

126 FERC ¶ 61,290
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;
Sudeen G. Kelly, Marc Spitzer,
and Philip D. Moeller.

Carolina Power and Light Company
Florida Power Corporation

Docket No. ER09-637-000

ORDER ACCEPTING IN PART AND DENYING IN PART
PROPOSED TARIFF AMENDMENTS AND GRANTING IN PART
AND DENYING IN PART WAIVER REQUEST

(Issued March 30, 2009)

1. Under sections 205 and 206 of the Federal Power Act (FPA),¹ Progress Energy, Inc. (Progress) on behalf of its subsidiaries Carolina Power and Light Company and Florida Power Corporation submitted a compliance filing as required by Order No. 676-C.² Progress also requested waiver of certain business practice standards adopted by the Commission in Order No. 676-C. In this order, the Commission accepts in part, and denies in part, Progress' proposed open access transmission tariff (OATT) revisions and grants in part, and denies in part, the requested Order No. 676-C waiver, as described below.

I. Background

2. In 2006, the Commission issued Order No. 676, thereby incorporating by reference in its regulations certain standards promulgated by the Wholesale Electric Quadrant (WEQ) of the North American Energy Standards Board (NAESB). In addition, the Commission directed public utilities to comply with these standards and revise their OATT to include these standards. The standards established a set of business practice

¹ 16 U.S.C. § 824d, § 824e (2006).

² *Standards for Business Practices and Communication Protocols for Public Utilities*, Order No. 676, FERC Stats. & Regs. ¶ 31,216 (2006), *order denying reh'g*, 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).

standards and communications protocols (Standards WEQ-001, -002, and -003) for the electric industry that replace the Commission's existing Open Access Same-Time Information Systems (OASIS) standards, and also include business practices to complement reliability standards of the North American Electric Reliability Council (NERC) (Standards WEQ-004, -005, -006 and -007).

3. As an alternative to complying with these standards, Order No. 676 gave public utilities the option of applying for a waiver, in whole or in part, of the standards by filing a request explaining the reasons why the waiver should be granted. Further, Order No. 676 stated that utilities, including independent system operators (ISOs) and regional transmission organizations (RTOs) that have existing waivers of certain OASIS standards may reapply for such waivers using simplified procedures. These procedures require an applicant to identify the specific standard(s) from which it is seeking waiver and provide the caption, date, and docket number of the proceeding in which it received its waiver. In addition, an applicant must certify that the circumstances warranting its waiver(s) have not changed.³

4. On July 21, 2008, the Commission amended its regulations to incorporate the NAESB WEQ Version 001 standards in Order No. 676-C. As with Order No. 676, Order No. 676-C provides that "each public utility that wants a waiver of any standard we are incorporating by reference in this Final Rule may file a request for a waiver, supported by the reasons it believes a waiver is warranted."⁴ In addition, the Commission stated that if a "public utility requests waiver of a standard, it will not be required to comply with the standard until the Commission acts on its waiver request. Therefore, if a public utility has obtained a waiver or has a pending request for a waiver, its proposed revision to its OATT should not include the standard number associated with the standard for which it has obtained or seeks a waiver."⁵

5. In Order No. 676-C, the Commission incorporated by reference the latest version (Version 001) of certain standards adopted by NAESB's WEQ. In addition, the Commission directed public utilities to comply with the revised standards and revise their OATT to include the revised standards. The NAESB WEQ standards: (1) revise the OASIS business practice standards and communications protocols (Standards WEQ-001, 002, and 003); (2) revise four business practice standards relating to interchange matters (Standards WEQ-004, -005, -006, and -007); (3) add new standards on transmission loading relief for the Eastern Interconnection (WEQ-008); (4) add new standards

³ Order No. 676, FERC Stats. & Regs. ¶ 31,216 at P 79.

⁴ *Id.* P 19.

⁵ *Id.* P 84.

regarding Gas/Electric Coordination (WEQ-011); (5) add new standards for public key infrastructure (WEQ-012); and (6) add a new OASIS implementation guide (WEQ-013).

6. On January 6, 2009 in Docket No. RM05-5-000, Edison Electric Institute (EEI) requested a blanket waiver of versions 1.4 of WEQ Standards WEQ-001-1.6(g)(4), WEQ-002-4.5.2 and WEQ-002-4.3.10.5 adopted in Order No. 676-C “that impose posting requirements on Transmission Providers that conflict with, or have been rendered unnecessary by, the new posting requirements imposed by the Commission’s Order No. 717.”⁶ In *Standards for Business Practices and Communication Protocols for Public Utilities*, 126 FERC ¶ 61,291 (2009), issued concurrently with this order, the Commission grants in part, and denies in part, EEI’s request for a blanket waiver.

7. In compliance with Order No. 676-C, Progress proposes to incorporate by reference, with certain minor revisions, the latest version of the business practice standards implemented by the WEQ. Progress also explains that it endorses and adopts the EEI Request for Waiver from the above-mentioned WEQ standards that it agrees are in conflict with or are inconsistent with Order No. 717.⁷ Progress requests an effective date of October 1, 2008 for these proposed tariff sheets.

8. Notice of Progress’ filing was published in the *Federal Register*, 74 *Fed. Reg.* 7,414 (2009), with comments, interventions and protests due on or before February 19, 2009. None were filed.

II. Discussion

9. The Commission finds that the revisions incorporated by reference satisfactorily comply with the directives of Order No. 676-C.⁸ However, as discussed below, the Commission directs Progress to make a compliance filing to eliminate certain language from its OATT. Therefore, the Commission accepts in part, and denies in part, Progress’ proposed NAESB revisions, to be effective on October 1, 2008, as requested.

10. Progress requests approval of its waiver for WEQ Standards WEQ-001-1.6(g)(4), WEQ-002-4.5.2 and WEQ-002-4.3.10.5 because, in its view, the posting requirements conflict with or are inconsistent with Order No. 717 as set forth in the EEI Waiver

⁶ EEI’s Request for Waiver (EEI Waiver Request) at 1-2 (citing *Standards of Conduct for Transmission Providers*, Order No. 717, FERC Stats. & Regs. ¶ 31,280 (2008)).

⁷ Progress January 29, 2009 Transmittal Letter at 2.

⁸ Order No. 676-C, FERC Stats. & Regs. ¶ 31,274 at P 83 (setting forth the language public utilities must use in their OATTs).

Request. Consistent with *Standards for Business Practices and Communication Protocols for Public Utilities*, 126 FERC ¶ 61,291 (2009), issued concurrently with this order, the Commission grants in part, and denies in part, the requested waiver by Progress. The Commission grants waiver of the posting requirements of WEQ-002-4.5.2, version 1.4, to the extent they extend beyond the requirements of Part 358 of the Commission's regulations, as amended by Order No. 717. The Commission denies as unnecessary the request for waiver of WEQ-001-1.6(g)(4) and WEQ-002.4.3.10.5, version 1.4.

11. As noted in the EEI Waiver Request, certain of the posting requirements of WEQ-002-4.5.2 are no longer consistent with the posting requirements of Part 358 of the Commission's regulations, as amended by Order No. 717. For example, WEQ-002-4.5.2 requires transmission providers to post information regarding emergencies that result in a deviation from the Standards of Conduct, referring to corresponding requirements in the Commission's regulations adopted in Order No. 2004. In Order No. 717, the Commission eliminated the requirement to post information regarding emergency deviations, revising its regulations accordingly.⁹ The version of WEQ-002-4.5.2 currently incorporated into Part 38 of the Commission's regulations therefore does not reflect changes adopted in Part 358 of the Commission's regulations. In *Standards for Business Practices and Communication Protocols for Public Utilities*, 126 FERC ¶ 61,291 (2009), issued concurrently with this order, the Commission waives for all electric transmission providers those requirements of Part 38 of the Commission's regulations relating to the posting of information under WEQ-002-4.5.2, version 1.4, that extend beyond or otherwise conflict with the posting requirements of Part 358 of the Commission's regulations, as amended by Order No. 717.¹⁰

12. With respect to the request by Progress to waive WEQ-001-1.6(g)(4) and WEQ-002.4.3.10.5, version 1.4, the Commission has not incorporated WEQ-001-1.6 into Part 38 of its regulations and, therefore, there is no conflict in the Commission's regulations with respect to that posting requirement.¹¹ With regard to WEQ-002-4.3.10.5, although

⁹ See 18 C.F.R. § 358.7(h) (as revised by Order No. 717 at P 214).

¹⁰ The Commission's determination here is consistent with its proposal in the Notice of Proposed Rulemaking addressing recent revisions to the NAESB business practice standards to not require public utilities to comply with the requirements of WEQ-001-13.1.2, version 1.5, that are inconsistent with Order No. 717. *Standards for Business Practices and Communication Protocols for Public Utilities*, Notice of Proposed Rulemaking, 126 FERC ¶ 61,248 at P 16 (2009).

¹¹ See 18 C.F.R. § 38.2(b)(1). As noted above, the Commission declined to incorporate into its regulations the requirements of WEQ-001-1.6, version 1.4, because

(continued...)

that standard has been incorporated into the Commission's regulations,¹² it merely establishes the template to be used when posting information under WEQ-001-1.6(g)(4). That template can continue to be used by transmission providers wishing to make such postings, even if not otherwise required under the Commission's regulations. Waiver of WEQ-001-1.6(g)(4) and WEQ-002.4.3.10.5 is unnecessary and, accordingly, the Commission denies the request by Progress for waiver of those business practice standards.

13. Consistent with the Commission's determination on the requests for waiver in *Standards for Business Practices and Communication Protocols for Public Utilities*, 126 FERC ¶ 61,291 (2009), issued concurrently with this order, the Commission directs Progress to submit within 30 days a further compliance filing in Docket No. ER09-637-001 to eliminate from its OATT language stating that waiver of the requirements of WEQ-001-1.6(g)(4) and WEQ-002-4.3.10.5 has been requested.

The Commission orders:

(A) The proposed tariff revisions by Progress are hereby accepted in part, and denied in part, to be effective October 1, 2008, as requested.

(B) The Commission hereby waives those requirements of 18 C.F.R. § 38.2(b)(2) relating to the posting of information under WEQ-002-4.5.2, version 1.4, that extend beyond the posting requirements of Part 358 of the Commission's regulations, as amended by Order No. 717.

(C) The Commission directs Progress to submit within 30 days a further compliance filing in Docket No. ER09-637-001 to eliminate from its OATT language stating that a waiver of the requirements of WEQ-001-1.6(g)(4) and WEQ-002-4.3.10.5 has been requested.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.

those requirements merely duplicate language already set forth in the Commission's regulations.

¹² See 18 C.F.R. § 38.2(b)(2).