

175 FERC ¶ 61,139
DEPARTMENT OF ENERGY
FEDERAL ENERGY REGULATORY COMMISSION

18 CFR Parts 37, 38

[Docket Nos. RM05-5-029 and RM05-5-030; Order No. 676-J]

Standards for Business Practices and Communication Protocols for Public Utilities

(Issued May 20, 2021)

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is revising its regulations to incorporate by reference the latest version (Version 003.3) of the Standards for Business Practices and Communication Protocols for Public Utilities adopted by the Wholesale Electric Quadrant (WEQ) of the North American Energy Standards Board (NAESB). The WEQ Version 003.3 Standards include, in their entirety, the WEQ-023 Modeling Business Practice Standards contained in the WEQ Version 003.1 Standards, which address the technical issues affecting Available Transfer Capability (ATC) and Available Flowgate Capability (AFC) calculation for wholesale electric transmission services, with the addition of certain revisions and corrections. The Commission also revises its regulations to provide that transmission providers must avoid unduly discriminatory and preferential treatment in the calculation of ATC.

DATES: Effective date: This rule will become effective **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

Incorporation by reference: The incorporation by reference of certain publications listed

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in this rule is approved by the Director of the Federal Register as of **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. The incorporation by reference of certain other publications listed in this rule was approved by the Director of the Federal Register as of **April 27, 2020**.

Compliance date: Public utilities must make a compliance filing to comply with the requirements of this final rule through eTariff **twelve months** after implementation of the WEQ Version 003.2 Standards, but no earlier than October 27, 2022. Compliance filings for cybersecurity and Parallel Flow Visualization standards are due **[INSERT DATE NINE 9 MONTHS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

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SUPPLEMENTARY INFORMATION:

175 FERC ¶ 61,039
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Richard Glick, Chairman;
Neil Chatterjee, James P. Danly,
Allison Clements, and Mark C. Christie.

Standards for Business Practices and Communication Docket Nos. RM05-5-029
Protocols for Public Utilities RM05-5-030

FINAL RULE

ORDER NO. 676-J

(Issued May 20, 2021)

1. The Federal Energy Regulatory Commission (Commission) is amending its regulations under the Federal Power Act (FPA)¹ to incorporate by reference into its regulations as mandatory enforceable requirements, the latest version (Version 003.3) of the Standards for Business Practices and Communication Protocols for Public Utilities adopted by the Wholesale Electric Quadrant (WEQ) of the North American Energy Standards Board (NAESB), filed with the Commission on March 30, 2020 (March 30 Filing). The WEQ Version 003.3 Standards build upon an earlier version of the standards that the Commission previously included and incorporated by reference into its regulations at 18 CFR parts 2 and 38, respectively, in Order No. 676-I.²

¹ 16 U.S.C. 791a, *et seq.* (2018).

² *Standards for Bus. Practices & Comm'n Protocols for Pub. Utils.*, Order No. 676-I, 85 FR 10,571 (Feb. 25, 2020), 170 FERC ¶ 61,062 (2020).

2. The WEQ Version 003.3 Standards include newly created standards as well as modifications to existing standards developed through the NAESB Business Practice Standards development or minor correction processes. The WEQ Version 003.3 Standards include revisions related to the surety assessment on cybersecurity performed by Sandia National Laboratories (Sandia) designed to strengthen the practices and cybersecurity protections established within the standards. NAESB also revised its Open Access Same-Time Information System (OASIS) suite of standards,³ including revisions to support new OASIS functionality that will allow for the posting of third party offers of planning redispatch services as well as providing additional information regarding the curtailment of firm transmission service. In addition, the WEQ Version 003.3 Standards include revisions to the NAESB WEQ-023 Modeling Business Practice Standards. The Commission also revises 18 CFR § 37.6(b)(2)(i) to codify that the calculation of Available Transfer Capability (ATC) must be conducted in manner that is transparent, consistent with system conditions and outages for the relevant timeframe, and not unduly discriminatory or preferential.

³ The OASIS suite of standards are the WEQ-001 OASIS Business Practice Standards, the WEQ-002 OASIS Standards and Communication Protocols Business Practice Standards, the WEQ-003 OASIS Data Dictionary Business Practice Standards, and the WEQ-013 OASIS Implementation Guide Business Practice Standards.

I. Background

A. NAESB and Past Standards

3. NAESB is a non-profit standards development organization established in late 2001 (as the successor to the Gas Industry Standards Board (GISB), which was established in 1994) and serves as an industry forum for the development of business practice standards and communication protocols for the wholesale and retail natural gas and electricity industry sectors. Since 1995, NAESB's predecessor GISB and subsequently NAESB itself have been accredited members of the American National Standards Institute (ANSI), complying with ANSI's requirements that its standards reflect a consensus of the affected industries.⁴

4. NAESB's standards include business practices intended to standardize and 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 three "quadrants" of the gas and electric industries: wholesale gas, wholesale electric, and retail markets.⁵ All

⁴ Prior to the establishment of NAESB in 2001, the Commission's development of business practice standards for the wholesale electric industry was aided by two *ad hoc* industry working groups established during the rulemaking proceeding that resulted in issuance of Order No. 889 and the creation of the OASIS, while GISB's efforts involved the development of business practice standards for the wholesale natural gas industry. Once formally established, NAESB took over the standards development previously handled by GISB and by the electric working groups.

⁵ The retail gas quadrant and the retail electric quadrant were combined into the retail markets quadrant. NAESB continues to refer to these working groups as "quadrants" even though there are now only three quadrants.

participants in the gas and electric industries are eligible to join NAESB and participate in standards development.

5. 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 persons choosing to participate can have input into the development of a standard, regardless of whether they are members of NAESB, and each standard NAESB adopts must be supported by a consensus of the relevant industry segments. Standards that fail to gain consensus support are not adopted. NAESB's consistent practice has been to submit a report to the Commission after it has revised existing business practice standards or has developed and adopted new business practice standards. NAESB's standards are initially voluntary standards, which become mandatory for public utilities upon incorporation by reference by the Commission.

6. NAESB filed its WEQ Version 003.2 Business Practices Standards (WEQ Version 003.2 Standards) on December 8, 2017 (December 8 Filing), in Docket No. RM05-5-027.⁶ After consideration of the December 8 Filing, the Commission issued the WEQ Version 003.2 NOPR on May 16, 2019, wherein the Commission proposed to revise its regulations to incorporate by reference the WEQ Version 003.2 Standards, with certain

⁶ See Docket No. RM05-5-027, Report of the North American Energy Standards Board on Wholesale Electric Quadrant Business Practice Standards Version 003.2 under RM05-5 (Dec. 8, 2017) (NAESB WEQ Version 003.2 Report).

enumerated exceptions.⁷ The Commission announced that NAESB's WEQ-023 Modeling Business Practice Standards would be addressed separately, proposing only to incorporate by reference the WEQ-023 Modeling Business Practice Standards that were moved from the WEQ-001 OASIS Business Practice Standards by the changes made to the WEQ Version 003.1 Standards.⁸

7. On February 4, 2020, the Commission issued Order No. 676-I, in which it amended its regulations under the FPA to incorporate by reference into its regulations as mandatory enforceable requirements, with certain enumerated exceptions, the WEQ Version 003.2 Standards. The WEQ Version 003.2 Standards included the changes proposed in WEQ Version 003.1 Standards, which were the subject of an earlier notice of proposed rulemaking.⁹ All of these standards, except for the WEQ-022 and WEQ-023 Business Practice Standards, update and replace standards that the Commission previously incorporated by reference in Order No. 676-H.

8. Among the NAESB Business Practice Standards incorporated by reference in Order No. 676-I, the Commission incorporated the WEQ-022 Electric Industry Registry

⁷ See *Standards for Bus. Practices & Commc'n Protocols for Pub. Utils.*, Notice of Proposed Rulemaking, 84 FR 24050 (May 16, 2019), 167 FERC ¶ 61,127 (2019) (WEQ Version 003.2 NOPR).

⁸ WEQ Version 003.2 NOPR, 167 FERC ¶ 61,127 at P 12. See also *Standards for Bus. Practices & Commc'n Protocols for Pub. Utils.*, Notice of Proposed Rulemaking, 81 FR 49580 (Jul. 28, 2016), 156 FERC ¶ 61,055, at P 42 (2016) (WEQ Version 003.1 NOPR).

⁹ NAESB filed the WEQ Version 003.1 Standards on October 26, 2015 (October 2015 Filing). See, e.g., WEQ Version 003.1 NOPR, 156 FERC ¶ 61,055.

(EIR) Business Practice Standards, but did not incorporate by reference in its entirety the WEQ-023 Modeling Business Practice Standards. The Commission only incorporated by reference the WEQ-023 Modeling Business Practice Standards that were moved from the WEQ-001 OASIS Business Practice Standards by the changes made to the WEQ Version 003.1 Standards.¹⁰ The Commission also did not adopt the NOPR proposal to incorporate by reference NAESB's latest version of the WEQ-006 Manual Time Error Correction Business Practice Standards.

B. Summary of NAESB WEQ Version 003.3

9. On March 30, 2020, NAESB filed the WEQ Version 003.3 Standards.¹¹ The WEQ Version 003.3 Standards build upon the standards included in the WEQ Version 003.2 Standards. After consideration of the March 30 Filing, the Commission issued the WEQ Version 003.3 NOPR on July 16, 2020, wherein the Commission proposed to incorporate the WEQ Version 003.3 Standards, with certain enumerated exceptions.¹²

10. NAESB's WEQ Version 003.3 Standards include newly created standards as well as modifications to existing standards developed through the NAESB Business Practice

¹⁰ The following WEQ-023 Modeling Business Practice Standards were incorporated by reference in Order No. 676-I: WEQ-023-5; WEQ-023-5.1; WEQ-023-5.1.1; WEQ-023-5.1.2; WEQ-023-5.1.2.1; WEQ-023-5.1.2.2; WEQ-023-5.1.2.3; WEQ-023-5.1.3; WEQ-023-5.2; WEQ-023-6; WEQ-023-6.1; WEQ-023-6.1.1; WEQ-023-6.1.2; and WEQ-023-A Appendix A.

¹¹ See NAESB WEQ Version 003.3 Report (filed March 30, 2020).

¹² *Standards for Bus. Practices & Comm'n Protocols for Pub. Utils.*, 85 FR 55201 (Sept. 4, 2020) 172 FERC ¶ 61,047 (2020) (WEQ Version 003.3 NOPR).

Standards development or minor correction processes.¹³ The WEQ Version 003.3 Standards also include additions and revisions to the NAESB WEQ-023 Modeling Business Practice Standards, which the Commission addresses herein.

11. The WEQ Version 003.3 Standards include revisions related to the surety assessment on cybersecurity performed by Sandia. NAESB responded to a U.S. Department of Energy (DOE) request that NAESB act on an expedited basis to ensure the WEQ cybersecurity standards developed in response to the surety assessment were included in the WEQ Version 003.3 Standards.¹⁴ NAESB reports that the changes strengthen the practices and cybersecurity protections established within the standards by aligning security requirements with other cybersecurity guidelines, mitigating potential vulnerabilities, and incorporating more secure communication and encryption methodologies.

12. In support of directives contained in Order No. 890,¹⁵ NAESB also revised the OASIS suite of standards. The WEQ Version 003.3 Standards include additions and revisions to support new OASIS functionality that will allow for the posting of third party

¹³ See NAESB WEQ Version 003.3 Report, Transmittal at 1-2.

¹⁴ *Id.* at 3-4.

¹⁵ *Preventing Undue Discrimination & Preference in Transmission Serv.*, Order No. 890, 72 FR 12266 (Mar. 15, 2007), 118 FERC ¶ 61,119, *order on reh'g*, Order No. 890-A, 73 FR 2984 (Jan. 16, 2008), 121 FERC ¶ 61,297 (2007), *order on reh'g*, Order No. 890-B, 123 FERC ¶ 61,299 (2008), *order on reh'g*, Order No. 890-C, 74 FERC 12540 (Mar. 25 2009), 126 FERC ¶ 61,228, *order on clarification*, Order No. 890-D, 74 FR 61511 (Nov. 25, 2009), 129 FERC ¶ 61,126 (2009).

offers of planning redispatch services (WEQ-001-13.2) as well as providing additional information regarding the curtailment of firm transmission service (WEQ-001-28) prescribed in the OASIS suite of standards.¹⁶ In response to Order No. 676-I, NAESB also revised the standards as necessary to conform with the Commission's *Dynegy* policy, and stated that any standards from these efforts will be incorporated into future versions of the WEQ Business Practice Standards.¹⁷

13. The WEQ Version 003.3 Standards also include changes that were made to support consistency with the North American Electric Reliability Corporation (NERC) Reliability Standards, including NERC's retirement of the NERC Interchange Scheduling and Coordination Reliability Standards and retirement of the NERC Modeling, Data, and Analysis Reliability Standards. NAESB coordinated with NERC to make modifications

¹⁶ NAESB WEQ Version 003.3 Report, Transmittal at 4. WEQ-001-13.2 adds new Third Party Offers for Planning Redispatch Services Business Practice Standards to allow for posting of third-party offers of planning redispatch services. WEQ-001-28 adds new Curtailment Posting Requirements Business Practice Standards for the posting of additional information on OASIS regarding firm transmission curtailments.

¹⁷ In *Dynegy Power Marketing, Inc*, 99 FERC ¶ 61,054 (2002) (*Dynegy*), the Commission established its policy on a customer's right to keep its contractual rights to point-to-point firm transmission service on the original path it has reserved while the customer's request for a redirect is pending.

and revisions pertaining to electronic tagging (e-Tagging),¹⁸ and to the calculation of ATC and AFC.¹⁹

14. The WEQ Version 003.3 Standards also include additions, revisions, and reservations made to the WEQ-008 Transmission Load Relief (TLR) – Eastern Interconnection Business Practice Standards, which NAESB advises completes the standards development effort for the Parallel Flow Visualization (PFV) enhanced congestion management process (PFV Standards).²⁰ The PFV Standards are the culmination of a multi-year coordination effort between NAESB, NERC, and the Eastern Interconnect Data Sharing Network (EIDSN), Inc.,²¹ and the standards are designed to improve upon the congestion management procedures for the Eastern Interconnection through the use of real-time data in calculations for transmission loading relief obligations.

15. Moreover, as part of the standards development process, NAESB made five additional revisions to the OASIS suite of standards that were not made in response to

¹⁸ With respect to e-Tagging, NAESB also modified the WEQ-004 Coordinate Interchange Business Practice Standards' Commercial Timing Tables to clarify commercial timing requirements.

¹⁹ NAESB WEQ Version 003.3 Report, Transmittal at 4.

²⁰ *Id.*

²¹ Comprised of North American Reliability Coordinators, Transmission Operators, Transmission Owners, and Balancing Authorities, EIDSN, Inc. manages the Electric Information Network (EInet), a data-sharing network for its members to promote the reliable and efficient operation of the Eastern and Quebec Interconnections. *See* EIDSN, Inc., *Our Mission*, at <https://eidsn.org/>.

Commission orders.²² First, NAESB modified the OASIS suite of standards to improve OASIS query functionalities. Second, NAESB modified the OASIS suite of standards for new OASIS functionality to fully document all encumbrances to unconditional firm transmission service, such as untagged pseudo-ties. Third, NAESB modified the OASIS suite of standards to expand notice functionality and establish standards for providing dynamic notification to transmission customers of the renewal deadline for rollover rights for point-to-point transmission service. Fourth, NAESB modified WEQ-001 OASIS Business Practice Standards for use of Next Hour Market Service and the 0-NX transmission product codes. Fifth, NAESB modified the OASIS suite of standards to modify Network Integration Transmission Service (NITS) requirements. Finally, NAESB revised the OASIS suite of standards to make three minor corrections.²³

16. The WEQ Version 003.3 Standards include the WEQ-023 Modeling Business Practice Standards that provide technical details concerning the calculation of ATC for wholesale electric transmission services. The WEQ-023 Modeling Business Practice Standards address aspects of certain of the NERC MOD A Reliability Standards relating to modeling, data and analysis that are included in the NERC's proposed retirement of its MOD A Reliability Standards.

²² NAESB WEQ Version 003.3 Report, Transmittal at 5.

²³ Minor corrections were made to the WEQ-001 OASIS Business Practice Standards and the WEQ-003 OASIS Data Dictionary Business Practice Standards.

II. Discussion

A. Overview

17. NAESB's WEQ Version 003.3 Standards, which we are incorporating by reference in this final rule, include modifications, reservations, and/or additions to the following set of existing standards:²⁴

| <u>WEQ</u> | <u>Business Practice Standards</u> |
|------------|------------------------------------|
|------------|------------------------------------|

| | |
|-----|---|
| 000 | Abbreviations, Acronyms, and Definition of Terms |
| 001 | Open Access Same-Time Information System (OASIS) |
| 002 | OASIS Standards and Communication Protocols (S&CP) |
| 003 | OASIS S&CP Data Dictionaries |
| 004 | Coordinate Interchange |
| 008 | Transmission Loading Relief (TLR) – Eastern Interconnection Business Practice Standards |
| 013 | OASIS Implementation Guide |
| 023 | Modeling |

18. The specific NAESB standards that we are incorporating by reference in this final rule establish a set of business practice standards and communication protocols for the electric industry that will continue to enable industry members to achieve efficiencies by streamlining utility business and transactional processes and communication procedures. All of these standards, except for portions of the WEQ-023 Modeling Business Practice Standards, update and replace standards that the Commission previously incorporated by reference in Order No. 676-I.

²⁴ See NAESB WEQ Version 003.3 Report, Transmittal at 3.

19. As the Commission has explained in prior orders, NAESB approved the standards under its consensus procedures.²⁵ 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 must 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, to carry out policy objectives or activities.²⁶

B. Issues Raised by Commenters

20. Comments in response to the WEQ Version 003.3 NOPR were filed by four commenters. Commenters expressed general support for the Commission's proposals,²⁷

²⁵ *Standards for Business Practices and Communication Protocols for Public Utilities*, Order No. 676-H, 79 FR 56939 (Sept. 24, 2015), 148 FERC ¶ 61,205, at P 21, n.27 (2014). (“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 seven industry segments: transmission, generation, marketer/brokers, distribution/load serving entities, end users, independent grid operators/planners, and technology services. 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 seven industry segments. For final approval, 67 percent of the WEQ's general membership must ratify the standards.”).

²⁶ Pub L. No. 104-113, 12(d), 110 Stat. 775 (1996), 15 U.S.C. 272 note (1997).

²⁷ The ISO/RTO Council specifically endorsed the WEQ Version 003.3 NOPR proposal to incorporate by reference business practice standards necessary to effectuate

and no comments opposed the basic direction of the NOPR, although some commenters took issue with specific details of the NOPR proposal. Specifically, commenters raised discrete concerns regarding the WEQ-023 Business Practice Standards and the Commission's proposed regulatory text regarding non-discriminatory ATC calculations. Commenters also commented on whether the Commission should require industry to implement WEQ Version 003.2 prior to WEQ Version 003.3, or instead should cancel the implementation obligation of WEQ Version 003.2 and require implementation of all accepted WEQ Version 003.3 Business Practice Standards (including WEQ 003.2 changes) within 18 months. We will incorporate by reference into the Commission's regulations all of the WEQ Version 003.3 Standards and amend the regulatory text at § 37.6(b)(2)(i) as described below. We will separately discuss each of the issues raised by commenters.

1. Changes to OASIS

a. Background

21. Order No. 890 requires transmission providers to post to OASIS "all circumstances and events contributing to the need for a firm service curtailment, specific services and customers curtailed (including the transmission provider's own retail loads), and the duration of the curtailment."²⁸ As the Commission explained in the NOPR,

the PFV enhanced congestion management process. ISO/RTO Council Comments at 2, 4-5.

²⁸ Order No. 890, 118 FERC ¶ 61,119 at P 1627.

NAESB made additional modifications to the OASIS suite of standards, as well as consistency changes to WEQ-000 Abbreviations, Acronyms, and Definition of Terms Business Practice Standards. NAESB's changes to the standards included modifications to existing templates and the creation of two new templates to provide the mechanism for transmission providers to post the required additional information regarding the curtailment of firm transmission service, including the curtailment of non-firm transmission service that preceded any firm transmission curtailments.

22. The information needed to meet the posting requirements is contained in two separate tools: the Interchange Distribution Calculator (IDC) tool for the Eastern Interconnection, managed by EIDSN, Inc., and the Enhanced Curtailment Calculator (ECC) tool for the Western Interconnection, managed by the California Independent System Operator. Although both the IDC and ECC tools produce information to be posted to OASIS in accordance with the standards, NAESB states that its members determined that the need for a mechanism to transfer data from the tools to OASIS should be addressed as part of any industry implementation rather than through standards modifications.

b. Comments

23. The ISO/RTO Council states that it supports an automated mechanism to transfer data from the IDC/ECC tools to the firm transmission curtailment templates.²⁹ The ISO/RTO Council states that it currently is unclear whether firm curtailment information

²⁹ ISO/RTO Council Comments at 13.

must be posted manually prior to the implementation of an automated data transfer mechanism.³⁰ The ISO/RTO Council contends that manually populating firm curtailment data into the templates is administratively burdensome and introduces the potential for human (data entry) error, and automated data transfer results in a more reliable, accurate and equitable posting process.³¹ The ISO/RTO Council requests that the Commission clarify that manual postings will not be required as an interim means to achieve compliance while the automated data transfer mechanism is being developed per the implementation schedule for the WEQ Version 003.3 Standards.

c. Commission Determination

24. Because of the importance of posting information regarding firm curtailments, we will not delay implementation while industry develops a more automated data transfer mechanism. NAESB states that its members determined that the need for a mechanism to transfer data from the tools to OASIS should be addressed as part of any industry implementation rather than as part of the standards modifications. While we encourage the industry to develop automated tools as quickly as possible, we agree that this effort should be independent from the development and implementation of the standards.

³⁰ *Id.*

³¹ *Id.*

2. Incorporation of WEQ-023 Standards 1.4 and 1.4.1

a. Background

25. The WEQ-023 Business Practice Standards include two new standards related to contract path management not previously included in the NERC MOD A Reliability Standards. These two Business Practice Standards, WEQ-023-1.4 and WEQ-023-1.4.1, limit the amount of firm transmission service granted on an ATC Path and limit the interchange schedule (both firm and non-firm) between balancing authority areas to the contract path limit for that given path, respectively.³²

b. Comments

26. Bonneville Power Administration (Bonneville) and the ISO/RTO Council ask the Commission to decline to incorporate by reference these Standards. Bonneville asserts that the WEQ-023-1.4 and WEQ-023-1.4.1 Business Practice Standards need further refinement by the industry before they are ready for incorporation by reference, if at all. Bonneville states that these Standards appear to be inconsistent with how Bonneville and

³² WEQ-023 1.4 states, “[e]ach Transmission Service Provider shall not grant a request for Firm Transmission Service on an ATC Path that serves as an interface with another BAA if the net of the Firm Transmission Service transactions into and out of the Transmission Service Provider’s BAA would exceed the sum of the Facility Ratings of Tie Facilities, to which Transmission Service Providers mutually agree they have the right to use Tie Facilities that comprise the ATC Path, between the two BAAs.”

WEQ-023 1.4.1 states, “[e]ach Transmission Service Provider shall limit the Interchange Schedule (both Firm and non-Firm) of the reservations on an ATC path into and out of Transmission Service Provider’s BAA on an interface with another BAA such that the Net Interchange Schedule does not exceed the sum of the Facility Ratings of Tie Facilities, to which Transmission Service Providers mutually agree they have the right to use the Tie Facilities that comprise the ATC Path, between the two BAAs.

other transmission service providers and system operators in the Western Interconnection operate their systems. Bonneville explains that, for itself and others, an ATC Path is allowed to be overscheduled up to twenty minutes prior to flow, at which point interruptions of non-firm service, curtailments, or economic dispatches, are then performed to ensure that path limits are not exceeded. Bonneville further states that this practice allows it to maximize transmission utilization including the integration of variable resources scheduled within the hour, and that these requirements, if incorporated by reference as drafted, would restrict energy supply and transmission availability.³³

27. Bonneville contends that its concerns with Business Practice Standards WEQ-023-1.4 and 1.4.1 are particularly relevant in light of the recent heat wave events of August and September 2020 in California. Bonneville asserts that eliminating the practice of over-scheduling until the final twenty minutes prior to flow on transmission facilities such as the California-Oregon Intertie could artificially restrict energy supply and transmission availability.³⁴

28. The ISO/RTO Council joins Bonneville in opposing WEQ-023-1.4 and 1.4.1 Business Practice Standards, stating that requiring transmission service providers to assume all firm transmission service reservations will be used in full, without accounting for the transmission customer's scheduling activity, "will undoubtedly result in less efficient use of the transmission system." The ISO/RTO Council also expresses concern

³³ Bonneville Comments at 4.

³⁴ *Id.* at 5.

that under system conditions which include the sudden, unexpected outage or de-rate of a transmission facility associated with an ATC path, there may not be sufficient time to adjust posted ATC or modify the current interchange, which could lead to a violation of the requirement.³⁵

29. The ISO/RTO Council notes that WEQ-023-1.4 and 1.4.1 Business Practice Standards were initially rejected by the NAESB Business Practices Subcommittee, and that the ISO/RTO Council and other entities, including PJM Interconnection LLC, Midcontinent Independent System Operator, Inc., Southwest Power Pool, Electric Reliability Council Of Texas, Inc., and the Independent Electricity System Operator of Ontario, raised concerns that remain unresolved.³⁶

c. Commission Determination

30. We incorporate by reference all of the WEQ-023 Modeling Business Practice Standards. The WEQ-023 Business Practice Standards were filed in October 2015 and were the product of an extensive development process by a NAESB subcommittee with the necessary expertise to address the relevant technical issues. Although WEQ-023-1.4 and 1.4.1 Business Practice Standards were not in NERC's MOD A Reliability Standards, they were proposed to help address differences in how contract paths are treated that would have existed among the three methods for calculating ATC: Rated System Path Methodology, Area Interchange Methodology, and Flowgate Methodology.

³⁵ ISO/RTO Council Comments at 9.

³⁶ *Id.*

Declining to adopt these standards at this point could potentially loosen the requirements for non-discriminatory calculation of ATC and may require changes to specific standards regarding particular contract paths. Given the deliberately broad nature of these standards, the record does not show that current business practices, such as a response to a sudden de-rate or outage referenced by the ISO/RTO Council, would necessarily be considered a violation of the standards.

31. Moreover, a consensus of the industry approved these standards with Bonneville, MISO and ISO-NE voting in favor at the WEQ stakeholders meeting, while no ISO/RTO and only one utility voted in opposition. In reviewing these standards, the Commission relies heavily on the consensus expertise of the NAESB membership.³⁷ Concerns with the NAESB Business Practice Standards therefore should be raised within the NAESB process, and the industry should seek to resolve any issues therein and, if they cannot, the parties need to provide a factual record for the Commission to consider the issue.³⁸

32. Bonneville and the ISO/RTO Council have raised concerns with whether implementation of these standards in all cases will result in a loss of scheduling flexibility

³⁷ *Standards for Business Practices of Interstate Natural Gas Pipelines*; Order No. 587, 61 FR 39,053, 39057 (July 26, 1996), FERC Stats. & Regs. ¶ 31,038, at 30.059 (1996) (cross-referenced at 76 FERC ¶ 61042) (“Since it is the industry that must operate under these standards, deferring to the considered judgment of the consensus of the industry is both reasonable and appropriate.”).

³⁸ *See Standards for Bus. Practices of Interstate Nat. Gas Pipelines*, Order No. 587-G, 63 FR 20072, 20076-80 (Apr. 23, 1998), FERC Stats. & Regs. ¶ 31,062, at 30,668-74 (1998) (cross-referenced at 83 FERC ¶ 61,029) (Commission resolved issue on which NAESB’s predecessor, the Gas Industry Standards Board, could not reach consensus).

without the risk of overscheduling. We therefore remind these parties that, as further discussed in P 41, we remain open to examining requests for waivers of these standards when utilities make compliance filings.³⁹ Such requests should explain why the filing parties believe their current practices violate the standards and why their practices should be considered equal or superior to the standards in preventing overscheduling while providing for more flexibility or other benefits in scheduling. We urge NAESB to consider the issues raised by Bonneville and the ISO/RTO Council and whether revisions to these standards are warranted. The Commission also is mindful of the consideration of the potential benefits of maximizing the use of transmission when appropriate, without compromising reliability, and maintaining flexibility to maximize transmission utilization as conditions change, and has scheduled a workshop that may consider these issues.⁴⁰

3. Changes to the Regulatory Text

a. Background

33. The Commission sought comment on proposed additional regulatory text in 18 CFR § 37.6 (information to be posted on the OASIS) stating that transmission provider ATC calculations must be transparent, consistent, and not unduly discriminatory or preferential. Specifically, the Commission proposed to make the revisions indicated below to the regulatory text in 18 CFR § 37.6(b)(2)(i):

³⁹ Order No. 676-H, 148 FERC ¶ 61,205 at P 80.

⁴⁰ *Electric Transmission Incentives Policy Under Section 219 of the Federal Power Act*, Notice of Workshop, RM20-10-000 & AD19-19-000 (Apr. 15, 2021). The workshop is scheduled for September 10, 2021.

Information used to calculate any posting of ATC and TTC must be dated and time-stamped and all calculations shall be performed according to consistently applied methodologies referenced in the Transmission Provider's transmission tariff and shall be based on Commission-approved [Reliability Standards,] *business practice and electronic communication standards, and related implementation documents*, as well as current industry practices, standards and criteria. *Transmission Providers shall calculate ATC and TTC in coordination with and consistent with capability and usage on neighboring systems, calculate system capability using factors derived from operations and planning data for the time frame for which data are being posted (including anticipated outages), and update ATC and TTC calculations as inputs change. Such calculations shall be conducted in a manner that is transparent, consistent, and not unduly discriminatory or preferential.*⁴¹

34. The NOPR explained that “this proposed regulation, in conjunction with the WEQ-023 Modeling Business Practice Standards, will help ensure that all transmission customers will be treated fairly when seeking alternative power supplies, and will provide for comparable and not unduly discriminatory or preferential treatment of native load customers and transmission service customers.”⁴² The Commission also sought comment on whether it should develop new regulations outside of the NAESB standards

⁴¹ Additions to the regulatory text are indicated by *italics*. Deletions from the regulatory text are indicated by [brackets.]

⁴² WEQ Version 003.3 NOPR, 172 FERC ¶ 61,047 at P 49 (citing *Mandatory Reliability Standards for the Calculation of Available Transfer Capability, Capacity Benefit Margins, Transmission Reliability Margins, Total Transfer Capability, & Existing Transmission Commitments & Mandatory Reliability Standards for the Bulk-Power Sys.*, Order No. 729, 74 FR 64884 (Dec. 8, 2009), 129 FERC ¶ 61,155, at P 2 (2009)).

development process “to maintain the current level of detail related to ATC calculations; if so, what level of detail those regulations should have.”⁴³

b. Comments

35. Four commenters oppose the Commission’s proposed changes to the regulatory text. No commenters filed in support of the proposal. Bonneville and the Edison Electric Institute (EEI) assert that the Commission’s proposed language is unnecessary. Bonneville further asserts that the regulatory changes circumvent the NAESB process sanctioned by the Commission for the development of standards, and that the Commission’s regulations are not the appropriate place to address technical details involving the calculation of ATC and TTC. In particular, Bonneville maintains that the Commission’s proposed language includes ambiguous references to technical concepts such as “factors derived from operations and planning data” in the calculation of ATC and TTC.⁴⁴ EEI contends that revisions should occur through NAESB’s standard development process, and that the directives in Order No. 890 and related provisions in the pro forma OATT are sufficient to ensure that ATC calculation is consistent and non-discriminatory. EEI also notes that in Order No. 890, the Commission acknowledged its reliance on NAESB for the development of business practice standards.⁴⁵

⁴³ *Id.*

⁴⁴ Bonneville Comments at 3.

⁴⁵ EEI Comments at 3.

36. The ISO/RTO Council disagrees with the concerns expressed in the NOPR about the opportunity for discriminatory practices and transmission provider discretion in the calculation of ATC and AFC, stating that the WEQ-023 Modeling Business Practice Standards “were extensively vetted through NAESB’s industry-wide standards development process where any comments received regarding the lesser degree of detail in the standards were successfully addressed prior to NAESB ratification.”⁴⁶ The ISO/RTO Council contends that the WEQ-023 Modeling Business Practice Standards ensure non-discriminatory practices and limit transmission provider discretion by requiring each transmission service provider to publish its ATC calculation methodology, and to describe its methodology in its ATC implementation document such that, given the same information used by the transmission service provider, the ATC calculations are reproducible and can be validated.⁴⁷

37. Similarly, Open Access Technology International, Inc. (OATI) maintains that the NAESB standards development process is the best way to draft standards through an open, transparent, and industry participant driven process. It states that standards developed through this process would help the Commission avoid the imposition of unintentional and unnecessary regulatory changes.⁴⁸ All four commenters agree that, if the Commission determines that the WEQ-023 Modeling Business Practice Standards are

⁴⁶ ISO/RTO Council Comments at 7.

⁴⁷ *Id.* at 7-8.

⁴⁸ OATI Comments at 5.

insufficient, it should encourage NAESB to provide additional details and specific standards to address those shortcomings.

c. Commission Determination

38. We adopt the NOPR proposal, with certain revisions. We recognize that commenters oppose adding these criteria to the Commission's regulations, but after consideration of their arguments we continue to believe that revisions to the Commission's regulations are necessary to ensure that transmission provider ATC calculations are transparent, consistent with anticipated system conditions and outages for the relevant timeframe, and not unduly discriminatory or preferential. However, in response to concerns raised in comments, we will not include detailed technical criteria in the regulations, but we will instead include the fundamentals of Order No. 890 requirements for calculating ATC, which is consistent with what the Commission proposed in the NOPR. The regulatory text will read as shown below.⁴⁹

Information used to calculate any posting of ATC and TTC must be dated and time-stamped and all calculations shall be performed according to consistently applied methodologies referenced in the Transmission Provider's transmission tariff and shall be based on Commission-approved [Reliability Standards,] *business practice and electronic communication standards, and related implementation documents*, as well as current industry practices, standards and criteria. *Such calculations shall be conducted in a manner that is transparent, consistent with anticipated system conditions and outages for the relevant timeframe, and not unduly discriminatory or preferential.*

⁴⁹ Additions to the current regulatory text at 18 CFR § 37.6(b)(2)(i) are indicated by *italics*. Deletions to the regulatory text are indicated by [brackets.]

39. The revised regulatory text properly references the WEQ Business Practice Standards in place of the NERC Mod A Reliability Standards that have been proposed for retirement. It also includes in the regulation Order No. 890's fundamental requirement that transmission provider ATC calculations must be transparent, consistent with anticipated system conditions and outages for the relevant timeframe, and not unduly discriminatory or preferential, but without introducing specific technical concepts that may be subject to differing interpretations.⁵⁰ We adopt this regulatory text because it has the advantage of removing the most objectionable language opposed by commenters while including the fundamental requirements in Order No. 890, including that the determination of ATC must not be unduly discriminatory or preferential.

40. Commenters do not indicate a need at this time for additional ATC standards or for the Commission to develop further regulations outside of the NAESB standards development process. The industry, through the NAESB process, should continue to consider further refinements to these standards to improve the accuracy of these calculations.

III. Waiver Requests and Implementation Issues

A. Waiver Requests

1. Comments

41. The ISO/RTO Council asks the Commission to continue to acknowledge in its final rule that, consistent with Commission precedent and currently-effective policy, each

⁵⁰ See, e.g., Order No. 890, 118 FERC ¶ 61,119 at P 2.

public utility may seek as part of its compliance filing waiver of new or revised standards in the WEQ Version 003.3 Standards, and renewal of existing waivers previously granted by the Commission. The ISO/RTO Council requests a similar clarification be included in the final rule for this proceeding.⁵¹

2. Commission Determination

42. Public utilities may seek waiver of the standards for newly developed or newly revised standards and for the renewal of existing waivers. Our policy on when these waivers will be granted or denied is not being changed in this final rule. The Commission has previously stated that if a public utility asserts that its circumstances warrant a continued waiver of the regulations, the public utility may file a request for a waiver wherein the public utility can detail the circumstances that it believes warrant a waiver.⁵² In its request for continued waiver, the public utility must include the date, docket number, and explanation for why the waiver was initially granted by the Commission. The Commission will decide on any such waiver request on a case-by-case basis, and absent a Commission-approved waiver, compliance with the standards is required by all public utilities.

⁵¹ ISO/RTO Council Comments at 13-14.

⁵² See *Standards for Business Practices and Communication Protocols for Public Utilities*, Order No. 676-E, 74 FERC 63288 (Dec. 3, 2009), 129 FERC ¶61,162, at P 107 (2009).

B. Implementation**1. NOPR Proposal**

43. In the WEQ Version 003.3 NOPR, the Commission proposed to implement the WEQ Version 003.3 Standards, other than those related to cybersecurity, under an 18-month implementation timeline. The Commission requested comments on how best to proceed with the implementation of the remaining WEQ 003.3 Standards, including the standards related to PFV and those related to OASIS. Specifically, the Commission requested comments on whether the Commission should require the industry to implement WEQ Version 003.2 prior to WEQ Version 003.3, or, alternatively, cancel the implementation obligation of WEQ Version 003.2 and instead require implementation of all accepted WEQ Version 003.3 Standards, including the WEQ Version 003.2 Standards, within 18 months.⁵³

2. Comments

44. Bonneville, EEI and OATI states the WEQ Version 003.2 Standards and the WEQ Version 003.3 Standards should have distinct, sequential implementation timelines that are separate and do not overlap.⁵⁴ Bonneville states work is underway within the industry to implement the WEQ Version 003.2 Standards which should not be interrupted due to

⁵³ This would include all WEQ Version 003.3 Standards except for the WEQ cybersecurity standards which have an earlier implementation timeline, as discussed in the NOPR, as well as the implementation of the NAESB ATC-related standards contained in WEQ-023, which will be coordinated with the retirement of the NERC MOD A Reliability Standards.

⁵⁴ Bonneville Comments at 5; EEI Comments at 2-3, 6; OATI Comments at 2.

the Commission's adoption of the WEQ Version 003.3 Standards.⁵⁵ EEI states the implementation of the different versions simultaneously are not necessarily simple upgrades, and OASIS updates, training and testing are required for successful implementation.⁵⁶ OATI states separate implementation schedules will prevent wasted industry effort and cost.⁵⁷

45. OATI states that the Commission's proposed 18 month implementation period for the WEQ Version 003.3 Standards should begin after the implementation period for WEQ Version 003.2 Standards ends.⁵⁸ Bonneville, however, recommends a shorter implementation period of at least 12 months, also starting no sooner than the final compliance deadline for the WEQ Version 003.2 Standards.⁵⁹ The ISO/RTO Council also supports an implementation date in October 2022 for the WEQ Version 3.3 Standards and recommends that the Commission provide public utilities with the option of implementing the WEQ Version 003.2 Standards either: (a) in October 2021 under the current implementation timeline for the WEQ Version 003.2 Standards and prior to WEQ Version 003.3 Standards; or (b) in October 2022 simultaneously with the WEQ Version

⁵⁵ Bonneville Comments at 5.

⁵⁶ EEI Comments at 6.

⁵⁷ OATI Comments at 3.

⁵⁸ *Id.* at 4.

⁵⁹ Bonneville Comments at 5.

003.3 Standards.⁶⁰ The ISO/RTO Council states that the Commission should also permit parties to submit a single compliance filing and intended implementation schedule for both WEQ Version 003.2 Standards and WEQ Version 003.3 Standards.⁶¹

46. The ISO/RTO Council also requests that the PFV Standards be implemented on an expedited timeline similar to the timeframe for the WEQ cybersecurity standards that is separate from the rest of the proposed modifications in the WEQ Version 003.3 Standards.⁶² The ISO/RTO Council states that the PFV Standards' enhanced congestion process will more accurately account for internal flows (i.e., network and native load calculations) by incorporating the use of real-time data into relief obligations calculated by the IDC.

47. Moreover, the ISO/RTO Council requests that the Commission ensure that the implementation timeline account for any external dependencies and system changes beyond a public utility's control but necessary for a public utility's implementation and compliance with the WEQ Version 003.3 Standards.⁶³ For example, Bonneville and the ISO/RTO Council reference new requirements for posting TLR curtailment on a public utilities' OASIS. This new TLR requirement necessitates certain changes to and/or information sourced from the Interchange Distribution Calculator/Enhanced Curtailment

⁶⁰ ISO/RTO Council Comments at 3.

⁶¹ *Id.* at 11-12.

⁶² *Id.* at 2, 5, 11.

⁶³ *Id.* at 12.

Calculator (IDC/ECC) tools⁶⁴ in order to coordinate with the OASIS system enhancements.⁶⁵ With respect to the modification of WEQ-001 addressing the OASIS curtailment postings, which requires data from the ECC tool to meet the posting requirements, Bonneville states the implementation timeline should be at least six months from the time that a mechanism is made available to access data from the ECC.⁶⁶

3. Commission Determination

48. The Commission recognized in the WEQ Version 003.3 NOPR the potential for confusion through implementation of Version 003.3 either immediately after or simultaneously with Version 003.2 implementation. In light of commenters' explanations as to the time needed and complexities involved to plan and complete the tasks associated in implementing the WEQ Version 003.2 Standards, we will not require the two implementation timelines for the WEQ Version 003.2 Standards and the WEQ Version 003.3 Standards to run concurrently. Accordingly, public utilities will continue to implement the changes incorporated by reference in Order No. 676-I, for the WEQ Version 003.2 Standards, under the current implementation timeline ending October

⁶⁴ Specifically, the WEQ-001-28 business practice standard defines new requirements for posting TLR curtailment information on a public utility's OASIS website, and IDC changes required before a public utility may implement and comply with the PFV Standards.

⁶⁵ Bonneville Comments at 5-6; ISO/RTO Council Comments at 12.

⁶⁶ Bonneville Comments at 5-6.

2021.⁶⁷ For the WEQ Version 003.3 Standards incorporated by reference in this final rule,⁶⁸ we conclude that a 15-month implementation period, beginning after the completion of the implementation timeline for the WEQ Version 003.2 Standards, is sufficient for implementation of the WEQ Version 003.3 Standards..⁶⁹ As a result, public utilities will submit two compliance filings: the compliance filing for the WEQ Version 003.2 Standards will remain due July 27, 2021, with implementation no earlier than October 27, 2021, and the compliance filing for the WEQ Version 003.3 Standards, which we incorporate by reference in this final rule, will be due 12 months after implementation of the WEQ Version 003.2 Standards, or no earlier than October 27, 2022. Again, the Commission will determine an implementation date for the WEQ

⁶⁷ On April 3, 2020, the Commission granted an extension of time for public utilities to make the compliance filings required by Order No. 676-I. By this extension, the deadline for public utilities required to make a compliance filing through e-Tariff is extended from May 25, 2020, up to and including July 27, 2021. In its order(s) on compliance filings, the Commission will determine an implementation date for all utilities, including utilities whose tariffs incorporate each version of the NAESB standards, without modification, when the version is accepted by the Commission, no sooner than three months following the submission of compliance filings (i.e., October 27, 2021). *See Notice of Extension of Time* at 2, Docket No. RM05-5-028 (issued Apr. 3, 2020).

⁶⁸ With two exceptions for the WEQ cybersecurity standards and PFV Standards, as described in P 49.

⁶⁹ By providing a fifteen-month implementation period, we account for any external dependencies and system changes beyond the control of a public utility but necessary for a public utility's implementation and compliance with the WEQ Version 003.3 Standards. However, if a public utility is unable to comply with the fifteen-month implementation timeline, it may file a request for extension of time. The Commission will consider such requests on a case-by-case basis.

Version 003.3 Standards following the acceptance of the compliance filings, no earlier than three months following their submission (i.e., not before January 27, 2023), resulting in a 15-month implementation period. We decline to adopt the ISO/RTO Council's proposal to require both the WEQ Version 003.2 Standards and the WEQ Version 003.3 Standards to be incorporated using the same timeline, with both due to be implemented by October 2022. Delaying the current implementation timeline for the WEQ Version 003.2 Standards could result in additional industry effort and complicate implementation of the WEQ Version 003.3 Standards.

49. As noted above, for the revisions related to the surety assessment on cybersecurity performed by Sandia, which were included in the WEQ Version 003.3 Standards,⁷⁰ we will require industry filers to submit compliance filings for these revised WEQ cybersecurity standards nine months after the publication of a final rule in this proceeding, with implementation required no sooner than three months after compliance filings are submitted to the Commission, for a total implementation period of at least 12 months from the issuance of this final rule. Moreover, we agree with the ISO/RTO Council request that the PFV Standards be implemented on the same expedited timeline provided for the WEQ cybersecurity standards, that is, separate and apart from the implementation of the rest of the proposed modifications in the WEQ Version 003.3 Standards. As a result, we will require industry filers to also submit compliance filings

⁷⁰ For the specific WEQ cybersecurity standards to be implemented under this separate timeline, please see Appendix I.

for the PFV Standards, nine months after the publication of this final rule, with implementation required no sooner than three months after compliance filings are submitted to the Commission, for a total implementation period of at least twelve months.

50. Summary of Compliance Filings and Implementation Deadlines

| Business Practice Standards | Compliance Filings Due | Implementation Date |
|------------------------------------|--|---|
| WEQ Version 003.3 ⁷¹ | 12 months after implementation of the WEQ Version 003.2 Standards, or no earlier than October 27, 2022 | No earlier than 3 months following compliance filings submission (no earlier than January 27, 2023) |
| Cybersecurity | 9 months after publication of this final rule in the <i>Federal Register</i> | No sooner than 12 months after publication of this final rule in <i>Federal Register</i> |
| PFV | 9 months after publication of this final rule in the <i>Federal Register</i> | No sooner than 12 months after publication of this final rule in <i>Federal Register</i> |

51. In keeping with the prior practice that the Commission adopted in Order No. 676-H, we are requiring public utilities and those entities with reciprocity tariffs to modify their open access transmission tariffs (OATT) to include the WEQ standards that we are incorporating by reference. In order to comply with this final rule, public utilities and entities with reciprocity tariffs must make a compliance filing through eTariff no later than 90 days from the date the final rule is published in the Federal Register, using

⁷¹ These include all of the WEQ Version 003.3 Standards except for the Business Practice Standards that address the cybersecurity and parallel flow visualization, as discussed in the body of this final rule.

an indeterminant effective date (12/31/9998) for the tariff records. The Commission will establish an effective date for the tariff changes in the order(s) on the compliance filings no earlier than five months from the date the final rule is published in the Federal Register.⁷² Should any public utility that has previously been granted a waiver of the regulations believe that its circumstances warrant a continued waiver, the public utility may file a request for a waiver wherein the public utility can detail the circumstances that it believes warrant a waiver.⁷³ In its request for continued waiver, the public utility must include the date, docket number of the order(s) previously granting the waiver(s), and an explanation for why the waiver(s) was initially granted by the Commission. Any waiver requests must be filed at the same time with the public utility's compliance filing or in a separate FPA section 205 filing.

IV. Notice of Use of Voluntary Consensus Standards

52. Office of Management and Budget Circular A-119 (section 11) (Feb. 10, 1998) provides that when a federal agency issues or revises a regulation containing a standard,

⁷² As we explained in Order No. 676-H, 148 FERC ¶ 61,205 at n.26, to the extent a public utility's OASIS obligations are administered by an independent system operator (ISO) or regional transmission operator (RTO) and are not covered in the public utility's OATT, the public utility will not need to modify its OATT to include the OASIS standards. Such a public utility will, however, be required to comply with these standards unless granted a waiver by the Commission. The business practice standards that we incorporate by reference into our regulations in this final rule govern the terms and conditions that public utilities must include in their OATTs and the transactions that entities enter with public utilities under these OATTs must be in accordance with the incorporated standards.

⁷³ Order No. 676-E, 129 FERC ¶61,162 at P 107.

the agency should publish a statement in the final rule stating whether the adopted standard is a voluntary consensus standard or a government-unique standard. In this final rule, the Commission is incorporating by reference voluntary consensus standards adopted by NAESB's WEQ.

V. Incorporation by Reference

53. The Office of the Federal Register requires agencies incorporating material by reference in final rules to discuss, in the preamble of the final rule, the ways that the materials it incorporates by reference are reasonably available to interested parties and how interested parties can obtain the materials.⁷⁴ The regulations also require agencies to summarize, in the preamble of the final rule, the material it incorporates by reference. The standards we are incorporating by reference in this final rule⁷⁵ can be summarized as follows:

54. The WEQ-000 Abbreviations, Acronyms, and Definition of Terms Business Practice Standards provide a single location for all abbreviations, acronyms, and defined terms referenced in the WEQ Business Practice Standards. These standards provide common nomenclature for terms within the wholesale electric industry, thereby reducing confusion and opportunities for misinterpretation or misunderstandings among industry participants.

⁷⁴ 1 CFR 51.5. *See* Incorporation by Reference, 79 FR 66267 (Nov. 7, 2014).

⁷⁵ WEQ-000 Version 003.1 and WEQ-006 Version 003.1 were previously approved for incorporation by reference and continue to be referenced without change.

55. The WEQ-001 OASIS Business Practice Standards define the general and specific transaction processing requirements and related business processes required for OASIS. The standards detail requirements related to standard terminology for transmission and ancillary services, attribute values defining transmission service class and type, ancillary and other services definitions, OASIS registration procedures, procurement of ancillary and other services, path naming, next hour market service, identical transmission service requests, redirects, resales, transfers, OASIS postings, procedures for addressing ATC or AFC methodology questions, rollover rights, conditional curtailment option reservations, auditing usage of Capacity Benefit Margin, coordination of requests for service across multiple transmission systems, consolidation, preemption and right-of-first refusal process, and NITS requests.

56. The WEQ-002 OASIS Standards and Communication Protocols Business Practice Standards define the technical standards for OASIS. These standards detail network architecture requirements, information access requirements, OASIS and point-to-point interface requirements, implementation, and NITS interface requirements.

57. The WEQ-003 OASIS Data Dictionary Business Practice Standards define the data element specifications for OASIS.

58. The WEQ-004 Coordinate Interchange Business Practice Standards define the commercial processes necessary to facilitate interchange transactions via Request for Interchange and specify the arrangements and data to be communicated by the entity responsible for authorizing the implementation of such transactions (the entities responsible for balancing load and generation).

59. The WEQ-005 Area Control Error (ACE) Equation Special Cases Business Practice Standards define commercial based requirements regarding the obligations of a balancing authority to manage the difference between scheduled and actual electrical generation within its control area. Each balancing authority manages its ACE in accordance with the NERC Reliability Standards. These standards detail requirements for jointly owned utilities, supplemental regulation service, and load or generation transfer by telemetry.

60. The WEQ-007 Inadvertent Interchange Payback Business Practice Standards define the methods in which inadvertent energy is paid back, mitigating the potential for financial gain through the misuse of paybacks for inadvertent interchange. Inadvertent interchange is interchange that occurs when a balancing authority cannot fully balance generation and load within its area. The standards allow for the repayment of any imbalances through bilateral in-kind payback, unilateral in-kind payback, or other methods as agreed to.

61. The WEQ-008 Transmission Loading Relief - Eastern Interconnection Business Practice Standards define the business practices for cutting transmission service during a TLR event. These standards detail requirements for the use of interconnection-wide TLR procedures, interchange transaction priorities for use with interconnection-wide TLR procedures, and the Eastern Interconnection procedure for physical curtailment of interchange transactions.

62. The WEQ-011 Gas/Electric Coordination Business Practice Standards define communication protocols intended to improve coordination between the gas and electric

industries in daily operational communications between transportation service providers and gas-fired power plants. The standards include requirements for communicating anticipated power generation fuel for the upcoming day as well as any operating problems that might hinder gas-fired power plants from receiving contractual gas quantities.

63. The WEQ-012 Public Key Infrastructure (PKI) Business Practice Standards establish the cybersecurity framework for parties partaking in transactions via a transmission provider's OASIS or e-Tagging system. The NAESB PKI framework secures wholesale electric market electronic commercial communications via encryption of data and the electronic authentication of parties to a transaction through the use of a digital certificate issued by a NAESB certified certificate authority. The standards define the requirements for parties utilizing the digital certificates issued by the NAESB certificate authorities.

64. The WEQ-013 OASIS Implementation Guide Business Practice Standards detail the implementation of the OASIS Business Practice Standards. The standards detail requirements related to point-to-point OASIS transaction processing, OASIS template implementation, preemption and right-of-first-refusal processing, NITS application and modification of service processing, and secondary network transmission service.

65. The WEQ-015 Measurement and Verification of Wholesale Electricity Demand Response Business Practice Standards define a common framework for transparency, consistency, and accountability applicable to the measurement and verification of wholesale electric market demand response practices. The standards describe

performance evaluation methodology and criteria for the use of equipment, technology, and procedures to quantify the demand reduction value - the measurement of reduced electrical usage by a demand resource.

66. The WEQ-021 Measurement and Verification of Energy Efficiency Products Business Practice Standards define a common framework for transparency, consistency, and accountability applicable to the measurement and verification of wholesale electric market energy efficiency practices. The standards establish energy efficiency measurement and verification criteria and define requirements for energy efficiency resource providers for the measurement and verification of energy efficiency products and services offered in the wholesale electric markets.

67. The WEQ-022 EIR Business Practice Standards define the business requirements for entities utilizing the NAESB managed EIR, a wholesale electric industry tool that serves as the central repository for information needed in the scheduling of transmission through electronic transactions. The standards describe the roles within EIR, registration requirements, and cybersecurity.

68. The WEQ-023 Modeling Business Practice Standards specify the requirements for calculation of ATCs and AFCs using the methodology selected. In the event of a conflict between these Business Practice Standards and the Transmission Service Provider's tariff or FERC approved seams agreement(s), the tariff or FERC approved seams agreement(s) shall have precedence.⁷⁶

⁷⁶ The suites of NAESB business practice standards we are not incorporating by reference in this final rule are: (1) the WEQ-009 Standards of Conduct for Electric

69. Copies of the standards incorporated by reference may be obtained from NAESB, whose offices are located at 801 Travis Street, Suite 1675, Houston, TX 77002, Phone: (713) 356-0060. NAESB's website can be accessed at <https://www.naesb.org>. Once COVID restrictions are lifted, copies of the standards may be inspected at the Federal Energy Regulatory Commission, Public Reference and Files Maintenance Branch, 888 First Street, NE, Washington, DC 20426, Phone: (202) 502-8371, <https://www.ferc.gov>.

70. NAESB is a private, consensus standards developer that develops voluntary wholesale and retail standards related to the energy industry. The procedures utilized by NAESB make its standards reasonably available to those affected by the Commission's regulations.⁷⁷ Participants can join NAESB, for an annual membership cost of \$8,000, which entitles them to full participation in NAESB and enables them to obtain these

Transmission Providers, which NAESB has eliminated as they duplicate the Commission's regulations; (2) the WEQ-010 Contracts Related Business Practice Standards that establish model contracts for the wholesale electric industry, which the Commission has not incorporated as they are not mandatory; (3) the WEQ-014 WEQ/WGQ eTariff Related Business Practice Standards, which provide an implementation guide describing the various mechanisms, data tables, code values/reference tables, and technical specifications used in the submission of electronic tariff filings to the Commission, which the Commission has not incorporated as these submittals are governed by the Commission's eTariff regulations; and (4) the WEQ-016, WEQ-017, WEQ-018, WEQ-019, and WEQ-020 Business Practice Standards that were developed as part of the Smart Grid implementation and which the Commission adopted as non-mandatory guidance in 18 CFR 2.27 (2019). *See* Order No. 676-H, 148 FERC ¶ 61,205; Order No. 676-I, 170 FERC ¶ 61,062, at n.102.

⁷⁷ As a private, consensus standards developer, NAESB needs the funds obtained from its membership fees and sales of its Individual Standards Manual or Booklet to finance the organization. The parties affected by these Commission regulations generally are highly sophisticated and have the means to acquire the information they need to effectively participate in Commission proceedings.

standards at no additional cost.⁷⁸ Non-members may obtain the Individual Standards Manual or Booklet for \$250 per manual or booklet.⁷⁹ Non-members also may obtain the complete set of Business Practice Standards on USB flash drive for \$2,000. NAESB also provides a free electronic read-only version of the standards for a three-business day period or, in the case of a regulatory comment period, through the end of the comment period.⁸⁰ In addition, NAESB considers requests for waivers of the charges on a case-by-case basis based on need.

VI. Information Collection Statement

71. The following collection of information contained in this final rule is subject to review by the Office of Management and Budget (OMB) under section 3507(d) of the Paperwork Reduction Act of 1995, 44 U.S.C. 3507(d).⁸¹ OMB's regulations require approval of certain information collection requirements imposed by agency rules.⁸² Upon approval of a collection(s) of information, OMB will assign an OMB control number and an expiration date. Respondents subject to the filing requirements of this rule will not be

⁷⁸ NAESB, *NAESB Membership Application*, <https://www.naesb.org/pdf4/naesbapp.pdf>.

⁷⁹ NAESB, *NAESB Materials Order Form*, <https://www.naesb.org/pdf/ordrform.pdf>.

⁸⁰ Procedures for non-members to evaluate work products before purchasing are available at https://www.naesb.org/misc/NAESB_Nonmember_Evaluation.pdf.

⁸¹ 44 U.S.C. 3507(d).

⁸² 5 CFR 1320.11.

penalized for failing to respond to these collections of information unless the collections of information display a valid OMB control number.

72. 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.

73. The following burden estimate is based on the projected costs for the industry to implement the new and revised business practice standards adopted by NAESB and proposed to be incorporated by reference in this final rule.⁸³ The NERC Compliance Registry, as of March 5, 2021, identifies approximately 162 entities in the United States that are subject to this final rule.

| Docket Nos. RM05-5-029 and RM05-05-030 | | | | | |
|---|-----------------------------------|---|---|---|--|
| | No. of Respondents (1) | Annual No. of Responses Per Respondent (2) | Total No. of Responses (1)*(2)=(3) | Average Burden (Hrs.) & Cost (\$) Per Response (4) | Total Annual Burden Hrs. & Total Annual Cost (\$) (3)*(4)=(5) |
| FERC-516E | 162 | 1 | 162 | 6 hrs.; \$498 | 972 hrs.; \$80,676 |

⁸³ Commission staff estimates that industry is similarly situated in terms of hourly cost (wages plus benefits). Based on the Commission average cost (wages plus benefits) for 2020, \$83.00/hour is used.

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| | | | | | |
|--------------|-----|---|-----|---------------------|--------------------------|
| FERC-717 | 162 | 1 | 162 | 30 hrs.; \$2,490 | 4,860 hrs.; \$403,380 |
| TOTAL | | | 324 | \$2,988 | 5,832 hrs.; \$484,056 |

Costs to Comply with Paperwork Requirements:The estimated annual costs are as follows:

FERC-516E: 162 entities x 1 response/entity x (6 hours/response x \$83.00/hour)
= \$80,676

FERC-717: 162 entities x 1 response/entity x (30 hours/response x \$83.00/hour) =
\$403,380

Titles: FERC-516E, Electric Rate Schedule and Tariff Filings and FERC-717, Standards for Business Practices and Communication Protocols for Public Utilities.

Action: Final rule.

OMB Control Nos: 1902-0290 (FERC-516E) and 1902-0173 (FERC-717)

Respondents: Business or other for profit, and not for profit institutions.

Frequency of Responses: One-time.

Necessity of the Information: This rule will amend its regulations to incorporate by reference the latest version (Version 003.3) of the Standards for Business Practices and Communication Protocols for Public Utilities adopted by the Wholesale Electric Quadrant (WEQ) of the North American Energy Standards Board (NAESB). WEQ Version 003.3 includes standards developed in accordance with recommendations of the Department of Energy sponsored cybersecurity surety assessment of the NAESB

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Business Practice Standards that was conducted in 2019. Additional standards were developed in response to the directives from FERC Order No. 890, such as the standards developed to support Parallel Flow Visualization, intended to improve congestion management procedures for the Eastern Interconnection. The WEQ Version 003.3 Standards also include, in their entirety, the WEQ-023 Modeling Business Practice Standards contained in the WEQ Version 003.1 Standards, which address the technical issues affecting ATC and AFC calculation for wholesale electric transmission services, with the addition of certain revisions and corrections. The revisions made by NAESB in the WEQ Version 003.3 Standards are designed to aid public utilities with the consistent and uniform implementation of requirements promulgated by the Commission as part of the *pro forma* Open Access Transmission Tariff.

Internal review: The Commission has reviewed NAESB's proposal and has made a preliminary determination that the proposed revisions are both necessary and useful. In addition, the Commission has assured itself, by means of its internal review, that there is specific, objective support for the burden estimates associated with the information requirements.

74. Interested persons may obtain information on the reporting requirements by contacting the Federal Energy Regulatory Commission, Office of the Executive Director, 888 First Street, NE, Washington, DC 20426 [Attention: Ellen Brown, e-mail: DataClearance@ferc.gov, phone: (202) 502-8663].

VII. Environmental Analysis

75. 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.⁸⁴ The Commission has categorically excluded certain actions from these requirements as not having a significant effect on the human environment.⁸⁵ The actions adopted 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 natural gas and electric power that requires no construction of facilities. Therefore, an environmental assessment is unnecessary and has not been prepared in this final rule.

VIII. Regulatory Flexibility Act

76. The Regulatory Flexibility Act of 1980 (RFA)⁸⁶ generally requires a description and analysis of final rules that will have significant economic impact on a substantial number of small entities. The RFA does not mandate any particular outcome in a rulemaking. It only requires consideration of alternatives that are less burdensome to small entities and an agency explanation of why alternatives were rejected.

⁸⁴ *Regulations Implementing the Nat'l Env't'l Pol'y Act*, Order No. 486, 52 FR 47897 (Dec. 17, 1987), FERC Stats. & Regs. ¶ 30,783 (1987) (cross-referenced at 41 FERC ¶ 61,284).

⁸⁵ 18 CFR 380.4.

⁸⁶ 5 U.S.C. 601-612.

77. The Small Business Administration (SBA) revised its size standards (effective January 22, 2014) for electric utilities from a standard based on megawatt hours to a standard based on the number of employees, including affiliates. Under SBA's standards, some transmission owners will fall under the following category and associated size threshold: electric bulk power transmission and control, at 500 employees.⁸⁷ The Commission estimates that 24 of the 162 respondents are small or 14.8 percent of the respondents affected by this final rule.

78. The Commission estimates that the impact on these entities is consistent with the paperwork burden of \$2,988 per entity used above.⁸⁸ The Commission does not consider \$2,988 to be a significant economic impact. Based on the above, the Commission certifies that implementation of the proposed Business Practice Standards will not have a significant impact on a substantial number of small entities. Accordingly, no initial regulatory flexibility analysis is required.

IX. Document Availability

79. 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 (<https://www.ferc.gov>). At this time, the Commission has suspended access to the

⁸⁷ 13 CFR 121.201, Sector 22 (Utilities), NAICS code 221121 (Electric Bulk Power Transmission and Control).

⁸⁸ 36 hours at \$83.00/hour = \$2,988.

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Commission's Public Reference Room due to the President's March 13, 2020 proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID-19).

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

81. User assistance is available for eLibrary and the FERC's website during normal business hours from FERC Online Support at 202-502-6652 (toll free at 1-866-208-3676) or email at ferconlinesupport@ferc.gov, or the Public Reference Room at (202) 502-8371, TTY (202)502-8659. E-mail the Public Reference Room at public.referenceroom@ferc.gov.

X. Effective Date and Congressional Notification

82. These regulations are effective [**insert date sixty (60) days from date of publication in Federal Register**]. The Commission has determined, with the concurrence of the Administrator of the Office of Information and Regulatory Affairs of OMB, that this rule is not a "major rule" as defined in section 351 of the Small Business Regulatory Enforcement Fairness Act of 1996. The Final Rule will be submitted to the Senate, House, and Government Accountability Office.

List of subjects in 18 CFR Part 37
Electric power, Electric utilities

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List of subjects in 18 CFR Part 38

Business practice standards, Electric utilities, Incorporation by reference, Reporting and recordkeeping requirements.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.

In consideration of the foregoing, the Commission amends parts 37 and 38, chapter I, title 18, Code of Federal Regulations, as follows:

PART 37—OPEN ACCESS SAME-TIME INFORMATION SYSTEMS

1. The authority citation for Part 37 continues to read as follows:
Authority: 16 U.S.C. 791-825r, 2601-2645; 31 U.S.C. 9701; 42 U.S.C. 7101-7352.

2. Amend § 37.6, by revising paragraph (b)(2)(i) to read as follows:

§ 37.6 Information to be posted on the OASIS.

* * * * *

(b) * * *

(2) * * *

(i) Information used to calculate any posting of ATC and TTC must be dated and time-stamped and all calculations shall be performed according to consistently applied methodologies referenced in the Transmission Provider’s transmission tariff and shall be based on Commission-approved Reliability Standards, business practice and electronic communication standards, and related implementation documents, as well as current industry practices, standards and criteria. Such calculations shall be conducted in a manner that is transparent, consistent with anticipated system conditions and outages for the relevant timeframe, and not unduly discriminatory or preferential.

* * * * *

PART 38—STANDARDS FOR PUBLIC UTILITY BUSINESS OPERATIONS AND COMMUNICATIONS

3. 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.

4. Revise § 38.1 to read as follows:

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

(a) Any public utility that owns, operates, or controls facilities used for the transmission of electric energy in interstate commerce or for the sale of electric energy at wholesale in interstate commerce and any non-public utility that seeks voluntary compliance with jurisdictional transmission tariff reciprocity conditions must comply with the business practice and electronic communication standards promulgated by the North American Energy Standards Board (NAESB) Wholesale Electric Quadrant (WEQ) that are incorporated by reference in paragraph (b) of this section.

(b) (1) The material incorporated by reference in this section was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. All approved material may be inspected at the Federal Energy Regulatory Commission, Public Reference and Files Maintenance Branch, 888 First Street NE., Washington, DC 20426, Tel: (202) 502-8371, www.ferc.gov, and is available from the sources listed in the following paragraphs of paragraph (b). It is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email fedreg.legal@nara.gov, or go to:

<https://www.archives.gov/federal-register/cfr/ibr-locations.html> .

(2) North American Energy Standards Board (NAESB), 801 Travis Street, Suite

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1675, Houston, TX 77002, Tel: (713) 356-0060. NAESB's Web site is at

<https://www.naesb.org/>. The NAESB WEQ Business Practice Standards; Standards and

Models the Commission incorporates by reference are as follows:

(i) WEQ–000, Abbreviations, Acronyms, and Definition of Terms (WEQ Version 003.1, September 30, 2015) (including only the definitions of Interconnection Time

Monitor, Time Error, and Time Error Correction);

(ii) WEQ–000, Abbreviations, Acronyms, and Definition of Terms (WEQ Version 003.3, March 30, 2020);

(iii) WEQ–001, Open Access Same-Time Information Systems (OASIS), (WEQ Version 003.3, March 30, 2020);

(iv) WEQ–002, Open Access Same-Time Information Systems (OASIS) Business Practice Standards and Communication Protocols (S&CP), (WEQ Version 003.3, March 30, 2020);

(v) WEQ–003, Open Access Same-Time Information Systems (OASIS) Data Dictionary, (WEQ Version 003.3, March 30, 2020);

(vi) WEQ–004, Coordinate Interchange (WEQ Version 003.3, March 30, 2020);

(vii) WEQ-005, Area Control Error (ACE) Equation Special Cases (WEQ Version 003.3, March 30, 2020);

(viii) WEQ-006, Manual Time Error Correction (WEQ Version 003.1, Sept. 30, 2015);

(ix) WEQ-007, Inadvertent Interchange Payback (WEQ Version 003.3, March 30, 2020);

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(x) WEQ-008, Transmission Loading Relief (TLR)—Eastern Interconnection (WEQ Version 003.3, March 30, 2020);

(xi) WEQ-011, Gas/ Electric Coordination (WEQ Version 003.3, March 30, 2020);

(xii) WEQ-012, Public Key Infrastructure (PKI) (WEQ Version 003.3, March 30, 2020);

(xiii) WEQ-013, Open Access Same-Time Information Systems (OASIS) Implementation Guide, (WEQ Version 003.3, March 30, 2020);

(xiv) WEQ-015, Measurement and Verification of Wholesale Electricity Demand Response (WEQ Version 003.3, March 30, 2020);

(xv) WEQ-021, Measurement and Verification of Energy Efficiency Products (WEQ Version 003.3, March 30, 2020);

(xvi) WEQ-022, Electric Industry Registry (WEQ Version 003.3, March 30, 2020); and

(xvii) WEQ-023, Modeling. (WEQ Version 003.3, March 30, 2020).

NOTE: The Following Appendix Will Not Be Published in the Code of Federal Regulations

Appendix I

Standards Affected by the Revisions to Implement Recommendations Following Sandia's Surety Assessment on Cybersecurity

| Standard | Revisions |
|--------------------------------------|---|
| WEQ-000-1 | |
| Deleted seven abbreviations/acronyms | DNS – Domain Name Service IPCP – Internet Protocol Control Protocol NTP – Network Time Protocol PPP – Point to Point Protocol SLIP – Serial Line Internet Protocol SNMP – Simple Network Management Protocol SSL – Secure Sockets Layer |
| Added one abbreviation/acronym | OWASP – Open Web Application Security Project |
| WEQ-001 | |
| Revised one standard | WEQ-001-13.1.3.3 |
| WEQ-002 | |
| Revised 14 standards | WEQ-002-2.3 WEQ-002-2.4 WEQ-002-4.2.1.1 WEQ-002-4.2.1.2 WEQ-002-4.2.1.3 WEQ-002-4.2.2 WEQ-002-5 WEQ-002-5.1.1 WEQ-002-5.1.2 WEQ-002-5.1.3 WEQ-002-5.6 WEQ-002-101.2.3.1 WEQ-002-101.3.3.2 WEQ-002-101.3.3.3 |

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