

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

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)	
Revisions to Record Retention Requirements)	
for Unbundled Sales Service, Persons Holding)	Docket Nos. RM06-14-00
Blanket Marketing Certificates, and Public Utility)	
Market-Based Rate Authorization Holders)	
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)	

**THE EDISON ELECTRIC INSTITUTE AND THE ALLIANCE OF ENERGY
SUPPLIERS’ COMMENTS ON THE NOTICE OF PROPOSED RULEMAKING**

The Edison Electric Institute and its Alliance of Energy Suppliers (together, “EEI”) are submitting these comments on the Notice of Proposed Rulemaking issued February 16, 2006.¹ The Edison Electric Institute is the association of U.S. shareholder-owned electric companies and international affiliates and industry associates worldwide. The Alliance of Energy Suppliers represents investor-owned electric energy suppliers and marketers nationwide, including affiliate and independent power producers who also own generation facilities that provide electricity to wholesale markets regulated by the Federal Energy Regulatory Commission (“Commission”). Together our U.S. members serve 97 percent of the ultimate customers in the shareholder-owned segment of the industry, and 71 percent of all electric utility ultimate customers in the nation. They generate almost 60 percent of the electricity generated by U.S. electric utilities. EEI’s members include

¹Revisions to Record Retention Requirements for Unbundled Sales Service, Persons Holding Blanket Marketing Certificates, and Public Utility Market-Based Rate Authorization Holders, Notice of Proposed Rulemaking, Docket Nos. RM06-14-000 (February 16, 2005) (“NOPR”).

electricity generation, transmission, distribution, and service companies that operate in wholesale and retail markets throughout the country.

On February 16, 2006, the Commission issued a Notice of Proposed Rulemaking (“NOPR”) proposing to amend Sections 284.288(b) and 282.403(b) of its regulations regarding natural gas records and Section 35.37(d) for electric record keeping. Section 35.37(d) “requires that sellers retain for a minimum three-year period all data and information upon which they billed the prices charged for electricity and related products in sales made under their market-based rate tariffs and authorizations or in transactions the prices of which were reported to price index publishers.”² The NOPR proposes to extend its record retention requirement from three years to five years to be consistent with five-year statute of limitations for civil penalties.³

The NOPR does not address how the rule would be implemented. For example, under the current rules, a party is no longer required to maintain records created on March 1, 2002 after March 1, 2005. If the proposed rule is finalized May 1, 2006, then parties who no longer have records from March 2002 would technically be out of compliance with the Commission’s rules because the March 2002 records were not maintained for five years. Obviously the Commission does not intend to set up a “gotcha” situation. Consequently the final rule should specify that all new records must be maintained for five years and any existing records must be maintained for five years, but any records removed prior to the final rule in a manner consistent with prior policy will not be a rule violation.

² NOPR at P 1 citing 18 CFR 35.37(d).

³ NOPR at P 1.

EEI appreciates the opportunity to file these comments and asks that the Commission clarify the final rule as suggested above.

March 27, 2006

Respectfully submitted,

-Signature-

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