

H. Does any other Federal, State, or local agency collect similar information? If so, specify the agency, the data element(s), and the methods of collection.

*As a Potential User of the Information To Be Collected*

A. Is the proposed collection of information necessary for the proper performance of the functions of the agency and does the information have practical utility?

B. What actions could be taken to help ensure and maximize the quality, objectivity, utility, and integrity of the information disseminated?

C. Is the information useful at the levels of detail to be collected?

D. For what purpose(s) would the information be used? Be specific.

E. Are there alternate sources for the information and are they useful? If so, what are their weaknesses and/or strengths?

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of the form. They also will become a matter of public record.

**Statutory Authority:** Section 13(b) of the Federal Energy Administration Act of 1974, P.L. 93-275, codified at 15 U.S.C. 772(b).

Issued in Washington, DC, July 12, 2010.

**Stephanie Brown,**

*Director, Statistics and Methods Group, Energy Information Administration.*

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. IC10-919-000]

#### Commission Information Collection Activities (FERC-919); Comment Request; Extension

July 13, 2010.

**AGENCY:** Federal Energy Regulatory Commission.

**ACTION:** Notice of proposed information collection and request for comments.

**SUMMARY:** In compliance with the requirements of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, 44 U.S.C. 3506(c)(2)(A) (2006), (Pub. L. No. 104-13), the Federal Energy Regulatory Commission (Commission or FERC) is soliciting public comment on the proposed information collection described below.

**DATES:** Comments in consideration of the collection of information are due 60

days after publication of this Notice in the **Federal Register**.

**ADDRESSES:** Comments may be filed either electronically (eFiled) or in paper format, and should refer to Docket No. IC10-919-000. Documents must be prepared in an acceptable filing format and in compliance with Commission submission guidelines at <http://www.ferc.gov/help/submission-guide.asp>. eFiling instructions are available at: <http://www.ferc.gov/docs-filing/efiling.asp>. First time users must follow eRegister instructions at: <http://www.ferc.gov/docs-filing/eregistration.asp>, to establish a user name and password before eFiling. The Commission will send an automatic acknowledgement to the sender's e-mail address upon receipt of eFiled comments. Commenters making an eFiling should not make a paper filing. Commenters that are not able to file electronically must send an original and two (2) paper copies of their comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street, NE., Washington, DC 20426.

Users interested in receiving automatic notification of activity in this docket may do so through eSubscription at <http://www.ferc.gov/docs-filing/esubscription.asp>. In addition, all comments and FERC issuances may be viewed, printed or downloaded remotely through FERC's eLibrary at <http://www.ferc.gov/docs-filing/elibrary.asp>, by searching on Docket No. IC10-919-000. For user assistance, contact FERC Online Support by e-mail at [ferconlinesupport@ferc.gov](mailto:ferconlinesupport@ferc.gov), or by phone at: (866) 208-3676 (toll-free) or (202) 502-8659 for TTY.

**FOR FURTHER INFORMATION CONTACT:** Michael Miller may be reached by e-mail at [DataClearance@FERC.gov](mailto:DataClearance@FERC.gov), telephone at (202)502-8415, and fax at (202)273-0873.

**SUPPLEMENTARY INFORMATION:** The information collected under FERC-919 (OMB Control No. 1902-0234) "Electric Rate Schedule Filings: RM04-7-000 Final Rule: Market Based Rates for Wholesale Sales of Electric Energy, Capacity and Ancillary Services by Public Utilities" is necessary to ensure that market-based rates charged by public utilities are just and reasonable as mandated by Federal Power Act (FPA) sections 205 and 206. Section 205 of the FPA requires just and reasonable rates and charges. Section 206 allows the Commission to revoke a seller's market-based rate authorization if it determines that the seller may have gained market power since it was originally granted market-based rate authorization by the Commission.

On June 21, 2007, the Commission issued Order No. 697<sup>1</sup> to modify subpart H to 18 Code of Federal Regulations (CFR) part 35. In Order No. 697, the Commission revised and codified market-based rate standards for generating electric utilities for use in the Commission's determination of whether a wholesale seller of electric energy, capacity or ancillary services qualifies for market-based rate authority. Subpart H contains the regulations necessary to mandate that sellers submit market power analyses and related reports.

Market power analyses must address both horizontal and vertical market power. To demonstrate lack of horizontal market power, two indicative market power screens are required under Order No. 697: The uncommitted pivotal supplier screen, which is based on the annual peak demand of the relevant market, and the uncommitted market share screen applied on a seasonal basis. These screens examine whether a seller has the ability to exercise horizontal market power. Sellers that fail either screen are rebuttably presumed to have market power, and a seller that fails either screen may submit a delivered price test analysis to rebut the presumption of horizontal market power. If a seller fails to rebut the presumption of horizontal market power, the Commission sets the just and reasonable rate at the default cost-based rate unless it approves different mitigation based on case-specific circumstances. For a seller that already makes wholesale sales at market-based rates, rates are not revoked and cost-based rates are not imposed until the Commission issues an order making a definitive finding that the seller has market power or, where the seller accepts a presumption of market power, an order is issued addressing whether default cost-based rates or case-specific cost-based rates are to be applied. Once an order is issued, the Commission revokes the market-based rate authority in all geographic markets where a seller is found to have market power.<sup>2</sup>

Sellers that own or control more than 500 megawatts of generation and/or that own, operate or control transmission facilities, are affiliated with any entity that owns, operates or controls transmission facilities in the same region as the seller's generation assets, or with a franchised public utility in the

<sup>1</sup> *Market-Based Rates for Wholesale Sales of Electric Energy, Capacity and Ancillary Services by Public Utilities*, Order No. 697, 72 FR 39,904 (Jul. 20, 2007), FERC Stats. & Regs. ¶ 31,252 (2007) (Final Rule).

<sup>2</sup> The seller has the option of withdrawing its market-based rate request in whole or in part.

same region as the seller's generation assets are required to file updated market power analyses every three years. The updated market power analyses must demonstrate that a seller does not possess horizontal market power. A pivotal supplier power analysis and a market share analysis must be submitted, and if the seller fails either, a delivered price test analysis must be submitted as well. When submitting horizontal market power analyses, a seller must use the form provided in Appendix A of Subpart H and include all materials referenced.

To demonstrate a lack of vertical market power, to the extent that a public utility with market-based rates, or any of its affiliates, owns, operates or controls transmission facilities, it must have on file with the Commission, a Commission-approved Open Access Transmission Tariff (burden reported separately in information collection 1902-0096). In addition, in order for a seller to demonstrate that it satisfies the Commission's vertical market power analysis, it must also demonstrate that neither it nor its affiliates can erect other barriers to entry. To demonstrate a lack of vertical market power in wholesale energy markets through the affiliation, ownership, or control of inputs to electric power production, such as the transportation or distribution of the inputs to electric power production, a seller must submit: A description of its ownership or control of, or affiliation with an entity that owns or controls, intrastate natural gas transportation, intrastate natural gas storage or distribution facilities; sites for generation capacity development; and physical coal supply sources and ownership or control over who may access transportation of coal supplies. In addition, a seller is required to make an affirmative statement that it has not erected barriers to entry into the relevant market and will not erect barriers to entry into the relevant market.

Lastly, a seller must submit an asset appendix with its initial application for market-based rate authorization or updated market power analysis, and all relevant change in status filings. The asset appendix must list, among other things, all affiliates that have market-

based rate authority and identify any generation assets owned or controlled by the seller and any such affiliate. The appendix must list all generation assets owned (clearly identifying which affiliate owns which asset) or controlled (clearly identifying which affiliate controls which asset) by the corporate family by balancing authority area, and by geographic region, and provide the in-service date and nameplate and/or seasonal ratings by unit. In addition, the appendix must reflect all electric transmission and natural gas intrastate pipelines and/or gas storage facilities owned or controlled by the corporate family and the location of such facilities. (see subpart H, appendix B for standard form).

Wholesale power marketers and wholesale power producers that are not affiliated with franchised public utilities or transmission owners, that do not own transmission, and that do not, together with all of their affiliates, own or control more than 500 MW of generation in the relevant region are not required to submit updated market power analyses. The Commission determines which sellers are in this category through information filed by the utility either when the seller files its initial application for market-based rate authorization, or through a separate filing made to request such a determination.

In early 2005, the Commission clarified and standardized market-based rate sellers' reporting requirements for any change in status that departed from the characteristics the Commission relied on in initially authorizing sales at market-based rates. In Order No. 652,<sup>3</sup> the Commission required, as a condition of obtaining and retaining market-based rate authority, that sellers file notices of such changes no later than 30 days after the change in status occurs. Order No. 697 incorporated minor revisions to the change in status reporting requirements. The order also codified the requirement that each seller include an appendix identifying specified assets with each pertinent change in status notification filed (see subpart H, appendix B for standard form).

In Order No. 697-C, in order to address concerns regarding a seller's ability to erect barriers to entry through

its acquisition of control of sites for new generation capacity development, the Commission clarified that all entities with market-based rate authorization are required to report on a quarterly basis,<sup>4</sup> the acquisition of control of a site or sites for new generation capacity development for which site control has been demonstrated in the interconnection process and for which the potential number of megawatts that are reasonably commercially feasible on the site or sites for which new generation capacity development is equal to 100 megawatts or more. A notification of change in status that is submitted to report the acquisition of control of a site or sites for new generation capacity must include: The number of sites acquired; the relevant geographic market in which the sites are located; and the maximum number of megawatts that are reasonably commercially feasible on the sites reported.

The market power analyses required by Order No. 697 helps to inform the Commission as to whether an entity seeking market-based rate authority lacks market power, and whether sales by that entity will be made at rates that are just and reasonable. The updated market power analyses allow the Commission to monitor changes in a seller's market power or potential abuses of market power, and enable the Commission to determine whether continued market-based rate authority will still yield rates that are just and reasonable. Market-based rate tariffs with standard provisions improve the efficiency of the Commission in its analysis and determination of whether a seller satisfies the requirements for market-based rate authority. These standardized market-based rate tariffs help to reduce document preparation time by applicants and sellers, and provide utilities with the clearly defined requirements of the Commission.

**ACTION:** The Commission is requesting a three-year extension of the FERC-919 reporting requirements, with no changes.

*Burden Statement:* The estimated annual burden follows.

FERC-919 (Orders 697-A, B, C, D)	Number of respondents filing annually	Hours per response	Total annual hours
Market power analysis in new applications for market-based rates (required in 18 CFR 35.37(a)) .....	155	250	38,750

<sup>3</sup> Order No. 652 at P 47.

<sup>4</sup> All other change in status reports must be filed no later than 30 days after the change in status occurs. 18 CFR 35.42 (2010).

FERC-919 (Orders 697-A, B, C, D)	Number of respondents filing annually	Hours per response	Total annual hours
Triennial market power analysis in category 2 seller updates (required in 18 CFR 35.37(a)) ...	74	40	2,960
Quarterly land acquisition reports (required in 18 CFR 35.42(d)) .....	40	4	160
Appendix B addition to change in status reports 18 CFR 35.42(a) .....	400	1	400
<b>Totals</b> .....			<b>42,270</b>

The total estimated annual cost burden to respondents is \$2,801,891 (42,270 hours/2080 hours<sup>5</sup> per year, times \$137,874<sup>6</sup>).

The reporting burden includes the total time, effort, or financial resources expended to generate, maintain, retain, disclose, or provide the information including: (1) Reviewing instructions; (2) developing, acquiring, installing, and utilizing technology and systems for the purposes of collecting, validating, verifying, processing, maintaining, disclosing and providing information; (3) adjusting the existing ways to comply with any previously applicable instructions and requirements; (4) training personnel to respond to a collection of information; (5) searching data sources; (6) completing and reviewing the collection of information; and (7) transmitting, or otherwise disclosing the information.

The estimate of cost for respondents is based upon salaries for professional and clerical support, as well as direct and indirect overhead costs. Direct costs include all costs directly attributable to providing this information, such as administrative costs and the cost for information technology. Indirect or overhead costs are costs incurred by an organization in support of its mission. These costs apply to activities which benefit the whole organization rather than any one particular function or activity.

*Comments are invited on:* (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or

other forms of information technology, e.g. permitting electronic submission of responses.

**Kimberly D. Bose,**  
*Secretary.*

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**DEPARTMENT OF ENERGY**

**Federal Energy Regulatory Commission**

[Docket Nos. CP10-468-000; PF10-2-000]

**Northern Border Pipeline Company; Notice of Application**

July 12, 2010.

Take notice that on July 2, 2010, Northern Border Pipeline Company (Northern Border), 717 Texas Street, Houston, Texas, filed in the above referenced docket an application pursuant to section 7(c) of the Natural Gas Act seeking authorization of the construction, ownership and operation of a new interstate natural gas pipeline lateral and related facilities (Princeton Lateral) designed to transport approximately 120 million cubic feet per day of natural gas from the existing Kasbeer side valve located on Northern Border's mainline system in Bureau County, Illinois, to a point of interconnection with the facilities of Central Illinois Light Company d/b/a AmerenCILCO (CILCO) near Princeton, Illinois, all as more fully set forth in the application. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at <http://www.fer.gov> using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or toll free at (866) 208-3676, or for TTY, contact (202) 502-8659.

Specifically, Northern Border seeks certificate authorization to: (1) Construct a new 8.65-mile lateral of 16-inch-outside-diameter pipeline; (2) construct an inline inspection tool launcher facility near the Northern Border Kasbeer side valve site; (3) construct one

8-inch ultrasonic meter and related pipeline facilities and inline inspection tool at the CILCO delivery location; and (4) establish new lateral line rate schedules, including applicable tariff provisions and initial recourse rates for transportation service on the Princeton Lateral. Northern Border estimates the cost of the project to be approximately \$18,415,000.

Any questions regarding the application may be directed to Robert Jackson, Director, Certificates and Regulatory Administration, Northern Border Pipeline Company, 717 Texas Street, Houston, Texas, at phone number: (832) 320-5487, or by e-mail: [robert.jackson@transcanada.com](mailto:robert.jackson@transcanada.com).

On November 12, 2009, the Commission staff granted Northern Border's request to utilize the National Environmental Policy Act (NEPA) Pre-Filing Process and assigned Docket Number PF10-2-000 to staff activities involving the Princeton Lateral. Now, as of the filing Northern Border's application on July 2, 2010, the NEPA Pre-Filing Process for this project has ended. From this time forward, Northern Border's proceeding will be conducted in Docket No. CP10-468-000, as noted in the caption of this Notice.

Pursuant to Section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify Federal and State agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

<sup>5</sup> Estimated number of hours an employee works each year.

<sup>6</sup> Estimated average annual cost per employee.