

151 FERC ¶ 61,144  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Norman C. Bay, Chairman;  
Philip D. Moeller, Cheryl A. LaFleur,  
Tony Clark, and Colette D. Honorable.

Midcontinent Independent System  
Operator, Inc.

Docket Nos. ER15-530-000  
ER15-548-000

ORDER ON COMPLIANCE AND REQUEST FOR WAIVERS

(Issued May 18, 2015)

1. On December 1, 2014, the Midcontinent Independent System Operator, Inc. (MISO) filed a compliance filing and a request for waivers<sup>1</sup> in response to the compliance requirements of Order No. 676-H.<sup>2</sup> Order No. 676-H revised the Commission's regulations to incorporate by reference, with certain enumerated exceptions, the latest version (Version 003) of the Standards for Business Practices and Communication Protocols for Public Utilities (Business Practice Standards) adopted by the Wholesale Electric Quadrant (WEQ) of the North American Energy Standards Board (NAESB) as mandatory enforceable requirements. In this order, we conditionally accept the compliance filing, grant certain waivers and dismiss in part and deny in part a waiver request, and direct a compliance filing.

**I. Background**

2. On September 18, 2014, the Commission issued Order No. 676-H, which amends the Commission's regulations under the Federal Power Act (FPA)<sup>3</sup> to incorporate by

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<sup>1</sup> Midcontinent Independent System Operator, Inc., Docket Nos. ER15-530-000 (compliance filing) and ER15-548-000 (waivers) (filed Dec. 1, 2014).

<sup>2</sup> *Standards for Business Practices and Communication Protocols for Public Utilities*, Order No. 676-H, 79 Fed. Reg. 56,939 (Sept. 24, 2014), FERC Stats. & Regs. ¶ 31,359 (2014) (Order No. 676-H), *as modified*, *Errata Notice*, 149 FERC ¶ 61,014 (2014), *order on reh'g*, 151 FERC ¶ 61,046 (2015) (676-H Rehearing Order).

<sup>3</sup> 16 U.S.C. § 791a (2012).

reference, with certain enumerated exceptions, Version 003 of the Business Practice Standards.<sup>4</sup> In addition, in Order No. 676-H, the Commission listed, as guidance, NAESB's Smart Grid Standards (Standards WEQ-016, WEQ-017, WEQ-018, WEQ-019 and WEQ-020) in Part 2 of the Commission's Regulations but did not incorporate these standards by reference into its regulations.<sup>5</sup>

3. The Version 003 Business Practice Standards update earlier versions of the WEQ standards that the Commission previously incorporated by reference into its regulations.<sup>6</sup> These revised standards include modifications to support Order Nos. 890, 890-A, 890-B and 890-C,<sup>7</sup> including standards to support Network Integration Transmission Service on an Open Access Same-Time Information System (OASIS), Service Across Multiple Transmission Systems (SAMTS), standards to support the Commission's policy regarding rollover rights for redirects on a firm basis, standards that incorporate the functionality for Transmission Providers to credit redirect requests with the capacity of the parent reservation, and standards modifications to support consistency across the OASIS-related standards.<sup>8</sup>

4. In Order No. 676-H, the Commission explained that public utilities have a number of options with respect to compliance with Order No. 676-H. The Commission explained that public utilities can incorporate the complete set of NAESB standards into their tariffs without modification by submitting a compliance filing containing a single statement acknowledging their obligation to comply with Version 003 Business Practice Standards

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<sup>4</sup> The specific NAESB standards that the Commission incorporated by reference in Order No. 676-H are WEQ-000, WEQ-001, WEQ-002, WEQ-003, WEQ-004, WEQ-005, WEQ-006, WEQ-007, WEQ-008, WEQ-011, WEQ-012, WEQ-013, WEQ-015, and WEQ-021. *See* Order No. 676-H, FERC Stats. & Regs. ¶ 31,359 at P 18.

<sup>5</sup> *See id.* P 1; 676-H Rehearing Order, 151 FERC ¶ 61,046 at P 2 (citations omitted).

<sup>6</sup> 18 C.F.R. § 38.2 (2014).

<sup>7</sup> *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, FERC Stats. & Regs. ¶ 31,241 (2007), *order on reh'g*, Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 (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 (2009), *order on clarification*, Order No. 890-D, 129 FERC ¶ 61,126 (2009). The Version 002 standards also included revisions made in response to Order No. 890.

<sup>8</sup> *See* Order No. 676-H, FERC Stats. & Regs. ¶ 31,359 at P 2.

as specified in Part 38 of the Commission's regulations as updated and revised.<sup>9</sup> Alternatively, public utilities may incorporate the complete set of Version 003 Business Practice Standards into their tariffs, without modification, if they so choose.<sup>10</sup> The Commission also indicated that a public utility can file a request for waivers of specific provisions, along with its reasons supporting the request.<sup>11</sup>

5. The Commission required public utilities to make compliance filings by December 1, 2014 in order to achieve compliance with the incorporated Version 003 Business Practice Standards by February 2, 2015.<sup>12</sup> Subsequently, the February 2, 2015 deadline was extended to May 15, 2015.<sup>13</sup>

6. On April 16, 2015, the Commission issued the Order No. 676-H Rehearing Order, which addressed various requests for rehearing of Order No. 676-H. With respect to entities seeking waivers of certain NAESB WEQ standards, the Commission clarified that:

[r]equiring a public utility to file (and the Commission to process) a waiver request for standards that on their face specifically state [that they] are only applicable to entity groups that the potential waiver requestor does not belong to is an unnecessary expenditure of time and effort for both the potential waiver requestors and the Commission, since the standard itself makes clear to whom it applies.[<sup>14</sup>]

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<sup>9</sup> *See id.* PP 87-88, 95.

<sup>10</sup> *See id.* P 89.

<sup>11</sup> *See id.* P 88.

<sup>12</sup> *See id.* PP 20, 88, 95. The Commission also established a separate 18-month compliance schedule for Standard 002-5.10.3 regarding the implementation of Network Integration Transmission Service OASIS templates, which are not at issue in this compliance filing.

<sup>13</sup> *Standards for Business Practices and Communication Protocols for Public Utilities*, Notice Granting Limited Time Extension, Docket No. RM05-5-024 (issued Jan. 15, 2015).

<sup>14</sup> 676-H Rehearing Order, 151 FERC ¶ 61,046 at P 20.

Thus, the Commission stated that, going forward, any request for waivers of standards that by their terms do not apply to an entity potentially requesting waivers during the time frame the standards are effective would be dismissed as unnecessary.<sup>15</sup>

## II. MISO's Filings

7. On December 1, 2014 in Docket No. ER15-530-000, pursuant to section 206 of the FPA,<sup>16</sup> MISO filed proposed revisions to its Open Access Transmission, Energy and Operating Reserve Markets Tariff (Tariff)<sup>17</sup> in compliance with the directives of Order No. 676-H (Compliance Filing). MISO is a Commission-jurisdictional transmission provider with a Commission-approved tariff. In its filing MISO states that, in Order No. 676-H, the Commission directed each jurisdictional transmission provider to amend its tariff to incorporate, by reference, the NAESB WEQ Version 003 standards adopted in the rule. MISO further states that the Commission specified further that, instead of listing all of the WEQ standards that are incorporated by reference, the Commission will permit a jurisdictional transmission provider's initial compliance filing to specify that it is incorporating into its tariff all the standards as specified in Part 38 of the Commission's Rules of Practice and Procedure (18 C.F.R. Part 38 (2014)) as updated and revised.<sup>18</sup> MISO states that the Commission further specified that a compliance filing adopting this approach should use the following tariff language:

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.

8. In its Compliance Filing, MISO states that it has elected to adopt this approach and has incorporated this language into Attachment Q of its Tariff.<sup>19</sup> In accordance with Order No. 676-H, MISO requests an effective date of February 2, 2015 for the proposed

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<sup>15</sup> *Id.* P 19.

<sup>16</sup> 16 U.S.C. § 824e (2012).

<sup>17</sup> Midcontinent Independent System Operator, Inc., FERC Electric Tariff, FERC Electric Tariff, [ATTACHMENT Q, NERC Transmission Loading Relief Procedures Reference, 31.0.0](#).

<sup>18</sup> *See* Order No. 676-H, FERC Stats. & Regs. ¶ 31,359 at P 87.

<sup>19</sup> MISO's Compliance Filing at 2.

Tariff revisions. MISO requests a February 2, 2015 effective date, but as noted above, the Commission granted a limited extension for compliance to May 15, 2015.

9. In a separate filing on December 1, 2014 in Docket No. ER15-548-000, pursuant to section 205 of the FPA,<sup>20</sup> MISO requests temporary waiver until September 1, 2015, of the following NAESB WEQ Version 003 standards: (1) WEQ-001, OASIS Version 2.0, WEQ Version 003, July 31, 2012 (with minor corrections applied November 26, 2013) with the exceptions of Standards WEQ-001-9.5, WEQ-001-10.5, WEQ-001-14.1.3, WEQ-001-15.1.2 and WEQ-001-106.2.5; (2) WEQ-002, OASIS Business Practice Standards and Communication Protocols, OASIS Version 2.0, WEQ Version 003, July 31, 2012 (with minor corrections applied November 26, 2013); (3) WEQ-003, OASIS Data Dictionary Business Practice Standards, OASIS Version 2.0, WEQ Version 003, July 31, 2012 (with minor corrections applied November 26, 2014); and (4) WEQ-013, OASIS Implementation Guide, OASIS Version 2.0, WEQ Version 003, July 31, 2012 (with minor corrections applied November 28, 2012) (Waiver Filing).

10. MISO also requests temporary waiver until September 1, 2015, of the requirement to ensure that a firm redirect customer does not lose its rights on the original path until the conditional firm deadline has passed. MISO states that in Order No. 676-H, the Commission resolved an outstanding uncertainty regarding the point at which a firm customer requesting redirect services loses its right to the original path, in light of the conditional reservation deadlines in section 13.2 of the *pro forma* tariff.<sup>21</sup> MISO states that, prior to the issuance of Order No. 676-H, it understood NAESB standard WEQ-001-9.5 to mean that such a customer loses its rights on the original path when it confirms the redirect request, even if that confirmation occurs before the expiration of the conditional reservation deadlines in the Tariff. MISO states that in Order No. 676-H, the Commission reaffirmed its rulings<sup>22</sup> rejecting this argument and holding that a firm customer requesting redirect service should not lose its rights on the original path until the conditional firm deadline has passed.

11. According to MISO, good cause exists to grant temporary waiver of the NAESB WEQ Version 003 standards and of the *Dynegy* policy's requirement to ensure that a firm point-to-point customer seeking redirect service does not lose its rights over the original

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<sup>20</sup> 16 U.S.C. § 824d (2012).

<sup>21</sup> MISO's Waiver Filing at 3.

<sup>22</sup> *Entergy Services, Inc.*, 143 FERC ¶ 61,143 (2013) (citing *Dynegy Power Marketing, Inc.*, 99 FERC ¶ 61,054 (2002)) (hereinafter, the firm redirect rule will be referred to as the "Dynegy policy").

path until the conditional firm deadline has passed, because MISO is dependent upon its OASIS contractor, Open Access Technology International, Inc. (OATI), to ensure that its OASIS functionality satisfies these standards.<sup>23</sup> MISO states that it is unable to comply with the requirement to implement these standards until after OATI fully implements the functionality necessary to permit compliance by making changes to MISO's OASIS software.<sup>24</sup>

12. MISO states that there are several factors which necessitate a lengthened time period to implement the applicable NAESB WEQ Version 003 standards listed above and the *Dynegy* policy. MISO states that the changes that OATI needs to implement are complicated in nature and will have compounding effects on several secondary systems.<sup>25</sup> Furthermore, MISO states that the nature of the effects on the primary and secondary systems from the changes will require an extensive testing period. MISO states that it expects to spend a substantial period of time after receipt of the software testing it and working with OATI to resolve bugs and to ensure proper functionality.<sup>26</sup> MISO states that the May 2015 implementation date suggested by OATI in OATI's comments in the Order No. 676-H proceeding does not account for potential delays in the software. For these reasons, MISO states that it needs approximately eight months, until September 2015, to properly implement the new functionality.<sup>27</sup>

13. MISO states that its waiver request satisfies the criteria the Commission has articulated to permit a waiver in that there is: (1) a concrete problem that needs to be remedied; (2) the waiver will not have undesirable consequences; (3) the waiver is of a limited scope; and (4) the entity seeking the waiver acted in good faith.<sup>28</sup>

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<sup>23</sup> MISO's Waiver Filing at 5.

<sup>24</sup> *Id.*

<sup>25</sup> *Id.* at 6.

<sup>26</sup> *Id.* at 7.

<sup>27</sup> *Id.*

<sup>28</sup> *ISO New England Inc.*, 117 FERC ¶ 61,171, at P 21 (2006) (citing *Wisvest-Connecticut, LLC*, 101 FERC ¶ 61,372, at 62,551 (2002); *Great Lakes Gas Transmission Limited Partnership*, 102 FERC ¶ 61,331 (2003); *TransColorado Gas Transmission Co.*, 102 FERC ¶ 61,330 (2003); *Northern Border Pipeline Co.*, 76 FERC ¶ 61,141 (1996)).

14. MISO states that the concrete problem the waiver addresses is that MISO is unable to comply with the applicable NAESB WEQ Version 003 standards and the *Dynegy* policy by the February 2, 2015 deadline.<sup>29</sup> MISO requires the waiver to give it additional time to fully comply and to ensure there are no errors in the implementation.

15. MISO states, with regard to causing undesirable consequences, that it already has non-OASIS processes in place to ensure the implementation of the underlying Tariff requirements that will be performed, in the future, by the new OASIS functionality under the NAESB WEQ Version 003 standards.<sup>30</sup> Conversely, MISO anticipates potential undesirable consequences if it is not granted waiver, because it will have to implement the functionality without a full course of testing to ensure that the implementation has been done correctly. Due to the complexity of this functionality, MISO reiterates that it needs the full eight months in order to avoid such issues, while ensuring that existing non-OASIS processes that MISO has in place continue to operate during the interim period.<sup>31</sup>

16. MISO states, with regard to the waiver having a limited scope, that it is applying for a one-time waiver, which applies for a limited duration. MISO submits that the waiver is only needed for implementation of the applicable NAESB WEQ Version 003 standards and the *Dynegy* policy and is therefore of limited scope.<sup>32</sup>

17. MISO states, with regard to acting in good faith in seeking waiver, that it has a strong culture of compliance and has sought to ensure that it will be in full compliance with the NAESB WEQ Version 003 standards.<sup>33</sup> MISO states that it has worked closely with OATI on the functionality and has urged OATI to expedite the development and implementation. MISO states that the need for waivers arose through no fault of its own and that it seeks waiver as a last resort.<sup>34</sup>

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<sup>29</sup> MISO's Waiver Filing at 8.

<sup>30</sup> *Id.*

<sup>31</sup> *Id.* at 9.

<sup>32</sup> *Id.*

<sup>33</sup> *Id.*

<sup>34</sup> *Id.*

### **III. Notice and Responsive Pleadings**

18. Notice of MISO's Compliance Filing was published in the *Federal Register*, 79 Fed. Reg. 73,061 (2014), with interventions and protests due on or before December 22, 2014. Midcontinent MCN, LLC filed a timely motion to intervene, raising no substantive issues.

19. Notice of MISO's Waiver Filing was published in the *Federal Register*, 79 Fed. Reg. 73,058 (2014), with interventions and protests due on or before December 22, 2014. NRG Companies and Midcontinent MCN, LLC timely motions to intervene, raising no substantive issues.

### **IV. Discussion**

#### **A. Procedural Matters**

20. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2014), the timely, unopposed motions to intervene serve to make the entities that filed them parties to the proceedings in which they were filed.

#### **B. Commission Determination**

21. We conditionally accept MISO's Compliance Filing, effective May 15, 2015, subject to a further compliance filing, as discussed below.

22. We grant MISO's request for temporary waiver until September 1, 2015 for good cause shown of the following NAESB WEQ Version 003 standards: WEQ-001 (with the exceptions of Standards WEQ-001-9.5, WEQ-001-10.5, WEQ-001-14.1.3, WEQ-001-15.1.2 and WEQ-001-106.2.5), WEQ-002, WEQ-003, and WEQ-013. This is because it is a one-time waiver until September 1, 2015; MISO is unable to comply with the listed NAESB WEQ Version 003 standards until OATI updates MISO's OASIS software; and MISO has non-OASIS processes in place to ensure the implementation of the underlying Tariff requirements that will be performed, in the future, by the new OASIS functionality under the NAESB WEQ Version 003 standards.

23. We dismiss MISO's request for temporary waiver, until September 1, 2015, of the *Dynegy* policy's "requirement to ensure that a firm point-to-point customer seeking redirect service does not lose its rights over the original path until the conditional firm deadline has passed,"<sup>35</sup> as unnecessary to comply with the requirements of Order No. 676-H. As explained in the 676-H Rehearing Order, in Order No. 676-H, the

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<sup>35</sup> *Id.* at 5.

Commission stated that “NAESB standards must conform to the Commission’s *Dynegy* policy before the Commission would incorporate them by reference,” and therefore, the Commission “requested that NAESB revise Standards WEQ-001-9.5, WEQ-001-10.5, and any other standards affected by those standards, to conform to the Commission’s *Dynegy* policy.”<sup>36</sup> Accordingly, the Commission did not incorporate by reference Version 003 Business Practice Standards WEQ-001-9.5 and WEQ-001-10.5, and MISO’s request for waiver is unnecessary. To the extent that MISO’s waiver request could be viewed as a request for waiver of the redirect policy set out in *Dynegy*, we deny such request.<sup>37</sup> As the Commission stated in Order No. 676-H, the Commission’s policy regarding when a redirect customer loses its rights to its original transmission path, as explained in *Dynegy* was “reinforced in the Commission’s recent order in *Entergy Services, Inc.*,” and still reflects the Commission’s redirect policy.<sup>38</sup> MISO has failed to provide sufficient grounds to demonstrate that good cause exists to grant waiver of this policy.

24. Last, as discussed in the 676-H Rehearing Order, a public utility must make a compliance filing to make necessary revisions to its tariff to reference the NAESB standards, as appropriate, or to request waiver of those standards, as appropriate. In each case, every standard must be identified in a single section of the public utility’s tariff with an indication whether (1) it is incorporated by reference, (2) it is subject to a waiver request, or (3) compliance is covered by another tariff provision (with the tariff provision identified).<sup>39</sup> Consistent with this, we direct MISO to make a further compliance filing, within 60 days of the date of this order, to include Tariff records that indicate the standards from which it was granted temporary waiver, as well as to identify the Tariff provisions that implement MISO’s non-OASIS processes to fulfill the Tariff requirements MISO has requested temporary waiver of and that will be performed, in the future, by the new OASIS functionality under the NAESB WEQ Version 003 standards. In so doing, MISO should indicate that such non-OASIS processes will only be in place until September 1, 2015.

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<sup>36</sup> 676-H Rehearing Order, 151 FERC ¶ 61,046 at P 6.

<sup>37</sup> MISO’s filing appears to indicate that it has a non-OASIS workaround that can manage implementation of the *Dynegy* policy until September 1, 2015 when it says OASIS functionality will be fully updated. See MISO Waiver Filing at 7-9.

<sup>38</sup> Order No. 676-H, FERC Stats. & Regs. ¶ 31,359 at P 46 (citing *Entergy Servs., Inc.*, 137 FERC ¶ 61,199 (2011), *order on reh’g and compliance*, 143 FERC ¶ 61,143 (2013); *Entergy Services, Inc.*, 148 FERC ¶ 61,209 (2014)).

<sup>39</sup> 676-H Rehearing Order, 151 FERC ¶ 61,046 at P 13.

The Commission orders:

(A) MISO's Compliance Filing is hereby conditionally accepted, effective May 15, 2015, as discussed in the body of this order.

(B) MISO's requests for waiver of NAESB WEQ Version 003 standards: WEQ-001 (with the exceptions of Standards WEQ-001-9.5, WEQ-001-10.5, WEQ-001-14.1.3, WEQ-001-15.1.2 and WEQ-001-106.2.5), WEQ-002, WEQ-003, and WEQ-013, are hereby granted until September 1, 2015, as discussed in the body of this order.

(C) MISO's request for waiver associated with implementation of the *Dynegy* policy is dismissed in part and denied in part, as discussed in the body of this order.

(D) MISO is hereby directed to submit a further compliance filing, within 60 days of the date of this order, as discussed in the body of this order.

By the Commission.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.