

126 FERC ¶ 61,248
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

18 CFR Part 38

(Docket No. RM05-5-013)

Standards for Business Practices and
Communication Protocols for Public Utilities

(March 19, 2009)

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 at 18 CFR 38.2 the latest version (Version 002.1) of certain business practice standards adopted by the Wholesale Electric Quadrant of the North American Energy Standards Board (NAESB). NAESB's Version 002.1 Standards mainly modify NAESB's Version 001 Standards in response to Order Nos. 890, 890-A, and 890-B.

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. RM05-5-013, 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, DC 20426. Please refer to the Comment Procedures Section of
the preamble for additional information on how to file paper comments.

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SUPPLEMENTARY INFORMATION:

126 FERC ¶ 61,248
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Standards for Business Practices and
Communication Protocols for Public Utilities

Docket No. RM05-5-013

NOTICE OF PROPOSED RULEMAKING

(March 19, 2009)

1. In this Notice of Proposed Rulemaking (NOPR), the Federal Energy Regulatory Commission (Commission) proposes to amend its regulations under the Federal Power Act¹ to incorporate by reference the latest version (Version 002.1) of certain business practice standards adopted by the Wholesale Electric Quadrant (WEQ) of the North American Energy Standards Board (NAESB). These revised standards update earlier versions that the Commission previously incorporated by reference into its regulations at 18 CFR 38.2 in Order Nos. 676, 676-B, 698, and 676-C,² as well as the Version 002.0 standards that NAESB filed with the Commission on September 2, 2008. The new and revised standards that NAESB

¹ 16 U.S.C. 791a, et seq.

² Standards for Business Practices and Communication Protocols for Public Utilities, Order No. 676, 71 FR 26,199 (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), Order No. 676-B, 72 FR 21,095 (Apr. 30, 2007), FERC Stats. & Regs., Regulations Preambles ¶ 31,246 (Apr. 19, 2007), Order No. 676-C, 73 FR 43,848 (July 29, 2008), FERC Stats. & Regs., Regulations Preambles ¶ 31,274 (July 21, 2008), Order No. 676-D, granting clarification and denying reh'g, 124 FERC ¶ 61,317 (2008); Standards for Business Practices for Interstate Natural Gas Pipelines, Order No. 698, 72 FR 38,757 (July 16, 2007), FERC Stats. & Regs., Regulations Preambles ¶ 31,251 (June 25, 2007), order on clarification and reh'g, Order No. 698-A, 121 FERC ¶ 61,264 (2007).

adopted in its Version 002.0 and 002.1 standards implement requirements of Order Nos. 890, 890-A, and 890-B.³ In addition, NAESB developed standards to support the Commission's eTariff program, modified the Commercial Timing Table (WEQ-004 Appendix D) and Transmission Loading Relief Standards (WEQ-008) to provide clarity and align NAESB's business practice standards with the reliability standards adopted by the North American Electric Reliability Corporation (NERC), revised the Manual Time Error Correction Standards (WEQ-006) to maintain consistency with revised NERC Standard BAL-004, and amended certain ancillary services definitions appearing in the Open Access Same-Time Information Systems (OASIS) Standards (WEQ-001) relating to the inclusion of demand resources as part of ancillary services.

I. Background

2. NAESB is a non-profit standards development organization established in January 2002 that serves as an industry forum for the development of business practice standards. These standards promote a seamless marketplace for wholesale and retail natural gas and electricity.⁴ Since 1995, NAESB and its predecessor, the Gas Industry Standards Board, have been accredited members of the American

³ Preventing Undue Discrimination and Preference in Transmission Service, Order No. 890, 72 FR 12,266 (March 15 2007), FERC Stats. & Regs., Regulations Preambles ¶ 31,241 (2007) (Order No. 890); order on reh'g, Order No. 890-A, 73 FR 2984 (Jan. 16, 2008), FERC Stats. & Regs., Regulations Preambles ¶ 31,261 (2007) (Order No. 890-A); order on reh'g and clarification, Order No. 890-B, 123 FERC ¶ 61,299 (2008).

⁴ See Standards for Business Practices and Communication Protocols for Public Utilities, Notice of Proposed Rulemaking, 72 FR 8318 (Feb. 27, 2007), FERC Stats. & Regs., Proposed Regs. ¶ 32,612 at P 3 (Feb. 20, 2007).

National Standards Institute (ANSI), complying with ANSI's requirements that its standards reflect a consensus of the affected industries.⁵

3. 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 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.⁶

4. NAESB develops its standards under a consensus process so that the standards draw support from a wide range of industry members. 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.⁷ Furthermore, each standard the WEQ adopts is supported by a consensus of the six industry segments: transmission, generation, marketer/brokers, distribution/load serving entities, end users, and independent grid operators/planners. Under the WEQ process, for a standard to be approved, it 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 of

⁵ Id.

⁶ Id. P 4.

⁷ Id. P 5.

each of the six industry segments. For final approval, 67 percent of the WEQ's general membership must ratify the standards.⁸

5. In a series of Orders,⁹ the Commission has incorporated certain of NAESB's standards into its regulations. These standards include standards for business practices as well as standards and protocols for electronic communication, and business practice standards related to reliability standards promulgated by NERC and approved by the Commission. In Order No. 698, the Commission also incorporated by reference into its regulations the NAESB Gas/Electric Coordination Standards (WEQ-011). These standards established communication protocols between interstate natural gas pipelines and electric power plant operators designed to enhance reliability by improving communication between the gas and electric industries relating to the scheduling of gas-fired generators.

6. On September 2, 2008, NAESB reported to the Commission that its WEQ Executive Committee had approved Version 002.0 of its business practice standards.¹⁰ The standards were published on September 30, 2008. NAESB states that its leadership responded to Order Nos. 890, 890-A, and 890-B, by requesting that its Electronic Scheduling Subcommittee/Information Technology Subcommittee

⁸ Standards for Business Practices and Communication Protocols for Public Utilities, Notice of Proposed Rulemaking, 70 FR 28,222 ((May 17, 2005), FERC Stats. & Regs., Proposed Regs. ¶ 32,582, P 13 (May 9, 2005).

⁹ See n.2 supra.

¹⁰ See NAESB supplemental report dated Nov. 14, 2008.

(ESS/ITS) and its Business Practice Subcommittee (BPS) coordinate efforts to address the issues raised by those orders. NAESB also states that, in formulating its work schedule, it distinguished between the findings in Order No. 890 that called for a specific completion date and other tasks that were less time sensitive and developed a work schedule to allow completion of the more time-sensitive items earlier in the process. As part of this process, NAESB states that the ESS/ITS and BPS worked in close coordination with the pertinent NERC committees to draft business practice standards on Order No. 890 issues that complement NERC's reliability standards related to these issues, so that the standards for both organizations will be consistent.¹¹

7. While the majority of the revisions made in NAESB's Version 002.0 Standards were adopted in response to Order Nos. 890, 890-A, and 890-B, the Version 002.0 Standards also include: (1) the eTariff related standards developed by NAESB in coordination with Commission staff and the electric, gas, and oil industries; (2) modifications to WEQ's existing interconnection time monitor standards in the Manual Time Error Corrections Standards (WEQ-006) to ensure the NAESB standards remain consistent with NERC's BAL-004 standard; and (3) the explicit inclusion of demand resources in the definitions of certain ancillary services.

¹¹ The Commission addresses the associated reliability standards proposed by NERC in a companion Notice of Proposed Rulemaking being issued in Docket No. RM08-19-000.

8. On February 19, 2009, NAESB notified the Commission that the WEQ Executive Committee had approved its Version 002.1 standards, which include both new standards and modifications to existing Version 002.0 standards.¹² The Version 002.1 standards include new standards related to capacity benefit margin and rollover rights, and were developed in response to Order Nos. 890, 890-A, and 676.

Additional modifications included in the Version 002.1 standards include:

(1) modifications to existing standards pertaining to rollover rights; (2) modifications to the Coordinate Interchange Timing Tables contained in Appendix D of the Coordinate Interchange Standards (WEQ-004) to clarify the differences in timing requirements for the Western Electricity Coordinating Council and all other interconnections, complementary to the NERC reliability standards; and (3) modifications to the Transmission Loading Relief – Eastern Interconnection Standards (WEQ-008) to add clarity and ensure that the business practice standards are consistent with NERC reliability standard IRO-006.

9. In total, NAESB's WEQ Version 002.1 business practice standards include the following standards:

- Open Access Same-Time Information Systems (OASIS), Version 1.5 (WEQ-001);
- Open Access Same-Time Information Systems (OASIS) Standards & Communications Protocols, Version 1.5 (WEQ-002);

¹² On March 12, 2009, NAESB submitted a report to the Commission documenting its ratification of the Version 002.1 standards.

- Open Access Same-Time Information Systems (OASIS) Data Dictionary, Version 1.5 (WEQ-003);
- Coordinate Interchange (WEQ-004);
- Area Control Error (ACE) Equation Special Cases (WEQ-005);
- Manual Time Error Correction (WEQ-006);
- Inadvertent Interchange Payback (WEQ-007);
- Transmission Loading Relief – Eastern Interconnection (WEQ-008);
- Standards of Conduct for Electric Transmission Providers (WEQ-009);
- Contracts Related Standards (WEQ-010);
- Gas/Electric Coordination (WEQ-011);
- Public Key Infrastructure (PKI) (WEQ-012);
- Open Access Same-Time Information Systems (OASIS) Implementation Guide, Version 1.5 (WEQ-013); and
- WEQ/WGQ eTariff Related Standards (WEQ-014).

II. Discussion

10. We propose to incorporate by reference into the Commission's regulations the NAESB WEQ Version 002.1 standards, with certain exceptions.¹³ The Version

¹³ We do not propose to incorporate by reference in the Commission's regulations the following standards: Standards of Conduct for Electric Transmission Providers (WEQ-009); Contracts Related Standards (WEQ-010); and WEQ/WGQ eTariff Related Standards (WEQ-014). We do not propose to incorporate WEQ-009 into the Commission's regulations because it contains no substantive standards and merely serves as a placeholder for future standards. We do not propose to incorporate WEQ-010 because this standard contains an optional NAESB contract regarding funds transfers and the Commission does not require utilities to use such contracts. In addition, we do not propose to incorporate WEQ-014, eTariff Related Standards,

(continued)

002.1 standards will update the Version 001 standards currently incorporated by reference into the Commission's regulations.¹⁴

11. NAESB adopted the majority of the changes in the Version 002.1 standards to support Order Nos. 890, 890-A, and 890-B, in which the Commission addressed and remedied opportunities for undue discrimination under the pro forma open access transmission tariff (OATT). While many of the Version 002.1 standards simply revise or update existing standards, some of these standards prescribe new business practices to accommodate the reforms adopted in Order No. 890. For example, NAESB has developed business practice and technical standards to support conditional firm service. Additionally, NAESB developed standards for the posting of narratives explaining changes in available transfer capability and total transfer

because the Commission already has adopted standards and protocols for electronic tariff filing based on the NAESB standards. See Electronic Tariff Filings, 73 FR 57,515 (Oct. 3, 2008), FERC Stats. & Regs. ¶ 31,276 (Sept. 19, 2008). Also, we do not propose to incorporate NAESB's interpretation of its standards on Gas/Electric Coordination (WEQ-011) by reference in the regulations. While interpretations may provide useful guidance, they are not determinative and we will not require utilities to comply with interpretations. Lastly, as discussed more specifically in note 18, infra, we do not propose to incorporate by reference certain portions of WEQ-001.

¹⁴ In this NOPR, the Commission is proposing to incorporate by reference into the Commission's regulations Version 002.1 of NAESB's business practice standards. These standards have been updated to include all revisions to the standards since Version 001. Thus, some of the revisions included in Version 002.1 were made from the Version 002.0 standards and others were made from the Version 001 standards. Given that NAESB's Version 002.1 Standards represent the most up-to-date version of NAESB's business practice standards, we believe it is more productive for this NOPR to address this set of standards, rather than the Version 002.0 standards. Given our proposals in this NOPR, we do not see the need to propose any separate action addressing NAESB's Version 002.0 standards. Therefore, the proceeding in Docket No. RM05-5-007 is moot.

capability, underlying load forecast assumptions for available transfer capability calculations and actual peak load, as well as metrics relating to the provision of transmission service and the completion of planning studies. Specific additions and revisions included in the NAESB WEQ Version 002.1 standards are discussed below.

12. NAESB approved the Version 002.1 standards under its consensus procedures.¹⁵ Adoption of consensus standards is appropriate because the consensus process helps to 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 (NTT&AA), Congress affirmatively requires federal agencies to use technical standards developed by voluntary consensus standards organizations, like NAESB, as a means to carry out policy objectives or activities determined by the agencies unless use of such standards would be inconsistent with applicable law or otherwise impractical.¹⁶

13. We propose that, once the Commission incorporates these standards by reference into its regulations, public utilities must implement these standards even before they have updated their tariffs to incorporate these changes. The Commission

¹⁵ See P 4 *supra*.

¹⁶ Pub L. No. 104-113, 12(d), 110 Stat. 775 (1996), 15 U.S.C. 272 note (1997).

is also proposing, consistent with our regulation at 18 CFR 35.28(c)(1)(vii), to require each public utility to revise its OATT to include the Version 002.1 WEQ standards that we are proposing to incorporate by reference herein. For standards that do not require implementing tariff provisions, the Commission is proposing to permit the public utility to incorporate the WEQ standard by reference in its OATT. We are not, however, proposing to require a separate tariff filing to accomplish this change. Consistent with our prior practice, we are proposing to give public utilities the option of including these changes as part of an unrelated tariff filing.¹⁷

A. OASIS Standards

14. In the NAESB WEQ Version 002.1 standards, NAESB has developed new standards and revised existing standards relating to OASIS to ensure consistency with certain policies articulated by the Commission in Order Nos. 890, 890-A and 890-B. A number of standards that the Commission directed transmission providers to develop have been included by WEQ in the Version 002.1 OASIS Standards, which include: (1) Open Access Same-Time Information Systems (OASIS), Version 1.5 (WEQ-001); (2) Open Access Same-Time Information Systems (OASIS) Standards & Communication Protocols, Version 1.5 (WEQ-002); (3) Open Access Same-Time Information Systems (OASIS) Data Dictionary, Version 1.5 (WEQ-003); and

¹⁷ See Order No. 676, P 100.

(4) Open Access Same-Time Information Systems (OASIS) Implementation Guide, Version 1.5 (WEQ-013). In addition, NAESB's WEQ Version 002.1 standards include various minor revisions to the OASIS Standards.

15. In this NOPR, we propose to incorporate by reference into the Commission's regulations the Version 002.1 OASIS Standards (i.e., WEQ-001, WEQ-002, WEQ-003, and WEQ-013), with certain exceptions.¹⁸

16. We note that Standard 001-13.1.2, which requires the posting of Standards of Conduct-related information, contains references to various Commission regulations that were subsequently revised in Order No. 717.¹⁹ Thus, these references are no longer accurate and the information required to be posted by this standard does not conform, in some instances, to the Commission's current requirements. We understand that NAESB is working on making a revision to this standard. Because the standard contains posting requirements that are still applicable, we propose to incorporate this standard by reference. However, we clarify that, until we adopt a revised standard, we do not propose to require public utilities to comply with any portion of the standard that requires information to be posted in a manner inconsistent with Order No. 717.

¹⁸ Consistent with the Commission's determination in Order Nos. 676 and 676-C, we are not proposing to incorporate by reference Standards 001-0.1, 001-0.9 through 001-0.13, and 001-1.0 through 001-1.8 because these standards merely restate Commission regulations and Standard 001-9.7 because it is not consistent with the Commission's policy on redirects. Order No. 676, P 51 & n.40.

¹⁹ Standards of Conduct for Transmission Providers, Order No. 717, 73 FR 63,796 (Oct. 27, 2008), FERC Stats. & Regs. ¶ 31,280 (2008), reh'g pending.

1. Conditional Firm Service

17. In the OASIS Standards, NAESB has included a number of standards that support conditional firm service as envisioned by the Commission in Order Nos. 890 and 890-A. NAESB has developed business practice standards to facilitate the implementation of conditional firm service, relying on the Commission's description of the attributes of that service in Order No. 890.²⁰ Specifically, NAESB developed Standards 001-21 through 001-21.5.5 on the Conditional Curtailment Option, the term that NAESB uses to describe conditional firm service. These standards address: (1) the limitations and conditions under which the Conditional Curtailment Option is offered; (2) the posting requirements for information concerning a Conditional Curtailment Option reservation and its curtailment criteria; (3) the process for performing the biennial reassessment; (4) the curtailment of a Conditional Curtailment Option reservation; and (5) the redirect, transfer, and resale of a Conditional Curtailment Option reservation.

18. Additionally, NAESB has developed other standards related to conditional firm service in response to the Commission's requests for the development of specific standards in Order Nos. 890 and 890-A.²¹ Specifically, NAESB has developed Standard 001-21.1.6, which requires that transmission providers offer short-term firm service to conditional firm customers as capacity (that would alleviate the constraints

²⁰ Order No. 890, P 1043-47.

²¹ Order No. 890, P 1078; Order No. 890-A, P 592.

associated with a Conditional Curtailment Option reservation) becomes available. In response to Order No. 890-A, NAESB has created and modified standards in WEQ-001, Appendix C to WEQ-001, WEQ-002, WEQ-003, WEQ-008 and WEQ-013, to provide a consistent set of tracking capabilities and business practices for tagging, as a means to implement conditional firm service.

2. Available Transfer Capability

19. NAESB developed several standards related to available transfer capability in response to Order No. 890. First, NAESB modified WEQ-001 to support the transparency reporting and related functions required by Order No. 890. Second, in response to the available transfer capability related posting requirements established by the Commission in Order No. 890, NAESB has developed business practice standards in WEQ-001 (including Standards 001-14, 001-15, 001-17, 001-18, 001-19, 001-20 and Appendix D), WEQ-002, WEQ-003 and WEQ-013 (including Appendices A and B).²²

20. Standard 001-14 is designed to meet the requirement in Order No. 890 for transmission providers to post a narrative with regard to monthly or yearly available transfer capability values in instances when available transfer capability remains unchanged at a value of zero for six months or longer.²³ Standard 001-15 is designed to meet the requirement in Order No. 890 for transmission providers to post a brief,

²² Order No. 890, P 369 and 371.

²³ Id. P 371.

but specific, narrative explanation of the reason for a change in monthly and yearly available transfer capability values on a constrained path when a monthly or yearly available transfer capability value changes as a result of a 10 percent change in total transfer capability. This standard requires the narrative explanation to include the specific events that gave rise to the change and the new values for available transfer capability on that path.²⁴

21. Standard 001-16.1 requires Transmission Providers to respond to questions about the methodology for calculating available transfer capability and available flowgate capability. We interpret this standard as requiring the Transmission Provider to provide data when necessary to respond to the methodology questions in order to be consistent with the requirement in Order No. 890 that transmission providers must, upon request, “make available all data used to calculate [available transfer capability] and [total transfer capability] for any constrained paths and any system planning studies or specific network impact studies performed for customers.”²⁵

22. Standard 001-17 governs the posting of the underlying load forecast assumptions used by transmission providers to calculate available transfer capability and, on a daily basis, their actual daily peak load for the prior day.²⁶

²⁴ Id. P 369.

²⁵ Order No. 890, P 348.

²⁶ Id. P 413.

23. Another standard developed by NAESB in response to Order No. 890 is Standard 001-18, which relates to postbacks of capacity to available transfer capability. In Order No. 890, the Commission directed public utilities, working through NERC, to modify available transfer capability related standards to require transmission providers to account for postbacks of redirected services and counterflows in their non-firm available transfer capability calculations.²⁷ In coordination with NERC, NAESB concluded that a business practice standard addressing counterflows was unnecessary because NERC had addressed it in the reliability standards, but that the postback issue necessitated the creation of a related business practice standard. Thus, NAESB developed Standard 001-18 and a related Appendix D to WEQ-001 to account for postbacks of capacity to available transfer capability.

24. Also in response to Order No. 890,²⁸ NAESB has developed standards that establish a consistent approach for determining the amount of transfer capability that a transmission provider can set aside for its native load and other committed uses. Specifically, Standard 001-19 addresses grandfathered agreements and Standard 001-20 addresses rollover rights. Furthermore, NAESB has developed business practice standards that complement NERC's reliability standards for existing transmission commitments. These standards appear in WEQ-001, WEQ-003, and WEQ-013.

²⁷ Id. P 212.

²⁸ Id. P 243.

25. One of the Commission's objectives in Order No. 890 was to reduce the potential for transmission providers to unduly discriminate when they provide transmission service by limiting their discretion to calculate available transfer capability using unknown assumptions and methodologies.²⁹ For this reason, the Commission found that "all [Available Transfer Capability] components (i.e., [total transfer capability], [existing transmission commitments], [capacity benefit margin], and [transmission reliability margin]) and certain data inputs, data exchange, and assumptions be consistent and that the number of industry-wide ATC calculation formulas be few in number, transparent and produce equivalent results."³⁰

26. The standards establish a mechanism for posting available transfer capacity for grandfathered agreements. The standards, however, provide for a different approach to posting grandfathered agreements using the Flowgate Methodology. Under Standard 001-19.1, transmission providers using the other available transfer capability calculation methodologies must post the aggregate MW value for the grandfathered agreements and such data must be posted so that it can be viewed and queried using the systemdata template. Standard 1-19.1.2 provides an exception for transmission providers using the Flowgate Methodology from the requirement to post an aggregate MW value that can be viewed and queried using the systemdata

²⁹ The Commission reasoned that the potential for discrimination does not lie primarily in the choice of an available transfer capability calculation methodology, but rather in the consistent application of its components. Id. P 208.

³⁰ Order No. 890, P 207.

template. Instead, it requires that the transmission provider must post a list of Grandfathered Agreements with MW values that are expected to be scheduled or expected to flow. The standards, therefore, permit transmission providers using Available Transfer Capability (ATC) calculation methodologies other than the Flowgate Methodology to post less detailed information concerning grandfathered agreements than those using the Flowgate Methodology, but information concerning grandfathered agreements posted by those using the Flowgate Methodology is not accessible through the systemdata template.

3. ATC Information Link

27. The WEQ Version 002.1 standards establish the procedure for input of total transfer capability and available transfer capability methodologies and values to be used by public utilities in calculating their total transfer capability and available transfer capability. NAESB developed these business practice standards in close coordination with the NERC available transfer capability drafting team. Furthermore, NERC and NAESB determined that the standards contained in NERC MOD-003 were better classified as business practice standards than reliability standards. As a result, NAESB developed Standard 001-13.1.5, which provides for an ATC Information Link on OASIS. This standard requires that Transmission Providers post several links on the ATC Information Link, including links to their Available Transfer Capability Implementation Document (as specified in NERC reliability standard MOD-001-1), Capacity Benefit Margin Implementation Document (as specified in NERC reliability standard MOD-004-1), and Transmission Reserve

Margin Implementation Document (as specified in NERC reliability standard MOD-008-1).³¹

28. Standard 001-13.1.5 provides that the posting of information on the ATC Information Link would be “subject to the Transmission Provider’s ability to redact certain provisions due to market, security or reliability sensitivity concerns.” In Order No. 890, the Commission acknowledged that a transmission provider may require someone seeking access to CEII materials or proprietary customer information to sign a confidentiality agreement.³² We expect the provision in NAESB Standard 001-13.1.5 for a transmission provider to redact sensitive information from postings to be implemented by a transmission provider subject to the OATT in a manner consistent with its obligation to make that information available to those with a legitimate need to access the information, subject to appropriate confidentiality restrictions.³³

4. Capacity Benefit Margin

29. In addition to requiring that transmission providers include a link to their Capacity Benefit Margin Implementation Document on the ATC Information Link, as discussed above, the Version 002.1 standards allow for auditing of the use of capacity

³¹ These three implementation documents are described in the NERC reliability standards, which are addressed in a companion Notice of Proposed Rulemaking being issued in Docket No. RM08-19-000.

³² Order No. 890, P 326.

³³ See Order No. 890, P 403-04 (requiring the development of standard disclosure for timely disclosure of CEII information to those with a legitimate need for it).

benefit margin using OASIS. This standard was developed in response to Order No. 890 and 890-A,³⁴ and necessitated modifications to WEQ-001, WEQ-002, WEQ-003, and WEQ-013. While the Commission also directed that public utilities, working through NERC and NAESB, “develop clear standards for how the CBM value shall be determined, allocated across transmission paths, and used” in Order No. 890,³⁵ the NAESB subcommittees determined that the NERC reliability standard MOD-004 adequately addressed this directive and therefore it was not necessary to develop any supporting NAESB business practice standards.³⁶

30. On March 6, 2009, NERC filed comments with the Commission concerning Standard 004-18.2, suggesting that this Standard might be in conflict with Requirement 12 of NERC Reliability Standard MOD-004-1.³⁷ After comparing the two standards, we do not believe that they are in conflict. Incorporation by reference

³⁴ Order No. 890, P 262 and Order No. 890-A, P 68.

³⁵ Order No. 890, P 257. See also, Order No. 890-A, P 68 and 83.

³⁶ See, NAESB Version 002.1 cover letter filed on Feb. 19, 2009 at 69.

³⁷ Standard 004-18.2 states that: “the Transmission Provider may require the specification of a unique Transmission Reservation Number in association with any request for use of CBM. Such requirement shall be fully documented in the Transmission Provider’s Business Practices posted on OASIS. The TSP reserves the right to deny any RFI requesting use of CBM if the required Transmission Reservation Number is not specified.”

Requirement 12 of Standard MOD-004-1 requires transmission providers to approve, within the bounds of reliable operation, any arranged interchange using CBM that is submitted by an energy deficient entity under energy emergency alerts, if (1) CBM is available, (2) an emergency alert is declared within the balancing authority of the energy deficient entity, and (3) the energy deficient entity is located within the transmission provider’s service area.

of the NAESB Standard would not seem to relieve an entity from the independent obligation to comply with the NERC Reliability Standard.

5. Performance Metrics

31. In response to several posting requirements in Order No. 890, NAESB developed and adopted Standard 001-13.1.3, which describes the Performance Metrics Link that transmission providers must have on the OASIS. Under the “Transmission Service Requests Metrics” link, transmission providers are required to post the information required by the Commission’s regulations at 18 CFR 37.6(i), which includes: (1) the number of affiliate versus non-affiliate requests for transmission service that have been rejected; and (2) the number of affiliate versus non-affiliate requests for transmission service that have been made. Furthermore, this posting is required to detail the length of service request (e.g., short-term or long-term) and the type of service requested (e.g., firm point-to-point, non-firm point-to-point or network service).³⁸ Under the “Transmission Study Metrics” link, transmission providers must post the information concerning performance metrics relating to system impact and facilities studies³⁹ required by the Commission’s regulations at 18 CFR 37.6(h). Under the “Redispatch Cost” link, transmission providers must post information required by the Commission’s regulations at 18 CFR 37.6(j)(2) regarding redispatch costs. This information must include each

³⁸ Order No. 890, P 413.

³⁹ Id. P 1318.

transmission provider's monthly average cost of redispatch for each internal congested transmission facility or interface over which it provides redispatch service using planning redispatch or reliability redispatch under the pro forma OATT and a high and low redispatch cost for the month for each of these same transmission constraints.⁴⁰

6. Rebid of Partial Service

32. The WEQ Version 002.1 standards cover the rebid of partial service across a single transmission provider's system. In response to Order No. 890, NAESB adopted business practice standards in its Version 002.1 standards to complement the OASIS Standards and Communication Protocol standards that it had already developed for the rebid of partial service across a single Transmission Provider's system. These revisions appear in the OASIS Standards.

7. Pre-Confirmed Transmission Service Requests

33. In WEQ-001, WEQ-002 and WEQ-013, NAESB has developed business practice standards to complement the Commission's policies regarding pre-confirmed transmission service requests, as articulated in Order No. 890. As required by Order No. 890, these standards "give priority only to pre-confirmed non-firm point-to-point transmission service requests and short-term firm point-to-point transmission service requests"⁴¹ and provide that "longer duration requests for transmission service will continue to have priority over shorter duration requests for transmission service, with

⁴⁰ Id. P 1162.

⁴¹ Id. P 1401.

pre-confirmation serving as a tie-breaker for requests of equal duration.”⁴² In addition, as requested by the Commission in Order No. 890, NAESB has developed a consensus solution to the question of whether a transmission customer should be prohibited from changing a request into a pre-confirmed request.⁴³

8. Ancillary Services and Demand Response

34. NAESB amended the definitions of certain ancillary services contained in WEQ-001 to reflect the definitions contained in the pro forma OATT as revised by Order No. 890. These definitions describe the types of ancillary services that are offered on OASIS. The revisions to the definitions reflect the possible role of demand resources in the provision of ancillary services by identifying non-generation resources capable of providing a given ancillary service as potential providers of the service. These modifications include revisions to Standards 001-2.5.2 through 001-2.5.6.⁴⁴

9. Rollover Rights

35. In the Version 002.1 standards, NAESB has included new standards and modifications to existing standards in WEQ-001, WEQ-003, and WEQ-013 that relate to rollover rights. As discussed above, these standards were developed in part

⁴²Id.

⁴³Id. P 1392.

⁴⁴ On November 14, 2008, NAESB reported that these standards, among others, have been approved by the WEQ Executive Committee and ratified by the NAESB membership.

as a response to Order No. 890,⁴⁵ in which the Commission directed public utilities, working through NERC and NAESB, to develop standards that establish a consistent approach for determining the amount of transfer capability that a transmission provider can set aside for its native load and other committed uses. However, these standards also include business practices relating to rollover rights; for example, Standard 001-20 describes the process by which Transmission Customers may exercise their rollover rights.⁴⁶ The modifications to the standards relating to rollover rights that NAESB has included in its Version 002.1 filing⁴⁷ are the result of only the first part of a two part process through which NAESB is working to develop standards that are consistent with the Commission's policy on rollover rights as described in Order Nos. 676, 890, and 890-A.⁴⁸

⁴⁵ Order No. 890, P 243.

⁴⁶ Although we have previously determined not to incorporate Standard 001-9.7 dealing with rollover rights and redirects, we are proposing to incorporate by reference Standard 001-9.5.3, which refers to the not-accepted Standard 001-9.7. The reference, however, does not affect the meaning of the Standard 001-9.5.3, and any redirect issues are governed by the Commission's pro forma Open Access Transmission Tariff.

⁴⁷ NAESB Version 002.1 cover letter filed on Feb. 19, 2009 at 7.

⁴⁸ NAESB reports, *id.*, that part one of this process included revisions it made to the definition of "unexercised rollover rights" in WEQ-001, and modifications to the existing standards in WEQ-001, WEQ-003 and WEQ-013. NAESB further reports, *id.*, that in part two of this process it intends to revise Standard 001-9.7 as part of its Order No. 890 work plan, and to include this revision in its Version 002.2 standards.

10. Insufficient Transfer Capacity

36. Standard 001-4.7.1 provides the OASIS posting procedure to be followed when there is insufficient transfer capacity to satisfy a customer's request and partial service is either not required or is unavailable.⁴⁹ While we propose to incorporate this standard by reference into our regulations, we note that it does not address or otherwise limit other obligations that might exist under the pro forma OATT, such as the requirement in section 15.2 to perform a System Impact Study.⁵⁰

11. Miscellaneous OASIS Standards

37. In Order No. 890, the Commission decided that NAESB would be the best entity to address the issue of making OASIS platforms accessible on non-Windows/Explorer computers.⁵¹ NAESB has developed standards concerning this issue as part of its OASIS Standards. Additionally, in the Version 002.1 standards NAESB modified WEQ-002, WEQ-003, and WEQ-013 to complement the new and revised standards adopted in response to Order No. 890. These revisions support annotations for available transfer capability, load forecast and actual load, rebid of

⁴⁹ Standard 001-4.7.1 states: "If the Transmission Provider determines there is insufficient transfer capability available to grant the Transmission Customer's request and there is no obligation to provide Partial Service (or Partial Service is also not available in cases where the Transmission Provider is obligated to provide Partial Service), the Transmission Provider may respond by setting the request status to REFUSED."

⁵⁰ Section 15.2 of the pro forma OATT states that: "In the event sufficient transfer capability may not exist to accommodate a service request, the Transmission Provider will respond by performing a System Impact Study."

⁵¹ Order No. 890, P 1392.

partial service, pre-confirmation priority, and conditional firm service. NAESB also added an Appendix C to WEQ-001 that provides a list of broad based OASIS exemptions that have been granted to specific groups in the electric industry by the Commission through its Orders and regulations.

B. Business Practice Standards to Coordinate with Reliability Standards Unrelated to Order No. 890

38. In the Version 002.1 standards for Coordinate Interchange, (WEQ-004), Area Control Error (ACE) Equation Special Cases (WEQ-005), Inadvertent Interchange Payback (WEQ-007), and Transmission Loading Relief - Eastern Interconnection (WEQ-008), NAESB has made minor modifications to the format of the standards and has revised section titles.

39. In the Version 002.1 standards, NAESB added Standard 004-18 to the Coordinate Interchange Standards (WEQ-004), which describes the requirements for submitting a Request for Interchange that uses a Transmission Provider's capacity benefit margin to support energy imports into a load balancing authority area served by the Transmission Provider. Additionally, the Version 002.1 standards include modifications to the timing table in Appendix D of the Coordinate Interchange Standards (WEQ-004). The NERC/NAESB Joint Interchange Scheduling Working Group modified previous versions of this table by dividing it into two separate tables, one that provides the timing requirements for the Western Electricity Coordinating Council and one that provides the timing requirements for all other interconnections. These tables were modified to reflect time changes for Generator-Provider Entity, Load-Serving Entity, and Purchase-Selling Entity market assessments so that they are

concurrent with the Balancing Authority and Transmission Service Provider reliability assessments. Also, timeline diagrams for each table were added for clarification.⁵²

40. In the Version 002.1 standards for Manual Time Error Correction (WEQ-006), NAESB has included revisions to maintain conformance with NERC Standard BAL-004.⁵³ NAESB states that NERC recently revised Standard BAL-004 to remove inappropriate requirements on reliability coordinators that voluntarily agree to serve as Interconnection Time Monitors.⁵⁴ In addition, NAESB has revised a section title in this standard.

41. In the Version 002.1 standards for Transmission Loading Relief - Eastern Interconnection (WEQ-008), NAESB made a minor modification to a standard to accommodate conditional firm service and the use of capacity benefit margin. Additionally, NAESB modified these standards to clarify the intended use of the nine Transmission Loading Relief levels addressed in the standards, and to ensure consistency between WEQ-008 and the NERC reliability standard IRO-006, both of

⁵² NAESB Version 002.1 cover letter filed on Feb. 19, 2009 at 8.

⁵³ NAESB reports that this item was voted out of the subcommittee on June 4, 2008, passed an Executive Committee vote on Aug. 19, 2008, and the ratification process will complete on Sep. 22, 2008. In its supplemental report dated Nov. 14, 2008, NAESB advised that this revision was ratified on Sep. 22, 2008.

⁵⁴ NERC filed Standard BAL-004-1 with the Commission for approval in Docket Nos. RM09-13-000 and RM06-16-000 on March 12, 2009 and this filing is currently pending before the Commission.

which address transmission loading relief. We propose to update the Commission's regulations to incorporate by reference Version 002.1 of these standards.

C. Other Standards

1. Gas/Electric Coordination Standards

42. In the Version 002.1 standards for Gas/Electric Coordination (WEQ-011), NAESB made a minor correction to rearrange the definitions so that they appear in alphabetical order. We propose to incorporate by reference into the Commission's regulations Version 002.1 of this standard.

2. Public Key Infrastructure (PKI) Standards

43. In the Version 002.1 standards for Public Key Infrastructure (WEQ-012), NAESB made a minor revision to the endnote. We propose to incorporate by reference into the Commission's regulations the updated Version 002.1 of this standard.

III. Notice of Use of Voluntary Consensus Standards

44. 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 NAESB WEQ.

IV. Information Collection Statement

45. 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. Respondents subject to the filing requirements of this rule will not be penalized for failing to respond to these collections of information unless the collections of information display a valid OMB Control number.

46. The following burden estimate is based on the projected costs for the industry to implement revisions to the WEQ Standards currently incorporated by reference into the Commission’s regulations at 18 CFR 38.2 and to implement the new standards adopted by NAESB that we propose here to incorporate by reference.

Data Collection	No. of Respondents	No. of Responses Per Respondent	Hours Per Response	Total No. of Hours
FERC-516	176	1	6	1056
FERC-717	176	1	12	2112
Totals				3168

Total Annual Hours for Collection

(Reporting and Recordkeeping, (if appropriate)) = 3168 hours

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:⁵⁵

	FERC-516	FERC-717
Annualized Capital/Startup Costs	\$390,720	\$781,440
Annualized Costs (Operations & Maintenance)	N/A	
Total Annualized Costs	\$390,720	\$781,440

47. OMB regulations⁵⁶ 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 (formerly Open Access Same Time Information System) (FERC-717);
Electric Rate Schedule Filings (FERC-516).

Action: Proposed collection.

OMB Control No.: 1902-0096 (FERC-516); 1902-0173 (FERC-717).

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

⁵⁵ The total annualized costs for the information collection is \$1,172,160. This number is reached by multiplying the total hours to prepare responses (3168) by an hourly wage estimate of \$370 (a composite estimate that includes legal, technical and support staff rates, \$250+\$95+\$25=\$370), 3168 hours x \$370/hour= \$1,172,160.

⁵⁶ 5 CFR 1320.11.

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

Necessity of the Information: This proposed rule, if implemented would supplement the changes the Commission required in Order Nos. 890, 890-A, and 890-B to require that transmission services are provided on a basis that is just, reasonable and not unduly discriminatory. In addition this proposed rule would upgrade the Commission's current business practice and communication standards. Specifically, these standards include several modifications to the existing business practice standards as well as creating new standards to provide additional functionality for OASIS transactions. These practices will ensure that potential customers of open access transmission service receive access to information that will enable them to obtain transmission service on a non-discriminatory basis and will assist the Commission in maintaining a safe and reliable infrastructure. The implementation of these standards and regulations is necessary to increase the efficiency of the wholesale electric power grid.

48. The information collection requirements of this proposed rule are based on the transition from transactions being made under the existing business practice standards to conducting such transactions under the proposed revisions to these standards and to account for the burden associated with the new standards the Commission proposes to incorporate in its regulations.

49. 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.

50. 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

51. Comments concerning the information collections proposed in this NOPR and the associated burden estimates, 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) 395-7345, fax: (202) 395-7285].

V. Environmental Analysis

52. 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.⁵⁷ The Commission has categorically excluded certain actions from these requirements as not having a significant effect on the

⁵⁷ Regulations Implementing the National Environmental Policy Act, Order No. 486, 52 FR 47,897 (Dec. 17, 1987), FERC Stats. & Regs., Regulations Preambles ¶ 30,783 (1987).

human environment.⁵⁸ 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.⁵⁹ Therefore, an environmental assessment is unnecessary and has not been prepared in this NOPR.

VI. Regulatory Flexibility Act Certification

53. The Regulatory Flexibility Act of 1980 (RFA)⁶⁰ 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 generally are not small businesses, and, these requirements are, in fact, designed to benefit all customers, including small businesses.

54. 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

⁵⁸ 18 CFR 380.4.

⁵⁹ See 18 CFR 380.4(a)(2)(ii), 380.4(a)(5), 380.4(a)(27).

⁶⁰ 5 U.S.C. 601-612.

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,⁶¹ 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

55. 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. RM05-5-013, 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.

56. Comments may be filed electronically via the eFiling link on the Commission's web site at <http://www.ferc.gov>. The Commission accepts most

⁶¹ 5 U.S.C. 605(b).

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

57. 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

58. 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.

59. 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.⁶²

60. 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 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.

(S E A L)

Kimberly D. Bose,
Secretary.

⁶² NAESB's August 29, 2008 submittal is also available for viewing in eLibrary. The link to this file is as follows:
<http://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=11793503>.

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, paragraphs (a)(1) through (11) are revised to read as follows:

§ 38.2 Incorporation By Reference Of North American Energy Standards Board Wholesale Electric Quadrant Standards

(a) * * *

(1) Open Access Same-Time Information Systems (OASIS), Version 1.5 (WEQ-001, Version 002.1, March 11, 2009) with the exception of Standards 001-0.1, 001-0.9 through 001-0.13, 001-1.0 through 001-1.8, and 001-9.7;

(2) Open Access Same-Time Information Systems (OASIS) Standards & Communication Protocols, Version 1.5 (WEQ-002, Version 002.1, March 11, 2009);

(3) Open Access Same-Time Information Systems (OASIS) Data Dictionary, Version 1.5 (WEQ-003, Version 002.1, March 11, 2009);

(4) Coordinate Interchange (WEQ-004, Version 002.1, March 11, 2009);

(5) Area Control Error (ACE) Equation Special Cases (WEQ-005, Version 002.1, March 11, 2009);

(6) Manual Time Error Correction (WEQ-006, Version 002.1, March 11, 2009);

- (7) Inadvertent Interchange Payback (WEQ-007, Version 002.1, March 11, 2009);
- (8) Transmission Loading Relief – Eastern Interconnection (WEQ-008, Version 002.1, March 11, 2009);
- (9) Gas/Electric Coordination (WEQ-011, Version 002.1, March 11, 2009);
- (10) Public Key Infrastructure (PKI) (WEQ-012, Version 002.1, March 11, 2009); and
- (11) Open Access Same-Time Information Systems (OASIS) Implementation Guide, Version 1.5 (WEQ-013, Version 002.1, March 11, 2009).

* * * * *