

proposed amendment provides guidance on how to mark or describe non-deceptively products that contain at least 500 parts per thousand, but less than 850 parts per thousand, pure platinum and do not contain at least 950 parts per thousand platinum group metals. The Commission also sought comment on whether it should revise the Guides to provide guidance on how to mark or describe platinum-clad, filled, plated, or overlay products. The notice designated May 27, 2008 as the deadline for filing public comments.

Two trade associations that represent jewelry industry members, Platinum Guild International (PGI) and Jewelers Vigilance Committee (JVC), request a 90-day extension of the comment period. The associations explain that the Commission requested responses to 19 questions, that include over 20 subparts, and expressly requested submission of empirical data.<sup>3</sup> PGI states that the current deadline does not provide sufficient time to develop its comments and generate data to address the questions. JVC explains that the current period does not allow sufficient time for its Platinum Task Force<sup>4</sup> to collect the information required to fully address the issues.

Karat Platinum LLC, a marketer of platinum/base metal alloys, filed a comment opposing the request for extension. Karat Platinum asserts that additional time is not needed in order to fully and completely respond to the Commission's request for comment and that a delay will perpetuate market confusion. Karat Platinum states that the issues surrounding the appropriate terminology for this alloy are not new and many of the questions in the request for comment overlap with those posed in the Commission's 2005 FRN requesting comment on this issue.<sup>5</sup>

The Commission is mindful of the need to deal with this matter expeditiously. However, the Commission also recognizes that its proposal raises complex issues and believes that extending the comment period to facilitate the creation of a more complete record outweighs any harm that might result from any delay. Accordingly, the Commission has decided to extend the comment period to August 25, 2008.

<sup>3</sup> The notice includes 19 questions that have 27 sub-parts. *Id.*

<sup>4</sup> The JVC co-chairs this task force with two other industry trade associations, Manufacturing Jewelers and Suppliers of America and Jewelers of America.

<sup>5</sup> 70 FR 38836 (July 6, 2005).

By direction of the Commission.

**Donald S. Clark,**  
*Secretary.*

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

#### 18 CFR Part 38

[Docket No. RM05-5-005]

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

Issued April 21, 2008.

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

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Federal Energy Regulatory Commission (Commission) proposes to incorporate by reference in its regulations the latest version (Version 001) of certain standards adopted by the Wholesale Electric Quadrant (WEQ) of the North American Energy Standards Board (NAESB). NAESB's standards revise its Open Access Same-Time Information Systems (OASIS) business practice standards and four business practice standards relating to reliability issues, add new standards on transmission loading relief for the Eastern Interconnection and public key infrastructure, and add a new OASIS implementation guide.

**DATES:** Comments on the proposed rule are due May 28, 2008.

**ADDRESSES:** You may submit comments identified by Docket No. RM05-5-005, 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, NE., Washington, DC 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:

1. The Federal Energy Regulatory Commission (Commission) proposes to amend its regulations under the Federal Power Act<sup>1</sup> to incorporate by reference the latest version (Version 001) of certain business practice standards concerning the Open Access Same-Time Information Systems (OASIS) and four business practice standards relating to reliability issues adopted by the Wholesale Electric Quadrant (WEQ) of the North American Energy Standards Board (NAESB). These revised standards update earlier versions of these standards that the Commission previously incorporated by reference into its regulations at 18 CFR 38.2 in Order Nos. 676 and 676-B.<sup>2</sup> In addition, we propose to incorporate by reference NAESB's new standards on transmission loading relief for the Eastern Interconnection and public key infrastructure, and add a new OASIS implementation guide.

#### I. Background

##### NAESB

2. 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.<sup>3</sup> 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.<sup>4</sup>

3. NAESB's standards include business practices that streamline the

<sup>1</sup> 16 U.S.C. 791a, *et seq.*

<sup>2</sup> *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), Order No. 676-B, 72 FR 21095 (Apr. 30, 2007), FERC Stats. & Regs. ¶ 31,246 (Apr. 19, 2007).

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

<sup>4</sup> *Id.*

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.<sup>5</sup>

4. 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.<sup>6</sup>

#### Order Nos. 676 and 676-B

5. In Order No. 676, with certain specified exceptions, the Commission incorporated by reference into its regulations at 18 CFR 38.2 the Version 000 OASIS Business Practice Standards adopted by NAESB in January 2005. In Order No. 676, the Commission also incorporated by reference into its regulations at 18 CFR 38.2 NAESB's OASIS Standards & Communication Protocols, OASIS Data Dictionary and four business practice standards related to reliability issues. Specifically, the business practice standards related to reliability issues are: Coordinate Interchange, WEQ-004, Version 000; Area Control Error (ACE) Equation Special Cases, WEQ-005, Version 000; Manual Time Error Correction, WEQ-006, Version 000; and Inadvertent Interchange Payback, WEQ-007, Version 000.

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 OASIS standards and other wholesale electric industry business practice standards.<sup>7</sup>

<sup>5</sup> *Id.* at P 4.

<sup>6</sup> *Id.* at P 5.

<sup>7</sup> In developing the original OASIS standards and communications protocols adopted in Order No. 889, and revised in subsequent orders, the Commission enlisted the assistance of two *ad hoc* industry working groups (the "How" Group and the "What" Group) that developed proposals for OASIS standards and communications protocols that the Commission reviewed, modified where appropriate, and ultimately adopted as Commission regulations and requirements. See *Open Access Same-Time Information System (OASIS) and Standards of Conduct*, Order No. 889, 61 FR 21737 (May 10, 1996), FERC Stats. & Regs., Regulations Preambles January 1991–June 1996 ¶ 31,035 at 31,588–89 & n. 13 (Apr. 24, 1996). In Order No. 676, this informal

7. In Order No. 676-B, the Commission incorporated by reference into its regulations at 18 CFR 38.2 the revised Coordinate Interchange Standards adopted by NAESB in June 2005.

#### NAESB's Version 001 Report

8. On December 26, 2007, NAESB filed a report informing the Commission that the NAESB WEQ had ratified WEQ Version 001 of its standards. These standards include several modifications to the existing business practice standards that the Commission incorporated by reference in Order Nos. 676 and 676-B, as well as creating new standards to provide additional functionality for OASIS transactions, transmission loading relief for the Eastern Interconnection, and public key infrastructure. Some of the standards subsequently were corrected by the WEQ and these minor corrections were applied to the Version 001 standards on November 16, 2007.<sup>8</sup> NAESB's WEQ Version 001 includes the following standards:

- Business Practices for Open Access Same-Time Information Systems (OASIS), Version 1.4 (WEQ-001);<sup>9</sup>
- Business Practices for Open Access Same-Time Information Systems (OASIS) Standards & Communications Protocols, Version 1.4 (WEQ-002);
- OASIS Data Dictionary, Version 1.4 (WEQ-003);
- Coordinate Interchange (WEQ-004);<sup>10</sup>

process was replaced by the more formal NAESB process, where NAESB, as an ANSI-approved standards development organization, adopted standards and requirements that were then reported to the Commission to consider and, following public comment, incorporate by reference into its regulations, where appropriate.

<sup>8</sup> The Version 001 standards do not include modifications of existing standards or new standards to support Order No. 890, the Commission's Final Rule amending the Commission's *pro forma* Open Access Transmission Tariff, *Preventing Undue Discrimination and Preference in Transmission Service*, 72 FR 12266 (Mar. 15, 2007), FERC Stats. & Regs. ¶ 31,241 (Feb. 16, 2007), *order on reh'g*, Order No. 890-A, 73 FR 2984 (Jan. 16, 2008), FERC Stats. & Regs. ¶ 31,261 (Dec. 28, 2007), *reh'g pending*, with the exception of modifications to resales and transfers to address the Commission's rules for resales described in Order No. 890 in P 815 and footnote 496.

<sup>9</sup> The WEQ Version 001 package of standards includes Version 1.4 of the OASIS Standards. The reference to Version 1.4 is based on the fact that this is the fourth set of revisions to the Version 1.0 OASIS Standards that the Commission adopted in Order No. 889. The Version 1.4 reference appears in Standards WEQ-001, WEQ-002, WEQ-003, and WEQ-013.

<sup>10</sup> In a Notice of Proposed Rulemaking (NOPR), being issued contemporaneously by the Commission in Docket No. RM08-7-000, the Commission proposes, pursuant to section 215 of the Federal Power Act, to approve six modified Reliability Standards submitted to the Commission

- 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);<sup>11</sup>
- Standards of Conduct for Electric Transmission Providers (WEQ-009);
- Contracts Related Standards (WEQ-010);
- Gas/Electric Coordination (WEQ-011);<sup>12</sup>
- Public Key Infrastructure (PKI) (WEQ-012); and
- Business Practices for Open Access Same-Time Information Systems (OASIS) Implementation Guide, Version 1.4 (WEQ-013).

## II. Discussion

9. We propose generally to incorporate by reference the NAESB WEQ standards.<sup>13</sup> While many of the standards simply revise or update existing standards, some of the standards address new business practices. For example, NAESB adopted new business practice standards for Resales and Transfers to standardize

for approval by the North American Electric Reliability Corporation (NERC). In the proceeding in Docket No. RM08-7-000, the Commission is addressing modified Reliability Standards, while in the instant proceeding, in Docket No. RM05-5-005, the Commission is addressing, among other matters, the business practice standards related to these Reliability Standards. Five of the modified Reliability Standards being addressed in the proceeding in Docket No. RM08-7-000 pertain to interchange scheduling and coordination and one pertains to transmission loading relief procedures. In addition, the Commission proposes, in the NOPR being issued in RM08-7-000, to approve NERC's proposed interpretation of five specific Requirements of Commission-approved Reliability Standards.

<sup>11</sup> *Id.*

<sup>12</sup> These standards are identical to the standards the Commission incorporated by reference into its regulations at 18 CFR 38.2 in Order No. 698. *Standards for Business Practices for Interstate Natural Gas Pipelines; Standards for Business Practices for Public Utilities*, Order No. 698, 72 FR 38757 (July 16, 2007), FERC Stats. & Regs., Regulations Preambles 2006–2007 ¶ 31,251 (June 25, 2007), *order on clarification and reh'g*, Order No. 698-A, 121 FERC ¶ 61,264 (2007).

<sup>13</sup> 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) and Contracts Related Standards (WEQ-010). We do not propose to incorporate these standards into the Commission's regulations because WEQ-009 contains no substantive standards and merely serves as a placeholder for future standards while WEQ-010 contains an optional NAESB contract regarding funds transfers. The Commission does not require utilities to use such contracts and thus, the Commission does not propose to incorporate this standard by reference. In addition, as discussed more specifically in note 22, *infra*, we do not propose to incorporate by reference certain portions of WEQ-001.

secondary transmission service on OASIS. These standards also standardize how Resales and Transfers are conducted off OASIS. NAESB also adopted public key infrastructure standards to create greater security for business transactions taking place over the Internet. In addition, NAESB has revised and added standards establishing business practices related to the NERC reliability standards.<sup>14</sup> In particular, NAESB has adopted standards governing transmission loading relief (TLR) that specify business practices for cutting transmission services in the event of a TLR, consistent with the NERC reliability standards. These standards are described more fully in the discussion below.

10. NAESB approved the standards under its consensus procedures.<sup>15</sup> 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 § 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.<sup>16</sup>

11. The Commission is also proposing, consistent with our regulation at 18 CFR 35.28(c)(vi), to require each electric utility to revise its open access transmission tariff (OATT) to include the Version 001 WEQ standards we are proposing to incorporate by reference herein. 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. We are not, however, requiring 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.<sup>17</sup> However, consistent with our prior practice, we propose that, once the Commission incorporates these standards by reference into its regulations, public utilities must abide by these standards even before they have updated their tariffs to incorporate these changes.

#### A. OASIS Standards

12. In Standards WEQ-001, WEQ-002, and WEQ-003, NAESB revises the OASIS Standards currently incorporated by reference by the Commission. More specifically, in Standard WEQ-001, NAESB adopts new standards addressing Resale and Transfer transactions<sup>18</sup> that are consistent with the Commission's policies articulated in Order No. 890.<sup>19</sup>

13. In Order No. 890, the Commission adopted reforms to its underlying rules governing capacity reassignments. Specifically, the Commission required that all sales or assignments of capacity be conducted through or otherwise posted on the transmission provider's OASIS on or before the date the reassigned service commences.<sup>20</sup> The Commission directed transmission providers (working through NAESB) to develop the appropriate OASIS functionality to allow such postings and stated that transmission providers need not implement this new OASIS functionality and any related business practices until NAESB develops appropriate standards. These business practices and functionality have now been adopted by NAESB in Standard WEQ-001.

14. The WEQ's Standard WEQ-002 creates a new business practice standard requiring a Standards of Conduct link on the OASIS in response to the Commission's NOPR that preceded Order No. 676.<sup>21</sup> In addition, WEQ

Standard WEQ-002 divides the OASIS Standards and Communications Protocols Document (S&CP Document) into two documents, thus separating the technical requirements (which remain in WEQ-002) from the business requirements (now found in WEQ-013). The WEQ's Standard WEQ-003 revises the OASIS Data Dictionary to include minor clarifications or corrections to the format, appearance, or descriptions of standards in standards documentation, as well as corrections and minor revisions that did not materially change a standard.

15. The WEQ's Standard WEQ-013 contains a new OASIS Implementation Guide. While this Standard condenses and incorporates the various OASIS S&CP Document business practices and requirements that formerly were found in WEQ-002 into a separate Implementation Guide, it makes no significant substantive changes to the prior standard.

16. In this NOPR, we propose to incorporate by reference all four of these OASIS-related business practice standards, as revised (*i.e.*, Standards WEQ-001, WEQ-002, WEQ-003, and WEQ-013).<sup>22</sup>

#### B. Public Key Infrastructure

17. In Version 001, NAESB has adopted new standards for secure communications over the public internet, Public Key Infrastructure (PKI)<sup>23</sup> (WEQ-012). These standards describe the requirements that Certification Authorities (CAs)<sup>24</sup> must meet to claim the electronic certificate that a CA issues meets the NAESB WEQ

Descriptions, Common Employees, Potential Merger Partners, Transfers, Information Disclosure, Voluntary Consent to Share Non-Affiliated Customer Information, Discretionary Actions Under Tariff, Discounts, Chief Compliance Officer, and Written Procedures for Implementation.

<sup>22</sup> As we stated in Order No. 676, we are not proposing to incorporate by reference WEQ standards 001-0.1, 001-0.9 through 001-0.13, 001-1.0 through 001-1.8, and 001-9.7, because these standards merely restate Commission regulations and because standard 001-9.7 is not consistent with the Commission's policy on redirects.

<sup>23</sup> This PKI mechanism occurs through the use of extremely long prime numbers, called keys. Two keys are involved—a private key, which only the user has access to, and a public key, which can be accessed by anyone. The two keys work together so a message scrambled with the private key can only be unscrambled with the public key and vice versa. The more digits in these keys, the more secure the process. Similar to proving an identity through a handwritten signature offline, a digital signature is used to prove an identity online.

<sup>24</sup> A Certification Authority is a third-party entity that issues digital certificates used to create digital signatures and public-private key pairs. A Certification Authority plays a critical role in data security and electronic commerce since it is entrusted to guarantee that the two parties exchanging information are really who they claim to be.

<sup>14</sup> See note 10, *supra*.

<sup>15</sup> The WEQ's procedures ensure that all industry members can have input into the development of a business practice standard, whether or not they are members of NAESB, and each standard it adopts is supported by a consensus of the five industry segments: transmission, generation, marketer/brokers, distribution/load serving entities, and end users. 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 each of the five industry segments. For final approval, 67 percent of the WEQ's general membership must ratify the standards.

<sup>16</sup> Public Law No. 104-113, 12(d), 110 Stat. 775 (1996), 15 U.S.C. 272 note (1997).

<sup>17</sup> See Order No. 676 at P 100.

<sup>18</sup> NAESB defines a "Resale" as "[t]he request to convey scheduling rights associated with a reservation for Point-to-Point Transmission Service from a Reseller to an Assignee." Standard WEQ-001.0.19. NAESB defines "Transfer" as a "[r]equest to convey all rights and obligations associated with a reservation for Point-to-Point Transmission Service from a Reseller to an Assignee." Standard WEQ-001-0.20.

<sup>19</sup> See Order No. 890, P 815 and n.496.

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

<sup>21</sup> The types of information accessible from this link include Emergency Circumstances Deviations, Marketing and Energy Affiliate List, Shared Facilities, Organizational Charts and Job

PKI Standards and to conform to the NAESB Certification Program and, thus, be considered an Authorized Certification Authority (Authorized CA).<sup>25</sup> Providing security for transactions across the public internet is an important part of supporting energy markets and system reliability functions. Therefore, we propose to update our regulations at 18 CFR 38.2 to incorporate by reference Standard WEQ-012.

### C. Business Standards to Coordinate With Reliability Standards

18. The WEQ has also adopted revisions to business practice standards addressing the business ramifications of certain reliability-related issues.

#### 1. Coordinate Interchange

19. In Version 001 standards for Coordinate Interchange (WEQ-004), NAESB has made additional modifications to the Coordinate Interchange standards that the Commission incorporated by reference into its regulations in Order No. 676-B.<sup>26</sup> These modifications were made to account for a regional difference in the Western Electricity Coordinating Council regarding acceptable backup methods for creating a Request for Interchange, to provide for Purchasing-Selling Entity optional approval rights, to explain the terms “correctable” and “required,” to clarify that tag data elements may be “not correctable” or “not required,” and to make the element of “Energy Product Type” required. These modifications were made as a result of a joint effort of NERC and NAESB via the Joint Interchange Scheduling Working Group which is a committee of both NERC and NAESB participants.

20. We propose to update our regulations at 18 CFR 38.2 to incorporate by reference the Coordinate Interchange Standard WEQ-004, Version 001. However, we seek

<sup>25</sup> On achieving NAESB certification, NAESB will provide NERC with the names of Authorized CAs. The Authorized CA may immediately display the NAESB certification mark and will be authorized to claim compliance with NAESB WEQ PKI Standards. All industry applications (e.g., OASIS) secured under these PKI Standards must permit access to any legitimate user that presents a valid electronic certificate issued by an Authorized CA.

<sup>26</sup> The revised Coordinate Interchange standards were designed to facilitate the transfer of electric energy between entities responsible for balancing load and generation. Also, the revised Coordinate Interchange standards were intended to be compatible with the NERC Interchange Scheduling and Coordination Reliability Standards that the Commission approved in Order No. 693, *Mandatory Reliability Standards for the Bulk-Power System*, 72 FR 16416 (Apr. 4, 2007), FERC Stats. & Regs. ¶ 31,242, at P 961-65 (2007), *order on reh'g*, Order No. 693-A, 120 FERC ¶ 61,053 (2007).

comment on two aspects of these standards. Standard 004-3.1 states that “[f]or Interchange where the sink is in the Western Interconnection for same day transactions, the last Purchasing-Selling Entity before the DC Tie in the Eastern Interconnection shall be responsible for submitting the e-Tag.” This standard identifies only the last Purchasing-Selling Entity before the DC Tie in the Eastern Interconnection as being responsible for submitting the e-Tag Interchange when the sink is in the Western Interconnection. However, we request comment on whether, based on the NERC standards, this standard also should address whether a Generator Owner or Load Serving Entity may schedule directly to the DC Tie owner.

21. Additionally, Standard 004-6.1.2 states that “[i]f the PSE, LSE, and GPE do not respond to a request from the Interchange Authority, the Interchange is considered passively approved.” While confirmation by silence is a common business practice eliminating unnecessary communications, we request comment on whether this is appropriate for a business practice intended to complement a reliability standard.

#### 2. Area Control Error (ACE) Equation Special Cases

22. In the Version 001 standards for Area Control Error (ACE) Equation Special Cases (WEQ-005), NAESB has made only minor modifications to the standards to number the definitions and make other minor edits. We propose to update our regulations at 18 CFR 38.2 to incorporate by reference this revised standard in lieu of the current version of this standard.

#### 3. Manual Time Error Correction

23. In the Version 001 standards for Manual Time Error Correction (WEQ-006), NAESB has made changes to remove references to the Electric Reliability Council of Texas (ERCOT), to make minor corrections to the standards for the Western Interconnection, and to make other minor modifications including numbering the definitions. We propose to update our regulations at 18 CFR 38.2 to incorporate by reference this revised standard in lieu of the current version of this standard.

#### 4. Inadvertent Interchange Payback

24. In the Version 001 standards for Inadvertent Interchange Payback (WEQ-007), NAESB has made changes to remove references to ERCOT and make other minor modifications including numbering the definitions. We propose to update our regulations at 18 CFR 38.2 to incorporate by reference this revised

standard in lieu of the current version of this standard.

#### 5. Transmission Loading Relief

25. In Version 001, NAESB has adopted new standards for Transmission Loading Relief—Eastern Interconnection (WEQ-008). NAESB states that these business practice standards are intended to be complementary to the NERC reliability standards INT-004-1—Reliability Coordination—Operations Planning and INT-006-4—Reliability Coordination—Transmission Loading Relief.<sup>27</sup> NAESB reports that its Transmission Loading Relief (TLR) business practice standards are the result of a multi-year joint effort of the NERC Transmission Loading Relief Drafting Team and the NAESB WEQ Business Practices Subcommittee to split the existing NERC Transmission Loading Relief reliability standards into reliability and business practice components. In addition, NAESB states that the NAESB WEQ TLR standards have been further modified to allow for regional differences for market flows.<sup>28</sup> The NAESB WEQ TLR standards include general requirements regarding the use of Interconnection-wide TLR procedures;<sup>29</sup> Interchange Transaction<sup>30</sup> priorities for use with Interconnection-wide TLR procedures; the Eastern Interconnection procedure for physical curtailment of Interchange Transactions; and appendices with various

<sup>27</sup> NERC filed a petition seeking approval of its related proposed reliability standards, IRO-006-4—Reliability Coordination—Transmission Loading Relief, with the Commission in Docket No. RM08-7-000. We believe that NAESB’s reference to INT-006-4 should be a reference to IRO-006-4. We also believe that the proper subject of INT-004-1 is “Dynamic Interchange Transaction Modifications,” rather than “Reliability Coordination—Operations Planning.”

<sup>28</sup> Market flows are the calculated energy flows on a specified Flowgate as a result of the dispatch of generating resources within a Market-Based Operating Entity’s market. NAESB defines “Flowgate” as a “designated point of the transmission system through which the Interchange Distribution Calculator calculates the power flow from Interchange Transactions.” The treatment of the market flows of regional transmission organizations compared with the treatment of generation-to-load impacts of non-market entities as they relate to the use of TLRs has been addressed by the Commission in a number of cases, including Order No. 693, FERC Stats. & Regs. ¶ 31,242 at P 987, *Alliance Companies*, 100 FERC ¶ 61,137 (2002) and *Midwest Independent Transmission System Operator, Inc. and PJM Interconnection, L.L.C.*, 106 FERC ¶ 61,251 (2004).

<sup>29</sup> NAESB defines “Transmission Loading Relief” (TLR) as “[a] procedure used in the Eastern Interconnection to relieve potential or actual loading on a Constrained Facility or Flowgate.” Standard WEQ-008-0.40.

<sup>30</sup> NAESB defines an “Interchange Transaction” as “[a] transaction that crosses one or more Balancing Authorities’ boundaries. The planned energy exchange between two adjacent Balancing Authorities.” Standard WEQ-008-0.19.

examples; and an appendix specifying regional differences for PJM Interconnection, L.L.C./Midwest Independent System Operator, Inc. and for Southwest Power Pool.

26. The Commission seeks to ensure that the NAESB WEQ TLR business practice standards and the proposed

NERC TLR reliability standard complement each other and can be implemented together harmoniously. Therefore, we propose to update our regulations at 18 CFR 38.2 to incorporate by reference Standard WEQ-008. We invite comment on this proposal.

27. While we understand that NAESB and NERC have worked collaboratively to coordinate their standard development efforts, there appear to be several occasions in the TLR standards in which the definitions used by the two depart. The following are some examples:

| NAESB definition  | NERC definition <sup>31</sup>  |
|---|--|
| Balancing Authority Area: [a]n electrical system bounded by Interconnection (tie-line) metering and telemetry, where the Balancing Authority controls (either directly or by contract) generation to maintain its Interchange Schedule with other Balancing Authority Areas and contributes to frequency regulation of the Interconnection. | Balancing Authority Area: [t]he collection of generation, transmission, and loads within the metered boundaries of the Balancing Authority. The Balancing Authority maintains load-resource balance within this area.  |
| Interchange Transaction: [a] transaction that crosses one or more Balancing Authorities' boundaries. The planned energy exchange between two adjacent Balancing Authorities.  | Interchange Transaction: [a]n agreement to transfer energy from a seller to a buyer that crosses one or more Balancing Authority Area boundaries.  |
| Reliability Coordinator: [a]n entity that provides the security assessment and emergency operations coordination for a group of Balancing Authorities, Transmission Service Providers, and Transmission Operators.  | Reliability Coordinator: [t]he entity that is the highest level of authority who is responsible for the reliable operation of the Bulk Electric System, has the Wide Area view of the Bulk Electric System, and has the operating tools, processes and procedures, including the authority to prevent or mitigate emergency operating situations in both next-day analysis and real-time operations. The Reliability Coordinator has the purview that is broad enough to enable the calculation of Interconnection Reliability Operating Limits, which may be based on the operating parameters of transmission systems beyond any Transmission Operator's vision. |

28. There also appear to be some instances in various NAESB standards where the same term is defined differently. For example, the definition of Balancing Authority in Standard WEQ-004-0.3 is not identical to the definition of that same term in Standard WEQ-008-0.4. As the Commission stated in Order No. 676, the standards relating to reliability would be clearer if a single definition were used. Although in Order No. 676 the Commission generally found that NERC should take the lead in defining reliability-related terms,<sup>32</sup> we recognize that good reasons may exist in certain cases for some differences in these terms. We therefore request comment on whether the differences in definitions are significant and whether a single definition for reliability-related terms should be adopted in future standards.

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

29. The NAESB WEQ standards were adopted pursuant to NAESB's consensus procedures.<sup>33</sup> 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 federal agencies to use technical standards developed by voluntary consensus standards organizations, like NAESB, as a means to carry out policy objectives or activities.<sup>34</sup>

30. 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.

**IV. Information Collection Statement**

31. The following collection(s) 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.

32. 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.

<sup>31</sup> Glossary of Terms Used in Reliability Standards, [http://www.nerc.com/pub/sys/all\\_updl/standards/rs/Glossary\\_02Aug06.pdf](http://www.nerc.com/pub/sys/all_updl/standards/rs/Glossary_02Aug06.pdf).

<sup>32</sup> Order No. 676 at P 40.

<sup>33</sup> This process is described in note 15, *supra*.

<sup>34</sup> Public Law 104-113, 12(d), 110 Stat. 775 (1996), 15 U.S.C. 272 note (1997).

| Data collection | Number of respondents | Number of responses per respondent | Hours per response | Total number of hours |
|-----------------|-----------------------|------------------------------------|--------------------|-----------------------|
| FERC-516 .....  | 176                   | 1                                  | 6                  | 1056                  |
| FERC-717 .....  | 176                   | 1                                  | 10                 | 1760                  |
| Totals .....    |                       |                                    |                    | 2816                  |

*Total Annual Hours for Collection:* (Reporting and Recordkeeping, (if appropriate)) = 2816 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:<sup>35</sup>

|   | FERC-516  | FERC-717  |
|---|-----------|-----------|
| Annualized Capital/Startup Costs .....            | \$337,920 | \$563,200 |
| Annualized Costs (Operations & Maintenance) ..... | N/A       |           |
| Total Annualized Costs .....                      | 337,920   | 563,200   |

33. OMB regulations<sup>36</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:* 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.)

*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 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, transmission loading relief and public key infrastructure. The standards will assist in providing greater security for business transactions over the Internet, identify the business practices to be used to relieve potential or actual loading on a constrained facility and facilitate the transfer of electric energy between entities responsible for balancing load and generation. 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 and also will assure the reliability of the interstate transmission grid. The implementation of these standards and regulations is necessary to increase the efficiency of the wholesale electric power grid.

34. The information collection requirements of this proposed rule are based on the transition from transactions being made under the Commission's 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 standard(s) being proposed here (i.e., WEQ-008 and WEQ-012).

35. *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.

36. 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, E-mail: michael.miller@ferc.gov.

37. 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**

38. 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>37</sup> The Commission has categorically excluded certain actions from these requirements as not having a significant effect on the human environment.<sup>38</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>39</sup> Therefore, an environmental assessment is unnecessary and has not been prepared in this NOPR.

<sup>35</sup> The total annualized costs for the information collection is \$901,120. This number is reached by multiplying the total hours to prepare responses (2,816) by an hourly wage estimate of \$320 (a composite estimate that includes legal, technical

and support staff rates, \$200 + \$95 + \$25=\$320), 2,816 hours x \$320/hour=\$901,120.

<sup>36</sup> 5 CFR 1320.11.

<sup>37</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).

<sup>38</sup> 18 CFR 380.4.

<sup>39</sup> See 18 CFR 380.4(a)(2)(ii), 380.4(a)(5), 380.4(a)(27).

## VI. Regulatory Flexibility Act Certification

39. The Regulatory Flexibility Act of 1980 (RFA) <sup>40</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.

40. 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. This is consistent with the exemption provisions of the RFA. Accordingly, pursuant to section 605(b) of the RFA,<sup>41</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

41. 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 May 28, 2008. Comments must refer to Docket No. RM05-5-005, 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.

42. 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, Secretary of the Commission, 888 First Street, NE., Washington, DC 20426.

43. 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

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

45. 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.<sup>42</sup>

46. 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](mailto: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.

Commissioner Wellinghoff concurring with a separate statement attached.

**Kimberly D. Bose,**  
Secretary.

In consideration of the foregoing, the Commission proposes to amend 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 (8) are revised, and paragraphs (a)(9) through (11) are added to read as follows:

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

(a) \* \* \*

(1) Business Practices for Open Access Same-Time Information Systems (OASIS), Version 1.4 (WEQ–001, Version 001, October 31, 2007, with minor corrections applied on November 16, 2007) 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) Business Practices for Open Access Same-Time Information Systems (OASIS) Standards & Communication Protocols, Version 1.4 (WEQ–002, Version 001, October 31, 2007, with minor corrections applied on November 16, 2007);

(3) Open Access Same-Time Information Systems (OASIS) Data Dictionary, Version 1.4 (WEQ–003, Version 001, October 31, 2007, with minor corrections applied on November 16, 2007);

(4) Coordinate Interchange (WEQ–004, Version 001, October 31, 2007, with minor corrections applied on November 16, 2007);

(5) Area Control Error (ACE) Equation Special Cases (WEQ–005, Version 001, October 31, 2007, with minor corrections applied on November 16, 2007);

(6) Manual Time Error Correction (WEQ–006, Version 001, October 31, 2007, with minor corrections applied on November 16, 2007);

(7) Inadvertent Interchange Payback (WEQ–007, Version 001, October 31, 2007, with minor corrections applied on November 16, 2007);

(8) Transmission Loading Relief—Eastern Interconnection (WEQ–008, Version 001, October 31, 2007, with minor corrections applied on November 16, 2007);

(9) Gas/Electric Coordination (WEQ–011, Version 001, October 31, 2007, with minor corrections applied on November 16, 2007);

(10) Public Key Infrastructure (PKI) (WEQ–012, Version 001, October 31,

<sup>40</sup> 5 U.S.C. 601–612.

<sup>41</sup> 5 U.S.C. 605(b).

<sup>42</sup> NAESB's Dec. 26, 2007, submittal is also available for viewing in eLibrary. The link to this file is as follows: [http://elibrary.ferc.gov/0/idmws/doc\\_info.asp?document\\_id=13566661](http://elibrary.ferc.gov/0/idmws/doc_info.asp?document_id=13566661).

2007, with minor corrections applied on November 16, 2007);

(11) Business Practices for Open Access Same-Time Information Systems (OASIS) Implementation Guide, Version 1.4 (WEQ-013, Version 001, October 31, 2007, with minor corrections applied on November 16, 2007).

\* \* \* \* \*

**Note:** The following statement will not appear in the Code of Federal Regulations.

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. RM05-5-005]

Standards for Business Practices and Communication Protocols for Public Utilities

April 21, 2008.

WELLINGHOFF, Commissioner,  
concurring:

Today, the Commission issues a Notice of Proposed Rulemaking (NPR) proposing to amend its regulations under the Federal Power Act<sup>43</sup> to incorporate by reference, among other matters, the latest version of certain business practice standards concerning the Open Access Same-Time Information Systems (OASIS) adopted by the Wholesale Electric Quadrant (WEQ) of the North American Energy Standards Board (NAESB).<sup>44</sup> I appreciate NAESB's leadership and the work of the industry in developing these business practice standards.

One of the business practice standards addressed in this NPR, WEQ-001 Version 1.4, revises NAESB's Business Practices for OASIS and, among other matters, addresses the information that is to be posted on OASIS. This information includes posting of ancillary service offerings and prices and the process for customers to procure ancillary services.

<sup>43</sup> 16 U.S.C. 791a, *et. seq.*

<sup>44</sup> In addition, the Commission proposes in this NPR to incorporate by reference NAESB's new business practices standards on transmission loading relief (TLR) for the Eastern Interconnection. I note my concurrence to the separate, concurrently issued NPR in Docket No. RM08-7-000, in which the Commission proposes to approve, among other matters, modified Reliability Standard IRO-006-4 pertaining to TLR procedures to which the NAESB business practice we address herein relates.

I write separately to note that in Order No. 890, the Commission determined that many ancillary services may be provided by generating units as well as other non-generation resources such as demand resources where appropriate.<sup>45</sup> Nothing in WEQ-001 precludes such a role for demand resources, but the definition of certain ancillary services in the standard also does not specifically reflect that possible role.

To remove any confusion between the *pro forma* tariff that the Commission adopted in Order No. 890 and the business practice standards for offering and procuring ancillary services on OASIS, I encourage NAESB and its stakeholders to amend WEQ-001, as soon as possible, to reflect that the above-noted ancillary services may be provided by non-generation resources such as demand resources. This will facilitate implementation of this aspect of the *pro forma* OATT.

For this reason, I concur with this NPR.

Jon Wellinghoff,  
Commissioner.

[FR Doc. E8-9046 Filed 4-25-08; 8:45 am]

**BILLING CODE 6717-01-P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

#### 18 CFR Part 40

[Docket No. RM08-7-000]

#### Modification of Interchange and Transmission Loading Relief Reliability Standards; and Electric Reliability Organization Interpretation of Specific Requirements of Four Reliability Standards

Issued April 21, 2008.

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

**ACTION:** Notice of proposed rulemaking.

<sup>45</sup> See Order No. 890 at P 888 (addressing the following ancillary services: Reactive Supply and Voltage Control, Regulation and Frequency Response, Energy Imbalances, Spinning Reserves, Supplemental Reserves, and Generator Imbalances (Schedules 2, 3, 4, 5, 6, and 9, respectively, of the *pro forma* OATT)).

**SUMMARY:** Pursuant to section 215 of the Federal Power Act, the Federal Energy Regulatory Commission proposes to approve six modified Reliability Standards submitted to the Commission for approval by the North American Electric Reliability Corporation (NERC). Five modified Reliability Standards pertain to interchange scheduling and coordination and one pertains to transmission loading relief procedures. In addition, the Commission proposes to approve NERC's proposed interpretations of five specific requirements of Commission-approved Reliability Standards.

**DATES:** Comments are due June 12, 2008.

**ADDRESSES:** You may submit comments, identified by docket number by any of the following methods:

- **Agency Web Site:** <http://www.ferc.gov>. Documents created electronically using word processing software should be filed in native applications or print-to-PDF format and not in a scanned format.

- **Mail/Hand Delivery:** Commenters unable to file comments electronically must mail or hand deliver an original and 14 copies of their comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street, NE., Washington, DC 20426.

#### FOR FURTHER INFORMATION CONTACT:

Patrick Harwood (Technical Information), Office of Electric Reliability, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

Christopher Daignault (Legal Information), Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

#### SUPPLEMENTARY INFORMATION: