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UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;
William L. Massey, Linda Breathitt,
and Nora Mead Brownell.

Electricity Market Design and Structure Docket No. RM01-12-000

ORDER ON A STANDARDS DEVELOPMENT ORGANIZATION FOR THE WHOLESALE ELECTRIC INDUSTRY

(Issued May 16, 2002)

1. On December 19, 2001, the Commission issued an order asking the industry to develop business practice standards and communication protocols by establishing a single consensus, industry-wide standards organization for the wholesale electric industry, to complement the market design principles the Commission was developing.[1] Several industry participants filed comments in response to the December 19 Order. This order addresses issues raised in the comments, so that the industry can continue to finalize the formation of a wholesale electric standards setting organization.

Background

2. In the December 19 Order, the Commission requested that the various participants in the wholesale electric industry agree on a single organization to develop wholesale electric business practice standards and communication protocols by March 15, 2002. The Commission stated that if the industry failed to agree, by March 15, 2002, on a single standards organization, then the Commission would institute its own procedures either to choose an organization to develop such standards, or to develop the standards itself. In addition, the Commission found that, due to the interrelation between business practice standards and reliability standards, coordination of these standards is critical, and asked the industry to develop a process to ensure such coordination.

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[1] Electricity Market Design and Structure, 97 FERC ¶ 61,289 (2001) (December 19 Order).

3. The Commission in the December 19 Order stated that it was "very pleased with the consensus standards development process used by the Gas Industry Standards Board (GISB) and with its relationship with GISB" (now known as the North American Energy Standards Board (NAESB)).[2] The industry was then asked to develop a similar organization, open to all industry members, with a standards development process, including the drafting stage, that must be: open to all; ensure due process; include an appeal process; and ensure that standards are developed by the industry through a consensus process with a balance of interests. Furthermore, the Commission asked the industry to adopt a process to coordinate between wholesale electric business practice standards and other standards developed for the integrated North American grid, as business practices may be "integrally linked" with certain reliability standards. The Commission also stated that there was a need to ensure effective coordination with other energy standards development groups in the wholesale and retail natural gas and retail electric industries, given the close interconnection between business transactions in all these areas.

4. Following the issuance of the order and the meetings at Department of Energy and the Commission in December 2001 and January 2002, the Edison Electric Institute sponsored five meetings, open to all industry participants, between February 1, 2002, and March 8, 2002 in New York, Atlanta, Phoenix and Washington D.C. that were well attended.[3] Comments filed indicate that a wide range of industry members from all segments of the industry, including non-jurisdictional utilities, Canadian entities and state regulators attended these meetings. Both NAESB and NERC had been considering establishing a process for developing business practice standards, but on February 20, 2002, the NERC Board of Trustees voted to concentrate on reliability and not develop business practice standards.

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[2]On December 5, 2001, GISB changed its charter and its name to enable it to become the standard-setting framework for all four "quadrants" of the energy industry - wholesale gas, retail gas, retail electric and wholesale electric. With respect to standards in wholesale gas, retail gas and retail electric, NAESB is has been accredited by the American National Standards Institute as an accredited standards organization.

[3]For example, over 50 people attended the meeting on February 21, 2002 in Phoenix and the March 8, 2002 meeting at the Commission. Several people also took advantage of the conference-calling option.

5. Several participants submitted comments in response to the December 19 Order.[4] Most comments support having the wholesale electric quadrant of the NAESB (NAESB WEQ) develop business practice standards and communication protocols in a manner that is coordinated with standards that affect the reliability of the interconnected North American grid.

6. The primary issue addressed in the comments was the organizational structure for coordinating business practice standards and reliability standards. The comments suggest three basic organizational alternatives for achieving such coordination.

7. In the first alternative, the participants prefer separate organizations developing reliability and business practice standards using their own standards development processes, but with ongoing coordination between the two so that reliability and business practices concerns are integrated into both processes. The filings submitted by the Joint Parties[5] and North American Electric Reliability Council (NERC)[6] support this option.

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[4]The Appendix lists those filing comments. Certain filings have not identified the alternative they support or suggest variations to the alternatives for organizational structure submitted in the other filings. Staff has attempted to identify and categorize the filings as appropriately as possible for summary purposes.

[5]Industry participants that signed on to the Joint Parties' filing include Ameren Services Company, Central Maine Power Company, Comprehensive Energy Services, Dominion Resources Services, FirstEnergy, Hydro One Networks, Idaho Power Company, Members of the Transmission Owners Committee of the Energy Association of New York State, Northeast Utilities Service Company, PanCanadian Energy Services, Inc., PG&E National Energy Group, Midwest Energy, Potomac Electric and Power Company, and Wisconsin Electric Power Company (also a signatory to the NERC Filing). Participants that support this approach include National Association of Regulatory Utility Commissioners, National Grid USA (suggests that filing should be modified to include more details), Pennsylvania Public Utility Commission, and XCEL Energy Services (generally supportive but has concerns).

[6]Industry participants that signed on to NERC's filing include American Public Power Association, National Rural Electric Cooperative and the Transmission Access Policy Study Group (APPA et al.), Arizona Public Service Corporation, National Association of State Utility Consumer Advocates, New York Independent System Operator, Southern Company Services, Inc., Western Area Power Administration, Wisconsin Electric Power Co. (also signatory to the Joint Filing). Participants that

(continued...)

8. The Joint Parties propose that NERC would develop core reliability policies that would produce all principles, requirements, and related quantitative measures that are necessary for sustaining reliable operation and planning of the integrated North American grid. The NAESB WEQ would take these policies and develop business practices to implement them. In addition to developing business practices arising from reliability policies, the NAESB WEQ would also develop standards based on market policies developed by the Commission (and other regulatory agencies). The parties agree that there should be formal coordination process between the NAESB WEQ and NERC, and provide for participation by NERC in the standards development committees of the NAESB WEQ. The filing suggests that there are ongoing discussions between NAESB and NERC regarding a Memorandum of Understanding between the two entities to accomplish the coordination.

9. NERC's filing supports NAESB developing business practices in coordination with NERC, who will develop reliability standards. In several filings the outstanding issue is determining how much NERC and the Joint Parties differ in their expectations of how far NERC's reliability principles and policies extend into business practices. Some filings advocate a more expansive role for NERC. For example, APPA et al. wants NERC or a model resembling NERC's Wholesale Electric Standards Model to be used to develop standards; ELCON asks that NAESB be restructured to resemble NERC's standards development process.

10. The second alternative would require a single organization to develop both business practice and reliability standards for the wholesale electric market. Entities such as Electricity Consumers Resource Council (ELCON) and TECO Energy Inc. support such a model. ELCON argues for a single organization to address both reliability and commercial standards, as well as retail and wholesale issues as it believes that reliability and commercial standards are "inextricably linked and cannot be separated."

11. The third alternative proposes that a single process to develop business practice standards and reliability standards. Under such a process, NERC and others will provide technical input on reliability matters to NAESB WEQ, which will develop and approve both business practice and reliability standards. The filing submitted by Electric Power Supply Association (EPSA), for the most part, describes this option. Under EPSA's proposal, NERC provides the reliability principles and policies, which go through

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[6](...continued)
support this approach include Canadian Electricity Association and Northeast Power Coordinating Council.

NAESB WEQ's process and a single set of standards are submitted to the Commission for review. NERC can also continue to participate at other stages of the NAESB WEQ standards development process. EPSA maintains that there is a need to create a single coordinated process that recognizes and accommodates the "unavoidable linkage that exists between reliability requirements and business practices." Several participants found this alternative acceptable, while others suggested variations to such a model.[7]

12. PJM raises issues concerning the coordination between business practice standards and RTO practices. As one option, PJM would have "RTOs develop market and reliability rules to effectuate FERC Order No. 2000 and implement the Standard Market Design." It would leave it to NAESB to "fill[] in the gaps by providing standardization of practices across RTOs on matters which support the marketplace (e.g. standard futures contracts, definition of an electric day, etc.) and coordinate[] consideration of reliability policies in its wholesale electric standards process." PJM compares this process to the Order No. 636 process, "this solution is no different than the process used in gas matters where the Commission set strong policies through its Order 636, required the pipelines to implement those policies, but then used the GISB to set up

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[7]EPSA's filing supporters include Calpine Corporation, Cinergy, Inc., Dynegy Power Marketing, Inc., Exelon Corporation, PSEG Companies, PacifiCorp, Wisconsin Public Service Corporation and Upper Peninsula Power Company. Filings that suggested variations on the EPSA filing included American Electric Power System (similar to EPSA's, except it does not include the two standing subcommittees - Reliability Review Subcommittee and Commercial Review Subcommittee), Consumers Energy Company; National Energy Marketers Association (a single organization or process to establish both reliability and commercial standards, or the Commission should institute its own procedures and propose standards subject to sixty days notice and comment), Reliant Resources, Inc. and Mirant Americas Energy Marketing, L.P., PJM Interconnection L.L.C. (PJM) (suggests a single stakeholder process similar to EPSA's proposal. PJM also raises the issue of what role the RTOs will play in standards development process).

Duke Energy Corporation prefers a single organization but given the short timeframe, suggests integrating the roles played by NERC and NAESB by incorporating into the NAESB process an initial policy screen and an Oversight Committee. Under these procedures, requests for standards that do not conform to established reliability policies would be sent to NERC, and would be rerouted to NAESB only after completing the NERC process for establishing new reliability policies.

common rules that facilitated uniform trading among pipelines. PJM believes that the same model can work here."

13. Williams Energy Marketing & Trading Company (Williams) was the only entity that asked the Commission to defer action, but stated that it would support the EPSA filing if the Commission does not defer action. Williams believes that NERC's role may be clarified and modified substantially in RTO deliberations.

14. Several participants raise issues concerning the structure and composition of segments within a standards development organization, including whether a single segment can veto a standard. AEP, Dominion, NYISO state that two principles are fundamental to the fairness of the standards development process: first, the voting segment structure should support a reasonably efficient standards development process that includes appropriate opportunities for appeal by parties aggrieved by NAESB WEQ decisions. Second, every significant stakeholder group with a direct interest in wholesale electric standards should have the opportunity to provide input to and vote in the standards development process.

Discussion

1. Business Practice Standards

15. We appreciate the hard work and the commitment of the participants in developing an acceptable standards development process, and we are pleased that there is a broad consensus in the industry that the NAESB WEQ will be the single organization to develop business practice and electronic communication standards. This development is acceptable to the Commission. We fully expect the industry to continue their cooperation to develop business practice and electronic communication standards that will enhance the efficiency of the electric grid.

16. Some of the comments focused on issues relating to the organizational structure of NAESB's wholesale electric quadrant, such as establishing the voting structure of the segments within NAESB WEQ and the dues needed to finance the organization. Some comments suggested that a technical conference be held on these issues. The Commission believes the industry itself is best suited to determine how best to structure the standards-setting process at NAESB: the industry members must operate under these standards, and they are best able to determine how to create structures that provide for the widest possible participation and consensus while, at the same time, providing for a fair funding mechanism that will ensure the organization can fulfill its responsibilities.

These internal organizational matters, therefore, should be resolved by the industry participants in their meetings.

17. In the December 19 Order, the Commission asked the industry to consider how best to coordinate the wholesale electric standards with the business practice standards in the wholesale gas, retail gas and retail electric industries. Although few comments addressed this issue, we agree with Exelon and Reliant that such coordination can best be accomplished through NAESB since NAESB's other three quadrants develop standards for wholesale and retail natural gas and retail electric. We encourage NAESB to develop formal procedures for achieving coordination in these areas.

18. PJM also raises an issue regarding the coordination between business practice standards and RTO practices. It argues that RTOs should develop market and reliability rules, leaving NAESB to fill in the gaps to achieve standardization of practices across RTOs. The Commission expects, as a general matter, that the NAESB standards will establish common business practices and communication protocols by which customers will transact business with the RTOs and between RTOs. It is premature at this point to address the division of responsibility between RTOs and NAESB in any greater detail. RTOs and other transmission operators will be a part of the NAESB process, and the industry as a whole needs to consider what aspects of RTO practice needs to be standardized.

2. Coordination Between Business Practice Standards and Reliability Standards

19. In the December 19 Order, we strongly urged the industry to consider how best to achieve effective coordination between business practice and reliability standards. Coordination between business practice standards and reliability standards is crucial because reliability standards and business practice standards are "integrally linked," for example, congestion management supports reliability, but also may significantly affect business practices.[8] Many of the comments focus on the manner of coordinating the development of wholesale electric standards and reliability standards which are currently developed by NERC. The comments ranged from retaining two organizations with a memorandum of understanding on coordination, to having a single organization that will develop both reliability and business practices.

20. The Commission is pleased that the industry is working towards a formalized organizational structure to achieve this coordination. As long as industry is working

[8] 97 FERC at P. 5.

towards achieving effective coordination, the Commission will leave to the industry the determination of how most efficiently to achieve that coordination.

3. Conclusion

21. The Commission is very pleased with the progress made to date and is confident that the industry will, in a short timeframe, finalize the structure of NAESB WEQ to assist in creating an integrated wholesale electricity market that promotes competition and enhanced efficiency. We request NAESB (or other participants) to file an update by July 1, 2002 on their progress in developing the NAESB WEQ, including a timetable for completion of this effort. We also ask for a follow-up report on September 1, 2002, as the Commission needs to be confident that by Fall 2002, a standards development organization will be in place to consider business practice issues arising from standard market design, interconnection procedures or other areas where business practice standards development is needed to improve the efficiency of the market.

22. We also consider coordination between business practice standards and reliability standards to be critical to the efficient operation of the market. We urge the industry to expeditiously establish the procedures for ensuring such coordination after the NAESB WEQ is formalized, and request NAESB and others to file an update on the progress on coordination between it and NERC, 90 days after the formation of the WEQ. Given the critical importance of such coordination, the Commission stands ready to establish its own process to ensure coordination if the industry cannot agree on an effective mechanism.

By the Commission.

(S E A L)

Linwood A. Watson, Jr.,
Deputy Secretary.

APPENDIX

Industry Participants Filing Comments

Allegheny Energy, Inc.
American Electric Power System
American Public Power Association, National Rural Electric Cooperative and the Transmission Access Policy Study Group (APPA et al.)
Calpine Corporation
Canadian Electricity Association
Cinergy Services, Inc.
Consumers Energy Company
Dominion Resources Services, Inc.
Duke Energy Corporation
Dynegy Power Marketing, Inc.
Electric Power Supply Association (EPSA)
Electricity Consumers Resource Council (ELCON)
Exelon Corporation
Independent Electricity Market Operator of Ontario
Joint Parties including Wisconsin Electric Power Company, New York State Electric and Gas Corporation, Rochester Gas and Electric Corporation, Central Maine Power Company, FirstEnergy, Idaho Power Company, Ameren Services Company, Potomac Electric and Power Company, Comprehensive Energy Services, PanCanadian Energy Services, PG&E National Energy Group, Midwest Energy, Hydro One Networks, Dominion Resources Services and Northeast Utilities Service Company.
Members of the Transmission Owners Committee of the Energy Association of New York State including Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc., LIPA, New York State Electric & Gas Corporation, Orange and Rockland Utilities, Inc., Rochester Gas and Electric Corporation, and the Power Authority of the State of New York (Member Systems)
National Association of Regulatory Utility Commissioners
National Energy Marketers Association
National Grid USA
New York Independent System Operator, Inc.
Northeast Power Coordinating Council
North American Electric Reliability Council (NERC)
PacifiCorp
PanCanadian Energy Services

Pennsylvania Public Utility Commission
PJM Interconnection, L.L.C.
PSEG Companies (Public Service Electric and Gas Company, PSEG Power LLC, and PSEG Energy Resources & Trade LLC)
Reliant Resources, Inc. and Mirant Americas Energy Marketing, L.P.
Southern Company Services, Inc.
TECO Energy, Inc.
Wisconsin Public Service Corporation and Upper Peninsula Power Company
Williams Energy Marketing & Trading Company
XCEL Energy Services Inc.