

Supporting Statement for the FERC 1005 Collection as Required by Proposed Rule RM22-13-000 (Credit-Related Information Sharing)

The Federal Energy Regulatory Commission (Commission or FERC) requests that the Office of Management and Budget (OMB) approve, for three years, the information collection requirements in FERC 1005 as directed by the proposed rule RM22-13-000 (Credit-Related Information Sharing).

1. CIRCUMSTANCES THAT MAKE THE COLLECTION OF INFORMATION NECESSARY

Pursuant to section 206 of the Federal Power Act (FPA),¹ the Commission is proposing to revise section 35.47 of Title 18 of the Code of Federal Regulations to permit credit-related information sharing between organized wholesale electric markets.² The ability of regional transmission organizations (RTOs) and independent system operators (ISOs) to share credit-related information with each other is intended to improve their ability to accurately assess market participants' credit exposure and risks related to their activities across organized wholesale electric markets. The sharing of such information could also allow RTOs/ISOs to respond to credit events more quickly and effectively, minimizing the overall credit-related risks of unexpected defaults by market participants in organized wholesale electric markets.

To ensure that RTOs'/ISOs' credit policies remain just and reasonable, the Commission proposes to revise its regulations to require each RTO/ISO to adopt tariff provisions that permit it to share market participants' credit-related information with other RTOs/ISOs to enhance credit risk assessment efforts.

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

¹ 16 U.S.C. § 824e.

² Notice of Proposed Rulemaking (NOPR) RM22-13-000 – Credit-Related Information Sharing in Organized Wholesale Electric Markets. Issued on 7/28/2022 and accessible via eLibrary ([eLibrary | General Search Results \(ferc.gov\)](#)).

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The Commission proposes to revise its regulations to:

- Require each RTO/ISO to adopt tariff provisions that permit it to share market participants' credit-related information with other RTOs/ISOs to enhance credit risk assessment effort; and
- Permit RTOs and ISO to share credit-related information with each other.

The information-sharing aspect of FERC-1005 is intended to apply to credit-related information including: (1) lists of market participants with positions in that market; (2) reports and metrics around risk and credit exposures; (3) disclosure that a market participant or affiliate has defaulted on any of its financial or contractual obligations, failed to pay invoices on a timely basis, or failed to meet a collateral call; (4) information regarding a market participant's or its affiliate's unresolved credit/collateral issues; (5) information indicating that a market participant or its affiliate has an increased risk of default, such as instances where a market participant or its affiliate has experienced a material adverse condition or material adverse change under an RTO/ISO Open Access Transmission Tariff (OATT) or related agreement; and (6) any other information on a market participant or its affiliate that indicates a possible material adverse change in creditworthiness or financial status or an unreasonable credit risk.

The purpose of collecting this information is to reduce the risk of credit failures and liquidity challenges in wholesale electric markets, in particular for entities operating in multiple wholesale markets. The information collection would allow RTOs/ISOs to gain additional visibility into their market participants' financial condition and to administer organized wholesale electric markets more effectively both as part of ongoing "business-as-usual" credit risk management practices and during market or credit events. An RTO/ISO may benefit simply from the ability to request that other RTOs/ISOs verify that a market participant has participated appropriately in another organized wholesale electric market.

If this information was not collected the Commission would not be able to fulfill its statutory responsibilities to ensure that markets remain reliable and rates remain just and reasonable. A lack of access to credit-related information can hinder an RTO/ISO's ability to evaluate a market participant's creditworthiness and respond to credit events, which can hinder its ability to prevent or mitigate default by market participants.

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Because the costs of such defaults are typically borne by non-defaulting members, an RTO/ISO's lack of access to credit-related information could lead to unjust and unreasonable rates for its market participants.

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

With this collection, the Commission would not receive credit-related information since the proposed rule is requiring RTOs/ISOs to modify their tariff provisions to share with each other, not the Commission. However, the Commission supports the use of electronic transfer of the information and supports electronic submissions for the one-time compliance filing through FERC Online eFiling.

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 SECTION NO. 2

Credit-related information is generally regarded as private information and it is not collected by the Commission. The NOPR RM22-13-000 proposes that this information remains within the RTOs/ISOs and each respective entity. The Commission does not know of any other places where this information is collected or maintained accessible to all RTOs/ISOs. Certain elements of a market participants' credit information may be available from financial market entities or regulators, such as credit scores and posted collaterals, however details of a market participant's standing in any given RTO/ISO is generally only available to that RTO/ISO.

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

The Commission seeks to pose the least possible burden on all entities. However, the entities subject to the NOPR RM22-13-000 are the 6 Commission-jurisdictional

RTOs/ISOs that operate in the United States. These entities are not considered small entities.

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

The one time compliance filing to update the tariff provisions will only be collected at the effective date. Then, no data will be collected by the Commission, rather the information will be shared, as described in an RTOs/ISOs tariff provisions with one another. The Commission believes that this is the minimum requirement to have this collection be effective in preserving just and reasonable rates. The frequency of the ongoing information collection and sharing is to be determined by the RTOs/ISOs at their discretion.

7. EXPLAIN ANY SPECIAL CIRCUMSTANCES RELATING TO THE INFORMATION COLLECTION

There are no special circumstances relating to this information collection.

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

Prior to the NOPR, in 2019, Energy Trading Institute (ETI) submitted a petition requesting that the Commission convene a technical conference and consider a potential rulemaking to improve RTO/ISO credit practices.³ In response to ETI's petition, the Commission received comments suggesting that the industry would benefit from a discussion about best practices and the differences among RTO/ISO credit policies.

Following this petition, the Commission organized a technical conference on February 25 and 26, 2021. During the conference, Commission staff and panelists discussed principles and best practices for credit risk management in organized wholesale electric

³ Energy Trading Institute Request for Technical Conference and Petition for Rulemaking to Update Credit and Risk Management Rules and Procedures in the Organized Markets, *Credit Reforms in Organized Wholesale Electric Markets*, Docket No. AD20-6-000 (Dec. 16, 2019).

markets. Panelists at the technical conference included credit risk experts, market participants with experience in RTO/ISO credit policy compliance, and RTO/ISO risk officers. Panelists also emphasized that there could be risk management benefits from sharing market participants' credit-related information among RTO/ISO credit departments.⁴

The Commission further solicited post-technical conference comments and received several on the topic of information sharing between RTOS/ISOs. The Inter-RTO Council (IRC) advocated for the Commission to require RTOs/ISOs to adopt tariff revisions implementing a permissive credit-related information sharing policy and provide a list of the kinds of credit-related information that could be shared.⁵ ETI commented that one potential risk with information sharing across RTOs/ISOs is that it would trigger the RTOs/ISOs to limit or suspend market activity to the detriment of that market participant.⁶ NEPOOL comments that, while the general proposal to allow for the sharing of confidential information among RTOs/ISOs might be reasonable, the details to accomplish that proposal need to be considered within each RTO/ISO prior to any Commission action.⁷

9. EXPLAIN ANY PAYMENT OR GIFTS TO RESPONDENTS

The Commission does not make payments or provide gifts to respondents related to these collections.

10. DESCRIBE ANY ASSURANCE OF CONFIDENTIALITY PROVIDED TO RESPONDENTS

⁴ See *RTO/ISO Credit Principles and Practices*, Technical Conference, Docket No. AD21-6-000, *et al.*, Tr. 100:24-102:20, 106:1-24 (Bloczynski) (Feb. 25, 2021); *id.* at Tr. 102:25-104:5 (Brown); *id.* at Tr. 104:7-105:9 (Prevratil); *id.* at Tr. 105:12-105:24 (Seghesio). Further, one panelist emphasized that credit-related information sharing would bring additional transparency to organized wholesale electric markets to the benefit of market participants and consumers. See *id.* at Tr. 30:15-23, 58:1-9 (Heinle).

⁵ IRC Comments at 8

⁶ ETI Comments on at 12-13.

⁷ NEPOOL Comments at 6-8.

The information is not intended to be shared with the Commission.

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.

These collections are not delivered to the Commission. This collection is a requirement for RTOs/ISOs to share credit-related information as it pertains to entities within their scope with other RTOs/ISOs. Although credit-related information may be considered private, the sharing of information will be agreed upon between the entities and each respective RTO and ISO.

12. ESTIMATED BURDEN OF COLLECTION OF INFORMATION

The FERC-1005 collection is separated into two activities. The first activity relates to the one-time compliance filing with the Commission after an RTO/ISO updates its tariff provisions. The second activity is the ongoing burden related to information sharing.

The following tables provide the estimated annual burden⁸ and cost⁹ related to the FERC-1005 information collection requirements:

⁸ Burden is defined as the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose, or provide information to or for a Federal agency. For further explanation of what is included in the information collection burden, refer to Title 5 Code of Federal Regulations 1320.3. The burden hours and costs are rounded for ease of presentation.

⁹ The Commission assumes the cost to industry for the FERC-1005 collection is comparable to the FERC 2021 Commission-wide average cost salary plus benefits of \$87.00/hour .

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A. Collection	B. Number of Respondents	C. Annual Number of Responses per Respondent	D. Total Number of Responses (Column B x Column C)	E. Average Burden Hrs. & Cost per Response	F. Total Annual Hr. Burdens & Total Annual Cost (Column D x Column E)	G. Cost per Respondent (Column F ÷ Column B)
RTO/ISOs (one-time compliance filing) ¹⁰	6	1	6	25 hrs.; \$2,175	150 hrs.; \$13,050	\$2,175
RTO/ISOs (ongoing information sharing) ¹¹	6	2	12	4 hrs.; \$348	48 hrs.; \$4,176	\$696
Totals		3	18	—	198 hrs.; \$17,226	\$2,871

13. ESTIMATE OF THE TOTAL ANNUAL COST BURDEN TO RESPONDENTS

The total annual cost to respondents is related to burden hours and the Commission does not estimate any additional costs for FERC-1005.

14. ESTIMATED ANNUALIZED COST TO FEDERAL GOVERNMENT

¹⁰ The Commission’s hourly and cost estimates for the one-time compliance filing assumes that each RTO/ISO would need to develop and file tariff revisions with the Commission.

¹¹ The Commission does not know the extent of information sharing that would occur in this proposed rule but estimates that information sharing may occur roughly twice per year on average, per RTO/ISO. The Commission invites comment by affected entities if they believe the estimate is unreasonable.

The estimate of the cost for ‘analysis and processing of filings’¹² is based 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 collections. The corresponding annual and hourly FERC costs use the figures for 2021, as noted.

The Paperwork Reduction Act (PRA) Administrative Cost (estimate of \$8,279 per collection annually) is the average annual FERC cost associated with preparing, issuing, and submitting materials necessary to comply with the PRA of 1995 for rulemakings, orders, or any other vehicle used to create, modify, extend, or discontinue an information collection. It also includes the cost of publishing the necessary notices in the Federal Register.

	Number of Employees (FTE)	Estimated Annual Federal Cost
Analysis and Processing of filings ¹³ for FERC 1005	0.06 (rounded) ¹⁴	\$3,480 ¹⁵
PRA Administrative Cost		\$8,279
FERC Total		\$11,759

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

The following table shows the total burden of the collection of information. The format, labels, and definitions of the table follow the ROCIS submission system’s “Information Collection Request Summary of Burden” for the metadata.

¹²The estimate uses the FERC’s FY 2021 average annual salary plus benefits of one FERC FTE (full-time equivalent [\$180,703 per year or \$87.00 per hour]). (These estimates were updated in June 2021.)

¹³The FERC 1005 collection does not collect or analyze information, it requires credit-related information sharing amongst RTOs/ISOs. Therefore, the only cost to the government is the PRA related costs.

¹⁴The Commission estimates 120 hours of federal employee time required to review the one-time compliance filing. One full employee is 2080 hours per year, when divided, it results in the total employee calculation to be .06 of an employee (rounded).

¹⁵The annual federal cost is derived from the total cost of the one-time compliance filing divided by three years the collection would be active. The total cost is calculated to be \$10,440.

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	Total Request	Previously Approved	Change due to Adjustment in Estimate	Change Due to Agency Discretion
Annual Number of Responses	18	-	0	0
Annual Time Burden (Hr.)	198	-	0	0
Annual Cost Burden (\$)	\$0	-	\$0	\$0

16. TIME SCHEDULE FOR PUBLICATION OF DATA

There are no data publications.

17. DISPLAY OF EXPIRATION DATE

FERC provides the OMB Control Numbers of the information collections along with their expiration dates on this site at [Information Collections | Federal Energy Regulatory Commission \(ferc.gov\)](#).

18. EXCEPTIONS TO THE CERTIFICATION STATEMENT

There are no exceptions.