

## FERC Issues NOPR on Information Collection, Rescinds Previous Iterations of Rule

Article By:

Energy and Public Utilities Group

---

On July 21, 2016, the Federal Energy Regulatory Commission (FERC) issued a Notice of Proposed Rulemaking (NOPR) in [Docket No. RM16-17-000](#) to revise regulations regarding the collection of data for analytics and surveillance purposes from market-based rates (MBR) sellers and entities trading virtual products or holding financial transmission rights (Virtual/FTR Participants). FERC also withdrew two earlier NOPRs in Docket Nos. RM15-23-000 and RM16-3-000. FERC indicated that the newly-issued NOPR would address many of the issues in the withdrawn NOPRs.

The new NOPR addresses concerns raised regarding the withdrawn NOPRs, specifically by proposing less onerous and more streamlined data collection requirements. According to the NOPR, FERC intends to create a relational database with the information collected from MBR sellers and Virtual/FTR Participants. FERC proposes to require that entities report data in XML format and has created a data dictionary to define relevant terms.

The NOPR creates two categories of information disclosure requirements. Both MBR sellers and Virtual/FTR Participants must provide “Connected Entity Information.” Connected entities are “affiliates” as defined by the MBR requirements currently found in section 35.36(a)(9). These affiliates must also be:

1. An “ultimate affiliate owner” of the entity;
2. An entity that participates in FERC-jurisdictional organized wholesale electric markets; or
3. An entity that purchases or sells financial natural gas or electric energy derivative products that settle off the price of physical electric or natural gas energy products.

Entities need not report information on debt instruments.

The NOPR also revises the information that MBR sellers must provide when attempting to gain or retain MBR authority. FERC proposes that MBR sellers only provide information on affiliate owners that (1) are furthest upstream; or (2) have a franchised service area or MBR authority, or that directly own or control generation; transmission; intrastate natural gas transportation, storage or distribution

facilities; or physical coal supply sources or ownership of or control over who may access transportation of coal supplies. The Commission also proposes that if an MBR seller is directly or indirectly owned or controlled by a foreign government or a political subdivision of a political government, it must identify that relationship in its filing. FERC believes this protects utility customers against inappropriate cross-subsidization. Additionally, FERC proposes that MBR sellers provide information supporting that its passive owners own a separate class of securities, do not exercise day-to-day control over the company, cannot remove the manager without cause, and have limited consent rights. The NOPR also eliminates the need for MBR sellers to provide asset information for assets owned by affiliates with MBR authority.

FERC proposes that existing Virtual/FTR Participants make a baseline filing within 90 days of the publication of a Final Rule. The submission would contain the ownership, trader, and contract information and report the entities' Legal Entity Identifier. The NOPR applies these same deadlines to existing MBR sellers. After the baseline filing, both sets of entities must file any changes within 30 days of the changes occurring.

Comments on the newly issued NOPR are due 45 days after publication in the Federal Register. On August 11, 2016, FERC will hold a technical workshop to review the draft data dictionary.

© 2025 ArentFox Schiff LLP

---

National Law Review, Volume VI, Number 214

Source URL: <https://natlawreview.com/article/ferc-issues-nopr-information-collection-rescinds-previous-iterations-rule>