

certain interest group members would not be able to attend the previously scheduled May 24, 2005 conference<sup>1</sup> and requested that the conference be rescheduled. All major trade associations for the gas, electric, and oil industries have been contacted and are comfortable with the June 1 date. The technical conference will be held from 9 a.m. until 4 p.m. (EST) at the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426 in Hearing Room 1.

The Capitol Connection offers the opportunity for remote listening and viewing of the conference. It is available for a fee, live over the Internet, via C-Band Satellite. Persons interested in receiving the broadcast, or who need information on making arrangements should contact David Reininger or Julie Morelli at the Capitol Connection ((703) 993-3100) as soon as possible or visit the Capitol Connection Web site at <http://www.capitolconnection.gmu.edu> and click on "FERC".

The conference is open to the public to attend, and pre-registration is not required.

FERC conferences are accessible under section 508 of the Rehabilitation Act of 1973. For accessibility accommodations please send an e-mail to [accessibility@ferc.gov](mailto:accessibility@ferc.gov) or call toll free 1-866-208-3372 (voice) or (202) 208-1659 (TTY), or send a fax to (202) 208-2106 with the required accommodations.

For more information about this conference, please contact Keith Pierce, Office of Markets, Tariffs and Rates at (202) 502-8525 or [Keith.Pierce@ferc.gov](mailto:Keith.Pierce@ferc.gov).

**Linda Mitry**

*Deputy Secretary*

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

#### 18 CFR Parts 35, 37, and 38

[Docket No. RM05-5-000]

#### Standards for Business Practices and Communication Protocols for Public Utilities

May 9, 2005.

**AGENCY:** Federal Energy Regulatory Commission, DOE.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Federal Energy Regulatory Commission is proposing to

amend its regulations to incorporate by reference standards promulgated by the North American Energy Standards Board's (NAESB's) Wholesale Electric Quadrant (WEQ) dealing with: Open Access Same-Time Information Systems (OASIS) business practice standards, including posting requirements for Order No. 2003 generator interconnection agreements and procedures; OASIS Standards and Communication Protocols and Data Dictionary; and business practice standards for Coordinate Interchange, Area Control Error (ACE) Equation Special Cases, Manual Time Error Correction, and Inadvertent Interchange Payback.

Incorporating these standards by reference into the Commission's regulations is intended to benefit wholesale electric customers by streamlining utility business practices and transactional processes and OASIS procedures and by adopting a formal ongoing process for reviewing and upgrading the Commission's OASIS standards and other electric industry business practices that would benefit from the implementation of generic industry standards. In addition, the proposal to adopt business practice standards for Coordinate Interchange, ACE Equation Special Cases, Manual Time Error Correction, and Inadvertent Interchange Payback are intended to complement the Version 0 Reliability Standards of the North American Electric Reliability Council.

**DATES:** Comments on the proposed rule are due July 1, 2005.

**ADDRESSES:** Comments may be filed electronically via the eFiling link on the Commission's Web site at <http://www.ferc.gov>. Commenters unable to file comments electronically must send an original and 14 copies of their comments to: Federal Energy Regulatory Commission, Office of the Secretary, 888 First Street, NE., Washington, DC, 20426. Refer to the Comment Procedures section of the preamble for additional information on how to file comments.

#### FOR FURTHER INFORMATION CONTACT:

Marvin Rosenberg (technical issues), Office of Markets, Tariffs and Rates, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, (202) 502-8292.

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Gary D. Cohen (legal issues), Office of the General Counsel, Federal Energy

Regulatory Commission, 888 First Street, NE, Washington, DC 20426, (202) 502-8321.

#### SUPPLEMENTARY INFORMATION:

1. The Federal Energy Regulatory Commission (Commission) proposes to amend its regulations under the Federal Power Act to incorporate by reference certain standards promulgated by the North American Energy Standards Board's (NAESB's) Wholesale Electric Quadrant (WEQ) that implement, with modifications, the Commission's existing Open Access Same-Time Information Systems (OASIS) Business Practice Standards and OASIS Standards and Communication Protocols and Data Dictionary requirements. In addition, the Commission proposes to incorporate by reference NAESB's business practice standards on Coordinate Interchange, Area Control Error (ACE) Equation Special Cases, Manual Time Error Correction, and Inadvertent Interchange Payback that complement the Version 0 Reliability Standards of the North American Electric Reliability Council (NERC).

2. Incorporating these standards by reference into the Commission's regulations is intended to benefit wholesale electric customers by streamlining utility business practices and transactional processes and OASIS procedures and by adopting a formal ongoing process for reviewing and upgrading the Commission's OASIS standards as well as other electric industry business practices that would benefit from the implementation of generic industry standards.

#### I. Background

3. When the Commission developed its OASIS regulations, OASIS Standards and Communication Protocols, Data Dictionary, and Business Practice Standards, it relied heavily on the assistance provided by all segments of the wholesale electric power industry and its customers in the ad hoc working groups that came together and offered consensus proposals for the Commission's consideration. While this process was very successful, it became apparent to the Commission that ongoing issues remained that would be better addressed by an ongoing industry group dedicated to drafting consensus industry standards to implement the Commission's OASIS-related policies and policies on other industry business practices that would benefit from the implementation of generic industry standards rather than by continued reliance on an ad hoc approach.

<sup>1</sup> See 70 FR 23945 (May 6, 2005).

4. On December 19, 2001, the Commission issued an order<sup>1</sup> asking the wholesale electric power industry to develop business practice standards and communication protocols by establishing a single consensus, industry-wide standards organization for the wholesale electric industry, to complement the market design principles the Commission was developing.

5. Subsequently, in 2002, the Gas Industry Standards Board (GISB) stepped forward and volunteered to play this role by modifying its organization to broaden the scope of its activities to address electric power standards. The result of this reorganization has been the emergence of NAESB's WEQ, a non-profit, industry-driven organization working to reach consensus on standards to streamline the business practices and transactional processes within the wholesale electric industry and proposing and adopting voluntary communication standards and model business practices.

6. As we have previously stated, we consider "coordination between business practice standards and reliability standards to be critical to the efficient operation of the market."<sup>2</sup> Thus, we urged the industry to "expeditiously establish the procedures for ensuring such coordination after the NAESB WEQ [was] formalized, and request[ed] NAESB and others to file an update on the progress on coordination between it and NERC, 90 days after the formation of the WEQ."<sup>3</sup>

7. In response to the Commission's request, NAESB and NERC filed a joint letter, on December 16, 2002, explaining that both organizations had signed a memorandum of understanding (MOU) "designed to ensure that the development of wholesale electric business practices and reliability standards are harmonized and that every practicable effort is made to eliminate overlap and duplication of efforts between the two organizations." The MOU describes, among other coordination procedures, the establishment of a Joint Interface Committee that will review all standards development proposals received by either organization and determine which organization should be assigned to draft the relevant standards.

8. On January 18, 2005, NAESB filed a report with the Commission detailing

the WEQ's activities over the past two years since the group's inception. This filing represents NAESB's first filing with the Commission reporting on wholesale electric business practices. NAESB reports that the WEQ has adopted business practices standards and communication protocols for the wholesale electric industry. These standards (Version 000 Standards) include the following OASIS-related business practice standards and communication protocols: (1) OASIS Business Practice Standards; (2) OASIS Standards and Communication Protocols; and (3) an OASIS Data Dictionary.

9. NAESB also reports that, to complement NERC's Version 0 Reliability Standards, the WEQ has adopted business practice standards for: (1) Coordinate Interchange; (2) ACE Equation Special Cases; (3) Manual Time Error Correction; and (4) Inadvertent Interchange Payback. Further, NAESB states that the WEQ has adopted business practice standards for Standards of Conduct to implement the Commission's requirements in Order Nos. 2004, 2004-A, and 2004-B.<sup>4</sup>

10. According to NAESB, the WEQ has adopted the Commission's OASIS Business Practice Standards, OASIS Standards and Communication Protocols, and OASIS Data Dictionary to reflect the business practice standards and communication protocol standards adopted by the Commission in Order Nos. 605, 638, and 889.<sup>5</sup> NAESB states that the WEQ then adopted modifications to these standards to: (1) Facilitate the redirection of transmission service;<sup>6</sup> (2) address multiple

submissions of identical transmission requests/queuing issues;<sup>7</sup> (3) address OASIS posting requirements under Order No. 2003 (the Large Generator Interconnection rule);<sup>8</sup> and (4) provide non-substantive editing to improve the formatting, organization, and clarity of the text.<sup>9</sup>

11. NAESB also reports that the development of the WEQ business practices standards on Coordinate Interchange, ACE Equation Special Cases, Manual Time Error Correction, and Inadvertent Interchange Payback was part of a joint effort with NERC where the existing NERC operating policies were divided into reliability standards for development by NERC and business practices standards for development by NAESB. The Commission endorsed this cooperative division of labor between NERC and NAESB in the May 2002 Order.<sup>10</sup>

## II. Discussion

### A. Standards Development and Incorporation by Reference

12. As we have previously stated, we are pleased that the industry has reached a broad consensus that the WEQ will be the single organization to develop business practice and electronic communication standards on behalf of the entire wholesale electric power industry.<sup>11</sup> Coordinating these efforts within a single organization will make the process of developing standards more efficient, which benefits the entire industry. NAESB is an accredited American National Standards Institute Standards Development Organization, and, thus, the standards development process will ensure due process and assure that all industry members may participate in drafting the standards. The Commission's confidence in the ability of the WEQ to fill this role successfully is justified by the positive contributions NAESB and its predecessor, GISB, have already made

<sup>1</sup> *Id.* at 20.

<sup>2</sup> See *Standardization of Generator Interconnection Agreements and Procedures*, Order No. 2003, FERC Stats. & Regs., Regulations Preambles ¶ 31,146 (2003), *order on reh'g*, Order No. 2003-A, FERC Stats. & Regs., Regulations Preambles ¶ 31,160 (2004), *order on reh'g*, Order No. 2003-B, FERC Stats & Regs., Regulations Preambles ¶ 31,171 (2004), *reh'g pending*.

<sup>3</sup> One of these edits was to delete Standard 1.4 of the WEQ's OASIS Business Practice Standards governing compliance with the OASIS Standards of Conduct (which is now governed by the Commission's regulations at 18 CFR part 358, which superseded the Commission's former regulation at 18 CFR 37.4) because the provision to which it related has now been superseded.

<sup>4</sup> 99 FERC ¶ 61,171 at P 22.

<sup>5</sup> *Id.* at P 3.

<sup>4</sup> *Standards of Conduct for Transmission Providers*, Order No. 2004, FERC Stats. & Regs., Regulations Preambles ¶ 31,155 (2003) (Order No. 2004), *order on reh'g*, Order No. 2004-A, FERC Stats. & Regs., Regulations Preambles ¶ 31,161 (2004), *order on reh'g and clarification*, Order No. 2004-B, FERC Stats. & Regs., Regulations Preambles ¶ 31,166 (2004), *order on reh'g and clarification*, Order No. 2004-C, FERC Stats. & Regs., Regulations Preambles ¶ 31,172 (2005), *order on reh'g and clarification*, Order No. 2004-D, 110 FERC ¶ 61,320 (2005), *appeal pending sub nom. American Gas Association v. FERC*, No. 04-1178, *et al.* (DC Cir. filed June 9, 2004 and later). NAESB reports that it is currently engaged in priority efforts to make any necessary modifications to the Standards of Conduct business practice standards to ensure they adequately address the requirements of Order No. 2004-C.

<sup>5</sup> *Open Access Same-Time Information Systems*, Order No. 605, FERC Stats. & Regs., Regulations Preambles 1996-2000 ¶ 31,075 (1999); *Open Access Same-Time Information Systems*, Order No. 638, FERC Stats. & Regs., Regulations Preambles 1996-2000 ¶ 31,093 (2000); *Open Access Same-Time Information Systems*, Order No. 889, FERC Stats. & Regs., Regulations Preambles 1991-1996 ¶ 31,35 (1996), Order No. 889-A, FERC Stats. & Regs., Regulations Preambles 1996-2000 ¶ 31,049 (1997).

<sup>6</sup> NAESB Comments at 21.

<sup>1</sup> See *Electricity Market Design and Structure*, 97 FERC ¶ 61,289 (2001) (December 2001 Order), 99 FERC ¶ 61,171 (May 2002 Order), *reh'g denied*, 101 FERC ¶ 61,297 (2002) (December 2002 Order).

<sup>2</sup> May 2002 Order, 99 FERC ¶ 61,171 at P 22.

<sup>3</sup> *Id.* at P 22.

in developing consensus standards applicable to the natural gas industry

13. The WEQ's standards were developed under a voluntary consensus process. Under this process, to be approved a standard must receive a super-majority vote of 67 percent of the members of the WEQ's Executive Committee with support from at least 40 percent from each of the five industry segments—transmission, generation, marketer/brokers, distribution/load serving entities, and end users. For final approval, 67 percent of the WEQ's general membership must ratify the standards.

14. As we found with respect to the natural gas industry, adoption of consensus standards is appropriate because the consensus process assists the Commission in determining the reasonableness of the standards by requiring that the standards draw support from a broad spectrum of all segments of the industry. Since the industry itself has to conduct business under these standards, the Commission's regulations should reflect those standards that have the widest possible support.

15. In section 12(d) of the National Technology Transfer and Advancement Act of 1995, Congress affirmatively requires federal agencies to use technical standards developed by voluntary consensus standards organizations, like NAESB's WEQ, as means to carry out policy objectives or activities.<sup>12</sup> As the Commission has pointed out on several occasions,<sup>13</sup> incorporation by reference is the appropriate, and indeed the required, method for adopting copyrighted standards material.<sup>14</sup> As required, the WEQ standards are reasonably available from NAESB. Members can access these materials at no additional charge from the NAESB Web site or can pay \$50 for the booklet or CD rom. Because

<sup>12</sup> Pub L. No. 104–113, section 12(d), 110 Stat. 775 (1996), 15 U.S.C. 272 note (1997).

<sup>13</sup> See, e.g., *Standards for Business Practices of Interstate Natural Gas Pipelines*, Order No. 587–R, FERC Stats. & Regs., Regulation Preambles ¶ 31,141 at P 29–37 (2003).

<sup>14</sup> Order No. 587–A, 61 FR 55208, 77 FERC ¶ 61,061, at p. 61,232 (1996); Order No. 587–K, FERC Stats. & Regs., Regulations Preambles 1996–2000 ¶ 31,072 at 30,775 (1999). See 5 U.S.C. 552 (a)(1) (2000); 1 CFR 51.7(4) (requirements established for incorporation by reference); Federal Participation in the Development and Use of Voluntary Standards, OMB Circular A–119, at 6 (a)(1) (Feb. 10, 1998), <http://www.whitehouse.gov/omb/circulars/a119/a119.html> (incorporation by reference appropriate means of adopting private sector standards under the National Technology Transfer and Advancement Act). Indeed, the Commission could not reproduce the WEQ standards in violation of the NAESB copyright. See 28 U.S.C. 1498 (government not exempt from patent and copyright infringement).

standards development is of importance to the entire industry, the Commission strongly encourages all companies to become members and to participate actively in the NAESB process.

However, non-members can obtain the standards booklet or CD rom for \$100. In addition, as required by the regulations, copies of the standards are also available for inspection in the Commission's Public Reference Room.<sup>15</sup>

16. Consistent with our practice for the natural gas industry, the Commission is proposing to incorporate by reference (in part 38 of our regulations under the Federal Power Act, 18 CFR part 38) most of the standards developed by the WEQ. Once the Commission incorporates the WEQ's standards into its regulations, all public utilities subject to the Commission's authority will be required to comply with the incorporated standards, as would non-jurisdictional entities voluntarily following Commission's open access requirements under reciprocity. As NAESB revises these standards in the future, the Commission will review NAESB's revisions and consider incorporating such changes through a notice and comment rulemaking.<sup>16</sup>

17. The Commission is also proposing, similar to what we have done with respect to the gas standards, to require each electric utility to revise its open access transmission tariff (OATT) to include the applicable WEQ standards.<sup>17</sup> For standards that do not require implementing tariff provisions, the Commission is proposing to permit the utility to incorporate the WEQ standard by reference in its OATT.<sup>18</sup>

<sup>15</sup> 5 U.S.C. 552 (a)(1); 1 CFR 51.

<sup>16</sup> Entities are required to abide by only the version of the standards adopted by the Commission. Compliance with subsequent revisions will not be required unless the Commission has through a notice and comment rulemaking proceeding incorporated by reference any such revisions.

<sup>17</sup> Thus, when the Commission incorporates by reference updated standards, each utility will be required to make a filing updating its tariff accordingly.

<sup>18</sup> When making such a tariff filing, the following nomenclature should be used:

- OASIS Business Practice Standards (WEQBPS–001–000, January 15, 2005) including the Definitions of “Capacity Available to Redirect”, “Commission”, “Denial of Service”, “Identical Service Requests”, “Parent Reservation”, “Queue Flooding”, and “Queue Hoarding”, Standards 2 through 10 with subsections except Standard 9.7, Appendix—Standard 8 Examples, and Appendix B;
- OASIS Standards and Communication Protocols (WEQSCP–001–000, January 15, 2005) including Standards 1 through 5 with subsections;
- OASIS Data Dictionary (WEQDD–001–000, January 15, 2005);
- Coordinate Interchange Standards (WEQBPS–002–000, January 15, 2005) including Purpose,

Thus, we are proposing to revise our regulation at 18 CFR 35.28(c) to include this requirement.

18. Specifically, the Commission proposes to incorporate by reference the standards adopted by NAESB's WEQ that include: (1) OASIS Business Practice Standards; (2) OASIS Standards and Communication Protocols; and (3) an OASIS Data Dictionary, with the exception of standards that duplicate the Commission's regulations, all as modified to address: (1) Redirect of transmission service;<sup>19</sup> (2) multiple submissions of identical transmission requests/queuing issues; (3) OASIS posting requirements under Order No. 2003 (the Large Generator Interconnection rule); and (4) maintenance of the OASIS standards. Thus, we are proposing to revise our regulations to add 18 CFR part 38, where we would specifically enumerate each set of standards adopted by the WEQ that we are incorporating by reference.

19. Further, the Commission proposes to incorporate by reference the WEQ business practice standards to complement NERC's Version 0 Reliability Standards including: (1) Coordinate Interchange; (2) ACE Equation Special Cases; (3) Manual Time Error Correction; and (4) Inadvertent Interchange Payback. Thus, as discussed above, we propose to include the incorporation by reference of these standards in a new 18 CFR part 38, where we would specifically enumerate each set of standards adopted by the WEQ that we are incorporating by reference. However, the Commission is not proposing to incorporate by reference the NAESB Standards of Conduct-related business practice standards.

20. We are proposing to incorporate by reference NAESB's OASIS standards because we believe that this will create: (1) A body of business practices standards and communication protocol standards that the industry can use as a foundation for addressing emerging

Applicability, Definitions, Standards 1 through 13 with subsections, and Appendices A through D;

- ACE Equations Special Cases Standards (WEQBPS–003–000, January 15, 2005) including Purpose, Applicability, Definitions, Standards 1 through 3 with subsections, and Appendix A;
- Manual Time Error Correction Standards (WEQBPS–004–000, January 15, 2005) including Purpose, Applicability, Definitions, and Standards 1 through 12 with subsections; and
- Inadvertent Interchange Payback Standards (WEQBPS–005–000, January 15, 2005) including Purpose, Applicability, Definitions, Standard 1 with subsections, and Appendix A.

<sup>19</sup> As further discussed below, we are not proposing to incorporate by reference OASIS Business Practice Standard 9.7, as this appears to conflict with provisions of the pro forma tariff.

business issues; (2) business practices and communication protocols modifying the Commission's standards to accommodate new market operations; and (3) business practices standards and communication protocols to assist the wholesale electric industry in complying with the Commission's OASIS posting requirements under Order No. 2003 (Standardization of Generator Interconnection Agreements and Procedures).

21. We also believe that incorporating the NAESB business practice standards identified above by reference will create business practices that support NERC's Version 0 Reliability Standards and functional model.

#### B. OASIS Standards

22. The WEQ's OASIS standards are based on the Commission's existing standards on this topic. First, the WEQ adopted baseline OASIS standards to reflect the Commission's existing OASIS standards. Then the WEQ modified its baseline OASIS standards to facilitate the redirect of transmission reservations to alternate receipt and delivery points, to address multiple submissions of identical transmission requests and queuing issues, and to address OASIS posting requirements under Order No. 2003, based on industry requests for enhancements to the OASIS standards. The WEQ also performed maintenance on the baseline OASIS standards to improve their format, organization, and clarity.

23. On April 19, 2005, NAESB reported that the WEQ made modifications to the Commission's OASIS Standards and Communication Protocols (V1.4), OASIS Data Dictionary (V1.41) and the OASIS Business Practices Standards (V1.2), as follows:

#### New OASIS Business Practice Standards

- Standard 1: Provision of Open Access Transmission Service
- Standard 8: Requirements for dealing with multiple, identical transmission service requests.
- Standard 9: Requirements for dealing with Redirects on a Firm basis.
- Standard 10: Requirements for dealing with Redirects on a Non-Firm basis.

#### New OASIS Business Practice Standards Definitions

- Commission
- Denial of Service
- Identical Service Requests
- Queue Flooding
- Queue Hoarding
- Capacity Available to Redirect
- Parent Reservation

#### Miscellaneous Changes to OASIS Business Practice Standards

• The OASIS Business Practice Standards contained numerous internal references. Since the NAESB standards are based on the current OASIS Business Practices, references were changed to reflect the correct NAESB standard, or section of regulation, as appropriate.<sup>20</sup>

• In several instances references to specific regulations were replaced with a general reference to currently applicable regulations. These instances included the following standards: Applicability; 1.6(d)(1); 1.6(d)(5); 1.6(e)(1)(i).

• In Standards 1.5 (b)(2) and (3) the information detailing how to obtain the OASIS Business Practice Standards and Standards and Communication Protocols (OASIS S&CP) from the Commission was deleted.

• In Standard 2.4 the specific reference to "NERC [Transmission Line Loading Relief] Procedures for NERC CURTAILMENT PRIORITY (1-7)" was replaced with a general reference to those procedures.

• In Standard 7.2 the specific reference to "NERC [Electronic Tagging] Specification 1.6" was replaced with a reference to the current version of the NERC [Electronic Tagging] Specifications.

• In Standards 7.9, 7.10, and 7.14 language referencing the IMPLEMENT or CONDITIONAL status has been changed to the more generic phrase "become implemented."

• In Standards 7.12 and 7.13 the reference to "NERC Operating Policy 3 and associated Appendices" was replaced with "NERC and/or NAESB Standards."

#### Changes to OASIS S&CP Standard 4.5

• The phrase "[I]nformation that must be posted on INFO.HTM, as per Section 3.4 b, includes" was deleted and replaced with the following language:

When a regulatory order requires informational postings on OASIS and there is no OASIS S&CP template to support the postings or it is deemed inappropriate to use a template, there shall be a reference in INFO.HTM to the required information, including, but not limited to, references to the following:

<sup>20</sup> Changes of this nature are found in the following standards: Applicability; Purpose; definition of Affiliate; 1.5(a); 1.5(b); 1.5(c); 1.6 (b)(3)(i)(B); 1.6 (b)(3)(i)(C) (1); 1.6 (c)(4); 1.6 (d)(3); 1.6 (e)(1)(iv); 1.6 (g)(3); 1.6 (g)(4); 1.7(a); 2.0; Table 2-1 note 1; 2.1; 2.2; 2.3; 2.4; 2.5; 2.5.1; 2.5.3; 2.5.4; 2.5.5; 2.5.6; introductory paragraph under "Process to Register Non-Standard Service Attribute Values" header; introductory paragraph under "Phase IA Negotiation Process State Transition Diagram" header; 4.4; 4.5; 5.0; 6.0.

• The phrase "[T]here shall be a reference in INFO.HTM to" was deleted from each of the bullets.

• The following new language was added below the bullets:

For the purposes of this section, any link to required informational postings that can be accessed from INFO.HTM would be considered to have met the OASIS posting requirements, provided that the linked information meets all other OASIS accessibility requirements.

#### Miscellaneous Changes to the OASIS Data Dictionary

• *Element Name "INITIATING PARTY"*: The phrase "Transmission Provider (TP), Security Coordinator (SC) or Control Area (CA)" replaced the phrase "Transmission Provider, Security Coordinator or Control Area" under the Restricted Values column so that the abbreviations could be used in Element Name "RESPONSIBLE PARTY".

24. NAESB also reports that it has made the following modifications to the OASIS baseline standards to enhance their format, organization, and clarity:

• Consolidation of Standards 8-21, with exceptions for Standards 15-16, as subsections 1.1-1.8 of Standard 1;

• Deletion of Standards 15 and 16, but retention of the information as introductory material for Standard 1;

• Deletion of Standard 22 as not applicable;

• Modification of external references, where appropriate, to be internal references (e.g., references to "Section 37" changed to "Standard 1");

• Minor, non material reformatting;

• Modification of portions of Standards 1.1-1.7 to reflect the standards as contained in the current CFR, as consistent with the intention of Request No. R04005; and

• Deletion of Standard 1.4, Standards of Conduct.

#### 1. OASIS Business Practice Standards

25. With the exception of standards, discussed below, involving standards that duplicate the requirements in our regulations (OASIS Business Practice Standard 1, including Standards 1.1 through 1.8, and in the Definitions of "Affiliate," "Responsible party," "Reseller," "Transmission Provider," "Transmission Customer," and "Wholesale merchant function"), we believe that the WEQ's OASIS Business Practice Standards are consistent with the Commission's existing standards on this topic.<sup>21</sup> Thus, our current view is

<sup>21</sup> In addition, although we are proposing to incorporate by reference OASIS Business Practice

that incorporating the WEQ's OASIS Business Practice Standards by reference in our regulations will further the current requirement for standardization of OASIS across the industry. In addition, it will permit the industry to use the NAESB consensus process to suggest further modifications and enhancements to the OASIS Business Practice Standards as it deems necessary, subject to the Commission's approval.

26. Thus, with the exceptions referenced above and discussed below, we are proposing to incorporate the WEQ's OASIS Business Practice Standards by reference in a new 18 CFR part 38. If commenters discover any inconsistencies between the WEQ's OASIS Business Practice Standards we propose to incorporate by reference and the Commission's existing OASIS Business Practice Standards, this should be brought to our attention in their comments on this NOPR.

#### a. Standards for Redirects of Transmission Service

27. In sections 22.1 and 22.2 of the pro forma tariff,<sup>22</sup> the OATT permits redirects of transmission reservations to alternate receipt and delivery points. As discussed above, one of the modifications that the WEQ made to its baseline OASIS Business Practice Standards was to include standards intended to facilitate the redirect of transmission services. However, we have concern about Standards 9.7 and 10.6 in relation to the policies we have adopted in the pro format OATT. As discussed further below, based on these inconsistencies we are not proposing to adopt Standard 9.7, and we are inviting comment on our understanding of Standard 10.6.

28. The WEQ's Standard 9.7 provides that, unless otherwise mutually agreed to by the primary provider and original customer, a request for redirect on a firm basis does not impact the transmission customer's long term firm renewal rights (e.g., rollover or evergreen rights) on the original path, nor does it confer any renewal rights on the redirected path. This provision implies that the parties to any agreement can mutually agree to eliminate rollover rights, even though the Commission has found that

agreements cannot eliminate rollover rights.<sup>23</sup> In providing that rollover rights cannot be eliminated by agreement, the Commission was concerned about transmission owners unfairly inducing customers to give up their renewal rights.

29. In addition, the language at the end of Standard 9.7, which states "nor does it confer any renewal rights on the redirected path," also appears to be inconsistent with the pro forma tariff. Under section 22.2 of the pro forma tariff, a request for a redirect is to be treated as a new request for service. Such a request is governed by procedures in section 17.1 of the pro forma tariff and if the request is granted, it is entitled to the reservation priority afforded by section 2.2 of the pro forma tariff.

30. As redirect service is treated as a new service, to be consistent with the OATT, once the parties agree to revise the contract to provide service to a redirected point of receipt or delivery, the customer should receive any renewal rights that go with the new service at the revised receipt and delivery points, including rollover rights afforded under section 2.2.

31. Since this standard appears to conflict with Commission policy, and NAESB has not explained the benefits of such a change, we are not proposing to incorporate Standard 9.7. However, we request comments on whether such a change is appropriate. We also request comment on whether, if the Commission determines this standard conflicts with its policies, there is an immediate need for a standard on this issue or whether we can wait for NAESB to reconsider this issue and develop alternate language.

32. We also are concerned about some vague language in Standard 10.6, which states that "for the purposes of curtailment and other capacity reductions, confirmed Redirects on a Non-Firm basis shall be treated comparably to all other types of Non-Firm Secondary Point-to-Point Service." The phrase "all other types" is not defined. We interpret this phrase to apply only to services that are comparable to non-firm secondary point-to-point service, and propose to accept the standard based on this interpretation. We request comments on

whether this reflects the intent of this standard.

#### b. Standards That Duplicate the Requirements in Our Regulations

33. In adopting its OASIS Business Practice Standards, the WEQ has included language that duplicates language already set out in part 37 of our regulations.<sup>24</sup> This is not appropriate for business practice standards we would incorporate by reference. For this purpose, we incorporate by reference standards that implement our regulations and policies, and operate in concert with our regulations and policies.

34. Incorporating by reference standards that duplicate Commission regulations could result in inconsistent regulations in the event that the Commission revises its regulations before the WEQ has issued revised standards and because the Commission's regulations stand on their own. Thus, to prevent these problems, we are not proposing to incorporate by reference the WEQ's standards (enumerated below) that duplicate our regulations.

35. To further the industry's progress toward achieving standardized OASIS reporting and business practices across the industry, we are proposing to incorporate by reference the WEQ's OASIS Business Practice Standards in a new 18 CFR part 38, with the two exceptions noted above, one involving standards for redirects of transmission service (OASIS Business Practice Standard 9.7), and the other involving standards that duplicate the requirements in our regulations (OASIS Business Practice Standard 1, including Standards 1.1 through 1.8, and in the Definitions of "Affiliate," "Responsible party," "Reseller," "Transmission Provider," "Transmission Customer," and "Wholesale merchant function.")

#### 2. OASIS Standards and Communication Protocols and Data Dictionary

36. We believe that the OASIS Standards and Communication Protocols, as modified by the WEQ, are consistent with the Commission's existing standards on this topic. Thus, our view is that incorporating the WEQ's OASIS Standards and Communication Protocols by reference in our regulations will further the current requirement for standardization

Standard 10.6, we have problems with this provision that we are asking commenters to address in their comments on this NOPR.

<sup>22</sup> See *Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Services by Public Utilities*, Order No. 888, FERC Stats. & Regs., Regulations Preambles 1991-1996 ¶ 31,036 (1996), Order No. 888-A, FERC Stats. & Regs., Regulations Preambles 1996-2000 ¶ 31,048 at 30,528 (1997).

<sup>23</sup> See *Southern Company Services, Inc.*, 108 FERC ¶61,174 at P 42-45 (2004) where the Commission denied a request for rehearing challenging the Commission's finding that parties entering contracts for transmission service must remove provisions they inserted in the contracts that would have restricted future rollover transmission rights contrary to Commission policy.

<sup>24</sup> The language that duplicates our regulations (at 18 CFR part 37) is found in Standard 1, including Standards 1.1 through 1.8, and in the Definitions of "Affiliate," "Responsible party," "Reseller," "Transmission Provider," "Transmission Customer," and "Wholesale merchant function."

of OASIS across the industry. In addition, it will permit the industry to use the NAESB consensus process to suggest further modifications and enhancements to the OASIS Standards and Communication Protocols as it deems necessary, subject to the Commission's approval.

37. Thus, we are proposing to incorporate the WEQ's OASIS Standards and Communication Protocols by reference in a new 18 CFR part 38. If commenters discover any inconsistencies between the WEQ's OASIS Standards and Communication Protocols and the Commission's existing OASIS Standards and Communication Protocols, this should be brought to our attention in their comments on this NOPR.

38. We believe that the OASIS Data Dictionary, as modified by the WEQ, is consistent with the Commission's existing OASIS Data Dictionary. Incorporating the WEQ's OASIS Data Dictionary by reference in our regulations would continue the requirement for standardization of OASIS across the industry. In addition, it would permit the industry to use the NAESB consensus process to suggest further modifications and enhancements to the OASIS standards as it deems necessary, subject to the Commission's approval. Thus, we are proposing to incorporate by reference the WEQ's OASIS Data Dictionary in a new 18 CFR part 38. If commenters discover any inconsistencies between the WEQ's OASIS Data Dictionary and the Commission's existing OASIS Data Dictionary, this should be brought to our attention in their comments on this NOPR.

### 3. Deleting Superseded Requirements

39. In addition, we propose to delete the current requirement in 18 CFR part 37, found at 18 CFR sections 37.5(b)(2) and (b)(3) to comply with the Commission's existing OASIS Standards and Communication Protocols and OASIS Business Practice Standards, which would be superseded by the WEQ-developed OASIS Business Practice Standards and OASIS Standards and Communication Protocols that we are proposing to incorporate by reference.

40. By contrast, with the exception of sections 37.5(b)(2) and (b)(3), we are retaining the OASIS regulations adopted by the Commission in part 37 of our regulations because these regulations set forth the Commission's policies. The WEQ standards now cover the technical aspects of OASIS compliance, and we fully expect that in the future the WEQ will continue to upgrade and improve

the standards. If in the future the Commission determines that changes in OASIS are needed for policy reasons, the Commission will use its own processes to consider and implement such changes to OASIS policy.

41. After reviewing the WEQ standards, we believe that they reflect the Commission's OASIS policies and are consistent with the OASIS technical standards we previously adopted. However, we invite commenters to address whether there are important discrepancies between the WEQ's OASIS Business Practice Standards and OASIS Standards and Communication Protocols and Data Dictionary and the Commission's existing standards.

### C. Business Practice Standards To Complement the NERC Version 0 Reliability Standards

#### 1. Standards the Commission Proposes To Incorporate by Reference

42. The WEQ's business practice standards addressing Coordinate Interchange, ACE Equation Special Cases, Manual Time Error Correction, and Inadvertent Interchange Payback were developed to support NERC's Version 0 Reliability standards. On February 8, 2005 the NERC Board of Trustees approved the Version 0 Reliability Standards to become effective April 1, 2005. Incorporation of the WEQ's business practice standards addressing Coordinate Interchange, ACE Equation Special Cases, Manual Time Error Correction, and Inadvertent Interchange would complement the NERC Version 0 Reliability Standards. Thus, we are proposing to incorporate these standards by reference in a new 18 CFR part 38. When these business practices were NERC policies, compliance with them was voluntary. However, once they are incorporated by reference into the Commission's regulations, compliance with them will be mandatory.

#### 2. Standards Being Developed on Transmission Load Relief and Coordinate Interchange Business Practices

43. NAESB states that two sets of business practices that complement NERC's reliability standards—Transmission Load Relief (TLR) and enhancements to Coordinate Interchange Business Practices—were adopted by the WEQ but not described in its report. NAESB states that the business practices for TLR duplicates NERC's reliability standards,<sup>25</sup> as both

<sup>25</sup> The Commission accepted NERC's TLR procedures for filing, to be effective April 1, 2005.

NERC and NAESB agreed that there was insufficient time to adequately review and separate the business practices from the reliability standards and complete the effort in 2004 for "Version 0." NAESB states that it has been working with NERC to separate the business practices from the reliability standards.

44. We applaud the efforts of NAESB and NERC to coordinate their standard development efforts and NAESB's priority efforts to adopt business practices that complement NERC's reliability standards.

### D. Standards of Conduct Standards

45. One of the revisions the WEQ made to the OASIS Business Practice Standards was to delete Standard 1.4 dealing with Standards of Conduct. The WEQ deleted this standard because the Commission's OASIS Standards of Conduct, previously governed by the Commission's regulation at 18 CFR 37.4, was superseded by the Commission's regulations at 18 CFR part 358. In conjunction with deleting Standard 1.4 from the OASIS Business Practice Standards, the WEQ adopted separate stand-alone Standards of Conduct standards developed to implement the Standards of Conduct requirements detailed in the Commission's Order Nos. 2004, 2004-A, and 2004-B as they apply to wholesale electric entities. Moreover, in its filing, NAESB states that priority efforts are underway to make necessary modifications to address Order No. 2004-C. As discussed further below, the Commission is not proposing to incorporate by reference the WEQ's Standards of Conduct standards at the current time. However, we are proposing to incorporate the WEQ Standards and Communication Protocols that govern the posting on OASIS of the information required in the Standards of Conduct in a new part 38 of the Commission's regulations.<sup>26</sup>

46. We are not proposing to incorporate the WEQ's stand-alone Standards of Conduct by reference because these standards merely adopt the language in the Commission's regulations promulgated by Order Nos. 2004, 2004-A, and 2004-B and contain no further standards addressing the implementation of these regulations. In addition, the WEQ has edited the Commission's language to delete

*North American Electric Reliability Council*, 110 FERC ¶ 61,388 (2005).

<sup>26</sup> The WEQ's standards we are proposing to incorporate by reference on the posting of information required in the Standards of Conduct are found at Standards 4.3.1, 4.3.10.6, 4.3.1.1, and 4.5 of the WEQ OASIS Standards and Communications Protocols and the definition of "STANDARDS\_OF\_CONDUCT\_ISSUES" in the OASIS Data Dictionary.

references to natural gas and natural gas pipelines to limit the applicability of its standard to public utilities. However, in their editing, the WEQ has changed the meaning of the Commission's language (see, e.g., the definition of Energy Affiliate). If we were to incorporate these standards by reference, we would have conflicting regulations, since the WEQ's standards duplicate language already in our regulations, but with errors.

47. As we stated above, in considering what WEQ standards to incorporate by reference, we are looking for the development of standards to implement, and operate in concert with, our regulations. If the WEQ was to adopt a set of standards that is consistent with, but not duplicative of, our regulations at 18 CFR part 358, Standards of Conduct for Transmission Providers, we would consider incorporating those standards by reference. In this regard, it would be useful if the WEQ would adopt

standards comparable to those NAESB adopted regarding standards of conduct on the gas side.<sup>27</sup>

**III. Notice of Use of Voluntary Consensus Standards**

48. Office of Management and Budget Circular A-119 (section 11) (February 10, 1998) provides that Federal Agencies should publish a request for comment in a NOPR when the agency is seeking to issue or revise a regulation proposing to adopt a voluntary consensus standard or a government-unique standard. In this NOPR, the Commission is proposing to incorporate by reference voluntary consensus standards developed by the WEQ.

**IV. Information Collection Statement**

49. The following collections of information contained in this proposed rule have been submitted to the Office of Management and Budget (OMB) for review under section 3507(d) of the

Paperwork Reduction Act of 1995, 44 U.S.C. 3507(d). The Commission solicits comments on the Commission's need for this information, whether the information will have practical utility, the accuracy of the provided burden estimates, ways to enhance the quality, utility, and clarity of the information to be collected, and any suggested methods for minimizing respondents' burden, including the use of automated information techniques. The following burden estimates include the costs to implement the WEQ's OASIS Business Practice Standards, OASIS Standards and Communication Protocols, OASIS Data Dictionary, Coordinate Interchange Standards, ACE Equation Special Cases Standards, Manual Time Error Correction Standards, and Inadvertent Interchange Payback Standards. The burden estimates are primarily related to start-up to implement these standards and regulations and will not result in on-going costs.

Data collection	Number of respondents	Number of responses per respondent	Hours per response	Total number of hours
FERC-516 .....	220	1	6	1,320
FERC-717 .....	220	1	24	5,280
Totals .....	.....	.....	30	6,600

Total Annual Hours for Collection (Reporting and Recordkeeping, (if appropriate)) = 6,600.

Information Collection Costs: The Commission seeks comments on the costs to comply with these

requirements. It has projected the average annualized cost for all respondents to be the following:<sup>28</sup>

	FERC-516	FERC-717
Annualized Capital/Startup Costs .....	\$198,000	\$792,000
Annualized Costs (Operations & Maintenance) .....	N/A	N/A
Total Annualized Costs .....	\$198,000	\$792,000

50. OMB regulations<sup>29</sup> require OMB to approve certain information collection requirements imposed by agency rule. The Commission is submitting notification of this proposed rule to OMB. These information collections are mandatory requirements.

*Title:* Electric Rate Schedule Filings (FERC-516) Standards for Business Practices and Communication Protocols for Public Utilities (FERC-717) (formerly Open Access Same Time Information System).

*Action:* Proposed collections.

*OMB Control No.:* 1902-0096 and 1902-0173.

*Respondents:* Business or other for profit, (Public Utilities (Not applicable to small business.))

*Frequency of Responses:* One-time implementation (business procedures, capital/start-up).

*Necessity of Information:* This proposed rule, if implemented, would upgrade the Commission's current business practice and communication standards to include standardized practices and address currently unresolved issues. The implementation of these standards and regulations is necessary to increase the efficiency of the wholesale electric power grid.

51. The information collection requirements of this proposed rule are based on the transition from transactions being made under the Commission's existing OASIS posting requirements and business practice standards to conducting transactions under the proposed standards. The NOPR proposes that the standards be incorporated into utility's tariffs and that OASIS postings be reported where it is directly accessible by industry users. The implementation of these data requirements will help the Commission carry out its responsibilities under the Federal Power Act of promoting the

<sup>27</sup> See NAESB's report filed on August 6, 2004, in Docket No. RM96-1, on standards adopted by its Wholesale Gas Quadrant to implement the Commission's Order No. 2004.

<sup>28</sup> The total annualized costs for the two information collections is \$198,000 + \$792,000 = \$990,000. This number is reached by multiplying the total hours to prepare a response (6600 hours)

by an hourly wage estimate of \$150 (a composite estimate that includes legal, technical and support staff rates, \$90+\$35+\$25). \$990,000 = \$150 x 6600.

<sup>29</sup> 5 CFR 1320.11.

efficiency of the electric industry's operations. The Commission's Office of Markets, Tariffs and Rates will use the data in rate proceedings to review rate and tariff changes by public utilities, for general industry oversight, and to supplement the documentation used during the Commission's audit process.

52. *Internal Review:* The Commission has reviewed the requirements pertaining to business practices and electronic communication of public utilities and made a preliminary determination that the proposed revisions are necessary to establish a more efficient and integrated wholesale electric power grid. Requiring such information ensures both a common means of communication and common business practices which provide participants engaged in the wholesale transmission of electric power with timely information and uniform business procedures across multiple transmission providers. These requirements conform to the Commission's plan for efficient information collection, communication, and management within the electric power industry. The Commission has assured itself, by means of its internal review, that there is specific, objective support for the burden estimates associated with the information requirements.

53. Interested persons may obtain information on the reporting requirements by contacting the following: Federal Energy Regulatory Commission, Attn: Michael Miller, Office of the Executive Director, 888 First Street, NE., Washington, DC 20426, Tel: (202) 502-8415/Fax: (202) 273-0873, Email: [michael.miller@ferc.gov](mailto:michael.miller@ferc.gov).

54. Comments concerning the collection of information(s) and the associated burden estimate(s), should be sent 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].

## V. Environmental Analysis

55. 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>30</sup> The Commission has categorically excluded certain actions from these requirements as not having a

significant effect on the human environment.<sup>31</sup> The actions proposed 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 electric power that requires no construction of facilities.<sup>32</sup> Therefore, an environmental assessment is unnecessary and has not been prepared in this NOPR.

## VI. Regulatory Flexibility Act Certification

56. The Regulatory Flexibility Act of 1980 (RFA)<sup>33</sup> generally requires a description and analysis of final rules that will have significant economic impact on a substantial number of small entities. The regulations proposed here impose requirements only on public utilities, which are not small businesses, and, these requirements are, in fact, designed to benefit all customers, including small businesses.

57. The Commission has followed the provisions of both the RFA and the Paperwork Reduction Act on potential impact on small business and other small entities. Specifically, the RFA directs agencies to consider four regulatory alternatives to be considered in a rulemaking to lessen the impact on small entities: tiering or establishment of different compliance or reporting requirements for small entities, classification, consolidation, clarification or simplification of compliance and reporting requirements, performance rather than design standards, and exemptions. As the Commission originally stated in Order No. 889, the OASIS regulations now known as Standards for Business Practices and Communication Protocols for Public Utilities, apply only to public utilities that own, operate, or control transmission facilities subject to the Commission's jurisdiction and should a small entity be subject to the Commission's jurisdiction, it may file for waiver of the requirements.<sup>34</sup> This is

<sup>31</sup> 18 CFR 380.4 (2004).

<sup>32</sup> See 18 CFR 380.4(a)(2)(ii), 380.4(a)(5), 380.4(a)(27) (2004).

<sup>33</sup> 5 U.S.C. 601-612.

<sup>34</sup> Small entities that qualified for a waiver from the requirements of Order Nos. 888 and 889 may apply for a waiver of the requirement to comply with these standards. We described the criteria for obtaining such a waiver in *Bridger Valley Electric Association, Inc.*, 101 FERC ¶ 61,146 (2002) and in *Sussex Rural Electric Cooperative*, 103 FERC ¶ 61,299 (2003). We stated in those cases that we would grant a waiver if the applicant is: (1) a small entity within the meaning of the RFA and has qualified for a waiver under Order Nos. 888 and 889, serves a load of 45 MW or less, and has four or fewer employees engaged in accounting, billing,

keeping with exemption provisions of the RFA. Accordingly, pursuant to section 605(b) of the RFA,<sup>35</sup> the Commission hereby certifies that the regulations proposed herein will not have a significant adverse impact on a substantial number of small entities.

## VII. Comment Procedures

58. The Commission invites interested persons to submit comments on the matters and issues proposed in this notice to be adopted, including any related matters or alternative proposals that commenters may wish to discuss. Comments are due July 1, 2005.

Comments must refer to Docket No. RM05-5-000, and must include the commenter's name, the organization they represent, if applicable, and their address in their comments. Comments may be filed either in electronic or paper format.

59. Comments may be filed electronically via the eFiling link on the Commission's Web site at <http://www.ferc.gov>. The Commission accepts most standard word processing formats and commenters may attach additional files with supporting information in certain other file formats. Commenters filing electronically do not need to make a paper filing. Commenters that are not able to file comments electronically must send an original and 14 copies of their comments to: Federal Energy Regulatory Commission, Office of the Secretary, 888 First Street NE., Washington, DC, 20426.

60. All comments will be placed in the Commission's public files and may be viewed, printed, or downloaded remotely as described in the Document Availability section below. Commenters on this proposal are not required to serve copies of their comments on other commenters.

## VIII. Document Availability

61. 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 FERC's Home Page (<http://www.ferc.gov>) and in FERC's Public Reference Room during normal business hours (8:30 a.m. to 5 p.m. eastern time) at 888 First

and regulatory activities; (2) it does not make, or have authority to make, wholesale power sales at market-based rates; (3) the applicant makes all of its sales under one cost-based rate agreement that is on file with the Commission; (4) it is obligated to file for Commission approval any new contracts or revisions to its existing contracts; and (5) the applicant's transmission system is essentially radial in nature and primarily used for distribution to its member-owners.

<sup>35</sup> 5 U.S.C. 605(b).

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



Street, NE., Room 2A, Washington, DC 20426.

62. From FERC's Home Page on the Internet, this information is available in the eLibrary. The full text of this document is available in the eLibrary both 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.

63. User assistance is available for eLibrary and the FERC's Web site during our normal business hours. For assistance contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208-3676, or for TTY, contact (202) 502-8659.

List of Subjects

18 CFR Part 35

Electric utilities, Incorporation by reference, Reporting and recordkeeping requirements.

18 CFR Part 37

Conflict of interests, Electric utilities, Reporting and recordkeeping requirements.

18 CFR Part 38

Conflict of interests, Electric power plants, Electric utilities, Incorporation by reference, Reporting and recordkeeping requirements.

By direction of the Commission.

Magalie R. Salas, Secretary.

In consideration of the foregoing, the Commission proposes to amend Chapter I, Title 18, Code of Federal Regulations, as follows.

PART 35—FILING OF RATE SCHEDULES AND TARIFFS

1. The authority citation for part 35 continues to read as follows:

Authority: 16 U.S.C. 791a-825r, 2601-2645; 31 U.S.C. 9701; 42 U.S.C. 7101-7352.

2. In § 35.28, add paragraph (c)(1)(vi) to read as follows:

§ 35.28 Non-discriminatory open access transmission tariff.

\* \* \* \* \*

(c) \* \* \*

(1) \* \* \*

(vi) Each public utility's open access transmission tariff must include the standards incorporated by reference in part 38 of this chapter.

\* \* \* \* \*

PART 37—OPEN ACCESS SAME-TIME INFORMATION SYSTEMS

3. The authority citation for part 37 continues to read as follows:

Authority: 16 U.S.C. 791-825r, 2601-2645; 31 U.S.C. 9701; 42 U.S.C. 7101-7352.

4. In § 37.5, paragraph (b) is revised to read as follows:

§ 37.5 Obligations of transmission providers and responsible parties.

\* \* \* \* \*

(b) A Responsible Party must provide access to an OASIS providing standardized information relevant to the availability of transmission capacity, prices, and other information (as described in this part) pertaining to the transmission system for which it is responsible.

\* \* \* \* \*

5. Part 38 is added to read as follows:

PART 38—BUSINESS PRACTICE STANDARDS AND COMMUNICATION PROTOCOLS FOR PUBLIC UTILITIES

Authority: 16 U.S.C. 791-825r, 2601-2645; 31 U.S.C. 9701; 42 U.S.C. 7101-7352.

Sec.

38.1 Applicability.

38.2 Incorporation by reference of North American Energy Standards Board Wholesale Electric Quadrant standards.

§ 38.1 Applicability.

This part applies to any public utility that owns, operates, or controls facilities used for the transmission of electric energy in interstate commerce and to any non-public utility that seeks voluntary compliance with jurisdictional transmission tariff reciprocity conditions.

§ 38.2 Incorporation by reference of North American Energy Standards Board Wholesale Electric Quadrant standards.

(a) All entities to which § 38.1 is applicable must comply with the following business practice and electronic communication standards promulgated by the North American Energy Standards Board Wholesale Electric Quadrant, which are incorporated herein by reference:

- (1) Open Access Same-Time Information Systems (OASIS) Business Practice Standards (WEQBPS-001-000, January 15, 2005) with the exception of the Definitions of "Affiliate," "Responsible Party," "Reseller," "Transmission Provider," "Transmission Customer," and "Wholesale Merchant Function," and Standard 1, including Standards 1.1 through 1.8, and Standard 9.7.

(2) Open Access Same-Time Information Systems (OASIS) Standards

and Communication Protocols (WEQSCP-001-000, January 15, 2005);

(3) Open Access Same-Time Information Systems (OASIS) Data Dictionary (WEQDD-001-000, January 15, 2005);

(4) Coordinate Interchange Standards (WEQBPS-002-000, January 15, 2005);

(5) Area Control Error (ACE) Equation Special Cases Standards (WEQBPS-003-000, January 15, 2005);

(6) Manual Time Error Correction Standards (WEQBPS-004-000, January 15, 2005); and

(7) Inadvertent Interchange Payback Standards (WEQBPS-005-000, January 15, 2005).

(b) This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of these standards may be obtained from the North American Energy Standards Board, 1301 Fannin, Suite 2350, Houston, TX 77002. Copies may be inspected at the Federal Energy Regulatory Commission, Public Reference and Files Maintenance Branch, 888 First Street, NE., Washington, DC 20426 and at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: [http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html).

[FR Doc. 05-9797 Filed 5-16-05; 8:45 am]

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG-117969-00 and REG-125628-01]

RIN 1545-BD76 and RIN 1545-BA65

Statutory Mergers and Consolidations; Revision of Income Tax Regulations Under Sections 358, 367, 884, and 6038B Dealing With Statutory Mergers or Consolidations Under Section 368(a)(1)(A) Involving One or More Foreign Corporations; Hearing Cancellation

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Cancellation of notice of public hearing on proposed rulemaking.

SUMMARY: This document provides notice of cancellation of a public hearing on proposed rulemaking that affects corporations engaging in mergers