

may not be technically capable of providing this service.

With regard to the first concern, the Commission clarifies that the purpose of the proposed directive is to ensure comparable treatment of DSM with conventional generation or any other technology and to allow DSM to be considered as a resource for contingency reserves on this basis without requiring the use of any particular contingency reserve option. The proposed directive as written achieves that goal. With regard to the second concern, we believe that this Reliability Standard is objective-based and we reiterate that we are simply attempting to make it inclusive of other technologies that may be able to provide contingency reserves, and are not directing the use of any particular type of resource. By specifying DSM as a potential resource for contingency reserves, the Commission is clarifying the substance of the Reliability Standard.⁶⁴

Thus, in the interest of clarity and comparability, we would prefer to see DSM included among the list of alternatives to TLR procedures. Therefore, we would be interested in comments regarding the inclusion of DSM that is capable of responding quickly to emergencies among the alternatives to TLR procedures for mitigating transmission line limit violations to maintain system reliability.

For these reasons, we concur with this NOPR.

Jon Wellinghoff,
Commissioner.
Sueleen G. Kelly,
Commissioner.

[FR Doc. E8-9013 Filed 4-25-08; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 382

[Docket No. AD08-7-000]

Annual Charges Assessments for Public Utilities

April 21, 2008.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of Inquiry.

SUMMARY: In this Notice of Inquiry, the Commission is seeking comments on its current methodology for the assessment of electric annual charges to public utilities, in particular, whether that methodology remains fair and equitable, and on alternative methodologies. As provided in its current regulations, the

Commission recovers the costs of its electric regulatory program through filing fees and, as particularly relevant here, annual charges assessed to public utilities that provide transmission service, based on the volume of electricity transmitted. This methodology reflects that regulation of transmission providers, transmission facilities and transmission service is central to Commission regulation, and that the transmission grid is the interstate highway system for wholesale power sales. This Notice will enable the Commission to determine whether its current methodology remains fair and equitable, and to review alternative methodologies.

DATES: Comments are due May 28, 2008.

ADDRESSES: Interested persons may submit comments, identified by Docket No. AD08-7-000, by any of the following methods:

- **eFiling:** Comments may be filed electronically via the eFiling link on the Commission's Web site at <http://www.ferc.gov>. Documents created electronically using word processing software should be filed in the native application or print-to-PDF format and not in a scanned format. This will enhance document retrieval for both the Commission and the public. The Commission accepts most standard word processing formats and commenters may attach additional files with supporting information in certain other file formats. Attachments that exist only in paper form may be scanned. Commenters filing electronically should not make a paper filing. Service of rulemaking (or Notice of Inquiry) comments is not required.

- **Mail/Hand Delivery:** Commenters that are not able to file electronically must mail or hand deliver an original and 14 copies of their comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street, NE., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT: For further information contact:

Lawrence R. Greenfield (Legal Information), Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502-6415.

Richard M. Wartchow (Legal Information), Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502-8744.

Troy D. Cole (Technical Information), Director, Division of Financial Services, Office of the Executive Director, Federal Energy Regulatory

Commission, 888 First Street, NE., Washington, DC 20426, (202) 502-6161.

SUPPLEMENTARY INFORMATION:

1. In this Notice of Inquiry, the Commission is seeking comments on its current methodology for the assessment of electric annual charges to public utilities, in particular, whether that methodology remains fair and equitable, and on alternative methodologies.¹ As provided in its current regulations, the Commission recovers the costs of its electric regulatory program through filing fees and, as particularly relevant here, annual charges assessed to public utilities that provide transmission service, based on the volume of electricity transmitted. This methodology reflects that regulation of transmission providers, transmission facilities and transmission service is central to Commission regulation, and that the transmission grid is the interstate highway system for wholesale power sales. This Notice will enable the Commission to determine whether its current methodology remains fair and equitable, and to review alternative methodologies.

2. Although the Commission has held in the past that industry concerns did not justify a change to the annual charges methodology, in response to continued expressions of concern the Commission is issuing this Notice of Inquiry to seek comment on whether the existing methodology remains an appropriate means to recover the costs of the Commission's electric regulatory program or whether there is another more appropriate alternative. The Commission seeks to ascertain whether those industry concerns, although not determinative previously, may now be more valid and, if so, to review alternative proposals for the recovery of the Commission's electric regulatory program costs. The Commission also invites interested parties to submit in this proceeding their views on other possible changes to the Commission's annual charges regulations.

¹ This Notice of Inquiry is limited to the assessment of annual charges to public utilities regulated under Parts II and III of the Federal Power Act (FPA). It does not, therefore, address the assessment of charges for the Commission's hydroelectric, natural gas or oil pipeline regulatory programs. It also does not address recovery of Federal power marketing agency (PMA)-related costs or electric filing fees (the latter are separately charged for, among other things, petitions for declaratory orders, Commission staff interpretations and certain qualifying facility-related filings).

⁶⁴ *Id.* at P 331-33.

I. Background

A. Commission Authority

3. The Commission is required by section 3401 of the Omnibus Budget Reconciliation Act of 1986 (Budget Act)² to “assess and collect fees and annual charges in any fiscal year in amounts equal to all of the costs incurred * * * in that fiscal year.”³ The annual charges must be computed based on methods which the Commission determines to be “fair and equitable.”⁴ The Conference Report accompanying the Budget Act provides the Commission with the following guidance as to this phrase’s meaning:

[A]nnual charges assessed during a fiscal year on any person may be reasonably based on the following factors: (1) The type of Commission regulation which applies to such person such as a gas pipeline or electric utility regulation; (2) the total direct and indirect costs of that type of Commission regulation incurred during such year;⁵ (3) the amount of energy—electricity, natural gas, or oil—transported or sold subject to Commission regulation by such person during such year; and (4) the total volume of all energy transported or sold subject to Commission regulation by all similarly situated persons during such year.⁶

4. The Commission’s annual charges do not enable the Commission to collect amounts in excess of its expenses, but merely serve as a vehicle to reimburse the United States Treasury for the Commission’s expenses.⁷

B. Current Annual Charges Billing Procedure

5. As required by the Budget Act, the Commission’s regulations provide for the payment of annual charges by public utilities to fund the Commission’s electric regulatory program.⁸ The

² 42 U.S.C. 7178 (2000).

³ This authority is in addition to that granted to the Commission in sections 10(e) and 30(e) of the FPA. See 16 U.S.C. 803(e), 823a(e).

⁴ 42 U.S.C. 7178(b).

⁵ The Commission is required to collect not only all its direct costs but also all its indirect expenses such as hearing costs and indirect personnel costs. See H.R. Conf. Rep. No. 99–1012 at 238 (1986), reprinted in 1986 U.S.C.C.A.N. 3868, 3883 (Conference Report); see also S. Rep. No. 99–348 at 56, 66 and 68 (1986).

⁶ See Conference Report at 238. The Commission may assess these charges by making estimates based upon data available to it at the time of the assessment. 42 U.S.C. 7178(c).

⁷ 42 U.S.C. 7178(f). Congress approves the Commission’s budget through annual and supplemental appropriations.

⁸ 18 CFR Part 382 (2007); see *Revision of Annual Charges Assessed to Public Utilities*, Order No. 641, FERC Stats. & Regs. ¶ 31,109 (2000), order on reh’g, Order No. 641–A, 94 FERC ¶ 61,290 (2001). The Commission’s regulations define its electric regulatory program as “the Commission’s regulation of the electric industry under Parts II and III of the Federal Power Act; Public Utility Regulatory Policies Act; Powerplant and Industrial Fuel Use Act; Department of Energy Organization Act; Energy Security Act; Regulatory Flexibility Act; Pacific

Commission intends that these annual charges in any fiscal year will recover the Commission’s estimated electric regulatory program costs (other than the costs of regulating PMAs and the electric regulatory program costs recovered through electric filing fees) for that fiscal year. In the next fiscal year, the Commission adjusts its annual charges up or down, as appropriate, both to eliminate any over- or under-recovery of the Commission’s actual costs and to eliminate any over- or under-charging of any particular person.⁹

6. When the Commission first developed an annual charge methodology for public utilities in response to the Budget Act, it assessed charges based on two types of wholesale electricity service: transmission and wholesale sales in interstate commerce.¹⁰ However, in Order No. 641, the Commission determined that the sweeping changes in the industry occurring in the late 1980’s and the 1990’s had changed the industry landscape, which consequently changed the nature of the Commission’s work.

7. In Order No. 641, the Commission noted that open access transmission, functional unbundling, and the rapid movement to market-based power sales rates brought about by Order No. 888, state retail unbundling, and Order No. 2000 encouraging the formation of regional transmission organizations (RTOs) caused the Commission’s time and effort to be increasingly devoted to assuring open and equal access to public utilities’ transmission systems. Order No. 641 anticipated that wholesale power rates would be increasingly disciplined by competitive market forces and less by direct regulation, and the Commission’s workload had, in fact, moved away from its traditional focus on review of bilateral power sales agreements and instead focused increasingly on transmission. In order to reflect those changes, Order No. 641 changed the Commission’s annual charges methodology to recover its electric

Northwest Electric Power Planning and Conservation Act; Flood Control and River and Harbor Acts; Bonneville Project Act; Federal Columbia River Transmission Act; Reclamation Project Act; Nuclear Waste Policy Act; National Environmental Policy Act; and the Public Utility Holding Company Act.” 18 CFR 382.102.

⁹ 18 CFR 382.201; *accord Annual Charges Under the Omnibus Budget Reconciliation Act of 1986*, Order No. 507, FERC Stats. & Regs. ¶ 30,839, at 31,263–64 (1988); *Texas Utilities Electric Company*, 45 FERC ¶ 61,007, at 61,027 (1988).

¹⁰ See *Annual Charges Under the Omnibus Budget Reconciliation Act of 1986*, Order No. 472, FERC Stats. & Regs. ¶ 30,746 (1987), *clarified*, Order No. 472–A, FERC Stats. & Regs. ¶ 30,750, order on reh’g, Order No. 472–B, FERC Stats. & Regs. ¶ 30,767 (1987), order on reh’g, Order No. 472–C, 42 FERC ¶ 61,013 (1988).

regulatory program costs by assessing charges solely on the MWh of electric energy transmitted in interstate commerce by public utilities providing transmission service, rather than on both jurisdictional power sales and transmission volumes, as in the past.¹¹

8. As such, sections 382.201(a) and (b) of the Commission’s regulations provide that the costs of the Commission’s administration of its electric regulatory program (excluding the costs of regulating the PMAs such as the Bonneville Power Administration,¹² and electric regulatory program costs recovered through electric filing fees¹³) are assessed to public utilities that provide transmission service based on the comparative amount of transmission that they provide;¹⁴ those that have provided more transmission service (i.e., more MWhs) are charged more, and those that have provided less transmission service (i.e., less MWhs) are charged less.¹⁵

9. In calculating annual charges, the Commission first determines the total costs of its electric regulatory program and subtracts all PMA-related costs and electric filing fee collections to determine total collectible electric regulatory program costs. It then uses the data submitted under FERC Reporting Requirement No. 582 (FERC 582) to determine the total volume of transmission and exchanges for all public utilities to be assessed.¹⁶ The Commission divides that transaction volume into its collectible electric regulatory program costs to determine

¹¹ Order No. 641, FERC Stats. & Regs. ¶ 31,109 at 31,848–49; *accord Annual Charges Under the Omnibus Budget Reconciliation Act of 1986 (Phibro Inc.)*, 81 FERC ¶ 61,308, at 31,843–56 (1997) (*Phibro Inc.*).

¹² The PMAs such as the Bonneville Power Administration are the subject of a separate assessment. 18 CFR 382.201(d).

¹³ The Commission’s case-specific filing fees are spelled out in Part 381 of the Commission’s regulations. 18 CFR Part 381.

¹⁴ 18 CFR 382.201(a), (b).

¹⁵ See Order No. 641–A, 94 FERC ¶ 61,290 at 62,038.

¹⁶ The Commission’s regulations define public utility, for the purpose of assessing annual charges, as “any person who owns or operates facilities subject to the jurisdiction of the Commission under Parts II and III of the Federal Power Act, and who has rate schedule(s) on file with the Commission and who is not a ‘qualifying small power producer’ or a ‘qualifying cogenerator,’ as those terms are defined in section 3 of the Federal Power Act, or the United States or a state, or any political subdivision of the United States or a state, or any agency, authority, or instrumentality of the United States, a state, political subdivision of the United States, or political subdivision of a state.” 18 CFR 382.102.

In addition, the current electric annual charges are assessed based on transmission service, and thus exclude power marketers, which typically do not provide transmission service. 17 18 CFR 382.201; see *Phibro Inc.*, 81 FERC ¶ 61,308 at 62,424–25.

the unit charge per megawatt-hour. Finally, the Commission multiplies the transaction volume for each public utility to be assessed by the unit charge per megawatt-hour to determine the annual charges for each public utility.¹⁷

10. In response to Order No. 641, certain public utilities and members of RTOs and independent system operators (ISO), including municipal utility and cooperative members, expressed concern that this annual charges methodology may be unfair and they alleged that the resulting annual charges fall more heavily on RTO and ISO members than on public utilities that are not RTO or ISO members. These concerns were initially raised in proceedings where RTO and ISO members objected to bills reflecting the charges determined under Order No. 641 and the underlying methodology. Although they did not seek timely rehearing of Order No. 641 itself, they sought rehearing of annual charges bills determined using the Order No. 641 methodology.¹⁸ In a second proceeding, three RTOs and ISOs filed a petition requesting that the Commission initiate a rulemaking proceeding to revise the Order No. 641 methodology, seeking lower annual charges and questioning the assumptions that the Commission made in issuing Order No. 641.¹⁹

11. Those proceedings raised arguments that charges should be assessed to power sales as well as transmission,²⁰ challenges to the Commission's finding that its work was primarily focused on transmission regulation,²¹ assertions that annual charge allocations should reflect the

transmission component of bundled retail sales,²² and claims that the Commission's annual charge assessments do not reflect the level of transmission service in various regions and unduly disadvantage RTOs. The proceedings also addressed the assertion that the Commission had erred in assessing charges to RTOs and ISOs based on services provided for non-jurisdictional members.²³

12. After noting that those arguments represented an untimely attempt to seek rehearing of Order No. 641, the Commission responded to the specifics of each issue. The Commission rejected the arguments that annual charges should be allocated to power sales and arguments questioning whether transmission was the Commission's primary regulatory focus by noting that, in contrast to the timeframe in which the Commission established its previous methodology, the Commission was then focused increasingly on transmission through efforts related to open access transmission service, interconnection policy, and RTO and ISO regulation.²⁴ The Commission also noted that then-current market regulation efforts such as reforming western markets and promoting standard market design (SMD), while nominally related to power sales, were primarily focused on transmission issues.²⁵ The Commission reported that its reform of western markets was concerned with transmission scheduling and constraints used to manipulate prices, and its SMD proposal incorporated a new open access transmission tariff and focused on congestion management procedures.²⁶

13. The Commission rejected the suggestion that it should impose annual charges based on the transmission component of bundled retail sales, noting that such transactions formed no part of the Commission's work load at that time.²⁷ The Commission also refuted the suggestion that the transaction volumes that it relied on

were inaccurate and understated transmission service provided by certain utilities, by pointing out that the reported transaction volumes were subject to audit and correction and annual charge assessments would be updated to reflect any correction.²⁸ Finally, the Commission justified assessing annual charges on public utilities based on transmission services that they provided to non-jurisdictional entities, noting that such charges were properly recoverable in rates from the non-jurisdictional utility and should be treated like any other cost of providing service.²⁹

14. The Midwest ISO petitioned the United States Court of Appeals for the District of Columbia for review of the Commission's orders denying the petition for rulemaking. The court denied the petition, but noted the Commission's statement in the Midwest ISO Rehearing Order that "the issues may merit further consideration at a later time."³⁰

II. Discussion

15. When the Commission issued Order No. 641, it determined that its regulatory focus was turning increasingly towards regulation of transmission service and away from a case-by-case review of wholesale power sales rates. In recognition of this focus on regulating transmission service, Order No. 641 provided for the Commission to recover the costs of its electric regulatory program (not otherwise recovered by, for example, filing fees) through annual charges assessed to public utilities that provide transmission service, based on the volume of electricity transmitted. Regulation of transmission providers, transmission facilities and transmission service remains at the heart of Commission regulation.

16. Although the state of the industry in 2002 and 2003 did not justify a change to the Commission's methodology, the Commission stated

¹⁷ 18 CFR 382.201; see *Phibro Inc.*, 81 FERC ¶ 61,308 at 62,424–25.

¹⁸ See *Revision of Annual Charges to Public Utilities (California Independent System Operator)*, 101 FERC ¶ 61,043 (California ISO Order), *order dismissing reh'g*, 101 FERC ¶ 61,326 (2002) (California ISO Rehearing Order) (denying requests for rehearing filed by California Independent System Operator, Inc., New York Independent System Operator (New York ISO), Arizona Public Service Company, American Transmission Company, LLC, and American Transmission Services, Inc.).

¹⁹ See *Midwest Independent Transmission System Operator, Inc.*, 103 FERC ¶ 61,048 (Midwest ISO Order), *order denying reh'g*, 104 FERC ¶ 61,060 (2003) (Midwest ISO Rehearing Order) (denying petition for rulemaking filed by Midwest ISO, New York ISO and PJM Interconnection, LLC), *aff'd*, 388 F.3d 903 (D.C. Cir. 2004) (Midwest ISO Court Order).

²⁰ Midwest ISO Rehearing Order, 104 FERC ¶ 61,060 at P 7.

²¹ *Id.* P 9.

²² *Id.* P 7 n.13.

²³ Midwest ISO Order, 103 FERC ¶ 61,048 at P 15 n.25; Midwest ISO Rehearing Order, 104 FERC ¶ 61,060 at P 7.

²⁴ Midwest ISO Order, 103 FERC ¶ 61,048 at P 11–12; Midwest ISO Rehearing Order, 104 FERC ¶ 61,060 at P 10.

²⁵ *Id.*

²⁶ *Id.*

²⁷ California ISO Order, 101 FERC ¶ 61,043 at P 15; see also Order No. 641–A, 94 FERC ¶ 61,290 at 62,038.

²⁸ Midwest ISO Order, 103 FERC ¶ 61,048 at P 13.

²⁹ *Id.* P 15 & n.25. In fact, since that order, the Commission's authority over such traditionally non-jurisdictional utilities has expanded with the passage of the Energy Policy Act of 2005 (EPA 2005). Compare 16 U.S.C. 824(f) with 16 U.S.C. 824j–1(a)–(b), 824o(b), 824u, 824v (2000 & Supp. V 2005).

³⁰ Midwest ISO Court Order, 388 F.3d at 923, citing Midwest ISO Rehearing Order, 104 FERC ¶ 61,060 at P 16.

that it would reconsider its methodology when the issue merited further consideration. The Commission is now seeking through this Notice of Inquiry to determine whether subsequent developments make it appropriate to revisit Order No. 641 or otherwise suggest the need for changes to its methodology for assessing annual charges to recover its electric regulatory program costs.

17. The Commission continues to devote substantial resources to oversight of transmission service. In February 2007, for example, the Commission issued Order No. 890, amending its regulations and reforming the pro forma open access transmission tariff to ensure that transmission services are provided on a just, reasonable and not unduly discriminatory or preferential basis.³¹ In addition, the Commission also continues to commit substantial resources to regulation of the development and operation of RTOs and ISOs. These transmission service providers, moreover, administer complex and comprehensive energy markets and transmission tariffs that serve broad regions—New England, New York, California, the mid-Atlantic and the Midwest, among others. These RTO/ISO markets are based on regional, security-constrained economic dispatch transmission service and locational-based marginal pricing, including transmission congestion charges. Therefore, although the Commission devotes some resources to power sales regulation through its regulation of these markets, the markets are fundamentally linked to transmission service. As a result, assessing annual charges based on transmission has been a fair and equitable means to allocate the costs of regulating these markets (with such costs, in turn, being incorporated into the RTO/ISO transmission rates). Moreover, the Commission devotes extensive resources to resolving hundreds of tariff filings by these entities and their members each year—and these filings are among the most complex that the Commission faces.

18. The Commission thus continues to focus very significant resources on transmission,³² including implementation of new authority under

EPAAct 2005 to, among other things, approve and enforce mandatory reliability standards for the bulk-power system, which has as its center the interstate electric transmission grid.³³ Order No. 890, for example, established comprehensive requirements for coordinated, open and transparent transmission planning to facilitate the expansion of the transmission system and to address transmission congestion, which can result in higher energy prices, and other customer concerns.

19. The RTOs and ISOs and their members in their earlier pleadings pointed out that all transmission service in RTOs and ISOs is regulated by this Commission and therefore annual charges are assessed on both wholesale and retail transmission service. This stands in contrast to annual charges paid by a public utility that is not an RTO or ISO member, which may provide both unbundled wholesale transmission service and bundled retail transmission service; for such public utilities, only the former transmission service is considered in allocating the Commission's electric regulatory program costs. This results in a comparatively high percentage of the Commission's annual charges being assessed to RTOs and ISOs.

20. While the nature of Commission regulation of wholesale power sales has certainly changed since adoption of Order No. 641, the Commission continues to regulate wholesale power sales. Comprehensive wholesale power sales rate review proceedings are now comparatively rare. Instead of individual rate proceedings, the Commission reviews new market-based rate power sales applications, electric quarterly reports, and triennial filings and notices of changes in status for market-based rate power sellers. In 2004, the Commission revised the market-power analysis that is used to grant market-based rate authority, and, in 2007, clarified its market-based rate policies.³⁴ Further, the Commission establishes market rules and mitigation rules for wholesale power sales. Finally, the Commission dedicates enforcement resources to investigating compliance with rules governing wholesale power sales.

21. These facts, in combination with new programs intended to implement

new EPAAct 2005 authority over certain mergers and other corporate transactions and to sanction market manipulation, warrant the Commission inquiring whether the current system remains fair and equitable, or whether the concerns previously raised by RTOs and ISOs, and their members, or other changes in the industry justify a change to the current electric annual charges methodology.

22. If such a change is justified, the Commission requests comments, as described below, on whether other annual charges assessment methodologies are more suitable than the current methodology. Such alternate methodologies could include, but are not limited to: (i) Assessing annual charges based on jurisdictional wholesale power sales as well as transmission service,³⁵ (ii) adopting different annual charge calculation methodologies for different types of public utilities to account for regional differences in market structure or to account for the fact that all RTO and ISO transmission service is considered when developing annual charges but that non-RTO and ISO members' bundled retail transmission service is not accounted for in annual charges, or (iii) determining annual charges using factors other than the volume of MWh transmitted in interstate commerce, such as peak load or transmission investment.

23. The Commission requests that interested parties submit comments, taking into account the factors listed in the Conference Report for guidance, on the following inquiries:

(A) Does the current electric annual charges assessment methodology remain a fair and equitable method for recovering the Commission's electric regulatory program costs, and why?

(B) If the current electric annual charges assessment methodology is no longer a fair

³¹ *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, FERC Stats. & Regs. ¶ 31,241, Order No. 890-A, FERC Stats. & Reg. ¶ 31,261 (2007).

³² The current electric annual charges methodology also has the advantages of being comparatively simple and easy to administer—a not insignificant concern. It is a methodology that, as well, has been challenged and upheld by the D.C. Circuit. See *supra* notes 18, 29.

³³ Pub. L. No 109-58, Title XII, Subtitle A, 119 Stat. 594 (2005) (EPAAct 2005) (amending the FPA, 16 U.S.C. 824, *et seq.*).

³⁴ *Market-Based Rates for Wholesale Sales of Electric Energy, Capacity and Ancillary Services by Public Utilities*, Order No. 697, 72 FR 39904 (Jul. 20, 2007), FERC Stats. & Regs. ¶ 31,252, *clarified*, 121 FERC ¶ 61,260 (2007), *order on rehearing*, 123 FERC 61,055 (2008).

³⁵ To the extent that a commenter advocates assessing annual charges based on wholesale power sales, such commenter should identify what utilities should be assessed annual charges and what transactions (and/or power sales volumes) should be used in developing such charges, as well as how the Commission would calculate such charges. For example, should the methodology reflect capacity sales, energy sales or both? Should the methodology reflect shorter-term transactions, longer-term transactions or both and should the methodology treat them similarly or should the methodology treat them differently (and, if so, how)? Given that the Commission does not separately track its resources devoted to transmission regulation versus those devoted to wholesale power sales regulation, how should the Commission allocate its costs between the two? Given that any alternative annual charges methodology adopted must be practical, i.e. must be a methodology that the Commission can administer without undue burden, such questions and others are important and necessitate answers.

and equitable method, please identify what alternative methodology is fair and equitable, and explain why, providing, where possible, empirical evidence to support any proposed methodology.

(C) For any such alternative methodology, please identify, with specificity, what entities should be assessed electric annual charges and how such an alternative methodology would work,³⁶ including what data the Commission would need to allocate the charges and how the Commission would obtain the data.

III. Comment Procedures

24. The Commission invites interested persons to submit comments on the matters and inquiries discussed in this notice, including any related matters or alternative proposals that commenters may wish to discuss. Comments are due May 28, 2008. Comments must refer to Docket No. AD08-7-000, and must include the commenter's name, the organization it represents, if applicable, and its address in their comments.

25. The Commission encourages comments to be filed electronically via the eFiling link on the Commission's Web site at <http://www.ferc.gov>. The Commission accepts most standard word processing formats. Documents created electronically using word processing software should be filed in native applications or print-to-PDF format and not in a scanned format. Commenters filing electronically do not need to make a paper filing.

26. Commenters that are not able to file comments electronically must send an original and 14 copies of their comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street, NE., Washington, DC 20426.

27. All comments will be placed in the Commission's public files and may be viewed, printed, or downloaded remotely as described in the Document Availability section below. Commenters are not required to serve copies of their comments on other commenters.

IV. Document Availability

28. 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 p.m. Eastern time) at 888 First Street, NE., Room 2A, Washington, DC 20426.

29. 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.

30. User assistance is available for eLibrary and the Commission's Web site during normal business hours from FERC Online Support at (202) 502-6652 (toll free at (866) 208-3676) or e-mail 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.

By direction of the Commission.

Kimberly D. Bose,

Secretary.

[FR Doc. E8-9199 Filed 4-25-08; 8:45 am]

BILLING CODE 6717-01-P

SOCIAL SECURITY ADMINISTRATION

20 CFR Part 404

[Docket No. SSA-2007-0066]

RIN 0960-AG57

Revised Medical Criteria for Evaluating Malignant Neoplastic Diseases

AGENCY: Social Security Administration.

ACTION: Notice of proposed rulemaking.

SUMMARY: We propose to revise the criteria in parts A and B of the Listing of Impairments (the listings) that we use to evaluate claims involving malignant neoplastic diseases. We apply these criteria when you claim benefits based on disability under title II and title XVI of the Social Security Act (the Act). The proposed revisions reflect our adjudicative experience, as well as advances in medical knowledge, treatment, and methods of evaluating malignant neoplastic diseases.

DATES: To be sure that your comments are considered, we must receive them by *June 27, 2008*.

ADDRESSES: You may submit comments by any of the following methods. Regardless of which method you choose, to ensure that we can associate your comments with the correct regulation for consideration, state that your comments refer to Docket No. SSA-2007-0066:

- Federal eRulemaking Portal at <http://www.regulations.gov>. (This is the preferred method for submitting your comments.) In the Comment or Submission section, type "SSA-2007-0066", select "Go", and then click "Send a Comment or Submission" under the highlighted SSA-2007-00766 text.

- Telefax to (410) 966-2830.

- Letter to the Commissioner of Social Security, P.O. Box 17703, Baltimore, MD 21235-7703.

- Deliver your comments to the Office of Regulations, Social Security Administration, 922 Altmeyer Building, 6401 Security Boulevard, Baltimore, MD 21235-6401, between 8 a.m. and 4:30 p.m. on regular business days.

Comments are posted on the Federal eRulemaking Portal, or you may inspect them on regular business days by making arrangements with the contact person shown in this preamble.

FOR FURTHER INFORMATION CONTACT:

Rosemarie Greenwald, Social Insurance Specialist, Social Security Administration, Office of Regulations, 960 Altmeyer Building, 6401 Security Boulevard, Baltimore, MD 21235-6401. Call 410-966-7813 for further information about these proposed rules.

For information on eligibility or filing for benefits, call our national toll-free number 1-800-772-1213 or TTY 1-800-325-0778, or visit our Internet Web site, Social Security Online, at <http://www.socialsecurity.gov>.

SUPPLEMENTARY INFORMATION:

Electronic Version

The electronic file of this document is available on the date of publication in the **Federal Register** at <http://www.gpoaccess.gov/fr/index.html>.

Why are we proposing to revise the adult listings for malignant neoplastic diseases?

We last published final rules revising the listings for malignant neoplastic diseases in the **Federal Register** on November 15, 2004 (69 FR 67017, corrected at 70 FR 15227). In those rules, we indicated that we intended to monitor these listings and to update the criteria for any malignant neoplastic disease contained in these listings as the need arose. We are proposing changes to the listing criteria for malignant neoplastic diseases to reflect our adjudicative experience since we last issued final rules on this body system and to reflect advances in medical knowledge, treatment, and methods of evaluating malignant neoplastic diseases. We are also proposing changes to the introductory text to these listings

³⁶ The Commission emphasizes the importance of this third question. Parties seeking a change in methodology are cautioned to give this question careful thought and thorough analysis. Broadly phrased requests that some other entities be charged will be less persuasive than specific recommendations as to which particular entities should be charged, and how.