competition for purposes of section 23(a)(2) of the Securities Exchange Act of 1934.[5]

IV. Statutory Authority

The amendments contained herein have been made under the authority set forth in 5 U.S.C. 552 and 15 U.S.C. 78w(a).

List of Subjects in 17 CFR Part 200

Administrative practice and procedure, Freedom of information.

Text of Amendments

For the reasons stated in the preamble, the Commission amends title 17, chapter II of the Code of Federal Regulations as follows:

PART 200—ORGANIZATION; CONDUCT AND ETHICS; AND INFORMATION AND REQUESTS

Subpart D—Information and Requests

■ 1. The authority citation for part 200, subpart D, continues to read in part as follows:

Authority: 5 U.S.C. 552, as amended, 15 U.S.C. 77f(d), 77s, 77ggg(a), 77sss, 78m(F)(3), 78w, 80a–37, 80a–44(a), 80a–44(b), 80b–10(a), and 80b–11, unless otherwise noted.

Section 200.80 also issued under Public Law 114–185 sec. 3(a), 130 Stat. 538; 5 U.S.C. 552; 15 U.S.C. 77f(d), 77s, 77ggg(a), 78d–1, 78w(a), 80a–37(a), 80a–44(b), 80b–10(a), and 80b–11(a), unless otherwise noted.

* * * * *

■ 2. Amend § 200.80 by revising paragraph (a)(2) to read as follows:

§ 200.80 Securities and Exchange Commission records and information.

(a) * * *

(2)(i) Records that the FOIA requires to be made available for public inspection in an electronic format (pursuant to 5 U.S.C. 552(a)(2)) are accessible through the Commission's website, *http://www.sec.gov*. Each division and office of the Commission is responsible for determining which of its records are required to be made publicly available in an electronic format, as well as identifying additional records of interest to the public that are appropriate for public disclosure, and for posting and indexing such records. Each division and office shall ensure that its posted records and indexes are reviewed and updated on an ongoing basis.

(ii) Persons who do not have access to the internet may obtain these records by contacting the Commission's Office of FOIA Services by telephone at 202–551–7900 or by email at *foiapa@sec.gov*.

* * * * *

By the Commission.

Dated: August 23, 2021.

Vanessa A. Countryman,

Secretary.

[FR Doc. 2021–18425 Filed 8–25–21; 8:45 am]

BILLING CODE 8011–01–P

[5] 15 U.S.C. 78w(a)(2).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 35

[Docket No. RM16–17–000]

Data Collection for Analytics and Surveillance and Market-Based Rate Purposes

AGENCY: Federal Energy Regulatory Commission.

ACTION: Adopted revisions to information collection.

SUMMARY: The Federal Energy Regulatory Commission adopts a proposal to collect additional data from certain market-based rate sellers with ultimate upstream affiliates that have been granted blanket authorization to acquire the securities of those sellers or those sellers' upstream affiliates. The adopted proposal involves certain revisions to the data dictionary and XML schema that accompany the relational database established in Order No. 860.

DATES: These revisions will become effective October 25, 2021.

FOR FURTHER INFORMATION CONTACT:

Ryan Stertz (Technical Information), Office of Energy Market Regulation, Federal Energy Regulatory Commission, 888 First St. NE, Washington, DC 20426, (202) 502–6473, *Ryan.Stertz@ferc.gov.*

Regine Baus (Legal Information), Office of the General Counsel, Federal Energy Regulatory Commission, 888 First St. NE, Washington, DC 20426, (202) 502–8757, *Regine.Baus@ferc.gov*.

SUPPLEMENTARY INFORMATION:

Order Adopting Revisions to Information Collection

(Issued August 19, 2021)

1. On March 18, 2021, the Commission issued a notice requesting comments [1] on a proposal to collect additional data from certain market-based rate (MBR) sellers (Sellers) [2] through revisions to the data dictionary and XML schema that accompany the relational database established in Order No. 860 (MBR Data Dictionary).[3] Specifically, the Commission proposed revising the MBR Data Dictionary to require that Sellers whose ultimate upstream affiliate(s) [4] own their voting securities pursuant to a section 203(a)(2) blanket authorization provide, in the relational database, three additional data fields: The docket number of the section 203(a)(2) blanket authorization, the Utility ID Type CD of the utility whose securities were acquired under the corresponding section 203(a)(2) blanket authorization docket number, and the Utility ID of that utility.[5] In this order, we revise the MBR Data Dictionary as proposed in the March Notice.

I. Background

A. Order No. 860

2. On July 18, 2019, the Commission issued Order No. 860, which revised certain aspects of the substance and format of information Sellers submit to the Commission for market-based rate purposes. Among other things, the Commission adopted the approach to collect market-based rate information in a relational database.[6] The Commission also specified that any significant changes to the MBR Data Dictionary would be proposed in a Commission order or rulemaking, which would provide an opportunity for comment.[7]

3. In support, the Commission explained that the relational database construct provides for a more modern and flexible format for the reporting and retrieval of information. The

[1] *Data Collection for Analytics & Surveillance & Mkt.-Based Rate Purposes,* 86 FR 17823 (Apr. 6, 2021), 174 FERC ¶ 61,214 (2021) (March Notice).

[2] A Seller is defined as any person that has authorization to or seeks authorization to engage in sales for resale of electric energy, capacity or ancillary services at market-based rates under section 205 of the Federal Power Act (FPA). 18 CFR 35.36(a)(1); 16 U.S.C. 824d.

[3] *Data Collection for Analytics & Surveillance & Mkt.-Based Rate Purposes,* Order No. 860, 84 FR 36390 (July 26, 2019), 168 FERC ¶ 61,039 (2019), *order on reh'g and clarification,* Order No. 860–A, 85 FR 13012 (Oct. 1, 2020), 170 FERC ¶ 61,129 (2020).

[4] ''Ultimate upstream affiliate'' is defined as the furthest upstream affiliate(s) in the ownership chain—*i.e.,* each of the upstream of affiliate(s) of a Seller, who itself does not have 10% or more of its outstanding securities owned, held or controlled, with power to vote, by any person (including an individual or company). Order No. 860, 168 FERC ¶ 61,039 at P 5 n.10; *see also* 18 CFR 35.36(a)(10). ''Upstream affiliate'' means any entity described in § 35.36(a)(9)(i). 18 CFR 35.36(a)(10).

[5] The March Notice defined ''utilities'' as transmitting utilities, electric utility companies, or holding company systems containing such entities. March Notice, 174 FERC ¶ 61,214 at P 1 n.4.

[6] Order No. 860, 168 FERC ¶ 61,039 at P 4.

[7] *Id.* P 220.

Commission noted that Sellers would be linked to their market-based rate affiliates through common ultimate upstream affiliate(s) and that, through this linkage, the relational database would allow for the automatic generation of a complete asset appendix.[8] Therefore, the Commission required that, as part of their market-based rate applications or baseline submissions, Sellers identify, through the relational database, their ultimate upstream affiliate(s). The Commission also specified that Sellers must inform the Commission when they have a new ultimate upstream affiliate as part of their change in status reporting obligations, with any changes updated in the relational database on a monthly basis.[9]

B. Petition for Declaratory Order

4. On March 18, 2021, the Commission denied a petition for declaratory order filed by NextEra Energy, Inc., American Electric Power Company, Inc., Evergy, Inc., Exelon Corporation, and Xcel Energy Services Inc. on behalf of Xcel Energy Inc. (Petitioners).[10] Among other things, Petitioners requested that the Commission find that no affiliation arises under FPA section 205 when institutional investors acquire up to 20% of the voting securities of utilities pursuant to a section 203(a)(2) blanket authorization. Although the Commission disagreed with Petitioners regarding the issue of affiliation, it provided guidance that addressed, in part, the concerns raised by Petitioners. As explained more fully in *NextEra,* the Commission agreed with Petitioners that, as a result of the conditions in a section 203(a)(2) blanket authorization, institutional investors subject to a section 203(a)(2) blanket authorization lack the ability to control the utilities whose voting securities they acquire. The Commission concluded that, because those conditions prevent institutional investors from exercising control over those utilities, utilities commonly owned by an institutional investor are not affiliates of each other under 18 CFR 35.36(a)(9)(iv),[11] so long as their common institutional investor owner complies with the conditions imposed as part of a section 203(a)(2) blanket authorization.[12]

5. However, the Commission recognized in *NextEra* that the relational database, as contemplated in Order Nos. 860 and 860–A, does not provide for a method to distinguish between ultimate upstream affiliates that have or have not acquired securities of Sellers (or their upstream affiliates) through a section 203(a)(2) blanket authorization.[13] As a result, in the March Notice, the Commission proposed changes to the MBR Data Dictionary so that the relational database could accurately reflect the affiliations, or lack thereof, among Sellers if an ultimate upstream affiliate has acquired the securities of Sellers pursuant to a section 203(a)(2) blanket authorization.

II. Discussion

A. March Notice

6. In the March Notice, the Commission proposed to collect certain data in the relational database for purposes of generating accurate asset appendices when 10% or more of the securities of a Seller (or an upstream affiliate) have been acquired pursuant to a section 203(a)(2) blanket authorization. The Commission explained that this new data requirement would only be required for Sellers with upstream affiliates 10% or more of whose securities have been acquired pursuant to a section 203(a)(2) blanket authorization and concluded there would be no burden on other Sellers.[14]

7. Specifically, the Commission proposed to update the MBR Data Dictionary and add three new data fields to the entities_to_entities table: (1) The section 203(a)(2) blanket authorization docket number; (2) the Utility_ID_Type_CD of the utility whose securities were acquired under the corresponding section 203(a)(2) blanket authorization docket number; and (3) and the Utility_ID of that utility. That is, the appropriate Sellers would be required to identify, using these new data fields, the upstream affiliate whose securities were acquired pursuant to the section 203(a)(2) blanket authorization as well as the docket number of the proceeding in which the Commission granted the section 203(a)(2) blanket authorization.[15]

8. The Commission noted that these new data fields would be necessary to prevent the connection of unaffiliated entities when auto-generating asset appendices, consistent with its findings in *NextEra.* The Commission also stated that it anticipated that the MBR Data Dictionary with appropriate validations would be posted on the Commission's website upon issuance of a final order in this proceeding.[16]

B. Comments

9. Comments were filed by the Transmission Access Policy Study Group (TAPS), the Global Legal Entity Identifier Foundation (GLEIF), XBRL US (XBRL), and Edison Electric Institute (EEI) and Electric Power Supply Association (EPSA), jointly.

10. TAPS, GLEIF, and XBRL each support the Commission's proposal to collect additional data from certain Sellers through the inclusion of the three proposed data fields in the relational database.

11. TAPS supports the revisions proposed in the March Notice and urges the Commission to adopt them.[17] TAPS agrees that the proposed revisions are necessary for the relational database to properly identify the affiliates of all Sellers with market-based rate authority, while also maintaining necessary transparency into Sellers' ultimate upstream ownership structures.[18] In particular, TAPS argues that it is important that the March Notice maintains the requirement established in Order Nos. 860 and 860–A, and confirmed in *NextEra,*[19] that Sellers report their ultimate upstream affiliates, even when the ultimate upstream affiliates are institutional investors with section 203(a) blanket authorizations.[20] TAPS argues that transparent access to this information is essential to the Commission's ability to monitor market power and fulfill its statutory obligation to ensure just and reasonable rates.[21]

[8] *Id.* PP 5–6. ''Once a Seller identifies its own assets, the assets of its affiliates without market-based rate authority, and its ultimate upstream affiliate(s), the relational database will contain sufficient information to allow the Commission to identify all of that Seller's affiliates (*i.e.,* those with a common ultimate upstream affiliate) to create a complete asset appendix for the Seller, which includes all of its affiliates' assets.'' *Id.* P 40.

[9] *Id.* P 121.

[10] *NextEra Energy, Inc.,* 174 FERC ¶ 61,213, *granting clarification,* 175 FERC ¶ 61,214 (2021) (*NextEra*).

[11] Under § 35.36(a)(9)(iv), an affiliate of a specified company can mean ''[a]ny person that is under common control with the specified company.'' 18 CFR 35.36(a)(9)(iv); *see also id.* 35.36(a)(9)(i)–(iii) (providing the other aspects of the Commission's affiliate definition as applied in market-based rate proceedings).

[12] *NextEra,* 174 FERC ¶ 61,213 at P 52.

[13] *Id.* P 53.

[14] March Notice, 174 FERC ¶ 61,214 at P 8.

[15] *Id.* P 9.

[16] *Id.* PP 10–11.

[17] TAPS Comments at 2, 8.

[18] *Id.* at 2.

[19] 174 FERC ¶ 61,213.

[20] TAPS Comments at 5–6.

[21] *Id.* at 6–7.

12. GLEIF and XBRL support adding the proposed new data fields to the relational database and also support usage of the Legal Entity Identifier (LEI) in the Utility_ID_Type_CD attribute (proposed field 11 in the entities_to_entities table).[22] However, both GLEIF and XBRL suggest that the Commission incorporate the LEI more broadly by requiring the reporting of an LEI in all cases.[23] GLEIF argues that partial inclusion of the LEI results in partial coverage, which limits the potential benefits of using the LEI.[24] GLEIF further argues that consistent use of the LEI among U.S. federal agencies could greatly enhance information sharing across different government entities.[25] XBRL urges all U.S. regulators to adopt the LEI as a replacement for the industry-specific identifiers used today and adds that LEIs provide clarity regarding organizational provenance, and help businesses understand the origins of clients, contractors, and suppliers.[26]

13. EEI and EPSA believe there is little to no value in reporting ultimate upstream affiliates that are institutional investors to the relational database and express concern that adopting the proposed changes will result in another delay in implementation. As a result, EEI and EPSA urge the Commission not to move forward with the proposed changes.[27] If the Commission moves forward with its proposal to collect information about institutional investor ultimate upstream affiliates in the relational database, EEI and EPSA suggest several modifications and clarifications, which they believe are needed to make the proposed changes less cumbersome, more understandable, and easier to implement.[28]

14. First, EEI and EPSA explain that use of the term ''utility'' in the proposed new data fields Utility_ID_Type_CD and Utility_ID to identify the entity whose securities were acquired by a Seller's ultimate upstream affiliate(s) pursuant to a section 203(a)(2) blanket authorization may confuse the industry because, in most cases, such an entity is not a public utility, as defined by the FPA, but is instead a public utility holding company.[29]

15. Second, EEI and EPSA express concern about the workability of the Commission's proposal regarding the technical implementation and seek clarification on which attribute(s) will be used to generate a Seller's asset appendix.[30] Specifically, in the case that only the Utility_ID attribute will be used to link affiliated Sellers for purposes of generating the asset appendix, EEI and EPSA express concern that the nullable Utility_ID attribute will be blank for thousands of Sellers (because they do not have ultimate upstream affiliate(s) that acquired the securities of the Seller through a section 203(a)(2) blanket authorization). On the other hand, in the case that both the Utility_ID attribute and the Reportable_Entity_ID attribute will be used to link affiliated Sellers for purposes of generating the asset appendix, EEI and EPSA argue that this would be far more complex than always using one attribute (*i.e.* the Reportable_Entity_ID). EEI and EPSA argue that an additional benefit of always using the Reportable_Entity_ID attribute to link affiliated Sellers is that the Reportable_Entity_ID is likely to remain fixed for many years for most Sellers, whereas the existence of an institutional investor ultimate upstream affiliate may vary from quarter to quarter.[31] EEI and EPSA suggest that, should the Commission decide to move forward with its proposal, the concept of Reportable Entity should always be the entity that is used to compile the asset appendix and suggest that the Commission rename this field to be Asset_Appendix_Reportable_Entity.[32]

16. Third, EEI and EPSA seek clarification on whether the data fields relationship_start_date and relationship_end_date now refer to the relationship between a Seller and the Reportable Entity or to the relationship between a Seller and the utility, in the event that both fields are populated. EEI and EPSA suggest that two additional fields be added so that the relational database captures the start and end date of both relationships, when applicable.[33]

17. Finally, EEI and EPSA express concern that the Commission has not allowed adequate time for its proposed changes to be incorporated into software that Sellers may be relying on to create the XMLs for their database submissions, and request that any order in this docket include a step-by-step example to ensure that Sellers' software developers understand the correct approach to updating records.[34]

C. Commission Determination

18. We adopt the revisions to the MBR Data Dictionary, as proposed in the March Notice. In doing so, we provide additional clarification to address concerns raised by commenters. We note that all commenters agree that it is important to distinguish upstream affiliates that have control over Sellers, ultimate upstream affiliates that have received section 203(a)(2) blanket authorizations, and the upstream affiliates or Sellers whose securities were acquired pursuant to that blanket authorization. We find that the revisions, with the clarifications discussed below, strike the appropriate balance between ensuring the accuracy of auto-generated asset appendices and minimizing the burden on Sellers. Below, we respond to commenters' specific suggestions and concerns.

19. We decline to adopt the proposal that the Commission incorporate LEI more broadly by requiring the reporting of an entity's LEI broadly across the Commission's work. We appreciate XBRL's and GLEIF's emphasis on consistency and transparency throughout the Commission's information collection efforts. However, we find that such a proposal is beyond the scope of this proceeding, which more narrowly addresses the accurate identification and reporting of ultimate upstream affiliates in the relational database.

20. As to the argument that there is little to no value in reporting ultimate upstream affiliates where those entities have acquired the securities of the reporting Seller, or its upstream affiliate, pursuant to a section 203(a)(2) blanket authorization order, we note that the Commission has repeatedly emphasized the importance of both identifying and tracking these ultimate upstream affiliates in the relational database.[35] We believe that continuing to require Sellers to report all of their ultimate upstream affiliates and the information discussed herein will preserve the accuracy and integrity of the relational database, as contemplated in Order Nos. 860 and 860–A. These additional data fields will account for instances where certain ultimate upstream affiliates lack control over those Sellers, or their upstream affiliates, whose securities are acquired pursuant to a section 203(a)(2) blanket authorization.[36] Thus, these

[22] *See* GLEIF Comments at 1; XBRL Comments at 1.

[23] *Id.*

[24] GLEIF Comments at 2.

[25] *Id.*

[26] XBRL Comments at 2.

[27] EEI and EPSA Comments at 10.

[28] *Id.* at 3.

[29] *Id.* at 4.

[30] *Id.* at 5.

[31] *Id.* at 5–6.

[32] *Id.* at 8–9.

[33] *Id.* at 6, 9.

[34] *Id.* at 8.

[35] *See, e.g., NextEra,* 174 FERC ¶ 61,213 at P 56; Order No. 860–A, 170 FERC ¶ 61,129 at P 11.

[36] Notably, there is no dispute that entities that own greater than 10% of the voting securities of a market-based rate seller pursuant to a section 203(a)(2) blanket authorization are affiliated with that seller.

data fields will ensure that the relational database does not automatically make these Sellers affiliates of each other under § 35.36(a)(9)(iv),[37] consistent with *NextEra*.[38]

21. Furthermore, this order does not make any new determinations regarding affiliation; rather, it implements the technical components necessary to ensure the relational database functions as contemplated in *NextEra* and Order Nos. 860 and 860–A.[39] Requests for the Commission to not move forward with these proposals are collateral attacks on those orders.[40] As such, we decline to reconsider the Commission's determination to require Sellers to report certain ultimate upstream affiliates.

22. In addition, we decline to adopt a number of the suggestions proposed by EEI and EPSA, as well as their proposed edits to MBR Data Dictionary. EEI and EPSA argue that a single field, Asset_Appendix_Reportable_Entity, should link affiliated Sellers for purposes of generating the asset appendix to simplify submittals in the relational database. However, we find that EEI and EPSA misunderstand the purpose of the Reportable_Entity_ID field in this respect. The Reportable_Entity_ID field is intended for Sellers to report their ultimate upstream affiliates.[41] We believe that shifting this reporting obligation to a different field would, in certain circumstances, change the information submitted and obfuscate a Seller's ultimate upstream affiliate. The three additional data fields we are adopting in this order minimize the burden on all Sellers because these fields apply to only Sellers whose securities have been acquired (or whose upstream affiliate's securities have been acquired) by an ultimate upstream affiliate pursuant to a section 203(a)(2) blanket authorization. As EEI and EPSA note, thousands of Sellers will *not* have to change how they submit information into the relational database with the Commission's changes adopted herein. Because the Reportable_Entity_ID field is where all Sellers must report their ultimate upstream affiliates, we find that it is less burdensome to keep the field limited to reporting only ultimate upstream affiliates under § 35.36(a)(10).

23. As to the use of the term ''utility'' in the data fields, we note that the Commission has defined ''utility'' to mean transmitting utilities, electric utility companies, or holding company systems containing such entities, as those terms have been used in section 203(a)(2) blanket authorization orders.[42] We find that continuing to use ''utility'' in this manner is consistent with how that term has also been used in section 203(a)(2) blanket authorization orders.[43]

24. In addition, we appreciate EEI's and EPSA's concerns that the relational database is a complex system and that potential confusion may exist about how the adopted fields will be used when auto-generating asset appendices. Based on these concerns, we agree that certain clarifications to the MBR Data Dictionary will help to alleviate confusion regarding the relational database. Specifically, we have updated the descriptions of the Reportable_Entity_ID, Blanket_Auth_Docket_Number, Utility_ID_Type_CD, and Utility_ID fields to clarify how the system constructs relationships for the auto-generated asset appendices.[44] We have also added clarifying descriptions for the relationship_start_date and relationship_end_date fields.

25. Finally, we also appreciate EEI's and EPSA's concerns that the software that Sellers rely on for their XML submissions will need to be updated to incorporate these revisions. For a step-by-step example of how to comply with these revisions, we direct Sellers to the MBR Quick Start Guide, which can be found on the Commission's website.[45]

III. Information Collection Statement

26. The information collection requirements contained in this order are subject to review by the Office of Management and Budget (OMB) under section 3507(d) of the Paperwork Reduction Act of 1995.[46] OMB's regulations require approval of certain information collection requirements imposed by agency rules (including reporting, record keeping, and public disclosure requirements).[47] Upon approval of a collection of information, OMB will assign an OMB control number and expiration date. Respondents subject to the filing requirements of this rule will not be penalized for failing to respond to the collection of information unless the collection of information displays a valid OMB control number. The following discussion describes and analyzes the collection of information to be revised by this order.

27. All burden estimates for the proposed information collection are discussed in this order. These provisions would affect the following information: FERC–919A, Refinements to Policies and Procedures for Market Based Rates for Wholesale Sales of Electric Energy, Capacity and Ancillary Services by Public Utilities (OMB Control No. 1902–0317).

28. Interested persons may obtain information on the reporting requirements by contacting Ellen Brown, Office of the Executive Director, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426 (via email *DataClearance@ferc.gov* or telephone (202) 502–8663).

29. Send written comments on FERC–919A to the Office of Management and Budget (OMB) through *www.reginfo.gov/public/do/PRAMain,* Attention: Federal Energy Regulatory Commission Desk Officer. Please identify the OMB control number (1902–0317) in the subject line. Your comments should be sent within 30 days of publication of this notice in the **Federal Register**. OMB submissions must be formatted and filed in accordance with submission guidelines at *www.reginfo.gov/public/do/PRAMain.* Using the search function under the ''Currently Under Review field,'' select Federal Energy Regulatory Commission; click ''submit'' and select ''comment'' to the right of the subject collection.

30. These revisions affect Sellers that have ultimate upstream affiliates that own their voting securities pursuant to section 203(a)(2) blanket authorizations. Sellers continue to be required to report institutional investors who own 10% or more of their voting shares pursuant to section 203(a)(2) blanket authorizations as their reportable ultimate upstream affiliate in the relational database. However, these revisions also require these Sellers to identify their upstream affiliate(s) whose securities have been acquired, 10% or more, pursuant to a section 203(a)(2) blanket authorization. This requirement includes submitting,

[37] 18 CFR 35.36(a)(9)(iv).

[38] *NextEra,* 174 FERC ¶ 61,213 at P 52.

[39] *Id.* P 56; Order No. 860–A, 170 FERC ¶ 61,129 at P 11; Order No. 860, 168 FERC ¶ 61,039 at PP 121, 126–127, 129.

[40] We note that Commissioner Danly's dissent also raises concerns regarding the value of reporting ultimate upstream affiliates where those entities have received section 203(a)(2) blanket authorization.

[41] 18 CFR 35.36(a)(10).

[42] *See supra* note 5.

[43] We note that, in many section 203(a)(2) blanket authorization orders, the Commission has used the term ''U.S. Traded Utility'' to mean transmitting utilities, electric utility companies, or holding company systems containing such entities being acquired pursuant to section 203(a)(2) blanket authorization orders. ''Utility,'' as used here, has the same meaning as ''U.S. Traded Utility'' used in section 203(a)(2) blanket authorization orders.

[44] *See* appendix A.

[45] Federal Energy Regulatory Commission, *Market-Based Rate Quick Start Guide* (August 2021), *https://mbrwebsat.ferc.gov/MbrHelpLinks/DownLoadFiles/Quick%20Start%20Guide.*

[46] 44 U.S.C. 3507(d).

[47] 5 CFR 1320.

into the relational database, the docket number of the order granting the ultimate upstream affiliate a section 203(a)(2) blanket authorization, the identifier of the upstream affiliate(s) whose securities were acquired pursuant to the section 203(a)(2) blanket authorization, and the type of identifier reported. These revisions would not impose any additional reporting requirements for Sellers whose ultimate upstream affiliates do not hold their voting securities pursuant to section 203(a)(2) blanket authorizations.

31. There are approximately 2,647 Sellers that will submit information into the relational database. Six institutional investors currently have section 203(a)(2) blanket authorizations, which collectively own approximately 110 upstream affiliates that themselves own Sellers. In the March Notice, the Commission estimated an average of four Sellers affected for every upstream affiliate, equaling 440 total sellers. This order reaffirms the estimate of the number of Sellers impacted by the revisions herein.

Burden Estimate: The estimated burden and cost [48] for the requirements in this order are as follows. Information on estimated burden from Order No. 860 is displayed for background only.

32. The following table summarizes the average estimated annual burden and cost [49] changes due to March Notice (and includes, for background only, the estimate from Order No. 860):

A.	B.	C.	D.	E.	F.	G.	H.
Respondent/incremental burden category	Number of respondents	Number of responses per respondent	Number of responses (B * C)	Burden hours per response	Hourly cost ($) per response	Total annual burden hours (D * E)	Total cost ($) (F * G)
First Year, proposed incremental cost associated with the collection of reporting connections to an entity whose securities were acquired pursuant to a blanket authorization (Increase due to the March Notice)							
Impacted Sellers, as implemented in this Order.	440	1	440	[50] 2	88.54	880	77,915.20.
Ongoing (beginning in Year 2) collection of reporting connections to an entity whose securities were acquired pursuant to a blanket authorization							
Impacted Sellers, as implemented in this Order.	440	1	440	68	88.54	29,920	2,649,116.80.
Total Burden for Impacted Sellers in this Order.	440	1	440	70	88.54	30,800	2,727,032.00.
Impacted Sellers have an offsetting decrease in reporting requirements compared to those required to be reported in Order 860							
Reduction in Burden of Order 860 Reporting Requirements for Impacted Sellers [51].	440	1	−440	70 [former estimate, being replaced].	88.54	−30,800 [former estimate, being replaced].	−2,727,032.00 [former estimate, being replaced].
Therefore, there is no net change for impacted Sellers in burden due to these revisions. [52]							

IV. Environmental Analysis

33. 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.[53] The Commission has categorically excluded certain actions from these requirements as not having a significant effect on the human environment.[54] The actions proposed here fall within a categorical exclusion in the Commission's regulations, *i.e.,* they involve information gathering, analysis, and dissemination.[55] Therefore, environmental analysis is unnecessary and has not been performed.

V. Regulatory Flexibility Act

34. The Regulatory Flexibility Act of 1980 (RFA) [56] generally requires a description and analysis of rules that will have significant economic impact on a substantial number of small entities. The RFA mandates consideration of regulatory alternatives that accomplish the stated objectives of a proposed rule and minimize any significant economic impact on a substantial number of small entities. In lieu of preparing a regulatory flexibility analysis, an agency may certify that a proposed rule will not have a significant economic impact on a substantial number of small entities.

35. The Small Business Administration's (SBA) Office of Size Standards develops the numerical definition of a small business.[57] The SBA size standard for electric utilities is based on the number of employees, including affiliates.[58] Under SBA's

[48] The estimated hourly cost burden for respondents—$88.54—is the average of mean hourly wages from May 2020 Bureau of Labor Statistics (BLS) data at *http://www.bls.gov/oes/current/oes_nat.htm,* and BLS benefits data at *http://www.bls.gov/news.release/ecec.nr0.htm* for the following occupations: Legal Occupations (23–0000) $142.25, Computer and Information Systems Managers (11–3021) $103.61, Computer and Mathematical Occupations (15–0000) $65.73, and Information and Record Clerks (43–4199) $42.57.

[49] The following table displays BLS cost calculations from 2020 which updated the March Notice's estimates from the initial 2019 data.

[50] The two hours represents the additional time required to address the three new fields.

[51] Order No. 860, 168 FERC ¶ 61,039 at P 323.

[52] We estimate that the additional burden (440 hours) due to these revisions of reporting this information will not have a net change in overall burden because sellers will no longer be affiliated through common ultimate upstream affiliates with blanket authorizations, as contemplated in Order Nos. 860 and 860–A. We conservatively estimate that the net change on the impacted sellers reporting this information will be zero. The net additional cost calculations were determined by subtracting the total burden for impacted sellers for these revisions from the estimated burden in Order No. 860 which results in no change in burden.

[53] *Reguls. Implementing the Nat'l Envt'l Pol'y Act,* Order No. 486, 52 FR 47897 (Dec. 17, 1987), FERC Stats. & Regs. ¶ 30,783 (1987) (cross-referenced at 41 FERC ¶ 61,284).

[54] *Id.*

[55] 18 CFR 380.4.

[56] 5 U.S.C. 601–612.

[57] 13 CFR 121.101.

[58] *Id.*

current size standards, an electric utility (one that falls under NAICS codes 221122 [electric power distribution, with a small business threshold of 1,000 employees], 221121 [electric bulk power transmission and control, with a small business threshold of 500 employees], or 221118 [other electric power generation, with a small business threshold of 250 employees]) [59] are small if it, including its affiliates, employs 1,000 or fewer people.[60]

36. Of the 440 affected entities discussed above, we estimate that none of these will be small entities. Accordingly, we certify that this order will not have a significant economic impact on a substantial number of small entities.

[59] The North American Industry Classification System (NAICS) is an industry classification system that Federal statistical agencies use to categorize businesses for the purpose of collecting, analyzing, and publishing statistical data related to the U.S. economy. United States Census Bureau, North American Industry Classification System, *https://www.census.gov/eos/www/naics/.*

[60] 13 CFR 121.201 (Sector 22—Utilities). To be conservative, we are using a small business threshold of 1,000 employees.

VI. Document Availability

37. 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*). At this time, the Commission has suspended access to the Commission's Public Reference Room due to the President's March 13, 2020 proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19).

38. 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.

39. 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. Email the Public Reference Room at *public.referenceroom@ferc.gov.*

VII. Effective Date and Congressional Notification

40. These revisions are effective October 25, 2021. The Commission has determined, with the concurrence of the Administrator of the Office of Information and Regulatory Affairs of OMB, that this order is not a ''major rule'' as defined in section 351 of the Small Business Regulatory Enforcement Fairness Act of 1996.

By the Commission. Commissioner Chatterjee is not participating.

Commissioner Danly is dissenting with a separate statement attached.

Issued: August 19, 2021

Kimberly D. Bose,

Secretary.

BILLING CODE 6717–01–P

Note: The following appendix will not appear in the Code of Federal Regulations:
Appendix A (Clean)

entities_to_entities	DRAFT DATA DICTIONARY UPDATING THE ENTITIES TO ENTITIES TABLE *Mapping of reporting entities to ultimate upstream affiliates* (gray rows auto-populated by database system were removed for readability)						
#	**Attribute**	**Description**	**Identifier Type**	**Nullable**	**SQL Type**	**Format**	**Validations**
7	record_type_cd	Indicates whether this is a new submission or a submission to update an existing record.	Options List: • New • Update	N	CHARACTER (6)	NA	Must either be "New" or "Update" if information is included in this table.
8	reference_id	Identifier of existing record being updated.		Y	INTEGER		Required if record_type_cd is "Update." Must match an existing entry from the "Entities to Entities ID" column of the Entities to Entities Submitted Data Table, found here.
9	reportable_entity_ ID_type_CD	User selects one of the three identifier types it will provide for these 2 fields: -Company Identifier/CID of the Reportable Entity. (Required if available.) -Legal Entity Identifier/LEI of the Reportable Entity. (Required if available and CID is not available.) -FERC generated ID/GID of the Reportable Entity. (Required if CID and LEI are not available.)	Options List: • CID • LEI • GID	N	CHARACTER (3)		Must be "CID," "LEI," or "GID."

entities_to_entities	DRAFT DATA DICTIONARY UPDATING THE ENTITIES TO ENTITIES TABLE *Mapping of reporting entities to ultimate upstream affiliates* (gray rows auto-populated by database system were removed for readability)						
#	**Attribute**	**Description**	**Identifier Type**	**Nullable**	**SQL Type**	**Format**	**Validations**
10	reportable_entity_ID	CID, LEI, or GID for the entity being reported. Note: this field is used to identify affiliate relationships to generate the Asset Appendix, other than when a Utility_ID is submitted. When provided, the Utility_ID field is used to establish the downstream affiliate relationships for Asset Appendix generation and the reportable_entity_ID is used to identify the Ultimate Upstream Affiliate.	Foreign Key (CID) Foreign Key (LEI) Foreign Key (GID)	N	CHARACTER (7) CHARACTER (20) CHARACTER (10)		Must match an active record identifier. These identifiers can be found using General Search, found here.
11	Blanket_Auth_Docket_Number	Docket number wherein the Reportable Entity received a of the section 203(a)(2) blanket authorization. This field should be left blank if this does not apply.		Y	CHARACTER VARYING (15)	XXXX-X-XXX; XXXX-XX-XXX; XXXX-XXX-XXX; or XXXX-XXXX-XXX	Required if the Reportable Entity received a 203(a)(2) blanket authorization. Otherwise, should be left blank.

entities_to_entities	DRAFT DATA DICTIONARY UPDATING THE ENTITIES TO ENTITIES TABLE *Mapping of reporting entities to ultimate upstream affiliates* (gray rows auto-populated by database system were removed for readability)						
#	**Attribute**	**Description**	**Identifier Type**	**Nullable**	**SQL Type**	**Format**	**Validations**
12	Utility_ID_ Type_CD	User selects one of the three identifier types it will provide for these 2 fields: -Company Identifier/CID of the Reportable Entity. (Required if available.) -Legal Entity Identifier/LEI of the Reportable Entity. (Required if available and CID is not available.) -FERC generated ID/GID of the Reportable Entity. (Required if CID and LEI are not available.)	Options List • CID • LEI • GID	Y	CHARACTER (3)		Required if the Reportable Entity received a 203(a)(2) blanket authorization. Otherwise, should be left blank. If submitted, must be "CID," "LEI," or "GID."
13	Utility_ID	CID, LEI, or GID for the entity whose securities were acquired pursuant to the blanket authorization. This field should be left blank if this does not apply. Note: when provided, this field is used to establish downstream affiliate relationships to generate the Asset Appendix. The reportable_entity_ID is used to identify the Ultimate Upstream Affiliate.	Foreign Key (CID) Foreign Key (LEI) Foreign Key (GID)	Y	CHARACTER (7) CHARACTER (20) CHARACTER (10)		Required if the Reportable Entity received a 203(a)(2) blanket authorization. Otherwise, should be left blank. Must match an active record identifier. These identifiers can be found using General Search, found here.
14	relationship_ start_date	Date relationship to the Reportable Entity (field 10) started.		N	DATE	YYYY-MM-DD (ANSI)	Valid date
15	relationship_ end_date	Date relationship to the Reportable Entity (field 10) ended.		Y	DATE	YYYY-MM-DD (ANSI)	Valid date Value must be ≥ relationship_start_ date

Appendix B (Redline)

entities_to_entities	DRAFT DATA DICTIONARY UPDATING THE ENTITIES TO ENTITIES TABLE *Mapping of reporting entities to ultimate upstream affiliates* (gray rows auto-populated by database system were removed for readability)						
#	**Attribute**	**Description**	**Identifier Type**	**Nullable**	**SQL Type**	**Format**	**Validations**
7	record_type_cd	Indicates whether this is a new submission or a submission to update an existing record.	Options List: • New • Update	N	CHARACTER (6)	NA	Must either be "New" or "Update" if information is included in this table.
8	reference_id	Identifier of existing record being updated.		Y	INTEGER		Required if record_type_cd is "Update." Must match an existing entry from the "Entities to Entities ID" column of the Entities to Entities Submitted Data Table, found here.
9	reportable_entity_ ID_type_CD	User selects one of the three identifier types it will provide for these 2 fields: -Company Identifier/CID of the Reportable Entity. (Required if available.) -Legal Entity Identifier/LEI of the Reportable Entity. (Required if available and CID is not available.) -FERC generated ID/GID of the Reportable Entity. (Required if CID and LEI are not available.)	Options List: • CID • LEI • GID	N	CHARACTER (3)		Must be "CID," "LEI," or "GID."

entities_to_entities	DRAFT DATA DICTIONARY UPDATING THE ENTITIES TO ENTITIES TABLE *Mapping of reporting entities to ultimate upstream affiliates* (gray rows auto-populated by database system were removed for readability)						
#	**Attribute**	**Description**	**Identifier Type**	**Nullable**	**SQL Type**	**Format**	**Validations**
10	reportable_entity_ID	CID, LEI, or GID for the entity being reported. Note: this field is used to identify affiliate relationships to generate the Asset Appendix, other than when a Utility_ID is submitted. When provided, the Utility_ID field is used to establish the downstream affiliate relationships for Asset Appendix generation and the reportable_entity_ID is used to identify the Ultimate Upstream Affiliate.	Foreign Key (CID) Foreign Key (LEI) Foreign Key (GID)	N	CHARACTER (7) CHARACTER (20) CHARACTER (10)		Must match an active record identifier. These identifiers can be found using General Search, found here.
11	Blanket_Auth_Docket_Number	Docket number wherein the Reportable Entity received a of the section 203(a)(2) blanket authorization. This field should be left blank if this does not apply.		Y	CHARACTER VARYING (15)	XXXX-X-XXX; XXXX-XX-XXX; XXXX-XXX-XXX; or XXXX-XXXX-XXX	Required if the Reportable Entity received a 203(a)(2) blanket authorization. Otherwise, should be left blank.

entities_to_entities	DRAFT DATA DICTIONARY UPDATING THE ENTITIES TO ENTITIES TABLE *Mapping of reporting entities to ultimate upstream affiliates* (gray rows auto-populated by database system were removed for readability)						
#	Attribute	Description	Identifier Type	Nullable	SQL Type	Format	Validations
12	Utility_ID_ Type_CD	User selects one of the three identifier types it will provide for these 2 fields: -Company Identifier/CID of the Reportable Entity. (Required if available.) -Legal Entity Identifier/LEI of the Reportable Entity. (Required if available and CID is not available.) -FERC generated ID/GID of the Reportable Entity. (Required if CID and LEI are not available.)	Options List • CID • LEI • GID	Y	CHARACTER (3)		Required if the Reportable Entity received a 203(a)(2) blanket authorization. Otherwise, should be left blank. If submitted, must be "CID," "LEI," or "GID."
13	Utility_ID	CID, LEI, or GID for the entity whose securities were acquired pursuant to the blanket authorization. This field should be left blank if this does not apply. Note: when provided, this field is used to establish downstream affiliate relationships to generate the Asset Appendix. The reportable_entity_ID is used to identify the Ultimate Upstream Affiliate.	Foreign Key (CID) Foreign Key (LEI) Foreign Key (GID)	Y	CHARACTER (7) CHARACTER (20) CHARACTER (10)		Required if the Reportable Entity received a 203(a)(2) blanket authorization. Otherwise, should be left blank. Must match an active record identifier. These identifiers can be found using General Search, found here.
14	relationship_ start_date	Date relationship to the Reportable Entity (field 10) started.		N	DATE	YYYY-MM-DD (ANSI)	Valid date
15	relationship_ end_date	Date relationship to the Reportable Entity (field 10) ended.		Y	DATE	YYYY-MM-DD (ANSI)	Valid date Value must be ≥ relationship_start_ date

BILLING CODE 6717–01–C

United States of America

Federal Energy Regulatory Commission

Data Collection for Analytics and Surveillance and Market-Based Rate Purposes

Docket No. RM16–17–000

(August 19, 2021)

DANLY, Commissioner, *dissenting:*

1. I dissent from today's order adopting the proposal to collect additional information for the relational database.[1] With this issuance, the Commission now requires further submissions from market-based rate sellers with upstream affiliates holding blanket authorizations under Federal Power Act (FPA) section 203(a)(2).[2] This additional administrative burden which we now foist upon these entities is unnecessary (and therefore unjustifiable) because the information we will glean simply cannot aid us as the majority supposes.

2. Earlier this year, in a separate proceeding, Commissioner Chatterjee and I concurred in an order denying a petition for declaratory order filed by NextEra Energy, Inc. and a number of other utilities. In that order, the Commission seized upon the opportunity to reiterate public utilities' reporting obligations regarding the informational database.[3] Although we concurred in the result of that order, we objected to inclusion of institutional investors in the relational database as a pointless regulatory burden with little to no value.[4] Many of the objections we offered in that concurrence are equally applicable to this order. I recite those objections in large measure here.

3. As today's order recognizes, in *NextEra,* the Commission found that as a result of the conditions in a section 203(a)(2) blanket authorization, institutional investors subject to a section 203(a)(2) blanket authorization lack the ability to control the utilities whose voting securities they acquire. The Commission concluded that, because those conditions prevent institutional investors from exercising control over those utilities, utilities commonly owned by an institutional investor are not affiliates of each other under 18 CFR 35.36(a)(9)(iv), so long as their common institutional investor owner complies with the conditions imposed as part of a section 203(a)(2) blanket authorization.[5]

The Commission thus acknowledged that, in conditioning those blanket authorizations, institutional investors were prevented from exercising control over utilities by acquiring their securities.

4. That determination remains true. Under our current regime, there is little to no value in listing institutional investors as the ultimate upstream affiliate of market-based rate sellers in the relational database. The Commission grants blanket authorizations premised on the finding that the institutional investors can exercise no control over the utilities whose securities they have purchased and that the acquisition would not adversely affect competition.[6] The conclusion that the institutional investors cannot exercise control or influence sellers so as to affect market power is confirmed by our holding that sellers under common control of an institutional investor are not affiliates. Indeed, it could not be otherwise.

5. Given those predicate determinations, I cannot understand why the Commission believes it important to include institutional investors in a database that is designed to enable the Commission to monitor the opportunity for market-based rate sellers to exercise market power. For the same reason, I do not understand why the Commission should require change in status filings to be made whenever an institutional investor's ownership of the seller's voting securities crosses the 10% threshold. To the extent that a particular institutional investor's ownership of voting securities ever becomes relevant to the Commission because it may have violated the conditions of its authorization, that information is easily ascertainable from the quarterly informational filings we require as a condition of granting the blanket authorizations.[7]

6. There is a simple solution that would allow the Commission to eliminate the requirement to include institutional investors in the relational database and in change of status filings without waiving the applicability of section 35.36(a)(9)(i) of our regulations. Section 35.36(b) provides: ''The provisions of this subpart apply to all Sellers authorized, or seeking authorization, to make sales for resale of electric energy, capacity or ancillary services at market-based rates *unless otherwise ordered by the Commission.*'' [8] Here the Commission could have—and in my opinion should have—used this authority to order that sellers are not obligated to report institutional investors in the relational database or to make change in status filings when institutional investor holdings cross the 10% voting security threshold. The Commission would also need to make a minor amendment to its relational database regulations to provide that when an institutional investor is the ultimate upstream affiliate, sellers should instead list the next highest upstream affiliate in the database. For example, subsidiaries of NextEra should list NextEra as the ultimate upstream affiliate in the database if any institutional investor owns 10% or more of NextEra pursuant to a blanket authorization.

7. I appreciate that the Commission has acted to reduce the burden on sellers resulting from the requirement to include institutional investors in the relational database and in change-in-status filings. But a pointless regulatory burden is a pointless regulatory burden, no matter how small.

For these reasons, I respectfully dissent.

James P. Danly,

Commissioner.

[FR Doc. 2021–18283 Filed 8–25–21; 8:45 am]

BILLING CODE 6717–01–P

[59] The North American Industry Classification System (NAICS) is an industry classification system that Federal statistical agencies use to categorize businesses for the purpose of collecting, analyzing, and publishing statistical data related to the U.S. economy. United States Census Bureau, North American Industry Classification System, *https://www.census.gov/eos/www/naics/.*

[60] 13 CFR 121.201 (Sector 22—Utilities). To be conservative, we are using a small business threshold of 1,000 employees.

[1] *Data Collection for Analytics & Surveillance & Mkt.-Based Rate Purposes,* 176 FERC ¶ 61,109 (2021) (August 2021 Order); *see also Data Collection for Analytics & Surveillance & Mkt.-Based Rate Purposes,* 174 FERC ¶ 61,214 (2021); *Data Collection for Analytics & Surveillance & Mkt.-Based Rate Purposes,* Order No. 860, 168 FERC ¶ 61,039 (2019), *order on reh'g and clarification,* Order No. 860–A, 170 FERC ¶ 61,129 (2020).

[5] August 2021 Order, 176 FERC ¶ 61,109 at P 4 (citations omitted).

[6] *See, e.g., Legg Mason, Inc.,* 121 FERC ¶ 61,061, at P 26 (2007).

[7] *See, e.g., id.* P 30.

[8] 18 CFR 35.36(b) (emphasis added).

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2021–0208]

RIN 1625–AA87

Security Zones; Lewes and Rehoboth Canal and Atlantic Ocean, Rehoboth, DE

AGENCY: Coast Guard, DHS.

ACTION: Final rule.