

173 FERC ¶ 61,173

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSIONBefore Commissioners: James P. Danly, Chairman;
Neil Chatterjee and Richard Glick.Standards for Business Practices and Communication
Protocols for Public Utilities

Docket No. RM05-5-028

ORDER ON CLARIFICATION

(Issued November 25, 2020)

1. On February 4, 2020, the Commission issued a final rule incorporating by reference Version 003.2 of the Standards for Business Practices and Communication Protocols (Standards) for Public Utilities adopted by the Wholesale Electric Quadrant (WEQ) of the North American Energy Standards Board (NAESB) as mandatory enforceable requirements.¹ On March 5, 2020, Southern Company Services, Inc.,² filed a Request for Clarification or, in the alternative, Request for Rehearing of the Commission's Order No. 676-I. Edison Electric Institute (EEI) and Open Access Technology International, Inc. (OATI) filed requests for clarification and comments.
2. Pursuant to *Allegheny Defense Project v. FERC*,³ the rehearing request filed in this proceeding may be deemed denied by operation of law. As discussed below, we clarify Commission Order No. 676-I and, accordingly, dismiss the arguments raised in Southern Companies' alternative request for rehearing.

¹ *Standards for Business Practices and Communication Protocols for Public Utilities*, Order No. 676-I, 85 *Fed. Reg.* 10,571, 170 FERC ¶ 61,062 (2020).

² Southern Company Services, Inc. acts as agent for Alabama Power Company, Georgia Power Company, and Mississippi Power Company (collectively, Southern Companies).

³ 964 F.3d 1 (D.C. Cir. 2020) (en banc).

I. Background

3. On December 8, 2017, NAESB filed the WEQ Version 003.2 Standards with the Commission. After issuing a Notice of Proposed Rulemaking in the proceeding,⁴ on February 4, 2020, the Commission issued Order No. 676-I, in which it amended its regulations under the Federal Power Act (FPA)⁵ to incorporate by reference into its regulations as mandatory enforceable requirements NAESB's WEQ Version 003.2 Standards. In Order No. 676-I, the Commission incorporated by reference updates to NAESB's Smart Grid Standards, adopted new Standards to promote reliability in coordination with the North American Electric Reliability Corporation, but declined to adopt proposed changes to the Time Error Correction Standard. As discussed in more detail below, the Commission also incorporated by reference the WEQ-001-9 and WEQ-001-10 Standards that address redirects of point-to-point transmission service with the exception of the text contained in the preambles to those Standards.

II. Clarification Requests

4. In its filings, EEI requests clarification and Southern Companies requests clarification or, in the alternative, rehearing of certain determinations made in Order No. 676-I regarding the application of the Commission's *Dynegy* policy,⁶ in which the Commission addresses redirects from short-term firm parent reservations, to the NAESB Standards that apply to conditional parent reservations.

5. More specifically, Southern Companies and EEI point out that the NAESB standard WEQ-001-9 provides that companies do not lose their parent reservation for all redirects from unconditional firm service. However, Southern Companies and EEI argue that the Commission created internal confusion when it stated that 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."⁷ They argue that this statement could be read to mean that the *Dynegy* policy does not extend to redirects from unconditional short-term

⁴ *Standards for Business Practices and Communication Protocols for Public Utilities*, Notice of Proposed Rulemaking, 167 FERC ¶ 61,127 (2019).

⁵ 16 U.S.C. 791a, *et seq.*

⁶ See *Dynegy Power Marketing, Inc. v. Southwest Power Pool, Inc.*, 99 FERC ¶ 61,054, at P 9 (2002) (*Dynegy*) (In *Dynegy*, the Commission established its policy on a customer's right to keep its contractual rights to point-to-point firm transmission service on the original path it has reserved while the customer's request for a redirect is pending.).

⁷ Southern Companies Request at 4; EEI Request at 3.

firm parent reservations, which would not be appropriate and would be inconsistent with other Commission determinations. Both parties request that the Commission clarify that the *Dynegy* policy extends to redirects from unconditional short-term firm parent reservations. Southern Companies also requests that the Commission direct NAESB to develop Standards governing redirects from conditional firm parent reservations.

6. Southern Companies also requests that the Commission clarify its directive for public utilities to include a tariff sheet in which they list every NAESB standard currently incorporated by reference and include a reference to the public utility's tariff provision that complies with the standard or whether the public utility has been granted a waiver of that standard. Southern Companies would like the Commission to clarify that this directive is not duplicative of past Commission actions, but is simply intended to identify for public utilities that do not incorporate the NAESB Standards without modification exactly what they are to include in their tariffs with regard to the NAESB Standards that they are incorporating by reference.⁸

7. In its request, OATI is seeking clarification on whether the protections to parent reservations under the *Dynegy* policy apply only to long-term firm point-to-point transmission service or apply equally to both long-term firm transmission service and short-term firm transmission service that has passed its conditional reservation deadline.⁹ OATI notes that NAESB will need to conduct additional review of redirect Standards to address conditional firm redirects.¹⁰

III. Commission Determination

8. We agree with the parties seeking clarification that the Commission's preamble statement regarding short-term firm service was unclear and that, as provided by NAESB standard 001-9.5.4, the transmission customer's rights to take firm point-to-point transmission on the original unconditional parent reservation's reserved point of receipt and point of delivery are preserved until such time that the confirmed redirect on a firm basis has reached its conditional reservation deadline. As provided in the standard, we

⁸ Southern Companies Request at 10-11. Relatedly, Southern Companies requests clarification that transmission providers are not required to use Filing Code 580 for the tariff record listing the NAESB Standards incorporated by reference. Southern Companies note that this code is used for gas related filings. Southern Companies requests that the Commission clarify the correct Filing Code to be used by transmission providers. *Id.* at 11.

⁹ OATI Request at 4.

¹⁰ *Id.* at 3.

clarify that these Standards apply to both unconditional long-term firm and unconditional short-term firm transmission service.

9. Southern Companies also contends that the Commission's statement regarding the deletion of the preamble to NAESB standard 001-9 may suggest that the NAESB Standards apply to redirects from conditional firm parents. We agree with Southern Companies that this statement is unclear. As we have clarified here, and as stated in the NAESB standard 001-9.5.4, the NAESB Standards apply only to redirects from an unconditional firm parent. Southern Companies also suggests, and we agree, that having NAESB develop separate uniform standards governing redirects from conditional parents would be useful to the industry. We encourage NAESB to take on such development.

10. We also address Southern Companies' request that the Commission clarify its directive for public utilities that incorporate the NAESB Standards without modification to include in their tariff a record of a listing of the Standards incorporated by reference. In Order No. 676-I, the Commission adopted a requirement for public utilities to include a single tariff sheet in which they list every NAESB Standard currently incorporated by reference by the Commission.¹¹ The Commission stated that this sheet should be a separate tariff record under the Commission's electronic tariff filing requirement and must list all of the NAESB Standards currently incorporated by reference by the Commission, and include the following information: (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. In response to Southern Companies' request, we clarify that this is not a new directive, but is intended to identify for public utilities that do not incorporate the NAESB Standards without modification exactly what they are to include in their Tariffs with regard to the Standards that they are incorporating by reference. Public utilities, like Southern Companies, who have already included a separate record like this in their tariff, must ensure that the separate tariff record includes the information required by Order No. 676-I.¹²

¹¹ See Order No. 676-I, 170 FERC ¶ 61,062 at P 66.

¹² The Commission would also like to clarify that public utilities are not required to use Filing Code 580 for these tariff record filings. The Commission clarifies that the correct Filing Code to be used by public utilities to provide this tariff record is 80.

Docket No. RM05-5-028

- 5 -

11. Finally, because we agreed with Southern Companies and provided clarification on the issues raised in its request, we need not address, and therefore dismiss, the arguments raised in Southern Companies' alternative request for rehearing.

The Commission orders:

(A) Order No. 676-I is hereby clarified, as discussed in the body of this order.

(B) The arguments raised in Southern Companies' alternative request for rehearing are hereby dismissed.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

Document Content(s)

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