

NOPR. Third, both SPP and MISO wish to flag how the Commission’s four questions relate back to its earlier policy decision for the treatment of firm redirects, and suggests its possible reevaluation.

II. COMMENTS

A. Inconsistencies Regarding Which Standards are to be Incorporated by Reference into the Commission’s Regulations

The Commission proposed amending Part 38 of the Code of Federal Regulations to incorporate by reference the NAESB Standards listed in (b)(2) as follows: “WEQ-001, Open Access Same-Time Information System (OASIS), OASIS Version 2.1 (WEQ Version 003.1, Sep. 30, 2015) with the exception of Standards 001-9.5, 001-10.5, 001-14.1.3, 001-15.1.2 and 001-106.2.5).”³

NAESB Standards 001-9.5, 001-10.5, 001-14.1.3, 001-15.1.2, 001-106.2.5, and WEQ-023

The Commission noted that “NAESB has reached consensus on standards relating to redirects related to unconditional parent reservations, and we propose to incorporate those standards by reference into our regulations.”⁴ The relevant standards referenced here are WEQ-001-9.5 and WEQ-001-10.5.⁵

The Commission also noted that “NAESB modified Standards WEQ-001-14.1.3 and WEQ-001-15.1.2 and adopted business practice standards to support the one-day posting requirement.”⁶ The Commission further stated that the revised standards appear consistent with its findings in Order No. 676-H and “we propose to incorporate by

³ NOPR at pg. 43 at proposed 18 CFR § 38.1(b)(2) (emphasis added).

⁴ NOPR at P 22.

⁵ NOPR at P 19.

⁶ NOPR at P 26.

reference, into the Commission’s regulations at 18 CFR 38.1, NAESB’s WEQ Version 003.1 Business Practice Standards.”⁷

Finally, the Commission noted that “NAESB modified Standard WEQ-001-106.2.1, added Standard WEQ-001-106.2.1.1, and deleted Standard WEQ-001-106.2.5” and that “these revised standards clarify that a transmission customer should submit an accurate termination request and, if the transmission customer fails to do so, the transmission provider may deny the request.”⁸ The Commission went on to state that the revised standards appear consistent with its findings in Order No. 676-H and “we propose to incorporate by reference, into the Commission’s regulations at 18 CFR 38.1, NAESB’s revised Standards WEQ-001-106.2.21, WEQ-001-106.2.1.1, and WEQ-001-106.2.5, as set forth in the WEQ Version 003.1 Business Practice Standards.”⁹

The proposals to incorporate Standards 001-9.5, 001-10.5, 001-14.1.3, 001-15.1.2 and 001-106.2.5 by reference into the Commission’s regulations, appear to conflict with the statement in the NOPR expressly excepting these same standards from incorporation by reference into the regulations.¹⁰ The Commission may want to review these potentially inconsistent statements and revise accordingly in the Final Rule.

Similarly, the Commission stated that “we are not proposing to incorporate by reference the WEQ-023 Modeling Business Practice Standards in this NOPR, but will consider these standards as part of the overall inquiry into ATC calculation.”¹¹ This statement appears to conflict with language in the NOPR that states WEQ-023 *will be*

⁷ NOPR at P 27.

⁸ NOPR at P 30.

⁹ NOPR at P 31.

¹⁰ NOPR at pg. 43 at proposed 18 CFR § 38.1(b)(2).

¹¹ NOPR at P 42.

incorporated by reference into the Commission’s regulations.¹² The Commission may want to review these apparently inconsistent statements as well and revise as necessary.

B. Redirects from Conditional Parent Reservations.

The NOPR states that NAESB adopted Standard WEQ-001-9.5 which “allows individual transmission providers to craft provisions in their individual tariffs for how they will address redirects of requests for firm transmission service, rather than having an industry-wide business practice for such transactions.”¹³ The NOPR further states that NAESB adopted Standard WEQ-001-10.5 which is similar to Standard WEQ-001-9.5 but addresses redirects on a non-firm basis.¹⁴

For clarification purposes, NAESB adopted WEQ-001-9¹⁵ (-not WEQ-001-9.5. The Commission may want to clarify this distinction in the Final Rule-).

With respect to this proposal, the Commission invited comment on whether it should apply the *Dynegy* policy to conditional and non-firm redirects. In *Dynegy*, the Commission held that a transmission customer receiving firm transmission service does not lose its rights to its original path until the redirect request satisfies all of the following criteria: (1) it is accepted by the transmission provider; (2) it is confirmed by the

¹² NOPR at pg. 44 at proposed 18 CFR § 38.1(b) (16).

¹³ NOPR at P 23.

¹⁴ *Id.*

¹⁵ WEQ-001-9 (Redirects on a Firm Basis) states that “[t]he Business Practice Standard WEQ-001-9 is defined in order to enhance consistency of the reservation process that applies to Redirects on a firm basis from Parent Reservations that are unconditional, as defined in Section 13.2 of the pro forma tariff. The Transmission Provider shall specify any reservation process that applies to Redirects on a firm basis from Parent Reservations that are conditional, as defined in Section 13.2 of the pro forma tariff in its Business Practices that are posted in accordance with Business Practice Standard WEQ-001-13.1.4.”

transmission customer; and (3) it passes the conditional reservation deadline under section 13.2 of its Open Access Transmission Tariff.¹⁶

SPP and MISO respond below to the four issues on which the Commission seeks comment. However, both SPP and MISO wish to underscore that their responses are dictated by the *Dynegy/Entergy* policy with respect to firm redirects, and that should the Commission choose to revisit this policy, Regional Transmission Organizations (“RTOs”) would appreciate and take seriously any such reevaluation.

1. The treatment of a firm redirect for transmission service following the preemption of the conditional parent reservation.

It is well settled in the industry that a redirect for transmission service inherits the conditionality of its parent. As such, a firm redirect for transmission service (both long term and short term) related to a firm, conditional parent is a conditional redirect.

Accordingly, any preemption of the conditional parent reservation should result in the transmission customer’s loss of its conditional redirect reservation that is linked to the conditional parent reservation. Once the conditional parent reservation is preempted, there is no original path to which the conditional redirect can return. Put another way, as a practical matter, the firm conditional redirect has no right to exist if its firm conditional parent has been preempted and, as such, ceases to exist. The corollary to this position is that a firm redirect for transmission service (both long term and short term) should only be permitted subsequent to the firm conditional parent reservation passing the conditional deadline and becoming unconditional.

Furthermore, from a practical implementation perspective, Open Access Technology International, Inc. (“OATI”) does not have the functionality in OASIS to

¹⁶ NOPR at P 20.

manage these circumstances, and it would be unduly burdensome to require transmission providers to create a manual work around to accommodate a firm conditional redirect that continues to exist despite its firm conditional parent having been preempted.

Regarding short term firm transmission service, while there would be no transmission service agreement that lists a Point of Receipt (“POR”) and Point of Delivery (“POD”) for such service, the Commission’s *pro forma* Open Access Transmission Tariff (“OATT”) Section 22.2 implies that the reservation for such service must be unconditional before it may be redirected because (i) it assumes that a transmission service agreement applies to such service, and that agreement lists the POR and POD; and (ii) it does not address the conditional status of a reservation.

Consistent with the above comments, the Commission should direct NAESB to revise Standard WEQ-001-9 to allow a firm redirect for transmission service (both long term and short term) only when the parent reservation is unconditional.

2. The circumstances under which a firm redirect for transmission service may return to the conditional parent reservation.

There are no circumstances under which a firm redirect for transmission service should be able to return to the conditional parent reservation.

There is no guarantee that the firm conditional parent will still exist at the time the firm redirect may wish to return to its parent reservation. If the conditional parent is no longer in existence at the time the firm conditional redirect desires to return to its conditional parent reservation, then the redirect has no right to exist. Its conditional parent has ceased to exist; there no longer exists a path to which the redirect could return.

To address this issue, the Commission should direct NAESB to revise Standard WEQ-001-9 to make clear that a firm redirect for transmission service (both long term and short term) is only permitted subsequent to the firm parent reservation becoming unconditional.

3. The number of subsequent firm redirects for transmission service that can stem from the original firm redirect for transmission service.

There should be no limit to the number of subsequent firm redirects for transmission service that can stem from the original firm redirect for transmission service so long as the parent reservation is unconditional. However, as discussed above, when the parent reservation is conditional, no firm redirects for transmission service (both long term and short term) should be permitted.

4. The proper treatment of requests to redirect requests for non-firm transmission service.

A request to redirect non-firm transmission service (both long term and short term) following the preemption of the conditional parent reservation should result in the transmission customer's loss of its reservation for service since, at the point of preemption, the conditional parent and the original path to which the redirect could return both ceased to exist.

Section 22.1¹⁷ of the Commission's *pro forma* OATT only permits transmission customers taking firm point-to-point transmission service to make modifications to PORs and PODs. The OATT does not state that transmission customers may modify PORs and PODs on a non-firm basis. Therefore, the number of subsequent non-firm redirects that

¹⁷ Section 22.1 states that “[a]ny request by a Transmission Customer to modify Receipt and Delivery Points on a firm basis shall be treated as a new request for service” and that “[w]hile such new request is pending, the Transmission Customer shall retain its priority for service at the existing firm Receipt and Delivery Points specified in the Service Agreement.”

can stem from the original request to redirect non-firm transmission service is zero because the non-firm redirect is not a reservation for firm transmission service.

5. Further Comments

SPP and MISO appreciate the Commission's interest in addressing these issues. In addition to the responses above, both RTOs wish to point out that the ultimate common goal appears to be a proper balance between the rights of transmission owners as well as the efficient use of the transmission system. The Commission sought to strike this balance through its *Dynegy/Entergy* policy, which addressed when a firm parent requests redirect. Both RTOs feel that, in order to be consistent with the *Dynegy/Entergy* policy, we must offer the above recommendations.

Dynegy/Entergy addressed very well a situation whereby a non-conditional parent requests redirect; however, when conditionality became critical subsequent to *Dynegy/Entergy*, a void opened regarding the handling of situations wherein the parent requesting a redirect is conditional and preempted.

But, in light of the very real scenarios that can occur from redirects from a conditional parent, both SPP and MISO ask the Commission whether it might find it more beneficial to revisit the specifics of the *Dynegy/Entergy* order to ensure that it promotes maximum utilization of the transmission system. There is evidence that suggests that the third prong of the *Dynegy/Entergy* policy, that a redirect's parent passes the conditional reservation deadline under § 13.2 of its Open Access Transmission Tariff,

sacrifices significant system efficiency in order to provide very limited additional certainty for those with firm transmission requesting redirects.¹⁸

The issue is clearly complex as evidenced by the industry's inability to resolve it fully through the NAESB OASIS sub-committee. MISO and SPP believe that the rules should strike the appropriate balance between the rights of the transmission customer at issue and the overall efficiency of the system, as well as the rights of other potential transmission customers that may want to utilize the relevant transmission capacity.

The Joint Commenters would be happy to help the Commission in any further inquiry to evaluate changes regarding the underlying *Dynegy/Entergy* policy.

¹⁸ In considering the policy balance between the available transfer capacity and the incentive to engage in redirects, it is informative to note that preemption of redirect service is extremely rare at MISO. As a matter of fact, such preemption has not occurred since April of 2013 when MISO implemented the preemption function. On the other hand, redirect services are submitted multiple times every day on the MISO OASIS. There is little if any disincentive for MISO's Transmission Customers to submit a redirect because of near-zero probability for a redirect service to be displaced due to preemption. At the same time, holding capacity on the parent path can result in daily underutilization of the transmission system, due to the inability of the other Transmission Customers to procure the transmission capacity which is being held.

III. CONCLUSION

In accord with all of the reasons set forth above, SPP and MISO respectfully request that the Commission consider these comments in this rulemaking proceeding.

Respectfully submitted,

/s/ Christopher M. Nolen
Christopher M. Nolen
Attorney
Southwest Power Pool, Inc.
201 Worthen Drive
Little Rock, AR 72223-4936
501.482.2394
cnolen@spp.org

/s/ Elaine Dorsett
Elaine Dorsett
Corporate Counsel
Midcontinent Independent System Operator,
Inc.
720 City Center Drive
Carmel, IN 46032
317.249.5147
edorsett@misoenergy.org