

**Supporting Statement for  
Proposed FERC-599 (Grid Reliability and Resilience Pricing),  
as proposed by the Department of Energy in its Notice of Proposed Rulemaking,  
in FERC Docket No. RM18-1**

The Federal Energy Regulatory Commission (Commission or FERC) requests the Office of Management and Budget (OMB) to review the information collection requirements (identified here as FERC-599) proposed by the Department of Energy (DOE) in its Notice of Proposed Rulemaking (NOPR)<sup>1</sup> in FERC Docket No. RM18-1.

*Unless otherwise stated, this supporting statement and the related information in reginfo.gov and ROCIS are based on information in the DOE NOPR.*

**A. Justification**

**1. CIRCUMSTANCES THAT MAKE THE COLLECTION OF INFORMATION NECESSARY**

On 9/28/2017, the Secretary of Energy submitted a letter to the Commission directing the Commission to issue grid resiliency rules pursuant to the Secretary's authority under Section 403 of the Department of Energy Act.<sup>2</sup>

As stated in the DOE NOPR,

“Pursuant to the Department of Energy Organization Act (DOE Act), the Secretary of Energy (Secretary) is proposing a rule for final action by the Federal Energy Regulatory Commission (Commission or FERC). The Secretary is proposing the Commission exercise its authority under the Federal Power Act (FPA) to establish just and reasonable rates for wholesale electricity sales. Under the proposal, the Commission will impose rules on Commission approved independent system operators (ISOs) and regional transmission organizations (RTOs) to ensure that certain reliability and resilience attributes of electric generation resources are fully

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<sup>1</sup> The DOE NOPR was published in the Federal Register (82 FR 46940, 10/10/2017), at <https://www.gpo.gov/fdsys/pkg/FR-2017-10-10/pdf/2017-21396.pdf>.

<sup>2</sup> The letter and draft NOPR are posted in FERC's eLibrary at <https://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=14695866>. (The DOE has posted additional material on its website at <https://energy.gov/articles/secretary-perry-urges-ferc-take-swift-action-address-threats-grid-resiliency> .)

valued. The Secretary is directing the Commission to take final action on this proposal within 60 days of publication of this proposed rule in the Federal Register or, in the alternative, to issue the rule as an interim final rule immediately, with provision for later modifications after consideration of public comments. The Secretary further directs that any final rule adopting this proposal take effect within 30 days of publication of such final rule in the Federal Register and proposes that each ISO and RTO subject to the rule shall submit a compliance filing within 15 days of the effective date of such final rule.

...

The Commission is directed either to take final action by December 11, 2017 or to issue the proposed rule as an interim final rule. Public comment is due either November 24, 2017 or according to a schedule to be published by the Commission.”

The Commission issued a Notice inviting comments on 10/2/2017.<sup>3</sup> On 10/4/17, FERC’s Office of Energy Policy and Innovation (OEPI) issued a request for information.<sup>4</sup>

On 10/11/17, the Commission issued a Notice of Federal Register Publication and an Errata.<sup>5</sup>

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

As stated in the DOE NOPR [footnotes omitted],

“The resiliency of the nation’s electric grid is threatened by the premature retirements of power plants that can withstand major fuel supply disruptions caused by natural or man-made disasters and, in those critical times, continue to provide electric energy, capacity, and essential grid reliability services. These fuel-secure resources are indispensable for the reliability and resiliency of our electric grid—and therefore indispensable for our economic and national security. It is time for the Commission to issue rules to protect the American people from

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<sup>3</sup> The Notice is posted in FERC’s eLibrary at <https://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=14699095>.

<sup>4</sup> The Notice is available at <https://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=14701841>.

<sup>5</sup> The Notice is posted at <https://elibrary.ferc.gov/idmws/common/OpenNat.asp?fileID=14708739>; the Errata is posted at <https://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=14708723>.

energy outages expected to result from the loss of this fuel-secure generation capacity.

....

Pursuant to the Secretary's authority under section 403 of the Department of Energy Organization Act (42 USC 7173), the Secretary is directing the Commission to exercise its authority under sections 205 and 206 of the Federal Power Act to issue a final rule requiring its organized markets to develop and implement market rules that accurately price generation resources necessary to maintain the reliability and resiliency of our Nation's bulk power system.

The proposed rule allows for the recovery of costs of fuel-secure generation units frequently relied upon to make our grid reliable and resilient. Such resources provide reliable capacity, resilient generation, frequency and voltage support, on-site fuel inventory—in addition to providing power for our basic needs, quality of life, and robust economy. The rule allows the full recovery of costs of certain eligible units physically located within the Commission-approved organized markets. Eligible units must also be able to provide essential energy and ancillary reliability services and have a 90-day fuel supply on site in the event of supply disruptions caused by emergencies, extreme weather, or natural or man-made disasters. These resources must be compliant with all applicable environmental regulations and are not subject to cost-of-service rate regulation by any State or local authority. The rule requires the organized markets to establish just and reasonable rate tariffs for the recovery of costs and a fair rate of return.

....

The Secretary further proposes that any final rule issued by the Commission pursuant to this NOPR shall provide that each Commission-approved RTO and ISO shall submit a compliance filing, including a revised tariff pursuant to section 205 of the Federal Power Act, within 15 days of the effective date of the final rule to demonstrate that it meets the proposed requirements set forth in any Final Rule. This compliance deadline is for each RTO and ISO to submit proposed tariff changes or otherwise demonstrate compliance with any Final Rule. Implementing the reforms required by any Final Rule in this proceeding may be a complex endeavor. However, implementation of these reforms is important to ensure rates remain just and reasonable. Therefore, it is proposed that tariff changes filed in response to a Final Rule in this proceeding must become effective no more than 15 days after compliance filings are due.

To the extent that any RTO or ISO believes that it already complies with the reforms proposed in this NOPR, the RTO or ISO would be required to demonstrate how it complies in the compliance filing required 15 days after the effective date of any Final Rule in this proceeding. To the extent that any RTO or ISO seeks to argue on compliance that its existing market rules are consistent with

or superior to the reforms adopted in any Final Rule, the Commission has the ability entertain such arguments at that time.”

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

The DOE NOPR does not address this question.

In general, the Commission supports the use of information technology to reduce burden. The Commission encourages electronic filing of nearly all of its information collection requirements, including tariff filings.

**4. DESCRIBE EFFORTS TO IDENTIFY DUPLICATION AND SHOW SPECIFICALLY WHY ANY SIMILAR INFORMATION ALREADY AVAILABLE CANNOT BE USED OR MODIFIED FOR USE FOR THE PURPOSE(S) DESCRIBED IN INSTRUCTION NO. 2**

The DOE NOPR mentions various FERC proceedings and conferences, as well as DOE reports and findings.

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

As proposed by DOE, each Commission-approved RTO and ISO “shall submit a compliance filing, including a revised tariff pursuant to section 205 of the Federal Power Act, within 15 days of the effective date of the final rule to demonstrate that it meets the proposed requirements set forth in any Final Rule. This compliance deadline is for each RTO and ISO to submit proposed tariff changes or otherwise demonstrate compliance with any Final Rule.”

The DOE NOPR states [footnotes omitted]:

“The Small Business Administration’s (SBA) Office of Size Standards develops the numerical definition of a small business. These standards are provided on the SBA Web site.

The SBA classifies an entity as an electric utility if it is primarily engaged in the transmission, generation and/or distribution of electric energy for sale. Under this definition, the six RTOs/ISOs are considered electric utilities, specifically focused on electric bulk power and control. The size criterion for a small electric utility is 500 or fewer employees. Since every RTO/ISO has more than 500 employees, none are considered small entities.”

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

The DOE NOPR states the proposed compliance filing is a one-time filing.

**7. EXPLAIN ANY SPECIAL CIRCUMSTANCES RELATING TO THE INFORMATION COLLECTION**

The DOE NOPR does not address this question.

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

The DOE NOPR was posted in the Federal Register giving the public, government entities, and industry an opportunity to comment. Comments are being filed with the Commission in Docket No. RM18-1 and will be available in FERC's eLibrary in that docket number. Comments on the DOE NOPR are due on or before October 23, 2017, and reply comments are due on or before November 7, 2017.

**9. EXPLAIN ANY PAYMENT OR GIFTS TO RESPONDENTS**

The DOE NOPR does not address this question.

**10. DESCRIBE ANY ASSURANCE OF CONFIDENTIALITY PROVIDED TO RESPONDENTS**

The DOE NOPR does not address this question.

[In general, most information submitted to the Commission is public. However, specific requests for confidential treatment are considered pursuant to the Commission's regulations at 18 CFR Section 388.112.]

**11. PROVIDE ADDITIONAL JUSTIFICATION FOR ANY QUESTIONS OF A SENSITIVE NATURE, SUCH AS SEXUAL BEHAVIOR AND ATTITUDES, RELIGIOUS BELIEFS, AND OTHER MATTERS THAT ARE COMMONLY CONSIDERED PRIVATE**

The DOE NOPR does not address this question.

**12. ESTIMATED BURDEN OF COLLECTION OF INFORMATION**

The DOE NOPR states that “[t]he DOE believes that the burden estimates below are representative of the average burden on respondents, including necessary communications with stakeholders. The estimated burden and cost for the requirements contained in this NOPR follow.<sup>6</sup>”

	Number of Respondents (1)	Annual Number of Responses per Respondent (2)	Total Number of Responses (1)*(2)=(3)	Average Burden Hours & Cost Per Response (4)	Total Annual Burden Hours & Total Annual Cost (3)*(4)=(5)	Cost per Respondent (\$) (5)÷(1)
Tariff filing costs	6	1	6	80 hours, \$5,920	480 hours, \$35,520	
Implementation costs	6	1	6	3,853 hours, \$285,122	23,118 hours, \$1,710,732	
TOTAL (one-time in Year 1)				3,933 hours, \$291,042	23,598 hours, \$1,746,252	\$291,042

The DOE NOPR states that “DOE has projected the total cost of compliance, all within six months of a Final Rule plus initial implementation, to be \$1,746,252. After Year 1, the reforms proposed in this NOPR, once implemented, would not significantly change existing burdens on an ongoing basis.”

### 13. ESTIMATE OF THE TOTAL ANNUAL COST BURDEN TO RESPONDENTS

The DOE NOPR mentions “Implementation costs” in the DOE burden table (#12 above) which appear to be only burden hours, so it appears the “Annual cost burden” [not related to burden hours] is \$0.

<sup>6</sup> [Included in the DOE NOPR as footnote 46] “This estimate is based on the Commission’s estimate used by the Commission in 157 FERC ¶ 61,213, 18 CFR part 35 [Docket No. RM17-3-000] Fast-Start Pricing in Markets Operated by Regional Transmission Organizations and Independent System Operators (December 15, 2016)]. For this information collection, the Commission staff estimates that industry is similarly situated in terms of hourly cost (wages plus benefits). Based on the Commission’s average cost (wages plus benefits) for 2016, the Commission is using \$74.50/hour.” The table is from the DOE NOPR.

#### 14. ESTIMATED ANNUALIZED COST TO FEDERAL GOVERNMENT

The DOE NOPR does not address this issue.

The Commission does incur the costs associated with obtaining OMB clearance for the proposed information collection under the Paperwork Reduction Act of 1995 (PRA). The PRA Administrative Cost is a Federal Cost associated with preparing, issuing, and submitting materials necessary to comply with the PRA for rulemakings, orders, or any other vehicle used to create, modify, extend, or discontinue an information collection. This average annual cost includes requests for extensions, all associated rulemakings and orders, other changes to the collection, and associated publications in the Federal Register.

	<b>Number of Employees (FTE)</b>	<b>Estimated Annual Federal Cost</b>
Analysis and Processing of filings	Not addressed in DOE NOPR	Not addressed in DOE NOPR
FERC PRA Administrative Cost		\$5,723

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

See the responses to Questions 1 and 2. In addition, the DOE NOPR says in part:

“In light of these threats to grid reliability and resilience, it is the Commission’s immediate responsibility to take action to ensure that the reliability and resiliency attributes of generation with on-site fuel supplies are fully valued and in particular to exercise its authority to develop new market rules that will achieve this urgent objective.

....

Pursuant to the Secretary’s authority under section 403 of the Department of Energy Organization Act (42 U.S.C. 7173), the Secretary is directing the Commission to exercise its authority under sections 205 and 206 of the Federal Power Act to issue a final rule requiring its organized markets to develop and implement market rules that accurately price generation resources necessary to maintain the reliability and resiliency of our Nation’s bulk power system.”

The information collection proposed by the DOE NOPR is labelled here as the proposed FERC-599.

	<b>Total Request</b>	<b>Previously Approved</b>	<b>Change due to Adjustment in Estimate</b>	<b>Change Due to Federal Discretion, as proposed in DOE NOPR</b>
Annual Number of Responses	12 <sup>7</sup>	0	0	12 <sup>7</sup>
Annual Time Burden (Hr.)	23,598 hrs. [one-time in Year 1]	0	0	23,598 hrs. [one-time in Year 1]
Annual Cost Burden (\$) <sup>8</sup>	\$0	\$0	\$0	\$0

## 16. TIME SCHEDULE FOR PUBLICATION OF DATA

The DOE NOPR does not address this issue.

## 17. DISPLAY OF EXPIRATION DATE

The DOE NOPR does not address this issue.

(The expiration dates of Commission information collections are posted on [ferc.gov](http://www.ferc.gov/docs-filing/info-collections.asp) at <http://www.ferc.gov/docs-filing/info-collections.asp>.)

## 18. EXCEPTIONS TO THE CERTIFICATION STATEMENT

The DOE NOPR does not address this issue.

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<sup>7</sup> The total number of responses is not given in the table in the DOE NOPR, however it states there will be 6 responses for ‘Tariff filing costs’ and 6 responses for ‘Implementation costs’. For the purposes of [reginfo.gov](http://www.reginfo.gov) and ROCIS, FERC will count this as a total of 12 responses (2 each) for the 6 respondents.

<sup>8</sup> The DOE NOPR does not address this issue. “Implementation costs” are included in the DOE burden table and appear to be only burden hours, so the “Annual cost burden” [not related to burden hours] is listed as \$0 here.