

152 FERC ¶ 61,032
DEPARTMENT OF ENERGY
FEDERAL ENERGY REGULATORY COMMISSION

18 CFR Part 46

[Docket No. RM15-3-000]; Order No. 812

Revisions to Public Utility Filing Requirements

(Issued July 16, 2015)

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final Rule.

SUMMARY: The Commission is revising its regulation to eliminate the requirement to submit FERC-566 (Annual Report of a Utility's 20 Largest Customers) for regional transmission organizations, independent system operators, and exempt wholesale generators. The Commission is also revising its regulations to eliminate the requirement to submit FERC-566 for public utilities that have not made any reportable sales under FERC-566 in any of the three preceding years. Further, the Commission is eliminating the requirement for public utilities submitting FERC-566 to identify individual residential customers by name and address.

EFFECTIVE DATE: This rule will become effective 75 days after publication in the FEDERAL REGISTER.

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SUPPLEMENTARY INFORMATION:

152 FERC ¶ 61,032
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Revisions to Public Utility Filing Requirements

Docket No. RM15-3-000

ORDER NO. 812

FINAL RULE

TABLE OF CONTENTS

	<u>Paragraph Numbers</u>
I. Discussion	2.
A. RTOs and ISOs	5.
1. Commission Proposal	5.
2. Comments	6.
3. Commission Determination	11.
B. EWGs	15.
1. Commission Proposal	15.
2. Comments	16.
3. Commission Determination	17.
C. Public Utilities That Have Not Made Reportable Sales In Preceding Three Years	18.
1. Commission Proposal	18.
2. Comments	19.
3. Commission Determination	23.
D. Identification Requirement	26.
1. Commission Proposal	26.
2. Comments	27.
3. Commission Determination	30.
II. Information Collection Statement	35.
III. Environmental Analysis	41.
IV. Regulatory Flexibility Act Certification	42.
V. Document Availability	46.
VI. Effective Date and Congressional Notification	49.

152 FERC ¶ 61,032
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Norman C. Bay, Chairman;
Philip D. Moeller, Cheryl A. LaFleur,
Tony Clark, and Colette D. Honorable.

Revisions to Public Utility Filing Requirements

Docket No. RM15-3-000

ORDER NO. 812

FINAL RULE

(Issued July 16, 2015)

1. In this final rule, the Commission revises part 46 of its regulations to eliminate the requirement to submit FERC-566 (Annual Report of a Utility's 20 Largest Customers) for regional transmission organizations (RTOs), independent system operators (ISOs), and exempt wholesale generators (EWGs). The Commission also revises its regulations to eliminate the requirement to submit FERC-566 for public utilities that have not made any reportable sales under FERC-566 in any of the three preceding years. Further, the Commission is eliminating the requirement for public utilities submitting FERC-566 to identify individual residential customers by name and address.

I. Discussion

2. Section 305(c) of the FPA requires, among other things, that, on or before January 31 of each calendar year, each public utility shall publish a list, pursuant to rules prescribed by the Commission, of any company, firm, or organization that is one of the 20 purchasers of electric energy which purchased (for purposes other than resale) one of

the 20 largest annual amounts of electric energy sold by such public utility (or by any public utility which is part of the same holding company system) during any one of the three calendar years immediately preceding the filing date.¹

3. The Commission implemented Congress's mandate in part 46 of the Commission's regulations.² Section 46.3 of the regulations thus provides, in relevant part, that, on or before January 31 of each year, each public utility shall compile a list of purchasers of electric energy (other than for resale), and shall identify each purchaser by name and principal business address, and shall submit the list to the Secretary and make the list publicly available. The list identifies each purchaser who, during any of the three preceding calendar years, purchased (for purposes other than resale) from a public utility one of the 20 largest amounts of electric energy by such public utility, and the public utility is required to notify each purchaser which has been identified on the list.³

4. In a Notice of Proposed Rulemaking (NOPR) issued on December 18, 2014, the Commission proposed to revise its regulations to reduce the regulatory burden of compliance on public utilities, while meeting the statutory standards set forth in the FPA. Specifically, the Commission proposed to eliminate the requirement to submit FERC-566 for RTOs, ISOs, and EWGs, as well as public utilities that have not made any reportable

¹ 16 U.S.C. 825d(c).

² 18 CFR part 46.

³ 18 CFR 46.3.

sales in any of the three preceding years. The Commission further proposed to eliminate the requirement for public utilities submitting FERC-566 to identify individual residential customers by name and address.⁴

A. RTOs and ISOs

1. Commission Proposal

5. The Commission proposed to eliminate the requirement to submit FERC-566 for RTOs and ISOs. The Commission stated that the statute expressly seeks to acquire information about purchasers of electric energy who purchased “for purposes other than resale.”⁵ The Commission noted that, by their nature, RTOs and ISOs are focused primarily on sales of electric energy for resale.

2. Comments

6. The ISO/RTO Council,⁶ South Central MCN, LLC (South Central MCN) and Midcontinent MCN, LLC (Midcontinent MCN), Edison Electric Institute (EEI), International Transmission Company d/b/a ITC Transmission, Michigan Electric Transmission Company, LLC, ITC Midwest LLC, and ITC Great Plains, LLC

⁴ *Revisions to Public Utility Filing Requirements*, 79 FR 78,739 (Dec. 31, 2014), FERC Stats. & Regs., Proposed Regs. ¶ 32,704 (2014).

⁵ 16 U.S.C. 825(c)(2)(D).

⁶ The ISO/RTO Council is comprised of Alberta Electric System Operator; California Independent System Operator Corporation; Electric Reliability Council of Texas, Inc.; Independent Electricity System Operator; ISO New England Inc.; Midcontinent Independent System Operator, Inc.; New York Independent System Operator, Inc.; PJM Interconnection, L.L.C.; and Southwest Power Pool, Inc.

(collectively ITC), and Financial Marketers Coalition support the proposed rule to eliminate the requirement that RTOs and ISOs submit FERC-566.

7. South Central MCN and Midcontinent MCN support eliminating the requirement that RTOs and ISOs submit FERC-566, but recommend that the Commission also extend the exemption to all transmission-only companies (transcos) such as South Central MCN and Midcontinent MCN. South Central MCN and Midcontinent MCN state that, like RTOs and ISOs, transcos, by their nature, do not make any retail sales of electricity and do not have any retail customers. Accordingly, transcos will not have reportable sales under FERC-566 and should be exempted from the filing requirement.

8. Similarly, EEI recommends that the Commission extend the reporting exemption to cover qualifying facilities (QFs). EEI states that QFs engage in sales primarily or exclusively at wholesale. EEI submits that eliminating the reporting requirement on QFs would ease the administrative burden for both them and the Commission.

9. In addition, EEI encourages the Commission to clarify that public utilities participating in RTO and ISO markets are also exempt from the FERC-566 filing requirement as to all transactions conducted in those markets. EEI submits that the RTO and ISO markets are essentially wholesale in nature and participants in those markets will, by definition, be engaging only in non-reportable sales in the markets. Finally, EEI notes that the Commission should correct the proposed regulatory text in section 46.3(a)(2) by replacing “Regional Transmission Operators” with “Regional Transmission Organizations.”

10. Powerex Corp. (Powerex) argues that the Commission should expand its exemptions from FERC-566 reporting to include public utilities that have a *de minimis* market presence in making sales to purchasers “for purposes other than resale.”

Powerex asserts that this would recognize that many public utility sellers are almost exclusively engaged in wholesale sales. Specifically, Powerex proposes that the Commission establish a *de minimis* threshold for exemption from filing FERC-566 if the seller makes 4,000,000 megawatt-hours (MWhs) or less of annual non-wholesale sales (based on an average of the non-wholesale sales it made in the preceding three years).

Powerex claims that this is the *de minimis* market presence threshold that the Commission adopted for non-public utilities in its decision to exclude certain non-public utilities from the requirement to submit Electric Quarterly Reports (EQR).

3. Commission Determination

11. The Commission will adopt the proposed exemption of RTOs and ISOs from the requirement to file FERC-566. We also revise proposed section 46.3(a)(2) by replacing “Regional Transmission Operators” with “Regional Transmission Organizations.” We find that the revised regulation will reduce the regulatory burden of compliance on RTOs and ISOs.

12. We decline to grant the clarification requested by EEI that public utilities participating in RTO and ISO markets are exempt from the FERC-566 filing requirement as to all transactions conducted in those markets. Such utilities may well also make sales

“for purposes other than for resale,” and the statutory directive encompasses such utilities and such sales.⁷ Adopting EEI’s suggestion would virtually eliminate the filing requirement, contrary to the statute. We also decline to grant EEI’s request to exempt QFs from the requirement to file FERC-566. QFs, in fact, may make sales “for purposes other than for resale,” and the statutory directive encompasses such utilities and such sales. Moreover, in its regulations exempting QFs from certain provisions of the FPA, the Commission specifically excluded FPA section 305(c). Specifically, section 292.601(c) states that “[a]ny qualifying facility . . . shall be exempt from all sections of the Federal Power Act, except: . . . Sections 305(c).”⁸ We are not persuaded to change that regulation at this time.

13. Likewise, we decline to extend the exemption to transcos. We agree with South Central MCN and Midcontinent MCN that transcos by their nature would be unlikely to make retail sales. Unlike RTOs and ISOs, however, transcos are not defined in the Commission’s regulations and as such, are not as easily identified. Further, a transco may also – at any time – readily shift its business strategy to encompass making sales for purposes other than for resale. And, in any event, if a transco does not, in fact, make any sales for purposes other than resale, the burden is minimal, particularly given the further

⁷ Insofar as EEI may be concerned about sales made in those markets, to the extent those sales may be sales for resale, such sales would not be themselves reportable in any event. Only sales for purposes other than for resale are reportable.

⁸ 18 CFR 292.601(c)(4).

change that we adopt below to eliminate the reporting obligation when a public utility makes no reportable sales for the preceding three years.

14. We also decline to establish a *de minimis* threshold for exemption from filing FERC-566. The language of the statute does not appear to permit the Commission to establish the kind of exemption Powerex seeks. Further, while Powerex claims that this is the *de minimis* market presence threshold the Commission adopted for non-public utilities in its decision to exclude certain non-public utilities from the requirement to submit EQRs, such reports were not expressly required by the statute but instead were established by the Commission. Thus, the Commission has far greater leeway in allowing exemptions from EQR reporting requirements.

B. EWGs

1. Commission Proposal

15. The Commission proposed to eliminate the requirement to submit FERC-566 for EWGs. The Commission noted that, by definition, EWGs do not have retail customers.⁹ Because the statute seeks to acquire information about purchasers of electric energy who purchased for purposes other than for resale, i.e., for retail, EWGs should not be required to submit FERC-566.

⁹ The Commission's regulations define an EWG as any person that is "engaged . . . *exclusively* in the business of owning or operating, or both owning and operating, all or part of one or more eligible facilities *and selling electric energy at wholesale.*" 18 CFR 366.1 (emphasis added).

2. Comments

16. The NRG Companies (NRG), Financial Marketers Coalition, South Central MCN and Midcontinent MCN, ITC, and EEI support the proposed elimination of the requirement that EWGs submit FERC-566. NRG states that eliminating the obligation to have EWGs file a blank form will remove an administrative burden on companies, will be consistent with directives in the Government Paperwork Elimination Act to reduce the information collection burden, and will not have any impact on the reporting of actual customers to the Commission.

3. Commission Determination

17. The Commission will adopt the proposed exemption. We find that the revised regulation will reduce the regulatory burden of compliance on EWGs, who definitionally cannot make sales for purposes other than for resale.¹⁰

C. Public Utilities That Have Not Made Reportable Sales In Preceding Three Years

1. Commission Proposal

18. The Commission proposed to eliminate the requirement to submit FERC-566 for those public utilities that have not made any reportable sales in any of the three preceding years. The Commission stated that section 305(c) requires public utilities to publish a list of purchasers; it does not require a report of the absence of purchasers.

¹⁰ See *supra* note 10.

2. Comments

19. NRG, ITC, South Central MCN and Midcontinent MCN, Financial Marketers Coalition and EEI support the proposed rule to eliminate the requirement to submit FERC-566 for public utilities that have not made any reportable sales in any of the three preceding years. NRG states that, of its over 100 public utilities, less than 10 typically have retail customers in any given year, and, therefore, for the majority of its public utilities, NRG does not have customers to report on FERC-566. ITC states that, as independent electric transmission companies, its operating companies have never made reportable sales. EEI agrees that public utilities that have only wholesale sales in the three year period covered by each annual FERC-566 should not be required to file the report. NRG, ITC, South Central MCN and Midcontinent MCN, and EEI variously assert that it makes no sense to file a report when there is no reportable information, that there is no benefit to the Commission or parties in indicating no reportable sales, and that such an exemption will promote administrative efficiency.

20. In addition, EEI states that the Commission should clarify proposed section 46.3(a)(4) in one respect. EEI states that, by stating that any public utility without “reportable sales” in the three year period is exempt from filing FERC-566, the Commission should specify that it means to exempt any public utility with “no sales or only wholesale sales” in the three year period.

21. EEI also states that because section 305(c)(2) applies only to public utilities and their sales, it recommends that the Commission clarify that only public utilities within a

holding company system need to file FERC-566, and only sales by such utilities within the holding company system need to be considered in compiling the report.

22. Powerex states that there is uncertainty as to the types of transactions that fall within the Commission's Part 46 reporting requirements regarding sales of electric energy to purchasers "for purposes other than for resale." Powerex submits that the Commission should clarify how public utilities should identify sales to purchasers "for purposes other than for resale" for inclusion in FERC-566. Powerex states that, as a marketer, it generally does not have information on whether its purchasers subsequently resold the power they purchased from Powerex. Powerex states that, out of an abundance of caution and to ensure compliance, in its FERC-566 submissions it submits an overly-inclusive listing of purchasers it believes have end-use facilities and would otherwise be required to possess, but do not appear to currently have, Commission authorization to make market-based rate wholesale sales.

3. Commission Determination

23. The Commission will adopt the proposed regulation, but will clarify it in accordance with the suggestion by EEI, by replacing "public utilities that have no reportable sales as defined in section (b)" with "public utilities that have either no reportable sales as defined in paragraph (b) or only sales for resale." We find that this revised regulation will reduce the regulatory burden of compliance on public utilities that have no reportable sales.

24. We decline to grant the clarification requested by EEI that only public utilities within a holding company system need to file FERC-566, and only the sales by such

utilities within the holding company system need to be considered in compiling the report. FPA section 305(c) applies to all public utilities, not just public utilities within a holding company system.

25. We disagree with Powerex that there is uncertainty as to the types of transactions that fall within the Commission's Part 46 reporting requirements regarding sales of electric energy to purchasers "for purposes other than for resale." Section 305(c) of the FPA requires that each public utility shall publish a list of any company, firm, or organization that, during any one of the three calendar years preceding the filing date, was one of the 20 purchasers of electric energy "which purchased (for purposes other than for resale) one of the 20 largest annual amounts of electric energy sold by such public utility (or by any public utility which is part of the same holding company system)" during any one of those three years.¹¹

D. Identification Requirement

1. Commission Proposal

26. The Commission proposed to eliminate the requirement for public utilities submitting FERC-566 to identify individual residential customers by name and address. The Commission noted that the regulations currently require that each public utility identify each purchaser on the list of the 20 largest purchasers by name and principal

¹¹ 16 U.S.C. 825d(c).

business address, but that it may not be necessary to have such detailed information about residential customers.

2. Comments

27. Financial Marketers Coalition, South Central MCN and Midcontinent MCN, EEI and ITC support the proposed rule to eliminate the requirement for public utilities submitting FERC-566 to identify individual residential customers by name and address.

28. Contending that the current regulations go beyond the statutory requirements, EEI states that the Commission should eliminate the need to report residential customers by clarifying that public utilities need report only any “company, firm, or organization” that falls within the 20 highest-volume purchasers in any of the preceding three years. EEI also states that the Commission should eliminate from section 46.3 the requirement to notify and include the address of each of the purchasers listed in FERC-566. EEI further states that the Commission should eliminate the requirement at section 46.3(e) to submit revised FERC-566 by March 1 of each year if the January 31 filing was based on estimated data. EEI submits that this filing is not required by statute, is unnecessary, and adds to the reporting burden. EEI states that, if the Commission does not eliminate the requirement altogether, the Commission should specify that revised reports need to be filed only if new data available by March 1 would make a material difference in the report.

29. EEI also states that the Commission should clarify that despite the “aggregation” provision at section 46.3(c), public utilities can treat individual stores or other facilities within a family of stores or parent company as separate customers rather than having to

be batched, if the stores or facilities purchase or pay for their electricity separately rather than as a group through the parent company.

3. Commission Determination

30. The Commission will adopt the proposed regulation to eliminate the requirement for public utilities submitting FERC-566 to identify individual residential customers by name and address. Instead we will allow public utilities to identify individual residential customers as “Residential Customer,” and provide a zip code in lieu of an address. We find that the revised regulation will reduce the regulatory burden of compliance on public utilities.

31. We agree with EEI that the requirement that public utilities notify the 20 largest purchasers, currently found in section 46.3 of the regulations, is unnecessary. Thus, we eliminate this requirement from the regulations.

32. However, we decline to grant the clarification requested by EEI that public utilities need not report residential customers but rather need report only any “company, firm, or organization” that falls within the 20 highest-volume purchasers in any of the preceding three years. EEI seeks to draw a distinction not made by the statute, because, although the statute requires public utilities to report “any company, firm, or organization” which was one of the 20 largest purchasers of electric energy, an individual residential customer could, in fact, be a business structured as a sole proprietorship or some other ownership structure; this could explain why a residential customer is one of the public utility’s 20 largest purchasers.

33. We also disagree with EEI that public utilities may treat individual stores or other facilities within a family of stores or under a parent company as separate customers rather than having to be batched, if the stores or facilities purchase or pay for their electricity separately rather than as a group through the parent company. The statute requires the reporting of “purchasers” of electric energy, not accounts. Therefore, even if a family of stores or other facilities within a family pay for their electric energy separately, it would be appropriate to aggregate them in accordance with the statute and section 46.3(c) of the Commission’s regulations.¹²

34. We also decline to grant EEI’s request that we eliminate the requirement to submit revised FERC-566 reports by March 1 of each year if the January 31 filing was based on estimated data. Although not specifically required by statute, the regulation helps ensure that the data collected is accurate.

II. Information Collection Statement

35. The Paperwork Reduction Act (PRA) requires each federal agency to seek and obtain Office of Management and Budget (OMB) approval before undertaking a collection of information directed to ten or more persons or contained in a rule of general

¹² Even if we were to adopt such a change, it would not reduce the reporting from 20 purchasers to some lesser number. While some purchasers might drop off the list as a result, others that were previously the 24th or 27th largest purchasers, for example, would then effectively move up the list to within the 20 largest purchasers. In short, who is on the list might change, but the number of purchasers reported would not change.

applicability. OMB's regulations,¹³ in turn, require approval of certain information collection requirements imposed by agency rules. Upon approval of a collection(s) of information, OMB will assign an OMB control number and an expiration date.

Respondents subject to the filing requirements of a rule will not be penalized for failing to respond to these collections of information unless the collections of information display a valid OMB control number.

36. The Commission is submitting the proposed modifications to its information collection to OMB for review and approval in accordance with section 3507(d) of the Paperwork Reduction Act of 1995.¹⁴ In the NOPR, the Commission solicited comments on the Commission's need for this information, whether the information will have practical utility, the accuracy of the burden estimates, ways to enhance the quality, utility, and clarity of the information to be collected or retained, and any suggested methods for minimizing respondents' burden, including the use of automated information techniques.

37. The Commission did not receive any comments specifically addressing the burden estimates provided in the NOPR. The Commission did receive comments on eliminating or further modifying filing requirements; those comments and the Commission's responses are addressed above. Public Reporting Burden: The burden and cost estimates below are based on the estimated reduction in burden for: (a) entities that would no

¹³ 5 CFR 1320.

¹⁴ 44 U.S.C. 3507(d).

longer have to file the annual report of twenty largest purchasers, (b) filers that would no longer have to identify individual residential customers by name and address, and (c) filers that would no longer be required to notify the 20 largest purchasers appearing on the list. The Commission estimates the current annual report requires (on average) six hours to prepare and to file. Implementation of this Final Rule will reduce the number of filings (due to the discontinuance of filings from the six RTOs/ISOs and an additional 880 filers that report no purchasers, including EWGs, and reduce the average number of hours per filing for the remaining filers (due to the elimination of the name and address for residential customers, and notification to the 20 largest purchasers).

38. The following table provides the current OMB-approved burden estimate, as well as the estimated burden reductions being implemented by this Final Rule:

FERC-566, Estimated Burden (Rounded)					
Respondent Category	Number of Respondents (1)	Annual Number of Responses per Respondent (2)	Total Number of Responses (1)*(2)=(3)	Average Burden Hours & Cost per Response¹⁵ (4)	Annual Burden Hours & Total Annual Cost¹⁶ (3)*(4)=(5)
Current OMB-Approved Burden Estimate, before Implementation of Final Rule in RM15-3					

¹⁵ The estimates for cost per response are derived using the following formula: Burden Hours per Response * \$72.00/hour = Cost per Response. The \$72.00/hour is based on the average salary plus benefits for a Commission employee for Fiscal Year 2015. We assume that industry respondents earn at a rate similar to Commission employees.

¹⁶ Total Annual Burden Hours * \$72.00/hour

All Filers	1,082	1	1,082	6	6,492
Elimination of Selected Filings, due to Final Rule in RM15-3					
Elimination of filings by RTOs/ISOs	6	1	elimination of 6	(elimination) -6 hrs.; -\$432	(elimination) -36 hrs.; -\$2,592
Elimination of Filings by Filers with No Purchasers (including EWGs)	880	1	elimination of 880	(elimination) -6 hrs.; -\$432	(elimination) -5,280 hrs.; -\$380,160
Burden Reduction of Remaining Filings, due to Final Rule in RM15-3					
Elimination of Name & Address for Residential Customers ¹⁷	29	1	29	(reduction) -0.25 hrs.; -\$18	(reduction) -7.25 hrs.; -\$522
Elimination of Requirement to Notify 20 Largest Purchasers ¹⁸	196	1	196	(reduction) -0.5 hrs.; -\$36	(reduction) -98 hrs.; -\$7,056
Total Reduction (rounded), due to implementation of RM15-3)	886	1	(elimination) -886		(elimination of filings and reduction of hours) -5,421 hrs.; -\$390,312
Net Total, after implementation of RM15-3¹⁹	196	1	196	5.46 hrs.; \$393.34	1,071 hrs.; \$77,094

¹⁷ The Commission estimates that approximately 29 (or 15%) of the 196 filers have residential customers. Each of those 29 filers is estimated to save 0.25 hours annually due to elimination of the requirement for name and address of residential purchasers.

¹⁸ The Commission estimates that each of the 196 filers will save 0.5 hours annually, due to elimination of this requirement.

¹⁹ After implementation of this Final Rule, the Commission estimates the remaining 196 filers will each have an average annual burden of 5.46 hours per filing (a reduction from the previous estimate of 6 hours). Twenty-nine of the 196 filers will annually each have 5.25 hours of burden, and 167 of the 196 filers will each have

(continued ...)

Title: Annual Report of Twenty Largest Purchasers (FERC-566)

Action: Revision to existing collection

OMB Control No: 1902-0114

Respondents: Business or other for profit, and not for profit institutions.

Frequency of Responses: Annually

Necessity of the Information: The Commission is required by the Federal Power Act to collect information on public utilities' twenty largest retail purchasers. This information helps the Commission understand electric energy markets and transactions, in order to better safeguard public and private interests. Upon review, the Commission finds that, as described above, certain entities no longer need to make the annual filing, and other filers will be able to eliminate certain data and notification requirements.

Internal review: The Commission has assured itself, by means of its internal review, that there is specific, objective support for the burden estimates associated with the information requirements.

39. Interested persons may obtain information on the reporting requirements by contacting the Federal Energy Regulatory Commission, Office of the Executive Director,

5.5 hours of burden. The estimated total annual burden for all of the 196 filers will be 1,071 hours (rounded).

888 First Street, NE, Washington, DC 20426 [Attention: Ellen Brown, e-mail: DataClearance@ferc.gov, phone: (202) 502-8663, fax: (202) 273-0873].

40. Comments concerning the information collection proposed in this Final Rule and the associated burden estimates, should be sent to the Commission in this docket and may also be sent to the Office of Management and Budget, Office of Information and Regulatory Affairs [Attention: Desk Officer for the Federal Energy Regulatory Commission]. For security reasons, comments should be sent by e-mail to OMB at the following e-mail address: oira_submission@omb.eop.gov. Please refer to OMB Control Number 1902-0114 in your submission to OMB.

III. Environmental Analysis

41. The Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any action that may have a significant adverse effect on the human environment.²⁰ The collection of information has been categorically excluded from such analysis under section 380.4(a)(5) of the Commission's regulations, however.²¹ Thus, no such analysis is required.

²⁰ *Regulations Implementing National Environmental Policy Act of 1969*, Order No. 486, 52 FR 47,897 (Dec. 17, 1987), FERC Stats. & Regs. Preambles 1986-1990 ¶ 30,783 (1987).

²¹ 18 CFR 380.4(a)(2)(ii).

IV. Regulatory Flexibility Act Certification

42. The Regulatory Flexibility Act of 1980 (RFA)²² generally requires a description and analysis of proposed rules that will have significant economic impact on a substantial number of small entities. The Small Business Administration (SBA) revised its size standard (effective January 22, 2014) for electric utilities from a standard based on megawatt hours to a standard based on the number of employees including affiliates.²³

43. This Final Rule revises the Commission's regulations to eliminate some filings and to reduce reporting burdens for others. Specifically, the Commission is eliminating the requirement to submit FERC-566 for RTOs and ISOs, EWGs, and those public utilities that did not make retail sales in the preceding three years. The Commission estimates that, on average, each of those 886 entities that will no longer have to file the FERC-566 will have an annual reduction in cost of \$432.

44. The Commission is also reducing the burden for the remaining 196 filers because they will no longer have (a) to identify individual residential customers by name and address, and (b) to provide notification to the 20 largest purchasers. The Commission estimates that each of the remaining 196 filers will have an average annual reduction in cost of \$38.66 per year.

²² 5 U.S.C. 601-12.

²³ SBA Final Rule on "Small Business Size Standards: Utilities," 78 FR 77,343 (Dec. 23, 2013).

45. Accordingly, the Commission certifies that this Final Rule will not have a significant economic impact on a substantial number of small entities.

V. Document Availability

46. In addition to publishing the full text of this document in the Federal Register, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the Internet through the Commission's Home Page (<http://www.ferc.gov>) and in the Commission's Public Reference Room during normal business hours (8:30 a.m. to 5:00 p.m. Eastern time) at 888 First Street, NE, Room 2A, Washington DC 20426.

47. From the Commission's Home Page on the Internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

48. User assistance is available for eLibrary and the Commission's website during normal business hours from FERC Online Support at 202-502-6652 (toll free at 1-866-208-3676) or email at ferconlinesupport@ferc.gov, or the Public Reference Room at (202) 502-8371, TTY (202)502-8659. E-mail the Public Reference Room at public.referenceroom@ferc.gov.

VI. Effective Date and Congressional Notification

49. These regulations are effective 75 days from date of publication in Federal Register. The Commission has determined, with the concurrence of the Administrator of

the Office of Information and Regulatory Affairs of OMB, that this rule is not a “major rule” as defined in section 351 of the Small Business Regulatory Enforcement Fairness Act of 1996. This final rule is being submitted to the Senate, House of Representatives, Government Accountability Office, and Small Business Administration.

List of subjects in 18 CFR Part 46

Electric utilities; Reporting and recordkeeping requirements

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.

In consideration of the foregoing, the Commission amends Part 46, Chapter I, Title 18, Code of Federal Regulations, as follows.

PART 46 – PUBLIC UTILITY FILING REQUIREMENTS AND FILING REQUIREMENTS FOR PERSONS HOLDING INTERLOCKING POSITIONS

1. The authority citation for Part 46 continues to read as follows:

Authority: 16 U.S.C. 792-828c; 16 U.S.C. 2601-2645; 42 U.S.C. 7101-7352; E.O. 12009, 3 CFR 142.

2. Section 46.3 is amended as follows:

- a. Paragraph (a) is revised.
- b. Paragraph (d) is deleted, and paragraph (e) is renumbered as (d).

§ 46.3 Purchaser list.

(a)(1) *Compilation and filing list.* On or before January 31 of each year, except as provided below, each public utility shall compile a list of the purchasers described in paragraph (b) of this section, and subject to paragraph (a)(5) of this section, shall identify each purchaser by name and principal business address. The public utility must submit the list to the Secretary of the Commission in accordance with filing procedures posted on the Commission's Web site at <http://www.ferc.gov> and make the list publicly available through its principal business office.

(2) Notwithstanding paragraph (a)(1) of this section, public utilities that are defined as Regional Transmission Organizations, as defined in § 35.34(b)(1) of this chapter, and public utilities that are defined as Independent System Operators, as defined in § 35.46(d) of this chapter, are exempt from the requirement to file.

(3) Notwithstanding paragraph (a)(1) of this section, public utilities that meet the criteria for exempt wholesale generators, as defined in § 366.1 of this chapter, and are certified as such pursuant to § 366.7 of this chapter, are exempt from the requirement to file.

(4) Notwithstanding paragraph (a)(1) of this section, public utilities that have either no reportable sales as defined in paragraph (b) or only sales for resale in any of the three preceding years are exempt from the requirement to file.

(5) Notwithstanding paragraph (a)(1) of this section, individual residential customers on the list should be identified as “Residential Customer,” and with a zip code in lieu of an address.