

185. Therefore, the behavioral rules adopted by the Commission for market-based rates sellers will apply to all markets. To the degree these rules overlap with a clearly stated tariff provision for which the Commission has assigned the first-line enforcement authority with associated sanctions to a MMU subject to appeal to the Commission, we will defer in the first instance to the MMU, subject to possible review. The Commission will exclusively undertake consideration of all other asserted violations of these rules. The Commission staff and the MMUs will work together to act to comprehensively assure that the overall competitiveness of jurisdictional electricity markets is maintained.

186. In addition, as discussed in our consideration of Market Behavior Rule

1, absent a situation in which an activity is part of a broader manipulative scheme prohibited by Market Behavior Rule 2, a compliance with Commission-approved ISO and RTO rules (such as bidding consistent with the AMP process in the New York ISO) will be deemed in compliance with these market behavior rules.

#### P. Administrative Findings and Notices

##### 1. Information Collection Statement

187. As noted above, the Market Behavior Rules approved herein will require jurisdictional market-based rate sellers, to the extent they engage in reporting of transactions to publishers of electricity or natural gas price indices, to provide accurate and factual information and not submit false or

misleading information or omit material information to any such publisher.<sup>122</sup> In addition, these Market Behavior Rules will require market-based rate sellers to retain certain records for a minimal period of three years, as required by Market Behavior Rule 5.<sup>123</sup>

188. Given these requirements, the collection of information set forth below has been submitted to the Office of Management and Budget (OMB) for review under section 3507(d) of the Paperwork Reduction Act of 1995.<sup>124</sup> OMB's regulations require OMB to approve certain information collection requirements imposed by agency rule.<sup>125</sup> The Commission identifies the information provided for under this order as FERC-516, Electric Rate Schedule Filings.

Data collection	Number of respondents	Number of responses	Hours per total	Total annual hours
FERC-516				
(Reporting) .....	864	3	1.5 3	3,888
(Recordkeeping) .....	864	1	5.0	4,320
Totals .....	.....	.....	6.5	8,208

Total annual hours for Collection (reporting + recordkeeping) = 8,208.

189. *Information Collection Costs:* The Commission seeks comments on the cost to comply with these requirements. It has projected the average annualized cost of all respondents to be: \$252,720 (3,888 @ \$65.00 per hour, for reporting) + \$2,000,160 (4,320 hours @ \$31.00 per hour + \$1,866,240 maintenance/storage/recordkeeping) = \$2,252,880.

190. OMB's regulations require it to approve certain information collection requirements imposed by agency rule. The Commission is submitting a copy of this order to OMB.

*Title:* Electric Rate Schedule Filings.

*Action:* Proposed Collection.

*OMB Control No:* 1902-0096.

*Respondents:* Businesses or other for profit.

*Frequency of Responses:* On occasion.

*Necessity of Information:* The Market Behavior Rules approved herein will revise market-based rate sellers' tariffs and authorizations and are intended to ensure that rates and terms of service offered by market-based rate sellers remain just and reasonable.

and are charged with reporting back to the Commission any problems and anomalies which they encounter so that the Commission may take appropriate action under the Federal Power Act." See MMU Communications Order, 102 FERC at 61,091. In other words, the most important function an MMU performs is to provide feedback to the Commission in order for the Commission to take

*Internal review:* The Commission has reviewed the requirements pertaining to Market Behavior Rules 4 and 5 and has determined that these tariff conditions are necessary to ensure just and reasonable rates. These tariff requirements, moreover, conform to the Commission's plan for efficient information collection, communication, and management within the electric utility industry. The Commission has assured itself, by means of internal review, that there is specific, objective support for the burden estimates associated with the information/data retention requirements.

191. Interested persons may obtain information on the information requirements by contacting the following: Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426 [Attention: Michael Miller, Office of the Executive Director, Phone (202)502-8415, fax: (202)273-0873, e-mail: [michael.miller@ferc.gov](mailto:michael.miller@ferc.gov).]

192. For submitting comments concerning the collection of information and the associated burden estimates,

substantive action in accord with the statute. As we have stated, MMUs "are practically an extension, or a surrogate for, the Commission's own monitoring and investigative staff." *Id.*

<sup>122</sup> See Appendix A at Market Behavior Rule 4.

<sup>123</sup> *Id.* at Market Behavior Rule 5.

<sup>124</sup> 44 U.S.C. 3507(d) (2000).

<sup>125</sup> 5 CFR 1320.12 (2003).

please send your comments to the contact listed above and to the Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, DC 20503, [Attention: Desk Officer for the Federal Energy Regulatory Commission, phone: (202)395-7856, fax: (202)395-7285.]

##### 2. Environmental Analysis

193. 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.<sup>126</sup> The Commission has categorically excluded certain actions from these requirements as not having a significant effect on the human environment.<sup>127</sup>

The actions proposed to be taken here fall within categorical exclusions in the Commission's regulations for rules that are clarifying, corrective, or procedural, for information gathering, analysis, and dissemination, and for sales, exchange, and transportation of natural gas that requires no construction of facilities.<sup>128</sup> Therefore, an environmental assessment

<sup>126</sup> Order No. 486, Regulations Implementing the National Environmental Policy Act, 52 FR 47897 (Dec. 17, 1987), FERC Stats. & Regs. Preambles 1986-1990 ¶ 30,783 (1987).

<sup>127</sup> 18 CFR 380.4 (2003).

<sup>128</sup> *Id.* at §§ 380.4(a)(2)(ii), 380.4(a)(5), and 380.4(a)(27).