultimate upstream affiliates with blanket authorizations. We are removing this requirement resulting in a program decrease of some burden hours from the previously approved ICs prior to the August 2021 order (with the following updated labels):

- RM16-17-000 Final Rule (Category 1, 1st Year), as modified by Aug. 2021 Order
- RM16-17-000 Final Rule (Category 2, 1st Year), as modified by Order of August 2021
- RM16-17-000 Final Rule (Category 1, 2nd Year and Ongoing), as modified by Order of August 2021
- RM16-17-000 Final Rule (Category 2, 2nd Year and Ongoing) as modified by Order of August 2021

The average annual burden decrease (and burden increase described below), due to the August 2021 Order, of 20,240 hours is the annual average over Years 1-3. (Year 1 is 880 hours; Year 2 is 29,920 hours; and Year 3 is 29,920 hours. That gives an annual average of 20,240 hours per year for Years 1-3.)

Program Increase-²³ See Table 2 above. The annual burden increase (and annual burden decrease described above), due to the August 2021 Order, of 20,240 hours is the annual average over Years 1-3. (Year 1 is 880 hours; Year 2 is 29,920 hours; and Year 3 is 29,920 hours. That gives an annual average of 20,240 hours per year for Years 1-3.) In this August 2021 Order, we are now requiring 440 of the 2,666 responses to provide additional data from certain Sellers:

- the docket number of the FPA section 203(a)(2) blanket authorization,
- the Utility_ID_Type_CD of the utility whose securities were acquired under the corresponding section 203(a)(2) blanket authorization docket number, and
- the Utility_ID of that utility.

The number of responses as a result of this Order, 440 responses annually, is inclusive in the total responses previously approved by OIRA. However the addition of 440 responses (and corresponding 440 respondents) is due to adding a new IC to reflect the requirements in the August 2021 Order.

Program Changes in General. The program changes have a net real effect of zero change to burden. However due to rounding in ROCIS, the system shows 1 additional hour of burden that is not a real increase of 1 burden hour and is presented below only to match ROCIS’s rounding and figure.

Table 3

	Total Request	Previously Approved	Change due to Adjustment in Estimate	Change Due to Agency Discretion
Annual Number of Responses	3,106	2,666	0	440
Annual Time Burden (Hr.)	61,000	60,999	0	1
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 <https://www.ferc.gov/information-collections>

18. EXCEPTIONS TO THE CERTIFICATION STATEMENT

²³ Staff estimates that of those Impacted Sellers affected by the Order in August 2021, 25% are in Category 1, and 75% are in Category 2.

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There are no exceptions.