

178 FERC ¶ 61,163
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Richard Glick, Chairman;
James P. Danly, Allison Clements,
Mark C. Christie, and Willie L. Phillips.

PJM Interconnection, L.L.C.

Docket No. ER21-2524-001

ORDER ON COMPLIANCE AND REQUEST FOR WAIVERS

(Issued March 7, 2022)

1. On July 27, 2021, and as amended on October 22, 2021, PJM Interconnection, L.L.C. (PJM) filed a revised tariff record¹ to its Open Access Transmission Tariff (OATT) and a request for waivers to comply with the requirements of Order No. 676-I.² In Order No. 676-I, the Commission revised its regulations to incorporate by reference Version 003.2 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 accept PJM's revised tariff record, effective May 1, 2022, subject to an additional compliance filing being submitted within 30 days of the date of this order, as described below, and grant the request for waivers.

I. Background

2. On February 4, 2020, the Commission issued Order No. 676-I, which amends the Commission's regulations under the Federal Power Act (FPA)³ to incorporate by reference, with certain enumerated exceptions, the WEQ Version 003.2 of the Business Practice Standards adopted by NAESB. The NAESB Business Practice Standards are intended to standardize and streamline the transactional processes of the natural gas and electric industries, as well as the communication protocols and related standards designed to improve the efficiency of communication within each industry.

¹ PJM Interconnection, L.L.C., Intra-PJM Tariffs, [OATT, § 4.2 \(6.1.0\)](#).

² *Standards for Bus. Pracs. & Commc'n Protocols for Pub. Utils.*, Order No. 676-I, 85 Fed. Reg. 10,571 (Feb. 25, 2020), 170 FERC ¶ 61,062 (2020) (Order No. 676-I).

³ 16 U.S.C. § 791a, *et seq.*

The WEQ Version 003.2 Business Practice Standards include the WEQ Version 003.1 Business Practice Standards in their entirety, with certain modifications made in WEQ Version 003.2.⁴

3. In Order No. 676-I, the Commission incorporated by reference 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, WEQ-021, WEQ-022, and WEQ-023.⁵ The Commission did not adopt the NOPR proposal to incorporate by reference NAESB's latest version of the WEQ-006 Manual Time Error Correction Business Practice Standards. However, the Commission did update NAESB's Smart Grid Standards (set out in Business Practice Standards WEQ-018 and WEQ-019) that the Commission listed for informational purposes in Part 2 of the Commission's Regulations.⁶ In addition, the Commission incorporated by reference the proposed WEQ-022 Electric Industry Registry (EIR) Business Practice Standards, but did not incorporate by reference the entirety of the proposed WEQ-023 Modeling Business Practice Standards.⁷ All of these Business Practice Standards, except for WEQ-022 and WEQ-023, update and replace standards that the Commission previously incorporated by reference in Order No. 676-H.⁸

⁴ NAESB filed WEQ Version 003.1 of the Standards for Business Practices and Communication Protocols for Public Utilities on October 26, 2015. The WEQ Version 003.1 Business Practice Standards were the subject of a Notice of Proposed Rulemaking (NOPR) but never separately incorporated by reference by the Commission. *See Standards for Bus. Pracs. & Commc'n Protocols for Pub. Utils.*, Notice of Proposed Rulemaking, 156 FERC ¶ 61,055 (2016).

⁵ Order No. 676-I, 170 FERC ¶ 61,062 at PP 70-86.

⁶ *Id.* P 4. These revisions update earlier versions of the WEQ-018 and WEQ-019 Business Practice Standards that the Commission previously listed in Part 2 of the Commission's regulations as non-mandatory guidance at 18 C.F.R. § 2.27 (2021) in Order No. 676-H. *Standards for Bus. Pracs. & Commc'n Protocols for Pub. Utils.*, Order No. 676-H, 148 FERC ¶ 61,205, at P 77 (2014).

⁷ *See* Order No. 676-I, 170 FERC ¶ 61,062 at P 5.

⁸ In Order No. 676-I, the Commission updated the reference to Business Practice Standard WEQ-019 in Part 2 of its regulations, which houses statements of general policy and interpretations of the Commission. The references to the other smart grid standards are listed informationally, in Part 2 of the regulations, at 18 C.F.R. § 2.27, as non-mandatory guidance, were unchanged, and do not require updating. These are Business Practice Standards WEQ-016, WEQ-017, and WEQ-020. The Commission also

4. In Order No. 676-I, the Commission explained that public utilities could comply with the final rule, and any subsequent Commission orders incorporating NAESB Business Practice Standards, by incorporating the complete set of NAESB Business Practice Standards into their tariffs without modification by making a filing with the Commission to include the following language in their tariffs: “[t]he 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.”⁹ Alternatively, public utilities must make a compliance filing providing a list of the NAESB Business Practice Standards included in their tariff and any waivers they have been granted by the Commission.¹⁰

5. The Commission initially directed public utilities to submit their Order No. 676-I compliance filings by May 25, 2020, and to make the tariff revisions in those filings using an indeterminant effective date (12/31/9998) for the tariff records.¹¹ However, in response to a motion for extension of time, the Commission extended the date for compliance and waiver filings to July 27, 2021.¹²

6. In addition, on March 3, 2020, the Commission issued a notice explaining that in publishing the final rule, the *Federal Register* made various formatting and editorial changes to the text of the regulations, 18 C.F.R. §§ 2.27 and 38.1 (2021), where the Commission incorporates by reference NAESB’s WEQ Business Practice Standards.¹³ The Commission stated that the regulatory text included with the Commission’s Order

listed for informational purposes, as non-mandatory guidance, Business Practice Standard WEQ-018.

⁹ Order No. 676-I, 170 FERC ¶ 61,062 at P 67.

¹⁰ *Id.* P 66. The Commission provided that a public utility requesting waivers of any Business Practice Standards, as well as continuation of existing waivers, must file a request for waivers of each specific provision, along with its reasons supporting the request. *See id.* P 20.

¹¹ *Id.* PP 20, 65.

¹² *Standards for Bus. Pracs. & Commc’n Protocols for Pub. Utils.*, Notice of Extension of Time, Docket No. RM05-5-028 (Apr. 3, 2020). The Notice stated that the Commission would not establish an implementation date earlier than October 27, 2021.

¹³ *Standards for Bus. Pracs. & Commc’n Protocols for Pub. Utils.*, Errata Notice, Docket No. RM05-5-025, *et al.* (Mar. 3, 2020).

No. 676-I, as issued by the Commission, would be revised by the March 3, 2020 notice to reflect the regulatory text as published in the *Federal Register*.¹⁴

II. PJM's Filing

7. PJM states that, with the exception of requested waivers, PJM incorporates by reference the latest version of the Business Practice Standards approved by the Commission in Order No. 676-I.¹⁵ PJM also requests a continued waiver of certain Business Practice Standards previously granted by the Commission¹⁶ and requests waiver of several new Business Practice Standards in Version 003.2.¹⁷ PJM states that it seeks waiver of the specified Business Practice Standards because PJM's current processes are consistent with, or superior to, those requirements.¹⁸ PJM requests that, if its request for waiver is denied, that PJM be granted an additional 12 months to comply with the Business Practice Standards.¹⁹ PJM states that the additional time would provide time for PJM to make the necessary software updates to comply with the as-filed requirements.

8. On October 22, 2021, PJM submitted an amended compliance filing to correct formatting and editorial changes that were included in the Commission's errata notice issued on March 3, 2020.²⁰

A. Request for Continued Waivers of WEQ-001 Standards Related to Service Across Multiple Transmission Systems

9. PJM seeks a continued waiver of the Business Practice Standards related to Service Across Multiple Transmission Systems (SAMTS) in WEQ-001. Specifically, PJM seeks waiver of Business Practice Standards WEQ-001-9.5, WEQ-001-10.5,

¹⁴ An additional notice was issued on July 20, 2021, to correct the filing code to be used to submit tariff sheets in compliance with Order No. 676-I as Type of Filing Code 80. *Standards for Bus. Pracs. & Comm'n Protocols for Pub. Utils.*, Errata Notice, Docket No. RM05-5-025, et al. (July 20, 2021).

¹⁵ Transmittal at 3; *see* Order No. 676-I, 170 FERC ¶ 61,062; 18 C.F.R. § 38.1.

¹⁶ *PJM Interconnection, L.L.C.*, 151 FERC ¶ 61,141 (2015) (2015 Waiver Order).

¹⁷ Transmittal at 1.

¹⁸ *Id.* at 2.

¹⁹ *Id.* at 15.

²⁰ Errata Filing at 1; *see also* March 3, 2020 Errata Notice.

WEQ-001-14.1.3, WEQ-001-15.11, and 001-106.2.5, as well as the timing requirements established in WEQ-001-23, to the extent inconsistent with transmission provider's current practice and as accepted by the Commission in the 2015 Waiver Order.²¹ PJM explains that in the 2015 Waiver Order, the Commission granted the SAMTS-related waiver request and found that PJM's processes and procedures are closely aligned with the adopted SAMTS evaluation process.²²

10. According to PJM, the circumstances that initially warranted the waivers continue to exist. PJM proposes to continue to implement the intent of SAMTS essentially as prescribed in the Business Practice Standards, but with minor exceptions intended to address, in part, the adverse effect on the timeline to evaluate short-term transmission service requests. PJM explains that without the continued waiver, PJM may experience delays in evaluating transmission service requests with no discernable benefit to customers.²³

B. Request for Continued Waivers of WEQ-000, WEQ-001, WEQ-002 and WEQ-003 Related to Network Integration Transmission Service

11. PJM requests continued waivers of standards related to Network Integration Transmission Service (NITS) within Business Practice Standards WEQ-000, WEQ-001, WEQ-002 and WEQ-003.²⁴ PJM explains that in the 2015 Waiver Order, the Commission granted the NITS related waivers and found that PJM's method for posting and evaluating the designation/un-designation of network resources and load meets the intent of the WEQ Version 003.0 Business Practice Standards.²⁵ PJM also notes that the Commission found that through the provisions relating to the integration and dispatch of network resources that are part of PJM's overall approved OATT and market design, PJM demonstrated good cause for waiver of the adopted WEQ Version 003 Business Practice Standards.²⁶ While PJM requests continued waiver of Business Practice

²¹ In the tariff, PJM requested waiver of WEQ-001-15.1.2, not WEQ-001-15.11 as described in the Transmittal.

²² Transmittal at 4.

²³ *Id.* at 5.

²⁴ *Id.*

²⁵ *Id.* at 6.

²⁶ *Id.* at 5.

Standard WEQ-000, the 2015 Waiver Order denied waiver of Business Practice Standard WEQ-000.²⁷

12. According to PJM, the circumstances that initially warranted the waivers continue to exist.²⁸ PJM explains that it continues to have a method in place for posting and evaluating the designation and un-designation of network resources and load that continues to meet the intent of the Business Practice Standards.²⁹ PJM states that its planning process and capacity procurement methods, taken together, analyze the network resources and load requirements for PJM on an ongoing, regional basis rather than evaluating specific resources to a specific load. PJM maintains that the designation and un-designation of network resources and load is done utilizing its electronic Reliability Pricing Model (eRPM) and associated PJM capacity and market rules, rather than utilizing Open Access Same-Time Information System (OASIS) templates. Thus, PJM argues that good cause exists for the continued waiver of the Version 003.2 Business Practice Standards in WEQ-000, WEQ-001, WEQ-002, and WEQ-003 applicable to NITS.³⁰

C. Request for New Waiver of Standards Related to Preemption and Right of First Refusal

13. PJM requests a new waiver of Business Practice Standards related to preemption and right of first refusal (ROFR). Specifically, PJM requests that the Commission grant waiver of Business Practice Standards WEQ-001-25, WEQ-002-4.3.6.6.1, and WEQ-002-4.3.6.6.2.³¹ PJM states that it includes associated proposed revisions to section 4.2 of the PJM OATT to effectuate such waivers.³²

14. PJM explains that the WEQ Version 003.2 Business Practice Standards include revisions to the OASIS suite of Business Practice Standards to support directives in Order

²⁷ See 2015 Waiver Order, 151 FERC ¶ 61,141 at P 19.

²⁸ Transmittal at 6.

²⁹ *Id.* at 7.

³⁰ *Id.* at 6-7.

³¹ *Id.* at 11.

³² *Id.*

Nos. 888³³ and 890.³⁴ According to PJM, for example, the Commission previously granted PJM's requests for variations from preemption rules in section 13.2 of the *pro forma* OATT.³⁵ PJM explains that these variations of the PJM OATT added procedures for customers to obtain short-term, firm point-to-point transmission service, with a reservation window, and offered short-term point-to-point transmission service on a first-come, first-served basis without preemption rights. According to PJM, the variations assist PJM in the orderly processing of high volumes of transactions on the PJM transmission system. PJM explains that there is a continued need for these variations because the circumstances continue to exist today.³⁶ According to PJM, there continues to be a high volume of transmission service requests and implementing the preemption and ROFR standards in Business Practice Standards Version 003.2 would harm market participants' ability to participate in the PJM day-ahead and real-time energy market. Further, PJM states that the preemption and ROFR Business Practice Standards in Version 003.2 would negate the benefits of the variations by allowing short-term reservations to be preempted by a later reservation.³⁷ Therefore, PJM contends that these variations are necessary today.

15. PJM contends that without waiver of Business Practice Standards WEQ-001-25, WEQ-002-4.3.6.6.1, and WEQ-002-4.3.6.6.2, the aforementioned variations would be negated.³⁸ PJM explains that the WEQ Version 003.2 Business Practice Standards

³³ *Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Servs. by Pub. Utils.; Recovery of Stranded Costs by Pub. Utils. & Transmitting Utils.*, Order No. 888, FERC Stats. & Regs. ¶ 31,036 (1996) (cross-referenced at 75 FERC ¶ 61,080), *order on reh'g*, Order No. 888-A, FERC Stats. & Regs. ¶ 31,048 (cross-referenced at 78 FERC ¶ 61,220), *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 Pol'y Study Grp. v. FERC*, 225 F.3d 667 (D.C. Cir. 2000), *aff'd sub nom. N.Y. v. FERC*, 535 U.S. 1 (2002).

³⁴ Transmittal at 7; *Preventing Undue Discrimination & Preference in Transmission Serv.*, Order No. 890, 118 FERC ¶ 61,119, *order on reh'g*, Order No. 890-A, 121 FERC ¶ 61,297 (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, *order on clarification*, Order No. 890-D, 129 FERC ¶ 61,126 (2009).

³⁵ Transmittal at 9.

³⁶ *Id.* at 10.

³⁷ *Id.* at 11.

³⁸ *Id.*

related to preemption and ROFR were developed to improve upon existing business practices governing the preemption of transmission service by competing requests.

16. PJM contends that the new Business Practice Standards go beyond what is required for transmission customers to receive both a consistent experience and consistent results, because they dictate many of the mechanical steps that a transmission provider's OASIS must follow to process a preemption-ROFR event.³⁹ PJM states that it employs existing software automation and proposes to implement the intent of the preemption-ROFR process as prescribed in the WEQ Version 003.2 Business Practice Standards with exceptions from the Business Practice Standard WEQ-001-25, WEQ-002-4.3.6.6.1, and WEQ-002-4.3.6.6.2 requirements that impact PJM's ability to continue using that software and related internal procedures. PJM states that these exceptions allow PJM to continue utilizing practices that are superior to or consistent with the WEQ Version 003.2 Business Practice Standards related to preemption and ROFR while still providing the benefits of the preemption-ROFR process business practices and an identical outcome for transmission customers.⁴⁰ Further, PJM argues that, while it supports the intent of Business Practice Standard WEQ-001-25, due to PJM's transmission service request volume being overwhelmingly comprised of hourly and daily requests granted close to the service start time, PJM proposes to evaluate preemption-ROFR transactions without delay in accordance with the previously-accepted variations and waivers requested in this filing. According to PJM, under this approach, PJM will implement the intent of the preemption-ROFR process as prescribed in the WEQ Version 003.2 Business Practice Standards, but with minor exceptions intended to address the adverse effect on the evaluation timeline for short-term transmission service requests.⁴¹

III. Notice and Responsive Pleadings

17. Notice of PJM's compliance filing was published in the *Federal Register*, 86 Fed. Reg. 41,468 (Aug. 2, 2021) with interventions and protests due on or before August 17, 2021. Calpine Corporation, NRG Power Marketing LLC and Midwest Generation, LLC, and American Municipal Power, Inc. filed timely motions to intervene.

18. Notice of PJM's amended compliance filing was published in the *Federal Register*, 86 Fed. Reg. 59,701 (Oct. 28, 2021) with interventions and protests due

³⁹ *Id.* at 12.

⁴⁰ *Id.*

⁴¹ *Id.* at 14.

on or before November 12, 2021. Delaware Division of the Public Advocate filed a timely motion to intervene.

IV. Discussion

19. We accept PJM's Order No. 676-I revised tariff record, effective May 1, 2022, grant the requested waivers, and direct PJM to make an additional compliance filing. Specifically, we accept PJM's revised tariff record because it complies with the directives of Order No. 676-I, subject to the additional compliance filing discussed below. We find that good cause continues to exist to grant waivers of the Business Practice Standards related to SAMTS within Business Practice Standard WEQ-001, the timing requirements established in Business Practice Standard WEQ-001-23, and standards related to NITS within Business Practice Standards WEQ-001, WEQ-002, and WEQ-003. The rationale by which the Commission originally granted these specific waivers has not changed since the Commission approved waiver of these Business Practice Standards in the 2015 Waiver Order.⁴² Therefore, for good cause shown and consistent with the Commission's previous determination, we grant waiver of these standards.

20. As indicated in Order No. 676-I, PJM may request and show good cause for the Commission to grant waiver of specific Business Practice Standards.⁴³ PJM explains that the standards addressing SAMTS in Business Practice Standard WEQ-001 may cause delays in evaluating transmission service requests with no discernable benefit to customers. We find that PJM's processes and procedures are closely aligned with the adopted SAMTS evaluation process. Therefore, for good cause shown we grant the requested waiver and direct a further compliance filing as discussed below.

21. With regard to the Version 003.2 Business Practice Standards related to NITS within Business Practice Standards WEQ-001, WEQ-002, and WEQ-003, we find that PJM has a method in place for posting and evaluating the designation/un-designation of network resources and load that meets the intent of the Version 003.2 Business Practice Standards. Therefore, we find that through the provisions relating to the integration and dispatch of network resources that are part of PJM's overall approved OATT and market design, PJM has shown good cause for waiver of the adopted Version 003.2 Business Practice Standards. Therefore, for good cause shown, we grant the requested waivers of Business Practice Standards WEQ-001, WEQ-002, and WEQ-003 which are related to NITS. However, to the extent the Transmittal included a request for waiver of Business Practice Standard WEQ-000, this request was not reflected in the revised tariff record.

⁴² 2015 Waiver Order, 151 FERC ¶ 61,141 at PP 17-20.

⁴³ See Order No. 676-I, 170 FERC ¶ 61,062 at PP 20, 63.

We believe the request was erroneously included in the Transmittal and therefore do not address the request herein.

22. We find that PJM's approach implements the intent of the preemption-ROFR process as prescribed in the WEQ Version 003.2 Business Practice Standards. We also find that these proposed modifications are consistent with or superior to the WEQ Version 003.2 Business Practice Standards related to preemption and ROFR and still provide the benefits of the Business Practice Standards. Such benefits include: (1) ensuring that the preemption-ROFR process is completed instantaneously without participants needing to wait for a potentially lengthy competition process to conclude; and (2) implementing a process that is, in all meaningful respects, consistent with the WEQ Version 003.2 Business Practice Standards related to preemption and ROFR. Therefore, for good cause shown we grant the requested waivers of Business Practice Standards WEQ-001-25, WEQ-002-4.3.6.6.1, and WEQ-002-4.3.6.6.2 and accept PJM's proposed revisions to section 4.2 of the PJM OATT to effectuate such waivers. We also direct a further compliance filing as discussed below.

23. Consistent with the foregoing determination, we will require PJM to submit a compliance filing, within 30 days of the date of this order, to revise section 4.2 of its OATT to include a citation to the order granting the waiver requests. Also, it appears that section 4.2 inadvertently omitted Business Practice Standards WEQ-002-4.3.6.6.1, and WEQ-002-4.3.6.6.2 as part of the enumeration of the Business Practice Standards for which waiver was requested. In its compliance filing, PJM should revise section 4.2 to identify those Business Practice Standards as having waivers granted. Additionally, in its proposed revised tariff record, PJM requested waiver of Business Practice Standard WEQ-001-15.1.2, not WEQ-001-15.11 as described in the Transmittal. Therefore, PJM should clarify on compliance the specific standards in Business Practice Standard WEQ-001 related to SAMTS for which waiver has been granted.

The Commission orders:

(A) PJM's revised tariff record is hereby accepted for filing, effective May 1, 2022, subject to an additional compliance filing, as discussed in the body of this order.

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

(C) PJM is hereby directed to make a compliance filing within 30 days of the date of this order, as discussed in the body of this order.

By the Commission.

(S E A L)

Debbie-Anne A. Reese,
Deputy Secretary.