

151 FERC ¶ 61,148
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.

Peetz Logan Interconnect, LLC	Docket Nos. ER15-487-000
Sagebrush, a California partnership	ER15-488-000
Sky River LLC	ER15-489-000
	(not consolidated)

ORDER ON REQUESTS FOR WAIVERS

(Issued May 18, 2015)

1. On November 25, 2014, Peetz Logan Interconnect, LLC (Peetz Logan), Sagebrush, a California partnership (Sagebrush), and Sky River LLC (Sky River) (collectively, NextEra Companies or Applicants), filed requests for waivers in response to the compliance requirements of Order No. 676-H.¹ 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. For the reasons discussed below, we will grant in part and deny in part the requests for waiver, effective May 15, 2015. We will also dismiss in part requests for waiver of certain standards as unnecessary, and direct a further compliance filing to be submitted within 60 days of the date of this order.

¹ *Standards for Business Practices and Communication Protocols for Public Utilities*, 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) (Order No. 676-H Rehearing Order).

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)² to incorporate by reference, with certain enumerated exceptions, Version 003 of the Business Practice Standards.³ 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.⁴

3. The Version 003 Business Practice Standards update earlier versions of the WEQ standards that the Commission previously incorporated by reference into its regulations.⁵ These revised standards include modifications to support Order Nos. 890, 890-A, 890-B, and 890-C,⁶ including standards to support Network Integration Transmission Service (NITS) 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.⁷

² 16 U.S.C. § 791a (2012).

³ 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.

⁴ *See id.* P 1; 676-H Rehearing Order, 151 FERC ¶ 61,046 at P 2 (citations omitted).

⁵ 18 C.F.R. § 38.2 (2014).

⁶ *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.

⁷ *See* Order No. 676-H, FERC Stats. & Regs. ¶ 31,359 at P 2.

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 as specified in Part 38 of the Commission's Regulations as updated and revised.⁸ Alternatively, public utilities may incorporate the complete set of Version 003 Business Practice Standards into their tariffs, without modification, if they so choose.⁹ The Commission also indicated that a public utility can file a request for waivers of specific provisions, along with its reasons supporting the request.¹⁰

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, 2015.¹¹ Subsequently, the February 2, 2015 deadline was extended to May 15, 2015.¹²

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

⁸ *See id.* P 87-88, 95.

⁹ *See id.* P 89.

¹⁰ *See id.* P 88.

¹¹ *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.

¹² *Standards for Business Practices and Communication Protocols for Public Utilities*, Notice Granting Limited Time Extension, Docket No. RM05-5-024 (issued Jan. 15, 2015).

effort for both the potential waiver requestors and the Commission, since the standard itself makes clear to whom it applies.¹³

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.¹⁴

II. Applicants' Filing

7. Applicants state that Peetz Logan is a transmission-only exempt wholesale generator (EWG), and it was formed for the purpose of developing, owning and operating an approximately 78.2 mile, 230 kilovolt (kV) transmission line and related equipment and facilities. Applicants also state that Peetz Logan has had an Open Access Transmission Tariff (OATT) on file with the Commission for three and a half years, but there are no customers taking service under the OATT.¹⁵

8. Applicants state that Sagebrush is a partnership formed by the owners of a number of qualifying facilities (QFs) to hold their respective ownership interests in the Sagebrush Line, which is a radial, 46-mile, 230 kV transmission line. Applicants state that Sagebrush has had an OATT on file with the Commission for five years, but does not provide service under that OATT to any customers.¹⁶

9. Applicants state that Sky River owns and operates a 77 megawatt wind generating facility, and also has an ownership interest in the Wilderness Line, a 9-mile long, 230 kV generator tie-line. Applicants state that Sky River filed its OATT with the Commission four years ago, but since then, no entity has requested OATT service.¹⁷

¹³ Order No. 676-H Rehearing Order, 151 FERC ¶ 61,046 at P 20.

¹⁴ *Id.* P 19.

¹⁵ NextEra Transmittal at 2, 3.

¹⁶ *Id.* at 3, 4.

¹⁷ *Id.* at 4.

10. Applicants state that each of the NextEra Companies has been granted partial waiver¹⁸ of Order Nos. 888¹⁹ and 890, and each has been granted complete waiver²⁰ of Order No. 889.²¹ Applicants state that, prior to the issuance of Order No. 676-H, many of the Commission's *pro forma* OATT provisions were deemed to be inapplicable to generation tie-lines operated by the NextEra Companies.²² Applicants state that each of the NextEra Companies' tariffs (i.e., individual tariffs for Peetz Logan, Sagebrush and Sky River) is managed by a single OATT administrator, and scheduling operations on each of the lines is handled by the incumbent transmission operator.²³ Applicants further state that these tariffs do not offer network service or ancillary services, and none of the NextEra Companies maintains an OASIS.²⁴

¹⁸ *Peetz Logan Interconnect, LLC*, 136 FERC ¶ 61,075 (2011); *Sky River, LLC*, 136 FERC ¶ 61,162 (2011); *Sagebrush*, 130 FERC ¶ 61,093 (2010).

¹⁹ *Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Services by Public Utilities; Recovery of Stranded Costs by Public Utilities and Transmitting Utilities*, Order No. 888, FERC Stats. & Regs. ¶ 31,036 (1996), *order on reh'g*, Order No. 888-A, FERC Stats. & Regs. ¶ 31,048, *order on reh'g*, Order No. 888-B, 81 FERC ¶ 61,248 (1997), *order on reh'g*, Order No. 888-C, 82 FERC ¶ 61,046 (1998), *aff'd in relevant part sub nom. Transmission Access Policy Study Group v. FERC*, 225 F.3d 667 (D.C. Cir. 2000), *aff'd sub nom. New York v. FERC*, 535 U.S. 1 (2002).

²⁰ *Peetz Logan Interconnect, LLC*, 136 FERC ¶ 61,075, at P 40 (2011); *Sagebrush*, 132 FERC ¶ 61,234, at PP 38-40 (2010); *Sky River, LLC*, 134 FERC ¶ 61,064, at PP 12, 14 (2011). The Commission granted waiver finding that the companies were "limited and discrete," it was "unlikely any other generator would be requesting transmission service," and the companies qualified as "small utilit[ies]." *Id.*

²¹ *Open Access Same-Time Information System and Standards of Conduct*, Order No. 889, FERC Stats. & Regs. ¶ 31,035 (1996), *order on reh'g*, Order No. 889-A, FERC Stats. & Regs. ¶ 31,049, *reh'g denied*, Order No. 889-B, 81 FERC ¶ 61,253 (1997). Order No. 889 concerns the need to maintain an OASIS and comply with the Standards of Conduct for Transmission Providers.

²² NextEra Transmittal at 6. *See also Peetz Logan Interconnect, LLC*, 143 FERC ¶ 61,122, at P 14 (2013).

²³ *Id.* at 6.

²⁴ *Id.*

11. Applicants argue that because the “Final Rule is directed at transmission providers that host and maintain active OASIS systems,” and the NextEra Companies do not have OASIS systems, the Final Rule should not apply to them.²⁵ Additionally, for each of the mandatory WEQ standards, Applicants explain why the standard should be waived.
12. Specifically, Applicants state that WEQ-000, WEQ-002, WEQ-003, and WEQ-013 all explicitly apply to OASIS systems, and explain that the NextEra Companies have been granted waiver of the OASIS requirement by the Commission.²⁶
13. Applicants state that WEQ-002-5.10.3, which applies to network transmission service, is not applicable to the NextEra Companies because no network transmission service is offered under their tariffs.
14. Applicants state that WEQ-004, WEQ-005, WEQ-006, WEQ-007, and WEQ-008, complement operational reliability standards of the North American Electric Reliability Corporation (NERC) concerning interchange activities normally carried out by Balancing Authorities and Reliability Coordinators. Since NextEra Companies are not Reliability Coordinators or Balancing Authorities, and because their lines are radial and only interconnect to a single system, Applicants state the standards are not applicable.
15. Applicants state that WEQ-011, Gas-Electric Coordination, is inapplicable to NextEra Companies as they are not Reliability Coordinators or Balancing Authorities in the business of balancing resources with system load, and there are no gas power plants connected to their lines.
16. Applicants state that WEQ-012, Public Key Infrastructure, is in furtherance of NERC standards and applies to operational communications that are beyond the scope of NextEra Companies’ current tariffs and capabilities.
17. Applicants state that WEQ-015, Measurement and Verification of Wholesale Electricity Demand Response, does not apply to NextEra Companies because these entities have no access to or need to measure or verify demand response. Applicants also assert that WEQ-021, Measurement and Verification of Energy Efficiency Products, does not apply to NextEra Companies because these entities have no access to or need to measure energy efficiency products.²⁷

²⁵ NextEra Transmittal at 7.

²⁶ *See supra* note 20.

²⁷ *See supra* note 21.

18. Finally, Applicants request waiver of the requirement in Order No. 676-H²⁸ to file tariff revisions pending the disposition of the instant waiver request.

III. Notice and Responsive Pleadings

19. Notice of Applicants' filing was published in the *Federal Register*, 79 Fed. Reg. 71,991 (2014), with comments, protests, and interventions due on or before December 16, 2014. No interventions or protests were filed.

IV. Discussion

A. Waiver Requests Granted

20. The Commission grants in part the requested waivers for good cause shown, effective May 15, 2015.

21. Specifically, we find that waiver is appropriate for WEQ-002, WEQ-003, and WEQ-013 because those standards all explicitly apply to OASIS systems, and the Applicants have previously been granted waiver of the OASIS requirement by the Commission.²⁹ We grant waiver of WEQ-002-5.10.3, because it applies to network transmission service, and no network transmission service is offered under the Applicants' tariffs. Finally, the Commission grants waiver of WEQ-012 because it applies to operational communications that are beyond the scope of Applicants' current tariffs and capabilities.

B. Waiver Requests Denied

22. The Commission finds that Applicants have not shown good cause for waiver of WEQ-000, and therefore denies the request for waiver of that standard. The Commission notes that Applicants will still have need for the WEQ-000 Abbreviations, Acronyms and Definitions because the NextEra Companies remain subject to certain NAESB standards.

23. The Commission also finds that Applicants have not shown good cause for waiver of WEQ-004, and therefore denies the request for waiver of that standard. The Commission notes that, although Applicants are not Reliability Coordinators or Balancing Authorities, there are parts of WEQ-004 that could potentially still apply to

²⁸ Order No. 676-H, FERC Stats. & Regs. ¶ 31,359 at P 86 (“Any public utility seeking a waiver of these requirements must still comply with the requirement to file a revised tariff acknowledging its obligation to comply with the newly incorporated by reference Business Practice Standards.”).

²⁹ *See supra* note 20.

them. Our denial is without prejudice to Applicants' filing a new request for waiver that specifies a justification for waiver for each subsection of WEQ-004.

24. We also deny waiver of WEQ-011. Applicants are transmission providers, so the standard applies to them, and Applicants are required to implement the standard once they perform the relevant business practice (even if they currently do not perform that practice). By denying the waiver, we ensure that Applicants begin performing the relevant business practice when it becomes applicable, without the administrative burden of being responsible for submitting a filing to amend their respective tariffs.

C. Waiver Requests Dismissed As Unnecessary

25. We dismiss as unnecessary Applicants' requests for waiver of WEQ-005, WEQ-006, WEQ-007, WEQ-008, WEQ-015 and WEQ-021. As clarified in the Order No. 676-H Rehearing Order, requiring 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. The Commission explained that including such standards in the public utility's tariff will have no adverse effects on the company, since the standards would not impose the compliance obligation prescribed by the standard on that entity.³⁰ The Commission stated that in each public utility's compliance filing in which it submits a tariff revision incorporating the NAESB standards, the public utility must either incorporate by reference each standard or indicate in its tariff that it has obtained a waiver of that standard.³¹

26. WEQ-005, WEQ-006 and WEQ-007 all specifically apply to Reliability Coordinators or Balancing Authorities. Since Applicants are neither Reliability Coordinators nor Balancing Authorities, the Commission dismisses the request for waiver of those standards as unnecessary.

27. WEQ-008 states that it applies to the Eastern Interconnection. As all the NextEra Companies are located in the west, we dismiss the request for waiver of that standard as unnecessary.

³⁰ *See supra* note 21.

³¹ *Id.* P 21.

28. The Commission notes that both WEQ-015 and WEQ-021 provide, in their respective applicability sections, that they are only applicable to RTOs and ISOs. Therefore, because Applicants are not an RTO or ISO, WEQ-015 and WEQ-021 do not apply to them, and we dismiss the request for waiver of those standards as unnecessary.

D. Compliance

29. Consistent with the foregoing determination, the Commission finds that Applicants must submit a compliance filing, within 60 days of the issuance of this order, to revise their respective tariffs to: (1) indicate those standards for which the Commission has granted waiver; (2) for each of those standards granted waiver, include a cite to the order granting the waiver requests; and (3) incorporate those standards for which waivers were denied or dismissed as unnecessary.

30. The Commission notes that Applicants have not made a request for waiver of WEQ-001. We find that Applicants should have either sought waiver of WEQ-001 and stated reasons in support of such request, as directed in Order No. 676-H, or incorporated the standard into its OATT.³² The Commission reminds each public utility that when it submits a compliance filing that revises its OATT to reflect current NAESB standards, the public utility must either specifically acknowledge its obligation to comply with the latest version of the Business Practice Standards, or enumerate *verbatim* each of the Business Practice Standards that the Commission has adopted, and must also indicate in its tariff any standard for which the Commission has granted it a waiver. No standard should be excluded.³³

The Commission orders:

(A) Applicants' requests for waiver of WEQ-002, WEQ-002-5.10.3, WEQ-003, WEQ-012, and WEQ-013 are hereby granted, effective May 15, 2015, as discussed in the body of this order.

(B) Applicants' requests for waiver of WEQ-000, WEQ-004 and WEQ-011 are hereby denied, as discussed in the body of this order.

(C) Applicants' requests for waiver of WEQ-005, WEQ-006, WEQ-007, WEQ-008, WEQ-015 and WEQ-021 are hereby dismissed, as discussed in the body of this order.

³² Order No. 676-H, FERC Stats. & Regs. ¶ 31,359 at P 18.

³³ *Id.* P 21.

(D) Applicants are 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.