

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

18 CFR Part 38

(Docket No. RM05-5-003)

Standards for Business Practices and
Communication Protocols for Public Utilities

(Issued February 20, 2007)

AGENCY: Federal Energy Regulatory Commission

ACTION: Notice of Proposed Rulemaking

SUMMARY: The Federal Energy Regulatory Commission (Commission) proposes to incorporate by reference in its regulations revisions to the Coordinate Interchange business practice standards (WEQ-004) adopted by the Wholesale Electric Quadrant (WEQ) of the North American Energy Standards Board (NAESB). These standards identify the processes and communications necessary to coordinate energy transfers that cross boundaries between entities responsible for balancing load and generation.

Through this rulemaking, the Commission seeks to ensure that the Coordinate Interchange business practices standards that the Commission incorporates by reference in its regulations function compatibly with the North American Electric Reliability Council's proposed Version 1 and 2 INT reliability standards, currently under review in Docket No. RM06-16-000, in the event that the Commission approves such standards.

DATES: Comments on the proposed rule are due [**insert date 30 days after publication in the FEDERAL REGISTER**].

ADDRESSES: You may submit comments identified by Docket No. RM05-5-003, by one of the following methods:

- Agency Web Site: <http://ferc.gov>. Follow the instructions for submitting comments via the eFiling link found in the Comment Procedures Section of the preamble.
- Mail: Commenters unable to file comments electronically must mail or hand deliver an original and 14 copies of their comments to the Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street, N.E., Washington, D.C. 20426. Please refer to the Comment Procedures Section of the preamble for additional information on how to file paper comments.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Standards for Business Practices and
Communication Protocols for Public Utilities

Docket No. RM05-5-003

NOTICE OF PROPOSED RULEMAKING

(February 20, 2007)

1. The Federal Energy Regulatory Commission (Commission) proposes to amend its regulations under the Federal Power Act ¹ to incorporate by reference a revised version of the Coordinate Interchange Standards (designated as WEQ-004) adopted by the Wholesale Electric Quadrant (WEQ) of the North American Energy Standards Board (NAESB) on June 22, 2006, and filed with the Commission on November 16, 2006. These revised standards would replace the Coordinate Interchange business practice standards that the Commission previously incorporated by reference into its regulations in a prior rulemaking.² The WEQ's Coordinate Interchange standards identify the processes and communications necessary to coordinate energy transfers crossing boundaries between entities responsible for balancing load and generation (Interchange).
2. The revised Coordinate Interchange business practice standards that the Commission proposes to incorporate by reference in this notice of proposed rulemaking (NOPR) are intended to complement revisions to the Interchange Scheduling and

¹ 16 U.S.C. 791a, *et seq.*

² Standards for Business Practices and Communication Protocols for Public Utilities, Order No. 676, 71 FR 26199 (May 4, 2006), FERC Stats. & Regs., Regulations Preambles ¶ 31,216 (Apr. 25, 2006), reh'g denied, Order No. 676-A, 116 FERC ¶ 61,255 (2006).

Coordination group of INT reliability standards, dealing with the interchange of energy (INT reliability standards), that the North American Electric Reliability Council (NERC) has proposed and that are currently under consideration in the rulemaking proceeding in Docket No. RM06-16-000.³ In this NOPR, the Commission proposes to amend part 38 of its regulations to incorporate by reference the WEQ's revisions to the Coordinate Interchange business practice standards to ensure that they remain consistent with the applicable NERC INT reliability standards. Thus, the Commission proposes that the effective date of the revised WEQ Coordinate Interchange standards be no earlier than the effective date of the corresponding NERC INT reliability standards.

Background

3. NAESB is a non-profit standards development organization established in January 2002 that serves as an industry forum for the development and promotion of business practice standards that promote a seamless marketplace for wholesale and retail natural gas and electricity. Since 1995, NAESB and its predecessor, the Gas Industry Standards Board, have been accredited members of the American National Standards Institute (ANSI), complying with ANSI's requirements that its standards reflect a consensus of the affected industries.

4. NAESB's standards include business practices that streamline the transactional processes of the natural gas and electric industries, as well as communication protocols and related standards designed to improve the efficiency of communication within each

³ See Mandatory Reliability Standards for the Bulk-Power System, 71 FR 64770 (Nov. 3, 2006), FERC Stats. & Regs. ¶ 32,608 at P 427-496 (Oct. 20, 2006) (Reliability NOPR).

industry. NAESB supports all four quadrants of the gas and electric industries – wholesale gas, wholesale electric, retail gas, and retail electric. All participants in the gas and electric industries are eligible to join NAESB and participate in standards development.

5. NAESB's procedures are designed to ensure that all industry members can have input into the development of a standard, whether or not they are members of NAESB, and each standard NAESB adopts is supported by a consensus of the relevant industry segments.

6. In Order No. 676, the Commission not only adopted business practice standards and communication protocols for the wholesale electric industry, it also established a formal ongoing process for reviewing and upgrading the Commission's Open Access Same-Time Information Systems (OASIS) standards and other wholesale electric industry business practice standards. In addition, the Commission incorporated by reference NAESB standards designed to coordinate business practices with reliability standards approved by the Commission under section 215 of the Federal Power Act (FPA).

7. On April 4, 2006, as modified on August 28, 2006, NERC filed 107 proposed reliability standards with the Commission for approval under section 215 of the FPA, including Version 1 INT reliability standards. On October 20, 2006, in Docket No. RM06-16-000, the Commission issued a notice of proposed rulemaking (i.e., the Reliability NOPR) proposing to approve 83 of NERC's 107 proposed reliability

standards, including its INT reliability standards.⁴ The Reliability NOPR also explained that NERC would be submitting revised versions of some of these standards in November of 2006. On November 15, 2006, NERC filed revised proposed reliability standards including revised INT reliability standards INT-001-2 (Interchange Information) and INT-003-2 (Interchange Transaction Information). Final action on the Reliability NOPR is currently pending. In addition, as the Commission noted in the Reliability NOPR, NERC removed certain standards from its proposed reliability standards because they actually were business practice standards that would be addressed by NAESB.⁵

8. The WEQ revised its Coordinate Interchange standards to support NERC's Version 1 INT reliability standards. On June 22, 2006, the WEQ membership ratified the revisions to the Coordinate Interchange standards. On November 16, 2006, NAESB filed the revised Coordinate Interchange standards with the Commission for appropriate action. On February 5, 2007, NAESB filed a report in this docket that describes how their proposed Coordinate Interchange business practice standards map to NERC's INT reliability standards.

9. The revised Coordinate Interchange business practice standards (WEQ-004) facilitate the transfer of electric energy between entities responsible for balancing load and generation (Balancing Authorities). The term "Interchange" in this context refers to energy transfers across boundaries between Balancing Authorities. The Coordinate Interchange business practice standards identify the processes needed to facilitate

⁴ See Reliability NOPR at P 427-496.

⁵ Reliability NOPR at P 439 and P 452.

interchange transactions, and specify the arrangements and data to be communicated to the entity responsible for authorizing implementation of interchange transactions (Interchange Authority).

10. The WEQ adopted revisions to its Coordinate Interchange business practice standards for three main reasons: (1) to incorporate business practice standards that had previously been included by NERC in its proposed reliability standards; (2) to modify the definitions and standards to better integrate with NERC's corresponding reliability standards; and (3) to eliminate an appendix and update standards to reflect current operating conditions in the Eastern and Western Interconnections, and within the Electric Reliability Council of Texas (ERCOT).

Standards Previously Included by NERC in Its Reliability Standards

11. The Reliability NOPR noted that NERC deleted certain requirements previously included in its proposed reliability standards with the expectation that NAESB would include them in its business practice standards. The deleted NERC standards include Requirements R1.1, R3, R4, and R5 of INT-001-0, which relate to the timing and content of e-tags, and Requirement R1.1.3 of INT-003-0, which addresses ramp starting time and duration.

12. The revised Coordinate Interchange business practice standards the WEQ adopted to replace the deleted NERC standards include:

- WEQ Standards 004-1, and 004-3.1 replace NERC INT-001-0 Requirement R1.1. The revised WEQ standards address how requests for Interchange should be made and who is responsible for submitting such requests.
- WEQ Standards 004-3, 004-5, 004-8.1, and 004-8.2 replace NERC's INT-001-0 Requirement R3. These standards establish the timing requirements for

submitting requests for Interchange. The WEQ's timing table (Appendix D referenced in WEQ Standard 004-8.1) has been revised to better match up with the timing table in NERC's INT-005-1.

- WEQ Standard 004-5 replaces NERC's INT-001-0 Requirement R4. This standard addresses the data that should be included in a request for Interchange and who is responsible for ensuring that these data are included in the request for Interchange.
- WEQ Standard 004-12 replaces NERC's INT-001-0 Requirement R5. This standard requires that parties involved in an Interchange must have personnel and facilities on site and immediately available to receive notification of changes to the Interchange.
- WEQ Standards 004-17, 004-17.1, and 004-17.2 replace NERC's INT-003-0 Requirement R1.1.3. These standards establish the default ramp rates that apply to an Interchange unless otherwise agreed to by the parties involved.

Changes to Better Conform with NERC's Proposed INT Reliability Standards

13. The WEQ also modified the Coordinate Interchange definitions and business practice standards to better coordinate with NERC's INT reliability standards. This follows the Commission's directive in Order No. 676 that, "[i]n future versions of the standards, NAESB should use the NERC definitions relating to reliability."⁶ The modifications include:

- New and revised definitions, such as changing Reliability Authority to Reliability Coordinator.
- Changes to definitions resulting from WEQ's efforts to match the language used in NERC's "Glossary of Terms Used in Reliability Standards" (Glossary) where appropriate. For example, the WEQ added a definition for "Arranged Interchange" using the same language as NERC.
- Changes to definitions, such as the "Request for Interchange" definition, where the words are not identical, but are compatible with NERC's, facilitating coordination with the NERC INT reliability standards but reflecting the different responsibilities of the two organizations.
- Changes to definitions, where NERC does not have a corresponding definition in its Glossary, but the WEQ modified its definitions, such as the "Approval Entity"

⁶ Order No. 676 at P 40.

definition, to reflect the definition changes previously discussed.

- Changes to delete definitions no longer needed in the Coordinate Interchange business practice standards or that had been replaced by other definitions. Deleted definitions include: Checkout Process; Interchange Transaction; Interchange Transaction Tag; Interconnection; Market Operator; Scheduling Agent; and Transmission Service Provider.
- Changes to the Coordinate Interchange business practice standards made to better coordinate with NERC's INT reliability standards. The standards were modified to: (1) incorporate the revised definitions; (2) provide greater detail, as in WEQ Standard 004-3; (3) add new standards to clarify and better coordinate with NERC, such as in WEQ Standard 004-2.2; and (4) delete standards that are no longer appropriate, such as WEQ Standard 004-1.2.

Changes to Reflect Current Business Practices of the Eastern and Western Interconnections and ERCOT

14. The Coordinate Interchange business practices standards were also modified to reflect the current business practices of the Eastern and Western Interconnections and ERCOT. Language previously included in Appendix A was moved to Coordinate Interchange business practice standards 004-3, 004-3.1, and 004-8.2.

Discussion

15. In this NOPR, we propose to incorporate by reference the WEQ's revised Coordinate Interchange standards in part 38 of the Commission's regulations to coordinate with the consideration already under way in Docket No. RM06-16-000 of the complementary NERC INT reliability standards.⁷ Adoption of revised business practice standards is intended to be coordinated with the adoption of the complementary reliability standards to ensure that public utilities comply with a consistent set of standards. To

⁷ The revised WEQ business practice standards we are proposing to incorporate by reference in this NOPR are the standards for Coordinate Interchange (WEQ-004, June 22, 2006) including Purpose, Applicability, and Standards 004-0 through 004-17.2 and 004-A through 004-D.

ensure that the NAESB and NERC standards remain consistent, we propose that the effective date of these standards be no earlier than the effective date of the NERC standards if, and when, they are approved by the Commission.

16. We are pleased that NAESB and NERC have been able to work together to separate out business and reliability decisions and to generally coordinate their adoption of standards. In the Reliability NOPR, the Commission urged NERC and NAESB to coordinate their filing of standards. We stated:

In the future, to ensure that there is not a gap in Reliability Standards or business practices, the Commission expects filings from NERC and NAESB to be coordinated to allow for the seamless transfer of Requirements from Reliability Standards to Business Practices.^{8]}

In this instance, although the adoption of the standards was coordinated, the filing of notification to the Commission was not as coordinated as we would like it to be. In the future, we expect that NAESB and NERC will coordinate their submittals of any subsequent revisions to their respective interrelated standards and that each filing will reference its counterparts, to help assure coordinated implementation of future standards. We appreciate the supplemental information NAESB filed on February 5, 2007, and request that NERC and NAESB include in their filings the details showing how their respective standards relate to each other.

17. NAESB's standards correspond to NERC's Version 1 INT reliability standards. On November 15, 2006, NERC filed updated INT reliability standards (NERC's Version 2 INT reliability standards) with the Commission in Docket No. RM06-16-000. Review

⁸ Reliability NOPR at P 439.

of the changes made to the Version 2 standards does not indicate that the WEQ would need to make any additional modifications to its Coordinate Interchange standards. We invite comments on whether NERC's Version 2 INT reliability standards necessitate any additional standards beyond those included in the WEQ's Coordinate Interchange business practice standards.

18. The Commission is not proposing in this rulemaking that public utilities make tariff filings to include the revised Coordinate Interchange standards in their tariffs. Instead, we propose that, when the WEQ next updates its wholesale electric standards, if the Commission decides to incorporate this next standard version into its regulations, public utilities will then be required to include these standards in their tariffs.

Notice of Use of Voluntary Consensus Standards

19. The NAESB WEQ approved the revised Coordinate Interchange standards under NAESB's consensus procedures.⁹ As the Commission found in Order No. 676, adoption of consensus standards is appropriate because the consensus process helps ensure the reasonableness of the standards by requiring that the standards draw support from a broad spectrum of all segments of the industry. Moreover, 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. In section 12(d) of the National Technology Transfer and Advancement Act of 1995, Congress affirmatively requires

⁹Under 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.

federal agencies to use technical standards developed by voluntary consensus standards organizations, like NAESB, as means to carry out policy objectives or activities.¹⁰

20. 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 a voluntary consensus standard developed by the WEQ.

Information Collection Statement

21. The following collection of information contained in this proposed rule has 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 estimate is based on the projected costs for the industry to implement revisions to the WEQ's Coordinate Interchange standards (WEQ-004).

¹⁰Pub L. No. 104-113, § 12(d), 110 Stat. 775 (1996), 15 U.S.C. § 272 note (1997).

Data Collection	No. of Respondents	No. of Responses Per Respondent	Hours Per Response	Total No. of Hours
FERC-717	220	1	8	1760
Totals				1760

Total Annual Hours for Collection

(Reporting and Recordkeeping, (if appropriate)) = 1760

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:¹¹

	FERC-717
Annualized Capital/Startup Costs	\$264,000
Annualized Costs (Operations & Maintenance)	N/A
Total Annualized Costs	\$264,000

22. OMB regulations¹² 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: Standards for Business Practices and Communication Protocols for Public Utilities (FERC-717) (*formerly* Open Access Same Time Information System)

Action: Proposed collection

OMB Control No.: 1902-0173

¹¹ The total annualized costs for the information collection is \$264,000 . This number is reached by multiplying the total hours to prepare responses (1760 hours) by an hourly wage estimate of \$150 (a composite estimate that includes legal, technical and support staff rates, \$90+\$35+\$25). \$264,000 = \$150 x 1760.

¹² 5 CFR 1320.11.

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

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

Necessity of the Information: This proposed rule, if implemented would upgrade the Commission's business practice and communication protocols (methods by which computers coordinate their communications) governing Coordinate Interchange transactions to complement revisions to the NERC INT reliability standards under consideration in the rulemaking proceeding in Docket No. RM06-16-000. The implementation of these standards and regulations is necessary to increase the efficiency of the wholesale electric power grid. The standards being adopted define procedures for market participants to request the implementation of Interchange Transactions or agreements to transfer energy from a seller to a buyer that crosses one or more Balancing Authority boundaries.

23. The information collection requirements of this proposed rule are based on the transition from transactions being made under the Commission's existing business practice standard governing Coordinate Interchange transactions to conducting such transactions under the proposed revision to the Coordinate Interchange standards (WEQ-004). Our preliminary view, subject to our review of any comments that are filed on this NOPR proposal, is that the Commission's incorporation by reference of these revised standards will keep these WEQ business practice standards consistent with the NERC INT reliability standards.

24. Internal Review: The Commission has reviewed the revised business practice standards and has made a preliminary determination that the proposed revisions are necessary to maintain consistency between the business practice standards and reliability standards on this subject. The Commission has assured itself, by means of its internal review, that there is specific, objective support for the burden estimate associated with the information requirements.

25. 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, N.E.
Washington, DC 20426
Tel: (202) 502-8415 / Fax: (202) 273-0873
Email: michael.miller@ferc.gov

26. 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].

Environmental Analysis

27. 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.¹³ The Commission has categorically excluded certain actions from these requirements as not having a significant effect on the human environment.¹⁴ 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.¹⁵ Therefore, an environmental assessment is unnecessary and has not been prepared in this NOPR.

Regulatory Flexibility Act Certification

28. The Regulatory Flexibility Act of 1980 (RFA)¹⁶ 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.

29. 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

¹³ 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).

¹⁴ 18 CFR 380.4.

¹⁵ See 18 CFR 380.4(a)(2)(ii), 380.4(a)(5), 380.4(a)(27).

¹⁶ 5 U.S.C. 601-612.

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. This is consistent with the exemption provisions of the RFA. Accordingly, pursuant to section 605(b) of the RFA,¹⁷ the Commission hereby certifies that the regulations proposed herein will not have a significant adverse impact on a substantial number of small entities.

Comment Procedures

30. 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 **[insert date 30 days from publication in the FEDERAL REGISTER]**. Comments must refer to Docket No. RM05-5-003, and must include the commenter's name, the organization they represent, if applicable, and their address. Comments may be filed either in electronic or paper format.

31. 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

¹⁷ 5 U.S.C. 605(b).

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, Secretary of the Commission, 888 First Street N.E., Washington, DC, 20426.

32. 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.

Document Availability

33. 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 5:00 p.m. Eastern time) at 888 First Street, N.E., Room 2A, Washington, DC 20426.

34. 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.¹⁸

35. User assistance is available for eLibrary and the FERC's website 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 in 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.

¹⁸ NAESB's November 16, 2006 submittal is also available for viewing in eLibrary. The link to this file is as follows:
<http://elibrary.ferc.gov/idmws/nvcommon/NVViewer.asp?Doc=11182760:0>.

In consideration of the foregoing, the Commission proposes to revise Chapter I, Title 18, part 38 of the Code of Federal Regulations, as follows:

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

1. The authority citation for part 38 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.

2. In § 38.2, paragraph (a)(4) is revised to read as follows:

§ 38.2 Incorporation by reference of North American Energy Standards Board

Wholesale Electric Quadrant standards.

(a) * * *

(4) Coordinate Interchange (WEQ-004, June 22, 2006);

* * * * *