

FERC-917, OMB No. 1902-0233
Final Rule in RM10-23-000 (issued 7/21/2011; RIN No. 1902-AE03)
[Package updated 9/27/2011Error: Reference source not found]

**SUPPORTING STATEMENT¹ FOR
FERC-917 (OMB No. 1902-0233)² in
Final Rule (“Transmission Planning and Cost Allocation by Transmission Owning
and Operating Public Utilities”; Order 1000) in Docket No. RM10-23-000
(issued 7/21/2011; RIN No. 1902-AE03)**

In the Final Rule entitled, “Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities”, in Docket No. RM10-23-000, the Federal Energy Regulatory Commission (Commission or FERC) reforms its electric transmission planning and cost allocation requirements for public utility transmission providers. These reforms are intended to correct deficiencies in transmission planning and cost allocation processes so that the transmission grid can better support wholesale power markets and thereby ensure that Commission-jurisdictional services are provided at rates, terms and conditions that are just and reasonable and not unduly discriminatory or preferential. [The information collection requirements are included in the Final Rule in RM10-23-000, including its Appendices A (Summary of Compliance Filing Requirements) and C (*Pro Forma* Open Access Transmission Tariff; Attachment K, Transmission Planning Process).]

A. Justification

1. CIRCUMSTANCES THAT MAKE THE COLLECTION OF INFORMATION NECESSARY

The Commission has a statutory obligation under the Federal Power Act (FPA) to prevent unduly discriminatory practices in transmission access. Specifically, section 206 of the FPA obligates the Commission to remedy unjust and unreasonable, or unduly discriminatory or preferential, rates, terms and conditions of transmission service.³ Toward this goal, in its 1996 landmark Order No. 888,⁴ the Commission implemented

¹ This package is updated as of 9/22/2011 to address questions raised by OMB.

² Note that “FERC-917” as described in OMB Control No. 1902-0233 currently includes two separate information collection components (FERC-917 and FERC-918). “FERC-917” as used throughout this document relates to the entire ‘umbrella’ OMB Control No. 1902-0233, unless otherwise specified.

The burden related to this Final Rule in RM10-23-000 will be included in a separate information collection within FERC-917 and labeled “FERC-917 (RM10-23)”.

³ 16 U.S.C. 824e. See Attachment C included under “Supplementary Documents”.

⁴ Promoting Wholesale Competition Through Open Access Non-discriminatory Transmission

Final Rule in RM10-23-000 (issued 7/21/2011; RIN No. 1902-AE03)

[Package updated 9/27/2011 Error: Reference source not found]

open access to transmission facilities owned, operated, or controlled by a public utility. Concurrently, through Order No. 889,⁵ the Commission adopted standards and information requirements for Open Access Same-Time Information Systems (OASIS). In 2007, the Commission addressed newly identified opportunities for undue discrimination in electric power transmission through its issuance of Order No. 890.⁶ The Commission, in RM10-23-000, reforms these rules to further ensure that Commission-jurisdictional services are provided at rates, terms and conditions that are just and reasonable and not unduly discriminatory or preferential.

In Order No. 888, the Commission required public utility transmission providers to offer transmission service on an open and non-discriminatory basis pursuant to a pro forma Open Access Transmission Tariff (pro forma OATT) that sets forth the non-rate terms and conditions of transmission service that the Commission deemed necessary. The Commission also required public utilities to provide transmission customers with equal and timely access to transmission and ancillary service tariff information through OASIS website postings. The Commission found that transmission customers must have simultaneous access to the same information available to transmission providers if truly nondiscriminatory transmission services are to exist. In Order No. 889, the Commission adopted business practice standards and information requirements for OASIS. During their development, the Commission relied heavily on the assistance provided by all segments of the wholesale electric power industry and its customers in ad hoc working groups that offered consensus proposals for the Commission's consideration.

The Commission determined that more work was needed to remedy undue discrimination

Services by Public Utilities; Recovery of Stranded Costs by Public Utilities and Transmitting Utilities, Order No. 888, 61 FR 21540 (May 10, 1996), FERC Stats. & Regs. ¶ 31,036 (1996), order on reh'g, Order No. 888-A, 62 FR 12274 (Mar. 14, 1997), FERC Stats. & Regs. ¶ 31,048 (1997), order on reh'g, Order No. 888-B, 81 FERC ¶ 61,248 (1997), order on reh'g, Order No. 888-C, 82 FERC ¶ 61,046 (1998), aff'd in relevant part sub nom. Transmission Access Policy Study Group v. FERC, 225 F.3d 667 (D.C. Cir. 2000) (TAPS v. FERC), aff'd sub nom. New York v. FERC, 535 U.S. 1 (2002).

⁵ Open Access Same-Time Information System (Formerly Real-Time Information Networks) and Standards of Conduct, Order No. 889, 61 FR 21737 (May 10, 1996), FERC Stats. & Regs. ¶ 31,035 (1996), order on reh'g, Order No. 889-A, FERC Stats. & Regs. ¶ 31,049 (1997), order on reh'g, Order No. 889-B, 81 FERC ¶ 61,253 (1997).

⁶ Preventing Undue Discrimination and Preference in Transmission Service, Order No. 890, FERC Stats. & Regs. ¶ 31,241, order on reh'g, Order No. 890-A FERC Stats. & Regs. ¶ 31,261 (2007), order on reh'g, Order No. 890-B, 123 FERC ¶ 61,299 (2008), order on reh'g, Order No. 890-C, 126 FERC ¶ 61,228 (2009).

Final Rule in RM10-23-000 (issued 7/21/2011; RIN No. 1902-AE03)

[Package updated 9/27/2011Error: Reference source not found]

related to transmission service, leading to the issuance of Order No. 890. The Commission found that the requirements in Order No. 890 were necessary to: (1) strengthen the pro forma OATT to ensure that it achieves its original purpose of remedying undue discrimination; (2) provide greater specificity to reduce opportunities for undue discrimination and facilitate the Commission's enforcement; and (3) increase transparency in the rules applicable to planning and use of the transmission system.

The Commission acknowledges in the Final Rule that significant work has been done in recent years to enhance regional transmission planning processes to achieve compliance with the requirements of Order No. 890. The Commission believes that the expanded cooperation and collaboration that is now occurring in transmission planning both among transmission providers, and between transmission providers and their stakeholders, is to be commended.

However, as explained below, it has become evident that the Order No. 890 requirements with respect to transmission planning and cost allocation are insufficient to ensure that Commission-jurisdictional services are provided at just and reasonable rates and on a basis that is not unduly discriminatory or preferential. In the Final Rule in RM10-23-000, the Commission identifies the following inadequacies in the Order No. 890 requirements. Public utility transmission providers are currently under no affirmative obligation to develop a regional transmission plan. Furthermore, there is no requirement to develop a regional transmission plan that reflects the evaluation of whether alternative regional solutions may be more efficient or cost-effective than solutions identified in local transmission planning processes. There is no requirement that public utility transmission providers consider transmission needs at the local or regional level driven by public policy requirements established by state or federal laws or regulations (Public Policy Requirements). Nonincumbent transmission developers seeking to invest in transmission can be discouraged from doing so as a result of federal rights of first refusal in tariffs and agreements subject to the Commission's jurisdiction. While neighboring transmission planning regions may coordinate evaluation of the reliability impacts of transmission within their respective regions, few procedures are in place for identifying and evaluating the benefits of alternative interregional transmission solutions. Many cost allocation methods in place within transmission planning regions fail to account for the beneficiaries of new transmission facilities. Finally, cost allocation methods for potential interregional transmission facilities are largely nonexistent.

The electric industry is currently facing the possibility of substantial investment in future transmission facilities to meet the challenge of maintaining reliable service at a reasonable cost. Therefore, the Commission has concluded that it is appropriate to act now to ensure that its transmission planning processes and cost allocation requirements are adequate to allow public utility transmission providers to address these challenges

more efficiently and cost-effectively. Thus, the Commission is fulfilling its statutory obligation to ensure that Commission-jurisdictional services are provided at just and reasonable rates and on a basis that is not unduly discriminatory or preferential.

Final Rule in Docket No. RM10-23-000

RM10-23-000's reforms are needed to fulfill the Commission's statutory obligation under the FPA to ensure that Commission-jurisdictional services are provided at just and reasonable rates and on a basis that not unduly discriminatory or preferential. Therefore, the Commission adopts reforms in the Final Rule in RM10-23-000 as follows.

Transmission Planning Reforms

Since the issuance of Order No. 890, it has become apparent to the Commission that Order No. 890's regional participation transmission planning principle may not be sufficient, in and of itself, to ensure an open, transparent, inclusive, and comprehensive regional transmission planning process. Without a requirement to meet the Order No. 890 transmission planning principles, a regional transmission planning process will not have the information needed to assess the impact of proposed transmission projects on the regional transmission grid. Moreover, absent timely and meaningful participation by all stakeholders, the regional transmission planning process will not determine which transmission project or group of transmission projects could satisfy local and regional needs more efficiently or cost-effectively. To correct this, the Commission adopts the following requirements:

- Each public utility transmission provider must participate in a regional transmission planning process that produces a regional transmission plan and that complies with the following transmission planning principles established in Order No. 890: (1) coordination; (2) openness; (3) transparency; (4) information exchange; (5) comparability; (6) dispute resolution; and (7) economic planning.⁷ Public utility transmission providers must develop, in consultation with stakeholders, enhancements to their regional transmission

⁷The Final Rule extends the posting requirements related to the "transparency" and "economic planning" transmission planning principles adopted in Order No. 890, such as the preparation and posting of studies identifying significant and recurring congestion as well as information regarding the status of transmission upgrades identified in transmission plans, to the regional transmission planning process. While this information is being made available by public utility transmission providers at the local level in response to the directives of Order No. 890, it is not yet being made available at the regional level.

planning processes consistent with these transmission planning principles.

- Each public utility transmission provider, through its regional transmission planning process, must evaluate, in consultation with stakeholders, alternative transmission solutions that might meet the needs of the transmission planning region more efficiently or cost-effectively than solutions identified by individual public utility transmission providers in their local transmission planning process. When evaluating the merits of such alternative transmission solutions, public utility transmission providers in the transmission planning region also must consider proposed non-transmission alternatives on a comparable basis.

- Public utility transmission providers in each transmission planning region must propose, in consultation with stakeholders, what information and data a merchant transmission developer will be required to provide to allow public utility transmission providers in the transmission planning region to assess the potential reliability and operational impacts of the merchant transmission developer's proposed transmission facilities on other systems in the region and must include these requirements in their compliance filings.

These regional transmission planning requirements will expand opportunities for more efficient and cost-effective transmission solutions for public utility transmission providers and stakeholders, and thus help ensure that the rates, terms and conditions of Commission-jurisdictional services are just and reasonable and not unduly discriminatory or preferential. Each public utility transmission provider must amend its OATT to comply with these requirements within 12 months after the effective date of the Final Rule.

Because of the importance of regional transmission planning that is designed to produce a regional transmission plan, stakeholders must be provided with an opportunity to participate in that process in a timely and meaningful manner. The Commission's application of the Order No. 890 transmission planning principles to the regional transmission planning process, as reformed by the Final Rule, will ensure that stakeholders have an opportunity to express their needs, have access to information and an opportunity to provide information, and thus participate in the identification and evaluation of regional solutions. Ensuring access to the models and data used in the regional transmission planning process will allow stakeholders to determine if their needs are being addressed in a more efficient or cost-effective manner.

Greater access to information and transparency also will help stakeholders to

[Package updated 9/27/2011Error: Reference source not found]

recognize and understand the benefits that they will receive from a transmission facility in a regional transmission plan. This consideration is particularly important in light of the Commission's requirement below that each public utility transmission provider have a cost allocation method or methods for transmission facilities selected in a regional transmission plan that reflects the benefits that those transmission facilities provide.

As noted above, under the existing requirements of Order No. 890, there is no affirmative obligation placed on public utility transmission providers to consider in the transmission planning process the effect that Public Policy Requirements may have on local and regional transmission needs. The Commission believes that without having in place procedures to consider transmission needs driven by Public Policy Requirements, the needs of wholesale customers may not be accurately identified. To remedy this deficiency in its existing Order No. 890 transmission planning requirements, the Commission requires each public utility transmission provider to:

- Amend its OATT within 12 months after the effective date of the Final Rule to describe the procedures by which transmission needs driven by Public Policy Requirements will be identified in the local and regional transmission planning processes and how potential solutions to the identified transmission needs will be evaluated in the local and regional transmission planning processes.
- Establish, in consultation with stakeholders, procedures under which public utility transmission providers and stakeholders will identify those transmission needs driven by Public Policy Requirements for which potential transmission solutions will be evaluated in the local or regional transmission planning processes. Such procedures must allow stakeholders an opportunity to provide input and offer proposals regarding the transmission needs they believe are driven by Public Policy Requirements and must establish a just and reasonable and not unduly discriminatory process through which public utility transmission providers will identify, out of this larger set of needs, those needs for which transmission solutions will be evaluated.
- Post on its website an explanation of which transmission needs driven by Public Policy Requirements will be evaluated for potential solutions in the local or regional transmission planning process, as well as an explanation of why other suggested transmission needs will not be evaluated.
- Determine, in consultation with stakeholders, the procedures for evaluating

potential solutions to the identified transmission needs driven by Public Policy Requirements in its local and regional transmission planning processes. At a minimum, this process must include the evaluation of proposals by stakeholders for transmission facilities proposed to satisfy an identified transmission need driven by Public Policy Requirements.

Proposed Reforms Regarding Nonincumbent Transmission Developers⁸

In this Final Rule, the Commission concludes that there is a need to act at this time to remove provisions from Commission-jurisdictional tariffs and agreements that grant incumbent transmission providers a federal right of first refusal to construct transmission facilities selected in a regional transmission plan for purposes of cost allocation. Failure to do so would leave in place practices that have the potential to undermine the identification and evaluation of more efficient or cost-effective solutions to regional transmission needs, which in turn can result in rates for Commission-jurisdictional services that are unjust and unreasonable or otherwise result in undue discrimination by public utility transmission providers. To accomplish this objective, the Commission requires that within 12 months after the effective date of this Final Rule each public utility transmission provider:

- Eliminate provisions in Commission-jurisdictional tariffs and agreements that establish a federal right of first refusal for an incumbent transmission provider with respect to transmission facilities selected in a regional transmission plan for purposes of cost allocation, except for upgrades to transmission facilities. Nothing in this requirement affects state or local laws or regulations regarding the construction of transmission facilities, including but not limited to authority over siting or permitting of transmission facilities, nor the use of existing rights-of-way.

To support the implementation of this requirement, the Commission also requires the following within 12 months after the effective date of the Final Rule:

- Each public utility transmission provider must revise its OATT to demonstrate that the regional transmission planning process in which it participates has established appropriate qualification criteria for determining

⁸ For purposes of the Final Rule, “nonincumbent transmission developer” refers to two categories of transmission developer: a transmission developer that does not have a retail distribution service territory or footprint and a public utility transmission provider that proposes a transmission project outside of its existing retail distribution service territory or footprint, where it is not the incumbent for purposes of that project. By contrast, an “incumbent transmission developer/provider” is an entity that develops a transmission project within its own retail distribution service territory or footprint.

an entity's eligibility to propose a transmission project for selection in the regional transmission plan for purposes of cost allocation, whether that entity is an incumbent transmission provider or a nonincumbent transmission developer. These criteria must not be unduly discriminatory or preferential, and must provide each potential transmission developer the opportunity to demonstrate that it has the necessary financial resources and technical expertise to develop, construct, own, operate and maintain transmission facilities.

- Each public utility transmission provider must revise its OATT to identify: (a) the information that must be submitted by a prospective transmission developer in support of a transmission project it proposes in the regional transmission planning process; and (b) the date by which such information must be submitted to be considered in a given transmission planning cycle. These information requirements must identify in sufficient detail the information necessary to allow a proposed transmission project to be evaluated in the regional transmission planning process on a basis comparable to other transmission projects that are proposed in the regional transmission planning process.

- Each public utility transmission provider must amend its OATT to describe a transparent and not unduly discriminatory process for evaluating whether to select a proposed transmission facility in the regional transmission plan for purposes of cost allocation. This process must comply with the Order No. 890 transmission planning principles, ensuring transparency, and the opportunity for stakeholder coordination. The evaluation process must culminate in a determination that is sufficiently detailed for stakeholders to understand why a particular transmission project was selected or not selected in the regional transmission plan for purposes of cost allocation.

- Each public utility transmission provider must amend its OATT to describe the circumstances and procedures under which public utility transmission providers in the regional transmission planning process will reevaluate the regional transmission plan to determine if delays in the development of a transmission facility selected in a regional transmission plan for purposes of cost allocation require evaluation of alternative solutions, including those proposed by the incumbent transmission provider, to ensure the incumbent transmission provider can meet its reliability needs or service obligations.

- Each public utility transmission provider must participate in a regional transmission planning process in which a nonincumbent transmission

developer has the same eligibility as an incumbent transmission developer to use a regional cost allocation method or methods for any sponsored transmission facility selected in the regional transmission plan for purposes of cost allocation.

- Public utility transmission providers in each transmission planning region must establish, in consultation with stakeholders, procedures to ensure that all projects are eligible to be considered for selection in the regional transmission plan for purposes of cost allocation.

Interregional Coordination

In the absence of coordination between transmission planning regions, public utility transmission providers may be unable to identify more efficient or cost-effective solutions to the individual needs identified in their respective local and regional transmission planning processes, potentially including interregional transmission facilities. Clear and transparent procedures that result in the sharing of information regarding common needs and potential solutions across the seams of neighboring transmission planning regions will facilitate the identification of interregional transmission facilities that more efficiently or cost-effectively could meet the needs identified in individual regional transmission plans. Therefore, the Commission requires in this Final Rule that within 18 months after the effective date of the Final Rule each public utility transmission provider, through its regional transmission planning process, enhance existing regional transmission planning processes in the following ways:

- Develop and implement, with each neighboring transmission planning region, procedures that provide for the sharing of information regarding the respective needs of each neighboring transmission planning region, and potential solutions to those needs, as well as the identification and joint evaluation of interregional transmission facilities that may be more efficient or cost-effective solutions to those regional needs;
- Develop and implement, with each neighboring transmission planning region, a formal procedure to identify and jointly evaluate interregional transmission facilities that are proposed to be located in neighboring transmission planning regions;
- Exchange planning data and information between neighboring transmission planning regions at least annually; and
- Maintain, either individually or through its transmission planning region, a website or e-mail list for the communication of information related to interregional transmission coordination procedures.

With respect to the joint evaluation procedures, the Commission requires that the developer of an interregional transmission project first propose its transmission project in the regional transmission planning processes of each of the neighboring regions in which the transmission facility is proposed to be located. The submission of the interregional transmission project in each regional transmission planning process will trigger the procedure under which the public utility transmission providers, acting through their regional transmission planning process, will jointly evaluate the proposed transmission project. This joint evaluation must be conducted in the same general timeframe as, rather than subsequent to, each transmission planning region's individual consideration of the proposed transmission project. For an interregional transmission facility to receive cost allocation under the interregional cost allocation method or methods, the transmission facility must be selected in both of the relevant regional transmission planning processes for purposes of cost allocation.

The Commission also requires that each public utility transmission provider, through its transmission planning region, develop procedures by which differences between neighboring transmission planning regions in the data, models, assumptions, planning horizons, and criteria used to study a proposed transmission project can be identified and resolved for purposes of jointly evaluating a proposed interregional transmission facility.

In the Final Rule, the Commission requires that, within 18 months after the effective date of the Final Rule, the public utility transmission providers in each pair of neighboring transmission planning regions, working through their regional transmission planning processes, develop the same language to be included in each public utility transmission provider's OATT that describes the interregional transmission coordination procedures for that particular pair of regions that will be used to satisfy the requirements described above. In addition, on compliance the public utility transmission providers in each pair of transmission planning regions must describe the methods by which they will identify and evaluate interregional transmission facilities, as well as the type of transmission studies that will be conducted to evaluate conditions on their neighboring systems for the purpose of determining whether interregional transmission facilities are more efficient or cost-effective than regional facilities.

The Final Rule does not require a public utility transmission provider to coordinate with a neighboring transmission planning region in another interconnection.

Transmission Cost Allocation

Without the cost allocation reforms adopted in this Final Rule, cost allocation methods used by public utility transmission providers may fail to account for the benefits associated with new transmission facilities and, thus, result in rates that are not just and reasonable or are unduly discriminatory or preferential.

The Commission requires that within 12 months after the effective date of the Final Rule each public utility transmission provider have in its OATT a method, or set of methods, for allocating the costs of new transmission facilities selected in the regional transmission plan for purposes of cost allocation. The Commission also requires each public utility transmission provider in a transmission planning region to have (within 18 months after the effective date of the Final Rule), together with the public utility transmission providers in its own transmission planning region and a neighboring transmission planning region, a common method or methods for allocating the costs of a new interregional transmission facility among the beneficiaries of that transmission facility in the two neighboring transmission planning regions in which the transmission facility is located. The OATTs of all public utility transmission providers in a region must include the same cost allocation method or methods adopted by the region. If the public utility transmission provider is an RTO or ISO, then the cost allocation method or methods must be set forth in the RTO or ISO OATT. In a non-RTO/ISO transmission planning region, each public utility transmission provider located within the region must set forth in its OATT the same language regarding the cost allocation method or methods used in its transmission planning region.

Both the regional cost allocation method or methods and interregional cost allocation method or methods must satisfy the cost allocation principles set out in Docket No. RM10-23-000.

The regional cost allocation principles are as follows:

- The cost of transmission facilities must be allocated to those within the transmission planning region that benefit from those facilities in a manner that is at least roughly commensurate with estimated benefits. In determining the beneficiaries of transmission facilities, a regional transmission planning process may consider benefits including, but not limited to, the extent to which transmission facilities, individually or in the aggregate, provide for maintaining reliability and sharing reserves, production cost savings and congestion relief, and/or meeting Public Policy Requirements.

- Those that receive no benefit from transmission facilities, either at present or in a likely future scenario, must not be involuntarily allocated any of the costs of those transmission facilities.

- If a benefit to cost threshold is used to determine which transmission facilities have sufficient net benefits to be selected in a regional transmission plan for the purpose of cost allocation, it must not be so high that transmission facilities with significant positive net benefits are excluded from cost allocation. A public utility transmission provider in a transmission planning region may choose to use such a threshold to account for uncertainty in the calculation of benefits and costs. If adopted, such a threshold may not include a ratio of benefits to costs that exceeds 1.25 unless the transmission planning region or public utility transmission provider justifies and the Commission approves a higher ratio.

- The allocation method for the cost of a transmission facility selected in a regional transmission plan must allocate costs solely within that transmission planning region unless another entity outside the region or another transmission planning region voluntarily agrees to assume a portion of those costs. However, the transmission planning process in the original region must identify consequences for other transmission planning regions, such as upgrades that may be required in another region and, if the original region agrees to bear costs associated with such upgrades, then the original region's cost allocation method or methods must include provisions for allocating the costs of the upgrades among the beneficiaries in the original region.

- The cost allocation method and data requirements for determining benefits and identifying beneficiaries for a transmission facility must be transparent with adequate documentation to allow a stakeholder to determine how they were applied to a proposed transmission facility.

- A transmission planning region may choose to use a different cost allocation method for different types of transmission facilities in the regional transmission plan, such as transmission facilities needed for reliability, congestion relief, or to achieve Public Policy Requirements. Each cost allocation method must be set out clearly and explained in detail in the compliance filing for this rule.

The interregional cost allocation principles are as follows:

- The costs of a new interregional facility must be allocated to each transmission planning region in which that transmission facility is located in a

manner that is at least roughly commensurate with the estimated benefits of that transmission facility in each of the transmission planning regions. In determining the beneficiaries of interregional transmission facilities, transmission planning regions may consider benefits including, but not limited to, those associated with maintaining reliability and sharing reserves, production cost savings and congestion relief, and meeting Public Policy Requirements.

- A transmission planning region that receives no benefit from an interregional transmission facility that is located in that region, either at present or in a likely future scenario, must not be involuntarily allocated any of the costs of that transmission facility.

- If a benefit-cost threshold ratio is used to determine whether an interregional transmission facility has sufficient net benefits to qualify for interregional cost allocation, this ratio must not be so large as to exclude a transmission facility with significant positive net benefits from cost allocation. The public utility transmission providers located in the neighboring transmission planning regions may choose to use such a threshold to account for uncertainty in the calculation of benefits and costs. If adopted, such a threshold may not include a ratio of benefits to costs that exceeds 1.25 unless the pair of regions justifies and the Commission approves a higher ratio.

- Costs allocated for an interregional transmission facility must be assigned only to transmission planning regions in which the transmission facility is located. Costs cannot be assigned involuntarily under this rule to a transmission planning region in which that transmission facility is not located. However, interregional coordination must identify consequences for other transmission planning regions, such as upgrades that may be required in a third transmission planning region and, if the transmission providers in the regions in which the transmission facility is located agree to bear costs associated with such upgrades, then the interregional cost allocation method must include provisions for allocating the costs of such upgrades among the beneficiaries in the transmission planning regions in which the transmission facility is located.

- The cost allocation method and data requirements for determining benefits and identifying beneficiaries for an interregional transmission facility must be transparent with adequate documentation to allow a stakeholder to determine how they were applied to a proposed interregional transmission facility.

- The public utility transmission providers located in neighboring transmission planning regions may choose to use a different cost allocation method for different types of interregional transmission facilities, such as transmission facilities needed for reliability, congestion relief, or to achieve Public Policy Requirements. Each cost allocation method must be set out clearly and explained in detail in the compliance filing for this rule.

In adopting these cost allocation principles, the Commission does not intend to prescribe a uniform method of cost allocation for new regional and interregional transmission facilities for every transmission planning region. Public utility transmission providers in each transmission planning region, as well as pairs of transmission planning regions, are allowed to develop transmission cost allocation methods that best suit the needs of each transmission planning region or pair of transmission planning regions, so long as those approaches comply with the regional and interregional cost allocation principles discussed above.

In the event of a failure to reach an agreement on a cost allocation method or methods, the Commission will use the record in the relevant compliance filing proceeding as a basis to develop a cost allocation method or methods that satisfies these principles. Public utility transmission providers must document in their compliance filings the steps they have taken to reach consensus on a cost allocation method or set of methods to comply with the Final Rule, as thoroughly as practicable, and provide whatever information they view as necessary for the Commission to make a determination of the appropriate cost allocation method or methods.

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

The information is used:

- by public utility transmission providers and stakeholders to improve the processes of (1) planning transmission projects (both within and between transmission planning regions); (2) considering transmission needs driven by Public Policy Requirements; (3) determining possible alternatives that would be more efficient or cost-effective; and (4) allocating costs of transmission projects among the beneficiaries of the projects; and
- by transmission customers and market participants to identify and efficiently gauge available transmission resources, as well as to provide non-discriminatory access to transmission services.

Pro forma OATT tariffs are posted on the Commission's website. Information on accessing them through eTariff is available at <http://www.ferc.gov/docs-filing/etariff.asp>.

Without this information, the Commission would not be able to meet its statutory obligation under the Federal Power Act (FPA) to prevent unduly discriminatory practices in transmission access and to ensure that Commission-jurisdictional services are provided at rates, terms and conditions that are just and reasonable and not unduly discriminatory or preferential.

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

There is an ongoing effort to determine the potential and value of improved information technology to reduce the burden. In general, the Commission has adopted user friendly electronic formats and software in order to facilitate electronic filings. As of 2011, nearly all filings submitted to FERC (except for Protected materials) may be submitted in an electronic format. More information on FERC's eFiling program is available at <http://www.ferc.gov/docs-filing/efiling.asp>.

In addition, in Order No. 714, FERC revised its regulations to require that all tariffs, tariff revisions and rate change applications for the public utility, natural gas pipeline and oil pipeline industries be filed according to a set of standards developed in conjunction with NAESB.⁹ The electronic filing of tariffs (eTariffs) was phased in in 2010. [ETariffs are included in FERC-516 (OMB Control No. 1902-0096).] Electronically filed tariffs and rate change applications improved the efficiency, convenience, and overall management of the tariff and tariff change filing process, facilitated public access to tariff information, and reduced the burden and expense associated with paper tariffs and tariff changes. FERC's eTariff program is described at <http://www.ferc.gov/docs-filing/etariff.asp>. The improvements implemented by eTariff will ease the burden related to the filings required by the Final Rule.

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 2.

The rule affects processes and provisions set out in federal rate schedules and tariffs of electric transmission providers pursuant to FERC implementation of the Federal Power

⁹ Electronic Tariff Filings, Order No. 714, 124 FERC ¶ 61,270 (2008).

Act, Energy Policy Act of 1992, and Energy Policy Act of 2005. Because the filing requirements in the Final Rule are for new processes and provisions in services, the resulting information is not available from any other resource.

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

The Final Rule applies to public utilities that own, control, or operate interstate transmission facilities other than those that have received waiver of the obligation to comply with Order Nos. 888, 889 and 890. The total estimated number of public utility transmission providers that, absent waiver, would have to modify their current OATTs by filing a revised pro forma OATT, participate in local and regional transmission planning processes that satisfy the requirements of the Final Rule, and engage in interregional transmission coordination as required by the Final Rule is 132. Of these public utility transmission providers, an estimated 9 filers, or 6.8% percent, have output of four million MWh or less per year.¹⁰ Each of these entities retains the right to request waiver of these requirements. The criteria for waiver that would be applied under this rulemaking for small entities is unchanged from that used to evaluate requests for waiver under Order Nos. 888, 889, and 890.

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

Tariff information pertaining to local and regional transmission planning processes and cost allocation method(s) is required to be filed once per public utility transmission provider within 12 months after the effective date of the Final Rule. Similarly, tariff information detailing interregional transmission coordination procedures and interregional cost allocation method(s), is required to be filed once per public utility transmission provider within 18 months after the effective date of the Final Rule. However, should a public utility transmission provider modify its Commission-approved local or regional transmission planning process, interregional transmission coordination procedures, or regional or interregional cost allocation methods as described in its OATT, the public utility transmission provider must update its OATT to reflect such modifications. For instance, each public utility transmission provider's initial compliance filing must detail the development of regional and interregional cost allocation methods,

¹⁰ According to the Small Business Administration's regulations, "[a] firm is small if, including its affiliates, it is primarily engaged in the generation, transmission, and/or distribution of electric energy for sale and its total electric output for the preceding fiscal year did not exceed 4 million megawatt hours." 13 CFR 121.201 n.1 (2011). Based on the filers of the annual FERC Form 1 (OMB Control No. 1902-0021) and Form 1-F (OMB Control No. 1902-0029), as well as the number of companies that have obtained waivers, we estimate that 6.8% of the filers are "small."

Final Rule in RM10-23-000 (issued 7/21/2011; RIN No. 1902-AE03)

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interregional transmission coordination procedures, and the participation by the public utility transmission provider in a regional transmission planning process that meets the Order No. 890 transmission planning principles, includes consideration of transmission needs driven by Public Policy Requirements, and produces a regional transmission plan and in a local transmission planning process that considers transmission needs driven by Public Policy Requirements. Should public utility transmission providers seek to develop changes to said methods, procedures, or processes, those changes must be filed with the Commission. Public utility transmission providers within a transmission planning region must make available certain information, such as data relevant to a specific transmission planning cycle and the status of transmission upgrades identified in previous regional transmission plans, during each transmission planning cycle. Collecting this information less frequently would mean that accurate and timely information would not be available to public utility transmission providers and stakeholders.

7. EXPLAIN ANY SPECIAL CIRCUMSTANCES RELATING TO THE INFORMATION COLLECTION

There are no special circumstances related to the requirements in the Final Rule. The guidelines of 5 C.F.R. 1320.5(d) are being followed.

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

Technical conferences in related Docket AD09-8 (announced at <http://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=12065275>) were held in 2009 in Phoenix, Arizona, Atlanta, Georgia, and Philadelphia, Pennsylvania. A notice of request for comments was issued on October 8, 2009 (at <http://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=12169158>). The comments are available in FERC's eLibrary (<http://www.ferc.gov/docs-filing/elibrary.asp>) by doing a search (General, Advanced, or Docket No.) and using Docket No. AD09-8.

In this Docket No. RM10-23, the Notice of Proposed Rulemaking (NOPR) was issued on 6/17/2010 (at <http://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=12372941>).

The public comment period was extended in 8/2010 (at <http://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=12411473>). In 9/2010, FERC provided (at <http://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=12449991>)

for submittal of reply comments. The comments are available in FERC's eLibrary (<http://www.ferc.gov/docs-filing/elibrary.asp>) by doing a search (General, Advanced, or Docket No.) and using Docket No. RM10-23.

The initial and reply comments submitted in response to the Notice of Proposed Rulemaking are addressed in the preamble of the Final Rule. See Sections II, III, IV, and V.

9. EXPLAIN ANY PAYMENT OR GIFTS TO RESPONDENTS

No gifts or payments have been made to the respondents.

10. DESCRIBE ANY ASSURANCE OF CONFIDENTIALITY PROVIDED TO RESPONDENTS

There are no special circumstances relating to this information.

11. PROVIDE ADDITIONAL JUSTIFICATION FOR ANY QUESTIONS OF A SENSITIVE NATURE THAT ARE CONSIDERED PRIVATE.

There are no questions of a sensitive nature that are considered private.

12. ESTIMATED BURDEN OF COLLECTION OF INFORMATION

Commission estimates of the average annual burden associated with the required information in the Final Rule in RM10-23 are shown below. Error: Reference source not found

FERC-917 (RM10-23)Error: Reference source not found - Reporting Requirements in Final Rule in RM10-23	Annual Number of Respondents (Filers)	Annual Number of Responses	Hours per Response	Total Annual Hours in Year 1	Total Annual Hours in Subsequent Years
Participation in a transparent and open regional transmission planning process that meets regional transmission planning principles, includes consideration of transmission needs driven by Public Policy Requirements, identifies and evaluates transmission facilities to meet needs, develops cost allocation method(s), and produces a regional transmission plan that describes and incorporates a cost allocation method(s) that meets the Commission's principles.	132	132	110 hrs in Year 1; 52 hrs in subsequent years	14520	6864
Development of interregional transmission coordination procedures that meet the Commission's requirements, including the ongoing requirement to provide or post certain transmission planning information and provide annual data exchange, as well as the development of a cost allocation method for interregional transmission facilities that meets the Commission's principles.	132	132	133 hrs in Year 1; 43 hrs in subsequent years	17556	5676
Conforming tariff changes for local transmission planning, including those related to consideration of transmission needs driven by Public Policy Requirements; and conforming tariff changes for regional transmission planning and interregional transmission coordination.	132	132	57 hrs in Year 1; 25 hrs in subsequent years	7524	3300
Total Estimated Additional Burden Hours, for FERC-917 (RM10-23) in Final Rule in RM10-23				39600	15840

For ease of calculation and for input to OMB’s ROCIS system, we will average the new burden related to the final rule in RM10-23 over Years 1-3. Therefore the average annual new burden will be 23,760 hours per year (or (39600+15840+15840)/3) for Years 1-3.

The current OMB-Approved Annual Inventory for FERC-917Error: Reference source not found follows.

FERC-917, Error: Reference source not found as currently listed in OMB’s ROCIS system, with sub-components [information collections]	No. of Respondents (a)	Annual No. of Responses (b)	Hours Per Response (c)	Total Annual Hours (d=b X c)
FERC-917, Non-discriminatory Open Access Transmission Tariff	134	134	515.925	69,134
FERC-918 (Information to be Posted on the OASIS and Auditing Transmission Service Information)	134	134	430 hrs. for reporting; 40 hours for recordkeeping	57,620 hrs. for reporting; 5,360 hrs. for recordkeeping [giving a total of 62,980hrs.]
Total				132,114

Revised Estimated Annual Total, incorporating the Final Rule in RM10-23¹¹:

FERC-917 (OMB Control No. 1902-0233)	No. of Respondents	Annual No. of Responses	Hours Per Response	Total Hours
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¹¹ As noted above, the figures use an annual average of the RM10-23 burden over the 3-year period. In addition, the figures may be rounded or truncated.

FERC-917	134	134	515.925	69,134
FERC-918	134	134	430 reporting; 40 recordkeeping	62,980
FERC-917 (RM10-23)	132	132	[details above]	23,760 [average for Years 1-3]
TotalError: Reference source not found	¹²	400		155,874

12 The estimate of 132 respondents relates to the requirements of the final rule in RM10-23 and our most recent estimate. The estimate of 134 respondents for the other Information Collection (IC) components within the current OMB-approved inventory for OMB No. 1902-0233 have not been affected by, or updated as a result of, the final rule in RM10-23. In general, the same respondents are affected by all 3 ICs within this OMB Control No.

13. ESTIMATE OF THE TOTAL ANNUAL COST BURDEN TO RESPONDENTS

The Commission has projected cost burden of compliance for the reporting requirements in the final rule in RM10-23 as follows:

Cost to Comply¹³:

Year 1: \$4,514,400 or [39,600 hours X \$114 per hour]

Subsequent Years: \$1,805,760 or [15,840 hours X \$114 per hour]

[Using 23,760 hours (the average additional annual burden associated with the Final Rule in RM10-23 over Years 1-3) at an average hourly cost of \$114Error: Reference source not found, the average additional annual cost burden would be \$2,708,640 for the final rule in RM10-23.]

The estimated total annual cost burden for OMB No. 1902-0233 is \$24,649,716 (using the estimated cost of \$21,941,076¹⁴ [estimate from the previous ICR No. 201008-1902-003], plus the estimated cost of \$2,708,640 [estimate above based on the annual figures for Fiscal Year 2011, associated with this ICR for the Final Rule in Docket RM10-23]). For the ROCIS metadata, the industry cost figure relates only to the cost **not** associated with burden hours. Accordingly, the off-site storage costs of \$7,400,000 Error: Reference source not found (8,000 sq. ft. x \$925/sq. ft.) will be used in the ROCIS metadata. Other cost figures related to burden hours are provided above and not included in the ROCIS metadata.

14. ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT

13 The estimated cost of \$114 an hour is the average of the hourly costs of: attorney (\$200), consultant (\$150), technical (\$80), and administrative support (\$25).

14 In the previous ICR 201008-1902-003, the estimated total annual cost to respondents is \$21,941,076, calculated as follows:

(1) Reporting costs of \$14,449,956 {126,754 hours @ \$114 an hour [average cost of attorney (\$200 per hour), consultant (\$150), technical (\$80), and administrative support (\$25)]} and

(2) Recordkeeping (labor and storage) costs of \$7,491,120 {labor = \$91,120 [5,360 hours x \$17/hour (file/record clerk @ \$17 an hour)] and off-site storage costs = \$7,400,000 (8,000 sq. ft. x \$925/sq. ft.)}.

Final Rule in RM10-23-000 (issued 7/21/2011; RIN No. 1902-AE03)

[Package updated 9/27/2011Error: Reference source not found]

The estimated annualized cost to the Federal Government¹⁵ related to the Final Rule in RM10-23, and averaged over Years 1-3, follows:

\$996,604 for processing (for 7 full-time employees using \$142,372/year, and 2,080 hours per year), plus the annual cost for clearance of \$1,575, giving an annual total of \$998,179.

The total estimated annual federal cost related to OMB Control No. 1902-0233 is \$1,137,581 (using the estimated cost of \$139,402 [estimates based on the annual figures for Fiscal Year 2010] from the previous ICR No. 201008-1902-003, plus the estimated cost of \$998,179 [estimates above based on the annual figures for Fiscal Year 2011] associated with this ICR for the Final Rule in Docket RM10-23).

The estimate of the cost to the Federal Government is based on salaries for professional and clerical support, as well as direct overhead costs.

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

Building on the reforms in Order No. 890, the Federal Energy Regulatory Commission is making amendments to the pro forma OATT to correct certain deficiencies in transmission planning and cost allocation requirements for public utility transmission providers. The purpose of this rulemaking is to strengthen the pro forma OATT and transmission planning and cost allocation processes so that the transmission grid can better support wholesale power markets and ensure that Commission-jurisdictional services are provided at rates, terms and conditions that are just and reasonable and not unduly discriminatory or preferential. We achieve this goal by reforming electric transmission planning requirements and establishing a closer link between cost allocation and regional transmission planning processes.

The changes in burden hours and number of responses are detailed in the table above titled, "FERC-917 (RM10-23)² - Reporting Requirements in Final Rule in RM10-23." For ease of calculation and for input to OMB's ROCIS system, we will average the new burden related to the final rule in RM10-23 over Years 1-3. Therefore the average annual new burden will be 23,760 hours per year (or (39600+15840+15840)/3) for Years 1-3.

16. TIME SCHEDULE FOR THE PUBLICATION OF DATA

This is not a collection of information for which results are planned to be published.

¹⁵ The annual cost per FTE and clearance processing cost have been updated to reflect FERC estimates for 2011.

17. DISPLAY OF EXPIRATION DATE

It is not appropriate to display the expiration date for OMB approval of the Information collected. Currently, the information on the tariff and other filings is not collected on a standard, preprinted form which would avail itself to this display. Rather, public utilities, licensees, and transmission providers prepare and submit filings that reflect the unique or specific circumstances related to rates and services involved in the filing. In addition, the information contains a mixture of narrative descriptions and empirical support that varies depending on the nature of the services to be provided.

18. EXCEPTIONS TO THE CERTIFICATION STATEMENT

The information collected for this reporting requirement is not used for statistical purposes. The information collected is case specific to each respondent.

B. COLLECTION OF INFORMATION EMPLOYING STATISTICAL METHODS.

This is not a collection of information employing statistical methods.