

151 FERC ¶ 61,152
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.

NorthWestern Corporation

Docket No. ER15-511-000

ORDER ON COMPLIANCE AND REQUEST FOR WAIVERS

(Issued May 18, 2015)

1. On November 26, 2014, NorthWestern Corporation (NorthWestern) filed a compliance filing and a request for waiver¹ in response to the compliance requirements of Order No. 676-H.² 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 conditionally accept NorthWestern's compliance filing, effective May 15, 2015,³ grant in part and deny in part its request for waivers, and direct NorthWestern to make an additional compliance filing within 60 days of the date of this 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 Act⁴ to incorporate by reference,

¹ *NorthWestern Corp.*, Docket No. ER15-511-000 (filed Nov. 26, 2014).

² *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), *as modified, errata notice*, 149 FERC ¶ 61,014 (2014), *order on reh'g*, 151 FERC ¶ 61,046 (2015) (Order No. 676-H Rehearing Order).

³ On January 15, 2015, the Commission issued a notice that extended the deadline to incorporate the updated standards from February 2, 2015 to May 15, 2015.

⁴ 16 U.S.C. § 791a (2012).

with certain enumerated exceptions, Version 003 of the Business Practice Standards.⁵ 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.⁶

3. The Version 003 Business Practice Standards update earlier versions of the WEQ standards that the Commission previously incorporated by reference into its regulations.⁷ These revised standards include modifications to support Order Nos. 890, 890-A, 890-B, and 890-C,⁸ 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.⁹

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

⁵ 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, 151 FERC ¶ 31,359 at P 18.

⁶ *See id.* P 1; Order No. 676-H Rehearing Order, 151 FERC ¶ 61,046 at P 2 (citations omitted).

⁷ 18 C.F.R. § 38.2 (2014).

⁸ *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, FERC Stats. & Regs. ¶ 31,241, *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 003 standards also included revisions made in response to Order No. 890.

⁹ *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.¹⁰ Alternatively, public utilities may incorporate the complete set of Version 003 Business Practice Standards into their tariffs, without modification, if they so choose.¹¹ The Commission also indicated that a public utility can file a request for waivers of specific provisions, along with its reasons supporting the request.¹²

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, 2015.¹³ Subsequently, the February 2, 2015 deadline was extended to May 15, 2015.¹⁴

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.^[15]

¹⁰ *See id.* PP 87-88, 95.

¹¹ *See id.* P 89.

¹² *See id.* P 88.

¹³ *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 NITS OASIS templates, which are not at issue in this compliance filing.

¹⁴ *Standards for Business Practices and Communication Protocols for Public Utilities*, Notice Granting Limited Time Extension, Docket No. RM05-5-024 (issued Jan. 15, 2015).

¹⁵ Order No. 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.¹⁶

II. Instant Filing

7. On November 26, 2014, NorthWestern submitted a compliance filing with a request for continued waiver of the OASIS related standards promulgated in the Order No. 676 series of orders for NorthWestern's South Dakota operations. Specifically, NorthWestern requests waiver of the newly-created standards to support NITS service on OASIS, standards to support SAMTS, standards to support the Commission's policy regarding rollover rights for redirects on a firm basis, and standards that incorporate the functionality for transmission providers to credit redirect requests with the capacity of the parent reservation.

8. NorthWestern states that its South Dakota operations qualify for a continued waiver of Order No. 676-H because: (1) only limited and discrete transmission facilities are at issue; (2) NorthWestern does not operate a control area for its South Dakota operations; and (3) NorthWestern disposes of less than four million MWh annually.¹⁷ NorthWestern states that the Commission previously granted NorthWestern's South Dakota operations waiver of the Order No. 676 standards,¹⁸ and that the circumstances that previously warranted granting a waiver of the OASIS-related standards remain unchanged. NorthWestern states that, if the Commission grants its request for waiver, it commits to revise its Open Access Transmission Tariff (OATT) to reflect that such waivers were granted.

9. NorthWestern additionally proposes one ministerial change to section 4 of its OATT to correct the citation to the Standards of Conduct for Transmission Providers, from 18 C.F.R. § 37 to 18 C.F.R. § 358.

III. Notice of Filing

10. Notice of NorthWestern's November 26, 2014 filing was published in the *Federal Register*, 79 Fed. Reg. 73,291 (2014), with interventions and protests due on or before December 17, 2014. None was filed.

¹⁶ *Id.* P 19.

¹⁷ NorthWestern Transmittal Letter at 4.

¹⁸ *NorthWestern Corp.*, 117 FERC ¶ 61,199 (2006).

IV. Discussion

11. We will conditionally accept NorthWestern's compliance filing, grant in part and deny in part the requested waivers, and direct NorthWestern to make an additional compliance filing. Specifically, we will grant NorthWestern's request for continued waiver of WEQ-001 through WEQ-007, subject to a compliance filing, but we will deny NorthWestern's request for waiver of the remaining standards. In Order No. 676, the Commission stated that it would "extend to small entities (that the Commission previously granted waivers of the Commission's OASIS-related standards) a streamlined procedure for requesting waivers of the corresponding newly adopted OASIS-related standards, as long as the circumstances warranting such waivers remain unchanged."¹⁹ Specifically, the Commission clarified that waiver was appropriate: (1) if the applicant owns, operates, or controls only limited and discrete transmission facilities (rather than an integrated transmission grid); or (2) if the applicant is a small public utility that owns, operates, or controls an integrated transmission grid (unless it is a member of a tight power pool, or other circumstances are present that indicate that a waiver is not justified).²⁰

12. We find that NorthWestern's South Dakota operations continue to meet the above qualifications. Accordingly, for good cause shown, we will grant NorthWestern's request for waiver of WEQ-001 through WEQ-007, effective May 15, 2015. We also will accept NorthWestern's ministerial change to correct a citation. Finally, we will direct

¹⁹ *Standards for Business Practices and Communication Protocols for Public Utilities*, Order No. 676, FERC Stats. & Regs. ¶ 31,216, at P 85 (2006), *reh'g denied*, Order No. 676-A, 116 FERC ¶ 61,255 (2006), *final rule*, Order No. 676-B, FERC Stats. & Regs. ¶ 31,246 (2007), *final rule*, Order No. 676-C, FERC Stats. & Regs. ¶ 31,274 (2008), *order granting clarification and denying reh'g*, Order No. 676-D, 124 FERC ¶ 61,317 (2008), *final rule*, Order No. 676-E, FERC Stats. & Regs. ¶ 31,299 (2009), Order No. 676-F, FERC Stats. & Regs. ¶ 31,309 (2010), *final rule*, Order No. 676-G, FERC Stats. & Regs. ¶ 31,343 (2013), *final rule*, Order No. 676-H, FERC Stats. & Regs. ¶ 31,359.

²⁰ *Id.* Although the Commission originally precluded waiver of the requirements for OASIS and the Standards of Conduct for a small public utility that is a member of a tight power pool, in *Black Hills Power, Inc.*, 135 FERC ¶ 61,058, at PP 2-3 (2011) (*Black Hills*), the Commission explained that membership in a tight power pool is no longer a factor in the determination for waiver of Standards of Conduct. Moreover, the determination in *Black Hills* did not affect waivers based on a public utility disposing of no more than four million MWh annually.

NorthWestern to submit a compliance filing within 60 days of the date of this order revising its OATT to reflect that its waiver request for WEQ-001 through WEQ-007 has been granted.

13. As stated above, Order No. 676-H permitted public utilities to: 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; incorporate the complete set of Version 003 into their tariffs, without modification; or file a request for waivers of specific provisions, along with the reasons supporting the request. While NorthWestern appears to request waiver for general categories of standards, it does not specify the specific Version 003 standards (in addition to WEQ-001 through WEQ-007) for which it is seeking waiver. Accordingly, we will deny NorthWestern's additional request for waiver of the remaining standards. Our denial is without prejudice to NorthWestern's filing a new request for waivers that corrects these defects.

14. Consistent with these determinations, we require NorthWestern to submit a compliance filing within 60 days of the date of this order incorporating by reference all of the Version 003 NAESB standards. With regard to the waiver granted above, we direct NorthWestern to include in that compliance filing tariff records that indicate those standards for which the Commission has granted waiver, and for each of those standards granted waiver, a cite to the order granting these waiver requests.²¹

The Commission orders:

(A) NorthWestern's compliance filing is hereby conditionally accepted, effective May 15, 2015, as discussed in the body of this order.

(B) NorthWestern's request for waivers is hereby granted in part and denied in part, as discussed in the body of this order.

²¹ Order No. 676-H Rehearing Order, FERC Stats. & Regs. ¶ 61,046 at P 21 (“[I]n 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.”).

(C) NorthWestern is hereby directed to submit an additional 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.