

PART 231—INTERPRETATIVE RELEASES RELATING TO THE SECURITIES ACT OF 1933 AND GENERAL RULES AND REGULATIONS THEREUNDER

Authority: 15 U.S.C. 77a *et seq.*

■ 4. Part 231 is amended by adding an entry for Release No. 33–10751 at the end of the table to read as follows:

■ 3. The authority citation for part 231 is added to read as follows:

Subject	Release No.	Date	Fed. Reg. Vol. and page
* * *	*	*	*
Commission Guidance on Management's Discussion and Analysis of Financial Condition and Results of Operations.	33–10751	January 30, 2020	[insert FR citation of publication].

PART 241—INTERPRETATIVE RELEASES RELATING TO THE SECURITIES EXCHANGE ACT OF 1934 AND GENERAL RULES AND REGULATIONS THEREUNDER

Authority: 15 U.S.C. 78a *et seq.*

■ 6. Part 241 is amended by adding an entry for Release No. 34–88094 at the end of the table to read as follows:

■ 5. The authority citation for part 241 continues to read as follows:

Subject	Release No.	Date	Fed. Reg. Vol. and page
* * *	*	*	*
Commission Guidance on Management's Discussion and Analysis of Financial Condition and Results of Operations.	34–88094	January 30, 2020	[insert FR citation of publication].

By the Commission.
 Dated: January 30, 2020.
Eduardo A. Aleman,
Deputy Secretary.
 [FR Doc. 2020–02296 Filed 2–24–20; 8:45 am]
BILLING CODE 8011–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 2 and 38

[Docket No. RM05–5–025; Docket No. RM05–5–026; Docket No. RM05–5–027; Order No. 676–I]

Standards for Business Practices and Communication Protocols for Public Utilities

AGENCY: Federal Energy Regulatory Commission, DOE.
ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is revising its regulations to incorporate by reference, with certain enumerated exceptions, the latest version (Version 003.2) 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) as mandatory enforceable requirements. The Commission is adopting this latest version instead of WEQ Version 003.1, which was the subject of an earlier notice of proposed rulemaking. The Commission declines to adopt the proposal to remove the incorporation by reference of the WEQ–006 Manual Time Error Correction Business Practice Standards as adopted by NAESB.
DATES: *Effective date:* This rule is effective April 27, 2020.
Compliance dates: Public utilities must make a compliance filing to comply with the requirements of this

final rule through eTariff no later than May 26, 2020. The Commission will set an effective date for the proposed tariff changes in the order(s) on the compliance filings, but no earlier than July 27, 2020.

Incorporation by reference: The incorporation by reference of certain publications listed in this rule is approved by the Director of the Federal Register as of April 27, 2020.

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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, with certain enumerated exceptions, the latest version (Version 003.2) 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 as a package on December 8, 2017 (December 8 Filing), and includes minor clarifications and updates submitted by NAESB on June 5, 2019, and July 23, 2019.

2. The WEQ Version 003.2 Standards build upon the standards included in the WEQ Version 003.1 Standards and include, in their entirety, the modifications submitted to the Commission in WEQ Version 003.1, which were the subject of an earlier notice of proposed rulemaking, with the addition of certain revisions and corrections.²

3. In this final rule, the Commission will not adopt the NOPR proposal to incorporate by reference NAESB's latest version of the WEQ-006 Manual Time Error Correction Business Practice Standards. Version 003.2 of NAESB's WEQ-006 Manual Time Error Correction Business Practice Standards proposes to retire the Time Error Correction Business Practice Standard, which have been the subject of a separate notice of proposed rulemaking.³ As explained below, the proposal to retire the Manual Time Error Correction Business Practice Standard

has not been adequately supported by NAESB.

4. Additionally, this final rule updates NAESB's Smart Grid Standards (set out in Standards WEQ-018 and WEQ-019) that the Commission listed for informational purposes in Part 2 of the Commission's Regulations, to match the latest iteration of those standards. These revisions update earlier versions of the WEQ-018 and WEQ-019 Standards that the Commission previously listed in Part 2 of our regulations as non-mandatory guidance at 18 CFR 2.27 in Order No. 676-H.⁴

5. Finally, the Commission is incorporating by reference the WEQ-022 Electric Industry Registry (EIR) Business Practice Standards, but declines to incorporate by reference in its entirety the WEQ-023 Modeling Business Practice Standards. In WEQ Version 003.1, NAESB developed these two new suites of standards in coordination with the North American Electric Reliability Corporation (NERC).⁵ These two proposals would establish: (1) NAESB EIR business practice standards that replace the NERC Transmission System Information Networks (TSIN) as the tool to be used by wholesale electric markets to conduct electronic transactions via electronic tagging (e-Tags); and (2) Modeling Business Practice Standards to support and complement NERC's proposed retirement of its "MOD A" Reliability Standards.⁶ In this final rule,

the Commission is incorporating by reference the WEQ-023 standards that were moved from the WEQ-001 Standards by the changes made to WEQ Version 003.1. The Commission declines to adopt the remaining WEQ-023 Modeling Business Practice Standards as they are the subject of a separate proceeding.

I. Background

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

7. 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 the Wholesale Electric Quadrant (WEQ), the Wholesale Gas Quadrant, and the Retail Market Quadrant.⁷ All participants in the natural gas and electric industries are eligible to join NAESB and participate in standards development.

8. NAESB develops its standards under a consensus process so that the standards draw support from a wide range of industry members. NAESB's procedures are designed to ensure that all industry members can have input into the development of a standard, whether or not they are members of

¹ 16 U.S.C. 791a, *et seq.* (2018).

² NAESB filed WEQ Version 003.1 of the Standards for Business Practices and Communication Protocols for Public Utilities as a package on October 26, 2015 (October 26 Filing). See *Standards for Business Practices and Communication Protocols for Public Utilities*, Notice of Proposed Rulemaking, 81 FR 49580 (July 28, 2016), 156 FERC ¶ 61,055 (2016) (WEQ Version 003.1 NOPR).

³ *Standards for Business Practices and Communication Protocols for Public Utilities*, Notice of Proposed Rulemaking, 83 FR 51654 (Oct. 12, 2018), 165 FERC ¶ 61,007 (2018) (Time Error Correction NOPR).

⁴ See *Standards for Business Practices and Communication Protocols for Public Utilities*, Order No. 676-H, 79 FR 56,939 (Oct. 24, 2014), 148 FERC ¶ 61,205, at P 77 (2014).

⁵ NERC is the Commission-certified "electric reliability organization" responsible for developing and enforcing mandatory Reliability Standards. See section 215 of the Federal Power Act, 16 U.S.C. 824o (2018).

⁶ In a February 19, 2014 petition, NERC proposed to retire Reliability Standards MOD-001-1a, MOD-004-1, MOD-008-1, MOD-028-2, MOD-029-1a, and MOD-030-2 and requested approval of new Reliability Standard MOD-001-2. Generally, the "MOD A" series of NERC Reliability Standards pertain to transmission system modeling. The Commission issued a notice of proposed rulemaking in Docket No. RM14-7-000 that addressed NERC's proposal, and the matter is currently pending before the Commission. *Modeling, Data, and Analysis Reliability Standards*, Notice of Proposed Rulemaking, 79 FR 36269 (June 26, 2014), 147 FERC ¶ 61,208 (2014) (MOD NOPR).

In a June 2, 2019 filing, NERC submitted a notice of withdrawal for its petition for approval of the proposed Reliability Standard MOD-001-2 to replace the MOD A Standards in Docket No. RM14-7-000.

⁷ 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.

NAESB, and each standard NAESB adopts is 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 voluntary standards, which become mandatory for public utilities upon incorporation by reference by the Commission.

9. In Order No. 676, the Commission not only adopted business practice standards and communication protocols for the wholesale electric industry, it also established a formal ongoing process for reviewing and upgrading the Commission's Open Access Same Time Information System (OASIS) standards and other wholesale electric industry business practice standards. In later orders in this series, the Commission incorporated by reference: (1) The Version 001 Business Practice Standards;⁸ (2) the Version 002.1 Business Practice Standards;⁹ (3) business practice standards categorizing various demand response products and services;¹⁰ (4) OASIS-related Business Practice Standards related to Demand Side Management and Energy Efficiency;¹¹ and (5) the Version 003 Business Practice Standards.¹²

10. NAESB informed the Commission of the changes it had made to its Version 003 standards in its October 26 Filing to

⁸ *Standards for Business Practices and Communication Protocols for Public Utilities*, Order No. 676-C, 73 FR 43,848, (July 29, 2008), 124 FERC ¶ 61,070 (2008), *reh'g denied*, Order No. 676-D, 124 FERC ¶ 61,317 (2008).

⁹ *Standards for Business Practices and Communication Protocols for Public Utilities*, Order No. 676-E, 74 FR 63,288 (Dec. 3, 2009), 129 FERC ¶ 61,162 (2009). This order also incorporated revisions made in response to Order Nos. 890, 890-A, and 890-B. *See Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, 118 FERC ¶ 61,119, *order on reh'g*, Order No. 890-A, 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, 126 FERC ¶ 61,228, *order on clarification*, Order No. 890-D, 129 FERC ¶ 61,126 (2009).

¹⁰ *Standards for Business Practices and Communication Protocols for Public Utilities*, Order No. 676-F, 75 FR 20,901 (Apr. 22, 2010), 131 FERC ¶ 61,022 (2010).

¹¹ *Standards for Business Practices and Communication Protocols for Public Utilities*, Order No. 676-G, 78 FR 14,654 (Mar. 7, 2013), 142 FERC ¶ 61,131 (2013). In this rule, the Commission incorporated by reference into its regulations updated business practice standards adopted by NAESB's WEQ to categorize various products and services for demand response and energy efficiency and to support the measurement and verification of these products and services in organized wholesale electric markets.

¹² *See* Order No. 676-H, 148 FERC ¶ 61,205 (2014).

the Commission. NAESB adopted certain new and revised WEQ Version 003.1 Business Practice Standards based on developments involving NERC. In part, NAESB developed the WEQ-023 Modeling Business Practice Standards in response to a NERC petition to delete and retire the six "MOD A" Reliability Standards. NERC had previously filed a petition with the Commission on February 10, 2014, proposing to retire NERC's six MOD A Reliability Standards and replace them with Reliability Standard MOD-001-2, which NERC stated will focus exclusively on the reliability aspects of Available Flowgate Capability (AFC) and Available Transfer Capability (ATC). On February 7, 2014, NERC submitted a request to NAESB asking NAESB to consider adopting standards that address the commercial and business aspects of the MOD standards proposed for retirement. NAESB subsequently developed the WEQ-023 Business Practice Standards to support and complement the proposed retirement of the MOD A Reliability Standards.

11. The WEQ-023 Business Practice Standards specify the requirements for calculating ATC and AFC and support the tasks of reporting on the commercial aspects of these calculations.¹³ WEQ-023 also includes two new requirements not previously included in the NERC Reliability Standards related to contract path management. These two standards, WEQ-023-1.4 and WEQ-023-1.4.1, limit the amount of firm transmission service across a path between balancing authorities to the contract path limit for that given path.

12. After consideration of the October 26 Filing, the Commission issued the WEQ Version 003.1 NOPR on July 21, 2016, wherein the Commission proposed to incorporate the WEQ Version 003.1 Standards, with certain enumerated exceptions. In the WEQ Version 003.1 NOPR, the Commission announced that it will address separately NAESB's WEQ-023 Modeling Business Practice Standards, which concern technical issues affecting ATC/AFC calculation for wholesale electric transmission services.¹⁴

13. In response to the WEQ Version 003.1 NOPR, eight stakeholders filed comments.¹⁵ A number of comments expressed general support for the Commission's proposals in the WEQ Version 003.1 NOPR, and no comments

¹³ NAESB October 26 Filing at 3.

¹⁴ *See* WEQ Version 003.1 NOPR, 156 FERC ¶ 61,055 at P 42.

¹⁵ Commenters on the WEQ Version 003.1 NOPR, and the abbreviations used in this final rule to identify them, are listed in the Appendix.

were received opposing the basic direction of the NOPR, although commenters did make suggestions on several specific details of the NOPR proposals.

14. On May 27, 2017, NAESB filed a report with the Commission¹⁶ stating that it "reserved" the WEQ-006 Manual Time Error Correction Standards to correspond to the NERC retirement of Reliability Standard BAL-004-0 Time Error Correction.¹⁷ NERC continues to provide Reliability Coordinators serving as time monitors in the North American Interconnections with a time monitoring reference document that specifies how manual time error corrections are to be implemented if needed to resolve time error issues and outlines procedural responsibilities assigned to the time monitor.¹⁸ NERC provides the time monitoring reference document for guidance, and the information therein does not reflect binding norms or mandatory requirements.¹⁹

15. On December 8, 2017, NAESB filed the WEQ Version 003.2 Standards. The WEQ Version 003.2 Standards build upon the standards included in the WEQ Version 003.1 Standards and include, in their entirety, the modifications submitted to the Commission in WEQ Version 003.1, which were the subject to the WEQ Version 003.1 NOPR, with the addition of certain revisions and corrections. 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 incorporate the WEQ Version 003.2 Standards, with certain enumerated exceptions.²⁰

16. On June 5, 2019, NAESB submitted informational comments in the WEQ 003.2 docket to inform the Commission of ongoing NERC and NAESB coordination efforts, and clarified that it had reserved certain WEQ-001 OASIS Business Practice Standards included as part of WEQ Version 003.2 to avoid duplication with

¹⁶ NAESB Status Report on the Reservation of WEQ-006 Manual Time Error Correction Business Practice Standards, March 27, 2017 (March 27 Filing), Docket Nos RM05-000 and RD17-1-000.

¹⁷ *See N. Amer. Elec. Reliability Corp.*, Docket No. RD17-1-000 (Jan. 18, 2017) (delegated order). The delegated letter order approved NERC's Nov. 10, 2016 filing of the petition for approval of retirement of then-effective Reliability Standard BAL-004-0.

¹⁸ NERC, Time Monitoring Reference Document—Version 4 (approved by the NERC Operating Committee on Sept. 14, 2018).

¹⁹ *Id.* at n.1.

²⁰ *See Standards for Business Practices and Communication Protocols for Public Utilities*, Notice of Proposed Rulemaking, 84 FR 24,050 (May 16, 2019), 167 FERC ¶ 61,127 (2019) (WEQ Version 003.2 NOPR).

the WEQ-023 Modeling Business Practice Standards.

17. On July 23, 2019, NAESB submitted informational comments in response to the WEQ Version 003.2 NOPR stating that a minor correction to the WEQ-003-0 OASIS Data Dictionary was approved to remove references to two data elements and their definitions.²¹ The removal to the references occurred as a result of NAESB's ongoing coordination activities with NERC.

II. Discussion

A. Overview

18. The specific revised or new NAESB business practice standards that we incorporate by reference in this final rule are the following WEQ standards:

WEQ	Business practice standards
000	Abbreviations, Acronyms, and Definition of Terms.
001	Open Access Same-Time Information System (OASIS), OASIS Version 2.2. ²²
002	OASIS Standards and Communication Protocols (S&CP), OASIS Version 2.2.
003	OASIS S&CP Data Dictionaries, OASIS Version 2.2.
004	Coordinate Interchange.
006	Manual Time Error Correction.
008	Transmission Loading Relief (TLR)—Eastern Interconnection.
012	Public Key Infrastructure (PKI).
013	OASIS Implementation Guide, Version 2.2.
015	Measurement and Verification of Wholesale Electricity Demand Response.
022	Electric Industry Registry (EIR).
023	Modeling.

19. These standards 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

²¹ Both data elements, PROCEDURE_NAME and PROCEDURE_LEVEL, contain references to the retired NERC Reliability Standards IRO-006-TRE-1—IROL and SOL Mitigation in the ERCOT Region, approved by the Commission for retirement on January 29, 2019.

²² As discussed later in this final rule, the regulatory text accompanying our WEQ Version 003.1 NOPR erroneously proposed to exclude from incorporation several standards in the WEQ-001 suite of standards and also erroneously proposed the incorporation by reference of the entirety of Standard WEQ-023, even though the preamble makes clear that we did not intend to incorporate this standard. As discussed later in this final rule, we correct these errors herein.

business and transactional processes and communication procedures. All of these standards, except for Standards WEQ-022 and WEQ-023, update and replace standards that the Commission previously incorporated by reference in Order No. 676-H. In addition, in this final rule we update our reference to Standard WEQ-019 in Part 2 of our regulations, which houses statements of general policy and interpretations of the Commission, so that we refer to the latest version of that standard.²³

20. 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 (OATTs) 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 an indeterminant effective date (12/31/9998) for the tariff records. The Commission will establish an effective date for the proposed 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**.²⁴ 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.²⁵ In its request for continued waiver, the public

²³ The references to the other smart grid standards that we list informationally in Part 2 of our regulations, at 18 CFR 2.27 (2019), as non-mandatory guidance, are unchanged and do not require updating. These are Standards WEQ-016, WEQ-017, and WEQ-020. We are listing for informational purposes as non-mandatory guidance Standard WEQ-018. We also note that the WEQ Version 003.1 NOPR, at P 49, in discussing Standard WEQ-019, referred to the "International Electrotechnical Commission Information Model." We clarify that the full name of this model is the "International Electrotechnical Commission Common Information Model."

²⁴ As we explained in Order No. 676-H, 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.

²⁵ Order No. 676-E, 129 FERC ¶ 61,162 at P 107.

utility must include the date, Docket No. 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.

21. As the Commission has explained in prior orders, NAESB approved the standards under its consensus procedures.²⁶ 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.²⁷

B. Issues Raised by Commenters

22. Eight stakeholders filed comments in response to the WEQ Version 003.1 NOPR. Eight stakeholders also filed comments in response to the WEQ Version 003.2 NOPR. Several comments filed in response to the WEQ Version 003.1 NOPR and WEQ Version 003.2 NOPR expressed general support for the Commission's proposals and no comments were received opposing the basic direction of the two NOPRs, although comments did make suggestions on several specific details of the NOPR proposals. Comments were also filed in response to the Time Error Correction NOPR by five commenters. Commenters were divided with regard to the Commission's proposal to remove the incorporation by reference of the

²⁶ See Order No. 676-H at P 21, n.27 ("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 supermajority 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.")

²⁷ Public Law No. 104-113, 12(d), 110 Stat. 775 (1996), 15 U.S.C. 272 note (1997).

NAESB WEQ-006 Manual Time Error Correction Business Practice Standards. One commenter, Dr. Hardis, argued that his comments should be considered a complaint pursuant to 16 U.S.C. 824o(d)(3), and argued that the Commission should remand the matter of reliability standard BAL-004 back to NERC for reconsideration.

1. Treatment of Requests for Redirects

a. Request for Comments

23. In *Dynegy Power Marketing, Inc.*,²⁸ 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. In the WEQ Version 003.1 NOPR, the Commission invited comment on whether the Commission should extend the *Dynegy* policy to both conditional original (parent) reservations for firm transmission service and non-firm transmission service.²⁹ In *Dynegy*, the Commission held that a transmission customer receiving firm transmission service does not lose its rights to its original path until the redirect request satisfies all of the following criteria: (1) It is accepted by the transmission provider; (2) it is confirmed by the transmission customer; and (3) it passes the conditional reservation deadline under section 13.2 of the transmission provider's OATT. The Commission's concern was that a redirecting customer would lose its rights to the original parent path upon confirmation of a redirect request and be left with no transmission service during the redirect period if the requested redirect was preempted by a competing service request.

24. The NAESB Version 003.1 WEQ-001 business practice standards propose to permit a transmission customer to redirect point-to-point transmission service on a firm basis (WEQ-001-9) from unconditional parent reservations. While the standards do not explicitly permit redirects on a firm or non-firm basis from conditional parent reservations still subject to competition, the proposed standards include an option allowing individual transmission providers to implement alternative practices to the NAESB standards that apply to redirects on a firm basis from

parent reservations that are conditional (text of WEQ-001-9 preamble).³⁰

25. In the WEQ Version 003.1 NOPR, the Commission explained that the negative effects associated with the potential loss of a customer's parent path when the parent reservation is conditional and subject to competition is arguably less compelling than when the parent reservation is unconditional. The Commission then invited comment on whether the Commission should extend the *Dynegy* policy to both conditional parent reservations for firm transmission service and non-firm transmission service.³¹ To aid the Commission's consideration of this issue, the Commission referenced four redirect issues on which NAESB stakeholders were unable to reach consensus and invited comments on whether the Commission should adopt regulations governing the business practices to be followed for requests for redirects from conditional parent reservations for short-term firm transmission service and for non-firm transmission service. These issues are: (1) The treatment of a firm redirect for transmission service following the preemption of the conditional parent reservation; (2) the circumstances under which a firm redirect for transmission service may return to the conditional parent reservation; (3) the number of subsequent firm redirects for transmission service that can stem from the original firm redirect for transmission service; and (4) the proper treatment of requests to redirect requests for non-firm transmission service. In the WEQ Version 003.2 NOPR, the Commission proposed to adopt the NAESB standards with the exception of the text from the WEQ-001-9 preamble, which would allow the implementation of alternative practices.³²

³⁰ Standard WEQ-001-9 states: "[t]he Business Practice Standard WEQ-001-9 is defined in order to enhance consistency of the reservation process that applies to Redirects on a firm basis from Parent Reservations that are unconditional, as defined in Section 13.2(iii) of the pro forma tariff. *The Transmission Provider shall specify any reservation process that applies to Redirects on a firm basis from Parent Reservations that are conditional, as defined in Section 13.2(iii) of the pro forma tariff in its Business Practices that are posted in accordance with Business Practice Standard WEQ-001-13.1.4.*" (emphasis added).

³¹ WEQ Version 003.1 NOPR at P 25.

³² The WEQ Version 003.2 NOPR does not request comments on the WEQ-001-10 preamble, and the language used therein, as related to treatment of redirects on a non-firm basis, is similar to that used in the WEQ-001-9 preamble for firm redirects. For the reasons outlined in this final rule to except the preamble to WEQ-001-9 from incorporation by reference, the preamble to WEQ-001-10 is excepted from incorporation by reference. See *infra* PP 35-39.

b. Comments

26. Virtually all the comments received on this subject oppose the option of extending the *Dynegy* redirect policy to either conditional parent reservations for short-term firm transmission service or non-firm transmission service.³³ As a result, most commenters express support for NAESB's proposed redirect standards for unconditional parent reservations,³⁴ but did not express support for the proposed language provided within the WEQ-001-9 preamble that would also allow transmission providers the option of implementing alternative practices for redirects from conditional reservations.³⁵ In addition, commenters did not express support for the proposed language provided within the WEQ-001-10 preamble that would allow transmission providers the option of implementing alternative practices for redirects from non-firm reservations.³⁶ Southern expressed support for retaining the first sentence in the WEQ 001-9 and WEQ 001-10 preambles to make the applicability of the *Dynegy* policy to these standards clear.³⁷ Simultaneously, some commenters state that they recommend or at least could support the application of a separate policy to provide transmission customers with the ability to redirect from conditional parent reservations.³⁸

27. Various commenters note that, under the *Dynegy* redirect policy, the transmission provider must hold ATC for the original firm reservation on the original path and simultaneously hold ATC on the redirect reservation's path until the redirect reaches the conditional deadline, and, at such time, capacity on the parent path may then be

³³ Bonneville WEQ Version 003.1 Comments at 5; EEI WEQ Version 003.1 Comments at 5; Idaho Power WEQ Version 003.1 Comments at 2; Joint Commenters WEQ Version 003.1 Comments at 6; OATI WEQ Version 003.1 Comments at 3; Snohomish/Tacoma WEQ Version 003.1 Comments at 1; Southern WEQ Version 003.1 Comments at 4.

³⁴ NAESB's redirect standards require a reservation for service to be unconditional before it may be redirected.

³⁵ Bonneville WEQ Version 003.1 Comments at 4, 7; Idaho Power WEQ Version 003.1 Comments at 2; Joint Commenters WEQ Version 003.1 Comments at 6; OATI at 3; and Southern WEQ Version 003.1 Comments at 4. Bonneville WEQ Version 003.2 Comments at 3; MISO WEQ Version 003.2 Comments at 2; OATI WEQ Version 003.2 Comments at 2-3.

³⁶ See e.g., MISO WEQ Version 003.2 Comments at 2; OATI WEQ Version 003.2 Comments at 2; SPP WEQ Version 003.2 Comments at 4.

³⁷ Southern WEQ Version 003.2 Comments at 3.

³⁸ Bonneville WEQ Version 003.1 Comments at 6; OATI WEQ Version 003.1 Comments at 4. Bonneville WEQ Version 003.2 Comments at 2-3; MISO WEQ Version 003.2 Comments at 1-2.

²⁸ 99 FERC ¶ 61,054, at P 9 (2002) (*Dynegy*). This policy was retained and clarified in *Entergy Services, Inc.*, 143 FERC ¶ 61,143, at PP 30-33 (2013) (*Entergy*).

²⁹ WEQ Version 003.1 NOPR at P 25.

released.³⁹ Several commenters contend that this allows the transmission customer to hold priority of service options on two or more transmission paths at the same time.⁴⁰ Joint Commenters ask the Commission if there may be benefits to revisiting specifics of the *Dynegy/Entergy* orders since the requirement that a redirect's parent passes the conditional reservation deadline sacrifices system efficiency.⁴¹

28. Several commenters oppose the proposal to extend the *Dynegy* policy beyond an application to unconditional parent reservations. These commenters point out that prior to the conditional reservation deadline, when the parent reservation is still conditional and subject to competition, there is no guarantee that firm service will be provided to the transmission customer on either the original transmission path or the requested redirect path since the reservation remains subject to competition until the conditional period expires.⁴² They observe that the transmission customer's expectation as to the certainty of service is different in the conditional and unconditional cases.⁴³ Specifically, EEI references sections of the Commission's *pro forma* OATT to support its conclusion that a firm capacity reservation under which the transmission customer is already taking service must already exist, and a reservation for service must be unconditional before it may be redirected.⁴⁴ Bonneville notes that a customer with a conditional parent reservation has no reasonable expectation of service, since a later-queued, higher-priority request may preempt or compete with that customer's conditional parent reservation. And because this expectation of service is different from a customer's expectation of service with an unconditional firm reservation, Bonneville argues it is inappropriate to extend the protections afforded by *Dynegy* to conditional parent reservations.⁴⁵

³⁹ See, e.g., OATI WEQ Version 003.1 Comments at 2–3; NV Energy WEQ Version 003.2 Comments at 1.

⁴⁰ See, e.g., EEI WEQ Version 003.1 Comments at 7; OATI WEQ Version 003.1 Comments at 3. NV Energy WEQ Version 003.2 Comments at 1.

⁴¹ Joint Commenters WEQ Version 003.1 Comments at 8–9.

⁴² See, e.g., EEI WEQ Version 003.1 Comments at 6; OATI WEQ Version 003.1 Comments at 3; Southern WEQ Version 003.1 Comments at 5.

⁴³ See, e.g., Bonneville WEQ Version 003.1 Comments at 5; EEI WEQ Version 003.1 Comments at 6.

⁴⁴ EEI WEQ Version 003.1 Comments at 5–6.

⁴⁵ Bonneville WEQ Version 003.1 Comments at 4–5.

29. Commenters also contend that there may be many difficulties in administering scenarios with multiple conditional, confirmed reservations consuming more transmission capacity than available, since capacity would be retained on both the parent path and all the redirected paths.⁴⁶ Some commenters advise that, if transmission customers are able to redirect from conditional parent reservations, it could result in potentially troublesome administrative, billing, and liability issues.⁴⁷

30. Specifically, Joint Commenters and Southern argue that a transmission customer should only be permitted to redirect transmission service from unconditional parent reservations.⁴⁸ However, EEI argues individual transmission providers should be allowed the option to also permit redirects from conditional parent reservations by moving firm capacity to the redirect path upon confirmation.⁴⁹ Snohomish/Tacoma suggests that the Commission should either: (1) Allow individual transmission providers to craft specific tariff provisions for how redirects from conditional parent reservations will be addressed; or (2) explicitly not apply the *Dynegy* redirect policy, nor any other restriction on redirects from conditional parent reservations.⁵⁰ OATI comments that it is generally not in favor of adopting standards that allow for options to implement transmission provider alternative practices to the NAESB standards.⁵¹

31. OATI notes that, while it supports the application of *Dynegy* to redirects on a firm basis where the parent reservation is confirmed but still within the conditional reservation period (prior to the conditional reservation deadline),⁵² it could also support a NAESB standard where the capacity held on the conditional firm parent reservation is released immediately and lost on the parent path upon confirmation of the redirect on a firm basis.⁵³ Other commenters agree and

⁴⁶ Southern WEQ Version 003.1 Comments at 5; Bonneville WEQ Version 003.2 Comments at 3.

⁴⁷ Idaho Power WEQ Version 003.1 Comments at 2; Southern WEQ Version 003.1 Comments at 5–6; Bonneville WEQ Version 003.2 Comments at 3.

⁴⁸ Joint Commenters WEQ Version 003.1 Comments at 5; Southern WEQ Version 003.1 Comments at 4.

⁴⁹ EEI WEQ Version 003.1 Comments at 4.

⁵⁰ Snohomish/Tacoma WEQ Version 003.1 Comments at 1.

⁵¹ OATI WEQ Version 003.1 Comments at 4.

⁵² *Id.* at 3.

⁵³ *Id.* at 4.

prefer such a NAESB standard for conditional parent reservations.⁵⁴

32. With respect to the Commission implementing a policy where a transmission customer redirects from a conditional parent reservation and the transmission customer loses the rights to the parent reservation once the redirect is confirmed, Bonneville advises that transmission providers will have a straightforward solution that is implementable and that can leverage technical capabilities that currently exist in most of the industry, and will not be burdened with accounting for capacity on multiple conditional paths.⁵⁵

33. As to requests for redirects of requests for non-firm transmission service, all the commenters who addressed this issue oppose extending the *Dynegy* redirect policy to non-firm transmission service. Commenters note that the Commission's *pro forma* OATT only permits transmission customers taking firm point-to-point service to make modifications to points of receipt (PORs) and points of delivery (PODs), and the OATT does not state transmission customers may modify PORs and PODs on a non-firm basis.⁵⁶ OATI states that non-firm (secondary) redirect is the lowest priority service under the OATT and would be subject to preemption or interruption at any time to process either a request to reserve or schedule an existing reservation for either firm or non-firm transmission service.⁵⁷

34. Commenters also believe that a request to redirect firm transmission service on a non-firm basis should only be allowed from an unconditional, firm parent reservation.⁵⁸ EEI advises that the potential for gaming, the impact on queue positions and processing, and the problem of undertaking ATC/AFC calculations, outweigh any potential benefits given that a customer can just as easily submit a new request for non-firm transmission service with a modified POR and/or POD.⁵⁹ Commenters state that it is unnecessary to adopt changes to the proposed standards, since a customer can relinquish a capacity reservation

⁵⁴ Bonneville WEQ Version 003.2 Comments at 2–3, MISO WEQ Version 003.2 Comments at 1–2.

⁵⁵ Bonneville WEQ Version 003.1 Comments at 6.

⁵⁶ EEI WEQ Version 003.1 Comments at 10; Joint Commenters WEQ Version 003.1 Comments at 7; Southern WEQ Version 003.1 Comments at 7.

⁵⁷ OATI WEQ Version 003.1 Comments at 6.

⁵⁸ EEI WEQ Version 003.1 Comments at 11; Idaho Power WEQ Version 003.1 Comments at 4; OATI WEQ Version 003.1 Comments at 6.

⁵⁹ EEI WEQ Version 003.1 Comments at 11.

associated with a non-firm redirect back to the parent reservation.⁶⁰

c. Commission Determinations

35. Based on our consideration of the comments, we incorporate by reference the WEQ–001–9 and WEQ–001–10 standards with the exception of the text contained in the preambles to WEQ–001–9 and WEQ 001–10, which appear to allow transmission providers to adopt alternative procedures for redirects from conditional parent reservations. NAESB revised its standards by adding Standard WEQ 001–9.5.4 to apply the *Dynegy* policy to redirects from unconditional firm service. This standard provides for retention of parent transmission rights when the transmission provider confirms a redirect from unconditional firm service but during the period when the redirect remains conditional (*i.e.*, before the conditional deadline under *pro forma* OATT section 13.2).

36. We conclude that limiting the *Dynegy* policy to redirects from unconditional firm service is reasonable. We base this finding on several factors. With respect to redirect requests with conditional parent reservations, we note that, prior to the conditional reservation deadline, there is no guarantee that firm service will be provided to the transmission customer on the original transmission path. Moreover, the *Dynegy* policy was designed to protect a firm transmission customer that requests a redirect from losing its rights on the original path while its redirect request is pending. This is not the same as establishing a right that requires the transmission provider to hold ATC simultaneously on both the original path and the redirect path when the customer has no right to use a path service on *either* path. The only risk to a customer that requests a redirect for a conditional parent reservation would be the customer losing a right to use a path it does not yet have. As a result, the *Dynegy* policy will extend to neither short-term firm point-to-point transmission service nor non-firm transmission service, and the *Dynegy* policy continues to be limited to parent reservations that are unconditional, as defined in Section 13.2 of the *pro forma* OATT.

37. We decline to incorporate by reference the preamble to WEQ–001–9, which appears to exempt redirects from conditional firm parents from the remainder of the redirect standards and permits transmission providers to implement their own procedures for

redirect requests from conditional firm parents. The preamble to standard WEQ–001–9 states:

The Business Practice Standard WEQ–001–9 is defined in order to enhance consistency of the reservation process that applies to Redirects on a firm basis from Parent Reservations that are unconditional as defined in Section 13.2(iii) of the *pro forma* tariff. The Transmission Provider shall specify any reservation process that applies to Redirects on a firm basis from Parent Reservations that are conditional, as defined in Section 13.2(iii) of the *pro forma* tariff in its Business Practices that are posted in accordance with Business Practice Standard WEQ–001–13.1.4.

38. Prior to the revision from WEQ Version 003.1, the WEQ 001–9 section did not contain a preamble and all the redirect standards for firm service applied to redirects from both unconditional and conditional firm parents. We see no reason to exempt redirects from conditional firm parents from these standards with the exception of standard WEQ 001–9.5.4 implementing the *Dynegy* policy with respect to unconditional firm parents, as discussed above. The application of the remaining redirect standards to redirects from conditional parents will help ensure consistency across the grid. For these same reasons we also decline to incorporate by reference the preamble included at the beginning to WEQ–001–10, which, as of WEQ Version 003.2, applies the above-quoted preamble to redirect requests for non-firm service.

39. We agree with commenters who highlighted the administrative burden associated with standards that allow individual transmission providers to specify their own various business processes for redirects. Without consistent standards, transmission providers and transmission customers would then have to incur the costs of developing different business processes to adapt to the differing requirements, increasing the cost and complexity of their businesses. Furthermore, consistent standards help achieve greater efficiency and reduce costly disparities.

2. Time Error Correction

a. Request for Comments

40. In the Time Error Correction NOPR, the Commission proposed to approve NAESB's latest version of its Business Practice Standards to remove the incorporation by reference of the Wholesale Electric Quadrant (WEQ) WEQ–006 Manual Time Error Correction Business Practice Standards as adopted by NAESB in its WEQ Version 003.0 Businesses Practice

Standards.⁶¹ The WEQ–006 Manual Time Error Correction Business Practice Standards outline the commercial based procedures to be used for reducing time error to keep the system's time within acceptable limits of true time. NAESB's latest version of its Business Practice Standards retires and eliminates the Manual Time Error Correction Business Practice Standards to correspond with NERC's retirement of the Time Error Correction requirements, which the Commission approved in 2017. In the Time Error Correction NOPR, the Commission also proposed to incorporate by reference Standard WEQ–000, Abbreviations, Acronyms, and Definition of Terms Business Practice Standards (Version 003.2), which would eliminate the definitions of "Time Error" and "Time Error Correction" as well as making unrelated minor corrections.

b. Comments

41. Commenters were divided in their response to NAESB's proposal to remove the incorporation by reference of the WEQ–006 Manual Time Error Correction Business Practice Standards. NERC states that NAESB reserved WEQ–006 in coordination with NERC's retirement of Reliability Standard BAL–004–0, as approved by the Commission in 2017, and removing the reference to WEQ–006 in 18 CFR 38.1(b) ensures clarity and avoids inadvertent, uncoordinated, manual time error correction.⁶² SPP adds that removal of WEQ–006 from the Commission's regulations and the update of Standard WEQ–000 will promote clarity and ensure consistency between the Commission's regulations and current NERC and NAESB standards.⁶³

42. By contrast, Dr. Demetrios Matsakis and Dr. Jonathan Hardis⁶⁴ state that the proposed rule change is not in the public interest,⁶⁵ and Dr. Hardis asserts the public interest standard is the appropriate standard of review.⁶⁶ Dr. Hardis states that his

⁶¹ Time Error Correction NOPR, 165 FERC ¶ 61,007 at P 1.

⁶² NERC Time Error Correction NOPR Comments at 1–2.

⁶³ SPP Time Error Correction NOPR Comments at 2.

⁶⁴ Dr. Matsakis and Dr. Hardis submit their comments as individual citizens and not on behalf of any organization or employee. Dr. Matsakis is Chief Scientist for Time Services at the U.S. Naval Observatory. Dr. Hardis is a Senior Scientific Advisor for the Physical Measurement Laboratory at the National Institute for Standards and Technology.

⁶⁵ Dr. Matsakis Time Error Correction Comments at 1.

⁶⁶ Dr. Hardis Time Error Correction Comments at 1.

⁶⁰ Bonneville WEQ Version 003.1 Comments at 7; Idaho Power WEQ Version 003.1 Comments at 4.

comments should also serve as a complaint pursuant to 16 U.S.C. 824o(d)(5)⁶⁷ and asserts that the Commission should remand the matter of Reliability Standard BAL-004 back to NERC for reconsideration.⁶⁸ Additionally, Dr. Hardis and Dr. Matsakis advise that the business practice of “Time Error Correction” works so well as a commercial service that the public gives little thought to why their synchronous clocks and appliances work. They state that, without Time Error Correction, synchronous clocks and appliances, which provide accurate time through the utilization of power line frequency, will not be accurate or work properly.⁶⁹ Referring to Docket No. RD17-1-000, in which the Commission approved the retirement of Reliability Standard BAL-004-0, Dr. Hardis states the record in that proceeding contained statements that suggest a basic misunderstanding regarding Time Error Correction. He asserts that better regulating the grid frequency to be 60 Hz does not substitute for or eliminate the need for Time Error Correction.⁷⁰

43. Dr. Hardis also responds to the major arguments presented in Docket No. RD17-1-000 that support the retirement of Reliability Standard BAL-004-0.⁷¹ In support of his arguments, Dr. Hardis references a research paper that analyzes industry-supplied Time Error Correction data to conclude that without Time Error Correction being in effect between March 2016, when Daylight Saving Time was implemented, and November 2016, when Standard Time was re-implemented, there would have been approximately 7.5 minutes of time drift on the Eastern Interconnection.⁷²

44. Dr. Hardis also asserts that the decision to retire WEQ-006 was primarily made by those involved within NAESB’s Wholesale Energy Quadrant, without adequate notice, which results in a lack of balance and underrepresentation from other interests (e.g., retail consumers, appliance manufacturers, and state regulatory

agencies).⁷³ Additionally, Dr. Hardis contends that Time Error Correction is an interstate issue and that some kind of enforceable standards are still needed.⁷⁴

45. NAESB filed comments clarifying that NAESB: (1) Is accredited by the ANSI; (2) is obligated to adhere to the ANSI principles of standards development, including the principles of openness and balance; and (3) employed extensive efforts to distribute notice to more than 200 different entities regarding the standards development effort, the formal comment period, and the intent of the NAESB WEQ Executive Committee to consider and vote on the recommended standard reservations and modifications.⁷⁵ NAESB notes that it adheres to its governing principle of openness during the standards development process, with publicly noticed meetings, agendas, and items set for discussion and/or possible vote. NAESB notes that its process allows for all interested parties, regardless of membership, to have the opportunity to participate in the development of standards.⁷⁶

c. Commission Determinations

46. Upon consideration of the record, we will not adopt the Time Error Correction NOPR proposal to remove the incorporation by reference to NAESB’s latest version of the WEQ-006 Manual Time Error Correction Business Practice Standards. We find that NAESB has not provided sufficient justification for retiring Time Error Correction as a business standard; the only support provided for its retirement is that NERC retired the corresponding Reliability Standard as being unnecessary for reliability. In their comments, Dr. Hardis and Dr. Matsakis, however, raise considerable un rebutted concerns about the retirement of NAESB’s Time Error Correction standards, citing significant reasons for why there is a continued need for, and possibly expansion, of such standards. While the Commission previously approved the retirement of NERC’s BAL-004-0 (Time Error Correction) as related to reliability,⁷⁷ NOPR commenters provide significant evidence that Time Error Correction remains an important business practice that requires robust and meaningful business practice standards. Moreover,

NERC continues to provide Reliability Coordinators serving as time monitors in the North American Interconnections with a time monitoring reference document that specifies how manual time error corrections are to be implemented if needed and outlines procedural responsibilities assigned to the time monitor. After considering this record, we advise public utilities to work through the NAESB business practices development processes to revisit the rationale for removing the Time Error Correction standards to determine whether they should be retained or revised. Therefore, we do not adopt the NOPR proposal to incorporate by reference the reservation of the WEQ-006 Manual Time Error Correction Business Practice Standards, nor do we adopt the elimination to the definitions of “Time Error” and “Time Error Correction” in Standard WEQ-000 (Version 003.2). Rather, in this final rule, we incorporate by reference the WEQ-006 Version 003.1 Standard for Time Error Correction.

47. With regard to Dr. Hardis’ comments on the retirement of Reliability Standard BAL-004-0, we find that those comments are outside the scope of this proceeding and therefore we do not address them here. Moreover, we dismiss that portion of Dr. Hardis’ comments wherein he requests that the Commission treat his pleading also as a complaint under 16 U.S.C. 824o(d)(5).⁷⁸

3. Other Issues Raised by Commenters

a. NERC/NAESB Coordination

i. Comments

48. NAESB states that it developed the WEQ-023 Modeling Business Practice Standards in WEQ Version 003.1 to support and complement the proposed retirement of certain NERC MOD A Reliability Standards which were to be replaced by NERC MOD-001-2 Reliability Standards. It states that the proposed NERC MOD-001-2 Reliability Standards were before the Commission in Docket No. RM14-7-

⁷⁸ The Commission has consistently rejected efforts to combine complaints with other types of filings. See *Midwest Indep. Transmission Sys. Operator, Inc.*, 108 FERC ¶ 61248, at 62,383 n.8 (2004) (citing *Entergy Servs., Inc.*, 52 FERC ¶ 61,317 at 62,270 (1990) (stating that the Commission has determined that complaints must be filed separately from motions to intervene and protests)). In rejecting these combined requests, we have stated that a combined filing does not assure that the procedural and other requirements applicable to the processing of a complaint will be met. Our dismissal of the conditional complaint is without prejudice to Dr. Hardis filing a separate complaint consistent with Rule 206 of the Commission’s Rules of Practice and Procedure. See 18 CFR 385.206 (2019).

⁶⁷ *Id.* at 17.

⁶⁸ *Id.* at 2, 17.

⁶⁹ *Id.* at 1-3; Dr. Matsakis Time Error Correction Comments at 1.

⁷⁰ Dr. Hardis Time Error Correction Comments at 4.

⁷¹ *Id.* at 9-13.

⁷² *Id.* at 14 (citing J.E. Hardis, B. Fonville, and D. Matsakis, “Time and frequency from electrical power lines,” Proceedings of the 48th Annual Precise Time and Time Interval Systems and Applications Meeting, Monterey, California, January 2017, pp. 372-386, <https://www.nist.gov/publications/time-and-frequency-electrical-power-lines>).

⁷³ Dr. Hardis Time Error Correction Comments at 16.

⁷⁴ *Id.* at 14-15, 17.

⁷⁵ NAESB Time Error Correction Comments at 1-2.

⁷⁶ *Id.*

⁷⁷ See *North American Electric Reliability Corp.*, Docket No. 17-1-000 (Jan. 18, 2017) (delegated order).

00.⁷⁹ As part of the WEQ-023 Modeling Business Practice Standards, NAESB proposes to move 13 WEQ-001 standards and one appendix that relate to the calculation of ATC/AFC to WEQ-023.⁸⁰ NAESB states that these 13 standards are currently included in WEQ-001-18 Postback Requirements and WEQ-019 Grandfathered Agreements. On June 5, 2019, NAESB submitted comments in the WEQ Version 003.2 NOPR proceeding reiterating that the WEQ-001 OASIS Business Practice Standards, included as part of WEQ Business Practice Standards Version 003.2, reserved 13 individual standards and one appendix for consistency purposes to avoid duplication with the WEQ-023 Modeling Business Practice Standards.⁸¹

49. NAESB also submitted separate comments to the Commission detailing the ongoing coordination activities between NAESB and NERC, which led to NAESB's submission of a minor correction to WEQ-003-0 OASIS Data Dictionary to remove references to two data elements and their definitions.⁸² NAESB states that both data elements, PROCEDURE_NAME and PROCEDURE_LEVEL, contain references to the retired NERC Reliability Standards IRO-006-TRE-1—IROL and SOL Mitigation in the ERCOT Region, approved by the Commission for retirement on January 29, 2019.

ii. Commission Determination

50. The Commission appreciates and supports the ongoing coordination activities between NAESB and NERC. We decline NAESB's request to incorporate by reference the entire WEQ-023 Modeling Business Practice Standards, and are instead incorporating by reference only those standards moved from WEQ-001 to WEQ-023. The Commission is considering NERC's proposed retirement of its ATC-related Reliability Standards in Docket No. RM14-7-000. In addition, the Commission established a proceeding in Docket No. AD15-5-000 to consider the proposed changes to the calculation of ATC, and has conducted a technical conference and received comments

regarding such changes.⁸³ As a result, we do not incorporate by reference the entire WEQ-023 Modeling Business Practice Standards in this final rule, but instead only incorporate by reference those sections listed below, and will consider the remaining standards as part of the overall inquiry into ATC calculation.

51. In its WEQ Version 003.1 filing, NAESB requested to move 13 standards and Appendix D related to ATC/AFC that are currently included in WEQ-001 to WEQ-023. In addition to moving the enumerated standards to WEQ-023, NAESB seeks to reserve the 13 standards and Appendix D in WEQ-001. In this final rule, we approve NAESB's request to move the 13 standards and Appendix D to WEQ-023 and reserve the same standards and appendix within WEQ-001. Accordingly, the regulatory text accompanying this final rule incorporates by reference certain of the WEQ-023 Standards, including: 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. Consistent with our support of the ongoing NAESB and NERC collaborative standards development activities, in this final rule, we also grant NAESB's request and incorporate by reference the removal of references to the two data elements, PROCEDURE_NAME and PROCEDURE_LEVEL, and their definitions within the WEQ-003-0 OASIS Data Dictionary.

b. Corrections to Regulatory Text

i. Comments

52. A number of commenters have noted minor inconsistencies between the discussion in the preamble of the WEQ Version 003.1 NOPR of the standards proposed to be incorporated by reference and the proposed regulatory text. They suggest that the regulatory text be corrected to better match up with the discussion in the preamble. We agree. Commenters note an inconsistency in the WEQ Version 003.1 NOPR, between paragraph 27 of the WEQ Version 003.1 NOPR stating that the Commission proposed to incorporate the revised standards on timing of ATC narrative posting and the final proposed action to amend § 38.1

⁸³ See, e.g., the December 18, 2014 status report filed by NAESB in Docket Nos. RM05-5-000 and RM14-7-000, and the Commission's April 21, 2015 workshop, *Available Transfer Capability Standards for Wholesale Electric Transmission Services*, Docket No. RM15-5-000.

which continued to exclude 001-14.1.3 and 001-15.1.2.⁸⁴ Commenters note that there is no further discussion of this action in the Version 003.2 NOPR.⁸⁵

53. Commenters also note minor inconsistencies between the Commission's WEQ Version 003.1 NOPR to adopt revised standard WEQ 001-106.25, and the Commission's exclusion of WEQ 001-106.25 in the WEQ Version 003.2 NOPR.⁸⁶ In the Version 003.1 NOPR, the Commission proposed to incorporate by reference, into the Commission's regulations at 18 CFR 38.1, NAESB's revised Standards WEQ-WEQ-001-106.2.21, WEQ-001-106.2.1.1, and WEQ-001-106.2.5, as set forth in the WEQ Version 003.1 Business Practice Standards.

ii. Commission Determination

54. In consideration of these comments, in this final rule we incorporate by reference 001-14.1.3 and 001-15.1.2 into the Commission's regulations at 18 CFR 38.1. We also incorporate by reference WEQ 001-106.25 into the Commission's regulations at 18 CFR 38.1.

c. Suggested Modifications to WEQ-004

i. Comments

55. CAISO offers two suggestions for modifying Standard WEQ-004 and suggests that the Commission make a request to NAESB to address these issues. Its first suggestion relates to Appendix A of revised NAESB Standard WEQ-004, Section B.3, which requires a Sink Balancing Authority to communicate a message via email only to adjacent Balancing Authorities during an e-Tag Authority Service failure.⁸⁷ CAISO suggests that the Sink Balancing Authority be allowed to broadcast its message to adjacent Balancing Authorities "by email or similar alternate method." CAISO argues that this broader language would allow for alternate methods of communication to be used in instances where the e-Tag Authority Service is not functioning because the internet itself is unavailable.

56. CAISO's second suggestion relates to the language in Standard WEQ-004, Section B.4 and the subsequent table under the heading "Singular Failure

⁸⁴ OATI WEQ Version 003.1 Comments at 3; Southern WEQ Version 003.1 Comments at 7-8.

⁸⁵ OATI WEQ Version 003.1 Comments at 3; Southern WEQ Version 003.1 Comments at 7-8.

⁸⁶ Bonneville WEQ Version 003.2 Comments at 4; OATI WEQ Version 003.2 Comments at 3-4; Southern WEQ Version 003.2 Comments at 8-9; SPP WEQ Version 003.2 Comments at 5.

⁸⁷ CAISO WEQ Version 003.1 Comments at n.3 (citing WEQ-004-A, Appendix A, Section B (e-Tag Authority Service Failure Actions, No. 3)).

⁷⁹ NAESB October 26 Filing at 13.

⁸⁰ *Id.* at 14.

⁸¹ NAESB enumerates the following standards as reserved WEQ-001-18, WEQ-001-18.1, WEQ-001-18.1.1, WEQ-001-18.1.2, WEQ-001-18.1.2.1, WEQ-001-18.1.2.2, WEQ-001-18.1.2.3, WEQ-001-18.1.3, WEQ-001-18.2, WEQ-001-19, WEQ-001-19.1, WEQ-001-19.1.1, WEQ-001-19.1.2, and WEQ-001-D Appendix D. NAESB December 8, 2017 Filing at 3-4.

⁸² NAESB WEQ Version 003.2 July 23, 2019 Comments at 2.

Actions.” It argues this language should be amended to broaden the method of communication beyond telephone.⁸⁸ CAISO recommends that this language should be amended to state “communicate and confirm,” which would not only take into account other methods of communication that have been developed and are being used as a result of technological advances (e.g., electronic messaging or industry specific messaging systems like the WECC Net messaging system), but would also allow the messaging contemplated by these provisions to be accomplished by alternate routes should telephone use be unavailable.

ii. Commission Determination

57. We make no finding with regard to CAISO’s suggested modifications, as the proposed changes have not been formally considered by NAESB and have not gone through the requisite consensus proceeding. CAISO can present these suggested revisions to NAESB and work through the NAESB process to build consensus for its position and, if successful, implement these changes at the time when NAESB next updates its business practice standards for public utilities.

d. Suggested Continued Optional Use of DUNS Numbers

i. Comments

58. In its WEQ Version 003.1 NOPR comments EEI states that it supports the Commission’s finding eliminating the use of DUNS numbers to identify organizations in OASIS postings. However, EEI encourages the Commission to recognize that the NAESB standards allow transmission providers who wish to continue using DUNS numbers for other purposes the option to do so, while allowing transmission providers who do not wish to use the numbers simply to fill in the DUNS number field with 9s. While many EEI members prefer not to have to use the DUNS numbers, some members prefer to continue using them for a variety of reasons, for example, to avoid back-office problems and to reconcile with their use of DUNS numbers in the network integration transmission service (NITS) context. Thus, EEI argues that the NAESB approach is an appropriate compromise that the Commission should allow.

ii. Commission Determination

59. The revised Standard WEQ–001–3.1 included in the Version 003.1

package of standards no longer makes any reference to the use of DUNS numbers to identify an organization in OASIS postings. However, we agree with EEI that the revised standard does not *prohibit* the continued use of DUNS numbers to identify an entity in the Electric Industry Registry or for other purposes. We do not find this solution objectionable and do not find this an obstacle to our incorporating the standard by reference as we proposed in the WEQ Version 003.1 NOPR.

e. Timing for Source and Sink Unmasking

i. Comments

60. In its WEQ Version 003.1 NOPR comments, EEI notes that the revised NAESB standards “unmask the source and sink for a request for transmission service for all instances where the request for transmission service is moved to any final state,” and the Commission proposes to adopt this change.⁸⁹ However, EEI recommends against adopting this change and instead encourages the Commission to clarify that source and sink information should continue to be unmasked only when a transmission service request is “confirmed.” EEI argues that, if this standard is incorporated as it currently stands, the Commission could be understood to require unmasking of the source and sink information when a request’s status is withdrawn, refused, invalid, declined, superseded, annulled, or retracted because these can all be considered to be “final states.” However, EEI is concerned that the unmasking of source and sink for these additional statuses could expose market information during the request process, prior to the transmission request being in the actual final state of “confirmed” intended by the submitter.⁹⁰ As an example, EEI describes a situation where a transmission request was submitted with an error and as a result was declined.⁹¹ In such a situation, EEI is concerned that if “declined” were treated as a final state, the source and sink would be exposed prior to obtaining the corrected final state of transmission reservation as “confirmed.” EEI argues that, at a minimum, adding some sort of time delay on all status states other than “confirmed” until the replacement transmission reservation was “confirmed” could allow the submitter to get the corrected request before the source and sink are exposed.⁹²

ii. Commission Determination

61. In effect, EEI asks the Commission to modify Standard WEQ–002–4.3.6.2 by “clarifying” that, despite the language of the standard that source and sink are to be unmasked at the time when the request for transmission service is moved to any final state, the standard should be interpreted to mean that source and sink should not be unmasked until the request reaches the final state of “confirmed” intended by the submitter. Notwithstanding EEI’s concerns, there has been an industry consensus for the standard as adopted by NAESB and we decline to modify the standard as suggested by EEI. EEI or its members may, if they wish, seek to build a consensus through the NAESB process to revise the standard as recommended in its comments.

f. Waivers

i. Comments

62. PJM asks the Commission to continue to acknowledge in its final rule that consistent with Commission precedent and currently-effective policy, each public utility may seek as part of its compliance filing waiver of new or revised standards in the WEQ Version 003.2 Standards, and renewal of existing waivers previously granted by the Commission. PJM requests a similar clarification be included in the final rule for this proceeding.⁹³

ii. Commission Determination

63. 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 public utility can detail the circumstances that it believes warrant a waiver.⁹⁴ In its request for continued waiver, the public utility must include the date, Docket No. 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.

4. Implementation

i. Comments

64. Bonneville recommends the Commission set the implementation timeline to account for implementation of both the Version 003.1 and 003.2 Standards and suggests a timeline of 12 to 15 months to implement changes to OASIS Templates and 24 to 30 months

⁸⁸ *Id.* at n.6 (citing WEQ–004–A, Appendix A, Section B (e-Tag Authority Service Failure Actions, No.4).

⁸⁹ EEI WEQ Version 003.1 Comments at 16.

⁹⁰ *Id.* at 17.

⁹¹ *Id.*

⁹² *Id.*

⁹³ PJM WEQ Version 003.2 Comments at 2–3.

⁹⁴ Order No. 676–E, 129 FERC ¶ 61,162 at P 107.

to implement the WEQ Version 003.1 and 003.2 Standards.⁹⁵ MISO requests that the time allotted for OASIS to support the Version 2.2 OASIS Templates be modified to 12 months, and that the time for Transmission Providers to implement all changes be modified to 24 months.⁹⁶ NV Energy recommends that the Commission allow a total time of 24 months for all the steps required for implementation of Version 003.1 and Version 003.2.⁹⁷ SPP states that the Commission should allow six additional months to implement the changes proposed in Version 003.2 to the 12 months to implement Version 003.1 for a total of 18 months.⁹⁸ EEI notes that the Commission proposes to adopt NAESB standards implementing a one-day posting of ATC narratives explaining changes in monthly or yearly ATC values on a constrained path as a result of a 10-percent change in total transfer capability. EEI argues that in order to provide adequate time for software developers to develop the automation needed to meet the one-day deadline, the Commission should provide at least one year from the effective date of the standard to make these necessary changes.⁹⁹

ii. Commission Determination

65. Public utilities must make a compliance filing to comply with the requirements of this final rule through eTariff no later than 90 days from the date the final rule is published in the **Federal Register**, using an indeterminant effective date (12/31/9998) for the tariff records. The Commission will establish an effective date for the proposed tariff changes in the order(s) on compliance filings. To give parties sufficient time to make computer and other modifications required by this final rule, the Commission will set an effective date no earlier than five months from the date the final rule is published in the **Federal Register**. A few commenters requested additional time to make compliance filings. EEI points to the need to develop software to implement the revisions to ATC; but as discussed earlier, the ATC standards will be addressed in a separate proceeding. Other comments

request additional time to implement both Versions 003.1 and 003.2. This final rule adopts only Version 003.2, except for WEQ-006 Manual Time Error Correction, and does not require combined implementation. Other than these rationales, the comments do not provide specific justification for their longer than usual implementation timelines, so we find no reason to extend the normal implementation schedule.

66. Those utilities that revised their tariff after Order No. 676-H to incorporate the complete set of NAESB standards without modification need to implement the standards incorporated by reference in this final rule no later than five months from the date the final rule is published in the **Federal Register**. For public utilities that do not incorporate the NAESB standards without modification in their tariffs, and consistent with Order No. 587-Y and the Commission's requirement for natural gas pipelines to provide information on the NAESB WGQ Standards incorporated by reference, we are adopting a requirement in this final rule for public utilities to include a single tariff sheet in which they list every NAESB standard currently incorporated by reference by the Commission.¹⁰⁰ This section should be a separate tariff record under the Commission's electronic tariff filing requirement and should be filed electronically using the eTariff portal using the Type of Filing Code 580. The public utility must specify in the tariff record a list of all the NAESB standards currently incorporated by reference by the Commission: (a) Whether the standard is incorporated by reference; (b) for those standards not incorporated by reference, the tariff provision that complies with the standard; and (c) a statement identifying any standards for which the public utility has been granted a waiver, extension of time, or other variance with respect to compliance with the standard.

67. Moreover, utilities that now wish to comply by incorporating the complete set of NAESB standards into their tariffs without modification may do so by making a filing with the Commission to include the following language in their tariffs: "The current versions of the NAESB WEQ Business Practice Standards incorporated by reference into the Commission's regulations as specified in Part 38 of the Commission's regulations (18 CFR part

38) are incorporated by reference into this tariff."

III. Notice of Use of Voluntary Consensus Standards

68. 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, 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 developed by the NAESB's WEQ.

IV. Incorporation by Reference

69. 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.¹⁰¹ The regulations also require agencies to summarize, in the preamble of the final rule, the material it incorporates by reference. The standards we incorporate by reference in this final rule can be summarized as follows:

70. 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. We are incorporating by reference WEQ Version 003.2 of the WEQ-000 Abbreviations, Acronyms, and Definition of Terms and incorporating by reference certain definitions from WEQ Version 003.1 related to the WEQ-006 Manual Time Error Correction Business Practice Standards. The definitions from WEQ Version 003.1 are: Interconnection Time Monitor, Time Error, and Time Error Correction.

71. 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

⁹⁵ Bonneville WEQ Version 003.2 Comments at 4.

⁹⁶ MISO WEQ Version 003.2 Comments at 3.

⁹⁷ NV Energy WEQ Version 003.2 Comments at 2. (NV Energy argues that the Commission should provide "sufficient time for the complete implementation of the changes and new functionalities required by taking into consideration the need for building the functionalities, testing by vendors, testing by transmission providers, training in-house and training of the industry for implementation.")

⁹⁸ SPP WEQ Version 003.2 Comments at 3.

⁹⁹ EEI WEQ Version 003.1 Comments at 15.

¹⁰⁰ See *Standards for Business Practices of Interstate Natural Gas Pipelines*, 165 FERC ¶ 61,109 at P 25 (2018) (Order 587-Y).

¹⁰¹ 1 CFR 51.5 (2019). See *Incorporation by Reference*, 79 FR 66267 (Nov. 7, 2014).

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.

72. 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.

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

74. The WEQ-004 Coordinate Interchange Business Practice Standards define the commercial processes necessary to facilitate interchange transactions via Request for Interchange (RFI) 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).

75. 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.

76. The WEQ-006 Manual Time Error Correction Business Practice Standards define the commercial based procedures to be used for reducing time error to within acceptable limits of true time. These standards have subsequently been marked reserved by NAESB.

77. 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.

78. 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.

79. 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.

80. 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.

81. 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.

82. 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.

83. 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.

84. 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.

85. The WEQ-023 Modeling Business Practice Standards specify the requirements for incorporating postbacks in the ATC posted on OASIS and the treatment of grandfathered agreements in the calculation of ATCs and AFCs. 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.

86. In addition, NAESB has adopted an additional nine suites of standards that, consistent with our past decisions, we are not incorporating by reference.¹⁰² Additionally, as mentioned above, we are addressing the WEQ-023 ATC Modeling Standards, with the exception of the sections listed herein, in a separate rulemaking proceeding.

87. Our regulations provide that 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>. 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, <http://www.ferc.gov>.¹⁰³

88. 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.¹⁰⁴ Participants can join NAESB, for an annual membership cost of \$7,500, which entitles them to full participation in NAESB and enables them to obtain these standards at no additional cost.¹⁰⁵ Non-members may obtain the Individual Standards Manual or Booklet for \$250 per manual or

booklet.¹⁰⁶ 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.¹⁰⁷ In addition, NAESB considers requests for waivers of the charges on a case-by-case basis based on need.

V. Information Collection Statement

89. The Paperwork Reduction Act (PRA)¹⁰⁸ requires each federal agency to seek and obtain the Office of Management and Budget's (OMB) approval before undertaking a collection of information (including reporting, record keeping, and public disclosure requirements) directed to ten or more persons or contained in a rule of general applicability. OMB regulations require approval of certain information collection requirements imposed by rules (including deletion, revision, or implementation of new requirements).¹⁰⁹ Upon approval of a collection of information, OMB will assign an OMB control number and an expiration date. Respondents subject to the filing requirements of a rule will not be penalized for failing to respond to the collection of information unless the collection of information displays a valid OMB control number.

90. The Commission solicits comments from the public on the

Commission's need for this information, whether the information will have practical utility, the accuracy of the burden estimates, ways to enhance the quality, utility and clarity of the information collected or retained, and any suggested methods for minimizing respondents' burden, including the use of automated information techniques. Specifically, the Commission asks that any revised burden or cost estimates submitted by commenters be supported by sufficient detail to understand how the estimates are generated.

91. Comments concerning the information collections modified in this final rule and the associated burden estimates should be sent to the Commission in this docket and may also be sent to the Office of Management and Budget, Office of Information and Regulatory Affairs [Attention: Desk Officer for the Federal Energy Regulatory Commission]. For security reasons, comments should be sent by email to OMB at the following email address: oira_submission@omb.eop.gov. Please refer to FERC-516E (OMB Control No. 1902-0290) and FERC-717 (OMB Control No. 1902-0173).

92. This final rule will affect the following existing data collections: Standards for Business Practices and Communication Protocols for Public Utilities (FERC-717) and Electric Rate Schedule Filings and Tariff Filings (FERC-516E).¹¹⁰ Estimates of the PRA-related burden and cost¹¹¹ follow.

MODIFICATIONS DUE TO THE FINAL RULE IN DOCKET NOS. RM05-5-025, RM05-5-026, AND RM05-5-027

	Number of respondents (1)	Annual number of responses per respondent (2)	Total number of responses (1) * (2) = (3)	Average burden (hrs.) & cost (\$) per response (4)	Total annual burden hrs. & total annual cost (\$) (3) * (4) = (5)
FERC-516E (one-time tariff filing) ¹¹²	165	1	165	6 hrs.; \$480	990 hrs.; \$79,200

¹⁰² 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 Transmission Providers, which NAESB has now 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, and 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; (4) the WEQ-023 Modeling Business Practice Standards, with enumerated exceptions, which the Commission is addressing in a separate rulemaking; and (5) 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.

¹⁰³ 18 CFR 284.12 (2019).
¹⁰⁴ 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.

¹⁰⁵ NAESB Membership Application, <https://www.naesb.org/pdf4/naesbapp.pdf>.

¹⁰⁶ NAESB Materials Order Form, <https://www.naesb.org/pdf/ordrform.pdf>.

¹⁰⁷ Procedures for non-members to evaluate work products before purchasing are available at https://www.naesb.org/misc/NAESB_Nonmember_Evaluation.pdf.

¹⁰⁸ 44 U.S.C. 3501-21.

¹⁰⁹ 5 CFR part 1320.

¹¹⁰ The reporting and recordkeeping requirements would normally be covered by FERC-516 (OMB Control No. 1902-0096) and FERC-717. However, another request for an unrelated final rule is pending OMB review under FERC-516, and only one item per OMB Control Number may be pending OMB review at a time. In order to be submitted timely, the PRA requests for this final rule will be submitted to OMB in FERC-516E (a temporary placeholder collection number, as was done for Docket Nos. RM05-5-025 and RM05-5-027), and FERC-717.

¹¹¹ The Commission staff estimates that industry is similarly situated in terms of hourly cost (for wages plus benefits). Based on the Commission's Fiscal Year (FY) 2019 average cost of \$167,091/year (for wages plus benefits, for one full-time employee), \$80.00/hour is used.

¹¹² This includes any burden associated with waiver requests.

MODIFICATIONS DUE TO THE FINAL RULE IN DOCKET NOS. RM05-5-025, RM05-5-026, AND RM05-5-027—Continued

	Number of respondents	Annual number of responses per respondent	Total number of responses	Average burden (hrs.) & cost (\$) per response	Total annual burden hrs. & total annual cost (\$)
	(1)	(2)	(1) * (2) = (3)	(4)	(3) * (4) = (5)
FERC-717 (compliance with standards) ¹¹³	165	1	165	30 hrs.; ¹¹⁴ \$2,400	4,950 hrs.; \$396,000
Total	330	5,940 hrs.; \$475,200

93. The Commission sought comments on the burden of complying with the requirements imposed by these requirements. No comments were filed addressing the reporting burden. While a number of utilities have reduced their actual filing burden by revising their tariffs as suggested in Order No. 676-H (and explained again in paragraph 66 of this final rule), we have not reduced the burden estimate to reflect this. Thus, our burden estimate is conservative in the regard.

94. The Commission's regulations adopted in this rule are necessary to establish a more efficient and integrated wholesale electric power grid. Requiring such information ensures both a common means of communication and common business practices that provide entities engaged in the wholesale transmission of electric power with timely information and uniform business procedures across multiple Transmission Providers. These requirements conform to the Commission's goal for efficient information collection, communication, and management within the electric power industry. The Commission has assured itself, by means of its internal review, that there is specific, objective support for the burden estimates associated with the information requirements.

Title: Standards for Business Practices and Communication Protocols for Public Utilities (FERC-717); ¹¹⁵ and

¹¹² This includes any burden associated with waiver requests.

¹¹³ FERC-717 corresponds to OMB Control No. 1902-0173 that identifies the information collection associated with Standards for Business Practices and Communication Protocols for Public Utilities.

¹¹⁴ The 30-hour estimate was developed in Docket No. RM05-5-013, when the Commission prepared its estimate of the scope of work involved in transitioning to the NAESB Version 002.1 Business Practice Standards. See Order No. 676-E, 129 FERC ¶ 61,162 at P 134. We have retained the same estimate here, because the scope of the tasks involved in the transition to Version 003.2 of the Business Practice Standards is very similar to that for the transition to the Version 003 Standards.

¹¹⁵ FERC-717 was formerly known as Open Access Same-Time Information System and Standards for Business Practices and Communication Protocols.

Electric Rate Schedules and Tariff Filings (FERC-516E).

Action: Final rule.
OMB Control No.: 1902-0290 (FERC-516E); 1902-0173 (FERC-717).

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

Frequency of Responses: One-time.

Necessity of the Information: This rule will upgrade the Commission's current business practice and communication standards. Specifically, these standards will provide common nomenclature for terms within the wholesale electric industry; define the general and specific transaction processing requirements and related business processes required for OASIS; define the commercial processes necessary to facilitate interchange transactions via RFI; define the business practices for cutting transmission service during a TLR event; assist with supporting the short-term pre-emption process and the merger of like transmission services; establish the cybersecurity framework for parties partaking in transactions via a transmission provider's OASIS or e-Tagging system; detail requirements related to point-to-point OASIS transaction processing; define a common framework for transparency, consistency, and accountability applicable to the measurement and verification of wholesale electric market demand response practices; ensure several suites of standards are consistent with or accurately reflect modifications to the NERC Reliability Standards, including dynamic tagging, pseudo-times, the full transfer of the Electric Industry Registry and additional changes to support market operator functionalities. 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. This final rule also updates the reference to NAESB's Smart Grid Standards that the Commission has listed informationally as non-mandatory guidance in Part 2 of the Commission's regulations.

95. The information collection requirements of this final rule are based on the transition from transactions being made under the Commission's existing business practice standards to conducting such transactions under the standards incorporated by reference in this final rule and to account for the burden associated with the new standard(s) being incorporated by reference here (e.g., WEQ-000).

96. *Internal Review:* The Commission has reviewed the revised business practice standards and has determined that the revisions adopted in this final rule 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.

97. Interested persons may obtain information on the reporting requirements by contacting the following: Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, [Attn: Ellen Brown, Office of the Executive Director, email: DataClearance@ferc.gov, phone: (202) 502-8663, fax: (202) 273-0873.

VI. Environmental Analysis

98. 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.¹¹⁶ The Commission has categorically excluded certain actions from these requirements as not having a

¹¹⁶ Order No. 486, Regulations Implementing the National Environmental Policy Act, 52 FR 47897 (Dec. 17, 1987), FERC Stats. & Regs. Preambles 1986-1990 ¶ 30,783 (1987).

significant effect on the human environment.¹¹⁷ 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.

VII. Regulatory Flexibility Act

99. The Regulatory Flexibility Act of 1980 (RFA)¹¹⁸ generally requires a description and analysis of final rules that will have significant economic impact on a substantial number of small entities. As shown in the information collection section, this final rule applies to 165 entities. More specifically, this final rule imposes the latest version (Version 003.2) of the Standards for Business Practices and Communication Protocols for Public Utilities adopted by the WEQ and the associated financial burden upon these entities. Comparison of the applicable entities with the Commission's small business data indicates that approximately 26 are small entities¹¹⁹ or 15.8 percent of the respondents affected by this final rule.

100. The Commission estimates that each of the entities (small and large) to whom the final rule applies will incur one-time paperwork costs of \$2,880.¹²⁰ The Commission does not consider the estimated cost to be a significant economic impact on a substantial number of small entities. Accordingly, the Commission certifies that this final rule will not have a significant economic impact on a substantial number of small entities.

VIII. Document Availability

101. 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.

102. 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.

103. 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. Email the Public Reference Room at public.referenceroom@ferc.gov.

IX. Effective Date and Congressional Notification

104. These regulations are effective April 27, 2020. 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

18 CFR Part 2

Electric utilities, Guidance and policy statements.

18 CFR Part 38

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

By the Commission.

Issued: February 4, 2020.

Kimberly D. Bose,
Secretary.

In consideration of the foregoing, the Commission amends parts 2 and 38, chapter I, title 18, Code of Federal Regulations, as follows:

PART 2—GENERAL POLICY AND INTERPRETATIONS

■ 1. The authority citation for part 2 continues to read as follows:

Authority: 5 U.S.C. 601; 15 U.S.C. 717–717z, 3301–3432, 16 U.S.C. 792–828c, 2601–2645; 42 U.S.C. 4321–4370h, 7101–7352.

■ 2. Amend § 2.27 by revising paragraphs (c) and (d) to read as follows:

§ 2.27 Availability of North American Energy Standards Board (NAESB) Smart Grid Standards as non-mandatory guidance.

* * * * *

(c) WEQ–018, Specifications for Wholesale Standard Demand Response Signals (WEQ Version 003.2, Dec. 8, 2017);

(d) WEQ–019, Customer Energy Usage Information Communication (WEQ Version 003.1, Sep. 30, 2015); and

* * * * *

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) The material cited in this paragraph (b) was approved by the Director of the Federal Register for incorporation by reference in this section in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of the material may be obtained from North American Energy Standards Board (NAESB), 801 Travis Street, Suite 1675, Houston, TX 77002, Tel: (713) 356–0060. NAESB's website is at www.naesb.org/. The 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) 02–8371, www.ferc.gov, or 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: www.archives.gov/federal-register/cfr/ibr-locations.html. The NAESB WEQ

¹¹⁷ 18 CFR 380.4.

¹¹⁸ 5 U.S.C. 601–612.

¹¹⁹ The Small Business Administration sets the threshold for what constitutes a small business. Public utilities may fall under one of several different categories, each with a size threshold based on the company's number of employees, including affiliates, the parent company, and subsidiaries. For the analysis in this final rule, we are using a 500 employee threshold for each affected entity. Each entity is classified as Electric Bulk Power Transmission and Control (NAICS code 221121).

¹²⁰ \$475,200 (total one-time paperwork cost) + 165 (number of entities) = \$2,880/entity.

Business Practice Standards; Standards and Models approved for incorporation by reference are:

(1) WEQ-000, Abbreviations, Acronyms, and Definition of Terms, standard WEQ-000-2 ([WEQ] Version 003.1, September 30, 2015), including only: the definitions of Interconnection Time Monitor, Time Error, and Time Error Correction;

(2) WEQ-000, Abbreviations, Acronyms, and Definition of Terms, ([WEQ] Version 003.2, Dec. 8, 2017)(with minor correction applied July 23, 2019);

(3) WEQ-001, Open Access Same-Time Information Systems (OASIS), [OASIS] Version 2.2 ([WEQ] Version 003.2, Dec. 8, 2017), excluding: standards WEQ-001-9 preamble text, WEQ-001-10 preamble text;

(4) WEQ-002, Open Access Same-Time Information Systems (OASIS) Business Practice Standards and Communication Protocols (S&CP), [OASIS] Version 2.2 ([WEQ] Version 003.2, Dec. 8, 2017);

(5) WEQ-003, Open Access Same-Time Information Systems (OASIS) Data Dictionary, [OASIS] Version 2.2 ([WEQ] Version 003.2, Dec. 8, 2017) (with minor corrections applied July 23, 2019);

(6) WEQ-004, Coordinate Interchange ([WEQ] Version 003.2, Dec. 8, 2017);

(7) WEQ-005, Area Control Error (ACE) Equation Special Cases ([WEQ] Version 003.2, Dec. 8, 2017);

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

(9) WEQ-007, Inadvertent Interchange Payback ([WEQ] Version 003.2, Dec. 8, 2017);

(10) WEQ-008, Transmission Loading Relief (TLR)—Eastern Interconnection ([WEQ] Version 003.2, Dec. 8, 2017);

(11) WEQ-011, Gas/Electric Coordination ([WEQ] Version 003.2, Dec. 8, 2017);

(12) WEQ-012, Public Key Infrastructure (PKI) ([WEQ] Version 003.2, Dec. 8, 2017);

(13) WEQ-013, Open Access Same-Time Information Systems (OASIS) Implementation Guide, [OASIS] Version 2.2 ([WEQ] Version 003.2, Dec. 8, 2017);

(14) WEQ-015, Measurement and Verification of Wholesale Electricity Demand Response ([WEQ] Version 003.2, Dec. 8, 2017);

(15) WEQ-021, Measurement and Verification of Energy Efficiency Products ([WEQ] Version 003.2, Dec. 8, 2017);

(16) WEQ-022, Electric Industry Registry ([WEQ] Version 003.2, Dec. 8, 2017); and

(17) WEQ-023, Modeling ([WEQ] Version 003.2, Dec. 8, 2017), including

only: standards 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.

Appendix

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

List of Entities Filing Comments on WEQ Version 003.1 NOPR in Docket No. RM05-5-025, and the Abbreviations Used To Identify Them

- Bonneville Power Administration (9/26/16) (Bonneville)
- California Independent System Operator Corporation (9/26/16) (CAISO)
- Edison Electric Institute (9/26/16) (EEI)
- Idaho Power Company (9/23/16) (Idaho Power)
- Open Access Technology International (9/27/16) (OATI)
- Public Utility District No. 1 of Snohomish County, Washington and the City of Tacoma, Department of Public Utilities, Light Division (collectively, Snohomish/Tacoma) (9/26/16)
- Southern Company Services, Inc. (9/26/16) (Southern)
- Southwest Power Pool, Inc. and Midwest Independent System Operator, Inc. (9/26/16) (collectively, Joint Commenters)

List of Entities Filing Comments on WEQ Version 003.2 NOPR in Docket No. RM05-5-027, and the Abbreviations Used To Identify Them

- Bonneville Power Administration (7/23/2019) (Bonneville)
- Midcontinent Independent System Operator, Inc. (7/23/2019) (MISO)
- North American Energy Standards Board (6/5/2019) (NAESB)
- Nevada Power Company and Sierra Pacific Power Company (7/23/2019) (NV Energy)
- Open Access Technology International, Inc. (7/22/2019) (OATI)
- PJM Interconnection, L.L.C. (7/23/2019) (PJM)
- Southern Company Services, Inc. (7/23/2019) (Southern)
- Southwest Power Pool, Inc. (7/23/2019) (SPP)

List of Entities Filing Comments on WEQ Time Error Correction NOPR in Docket No. RM05-5-026, and the Abbreviations Used To Identify Them

- Dr. Jonathan E. Hardis (11/13/18)
- Dr. Demetrios Matsakis (11/13/18)
- North American Electric Reliability Corporation (10/24/2018) (NERC)
- North American Energy Standards Board (11/28/2018) (NAESB)
- Southwest Power Pool, Inc. (11/13/18) (SPP)

[FR Doc. 2020-03244 Filed 2-24-20; 8:45 am]

BILLING CODE 6717-01-P

SOCIAL SECURITY ADMINISTRATION

20 CFR Parts 404 and 416

[Docket No. SSA-2017-0046]

RIN 0960-AH86

Removing Inability To Communicate in English as an Education Category

AGENCY: Social Security Administration.
ACTION: Final rules.

SUMMARY: We are finalizing our proposed regulations to eliminate the education category “inability to communicate in English” when we evaluate disability claims for adults under titles II and XVI of the Social Security Act (the Act). This education category is no longer a useful indicator of an individual’s educational attainment or of the vocational impact of an individual’s education because of changes in the national workforce since we adopted the current rule more than 40 years ago. We expect that these revisions will help us better assess the vocational impact of education in the disability determination process.

DATES: The final rule is effective on April 27, 2020.

FOR FURTHER INFORMATION CONTACT: Dan O’Brien, Office of Disability Policy, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235-6401, (410) 597-1632. For information on eligibility or filing for benefits, call our national toll-free number, 1-800-772-1213, or TTY 1-800-325-0778, or visit our internet site, Social Security Online, at <http://www.socialsecurity.gov>.

SUPPLEMENTARY INFORMATION:

Background

We are finalizing the proposed rules on removing the education category “inability to communicate in English,” which we published in a notice of proposed rulemaking (NPRM) on February 1, 2019 (84 FR 1006). We are revising our rules to remove the education category “inability to communicate in English” based on research and data related to English language proficiency, work, and education; expansion of the international reach of our disability programs; audit findings by our Office of the Inspector General (OIG);¹ and public comments we received on the NPRM. We expect these changes will

¹ See Office of Inspector General, Social Security Administration, Audit Report, *Qualifying for Disability Benefits in Puerto Rico Based on an Inability to Speak English* (April 2015) (OIG report), at https://oig.ssa.gov/sites/default/files/audit/full/pdf/A-12-13-13062_0.pdf.