

Commodity	Number of contracts
No. 2 Heating Oil .....	250
Crude Oil, Sweet .....	350
Unleaded Gasoline .....	150
Natural Gas .....	175
Financial:	
Municipal Bond Index .....	300
3-month (13-Week) U.S. Treasury Bills .....	150
30-Year U.S. Treasury Bonds .....	1,000
10-Year U.S. Treasury Notes .....	1,000
5-Year U.S. Treasury Notes .....	800
2-Year U.S. Treasury Notes .....	500
3-Month Eurodollar Time Deposit Rates .....	1,000
30-Day Fed Funds .....	300
1-month LIBOR Rates .....	300
3-month Euroyen .....	100
Major-Foreign Currencies .....	400
Other Foreign Currencies .....	100
U.S. Dollar Index .....	50
S&P 500 Stock Price Index .....	1,000
E-Mini S&P Stock Price Index .....	300
S&P 400 Midcap Stock Index .....	100
Dow Jones Industrial Average Index .....	100
New York Stock Exchange Composite Index .....	50
Amex Major Market Index, Maxi .....	100
NASDAQ 100 Stock Index .....	100
Russell 2000 Stock Index .....	100
Value Line Average Index .....	50
NIKKEI Stock Index .....	100
Goldman Sachs Commodity Index .....	100
All Other Commodities .....	25

### PART 17—REPORTS BY FUTURES COMMISSION MERCHANTS, MEMBERS OF CONTRACT MARKETS AND FOREIGN BROKERS

3. The authority citation for part 17 continues to read as follows:

**Authority:** 7 U.S.C. 6a, 6c, 6d, 6f, 6g, 6i, 7 and 12a unless otherwise noted.

4. Section 17.01 is proposed to be amended by removing and reserving paragraphs (b)(3)(ii) and (c) and by revising paragraph (b)(3)(iii) to read as follows:

#### § 17.01 Special account designation and identification.

\* \* \* \* \*

(b) \* \* \*

(3) \* \* \*

(iii) If fewer than ten accounts are under control of the independent advisor, for each account the account number and the name and location of each person having a ten percent or more financial interest in the account; and

\* \* \* \* \*

Issued in Washington, D.C., this 28th day of January, 1999 by the Commission.

**Jean A. Webb,**

*Secretary of the Commission.*

[FR Doc. 99-2435 Filed 2-2-99; 8:45 am]

BILLING CODE 6351-01-M

### DEPARTMENT OF ENERGY

#### Federal Energy Regulatory Commission

#### 18 CFR Part 37

[Docket No. RM95-9-003]

#### Open Access Same-Time Information System and Standards of Conduct

January 27, 1999.

**AGENCY:** Federal Energy Regulatory Commission, DOE.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Federal Energy Regulatory Commission (the Commission) proposes to adopt a set of uniform business practices implementing the Commission's policies on transmission service price negotiation and improving interactions between transmission providers and customers over OASIS nodes and proposes to revise 18 CFR 37.5 to require compliance with these practices. In addition, the Commission proposes a consistent naming convention for path names, proposes to replace the Data Dictionary Element "ANC\_SERVICE\_TYPE" in the OASIS Standards and Communication Protocols Document (Version 1.3) with the term "AS\_TYPE," and proposes to clarify the terms "DISPLACED," "SUPERSEDED," and "REFUSED" in

§ 4.2.10.2 of that same document and in the Data Dictionary Element.

**DATES:** Written comments (an original and 14 paper copies) must be received by April 5, 1999. In addition, the Commission encourages the filing of a copy of the comments on computer diskette or by E-Mail by the same date.

**ADDRESSES:** Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

#### FOR FURTHER INFORMATION CONTACT:

Marvin Rosenberg (Technical Information), Office of Economic Policy, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, (202) 208-1283.

Paul Robb (Technical Information), Office of Electric Power Regulation, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, (202) 219-2702.

Gary D. Cohen (Legal Information), Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, (202) 208-0321.

**SUPPLEMENTARY INFORMATION:** In addition to publishing the full text of this document in the **Federal Register**, the Commission also provides all interested persons an opportunity to

inspect or copy the contents of this document during normal business hours in the Public Reference Room at 888 First Street, N.E., Room 2A, Washington, D.C. 20426.

The Commission Issuance Posting System (CIPS) provides access to the texts of formal documents issued by the Commission. CIPS can be accessed via Internet through FERC's Home Page (<http://www.ferc.fed.us>) using the CIPS Link or the Energy Information Online icon. The full text of this document will be available on CIPS in ASCII and WordPerfect 6.1 format. CIPS is also available through the Commission's electronic bulletin board service at no charge to the user and may be accessed using a personal computer with a modem by dialing 202-208-1397, if dialing locally, or 1-800-856-3920, if dialing long distance. To access CIPS, set your communications software to 19200, 14400, 12000, 9600, 7200, 4800, 2400, or 1200 bps, full duplex, no parity, 8 data bits and 1 stop bit. User assistance is available at 202-208-2474 or by E-mail to [cipsmaster@ferc.fed.us](mailto:cipsmaster@ferc.fed.us).

This document is also available through the Commission's Records and Information Management System (RIMS), an electronic storage and retrieval system of documents submitted to and issued by the Commission after November 16, 1981. Documents from November 1995 to the present can be viewed and printed. RIMS is available in the Public Reference Room or remotely via Internet through FERC's Home Page using the RIMS link or the Energy Information Online icon. User assistance is available at 202-208-2222, or by E-mail to [RimsMaster@FERC.fed.us](mailto:RimsMaster@FERC.fed.us).

Finally, the complete text on diskette in WordPerfect format may be purchased from the Commission's copy contractor, RVJ International, Inc. RVJ International, Inc. is located in the Public Reference Room at 888 First Street, N.E., Washington, D.C. 20426.

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#### I. Introduction

In this notice of proposed rulemaking (NOPR), the Federal Energy Regulatory Commission (Commission) proposes a set of uniform business practices implementing the Commission's policies on transmission service price negotiation and improving interactions between transmission providers and

customers over Open Access Same-Time Information System (OASIS) nodes and proposes to revise 18 CFR 37.5 to require compliance with these practices. In addition, we propose a consistent naming convention for path names, propose to replace the Data Dictionary Element "ANC\_SERVICE\_TYPE" in the OASIS Standards and Communication Protocols Document, Version 1.3 (S&CP Document) with the term "AS\_TYPE," and propose to clarify the terms "DISPLACED," "SUPERSEDED," and "REFUSED" in the Data Dictionary Element and in section 4.2.10.2 of the S&CP Document.<sup>1</sup>

#### II. Public Reporting Burden

The proposed rule would require a transmission provider to comply with a set of uniform business practices to implement the Commission's policies on transmission service price negotiation and improve interactions between transmission providers and customers over OASIS nodes. The proposed business practices are divided between mandatory standards and voluntary best practice guides. Under this proposal, the best practice guides would not be mandatory; but a transmission provider electing to follow them would be bound to follow them on a consistent non-discriminatory basis. By necessity, a transmission provider already follows business practices in the operation of its OASIS node. The NOPR merely proposes to make these practices more uniform across the industry.

On December 1, 1998, the Commission issued a proposed information collection and request for comments in Docket No. IC99-717-000 that covered all information collected under the requirements of FERC-717 "Open Access Same-Time Information System and Standards of Conduct" (OMB No. 1902-0173) over the next three years, including the implementation of OASIS Phase IA and any information collected under this NOPR.<sup>2</sup> The burden estimate submitted on December 1, 1998 for all OASIS requirements was as follows: "*Burden Statement*: Public reporting burden for this collection is estimated as:

<sup>1</sup> See attached "Business Practice Standards and Guides for OASIS Transactions" (BPS&G). We expect that, with assistance from the industry, we will make improvements in these business practices over time, in the same way that we have made changes to the S&CP Document since its original issuance in 1995.

<sup>2</sup> See note 11, *infra*, where we elaborate on matters covered by OASIS Phase IA.

Number of respondents annually (1)	Number of responses per respondent (2)	Average burden hours per response (3)	Total annual burden hours (1)x(2)x(3)
140	1	1,418	198,520

The estimated total cost to respondents is \$21,157,500."<sup>3</sup>

We are not preparing a separate estimate covering this NOPR only, because we find that the NOPR would not significantly alter the estimate contained in the December 1, 1998 notice. The December 1, 1998 burden estimate gave the Commission's estimate of OASIS-related information requirements over the next three years, and this estimate contemplated the Commission's issuance of uniform business practices during this time frame. In any event, if a separate estimate were prepared, it would not be substantial, because the proposal in this NOPR, if promulgated, would not create any direct information collection requirements and because transmission providers already will need to have business practices in place to conduct OASIS transactions under the Phase IA S&CP Document that becomes effective on March 1, 1999. By announcing this proposal before March 1, 1999, the burden of making changes from already established business practices will be minimized.

The following collection of information contained in this NOPR has been submitted to the Office of Management and Budget (OMB) for review under Section 3507(d) of the Paperwork Reduction Act of 1995, 44 U.S.C. 3507(d). For copies of the OMB submission, contact Michael Miller at 202-208-1415.

#### Internal Review

The Commission has conducted an internal review of this conclusion and has assured itself, by means of its internal review, that there is specific, objective support for this information burden estimate. Moreover, the Commission has reviewed the collection of information proposed by this NOPR and has determined that the collection of information is necessary and conforms to the Commission's plan, as described in this order, for the

collection, efficient management, and use of the required information.<sup>4</sup>

### III. Discussion

#### A. Overview

In this NOPR, we propose a set of uniform business practices, set out in the attached BPS&G document, for use by transmission providers in conjunction with OASIS transactions. Moreover, to ensure compliance, we are proposing a revision to 18 CFR 37.5(b) proposing that responsible parties must comply with the requirements set out in the BPS&G document. In main part, the uniform business practices we propose are those recommended by an industry group in two recent filings. However, as discussed below, we have made certain revisions to those recommendations, to reflect Commission policy, add clarity, and address initial comments received from interested persons.<sup>5</sup> In addition, the Commission proposes a consistent naming convention for path names, proposes to replace the Data Dictionary Element "ANC\_SERVICE\_TYPE" in the S&CP Document with the term "AS\_TYPE," and proposes to clarify the terms "DISPLACED," "SUPERSEDED," and "REFUSED" in the Data Dictionary Element and in section 4.2.10.2 of the S&CP Document.

#### B. Background

The OASIS rulemaking process began with the Commission's issuance of a notice of technical conference and request for comments (RIN Notice)<sup>6</sup> in conjunction with the Commission's previously proposed Open Access Rule.<sup>7</sup> The RIN Notice announced that the Commission was considering establishing rules to effectuate the non-discrimination goals of the Open Access NOPR, through the creation of a real-time information network (RIN) or other

options to ensure that potential and actual transmission service customers would receive adequate access to pertinent information.

The Commission's staff held a technical conference on RINs (RINs Technical Conference) in Washington, D.C. on July 27 and 28, 1995.

During the discussion at the RINs Technical Conference, a consensus developed that two industry working groups should be formed, one dealing with "what" information should be posted on a RIN and the other dealing with "how" to design a RIN to communicate this information to the industry and what, if any, national standards this would require.<sup>8</sup> The "what" group would be facilitated by the North American Electric Reliability Council (NERC) and the "how" group would be facilitated by the Electric Power Research Institute (EPRI).

On October 16, 1995, both working groups submitted their reports to the Commission. The Commission used the two industry reports and associated comments as the starting point for a notice of proposed rulemaking (RIN NOPR).<sup>9</sup> Under the RIN NOPR, each public utility that owned and/or controlled facilities used for the transmission of electric energy in interstate commerce would be required to develop and/or participate in a RIN.

Subsequently, the Commission issued Order No. 889, a final rule establishing the OASIS requirements.<sup>10</sup> This order required jurisdictional public utilities that own or control transmission systems (transmission providers) to set up an OASIS. It also established standards of conduct designed to ensure that a public utility's employees (or any of its affiliates' employees) engaged in transmission system operations function independently of the public utility's employees (or of any of its affiliates' employees) who are engaged in wholesale merchant functions. Finally, the order issued a set of communication standards and protocols to ensure that

<sup>3</sup> The estimated total cost of \$21,157,500 was computed as follows:

The Commission has assumed that 4.5 personnel are necessary for staffing and using a total personnel cost of \$109,889, the result is \$494,501. To get the total cost, add annual ongoing costs of \$110,000 plus staffing costs [\$110,000 + \$494,501] for a total of \$604,501 divided by 4 = \$151,125. The estimated total cost of the OASIS requirement is 140 respondents x \$151,125 or \$21,157,500.

<sup>4</sup> See 44 U.S.C. § 3506(c).

<sup>5</sup> Throughout this document we have shown additions and recommended revisions with italics and boldface and deletions and recommended deletions with [italics and brackets].

<sup>6</sup> Real-Time Information Networks, Notice of Technical Conference and Request for Comments, FERC Stats. & Regs. ¶35,026 (1995).

<sup>7</sup> Promoting Wholesale Competition Through Open Access Non-discriminatory Transmission Services by Public Utilities; Recovery of Stranded Costs by Public Utilities and Transmitting Utilities, Notice of Proposed Rulemaking and Supplemental Notice of Proposed Rulemaking, FERC Stats. & Regs. ¶32,514 (1995).

<sup>8</sup> Real-Time Information Networks, Notice of Timetable and Opportunity for Participation in Industry Working Groups, FERC Stats. & Regs. ¶35,029 (1995).

<sup>9</sup> *Id.*

<sup>10</sup> Open Access Same-Time Information System and Standards of Conduct, Order No. 889, FERC Stats. & Regs. ¶ 31,035 (1996).

the OASIS system presents information in a consistent and uniform manner.

The rules established in Order No. 889 were for a basic (Phase I) OASIS. The Order also contemplated that an enhanced (Phase II) OASIS would be established in the future. The current Phase IA rules improve the operations of the basic Phase I OASIS prior to the development of the enhanced OASIS Phase II system.<sup>11</sup>

In Order No. 889-A, the Commission addressed the requests for rehearing of Order No. 889 and requested that the industry prepare a report on Phase II issues.<sup>12</sup> In response to this request, on November 3, 1997, the Commercial Practices Working Group (CPWG), together with the How Group (jointly "CPWG/How Group"), submitted a document entitled "Industry Report to the Federal Energy Regulatory Commission on the Future of OASIS" (November 1997 Report). The November 1997 Report stated:

[t]here are inconsistencies in business practices across the nodes. In fact, OASIS serves to underscore the differences in practices as customers try to access information and reserve transmission in a familiar way, but find procedures vary from provider to provider. Some of the variations . . . include packaging of ancillary services, application of discounts, use of "sliding windows" of transmission service, and customer confirmation time limits.

The November 1997 Report contained an action plan that included a commitment to file a report with the Commission proposing draft guidelines to clarify OASIS Phase IA business practices. Consistent with this commitment, on June 19, 1998, CPWG/How Group tendered for filing a report entitled "Industry Report to the Federal Energy Regulatory Commission on OASIS Phase IA Business Practices" (June 19 Report). CPWG/How Group state that the recommendations in the June 19 Report are based on a consensus among participants from various industry segments with diverse interests and viewpoints who chose to participate in the CPWG/How Group process. The June 19 Report offers for Commission

adoption a set of business practice standards and guidelines.

The June 19 Report states that the recommended business practice standards and guides are intended to enable the Commission to implement its policy directives related to on-line price negotiation and to improve the commercial operation of OASIS. It also is stated that the recommended standards and guides are intended to support FERC regulations, the *pro forma* tariff, and the S&CP Document. Finally, the June 19 Report maintains that, in a few instances, revisions to the *pro forma* tariff are required to support the recommended business practices and offers recommended tariff changes consistent with the recommended business practices for Commission review and approval.

The June 19 Report describes how many OASIS-related business practice implementation details were left for transmission providers to determine for themselves, based on their interpretations of Order Nos. 888 and 889, the S&CP Document, and individual tariffs. The June 19 Report contends that this flexibility has resulted in significant variation among business practices across OASIS nodes that influence the development of markets.

CPWG/How Group argue that the recommended "Phase IA Business Practice Standards and Guides" (Business Practices) in the June 19 Report provide an important step toward achieving greater consistency in the implementation of the Commission's open access policy and OASIS. CPWG/How Group request that the Commission adopt the recommended Business Practices to support the implementation of Phase IA OASIS. CPWG/How Group maintain that the recommended Business Practices are consistent with existing FERC regulations, the *pro forma* tariff, and the Phase IA S&CP Document, except where specific tariff revisions are requested.

On July 6, 1998, the Commission issued a notice of the filing of the June 19 Report that invited interested persons to comment on the CPWG/How Group recommendations on or before July 31, 1998.<sup>13</sup> Timely comments were filed by Electric Clearinghouse, Inc. (ECI), Cinergy Services, Inc. (Cinergy), and Enron Power Marketing Inc. (EPMI). On August 11, 1998, CPWG/How Group filed a letter with the Commission requesting implementation of the recommended Business Practices on March 1, 1999.

<sup>13</sup> 63 FR 38641 (1998).

On September 15, 1998, CPWG/How Group filed a letter with the Commission recommending standards for transmission path naming and requesting Commission approval coincident with the start of OASIS Phase IA (to begin on March 1, 1999). On October 14, 1998, the Commission issued a notice of the filing of the proposed standards for transmission path naming that invited comments by interested persons on or before October 28, 1998.<sup>14</sup> Timely comments were filed by American Public Power Association (APPA).

### C. Composition of CPWG Membership

In previous orders,<sup>15</sup> we have noted that the Commission would heed recommendations from industry working groups only to the extent that the views of those groups reflected an open process with input from diverse industry segments.

### Comments

ECI argues that even though the CPWG has made valuable contributions, that group is not a forum "with balanced industry segment representation."<sup>16</sup> ECI disagrees with the statement in the June 19 Report that the CPWG "is an independent forum with balanced industry segment representation."<sup>17</sup> In ECI's experience, the composition of the CPWG is unbalanced and is heavily dominated by transmission providers. ECI argues that the unbalanced composition of CPWG membership has resulted in the group functioning more effectively as a barometer for, and not as the definitive statement of, electric power industry views. ECI also argues that claims of CPWG consensus should be viewed with skepticism and that the heavy representation of public utility organizations (estimated by ECI as 68 of 78 representatives) in the process encourages resolution of problems through a least common denominator approach. Thus, ECI argues that recommendations from the CPWG do not deserve the Commission's unqualified deference.

### Discussion

We agree with ECI that unqualified deference should not be given to the recommendations of any industry group whose decisions are not made in an open inclusive process with balanced

<sup>14</sup> 63 FR 56022 (1998).

<sup>15</sup> See, e.g., RIN NOPR, FERC Stats. & Regs. ¶ 32,516 at 33,173-74; Order No. 889, FERC Stats. & Regs. ¶ 31,035 at 31,589, n.13; Order No. 889-A, FERC Stats. & Regs. ¶ 31,049 at 30,549, n.7.

<sup>16</sup> ECI Comments at 5-7.

<sup>17</sup> June 19 Report at 2.

<sup>11</sup> OASIS "Phase IA" is a label devised by the industry to refer to revisions to the OASIS Phase I requirements that the Commission asked industry to devise to implement the Commission's findings in the OASIS Final Rule requiring the on-line negotiation of discounts. See Open Access Same-Time Information System and Standards of Conduct, 83 FERC ¶ 61,360 at 62,452 (1998) (June 18 Order).

<sup>12</sup> Open Access Same-Time Information System and Standards of Conduct, Order No. 889-A, FERC Stats. & Regs. ¶ 31,049 at 30,549, n.8 (1997), order on reh'g, Order No. 889-B, 81 FERC ¶ 61,253 (1997).

representation reflecting a broad consensus of views from all industry segments. Moreover, rather than giving "unqualified deference" to recommendations from the CPWG, we here are issuing a NOPR that invites comment from any interested person before taking any further action on this matter. Further, we recently have been informed that the CPWG has been reconstituted and its functions taken over by a replacement industry group, the Interim Market Interface Committee (IMIC), sponsored by NERC.<sup>18</sup>

If, in the future, IMIC (or any other industry group) would like the Commission to consider its recommendations to reflect the views of the entire industry, then it is incumbent on it to demonstrate to the Commission that: (1) its membership is drawn from all industry segments in an open inclusive process; (2) it makes its decisions in a manner that gives fair voice to participants with diverse viewpoints from all industry segments; and (3) its activities are conducted in an open inclusive manner.

#### *D. Business Practices for OASIS Phase IA Transactions*

##### **1. Recommended Voluntary Guides and Recommended Mandatory Standards**

The June 19 Report distinguishes between recommended OASIS business practice "standards" and best practices "guides." The June 19 Report states that while the "standards" are offered to the Commission for adoption as mandatory requirements, the "guides" are recommended as voluntary best practices. The CPWG/How Group advances several reasons why some practices have been offered as guides instead of as standards. First, they argue there may be majority support for the practice, but not an overwhelming consensus. Second, they argue reasonable alternatives may exist. Third, they argue customers and providers need time to adapt computer systems and processes. Fourth, they argue adoption of a practice as a standard may conflict with existing tariffs and require tariff changes prior to adoption as a standard. Fifth, they argue the practice may be a suggested, but not required, action. CPWG/How Group stated that it plans to file additional recommendations for standards and guides over time and, as appropriate, request that existing guides be upgraded to mandatory standards.

##### **Comments**

ECI argues that "voluntary best practices" must be enforceable

standards.<sup>19</sup> Otherwise, ECI argues, these "voluntary best practices" will foster the problem that CPWG identified in its November 1997 report to the Commission.

There are inconsistencies in business practices across the nodes. In fact, OASIS serves to underscore the differences in practices as customers try to access information and reserve transmission in a familiar way, but find procedures vary from provider to provider.

ECI argues that the recommendation of "voluntary best practices" defeats the chief objective of the June 19 Report—to impose a uniform and consistent set of business practices across the board in the electric power industry.<sup>20</sup>

Moreover, as discussed below, both EPMI and Cinergy argue that specific recommended guides (recommended Guides 4.2 and 4.3—cited by EPMI, and recommended Guide 4.1—cited by Cinergy) should be adopted as mandatory standards for all transmission providers and not merely as discretionary "best practice" guides.

##### **Discussion**

Notwithstanding concerns about the fairness and representativeness of CPWG's decision making process, the distinction between mandatory standards and voluntary guides helped the participants in its process reach agreement on the issues. Similarly, we propose to maintain the same distinction between standards and guides in this NOPR, although (as discussed further below) we invite comment on this issue.

However, we agree with Cinergy that uniform and consistent business practices across the board in the electric power industry are a desired result, and that consistency can best be achieved through mandatory standards rather than suggested guidelines.

Accordingly, although this NOPR proposes to follow the June 19 Report's general recommendation—that we distinguish between mandatory standards and voluntary "best practice" guides—we invite commenters to this NOPR to address whether particular proposals should be adopted as standards or guidelines and whether the commenter recommends the adoption of any additional standards or guides not contained in the June 19 Report. Specifically, we invite those who agree with the tentative classification of guideline vs. standard, as proposed in this NOPR, to present their arguments as to why those classifications should be retained (in the final rule) and invite those that disagree with the current

classifications to present their arguments as to why those classifications should be changed (in the final rule). Commenters should be aware that we are considering making *all* of the recommendations mandatory standards, including those now proposed as guidelines in this NOPR.

As written, the proposed guidelines would only apply to transmission providers that choose to follow them, even where words such as "must" or "shall" are used. However, a transmission provider choosing to follow the guidelines is bound to apply them on a uniform non-discriminatory basis.

##### **2. Need for Standard Terminology (Section 2A of the June 19 Report)**

In the November 1997 Report, CPWG/How Group identified inconsistent use of terminology as an area for improvement in OASIS. In the June 19 Report, CPWG/How Group recommend that we establish a standard set of attribute values to provide clarity and consistency in the labeling of transmission services.

##### **Comments**

Comments were received from ECI, Cinergy, and EPMI in support of standard attributes. However, as discussed in detail below, ECI finds fault with several of the specific proposals put forth in the June 19 Report. Cinergy supports the needs of the marketplace to give flexibility for individual transmission providers to use non-standard attributes if they are clearly defined by the provider on the OASIS. EPMI generally supports standardization and formulation of practices that improve consistency of customer-provider interactions across OASIS nodes, but suggests revisions to particular provisions.<sup>21</sup>

##### **Discussion**

Section 2.A of the June 19 Report does not recommend any specific guides or standards. It argues, however, that standard attribute values should be used in OASIS transactions to the greatest extent possible. All of the comments addressing this issue support this approach and we agree. ECI and EPMI oppose the authorization of non-standard attributes, because they fear that they will be compelled to purchase services they do not want.<sup>22</sup> However,

<sup>18</sup> Minutes of September 22–23, 1998 CPWG Meeting, p.2.

<sup>19</sup> ECI Comments at 7.

<sup>20</sup> *Id.*

<sup>21</sup> EPMI Comments at 3.

<sup>22</sup> *Id.* and ECI Comments at 9.

there is an important distinction that must be drawn between allowing a service to be offered and compelling a customer to purchase that service. Providers are encouraged to offer new products within the marketplace that are permitted within approved tariffs (i.e., services that are consistent with or superior to the *pro forma* tariff services). However, this does not mean that customers are required to purchase these products. The non-standard attributes only describe the products so that OASIS users will be better informed of available services. Allowing the use of non-standard attributes would not by itself constitute approval for a

transmission provider offering a particular service to its customers or compel its purchase.

### 3. Attribute Values Defining the Period of Service (Section 2B of the June 19 Report)

On September 29, 1998, the Commission issued a revised OASIS S&CP Document for Phase IA implementation.<sup>23</sup> The Phase IA S&CP Document developed data templates, but did not provide a definition for each attribute value. CPWG/How Group recommend standards and guides for service attribute value definitions to be implemented with Phase IA.

In the June 19 Report, CPWG/How Group recommended that the Commission establish a standard set of attribute values (i.e., service characteristics) to provide clarity and consistency in the labeling of transmission services. Table 1-1 of the June 19 Report identifies the definitions that are recommended as standard terminology in Phase IA for the attributes SERVICE\_INCREMENT (Hourly, Daily, Weekly, Monthly, and Yearly) and WINDOW (Fixed, Sliding, and Extended).<sup>24</sup> Recommended Table 1-1 provides as follows:

TABLE 1-1—STANDARD SERVICE ATTRIBUTE DEFINITIONS REQUIRED IN PHASE IA

	Fixed	Sliding	Extended
Hourly .....	X	N/A	N/A
Daily .....	X	X	X
Weekly .....	X	X	X
Monthly .....	X	X	X
Yearly .....	X	X	X

[footnote omitted, see note 21, *infra*].

CPWG/How Group argue that a definition is required for each combination of SERVICE\_INCREMENT and WINDOW, except "Hourly Sliding" and "Hourly Extended," which are not considered by the CPWG to be sufficiently common in the market to require standard definitions. CPWG/How Group advocate that the Commission add the characteristic "Extended" as a permissible value for WINDOW, which at the time the report was submitted, would have required a modification to the S&CP Document.<sup>25</sup>

The June 19 Report provides that the existence of a definition in this table does not imply the services must be offered by a transmission provider. It further provides that requirements as to which services must be offered are defined by regulation and tariffs and are not addressed by this report. Nor does the report imply that there is an implication as to the curtailment priority or price caps for these services. CPWG/How Group also suggest that transmission providers offer new products that meet the needs of transmission customers, when an appropriate standard attribute is not available.

CPWG/How Group recommend the terms "fixed," "sliding," and "extended" to describe periods of service. "Fixed" defines service periods that align with calendar periods such as a day, week, or month. "Sliding" defines service periods that are fixed in duration, such as a week or month, but the start and stop time may slide. For example, a "sliding" week could start on a Tuesday and end on the following Monday. "Extended" defines service periods for which the start time may "slide" and with a longer than standard duration. For example, an "extended" week of service could be nine consecutive days. These definitions are contained in recommended Standards 2.1-2.1.13, which provide as follows:

Standard 2.1: A Transmission Provider shall use the values and definitions below for the attributes Service\_Increment and Window for all transmission services offered on OASIS, or shall post alternative attribute values and associated definitions on the OASIS Home Page at [www.tsin.com](http://www.tsin.com), or shall use existing attribute values and definitions posted by other Transmission Providers. (See Section 3 of this report for registration requirements.)

2.1.1: Fixed Hourly—The service starts at the beginning of a clock hour and stops at the end of a clock hour.

2.1.2: Fixed Daily—The service starts at 00:00 and stops at 24:00 of the same calendar date (same as 00:00 of the next consecutive calendar date).

2.1.3: Fixed Weekly—The service starts at 00:00 on Monday and stops at 24:00 of the following Sunday (same as 00:00 of the following Monday).

2.1.4: Fixed Monthly—The service starts at 00:00 on the first date of a calendar month and stops at 24:00 on the last date of the same calendar month (same as 00:00 of the first date of the next consecutive month).

2.1.5: Fixed Yearly—The service starts at 00:00 on the first date of a calendar year and ends at 24:00 on the last date of the same calendar year (same as 00:00 of the first date of the next consecutive year).

2.1.6: Sliding Daily—The service starts at the beginning of any hour of the day and stops exactly 24 hours later at the same time on the next day.

2.1.7: Sliding Weekly—The service starts at 00:00 of any date and stops exactly 168 hours later at 00:00 on the same day of the next week.

2.1.8: Sliding Monthly—The service starts at 00:00 of any date and stops at 00:00 on the same date of the next month (28-31 days later). If there is no corresponding date in the following month, the service stops at 24:00 on the last day of the next month.

For example: Sliding Monthly starting at 00:00 on January 30 would stop at 24:00 on February 28 (same as 00:00 March 1).

<sup>23</sup> Open Access Same-Time Information System and Standards of Conduct, 84 FERC ¶ 61,329 (1998) (September 29 Order). Version 1.3 of the S&CP Document is posted on the Commission Issuance Posting System (accessed through the Commission's Internet Home Page at <http://ferc.fed.us>) or may be

inspected in the Commission's Public Reference Room.

<sup>24</sup> What is referred to here as "WINDOW" is referred to as "TS\_WINDOW" in the S&CP Data Dictionary.

<sup>25</sup> Subsequent to the submittal of the June 19 Report, the Commission incorporated a value for

"EXTENDED" under the definition of TS\_WINDOW in Version 1.3 of the S&CP Document. See S&CP Document, Version 1.3, Data Element Dictionary at A-18. For this reason, we have omitted a footnote from the recommended Table 1-1 suggesting that this change is needed.

2.1.9: Sliding Yearly—The service starts at 00:00 of any date and stops at 00:00 on the same date of the following year. If there is no corresponding date in the following year, the service stops at 24:00 on the last day of the same month in the following year.

For example Sliding Yearly service starting on February 29 would stop on February 28 of the following year.

2.1.10: Extended Daily—The service starts at any hour of a day and stops more than 24 hours later and less than 48 hours later.

2.1.11: Extended Weekly—The service starts at 00:00 of any date and stops at 00:00 more than one week later, but less than two weeks later.

2.1.12: Extended Monthly—The service starts at 00:00 of any date and stops at 00:00 more than one month later but less than two months later.

2.1.13: Extended Yearly—The service starts at 00:00 of any date and stops at 00:00 more than one year calendar year later but less than two calendar years later.

Definitions are recommended as standard terminology in Phase IA for the attributes SERVICE\_INCREMENT (Hourly, Daily, Weekly, Monthly, and Yearly) and WINDOW (Fixed, Sliding, and Extended). A definition is recommended for each combination of SERVICE\_INCREMENT and WINDOW. The September 29 Order includes "EXTENDED" as a permissible value of the data element "TS\_WINDOW."<sup>26</sup>

#### Comments

ECI and Cinergy filed comments on this issue. ECI disagrees with the term "extended" and states that this term is not contained in the *pro forma* tariff. ECI also asserts that the term "sliding" is appropriate while the term "fixed" is unnecessary. Cinergy argues that non *pro-forma* rate designs approved by the Commission should have service attribute definitions defined for Table 1-1.<sup>27</sup> For example, it argues the information provided in Table 1-1 should include service attribute definitions for locational marginal pricing and megawatt-mile pricing.<sup>28</sup>

#### Discussion

We propose that Standards 2.1 through 2.1.13, as shown in the attached BPS&G document, be adopted. While the term "extended" is not included in the *pro forma* tariff, the marketplace is evolving to the point where offerings of extended daily, extended weekly, and extended monthly services are products that can serve a useful market niche. While not covered by the *pro forma* tariff, there is no prohibition against

these services being provided under transmission providers' individual open access tariffs. This being the case, it is appropriate that the standards proposed in this NOPR should provide such definitions. Furthermore, the terms "sliding" and "fixed" also help to improve communications in the contracting for transmission services. We note that the Phase IA S&CP Document, approved in the September 29 Order, provided for the inclusion of "fixed," "sliding," and "extended" transmission service period definitions.

Cinergy has not persuaded us that the definitions of "fixed," "sliding," and "extended" should be expanded to include service attribute definitions for locational marginal pricing and megawatt-mile pricing, since these attributes are intended to describe types of services, not prices or rate designs for services. However, we invite additional comment on this issue in the comments to this NOPR.

#### 4. Attribute Values Defining Service Class and Type (Section 2C of the June 19 Report)

The Phase IA S&CP Document issued in the September 29 Order included data templates that refer to service class and type, but do not define these attributes. CPWG/How Group recommend definitions for Service Class (recommended Standard 2.2) (*i.e.*, Firm Transmission Service (recommended Standard 2.2.1) and Non-Firm Transmission Service (recommended Standard 2.2.2)) and for Service Type (recommended Standard 2.3) (*i.e.*, Point-to-Point Transmission Service (recommended Standard 2.3.1) and Network Integration Transmission Service (recommended Standard 2.3.2)). These recommended definitions provide as follows:

Standard 2.2: A Transmission Provider shall use the values and definitions below to describe the service CLASS for transmission services offered on OASIS, or shall post alternative attribute values and associated definitions on the OASIS Home Page at [www.tsin.com](http://www.tsin.com), or shall use the attribute values and definitions posted by other Providers. (See Section 3 for registration requirements.)

2.2.1: Firm—Transmission service that always has a priority over Non-Firm transmission service and has equal priority with Native Load Customers and Network Customers, in accordance with FERC regulations.

2.2.2: Non-Firm—Transmission service that is reserved and/or scheduled on an as-available basis and is subject to curtailment or interruption at a lesser priority compared to Firm transmission service, Native Load Customers, and Network Customers.

Standard 2.3: A Transmission Provider shall use the values and definitions below to

describe the service TYPE for transmission services offered on OASIS, or shall post alternative attribute values and associated definitions on the OASIS Home Page at [www.tsin.com](http://www.tsin.com), or shall use the attribute values and definitions posted by other Providers. (See Section 3 for registration requirements.)

2.3.1: Point-to-point—Transmission service that is reserved and/or scheduled between specified Points of Receipt and Delivery pursuant to Part II of the FERC *pro forma* tariff.

2.3.2: Network—Network Integration Transmission Service that is reserved and/or scheduled to serve a Network Customer load pursuant to Part III of the FERC *pro forma* Tariff.

#### Comments

Comments were offered by ECI and EPMI. ECI comments that the recommended definitions are unnecessary because the terms are defined in the *pro forma* tariff. EPMI offers a revised definition to indicate that there should be no differing priorities within the firm classes of service.

#### Discussion

In general, we believe that these recommended definitions (2.2.1, 2.2.2, 2.3.1, and 2.3.2) should be included in the standards. However, to avoid any misunderstanding, we propose to add a disclaimer to each definition stating in each instance that the service is to be offered "in accordance with the definitions in the *pro forma* tariff."

We do not find ECI's argument, that the recommended definitions are unnecessary (because they are included in the *pro forma* tariff), to be persuasive. In instances where a term is defined in the *pro forma* tariff, we will incorporate—verbatim—the definition from the *pro forma* tariff—into the BPS&G document. In instances where the term is not defined in the *pro forma* tariff, we will use the recommended definitions, so long as we find them consistent with the definitions of related terms in the *pro forma* tariff.

The standards proposed herein have been proposed to improve the communications in conducting business on the OASIS. Therefore, terminology used in communications over the OASIS should clearly be defined in the BPS&G document, so long as those definitions are consistent with those in the *pro forma* tariff. We propose to adopt the suggested revision offered by EPMI to recommended Standard 2.2.1 because it clarifies the definition of Firm Transmission Service. As revised, Standard 2.2.1 will read as follows:

Standard 2.2.1: FIRM—Transmission service that always has [a] priority over NON-

<sup>26</sup> As noted above, *supra* note 25, the Commission incorporated a value for "EXTENDED" under the definition of TS\_WINDOW in Version 1.3 of the S&CP Document.

<sup>27</sup> Cinergy Comments at 2.

<sup>28</sup> *Id.*



FIRM transmission service [and has equal priority with] and includes Native Load Customers, [and] Network Customers, and any transmission service not classified as non-firm in accordance with the definitions in the *pro forma* tariff [FERC regulations].

Moreover, we find the definitions in sections 2.2–2.3.2, as revised, to be consistent with the *pro forma* tariff.

#### 5. Curtailment Priorities (Section 2D of the June 19 Report)

Included in the S&CP Document for Phase IA implementation is a data dictionary element entitled “Curtailed Procedures.” A business practice has not previously been defined for this data element. Recommended Standard 2.4 on curtailment policies provides as follows:

Standard 2.4: A Transmission Provider shall use the curtailment priority definitions in NERC Policy 9 Security Coordinator Procedures for NERC CURTAILMENT PRIORITY (1–7) for all transmission services offered on OASIS, or shall post alternative attribute values and associated definitions on the OASIS Home Page at [www.tsin.com](http://www.tsin.com), or shall use attribute values and definitions posted by another Provider. (See Section 3 for registration requirements.)

#### Comments

ECI objects to the CPWG/How Group’s proposal, on the basis that the Commission in its *pro forma* tariff has established the curtailment priorities for transmission service. ECI comments that the curtailment priorities under NERC procedures are unreasonable and anticompetitive. To the extent the Commission intends to address the merits of NERC’s proposal here, ECI incorporates by reference its July 20, 1998 protest filed in Docket No. EL98–52–000.<sup>29</sup>

EPMI offers revisions to the recommended standard to remove the option of posting alternative attribute values and definitions.

#### Discussion

We have not been persuaded to propose the adoption of Standard 2.4 as recommended in the June 19 Report in the NOPR. There is still considerable work to be accomplished in the area of developing procedures/definitions for establishing curtailment policy.

The Commission recently ruled on a petition for declaratory order (Petition) filed by NERC regarding NERC’s proposed Transmission Loading Relief

(TLR) procedures.<sup>30</sup> The Commission found that these procedures, which address multi-system transactions and unscheduled flows, are generally consistent with or superior to the *pro forma* tariff curtailment provisions, but that further efforts by NERC and industry participants are necessary. The Commission also found that the TLR procedures must be on file with the Commission, and adopted NERC’s suggestion to establish an efficient mechanism for public utilities to incorporate the TLR procedures into their individual open access tariffs.<sup>31</sup> As policies evolve, we can revisit the notion of adding a curtailment definition at a later date.

To prevent confusion, this NOPR reserves section 2.4 for future use (in the numbering of sections in the attached BPS&G document) so that we do not have to renumber sections 2.5–2.5.9 and so that the section numbers in the NOPR will continue to match up with the section numbers used in the June 19 report.

#### 6. Other Service Attribute Values (Section 2E of the June 19 Report)

In Order No. 888, the Commission concluded that six ancillary services must be included in an open access tariff.<sup>32</sup> Other services may be offered pursuant to filed tariffs, or as specified in a customer’s service agreement with the transmission provider.<sup>33</sup>

The June 19 Report recommends the data element `ANCILLARY_SERVICE_TYPE` in the S&CP Document be changed to `AS_TYPE`. This name is less restrictive and may be used to denote ancillary or additional services that are not *pro forma* tariff ancillary services. This name is also comparable to the use for transmission service of `TS_TYPE`. Consistent with this recommendation, the June 19 Report recommends Standard 2.5, to describe the `AS_TYPES` offered on OASIS.

<sup>30</sup> North American Electric Reliability Council, 85 FERC ¶ 61,353 (1998) (NERC Order).

<sup>31</sup> By contrast, in Mid-Continent Area Power Pool, 85 FERC ¶ 61,352 (1998), *reh’g pending* (MAPP Order), the Commission rejected line load relief procedures that were not consistent with or superior to the *pro forma* tariff. See *Coalition Against Private Tariffs*, 83 FERC ¶ 61,015 at 61,039, *reh’g denied*, 84 FERC ¶ 61,050 at 61,235–36 (1998).

<sup>32</sup> The six ancillary services defined in the *pro forma* tariff are: (1) Scheduling, System Control, and Dispatch Service; (2) Reactive Supply and Voltage Control from Generation Sources Service; (3) Regulation and Frequency Response Service; (4) Energy Imbalance Service; (5) Operating Reserve—Spinning Reserve Service; and (6) Operating Reserve—Supplemental Reserve Service. See §§ 3.1–3.6 of the *pro forma* tariff.

<sup>33</sup> FERC Stats. & Regs. ¶ 31,036 at 31,705.

Recommended Standard 2.5 provides as follows:

Standard 2.5: A Transmission Provider shall use the definitions below to describe the `AS_TYPES` offered on OASIS, or shall post alternative attribute values and associated definitions on the OASIS Home Page at [www.tsin.com](http://www.tsin.com), or shall use attribute values and definitions posted by another Provider. (See Section 3 for registration requirements.)

In addition, the June 19 Report recommends FERC Ancillary Services Definitions for: Scheduling, System Control, and Dispatch Service; Reactive Supply and Voltage Control from Generation Sources Service; Regulation and Frequency Response Service; Energy Imbalance Service; Operating Reserve—Spinning Reserve Service; Operating Reserve—Supplemental Reserve Service; and other services which may be offered to transmission customers such as Dynamic Transfer, Real Power Transmission Losses, and System Black Start Capability. Specifically, recommended sections 2.5.1–2.5.9 provide the following definitions:

#### Ancillary Services Definitions

2.5.1: Scheduling, System Control and Dispatch Service (SC)—is the provision of (i) interchange schedule confirmation and implementation with other control areas, including intermediary control areas that are providing transmission service, and (ii) actions to ensure the operational security during interchange transaction.

2.5.2: Reactive Supply and Voltage Control from Generation Sources Service (RV)—is the provision of reactive power and voltage control by generating facilities.

2.5.3: Regulation and Frequency Response Service (RF)—is the provision of resources to follow a Transmission Customer’s load changes and to supply power to meet any difference between a Customer’s actual and scheduled generation.

2.5.4: Energy Imbalance Service (EI)—supplies any hourly mismatch between a Transmission Customer’s energy supply and the load being served in the control area. This service makes up for any net mismatch over an hour between the scheduled delivery of energy and the actual load that the energy serves in the control area.

2.5.5: Operating Reserve—Spinning Reserve Service (SP)—is the provision of resources, which are on-line and loaded at less than maximum output, to serve load in case there is an unplanned event such as loss of generation.

2.5.6: Operating Reserve—Supplemental Reserve Service (SU)—is the provision of resources that may not be available instantaneously, including generating units that are on-line, quick start units, and customer-interrupted load, to serve load in case there is an unplanned event such as loss of generation.

2.5.7: Dynamic Transfer (DT)—is the provision of the real-time monitoring,

<sup>29</sup> ECI’s protest argues, among other things, that: (1) NERC’s Tagging requirements must be applied to all transactions; (2) NERC’s proposed revisions to Policy 9 (on curtailment) are contrary to the *pro forma* tariff; and (3) NERC security coordinators must be subject to enforceable Standards of Conduct.



telemetering, computer software, hardware, communications, engineering, and administration required to electronically move all or a portion of the real energy services associated with a generator or load out of its Host Control Area into a different Electronic Control Area.

2.5.8: Real Power Transmission Losses (TL)—is the provision of capacity and energy to replace energy losses associated with transmission service on the Transmission Provider's system.

2.5.9: System Black Start Capability (BS)—is the provision of generating equipment that, following a system blackout, is able to start without an outside electrical supply. Furthermore, Black Start Capability is capable of being synchronized to the transmission system such that it can provide a startup supply source for other system capacity that can then be likewise synchronized to the transmission system to supply load as part of a process of re-energizing the transmission system.

#### Comments

ECI objects to the recommended change on the basis that ancillary services are defined in the *pro forma* tariff. Cinergy comments that, for clarity, the words "according to FERC *pro forma* tariff" or "pursuant to the transmission provider's open access transmission tariff" should be included when addressing ancillary services. As an alternate approach, Cinergy suggests including a blanket introductory statement indicating that the ancillary services definitions refer to those services offered pursuant to the transmission provider's open access transmission tariff.

EPMI comments that the Commission should not authorize unspecified "alternative attribute values," and that the Commission must approve ancillary services.<sup>34</sup>

#### Discussion

We agree with ECI that, in instances where terms are defined in the *pro forma* tariff, we should use that same definition for conducting OASIS-related business. Accordingly, we will revise the definitions in recommended sections 2.5.1–2.5.6 to match those in the *pro forma* tariff. We therefore propose as follows:

#### FERC Ancillary Services Definitions

2.5.1: Scheduling, System Control and Dispatch Service (SC)—is necessary to the provision of basic transmission service within every control area. This service can be provided only by the operator of the control area in which the transmission facilities used are located. This is because the service is to schedule the movement of power through, out of, within, or into the control area.<sup>35</sup> This

service also includes the dispatch of generating resources to maintain generation/load balance and maintain security during the transaction and in accordance with section 3.1 (and Schedule 1) of the *pro forma* tariff.<sup>36</sup> [(i) interchange schedule confirmation and implementation with other control areas, including intermediary control areas that are providing transmission service, and (ii) actions to ensure the operational security during interchange transaction.]

2.5.2: Reactive Supply and Voltage Control from Generation Sources Service (RV)—is the provision of reactive power and voltage control by generating facilities under the control of the control area operator.<sup>37</sup> This service is necessary to the provision of basic transmission service within every control area and in accordance with section 3.2 (and Schedule 2) of the *pro forma* tariff.<sup>38</sup>

2.5.3: Regulation and Frequency Response Service (RF)—is provided for transmission within or into the transmission provider's control area to serve load in the area. Customers may be able to satisfy the regulation service obligation by providing generation with automatic generation control capabilities to the control area in which the load resides and in accordance with section 3.3 (and Schedule 3) of the *pro forma* tariff.<sup>39</sup> [the provision of resources to follow a Transmission Customer's load changes and to supply power to meet any difference between a Customer's actual and scheduled generation.]

2.5.4: Energy Imbalance Service (EI) [supplies any hourly mismatch between a Transmission Customer's energy supply and the load being served in the control area. This service makes up for any net mismatch over an hour between the scheduled delivery of energy and the actual load that the energy serves in the control area.] is the service for transmission within and into the transmission provider's control area to serve load in the area. Energy imbalance represents the deviation between the scheduled and actual delivery of energy to a load in the local control area over a single hour and in accordance with section 3.4 (and Schedule 4) of the *pro forma* tariff.<sup>40</sup>

2.5.5: Operating Reserve—Spinning Reserve Service (SP)—[is the provision of resources, which are on-line and loaded at less than maximum output, to serve load in case there is an unplanned event such as loss of generation.] is provided by generating units that are on-line and loaded at less than maximum output. They are available to serve load immediately in an unexpected contingency, such as an unplanned outage of a generating unit and in accordance with section 3.5 (and Schedule 5) of the *pro forma* tariff.<sup>41</sup>

2.5.6: Operating Reserve—Supplemental Reserve Service (SU)—[is the provision of resources that may not be available instantaneously, including generating units

that are on-line, quick start units, and customer-interrupted load, to serve load in case there is an unplanned event such as loss of generation.] is generating capacity that can be used to respond to contingency situations. Supplemental reserve, is not available instantaneously, but rather within a short period (usually ten minutes). It is provided by generating units that are on-line but unloaded, by quick-start generation, and by customer interrupted load and in accordance with section 3.6 (and Schedule 6) of the *pro forma* tariff.<sup>42</sup>

We agree with Cinergy's suggestion that we add the blanket statement "ancillary service definitions may be offered pursuant to an individual transmission provider's specific tariff filings" and will add language to this effect to the paragraph about "other service definitions" preceding Standard 2.5.7 in the attached BPS&G Document.

We propose to adopt recommended Standard 2.5, because we agree that the term "AS\_\_TYPE" is less restrictive than the term "ANC\_\_SERVICE\_\_TYPE" and would allow this data element to be used to offer additional services (beyond the six ancillary services denoted in the *pro forma* tariff) if the services are authorized by a transmission provider's individual open access tariff. We also propose to add a qualifier to Standards 2.5.1–2.5.6 clarifying that the various ancillary services are in accordance with the definitions of ancillary services in the *pro forma* tariff. Consistent with this proposal, we also propose to replace the Data Dictionary Element "ANC\_\_SERVICE\_\_TYPE" in the S&CP Document with the term "AS\_\_TYPE." The comments to this NOPR should identify specifically all of the places in the S&CP Document where this change should be made.

#### 7. Scheduling Period (Section 2F of the June 19 Report)

Recommended Guides 2.6, 2.6.1, and 2.6.2 are recommended by the June 19 Report as business practice guides, related to on-line price negotiations and bumping rules in short-term markets, SAME-DAY (2.6.1) and NEXT-HOUR (2.6.2). They provide as follows:

Guide 2.6: A Transmission Provider should use the definitions below to describe the scheduling period leading up to the start time of a transaction:

2.6.1: Same-day is (i) after 2 p.m. of the preceding day and (ii) more than one hour prior to the service start time.

2.6.2: Next-hour is one hour or less prior to the service start time.

These definitions do not apply to a specific data element in the Phase IA S&CP Document.

<sup>42</sup> *Id.*

<sup>36</sup> Order No. 888–A, FERC Stats. & Regs. ¶31,048 at 30,227.

<sup>37</sup> *Id.* at 30,228.

<sup>38</sup> FERC Stats. & Regs. ¶31,036 at 31,716.

<sup>39</sup> *Id.* at 31,717.

<sup>40</sup> *Id.*

<sup>41</sup> *Id.* at 31,708.

<sup>34</sup> EPMI Comments at 3–4.

<sup>35</sup> FERC Stats. & Regs., Regulations Preambles, January 1991–June 1996 at 31,716.

## Comments

No comments were offered on these definitions.

## Discussion

Recommended Guides 2.6, 2.6.1, and 2.6.2 refer to definitions established for the next-hour experiment, which begins November 1, 1998 and terminates March 1, 1999, with a report due to the Commission by March 31, 1999. It is premature to propose the adoption of these guides at this time, pending the outcome of the industry experiment.

### 8. Maintenance of Industry Home Page (Section 3A of the June 19 Report)

The June 19 Report would require all users of individual OASIS sites to register with the industry-wide OASIS Home Page ([www.tsin.com](http://www.tsin.com)) to obtain access to any individual OASIS site (Standard 3.1). The June 19 Report also recommends that the Commission permit a nominal registration fee to be charged to defray the cost of the registration process and to cover the maintenance of the site. In addition, the industry-wide Home Page is referenced in recommended Standards 2.1, 2.2, 2.3, 2.5, 3.1, 3.2, 3.4, and 3.5 and in recommended Guides 3.3 and 6.4. However, the June 19 Report does not identify the party who will operate and maintain the industry-wide OASIS Home Page. Nor does the proposal discuss how the Commission can ensure that it is maintained in accordance with Commission regulations.

## Comments

ECI agrees with the June 19 Report that all users of OASIS should register their identity at the "OASIS Home Page." However, ECI disagrees with the June 19 Report's proposal to charge a registration fee to defray the registration and maintenance costs of the OASIS Home Page. ECI argues that a "nominal" fee is ambiguous and questions whether such a fee is FERC jurisdictional and whether it would be cost-based. It asserts that, consistent with Order No. 889, the costs associated with the OASIS Home Page should be collected through a transmission provider's cost of service.<sup>43</sup>

## Discussion

We are concerned that the proposal could have a non-public utility setting fees for the use of the industry-wide OASIS home page (in contrast to fees for individual transmission provider OASIS sites). We are concerned that this proposal would allow an unidentified, non-public utility to be the sole

gatekeeper of who may use individual OASIS sites.<sup>44</sup> We cannot allow access to individual OASIS sites to be controlled by an unidentified, possibly non-public utility party. However, this concern would be alleviated if the relationship between the industry-wide OASIS Home Page and the individual OASIS sites operated or controlled by public utilities is such that: (1) The operator of the industry-wide OASIS Home Page acts as an agent for the individual transmission providers on whose behalf it acts; and (2) in the event that a user or potential user fails to comply with the registration procedures followed by the industry-wide OASIS Home Page, the operator of the industry-wide OASIS Home Page would take no independent action denying access to any individual OASIS site, but would merely pass along this assessment to the operators of the individual OASIS sites, who would then determine whether to deny access to their individual OASIS sites. The user or potential user could then file a complaint with the Commission if dissatisfied with this action.

Under this scenario, the individual transmission providers, could collectively contribute to the operation and maintenance of an industry-wide OASIS Home Page, but this would not diminish their responsibility to provide access to their individual OASIS site to users and potential users who comply with applicable registration requirements. Such a contractual arrangement would also permit transmission providers to recover reasonable fees they paid for the operation and maintenance of the industry-wide OASIS Home Page.

We, therefore, propose to allow the use of an industry-wide OASIS Home Page at [www.tsin.com](http://www.tsin.com), keeping in mind that the operator of the Home Page may only act as an agent of the transmission providers, and that this provision in no way undermines the responsibilities of individual transmission providers to make their individual OASIS sites accessible to users and potential users and to operate their OASIS sites in compliance with all applicable Commission orders and regulations. As long as transmission providers pay reasonable fees to the third party for operating and maintaining the industry-wide OASIS Home Page, they will be

<sup>44</sup> This is distinguishable from an individual transmission provider using a nonjurisdictional entity as its agent to operate its OASIS site because, in that instance, the transmission provider ultimately still is responsible for the actions of its agent.

able to recover these fees in their transmission rates.<sup>45</sup>

### 9. Identification of Parties (Section 3A of the June 19 Report)

The OASIS S&CP Document specifies what information is necessary to communicate among the parties, and how the information must be communicated, for the Commission's Open Access program to work. The June 19 Report identifies instances where the information requirements are not always sufficiently defined. For example, transactions generally require the identification of receipt and delivery points, but it is left to each transmission provider to name the receipt and delivery points on their system. The lack of standardized transmission path names and service points often causes confusion when customers attempt to reserve service.

The June 19 Report states that, for OASIS to succeed, there must be an unambiguous identification of the parties to a transaction. Further, it contends that factors such as mergers, reorganizations, and name changes often result in confusion as to the identification of parties. The June 19 Report recommends, in Standard 3.1, to keep parties informed about parties' name changes by requiring all transmission providers and users of OASIS to register at an Internet web site, [www.tsin.com](http://www.tsin.com), and to renew the registration annually. Recommended Standard 3.1 provides as follows:

Standard 3.1: All entities or persons using OASIS shall register the identity of their organization or person at the OASIS Home Page at [www.tsin.com](http://www.tsin.com). Registration shall be completed prior to the commencement of Phase 1-A and renewed annually thereafter.

## Comment

ECI agrees that all OASIS users should register their identity at the industry-wide OASIS Home Page.

## Discussion

The June 19 Report proposal discusses how name changes and the use of ambiguous names caused by mergers can make the identification of parties difficult. The June 19 Report recommends eliminating the problem by requiring each entity to annually renew its registration. We believe this proposal for annual renewal may not be sufficient to avoid ambiguity. Thus, we propose to require that registration be renewed within 48 hours of any changes in

<sup>45</sup> As provided in 18 CFR 37.5(c), access to OASIS is to be provided to Commission staff and the staffs of State regulatory authorities at no cost. This provision governs access to both individual OASIS sites and to any industry-wide OASIS Home Page.

<sup>43</sup> ECI Comments at 11.

identification and propose a specific date each year by which registration must be accomplished.<sup>46</sup> Accordingly, we propose to adopt recommended Standard 3.1 as modified below:

Standard 3.1: All entities or persons using OASIS shall register the identity of their organization (including DUNS number) or person at the OASIS Home Page at [www.tsin.com](http://www.tsin.com). Registration shall be completed prior to the commencement of Phase IA and renewed annually by January 1st of each year thereafter and within 48 hours of any changes in identification.

#### 10. Registering Non-Standard Service Attributes (Section 3B of the June 19 Report)

The June 19 Report also maintains that standardized identification of service products is needed. It maintains that inconsistencies in the names of services can inhibit moving power across the power grid. For example, if three transmission providers offer weekly firm service that can begin on any day of the week and one calls its service "sliding weekly firm", and the second calls it "enhanced weekly firm" and the third calls it "moveable weekly firm", customers can become confused. The S&CP Document defines standard services using attributes. However, the S&CP Document does not define the attributes. The June 19 Report proposes standard attribute definitions.<sup>47</sup> Sections III.D.2–D.4 and III.D.6–D.7 above address the proposed standard definitions. The June 19 Report also provides for instances where standardized attributes and definitions are not appropriate. Specifically, recommended Standard 3.2 and recommended Guide 3.3 provide as follows:

Standard 3.2: Providers of transmission and ancillary services shall use only attribute values and definitions that have been registered on the OASIS Home Page at [www.tsin.com](http://www.tsin.com) for all transmission and ancillary services offered on their OASIS.

Guide 3.3: Providers of transmission and ancillary services may use on their OASIS attribute values and definitions that have been posted by other Providers on the OASIS Home Page at [www.tsin.com](http://www.tsin.com).

Under this proposal, transmission providers register new attributes and definitions on the industry-wide home page ([www.tsin.com](http://www.tsin.com)). Transmission providers would be free to use attributes

and definitions developed by other transmission providers.<sup>48</sup>

The June 19 Report states that the CPWG will monitor the registration process to "ensure the attributes and definitions do not undermine the goal of promoting consistent terminology."<sup>49</sup>

#### Comments

EPMI recommends that monitoring of the attribute registration process not be left to the CPWG as it is not clear that the CPWG will even exist in the future.<sup>50</sup> Cinergy expresses concern that there may be real or perceived conflicts if the CPWG monitors the attribute registration process. Cinergy proposes that the process be monitored by the Commission or an organization that is not so involved in the process.<sup>51</sup>

#### Discussion

The Commission agrees with the June 19 Report that monitoring is needed to ensure that the non-standard attribute naming process is not abused. The CPWG has volunteered to monitor the process, but as discussed above and as predicted by EPMI, the IMIC, a group we are not yet familiar with, has taken over the functions of the CPWG.<sup>52</sup> Although, we continue to believe that an industry group is the logical body to monitor the process, the proper group to undertake this task needs to be identified.

Accordingly, we invite comment on which group would be the proper group to perform this function, whether that group would be agreeable to performing this function, how it organizes itself, and how it conducts its business, before deciding whether it would be able to perform this function in a fair evenhanded manner. We will consider these comments before deciding who should perform this monitoring function.

We propose to adopt recommended Standard 3.2, and recommended Guide 3.3, with modifications. Recommended Guide 3.3 states that transmission providers may use attribute values and definitions that have been posted by other transmission providers. We believe that in order to minimize the number of attribute values and definitions, transmission providers should use attribute values and definitions that have been posted by

other transmission providers whenever possible. Accordingly, we propose a modified Guide 3.3 that would read as follows:

Guide 3.3: Providers of transmission and ancillary services [may] should endeavor to use on their OASIS attribute values and definitions that have been posted by other Providers on the OASIS Home Page at [www.tsin.com](http://www.tsin.com) whenever possible.

These revisions would more strongly encourage transmission providers to use attribute values posted by other providers.

#### 11. Registering Points of Receipt and Delivery (Section 3C of the June 19 Report)

OASIS Phase I requires transmission providers to define and post, on their OASIS sites, transmission paths and associated transfer capabilities. The June 19 Report recommends Standards 3.4 and 3.5 and Guide 3.6 as follows: [<sup>53</sup>]

Standard 3.4: A Transmission Provider shall register and thereafter maintain on the OASIS Home Page at [www.tsin.com](http://www.tsin.com) all Points of Receipt and Delivery to and from which a Transmission Customer may reserve and schedule transmission service.

Standard 3.5: For each reservable Path posted on their OASIS node, Transmission Providers shall indicate the available Point(s) of Receipt and Delivery for that Path. These Points of Receipt and Delivery shall be from the list registered on the OASIS Home Page at [www.tsin.com](http://www.tsin.com).

Guide 3.6: When two or more Transmission Providers share a common Points of Receipt or Delivery, or when a Path connects Points of Receipt and Delivery in neighboring systems, the Transmission Providers owning and/or operating those facilities should apply consistent names for those connecting or common Paths on OASIS.

The June 19 Report maintains that for the most part, paths and service points have been defined from each individual transmission provider's perspective. The June 19 Report states that the lack of standards results in confusion about the feasibility of connecting paths to move power from one system and region to another. The June 19 Report recommends the following business practices to improve coordination of path naming and enhance identification of commercially available connection points between transmission providers and regions:

- Transmission Providers register (at the industry-wide OASIS home page) all service points (Points of Receipt and Delivery) for which transmission service is available over OASIS.

<sup>53</sup> The subject of path names is also the subject of a separate September 15, 1998 submittal from CPWG/How Group, discussed below in section III.F, *infra*.

<sup>46</sup> The change in identification includes both name and DUNS number of a party. DUNS numbers, a proprietary service of DUN & Bradstreet, are a means of uniquely identifying commercial entities and their use is required by the S&CP Document.

<sup>47</sup> See June 19 Report at Section 2.

<sup>48</sup> June 19 Report at 10. However, changes to filed rates would require a filing under section 205.

<sup>49</sup> *Id.*

<sup>50</sup> EPMI Comments at 4.

<sup>51</sup> Cinergy Comments at 4.

<sup>52</sup> This makes moot Cinergy's argument that it would be inappropriate for the CPWG to monitor the process because of real or perceived conflicts of interests.

- Each Provider would indicate on its OASIS node, for each Path posted on its OASIS node, the Points of Receipt and Delivery to which each Path is connected.

These principles are incorporated in recommended Standards 3.4 and 3.5, and recommended Guide 3.6.<sup>54</sup>

#### Comments

No comments were received on this issue.

#### Discussion

With a slight revision, we propose to adopt Standards 3.4 and 3.5 and Guide 3.6 as recommended.<sup>55</sup> We agree with the principle behind Guide 3.6, that transmission providers should be encouraged to apply consistent names for connecting paths or common paths and request that transmission providers do so whenever possible. We also request that the comments to this NOPR address what would be the proper entity to monitor this process and whether this function should be performed in tandem with the monitoring of the registration of standard attributes (as discussed above).

#### 12. On-line Price Negotiation in Short-term Markets (Section 4A of the June 19 Report)

*Negotiations on the OASIS.* Order No. 889-A requires negotiations between transmission providers and potential customers to take place on the OASIS and be visible to all market participants. The OASIS Phase IA S&CP Document specifies the information needed for negotiations and how the information will be communicated between the parties. With the exception of reservations for next-hour service (which it separately discusses in recommended Guide 4.2 and 4.3, discussed below), the June 19 Report incorporates the requirement in Order No. 889-A that all reservations and price negotiations be made directly on the OASIS. This is stated explicitly in recommended Guide 4.1 as follows:

Guide 4.1: Consistent with FERC policy and regulations, all reservations and price negotiations should be conducted on OASIS.

#### Comments

Cinergy argues that recommended Guide 4.1 should be a standard because the guide implements the Commission

policy that all reservations and price negotiations be conducted on the OASIS.<sup>56</sup>

#### Discussion

We agree with Cinergy that this provision merely restates existing Commission policy. Accordingly, we propose adoption of recommended Guide 4.1 as Standard 4.1.

*Next-Hour Transactions and Electronic Entry of Reservation and Scheduling Requests.* At the industry's request, to permit development of the next-hour market, the Commission issued an order on December 27, 1996,<sup>57</sup> clarifying how reservations for next-hour service would be made during OASIS Phase I. The Commission stated:

A request for transmission service made after 2:00 p.m. of the day preceding the commencement of such service, will be "made on the OASIS" if it is made directly on the OASIS or, if it is made by facsimile or telephone and promptly (within one hour) posted on the OASIS by the Transmission Provider.<sup>58</sup>

While it is Commission policy that all reservation requests be made on the OASIS, the clarification allows any request made after 2:00 p.m. on the day preceding the start of service to be made by telephone or facsimile as long as the request is posted on the OASIS within one hour of receipt. However, the June 19 Report expresses the fear that next-hour transactions will have to be treated differently from other same-day transactions.<sup>59</sup> Therefore, the June 19 Report recommends Guides 4.2 and 4.3, which provide as follows:

Guide 4.2: The following is considered "on the OASIS" during Phase 1-A: For a transmission service of hourly duration, requested within the next-hour, a Customer should have the option, subject to the exception allowed by Guide 4.3, of entering a reservation and schedule request electronically on the Provider's OASIS and scheduling system (if such electronic transactions are allowed on the Provider's scheduling system), or arranging the reservation and schedule verbally with the Provider. If a transmission reservation is confirmed verbally, the Provider should have the option of requiring the Customer to enter the reservation on OASIS electronically within one hour after the start of the reservation.

<sup>56</sup> Cinergy Comments at 3.

<sup>57</sup> Open Access Same-Time Information System and Standards of Conduct, 77 FERC ¶ 61,335 (1996) (December 27, 1996 Order).

<sup>58</sup> December 27, 1996 Order, 77 FERC at 62,492.

<sup>59</sup> June 19 Report at 12.

Guide 4.3: If a Provider's OASIS and scheduling processes allow that a Customer's reservation and scheduling requests will be accepted or refused within 15 minutes of the queue time, then the Provider may require that reservations and schedules be entered electronically by the Customer prior to the established scheduling deadline. If in any case the Provider has not responded to the reservation and schedule request within 15 minutes, the Customer has the option of calling the Provider to verbally confirm the reservation and schedule.

#### Comments

EPMI recommends that recommended Guides 4.2 and 4.3 be made mandatory standards and not merely voluntary best practice guides.<sup>60</sup> However, EPMI sees an inconsistency between the time limits recommended in Guide 4.3 and those in Table 4-2 and recommends that this discrepancy be resolved.<sup>61</sup>

#### Discussion

The June 19 Report's proposal is essentially the same as the proposal made in the June 1998 CPWG/How Group letter to the Commission requesting a four-month next-hour experiment and approved by the Commission in the September 29 Order. We will defer a decision on this issue until we have had an opportunity to evaluate the outcome of that experiment. Consistent with our practice elsewhere in this NOPR, we will reserve the applicable section numbers (4.2 and 4.3) so that the references in Attachment A will continue to match-up with the June 19 report.

#### 13. Diagram Depicting the Negotiation Process (Section 4B of the June 19 Report)

The June 19 Report recommends a process state diagram, Guide 4.4, that defines transmission provider and customer interactions when negotiating for transmission service. The diagram defines allowable steps in the reservation request, negotiation, approval, and confirmation processes. The June 19 Report also recommends a table, Guide 4.5, that defines the terms used in the diagram. Recommended Guides 4.4 and 4.5 provide as follows:

Guide 4.4: The following state transitions in Figure 4-1 are recommended practice in OASIS Phase 1-A.

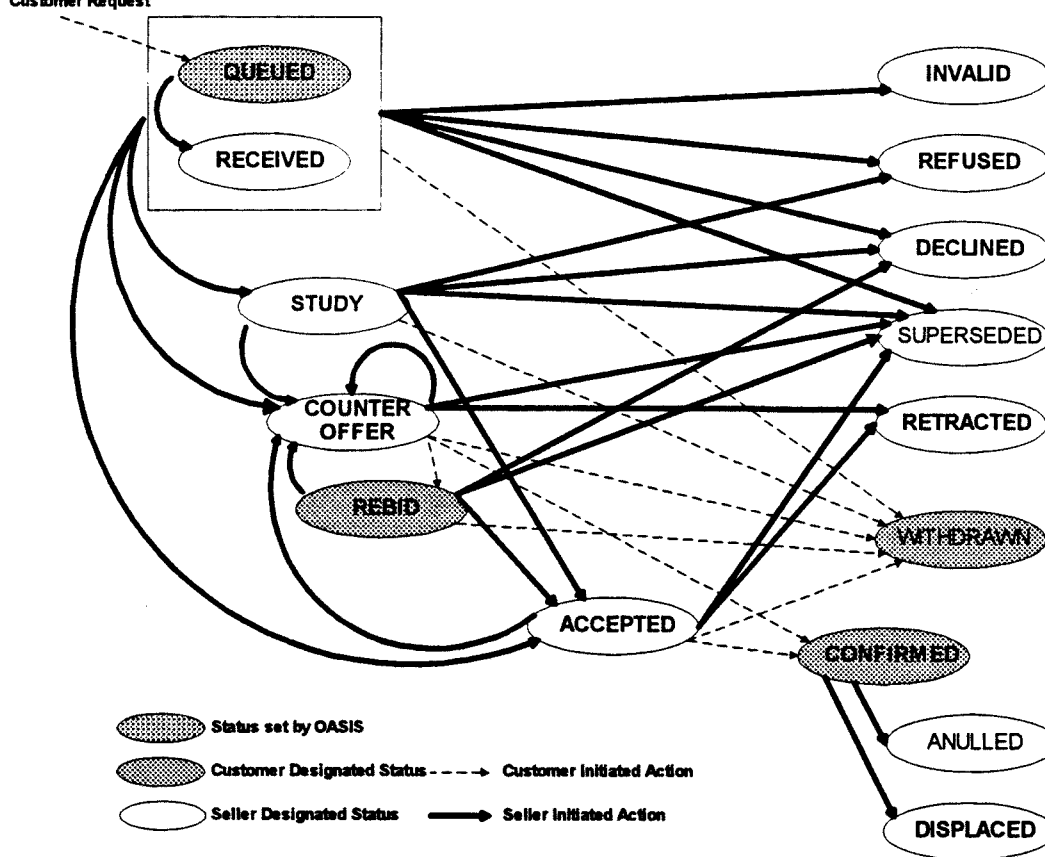
<sup>60</sup> EPMI Comments at 5.

<sup>61</sup> Table 4-2 also is discussed in section III.D.14 below, *infra*.

<sup>54</sup> *Id.*

<sup>55</sup> As shown in Attachment A to this NOPR, we are making a grammatical correction to recommended Guide 3.6.

### Customer Request



### Table 4–1—OASIS Phase 1-A State Definitions

Queued	The request has been received by OASIS
Invalid .....	An invalid request (improper POR, POD, source, sink, increment, combination of duration and increment, etc.). (Final state.)
Received .....	The request has been received by Provider/Seller.
Study .....	The request is being evaluated by the Provider/Seller.
Accepted .....	The Provider has determined that the request is valid, there is sufficient transfer capability, and the price is acceptable.
Refused .....	The request is denied due to lack of availability of transfer capability. (Final state.)
Declined .....	The Provider has determined that the price being proposed by the Customer is unacceptable and that negotiations are terminated. (Final state.)
Counteroffer .....	The Provider/Seller is proposing a different price than was bid by the Customer.
Rebid .....	The Customer responds to a Provider's ACCEPTED or COUNTEROFFER price with a new bid price.
Retracted .....	The Provider has (prior to Customer confirmation) determined that the Customer's time limit has expired. (Final state.)
Superseded .....	A request which has not yet been CONFIRMED is preempted by another reservation request. (Final state.)
Withdrawn .....	The Customer withdraws the request (prior to confirmation). (Final state.)
Confirmed .....	The Customer consummates the reservation which has been ACCEPTED or is in COUNTEROFFER by the Provider. (Final state unless later ANNULLED or DISPLACED.)
Annulled .....	The request is terminated after reaching the CONFIRMED state. This can only be done if both the Customer and Provider agree. The annulment should be confirmed on OASIS by both the Provider/Seller and Customer. (Final state.)
Displaced .....	A CONFIRMED reservation has been terminated because a reservation of higher priority has preempted it. (Final state.)

## Comments

Cinergy argues that the definition of "REBID", in recommended Guide 4.5, which provides that "[t]he customer responds to a Provider's ACCEPTED or COUNTEROFFER price with a new bid price", is confusing. Cinergy contends that the confusion arises from defining "REBID" in terms of "ACCEPTED". It asserts that once a transmission provider "accepts" a customer's offer, a customer would have no reason to rebid.<sup>62</sup>

Cinergy also argues that there is an inconsistency between the definition of "rebid" recommended in Guide 4.5 and the statement recommended in Guide 4.26 that if, during the negotiation process (*i.e.*, before confirmation of the deal by the customer), the transmission provider receives a pre-confirmed request with a higher bid price, the transmission provider may counteroffer the price and potentially prompt a rebid.<sup>63</sup> Cinergy requests either that: (1) the language be clarified; or (2) a cross reference be made.

ECI argues that the June 19 Report proposal would revise the process state diagram appearing in the S&CP Document by adding SUPERSEDED to indicate that a request is preempted prior to confirmation by the customer. ECI further argues that this change results in a contradiction between June 19 Report's process state diagram in Guide 4.4 (Figure 4-1), and an order issued by the Commission on July 17, 1998.<sup>64</sup> ECI argues that the July 17 Order holds that "there is no right to supersede while engaged in negotiations (*i.e.*, pending), until there is a refusal to match."<sup>65</sup>

ECI also argues that the definition of SUPERSEDED recommended in Guide 4.5 (Table 4-1) is inconsistent with findings in the July 17 Order regarding section 13.2 of the *pro forma* tariff.<sup>66</sup> ECI states, [i]n the complaint, ECI asserted that PJM violated Section 13.2 of its open access transmission tariff when it granted a transmission customer (PP&L), who had made a request for service that had not been confirmed, a right of first refusal to match a subsequent longer-term request for service that ECI had made.<sup>67</sup>

On this same point, ECI further argues that the Commission found, in the July 17 Order, that ECI's interpretation of the tariff is erroneous. ECI quotes from the July 17 Order:

For purposes of section 13.2, reservations are considered to have been made when the request for service is made. PP&L had a conditional reservation for one-week service that was made when it requested service via PJM's OASIS. As such, it had the right of first refusal to match any later longer-term reservation before losing its reservation priority.<sup>68</sup>

ECI also argues that the process state diagram's treatment of counteroffers needs revision. In discussing this change, the June 19 Report states:

These state changes are necessary in the event the Provider needs to change a price during negotiation prior to hearing a response from the Customer. For example, a discount may be given to another Customer after negotiations started with a first Customer (price is lowered by the Provider without a response from the first Customer) or the Provider may allow the Customer to match a competing bid that would preempt the current price being negotiated (price is raised by the Provider).<sup>69</sup>

ECI argues that, in order to be consistent with the Commission's first-come-first-served and right to match processes, the diagram should reflect a right to match a subsequent acceptable request for service.<sup>70</sup>

## Discussion

Cinergy sees a conflict or inconsistency between associating REBID with ACCEPTED in recommended Guide 4.4 and recommended Guide 4.26. We disagree. In our view, the pairing of REBID with ACCEPTED is not inconsistent with recommended Guide 4.26. Once a transmission provider accepts a customer's offer (but before confirmation) a transmission provider can make a counteroffer based on a new higher offer it receives from another customer. Under these circumstances, a customer might wish to rebid.<sup>71</sup>

ECI has raised a number of objections to Part 4B of the June 19 Report (*i.e.*, "Phase IA Negotiation Process State Transition Diagram"). One of ECI's objections is that the proposal in the June 19 Report would revise the process state diagram in the S&CP Document.

While this was true at the time when ECI filed its comments, it is true no longer. Subsequent to the filing of ECI's comments, the Commission approved a revised S&CP Document that contains the same process state diagram recommended by the June 19 Report.<sup>72</sup>

Second, ECI contends that the addition of "SUPERSEDED" to the report's process state transition diagram (at Figure 4-1) is inconsistent with the Commission's denial of ECI's complaint against PJM in the July 17 Order,<sup>73</sup> because ECI maintains that the July 17 Order held that "there is no right to supersede [a pending request for service] while engaged in negotiations (*i.e.*, pending) until there is a refusal to match."<sup>74</sup>

ECI misapprehends the holding of the July 17 Order.<sup>75</sup> The Commission's findings in the July 17 Order conformed to determinations in Order No. 888-A, that: (1) Long-term firm point-to-point service is available on a first-come-first-served basis; (2) as to requests for short-term non-firm transmission service, those requesting service for a longer duration have priority over requests for short-term non-firm transmission service over a shorter duration;<sup>76</sup> and (3) in dealing with requests for short-term firm point-to-point transmission service, a customer should be given an opportunity to match a subsequent request for short-term firm point-to-point transmission service for a longer time period before being preempted.<sup>77</sup> However, the July 17 Order did not make any finding that requests for service could not be superseded for other reasons. In fact, the July 17 Order did not address this issue. Thus, the June 19 Report's addition of "SUPERSEDED" to the process state transition diagram is not inconsistent with the Commission's precedent on this issue.<sup>78</sup>

Next, ECI argues that the report's treatment of counteroffers needs revision to allow a right to match a subsequent request for service. We disagree. A review of Table 4-1's REBID definition discloses that a customer may respond to a transmission provider's

<sup>62</sup> See note 23, *supra*.

<sup>63</sup> See 84 FERC at 61,196.

<sup>64</sup> ECI Comments at 13.

<sup>65</sup> ECI raises its argument about alleged

inconsistencies between the July 17 Order and the June 19 Report's proposals in a number of contexts. We will address these arguments as they apply in various contexts.

<sup>66</sup> See *pro forma* tariff at §§ 13.2 and 14.2.

<sup>67</sup> Order No. 888-A, FERC Stats. & Regs. § 31,048 at 30,277-78.

<sup>68</sup> See June 19 Report, Guide 4.4, Figure 4-1, shown in Section III.D.13 above, *supra*.

<sup>62</sup> Cinergy Comments at 3.

<sup>63</sup> Guide 4.26 is quoted below at section III.D.15, *infra*.

<sup>64</sup> Electric Clearinghouse, Inc. v. PJM Interconnection, L.L.C., 84 FERC ¶ 61,045 (1998) (July 17 Order).

<sup>65</sup> ECI Comments at 13.

<sup>66</sup> For convenience, Section 13.2 of the *pro forma* tariff is quoted in full in Attachment B to this NOPR.

<sup>67</sup> ECI Comments at 14.

<sup>68</sup> 84 FERC at 61,196.

<sup>69</sup> June 19 Report at 14.

<sup>70</sup> ECI Comments at 13.

<sup>71</sup> In the comments to this NOPR, we invite comment on whether rebid should be limited to price, as proposed in this NOPR, or whether it would be feasible and/or desirable to allow a rebid lengthening the duration of the requested service or a rebid with both a higher price and longer duration.

counteroffer with a new bid price.<sup>79</sup> This mechanism meets the concerns raised by ECI's comments on this issue.

Third, ECI argues that the report's definition of "SUPERSEDED" should be rejected because it does not state, as ECI argues is required by the July 17 Order, that a customer has a right to match subsequent longer-term requests for service before a requester loses its reservation priority. In our view, the findings in the July 17 Order need not be restated in the BPS&G to remain in effect. Table 4-1 is not incorporated into the proposed BPS&G document (see Attachment A at Section 4.2) and, in any event, Table 4-1's definition of SUPERSEDED is silent as to why and when an unconfirmed request might be preempted. It neither confers nor denies a customer's right to match. When a request for transmission service has been superseded, this occurs before the customer's confirmation.<sup>80</sup> Therefore, the customer has no right to match.<sup>81</sup> Additionally, a customer whose request for transmission service has been superseded may make a new request for service.

Upon review, the definition of "SUPERSEDED" in the Data Element Dictionary and in section 4.2.10.2 of the S&CP Document could be improved. We propose to revise the definition by substituting the word "preempted" in place of "displaced." We invite the comments to this NOPR to address this issue.

Version 1.3 of the S&CP Document, adopted by the Commission in the September 29 Order, currently contains the same process state diagram contained in recommended Guide 4.4 of the June 19 Report.<sup>82</sup> To avoid any

possible future conflict between the two documents, we will incorporate by reference Exhibit 4-1 of the S&CP Document into the attached BPS&G, rather than proposing to adopt the recommended diagram itself as part of the attached BPS&G. This will assure that any changes to this diagram in the S&CP Document automatically will be reflected in the BPS&G document.

Recommended Guide 4.5 (Table 4-1) of the June 19 Report contains definitions of the process states appearing in Guide 4.4. These definitions differ slightly from the definitions of the same terms appearing at Section 4.2.10.2 of the S&CP Document.<sup>83</sup> To avoid any inconsistency between these definitions, and because the definitions in the S&CP Document are more complete, we will incorporate by reference the definitions in Section 4.2.10.2 of the S&CP Document in the attached BPS&G.

Because we are incorporating by reference the version of Table 4-1 that appears in S&CP Document, we are not including Table 4-1 from the June 19 Report in the attached BPS&G. However, as we did with section 2.4, we will reserve for future use a blank Table 4-1, so that Tables 4-2 and 4-3 as shown in the attached BPS&G will continue to have the same designations as in the June 19 Report without any renumbering.

#### 14. Negotiations Without Competing Bids (Section 4C of July 19 Report)

In our June 18, 1998 order on OASIS-related issues, we asked the CPWG to examine the development of predetermined deadlines for acceptances by transmission providers

of transmission service requests and confirmation by customers of acceptances of their requests.<sup>84</sup> We did this because comments received from PECO and NRECA convinced us that the parties to negotiations require decisions to be made quickly and in a known time frame. The CPWG/How Group responded to this concern by proposing Recommended Guide 4.6 that provides as follows:

Guide 4.6: A Transmission Provider/Seller shall respond to a Customer's service request, consistent with filed tariffs, within the "Provider Response Time Limit" defined in Table 4-2 Reservation Timing Requirements. The time limit is measured from the time the request is QUEUED. A Provider may respond by setting the state of the reservation request to one of the following:

- INVALID
- DECLINED
- REFUSED
- COUNTEROFFER
- ACCEPTED
- STUDY (when the tariff allows), leading to REFUSED, COUNTEROFFER, or ACCEPTED

This provision provides that, consistent with filed tariffs, transmission providers/sellers shall respond to customer requests within the time limits appearing in Table 4-2, contained in recommended Guide 4.13. Recommended Table 4-2 specifies how long transmission providers may take to respond to a request for service and how long customers may take to confirm the transmission provider's acceptance. In addition, the June 19 Report recommends reservation timing guidelines in Guide 4.13 as follows:

Guide 4.13: The following timing requirements should apply to all reservation requests:

TABLE 4-2—RESERVATION TIMING GUIDELINES

Class	Service increment	Time QUEUED prior to start	Provider evaluation time limit <sup>1</sup>	Customer confirmation time limit after ACCEPTED or COUNTEROFFER <sup>2</sup>	Provider counter time limit after REBID <sup>3</sup>
Non-Firm .....	Hourly .....	<1 hour .....	Best effort .....	5 minutes .....	5 minutes.
Non-Firm .....	Hourly .....	>1 hour .....	30 minutes .....	5 minutes .....	5 minutes.
Non-Firm .....	Daily .....	N/A .....	30 minutes .....	2 hours .....	10 minutes.
Non-Firm .....	Weekly .....	N/A .....	4 hours .....	24 hours .....	4 hours.
Non-Firm .....	Monthly .....	N/A .....	2 days .....	24 hours .....	4 hours.
Firm .....	Daily .....	< 24 hours .....	Best effort .....	2 hours .....	30 minutes.
Firm .....	Daily .....	N/A .....	30 days <sup>4</sup> .....	24 hours .....	4 hours.
Firm .....	Weekly .....	N/A .....	30 days <sup>4</sup> .....	48 hours .....	4 hours.
Firm .....	Monthly .....	N/A .....	30 days <sup>4</sup> .....	4 days .....	4 hours.
Firm .....	Yearly .....	N/A .....	30 days .....	15 days .....	4 hours.

#### Notes for Table 4-2:

<sup>1</sup> Consistent with regulations and filed tariffs, measurement starts at the time the request is QUEUED.

<sup>79</sup> We note that as a REBID is only made on the basis of price, see definition in Guide 4.5, Table 4-1, the time limits in Guide 4.13, Table 4-2 ought to be adequate. Any objections to these time limits

should be raised in comments to this NOPR. See note 72, *supra*.

<sup>80</sup> After requests for transmission are confirmed, they may be preempted under Table 4-3.

<sup>81</sup> See § 14.2 of the *pro forma* tariff.

<sup>82</sup> S&CP Document, Version 1.3, Exhibit 4-1, State Diagram of Purchase Transactions.

<sup>83</sup> For convenience, these provisions are quoted in Attachment C to this NOPR.

<sup>84</sup> June 18 Order at 62, 464-65.



<sup>2</sup> Measurement starts at the time the request is first moved to either ACCEPTED or COUNTEROFFER. The time limit does not reset on subsequent changes of state.

<sup>3</sup> Measurement starts at the time the Transmission Customer changes the state to REBID. The measurement resets each time the request is changed to REBID.

<sup>4</sup> Subject to expedited time requirements of Section 17.1 of the pro forma tariff. Transmission Providers should make best efforts to respond within 72 hours, or prior to the scheduling deadline, whichever is earlier, to a request for Daily Firm Service received during period 2–30 days ahead of the service start time.

The report also contains several guides (recommended Guides 4.7–4.12) dealing with the rights and obligations of the parties during negotiations. Recommended Guides 4.7–4.12 provide as follows:

Guide 4.7: Prior to setting a request to ACCEPTED, COUNTEROFFER, or REFUSED a Provider shall evaluate the appropriate resources and ascertain that the requested transfer capability is (or is not) available.

Guide 4.8: For any request that is REFUSED or INVALID, the Transmission Provider should indicate in the COMMENTS field the reason the request was refused or invalid.

Guide 4.9: The Customer may change a request to WITHDRAWN at any time prior to CONFIRMED.

Guide 4.10: From ACCEPTED or COUNTEROFFER, a Customer may change the status to CONFIRMED, WITHDRAWN, or REBID. The Customer has the amount of time designated as "Customer Confirmation Time Limit" in Table 4–2 Reservation Timing Requirements to change the state of the request to CONFIRMED. The Customer time limit is measured from the first time the request is moved to ACCEPTED or COUNTEROFFER, and is not reset with subsequent iterations of negotiation.

Guide 4.11: After expiration of the "Customer Confirmation Time Limit," specified in Table 4–2 Reservation Timing Requirements, the Provider has a right to move the request to the RETRACTED state.

Guide 4.12: Should the Customer elect to respond to a Provider's COUNTEROFFER by moving a reservation request to REBID, the Provider shall respond by taking the request to a DECLINED, ACCEPTED, or COUNTEROFFER state within the "Provider Counter Time Limit," specified in Table 4–2 Reservation Timing Requirements. The Provider response time is measured from the most recent REBID time.

#### Comments

Recommended Guide 4.8 suggests that when a request is REFUSED or INVALID the transmission provider should indicate in the COMMENTS field the reason the request was refused or found invalid. Cinergy argues that a transmission provider should not be required to enter a special reason in the comment section for a "REFUSED" response, since the definition of "REFUSED" means that the request is denied due to lack of availability of transfer capability.<sup>85</sup>

ECI supports recommended Guide 4.9, which states that a customer may

change a request to WITHDRAWN at any time prior to confirmation. It asserts that this concept should be incorporated into the *pro forma* tariff.<sup>86</sup>

#### Discussion

Recommended Guide 4.8 would have transmission providers give an explanation of why a request is refused. Cinergy argues that no reason other than REFUSED is needed to explain why a service request is rejected. We disagree. Even though backup information is available upon request to the customer,<sup>87</sup> there is a delay before this information is provided. Any timely information from the transmission provider which can explain the reason(s) for refusal will be useful to the customer in assessing the competitiveness of the bid, establishing a level of confidence in the transmission provider's ATC posting, and detecting any instances of undue discrimination.<sup>88</sup> For example, the reason for the lack of ATC may be that another customer has made a simultaneous bid for a longer duration short-term transmission service. Having this information available in a timely manner would allow the first customer to make a revised request for service that might be accepted. Another example would be where a transmission provider had not yet updated its ATC posting and thus its OASIS node would still show available ATC even though this was no longer true.

ECI agrees with recommended Guide 4.9 of the June 19 Report that, in the absence of competing bids, a customer may change a request to WITHDRAWN any time prior to it being confirmed. However, ECI contends that, under the July 17 Order, this may require a revision to § 13.2 of the *pro forma* tariff because this provision is silent as to the withdrawal of a request for transmission.

<sup>85</sup> ECI Comments at 15.

<sup>87</sup> A NOPR on expanding the availability of this back-up information is pending in Docket No. RM98–3–000. See Open Access Same-Time Information System and Standards of Conduct, FERC Stats. & Regs. ¶ 32,531 (1998).

<sup>88</sup> Upon review, the definition of "REFUSED" in the Data Element Dictionary and in section 4.2.10.2 of the S&CP Document is unclear. We propose to clarify the definition by inserting the words "lack of" before the word "availability." We invite the comments to this NOPR to address this issue.

We disagree. When we addressed the issue of reservation time limits in the June 18 Order, we agreed with commenters that on-line negotiation of discounts requires predetermined time limits on responses by transmission providers and customers.<sup>89</sup> We asked the CPWG to examine the development of such deadlines and to make recommendations to us. The deadlines appearing in recommended Guide 4.13 on the time limits for customers and transmission providers at different stages of the reservation process reflects the recommendations of the CPWG/How Group and appear to us to be reasonable. Any objections to these proposed time limits should be raised in comments to this NOPR.

We disagree with ECI that the timing requirements in Table 4–2 of Guide 4.13 are inconsistent with section 17.5 of the *pro forma* tariff. Section 17.5 requires a response to a completed application "as soon as practicable." In our view, Guide 4.13 sets forth the practicable time limits for responses to various reservation requests. We find this provision to be consistent with the *pro forma* tariff.<sup>90</sup>

We also find unpersuasive ECI's argument that the statement, in recommended Guide 4.13, that, it is possible that an unconfirmed request with an earlier QUEUED time could be preempted (SUPERSEDED). For this to occur, the subsequent request would be of higher priority or of greater price \* \* \*<sup>91</sup>

is inconsistent with the July 17 Order and needs revision to include a right to match the subsequent request. As discussed above, the silence of recommended Guide 4.13 and Table 4.1 on this point do not abrogate the Commission's findings in the July 17 Order. These findings still hold.

Accordingly, we propose to adopt the June 19 Report's recommended Guides 4.6–4.13 in the attached BPS&G.

15. Negotiations With Competing Bids for Constrained Resources (When Customer Has Not Yet Confirmed a Provider's Acceptance) (Section 4D of June 19 Report)

Section 4D of the June 19 Report contains recommended sections 4.14–

<sup>89</sup> 83 FERC at 62,464.

<sup>90</sup> We also note that in the Wisconsin Electric case cited in note 89, *supra*, the Commission approved a revision to WEPCO's individual open access tariff setting a time limit on customer confirmations.

<sup>91</sup> June 19, Report at 18.

<sup>85</sup> *Id.*

4.27 dealing with the procedures for negotiations over the OASIS when there are competing bids for constrained resources prior to a customer confirming the transmission provider's acceptance. For the reasons stated below, we propose to adopt recommended Guides 4.14—4.26, with certain modifications, and to reject recommended Guide 4.27.

When competing bids for reservations on constrained resources are received, the June 19 Report generally recommends awarding the reservation on a first-come-first-served basis. Exceptions to this rule are recommended for competing bids for short-term transmission service that have a higher priority,<sup>92</sup> solely because they request service for a longer duration, and in the case of non-firm point-to-point transmission service, requests that are of the same duration, but at a higher price. In some situations, the right of first refusal is permitted. We will now discuss the provisions on negotiations for competing bids for constrained resources on a section-by-section basis.

#### Section 4.14—Service Request Priority Tiers

Consistent with regulations and filed tariffs, Guide 4.14 divides transmission service into five tiers of successive priority when competing bids are negotiating for transmission service.<sup>93</sup> Highest priority is given to native load, network, or long-term firm service (subsection 4.4.1). Second highest priority is given to short-term firm service (subsection 4.4.2). Third highest priority is given to network service on

non-designated resources (subsection 4.4.3). Fourth highest priority is given to non-firm service (subsection 4.4.4). Fifth highest priority is given to service over secondary receipt and delivery points (subsection 4.4.5).

#### Comments

None of the comments take issue with these priorities.

#### Discussion

We propose to adopt the priorities laid out in Guide 4.14 as recommended.

#### Section 4.15—First-Come First-Served

Consistent with regulations and filed tariffs, recommended Guide 4.15 provides that reservation requests should be handled on a first-come-first-served basis based on queue time.

#### Comments

EPMI notes that under the June 19 Report's proposal, requests for capacity will no longer be pro-rated if there is a lack of available transmission capacity. Instead, requests will be evaluated on a first-come-first-served basis. EPMI supports this change, but is concerned about affiliate transactions. EPMI fears that an affiliate of the transmission provider could obtain all of the available transmission capacity, rather than having it pro-rated if there is a constraint.<sup>94</sup>

#### Discussion

EPMI's argument is based on an incorrect premise. Currently, under the *pro forma* tariff, transmission is allocated on a first-come-first-served basis and is not pro-rated.

Nor, for two reasons, do we find persuasive EPMI's contention that the allocation of capacity on a first-come-first-served basis would allow an affiliate of a transmission provider to obtain all available transmission capacity. First, the S&CP Document TRANSSTATUS template contains the queue time of a request. Customers can monitor requests and detect any undue discrimination. Suspected violations can be reported to the Commission. As long as capacity is awarded on a non-discriminatory basis, which gives the affiliate no undue preference, the award of capacity should not be an issue. Second, EPMI's prediction is contradicted by the fact that transmission already is allocated on a first-come-first-served basis and it does not appear that EPMI's scenario has come to pass.

#### Section 4.16—Priorities for Competing Reservation Requests

Recommended Guide 4.16, which includes Table 4–3, describes the relative priorities of competing service requests and rules for offering a right of first refusal, consistent with Commission regulations and filed tariffs. Specifically, it states:

Guide 4.16: Consistent with regulations and filed tariffs, Table 4–3 describes the relative priorities of competing service requests and rules for offering right-of-first-refusal. While the table indicates the relative priorities of two competing requests, it is intended to also be applied in the more general case of more than two competing requests.

TABLE 4–3<sup>[95]</sup>—Priorities for Competing Reservation Requests

Row	Request 1	Is preempted by request 2	Right of first refusal
1 .....	Tier 1: Long-term Firm, Native Load, and Network Firm.	N/A—Not preempted by a subsequent request .....	N/A.
2 .....	Tier 2: Short-term Firm ...	Tier 1: Long-term Firm, Native Load, and Network Firm), while Request 1 is conditional. Once Request 1 is unconditional, it may not be preempted.	No.
3 .....	Tier 2: Short-term Firm ...	Tier 2: Short-term Firm of longer term (duration), while Request 1 is conditional. Once Request 1 is unconditional, it may not be preempted.	Yes, while Request 1 is conditional. Once Request 1 is unconditional, it may not be preempted and right of first refusal is not applicable.
4 .....	Tier 3: Network Service From Non-Designated Resources.	Tiers 1 and 2: All Firm (including Network) .....	No.
5 .....	Tier 4: All Non-Firm PTP	Tiers 1 and 2: All Firm (including Network) .....	No.
6 .....	Tier 4: All Non-Firm PTP	Tier 3: Network Service from Non-Designated Resources.	No.
7 .....	Tier 4: All Non-Firm PTP	Tier 4: Non-firm PTP of a longer term (duration) <sup>1</sup> . Except in the last hour prior to start (see Standard 4.23).	Yes.

<sup>92</sup> Recommended Guide 4.14 specifies the service request priority tiers.

<sup>93</sup> These priorities are not meant to govern curtailments.

<sup>94</sup> EPMI Comments at 6.

TABLE 4-3<sup>[95]</sup>—Priorities for Competing Reservation Requests—Continued

Row	Request 1	Is preempted by request 2	Right of first refusal
8 .....	Tier 4: All Non-Firm PTP	Tier 4: Non-firm PTP of equal term (duration) <sup>1</sup> and higher price, when Request 1 is still unconfirmed and Request 2 is received pre-confirmed. A confirmed non-firm PTP may not be preempted for another non-firm request of equal duration. (See Standards 4.22 and 4.25.).	No.
9 .....	Tier 5: PTP Service over secondary receipt and delivery points.	Tier 5 can be preempted by Tiers 1 through 4 .....	No.

<sup>1</sup> Longer duration, in addition to being higher SERVICE\_INCREMENT (i.e., WEEKLY has priority over DAILY), also may mean more multiples of the same SERVICE\_INCREMENT (i.e., 3 Days may have priority over 2 Days).

<sup>95</sup> For clarity, we have identified the rows in Table 4-3.

Guide 4.16 would allocate requests for Tier 1 services (native load, network, long-term firm) and Tier 2 services (short-term firm) on a first-come-first-served basis. A request for Tier 1 service could not be preempted. A request for Tier 2 service that is "conditional" could be preempted by a request for Tier 1 service without any right of first refusal.<sup>96</sup> A request for Tier 2 service that is "conditional" could also be preempted by a request for longer term Tier 2 service but, under this circumstance, it would receive the right of first refusal.<sup>97</sup>

Tier 3 service (network service from non-designated resources) could be preempted by requests for either Tier 1 or Tier 2 service and would not receive the right of first refusal. Tier 4 service

(all non-firm PTP) could be preempted by requests for Tier 1, 2, or 3 service and would receive the right of first refusal. A Tier 4 request could be preempted (except in the hour before service begins) by a longer duration Tier 4 service and would receive the right of first refusal. Until a Tier 4 request is confirmed, it could be preempted by a preconfirmed Tier 4 request of equal duration and higher price.<sup>98</sup> The request would not receive the right of first refusal.

#### Comments

Cinergy asks how the terms "conditional" and "unconditional" appearing in Table 4-3 should be defined.<sup>99</sup>

ECI asserts that the concept in recommended Guide 4.16 (footnote 2 to Table 4-3), that "[l]onger duration, in addition to being higher SERVICE\_INCREMENT (i.e., WEEKLY has priority over DAILY), also may mean more multiples of the same SERVICE\_INCREMENT (i.e., 3 Days may have priority over 2 Days)," should also apply to firm service.

#### Discussion

Recommended Guide 4.16 defines the priorities of longer duration for non-firm PTP service to include both a higher service increment (weekly service has priority over daily service) and multiples of the same service increment (three day service has priority over two day service). ECI requests that this definition also be applied to firm service. We agree with ECI that multiple service increments should have similar priority for short-term firm service.<sup>100</sup> Accordingly, we will revise Table 4-3 of recommended Guide 4.16 so that the

footnote, now referencing rows 7 and 8 of column 2 of Table 4-3, will also refer to row 3, column 2 of the table. Moreover, we find these reservation priorities to be consistent with section 14.2 of the *pro forma* tariff, which, by its terms, applies only to non-firm point-to-point transmission service. Accordingly, we propose to adopt Guide 4.16 as revised.

We find unpersuasive Cinergy's argument that Table 4-3 should define "conditional" and "unconditional." As seen in note 100, the concepts of conditional and unconditional service are complicated and would be cumbersome to define in a table.

#### Section 4.17—Required Posting When a Reservation Request Is Preempted

This section provides that when a reservation request is preempted, the transmission provider must post the assignment reference number of the reservation that preempts the reservation request.

#### Comments

None of the comments take issue with this recommendation.

#### Discussion

We propose to adopt Guide 4.17 as recommended.

#### Section 4.18—Displaced and Superseded Pending Requests for Transmission Service

This section lays out the circumstances when a transmission provider may displace or supersede pending requests for service based on the priorities laid out in Table 4-3 (Guide 4.16). Recommended Guide 4.18, which addresses counteroffers, provides as follows:

Guide 4.18: Given competing requests for a limited resource and a right-of-first-refusal is not required to be offered, the Provider may immediately move requests in the CONFIRMED state to DISPLACED, or from an ACCEPTED or COUNTEROFFER state to SUPERSEDED, if the competing request is of

<sup>96</sup> The distinction between conditional and unconditional service, as related to firm point-to-point service, is discussed in Order No. 888, FERC Stats. & Regs. ¶ 31,036 at 31,746, where we stated:

Accordingly, the Final Rule *pro forma* tariff provides a mechanism to address this concern while safeguarding the rights of potential customers to obtain access to unused capacity. The tariff provides that reservations for short-term firm point-to-point service (less than one year) will be conditional until one day before the commencement of daily service, one week before the commencement of weekly service, and one month before the commencement of monthly service. These conditional reservations may be displaced by competing requests for longer-term firm point-to-point service. For example, a reservation for daily firm point-to-point service could be displaced by a request for weekly firm point-to-point service during an overlapping period. Before the applicable reservation deadline, a holder of a conditional firm point-to-point reservation would have the right of first refusal to match any longer-term firm point-to-point reservation before being displaced. After the deadline, the reservation becomes unconditional, and the service would be entitled to the same priorities as any long-term point-to-point or network firm service.

Conditional reservations also are discussed in *Madison Gas & Electric Company v. Wisconsin Power & Light Company*, 80 FERC ¶ 61,331 at 62,102-03 (1997), *reh'g denied*, 82 FERC ¶ 61,099 at 61,372-73 (1998).

<sup>97</sup> The rights of first refusal shown in Table 4-3 should not be confused with the right of first refusal available to a customer with a pre-existing expiring contract under Order No. 888, see FERC Stats. & Regs. ¶ 31,036 at 31,745.

<sup>98</sup> Under Table 4-3, requests for transmission service may be superseded before they are confirmed. After they are confirmed, they may be preempted (as provided).

<sup>99</sup> Cinergy Comments at 5.

<sup>100</sup> Except in cases where firm service becomes unconditional.

higher priority, based on the rules represented in Table 4-3. These state changes require dynamic notification to the Customer if the Customer has requested dynamic notification on OASIS.

#### Comments

Cinergy states that, under recommended Guide 4.18, when there are competing requests for constrained resources, a provider may change a confirmed reservation from the CONFIRMED status to DISPLACED status, if the competing request is of higher priority, based on the rules represented in Table 4-3. Cinergy asks—when does the transmission provider displace a request? Is it when the transmission provider accepts the offer from a second customer or when the second customer confirms the deal? Cinergy's suggested answer is that the transmission provider should displace a request at the time the second customer confirms the deal.<sup>101</sup> Cinergy also questions when ATC should be decremented. Cinergy argues that ATC should not be decremented until the customer confirms acceptance of the transmission provider's award of its capacity. It argues that a customer should not have rights to a transmission path or an amount of capacity until the customer commits to pay for it.<sup>102</sup>

Recommended Guide 4.18 would have transmission providers voluntarily use dynamic notification to notify their customers of changes in their requests from the CONFIRMED state to DISPLACED or from the ACCEPTED or COUNTEROFFER to SUPERSEDED.<sup>103</sup> ECI would require transmission providers to use dynamic notification to notify their customers of these events.<sup>104</sup>

In addition, ECI cites the statement in the June 19 Report that,

it is possible that an unconfirmed request with an earlier QUEUED time could be preempted (SUPERSEDED). For this to occur, the subsequent request would be of higher priority or of greater price.

ECI argues that the Commission's ruling in the July 17 Order requires that customers get the right of first refusal in this situation. Otherwise, ECI argues, this proposal is inconsistent with the Commission's decision in its complaint against PJM.<sup>105</sup>

<sup>101</sup> Cinergy Comments at 4.

<sup>102</sup> Cinergy Comments at 4.

<sup>103</sup> In OASIS Phase IA, transmission providers use the Internet to notify customers automatically of when the status of a reservation request has changed.

<sup>104</sup> ECI Comments at 15.

<sup>105</sup> See discussion of PJM complaint in Section III.D.13, *supra*.

#### Discussion

First, Cinergy, referring to recommended Guide 4.18, asks when an accepted request for service is displaced by a transmission provider. Guide 4.18 states that, when there are competing requests for constrained resources, a provider may change a confirmed reservation from the CONFIRMED status to DISPLACED status, if the competing request is of higher priority, based on the priorities laid out in Table 4-3. Cinergy's view is that the first request should be displaced when the displacing customer confirms the deal. We agree. Otherwise, the displacing customer can walk away from a transaction, leaving the first customer with no service and the transmission provider with unused capacity.

Second, Cinergy also maintains that a customer should not have rights to capacity until it commits to pay for it. We agree. A customer's confirmation already is a commitment to pay and a customer's confirmation is what gives the customer its rights to capacity. After reviewing recommended Guide 4.18, we do not believe that any revision is needed to accommodate Cinergy's concern.

Third, as to Cinergy's specific question as to when ATC is decremented (when there are competing bids for constrained resources), we propose that the transmission provider decrement ATC when it accepts a request (without waiting for the customer's confirmation). Otherwise, a transmission provider could be placed in the awkward position of having accepted 10 requests for the same constrained capacity and having several customers confirm the deal at the same time. Nevertheless, we also invite specific comment on whether ATC should be decremented upon acceptance by a transmission provider of the customer's request or upon the customer's confirmation of its request, following acceptance.

Consistent with our findings in Order No. 889, however, ATC postings should be updated when the transmission service is reserved (after confirmation).<sup>106</sup> In Order No. 889, we stated, [a] posting for a constrained posted path must be updated when transmission service on the path is reserved or service ends or when the path's TTC changes by more than 10 percent.<sup>107</sup>

<sup>106</sup> The transmission provider adjusts its calculation of ATC internally before it is required to post a revised ATC on the OASIS.

<sup>107</sup> Order No. 889, FERC Stats. & Regs. ¶ 31,035 at 31,606.

ECI reads recommended Guide 4.18 to allow transmission providers to provide customers with dynamic notification of changes in the status of their reservation requests on a "best practice" basis. It requests that such notification be made mandatory. We note that dynamic notification of changes in reservation status is required by the June 18 Order for customers requesting such notification.<sup>108</sup> It is not mandatory for those who do not make such a request. We believe that our finding in the June 18 Order is sufficient to address ECI's concern and are not proposing in this NOPR any extension of dynamic notification beyond that contained in Guide 4.18 as recommended by the June 19 Report.

ECI argues that the statement in the June 19 Report that "it is possible that an unconfirmed request with an earlier QUEUED time could be preempted (SUPERSEDED)," is inconsistent with the Commission's findings in the July 17 Order. As discussed above, although the July 17 Order held that a customer making a request for short-term firm point-to-point service is to be afforded an opportunity to match a reservation for short-term firm point-to-point service of a longer duration, before losing its reservation priority, that order did not address other circumstances under which an unconfirmed request may be preempted.<sup>109</sup> Thus, ECI's comments provide no basis to reject Guide 4.18 and we propose its adoption as recommended.<sup>110</sup>

#### Section 4.19—Counteroffers When Right of First Refusal Is Required

Section 4.19 provides that, in instances where the customer is entitled to a right of first refusal, the transmission provider is to notify the customer through the use of a COUNTEROFFER of the opportunity to match the subsequent offer.

#### Comments

None of the comments address this issue.

#### Discussion

We propose to adopt Guide 4.19 as recommended.

<sup>108</sup> 83 FERC at 62,463.

<sup>109</sup> 84 FERC at 61,196.

<sup>110</sup> Upon review, the definition of "DISPLACED" in the Data Element Dictionary and in section 4.2.10.2 of the S&CP Document is unclear. We propose to clarify the definition by inserting the words "if any" after the word "refusal" to make clear that the existence of a status value for "DISPLACED" in the S&CP Document is not meant to confer any right of first refusal. In addition, we propose to substitute the word "replaced" for the word "displaced" in the text of the definition. We invite the comments to this NOPR to address this issue.

### Section 4.20—Time Limits for Right of First Refusal

When we addressed the issue of reservation time limits in the June 18 Order, we agreed with commenters that on-line negotiation of discounts requires predetermined time limits on responses by transmission providers and customers.<sup>111</sup> We asked the CPWG to examine the development of such deadlines and to make recommendations to us. The deadlines appearing in recommended Guides 4.13 and 4.20 reflect the recommendations of the CPWG/How Group.<sup>112</sup>

#### Comments

ECI argues that the confirmation time limits in recommended Guide 4.20 are inconsistent with the 24-hour time limit in the *pro forma* tariff. ECI argues that the *pro forma* tariff should be revised to match recommended Guide 4.20. Recommended Guide 4.20 provides as follows:

Guide 4.20: A Customer who has been extended a right-of-first-refusal should have a confirmation time limit equal to the lesser of a) the Customer Confirmation Time Limit in Table 4-2 or b) 24 hours.

ECI reports that section 4.2 of the *pro forma* tariff provides a confirmation time limit of 24 hours and suggests that the tariff be revised in accordance with recommended Guide 4.20.

#### Discussion

ECI identifies what it asserts is an inconsistency between recommended Guide 4.20 and the *pro forma* tariff. Recommended Guide 4.20 provides that a customer who has been given the right of first refusal must respond in a time period equal to the lesser of the confirmation time in Guide 4.13 (Table 4-2) or 24 hours. The *pro forma* tariff provides, at section 17.5, that a response to a completed application be made "as soon as possible."

We already addressed this issue in connection with our discussion of Guide 4.13 and Table 4-2. As we explained above,<sup>113</sup> we find the time limits prescribed in Guide 4.13 to be both reasonable and consistent with the *pro forma* tariff.

### Section 4.21—Non-discriminatory Right of First Refusal Comments

This recommended standard requires transmission providers to apply all rights of first refusal in a non-discriminatory and open manner.

#### Comments

None of the comments address this issue.

#### Discussion

This provision is entirely consistent with the provisions in 18 CFR 37.4(b)(5) that require transmission providers to operate their OASIS sites in an even handed non-discriminatory manner. We propose the adoption of Standard 4.21 as recommended.

### Sections 4.22 & 4.23—When Confirmed Requests Shall Not Be Displaced

Recommended Standards 4.22 and 4.23 provide as follows:

Standard 4.22: Once a non-firm PTP request has been confirmed, it shall not be displaced by a subsequent non-firm PTP request of equal duration and higher price.

Standard 4.23: A confirmed, non-firm PTP reservation for the next hour shall not be displaced within one hour of the start of the reservation by a subsequent non-firm PTP reservation request of longer duration.

This section does not distinguish between requests that are pre-confirmed and requests that are confirmed after acceptance. Once confirmed, both requests are treated alike.

#### Comments

None of the comments address this issue.

#### Discussion

We propose to adopt Standards 4.22 and 4.23 as recommended.

### Section 4.24—Requests on Unconstrained Paths

Recommended Guide 4.24 provides as follows:

Guide 4.24: A Transmission Provider should honor any reservation request submitted for an unconstrained Path if the Customer's bid price is equal to or greater than the Provider's posted offer price at the time the request was queued, even if later requests are submitted at a higher price. This guide applies even when the first request is still unconfirmed, unless the Customer Confirmation Time Limit has expired for the first request.

#### Comments

None of the comments address this issue.

#### Discussion

We propose to adopt Guide 4.24 as recommended.

### Section 4.25—Pre-Confirmation and Pre-emption

Recommended Guide 4.25 would permit Tier 4 (non-firm point-to-point) service of equal term with a higher bid price to preempt a request for the same

term and lower bid price, as long as the lower bid request is not confirmed and the higher bid request is preconfirmed. Specifically, the provision provides as follows:

Guide 4.25: Once an offer to provide non-firm PTP transmission service at a given price is extended to a Customer by the Provider, and while this first request is still unconfirmed but within the Customer Confirmation Time Limit, the Provider should not preempt or otherwise alter the status of that first request on receipt of a subsequent request of the same Tier and equal duration at a higher price, unless the subsequent request is submitted as pre-confirmed.

#### Comments

ECI asks that recommended Guide 4.25 be rejected for two reasons. First, it argues the guide introduces the concept of pre-confirmed requests for transmission service, a concept that does not appear in the *pro forma* tariff.<sup>114</sup> Second, it argues that the concept violates the first-come-first-served principle.

#### Discussion

ECI requests that we reject recommended Guide 4.25 because the concept of pre-confirmed requests for transmission service is not addressed in the *pro forma* tariff and because it violates the principle of first-come-first-served. We disagree for two reasons. First, the first-come-first-served reservation priority of section 14.2 of the *pro forma* tariff applies from the time when a request for transmission service is made, *not* from the time when a request is confirmed. Thus, the recommended confirmation policy in Guide 4.25 would not change any reservation priorities under section 14.2 of the *pro forma* tariff. Second, we find the concept of pre-confirmed requests in Guide 4.25 to be consistent with the reservation priorities in section 14.2 of the *pro forma* tariff. If approved, the recommended pre-confirmation policy advocated by the CPWG/How Group would, however, have an impact on the displacement of requests for service by subsequent requests for service at a higher price or for a longer duration.<sup>115</sup>

<sup>114</sup> Under this concept, customers would be able to make pre-confirmed requests for service that would lock them into automatically confirming their requests for service (and committing them to take service) in the event transmission providers accept their requests for service. A pre-confirmed reservation would be finalized when the transmission provider accepts the customer's request for service, without the need (or opportunity) for subsequent customer confirmation.

<sup>115</sup> *Id.*

<sup>111</sup> 83 FERC at 62,464.

<sup>112</sup> Recommended Guide 4.13 (Table 4-2) is discussed above in Section III.D.14, *supra*.

<sup>113</sup> See discussion in Section III.D.14 above, *supra*.

**Section 4.26—Right of Customer Making Pre-Confirmed Request To Match a Subsequent Pre-Confirmed Request at Higher Price**

Recommended Guide 4.26 provides as follows:

Guide 4.26: If during a negotiation of service (i.e., prior to Customer confirmation) a subsequent pre-confirmed request for service over the same limited resource of equal duration but higher price is received, the Provider *may* COUNTEROFFER the price of service on the prior COUNTEROFFER or ACCEPTED price to match the competing offer, in order to give the first Customer an opportunity to match the offer. This practice must be implemented in a non-discriminatory manner. [Emphasis in original.]

**Comments**

ECI suggests a wording change in recommended Guide 4.26.<sup>116</sup> ECI argues that to be consistent with the first-come-first-served and right of first refusal process, transmission providers electing to follow this guide *must* be required to offer a COUNTEROFFER.

**Discussion**

ECI requests that the word “may” in recommended Guide 4.26 be changed to “must.” Recommended Guide 4.26 states that under certain circumstances, “the Provider *may* COUNTEROFFER the price of service on the prior COUNTEROFFER or ACCEPTED price to match the competing offer, in order to give the first Customer an opportunity to match the offer.” ECI argues that, to achieve consistency with the first-come-first-served and right to match process, transmission providers must be *required* to offer a COUNTEROFFER. We agree with ECI for two reasons. First, customers must know what to expect from a transmission provider. If a transmission provider allows some customers the right to match, it must allow all customers the right to match. Second, even though the recommended guide provides that the “practice must be implemented in a non-discriminatory manner,” there is too much room for discrimination if providing the right to match is optional.

As we are proposing that Guide 4.26 be adopted as a guide rather than as a standard, a transmission provider would have the option not to follow this guideline. However, by proposing to adopt the suggested language change, we seek to assure that if the transmission provider elects to follow this guide, it will do so uniformly and not selectively.

<sup>116</sup> ECI Comments at 16.

**Section 4.27—Curtailement of Nonfirm PTP Service**

Recommended Guide 4.27 provides that curtailement of non-firm point-to-point transmission service should not be based on price. Specifically, it provides as follows:

Guide 4.27: Curtailement of non-firm PTP should not consider price.

**Comments**

Cinergy argues that curtailments are not within the scope of the Business Practices Report.

**Discussion**

Cinergy notes that recommended Guide 4.27, which recommends that curtailment of non-firm PTP not be based on price, is outside the scope of Phase IA business practices. We agree that the definition of curtailment practices is beyond the scope of this proceeding. In the June 18 Order, we agreed to displaying curtailment priority information in certain templates contained in the S&CP Document.<sup>117</sup> However, we specifically cautioned that, our adoption of a place on the OASIS for these data elements does not constitute an approval of the NERC or other curtailment priorities.<sup>118</sup>

As we stated in *Coalition Against Private Tariffs*,<sup>119</sup> curtailment priorities are governed by the *pro forma* tariff.

Accordingly, we do not propose to adopt recommended Guide 4.27 for the reasons discussed above. Commenters disagreeing with this view should address this matter in their comments to this NOPR.

**16. Transmission Provider Requirements (Section 5B) of June 19 Report)**

Phase IA OASIS data templates allow the coupling of ancillary service arrangements with the purchase of transmission service for the purpose of simplifying the overall process for customers. Transmission providers must indicate (consistent with filed tariffs) what services are MANDATORY (must be taken from the Primary Provider), REQUIRED (must be provided for but may be procured from alternative sources), or OPTIONAL (not required as a condition of transmission service). While these interactions are available in the Phase IA S&CP Document, there is a need to clarify the associated BPS&G. The associated recommended Standards and Guides 5.1, 5.2, 5.3, and 5.4 apply

<sup>117</sup> 83 FERC at 62,462.

<sup>118</sup> *Id.*

<sup>119</sup> 83 FERC at 61,043. See discussion of NERC and MAPP Orders in Section III.D.6 and notes 27–28, above, *supra*.

to services defined in filed tariffs. Recommended Standards 5.1 and 5.3, and recommended Guides 5.2 and 5.4, provide as follows:

Standard 5.1: The Transmission Provider shall designate which ancillary services are MANDATORY, REQUIRED, or OPTIONAL for each offered transmission service to the extent these requirements can be determined in advance of the submittal of a reservation request on a specific Path by a Transmission Customer.

Guide 5.2: A Transmission Provider may modify a Transmission Customer's service request to indicate the Transmission Provider as the SELLER of any ancillary service, which is MANDATORY, to be taken from the Transmission Provider.

Standard 5.3: For REQUIRED and OPTIONAL services, the Transmission Provider shall *not* select a SELLER of ancillary service without the Transmission Customer first selecting that SELLER.

Guide 5.4: A Transmission Provider may accept a Transmission Customer's request for an ancillary service, which is not MANDATORY or REQUIRED, but shall indicate to the Transmission Customer at the time of acceptance under PROVIDER COMMENTS that the service is not MANDATORY or REQUIRED.

**Comments**

With regard to section 5B of the June 19 Report, Cinergy asserts that ancillary services cannot be easily categorized as “MANDATORY,” “REQUIRED,” or “OPTIONAL” on the basis of transmission service. Instead, it suggests that services be categorized on the basis of path because different ancillary services are required depending on whether the service is into, out of, or across, a system.<sup>120</sup>

**Discussion**

We propose to adopt recommended Standards 5.1 and 5.3 and recommended Guides 5.2 and 5.4. Cinergy's concern that services be categorized on the basis of path would add undue complexity at this time and has not been shown to be needed since only Cinergy is seeking such information. Thus, no modification of these recommended Standards and Guides is warranted. Moreover, ancillary services are an essential part of a transmission service contract. Therefore, the process for making transmission contracts on the OASIS is improved through the proposed definitions and processes that spell out the mandatory, required, and optional ancillary services related to the transmission reservation.

<sup>120</sup> Cinergy Comments at 5.

## 17. Transmission Customer Requirements (Section 5C of June 19 Report)

The June 19 Report recommends that the transmission customer should make known to the transmission provider (at the time of the reservation request) certain options related to arrangement of ancillary services, including taking all the MANDATORY and REQUIRED ancillary services from the primary provider, taking REQUIRED ancillary services from a third party seller, purchasing OPTIONAL services, and arranging for ancillary services in the future (prior to scheduling). The June 19 Report then recommends Guides 5.5 and 5.6. Recommended Guides 5.5 and 5.6 provide as follows:

Guide 5.5: The Transmission Customer should indicate with the submittal of a transmission reservation request, the preferred options for provision of ancillary services, such as the desire to use an alternative resource.

Guide 5.6: A Transmission Customer may, but is not required to, indicate a third party SELLER of ancillary services, if these services are arranged by the Transmission Customer off the OASIS and if such arrangements are permitted by the Transmission Provider's tariff.

### Comments

No specific comments were filed on these guides.

### Discussion

We propose to adopt recommended Guides 5.5 and 5.6.

### E. Recommended Revisions to Pro Forma Tariff (Appendix A of the June 19 Report)

Based on the business practices recommended above, the June 19 Report recommends that we modify three sections, 14.2, 14.7 and 17.5, of the *pro forma* tariff.<sup>121</sup> As discussed below, we view the recommended revisions as either unwarranted or unnecessary and are not persuaded to make any modifications to the *pro forma* tariff at this time.

#### 1. Section 14.2—Reservation Priority

Section 14.2 of the *pro forma* tariff provides, in pertinent part:

A higher priority will be assigned to reservations with a longer duration of service. In the event the Transmission System is constrained, competing requests of equal duration will be prioritized based on the highest price offered by the Eligible Customer for the Transmission Service. Eligible Customers that have already reserved

shorter term service have the right of first refusal to match any longer term reservation before being preempted.<sup>122</sup>

The CPWG/How Group argues that this creates problems. While not disputing that requests for service of greater duration or for a higher price should have priority over requests for shorter duration or lower price, the June 19 Report expresses a concern that a last-minute subsequent request for non-firm transmission service could displace an earlier request for non-firm transmission service without leaving the first bidder time to make alternate arrangements. CPWG/How Group recommends that customers be allowed to make pre-confirmed requests for service, locking themselves into automatically confirming their requests for service (and committing them to take service) in the event the transmission provider accepts their request for service. Although transmission providers could reject the request if a competing bid at a higher price or for a longer duration is received before the transmission provider accepts the request from the first customer, it is recommended that, once an Eligible Customer confirms a reservation at a given price, a subsequent request of equal duration but at a higher price will not be allowed to displace the confirmed reservation.<sup>123</sup>

As to subsequent requests for a longer duration, it is recommended that, once an Eligible Customer confirms a reservation, a subsequent request of longer duration made within an hour of the scheduled start of the confirmed reservation will not be allowed to displace the confirmed reservation for that next hour.<sup>124</sup>

Thus, under these proposals, if a customer makes a pre-confirmed reservation, it would obtain protection from displacement from competing bids earlier than if it waits to confirm its request after the transmission provider accepts the request. However, even without pre-confirmation, after confirmation, any customer confirming its request would receive the same protection against displacement from subsequent requests for service.

CPWG/How Group also recommends that the right to match subsequent requests for service (first refusal), currently guaranteed by § 14.2 of the *pro forma* tariff (to match subsequent requests for hourly non-firm

transmission service of longer duration if matched "immediately"), be extended to allow matching within five minutes.<sup>125</sup>

To implement these proposals, CPWG advocates revising § 14.2 of the *pro forma* tariff to read as follows:

14.2 Reservation Priority: Non-Firm Point-To-Point Transmission Service shall be available from transmission capability in excess of that needed for reliable service to Native Load Customers, Network Customers and other Transmission Customers taking Long-Term and Short-Term Firm Point-To-Point Transmission Service. A higher priority will be assigned to reservations with a longer duration of service, except that once an Eligible Customer confirms a reservation, a subsequent request of longer duration made within an hour of the scheduled start of the confirmed reservation will not be allowed to displace the confirmed reservation for that next hour. In the event the Transmission System is constrained, competing requests of equal duration will be prioritized based on the highest price offered by the Eligible Customer for the Transmission Service, except that once an Eligible Customer confirms a reservation at a given price, a subsequent request of equal duration but at a higher price will not be allowed to displace the confirmed reservation. Eligible Customers that have already reserved shorter-term service have the right of first refusal to match any longer-term reservation before being preempted. A longer-term competing request for Non-Firm Point-To-Point Transmission Service will be granted if the Eligible Customer with the right of first refusal does not agree to match the competing request: (a) immediately within five minutes for hourly Non-Firm Point-To-Point Transmission Service after notification by the Transmission Provider; and, (b) within 24 hours (or earlier if necessary to comply with the scheduling deadlines provided in § 14.6) for Non-Firm Point-To-Point Transmission Service other than hourly transactions after notification by the Transmission Provider. Transmission service for Network Customers from resources other than designated Network Resources will have a higher priority than any Non-Firm Point-To-Point Transmission Service. Non-Firm Point-To-Point Transmission Service over secondary Point(s) of Receipt and Point(s) of Delivery will have the lowest reservation priority under the Tariff.

### Comments

ECI argues that this provision needs to be reconciled with the Commission's findings in the July 17 Order.

### Discussion

We agree with CPWG/How Group that it might be beneficial to allow customers to "hedge" their requests for service by making pre-confirmed requests for service. However, we disagree that this

<sup>121</sup> For convenience, sections 14.2, 14.7, and 17.5 of the *pro forma* tariff are provided in Attachment B to this NOPR.

<sup>122</sup> Order No. 888-A, FERC Stats. & Regs. ¶ 31,048 at 30,518.

<sup>123</sup> This proposal stems from recommended Standard 4.22 and recommended Guide 4.25 and the priorities appearing on row 8, Table 4-3 (recommended Guide 4.16).

<sup>124</sup> This proposal stems from recommended Standard 4.23 and the priorities appearing on row 7, Table 4-3 (recommended Guide 4.16).

<sup>125</sup> This change stems from the reservation timing guidelines appearing on row 1, Table 4-2 (recommended Guide 4.13).



requires any modification to § 14.2 of the *pro forma* tariff.

Section 14.2 creates reservation priorities based on price and duration that we have no inclination to revise. However, nothing in § 14.2 either condones or condemns the use of pre-confirmed reservations. In evaluating competing requests for transmission service, we believe that § 14.2 properly directs the transmission provider to give priority to requests for service at a higher price or for a longer duration. However, § 14.2 does not address displacement of an accepted and confirmed request for transmission service upon receipt of a subsequent request for service.

The remaining question, therefore, is whether transmission providers need to file a revision to their individual open access tariff to implement the pre-confirmation proposals outlined in CPWG/How Group's recommended revisions to § 14.2 of the *pro forma* tariff. Given the silence of § 14.2 on this subject, to the extent that a transmission provider seeks to add a pre-confirmation procedure, it would need to file, for Commission approval, a revision to its individual open access tariff.

As to the proposal that we revise section 14.2 of the *pro forma* tariff to allow a matching response to a competing request for hourly non-firm point-to-point transmission service within five minutes of notification by the transmission provider, we find this recommended revision unnecessary. Currently, section 14.2 requires an eligible customer with the right of first refusal to match the competing request immediately for non-firm point-to-point transmission service. A matching response required within five minutes of notification by the transmission provider would satisfy the intent of section 14.2 that a matching response be made immediately.

As to ECI's argument that the recommended revisions to section 14.2 of the *pro forma* tariff need to be reconciled with the Commission's findings in the July 17 Order,<sup>126</sup> we find that these concerns are moot in light of our determination to leave section 14.2 unchanged.<sup>127</sup>

## 2. Section 14.7—Curtailement or Interruption of Service

The June 19 Report recommends that we revise section 14.7 of the *pro forma* tariff to prevent the interruption of non-firm transmission service in favor of

same duration, but at a higher price (for the same reasons advanced regarding similar changes to section 14.2). Specifically, the June 19 Report recommends that we revise section 14.7 of the *pro forma* tariff to provide as follows:

14.7 Curtailement or Interruption of Service: The Transmission Provider reserves the right to Curtail, in whole or in part, Non-Firm Point-To-Point Transmission Service provided under the Tariff for reliability reasons when, an emergency or other unforeseen condition threatens to impair or degrade the reliability of its Transmission System. The Transmission Provider reserves the right to Interrupt, in whole or in part, Non-Firm Point-To-Point Transmission Service provided under the Tariff for economic reasons in order to accommodate (1) a request for Firm Transmission Service, (2) a request for Non-Firm Point-To-Point Transmission Service of greater duration, or (3) [a request for Non-Firm Point-To-Point Transmission Service of equal duration with a higher price, or (4)] transmission service for Network Customers from non-designated resources. The Transmission Provider also will discontinue or reduce service to the Transmission Customer to the extent that deliveries for transmission are discontinued or reduced at the Point(s) of Receipt. Where required, Curtailments or Interruptions will be made on a non-discriminatory basis to the transaction(s) that effectively relieve the constraint, however, Non-Firm Point-To-Point Transmission Service shall be subordinate to Firm Transmission Service. If multiple transactions require Curtailement or Interruption, to the extent practicable and consistent with Good Utility Practice, Curtailments or Interruptions will be made to transactions of the shortest-term (e.g., hourly non-firm transactions will be Curtailed or Interrupted before daily non-firm transactions and daily non-firm transactions will be Curtailed or Interrupted before weekly non-firm transactions). Transmission service for Network Customers from resources other than designated Network Resources will have a higher priority than any Non-Firm Point-To-Point Transmission Service under the Tariff. Non-Firm Point-To-Point Transmission Service over secondary Point(s) of Receipt and Point(s) of Delivery will have a lower priority than any Non-Firm Point-To-Point Transmission Service under the Tariff. The Transmission Provider will provide advance notice of Curtailement or Interruption where such notice can be provided consistent with Good Utility Practice.

## Comments

Cinergy recommends that the recommended change not be made.<sup>128</sup>

## Discussion

We agree with Cinergy that the recommended change should not be made. We reach this conclusion for

several reasons. First, the June 19 Report (see pages A-4 and A-5) fails to provide any support for the proposal. Second, as discussed above, we have not been persuaded to revise the reservation priorities in section 14.2 and thus there is no need to revise section 14.7, for consistency. Third, in any event, curtailments and reservation priorities are completely distinct subjects. Thus, even if we were to revise the reservation priorities in section 14.2, we would need more of a reason than that to revise the curtailment priorities in section 14.7. Moreover, as we discussed in Section III.D.5 above, this order does not disturb the curtailment priorities of section 14.7 of the *pro forma* tariff.

## 3. Section 17.5—Response to a Completed Application

The recommended change to Section 17.5 would require transmission providers to use best efforts to respond promptly to applications for daily firm service made within 24 hours of start of the transaction. The June 19 Report recommends that section 17.5 of the *pro forma* tariff be revised to provide as follows:

17.5 Response to a Completed Application: Following receipt of a Completed Application for Firm Point-To-Point Transmission Service, the Transmission Provider shall make a determination of available transmission capability as required in Section 15.2. [The] Except for a Completed Application for Daily Firm service received less than 24 hours prior to the commencement of the transmission service, the Transmission Provider shall notify the Eligible Customer as soon as practicable, but not later than thirty (30) days after the date of receipt of a Completed Application either (i) if it will be able to provide service without performing a System Impact Study or (ii) if such a study is needed to evaluate the impact of the Application pursuant to Section 19.1. For a Completed Application for Daily Firm service received less than 24 hours prior to the commencement of the transmission service, the Transmission Provider shall use its best efforts to respond promptly to notify the Eligible Customer if it will be able to provide the service. Responses by the Transmission Provider must be made as soon as practicable to all completed applications (including applications by its own merchant function) and the timing of such responses must be made on a non-discriminatory basis.

## Comments

No comments were received on this issue.

## Discussion

We do not agree that any revision to the *pro forma* tariff is needed to accommodate this proposal. Section 17.5 requires a response as soon as practicable. It would not be reasonable to interpret "as soon as practicable," in

<sup>126</sup> Discussed in Section III.D.13 above, *supra*.

<sup>127</sup> As discussed in Section III.D.13, *supra*, we also find that ECI misinterprets the July 17 Order.

<sup>128</sup> Cinergy Comments at 6. Cinergy gives no reason for this comment.

dealing with a response for daily service, as allowing a transmission provider to take up to thirty days in responding to a request for service. The "not longer than thirty (30) days" language was not intended to allow transmission providers to stall in giving timely responses to requests for shorter duration services. The analysis needed to respond to requests for shorter duration service is simpler and can be accomplished much faster. We need not revise section 17.5 to require "best efforts" to respond promptly to customers requesting daily service, because that requirement already is implicit in the requirement to respond "as soon as practicable."

#### *F. September 15th Filing of Standards for Naming Transmission Paths*

In its July 1998 OASIS order, the Commission requested that CPWG/How Group recommend a consistent naming convention for transmission paths. On September 15, 1998, CPWG/How Group made a joint filing proposing such standards.

The existing S&CP Document contains a path naming convention. Paths are designated using a 50-character alphanumeric string:

RegionCode/transmissionProviderCode/  
PathName/Optional From-to (POR-POD)/  
Spare

CPWG/How Group asserts that the structure of the string is appropriate, but that more specificity is needed to assure consistency among transmission providers in the designation of path names. Since a single transaction may span multiple providers, consistent names will make it easier to move power across the systems of several transmission providers.

Specifically, CPWG/How Group recommend:

Standard 6.1: A transmission provider shall use the path naming convention defined in the S&CP Data Dictionary for the naming of all reservable paths posted on OASIS.

Standard 6.2: A transmission provider shall use the third field in the path name to indicate the sending and receiving control areas. The control areas shall be designated using standard NERC codes for the control areas, separated by a hyphen. For example, the first three fields of the path name will be: RR/TPTP/CAXX-CAYY/  
RR/TPTP/CAXX-CAYY/

Standard 6.3: A transmission provider shall use the fourth field of the path name to indicate POR and POD separated by a hyphen. For example, a path with a specific POR/POD would be shown as:  
RR/TPTP/CAXX-CAYY/ PORPORPORPOR-  
PODPODPODPOD/

If the POR and POD are designated as control areas, then the fourth field may be left blank (as per the example in 6.2).

Guide 6.4: A transmission provider may designate a sub-level for Points of Receipt and Delivery. For example, a customer reserves a path to POD AAAA. The ultimate load may be indeterminate at the time. Later, the customer schedules energy to flow to a particular load that may be designated by the transmission provider as a sub-level Point of Delivery. This option is necessary to ensure certain providers are not precluded from using more specific service points by the inclusion of the POR/POD in the path name. All sub-level PORs and PODs must be registered as such on [www.tsin.com](http://www.tsin.com).

#### Comments

APPA was the only commenter. While APPA has some reservations about the recommended standards, it recommends that the standards be adopted. APPA's qualms are due to its fear that the standards could be used to impose anticompetitive burdens on market participants by requiring a higher degree of POR-POD specificity for customers than for the transmission providers' own use of their systems. APPA requests that the Commission remain vigilant and hear customer complaints if the standard is used to disadvantage competitors.<sup>129</sup>

#### Discussion

We propose to adopt the standards (6.1, 6.2, and 6.3) and guide (6.4) on this subject recommended by CPWG/How Group in their September 15, 1998 submittal. The approach which has been in use permitted flexibility in the use of optional fields, but has resulted in inconsistent path naming. The recommended standards and guides, which use the previously optional fields to specify control area codes for Point of Receipt and Point of Delivery, will provide consistency in path naming, and improve efficiency in the reservation process. There were no commenters objecting to the recommended standards and guides. We acknowledge APPA's concerns about the potential for abuse, and we will be responsive to complaints about possible abuses which might result from the requirement to specify control areas for POR-POD when making transmission reservations.

#### IV. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA),<sup>130</sup> requires the Commission to describe the impact a proposed rule would have on small entities or to certify that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities.

<sup>129</sup> APPA Comments at 2-3.

<sup>130</sup> 5 U.S.C. 601-612.

The mandatory standards and voluntary best practices guides proposed in this NOPR would be applicable to the same entities subject to the requirements of the OASIS Final Rule (*i.e.*, public utilities).<sup>131</sup> As we explained in Order No. 889-A, however, under appropriate circumstances the Commission will grant waiver of the OASIS Final Rule requirements to small public utilities. We further explained that the Commission's waiver policy follows the SBA definition of small electric utility<sup>132</sup> and that 34 small entities had received waivers of the requirement to establish and maintain an OASIS and five small entities had received waivers of the OASIS Standards of Conduct requirements.<sup>133</sup> These decisions show that the Commission carefully evaluates the effect of the OASIS Final Rule on small electric utilities and is granting waivers where appropriate, thus mitigating the effect of that rule on small public and non-public utilities.

The rules here proposed would merely increase the uniformity of the business practices public utilities would have to adopt in any event to comply with Order Nos. 888 and 889 and other Commission orders. This being the case, under section 605(b) of RFA, the Commission hereby certifies that this proposed rule will not, if promulgated, have a significant economic impact on a substantial number of small entities within the meaning of RFA. Accordingly, no regulatory flexibility analysis is required pursuant to section 603 of RFA.

#### V. Environmental Statement

Commission regulations require that an environmental assessment or an environmental impact statement be prepared for a Commission action that may have a significant effect on the

<sup>131</sup> In the OASIS Final Rule, we noted that the entities that would have to comply with the OASIS Final Rule are public utilities. See Order No. 889-A, FERC Stats. & Regs. ¶ 31,049 at 30,578.

<sup>132</sup> See 5 U.S.C. §§ 601(3) and 601(6) and 15 U.S.C. § 632(a). The RFA defines a small entity as one that is independently owned and not dominant in its field of operation. See 15 U.S.C. § 632(a). The Small Business Administration defines a small electric utility as one that disposes of 4 million MWh or less of electric energy in a given year. See 13 CFR 121.601 (Major Group 49—Electric, Gas and Sanitary Services).

In the Open Access Final Rule, we concluded that, under these definitions, the Open Access Final Rule and the OASIS Final Rule would not have a significant economic impact on a substantial number of small entities. We reaffirmed that conclusion in Order Nos. 888-A and 889-A.

<sup>133</sup> See Order No. 889-A, FERC Stats. & Regs. ¶ 31,049 at 30,578.

human environment.<sup>134</sup> In the Commission's view, the environmental impact of this proposal is negligible. Transmission providers necessarily already follow business practices in conducting their OASIS transactions. This proposal merely adds some uniformity to the process. Accordingly, we find that this NOPR does not propose any action that may have a significant effect on the human environment and that no environmental impact statement is required.

## VI. Information Collection Statement

Based on our experience in OASIS implementation over the past four years, the Commission refined the estimate of reporting entities covered by OASIS regulations. Our latest estimate is that 140 respondents are required to collect information under the OASIS regulations. However, as discussed above, this NOPR does not impose any new information collection burdens. Collectively, the OASIS rulemaking information collection is covered by FERC-717 as covered by our December 1, 1998 proposed information collection and request for comments in Docket No. IC99-717-000 as follows:

Information Collection Statement:

*Title:* FERC-717, Open Access Same-time Information Systems and Standards of Conduct.

*Action:* Proposed Collection.

*OMB Control No:* 1902-0173.

*Respondents:* Business or other for profit, including small business.

*Frequency of Responses:* On Occasion.

*Necessity of the information:* The Notice of Proposed Rulemaking solicits public comments to respond to the proposed issuance of uniform business practices for OASIS Phase IA transactions and path name conventions, on replacing the Data Dictionary Element "ANC\_SERVICE\_TYPE" in the OASIS Standards and Communication Protocols Document (Version 1.3) with the term "AS\_TYPE," and on clarifying the terms "DISPLACED," "SUPERSEDED," and "REFUSED" in the Data Dictionary Element and § 4.2.10.2. These requirements would support arrangements made for wholesale sales and purchases for third parties. Public utilities and/or their agents would operate under more uniform business practices. This would improve the operation of OASIS sites.

The Office of Management and Budget's (OMB) regulations,<sup>135</sup> require OMB to approve certain information collection requirements imposed by agency rule. The information collection requirements in the proposed rule will be reported directly to transmission users and will be subject to subsequent audit by the Commission. The distribution of these data will help the Commission carry out its responsibilities under Part II of the FPA.

The Commission is submitting notification of this proposed rule to OMB. Persons wishing to comment on the collections of information proposed by this NOPR should direct their comments to the Desk Officer for FERC, OMB, Room 10202 NEOB, Washington, D.C. 20503, phone 202-395-3087, facsimile 202-395-7285. Comments must be filed with OMB within 30 days of publication of this document in the **Federal Register**. Three copies of any comments filed with the Office of Management and Budget also should be sent to the following address: Mr. David P. Boergers, Secretary, Federal Energy Regulatory Commission, Room 1A, 888 First Street, N.E., Washington, D.C. 20426. For further information on the reporting requirements, contact Michael Miller at (202) 208-1415.

## VII. Public Comment Procedure

This NOPR gives notice of our intention to issue a set of uniform business practices implementing the Commission's policies on transmission service price negotiation and improving interactions between transmission providers and customers over Open Access Same-Time Information System (OASIS) nodes. In addition, we propose a consistent naming convention for path names, propose to replace the Data Dictionary Element "ANC\_SERVICE\_TYPE" in the OASIS Standards and Communication Protocols Document (Version 1.3) with the term "AS\_TYPE," and propose to clarify the terms "DISPLACED," "SUPERSEDED," and "REFUSED" in the Data Dictionary Element and in section 4.2.10.2. of the S&CP Document.

Prior to taking final action on this proposed rulemaking, we are inviting comments from interested persons on the proposals discussed in this preamble and compiled in Attachment A to this NOPR. Additionally, the Commission specifically invites comments on whether any of the best practice guides proposed in this NOPR should instead be issued as mandatory standards and whether any mandatory standards proposed in this NOPR

should instead be issued as best practice guides. The Commission invites interested persons to submit written comments on the matters and issues proposed in this notice to be adopted, including any related matters or alternative proposals that commenters may wish to discuss.

The original and 14 copies of such comments must be received by the Commission by [insert date 60 days after publication in the **Federal Register**]. Comments should be submitted to the Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington D.C. 20426 and should refer to Docket No. RM95-9-003.

In addition to filing paper copies, the Commission encourages the filing of comments either on computer diskette or via Internet E-Mail. Comments may be filed in the following formats: WordPerfect 6.1 or lower version, MS Word Office 97 or lower version, or ASCII format.

For diskette filing, include the following information on the diskette label: Docket No. RM95-9-003; the name of the filing entity; the software and version used to create the file; and the name and telephone number of a contact person.

For Internet E-Mail submittal, comments should be submitted to "comment.rm@ferc.fed.us" in the following format. On the subject line, specify Docket No. RM95-9-003. In the body of the E-Mail message, include the name of the filing entity; the software and version used to create the file, and the name and telephone number of the contact person. Attach the comment to the E-Mail in one of the formats specified above. The Commission will send an automatic acknowledgment to the sender's E-Mail address upon receipt. Questions on electronic filing should be directed to Brooks Carter at 202-501-8145, E-Mail address brooks.carter@ferc.fed.us.

Commenters should take note that, until the Commission amends its rules and regulations, the paper copy of the filing remains the official copy of the document submitted. Therefore, any discrepancies between the paper filing and the electronic filing or the diskette will be resolved by reference to the paper filing.

All written comments will be placed in the Commission's public files and will be available for inspection in the Commission's Public Reference room at 888 First Street, N.E., Washington D.C. 20426, during regular business hours. Additionally, comments may be viewed and printed remotely via the Internet through FERC's Home Page using the RIMS link or the Energy Information

<sup>134</sup> Regulations Implementing National Environmental Policy Act, Order No. 486, 52 FR 47897 (Dec. 17, 1987); 1986-90 Regs. Preambles FERC Stats. & Regs. ¶ 30,783 (Dec. 10, 1987) (codified at 18 CFR Part 380).

<sup>135</sup> 5 CFR 1320.11.

Online icon. User assistance is available at 202-208-2222, or by E-Mail to [rinsmaster@ferc.fed.us](mailto:rinsmaster@ferc.fed.us).

#### List of Subjects in 18 CFR Part 37

Conflict of interests, Electric power plants, Electric utilities, Reporting and recordkeeping requirements.

By direction of the Commission.

**David P. Boergers,**  
Secretary.

In consideration of the foregoing, the Commission proposes to adopt the attached "Business Practice Standards and Guides for Open Access Same-time Information System (OASIS) Transactions" and to amend Part 37 in Chapter I, Title 18, *Code of Federal Regulations*, as set forth below.

#### PART 37—OPEN ACCESS SAME-TIME INFORMATION SYSTEMS AND STANDARDS OF CONDUCT FOR PUBLIC UTILITIES

1. The authority citation for Part 37 continues to read as follows:

**Authority:** 16 U.S.C. 791-825r, 2601-2645; 31 U.S.C. 9701; 42 U.S.C. 7101-7352.

2. Section 37.5 is amended by revising paragraph (b) to read as follows:

##### § 37.5 Obligations of Transmission Providers and Responsible Parties.

(b) A Responsible Party must: (1) Provide access to an OASIS providing standardized information relevant to the availability of transmission capacity, prices, and other information (as described in this part) pertaining to the transmission system for which it is responsible;

(2) Operate the OASIS in compliance with the standardized procedures and protocols found in *OASIS Standards and Communication Protocols*, which can be obtained from the Public Reference and Files Maintenance Branch, Room 2A, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426; and

(3) Operate the OASIS in compliance with the *Business Practice Standards*

and *Guides for Open Access Same-time Information System (OASIS) Transactions*, which can be obtained at the same address as provided in paragraph (b)(2) of this section.

\* \* \* \* \*

[Note: This attachment will not appear in the Code of Federal Regulations.]

#### Attachment A—Federal Energy Regulatory Commission, business practice standards and guides for open access same-time information system (oasis) transactions draft, version 1.0 (January 27, 1999)

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##### Section 1—Introduction

This document contains business practice standards and guides designed to implement the Commission's policy related to on-line

price negotiation and to improve the commercial operation of the Open Access Same-Time Information System (OASIS).

##### Section 1.1 Business Practice Standards and Guides

This document distinguishes between OASIS business practice standards and "best practices" guides. The standards are adopted as mandatory requirements, while the guides are offered as voluntary best practices. However, in the event that a transmission provider elects to follow the voluntary practice guides, it must do so on a uniform, non-discriminatory basis.

##### Section 2—Standard Terminology for Transmission and Ancillary Services

###### Section 2.1 Attribute Values Defining the Period of Service

The data templates of the Phase IA Standards & Communication Protocols (S&CP) Document have been developed with the use of standard service attributes in mind. What the Phase IA S&CP Document does not offer are specific definitions for each attribute value. This section offers standards and guides for these service attribute definitions to be used in conjunction with the Phase IA data templates.

"Fixed" services are associated with transmission services whose periods align with calendar periods such as a day, week, or month. "Sliding" services are fixed in duration, such as a week or month, but the start and stop time may slide. For example a "sliding" week could start on Tuesday and end on the following Monday. "Extended" allows for services in which the start time may "slide" and also the duration may be longer than a standard length. For example an "extended" week of service could be nine consecutive days. Various transmission service offerings using these terms are defined in Standards 2.1.1 through 2.1.13 below.

Table 1-1 identifies the definitions that are proposed as standard terminology in OASIS Phase IA for the attributes SERVICE\_INCREMENT (Hourly, Daily, Weekly, Monthly, and Yearly) and WINDOW (Fixed, Sliding, and Extended). A definition is required for each combination of SERVICE\_INCREMENT and WINDOW, except Hourly Sliding and Hourly Extended, which, at the present, are not sufficiently common in the market to require standard definitions.

TABLE 1-1.—STANDARD SERVICE ATTRIBUTE DEFINITIONS REQUIRED IN PHASE IA

	Fixed	Sliding	Extended*
Hourly .....	X	N/A	N/A
Daily .....	X	X	X
Weekly .....	X	X	X
Monthly .....	X	X	X
Yearly .....	X	X	X

\* Included in the Phase IA S&CP Data Dictionary, Version 1.3, issued September 29, 1998.

The existence of a definition in this table does not imply the services must be offered

by a Transmission Provider. Requirements as

to which services must be offered are defined by regulation and tariffs.

Each definition assumes a single time zone specified by the Transmission Provider. It is recognized that daylight time switches must be accommodated in practice, but they have been omitted in the definitions for the purpose of simplicity.

Standard 2.1: A Transmission Provider shall use the values and definitions below for the attributes Service\_Increment and Window for all transmission services offered on OASIS, or shall post alternative attribute values and associated definitions on the OASIS Home Page at [www.tsin.com](http://www.tsin.com), or shall use existing attribute values and definitions posted by other Transmission Providers. (See Section 3 for registration requirements.)

Standard 2.1.1: Fixed Hourly—The service starts at the beginning of a clock hour and stops at the end of a clock hour.

Standard 2.1.2: Fixed Daily—The service starts at 00:00 and stops at 24:00 of the same calendar date (same as 00:00 of the next consecutive calendar date).

Standard 2.1.3: Fixed Weekly—The service starts at 00:00 on Monday and stops at 24:00 of the following Sunday (same as 00:00 of the following Monday).

Standard 2.1.4: Fixed Monthly—The service starts at 00:00 on the first date of a calendar month and stops at 24:00 on the last date of the same calendar month (same as 00:00 of the first date of the next consecutive month).

Standard 2.1.5: Fixed Yearly—The service starts at 00:00 on the first date of a calendar year and ends at 24:00 on the last date of the same calendar year (same as 00:00 of the first date of the next consecutive year).

Standard 2.1.6: Sliding Daily—The service starts at the beginning of any hour of the day and stops exactly 24 hours later at the same time on the next day.

Standard 2.1.7: Sliding Weekly—The service starts at 00:00 of any date and stops exactly 168 hours later at 00:00 on the same day of the next week.

Standard 2.1.8: Sliding Monthly—The service starts at 00:00 of any date and stops at 00:00 on the same date of the next month (28–31 days later). If there is no corresponding date in the following month, the service stops at 24:00 on the last day of the next month.

For example: Sliding Monthly starting at 00:00 on January 30 would stop at 24:00 on February 28 (same as 00:00 March 1).

Standard 2.1.9: Sliding Yearly—The service starts at 00:00 of any date and stops at 00:00 on the same date of the following year. If there is no corresponding date in the following year, the service stops at 24:00 on the last day of the same month in the following year.

For example Sliding Yearly service starting on February 29 would stop on February 28 of the following year.

Standard 2.1.10: Extended Daily—The service starts at any hour of a day and stops more than 24 hours later and less than 48 hours later.

Standard 2.1.11: Extended Weekly—The service starts at 00:00 of any date and stops at 00:00 more than one week later, but less than two weeks later.

Standard 2.1.12: Extended Monthly—The service starts at 00:00 of any date and stops

at 00:00 more than one month later but less than two months later.

Standard 2.1.13: Extended Yearly—The service starts at 00:00 of any date and stops at 00:00 more than one calendar year later but less than two calendar years later.

#### Section 2.2 Attribute Values Defining Service Class

Standard 2.2: A Transmission Provider shall use the values and definitions below to describe the service CLASS for transmission services offered on OASIS, or shall post alternative attribute values and associated definitions on the OASIS Home Page at [www.tsin.com](http://www.tsin.com), or shall use the attribute values and definitions posted by other Providers. (See Section 3 for registration requirements.)

Standard 2.2.1: Firm—Transmission service that always has priority over NON-FIRM transmission service and includes Native Load Customers, Network Customers, and any transmission service not classified as non-firm in accordance with the definitions in the *pro forma* tariff.

Standard 2.2.2: Non-Firm—Transmission service that is reserved and/or scheduled on an as-available basis and is subject to curtailment or interruption at a lesser priority compared to Firm transmission service, Native Load Customers, and Network Customers in accordance with the definitions in the *pro forma* tariff.

#### Section 2.3 Attribute Values Defining Service Types

Standard 2.3: A Transmission Provider shall use the values and definitions below to describe the service TYPE for transmission services offered on OASIS, or shall post alternative attribute values and associated definitions on the OASIS Home Page at [www.tsin.com](http://www.tsin.com), or shall use the attribute values and definitions posted by other Providers. (See Section 3 for registration requirements.)

Standard 2.3.1: Point-to-point—Transmission service that is reserved and/or scheduled between specified Points of Receipt and Delivery pursuant to Part II of the *pro forma* tariff and in accordance with the definitions in the *pro forma* tariff.

Standard 2.3.2: Network—Network Integration Transmission Service that is provided to serve a Network Customer load pursuant to Part III of the *pro forma* tariff and in accordance with the definitions in the *pro forma* tariff.

#### Section 2.4

Reserved for Future Use.

#### Section 2.5 Other Service Attribute Values

The Commission has defined six ancillary services in Order No. 888. Other services may be offered pursuant to filed tariffs.

Standard 2.5: A Transmission Provider shall use the definitions below to describe the AS\_TYPES offered on OASIS, or shall post alternative attribute values and associated definitions on the OASIS Home Page at [www.tsin.com](http://www.tsin.com), or shall use attribute values and definitions posted by another Provider. (See Section 3 for registration requirements.)

#### FERC Ancillary Services Definitions

Standard 2.5.1: Scheduling, System Control and Dispatch Service (SC)—is necessary to the provision of basic transmission service within every control area. This service can be provided only by the operator of the control area in which the transmission facilities used are located. This is because the service is to schedule the movement of power through, out of, within, or into the control area. This service also includes the dispatch of generating resources to maintain generation/load balance and maintain security during the transaction and in accordance with section 3.1 (and Schedule 1) of the *pro forma* tariff.

Standard 2.5.2: Reactive Supply and Voltage Control from Generation Sources Service (RV)—is the provision of reactive power and voltage control by generating facilities under the control of the control area operator. This service is necessary to the provision of basic transmission service within every control area and in accordance with section 3.2 (and Schedule 2) of the *pro forma* tariff.

Standard 2.5.3: Regulation and Frequency Response Service (RF)—is provided for transmission within or into the transmission provider's control area to serve load in the area. Customers may be able to satisfy the regulation service obligation by providing generation with automatic generation control capabilities to the control area in which the load resides and in accordance with section 3.3 (and Schedule 3) of the *pro forma* tariff.

Standard 2.5.4: Energy Imbalance Service (EI)—is the service for transmission within and into the transmission provider's control area to serve load in the area. Energy imbalance represents the deviation between the scheduled and actual delivery of energy to a load in the local control area over a single hour and in accordance with section 3.4 (and Schedule 4) of the *pro forma* tariff.

Standard 2.5.5: Operating Reserve—Spinning Reserve Service (SP)—is provided by generating units that are on-line and loaded at less than maximum output. They are available to serve load immediately in an unexpected contingency, such as an unplanned outage of a generating unit and in accordance with section 3.5 (and Schedule 5) of the *pro forma* tariff.

Standard 2.5.6: Operating Reserve—Supplemental Reserve Service (SU)—is generating capacity that can be used to respond to contingency situations. Supplemental reserve, is not available instantaneously, but rather within a short period (usually ten minutes). It is provided by generating units that are on-line but unloaded, by quick-start generation, and by customer interrupted load and in accordance with section 3.6 (and Schedule 6) of the *pro forma* tariff.

#### Other Service Definitions

Other services may be offered to Transmission Customers through individual filed tariffs. Examples of other services that may be offered include the Interconnected Operations Services described below in Guides 2.5.7, 2.5.8, and 2.5.9. Ancillary service definitions may be offered pursuant to an individual transmission provider's specific tariff filings.

Guide 2.5.7: Dynamic Transfer (DT)—is the provision of the real-time monitoring, telemetering, computer software, hardware, communications, engineering, and administration required to electronically move all or a portion of the real energy services associated with a generator or load out of its Host Control Area into a different Electronic Control Area.

Guide 2.5.8: Real Power Transmission Losses (TL)—is the provision of capacity and energy to replace energy losses associated with transmission service on the Transmission Provider's system.

Guide 2.5.9: System Black Start Capability (BS)—is the provision of generating equipment that, following a system blackout, is able to start without an outside electrical supply. Furthermore, Black Start Capability is capable of being synchronized to the transmission system such that it can provide a startup supply source for other system capacity that can then be likewise synchronized to the transmission system to supply load as part of a process of re-energizing the transmission system.

### Section 3—OASIS Registration Procedures

#### Section 3.1 Entity Registration

Operation of OASIS requires unambiguous identification of parties.

Standard 3.1: All entities or persons using OASIS shall register the identity of their organization (including DUNS number) or person at the OASIS Home Page at [www.tsin.com](http://www.tsin.com). Registration shall be completed prior to the commencement of Phase IA and renewed annually and whenever changes in identification occur and thereafter. An entity or person not complying with this requirement may be denied access by a provider to that provider's OASIS node.

The registration requirement applies to any entity logging onto OASIS for the purpose of using or updating information, including Transmission Providers, Transmission Customers, Observers, Control Areas, Security Coordinators, and Independent System Operators.

#### Section 3.2 Process to Register Non-Standard Service Attribute Values

Section 2 of the OASIS business practice standards and guides addresses the use of standard terminology in defining services on OASIS. These standard definitions for service attribute values will be posted publicly on the OASIS Home Page at [www.tsin.com](http://www.tsin.com) and may be used by all Providers to offer transmission and ancillary services on OASIS. If the Provider determines that the standard definitions are not applicable, the Provider may register new attribute values and definitions on the OASIS Home Page. Any Provider may use the attribute values and definitions posted by another Provider.

Standard 3.2: Providers of transmission and ancillary services shall use only attribute values and definitions that have been registered on the OASIS Home Page at [www.tsin.com](http://www.tsin.com) for all transmission and ancillary services offered on their OASIS.

Guide 3.3: Providers of transmission and ancillary services should endeavor to use on their OASIS nodes attribute values and definitions that have been posted by other

Providers on the OASIS Home Page at [www.tsin.com](http://www.tsin.com) whenever possible.

#### Section 3.3 Registration of Points of Receipt and Delivery

In order to improve coordination of path naming and to enhance the identification of commercially available connection points between Providers and regions, the business practice for Phase IA OASIS requires that:

- Transmission Providers register at the OASIS Home Page at [www.tsin.com](http://www.tsin.com), all service points (Points of Receipt and Delivery) for which transmission service is available over the OASIS.
- Each Provider would then indicate on its OASIS node, for each Path posted on its OASIS node, the Points of Receipt and Delivery to which each Path is connected.

A Transmission Provider is not required to register specific generating stations as Points of Receipt, unless they were available as service points for the purposes of reserving transmission service on OASIS. The requirement also does not include registration of regional flowgates, unless they are service points for the purposes of reserving transmission on OASIS.

Standard 3.4: A Transmission Provider shall register and thereafter maintain on the OASIS Home Page at [www.tsin.com](http://www.tsin.com) all Points of Receipt and Delivery to and from which a Transmission Customer may reserve and schedule transmission service.

Standard 3.5: For each reservable Path posted on their OASIS nodes, Transmission Providers shall indicate the available Point(s) of Receipt and Delivery for that Path. These Points of Receipt and Delivery shall be from the list registered on the OASIS Home Page at [www.tsin.com](http://www.tsin.com).

Guide 3.6: When two or more Transmission Providers share common Points of Receipt or Delivery, or when a Path connects Points of Receipt and Delivery in neighboring systems, the Transmission Providers owning and/or operating those facilities should apply consistent names for those connecting paths or common paths on the OASIS.

### Section 4—On-Line Negotiation and Confirmation Process

#### Section 4.1 On-Line Price Negotiation in Short-Term Markets

Standard 4.1: Consistent with FERC policy and regulations, all reservations and price negotiations should be conducted on OASIS.

Guide 4.2: Reserved.

Guide 4.3: Reserved.

#### Section 4.2 Phase IA Negotiation Process State Transition Diagram

The Phase IA S&CP Document provides a process state diagram to define the Customer and Provider interactions for negotiating transmission service. This diagram defines allowable steps in the reservation request, negotiation, approval and confirmation.

Guide 4.4: The state diagram appearing in Exhibit 4-1 in Section 4.2.10.2 of the Version 1.3 of the S&CP Document constitutes a recommended business practice in OASIS Phase IA.

Guide 4.5: The definitions in Section 4.2.10.2 of the Version 1.3 of the S&CP

Document (status values) should be applied to the process states in OASIS Phase IA.

Table 4-1—Reserved.

#### Section 4.3 Negotiations—Without Competing Bids

The following practices are defined in order to enhance consistency of the reservation process across OASIS Phase IA nodes.

Guide 4.6: A Transmission Provider/Seller shall respond to a Customer's service request, consistent with filed tariffs, within the "Provider Response Time Limit" defined in Table 4-2 "Reservation Timing Requirements". The time limit is measured from the time the request is QUEUED. A Provider may respond by setting the state of the reservation request to one of the following:

- INVALID
- DECLINED
- REFUSED
- COUNTEROFFER
- ACCEPTED
- STUDY (when the tariff allows), leading to REFUSED, COUNTEROFFER, or ACCEPTED

Guide 4.7: Prior to setting a request to ACCEPTED, COUNTEROFFER, or REFUSED a Provider shall evaluate the appropriate resources and ascertain that the requested transfer capability is (or is not) available.

Guide 4.8: For any request that is REFUSED or INVALID, the Transmission Provider should indicate in the COMMENTS field the reason the request was refused or invalid.

Guide 4.9: The Customer may change a request to WITHDRAWN at any time prior to it being CONFIRMED.

Guide 4.10: From ACCEPTED or COUNTEROFFER, a Customer may change the status to CONFIRMED, WITHDRAWN, or REBID. The Customer has the amount of time designated as "Customer Confirmation Time Limit" in Table 4-2 "Reservation Timing Requirements" to change the state of the request to CONFIRMED. The Customer time limit is measured from the first time the request is moved to ACCEPTED or COUNTEROFFER, and is not reset with subsequent iterations of negotiation.

Guide 4.11: After expiration of the "Customer Confirmation Time Limit," specified in Table 4-2 "Reservation Timing Requirements", the Provider has a right to move the request to the RETRACTED state.

Guide 4.12: Should the Customer elect to respond to a Provider's COUNTEROFFER by moving a reservation request to REBID, the Provider shall respond by taking the request to a DECLINED, ACCEPTED, or COUNTEROFFER state within the "Provider Counter Time Limit," specified in Table 4-2 "Reservation Timing Requirements". The Provider response time is measured from the most recent REBID time.

Guide 4.13: The following timing requirements should apply to all reservation requests:

TABLE 4-2.—RESERVATION TIMING GUIDELINES

Class	Service increment	Time QUEUED prior to start	Provider evaluation time limit <sup>1</sup>	Customer confirmation time limit after ACCEPTED or COUNTEROFFER <sup>2</sup>	Provider counter time limit after REBID <sup>3</sup>
Non-Firm .....	Hourly .....	<1 hour .....	Best effort ...	5 minutes .....	5 minutes
Non-Firm .....	Hourly .....	>1 hour .....	30 minutes ...	5 minutes .....	5 minutes
Non-Firm .....	Daily .....	N/A .....	30 minutes ...	2 hours .....	10 minutes
Non-Firm .....	Weekly .....	N/A .....	4 hours .....	24 hours .....	4 hours
Non-Firm .....	Monthly .....	N/A .....	2 days .....	24 hours .....	4 hours
Firm .....	Daily .....	<24 hours .....	Best effort ...	2 hours .....	30 minutes
Firm .....	Daily .....	N/A .....	30 days <sup>4</sup> .....	24 hours .....	4 hours
Firm .....	Weekly .....	N/A .....	30 days <sup>4</sup> .....	48 hours .....	4 hours
Firm .....	Monthly .....	N/A .....	30 days <sup>4</sup> .....	4 days .....	4 hours
Firm .....	Yearly .....	N/A .....	30 days .....	15 days .....	4 hours

<sup>1</sup> Consistent with regulations and filed tariffs, measurement starts at the time the request is QUEUED.

<sup>2</sup> Measurement starts at the time the request is first moved to either ACCEPTED or COUNTEROFFER. The time limit does not reset on subsequent changes of state.

<sup>3</sup> Measurement starts at the time the Transmission Customer changes the state to REBID. The measurement resets each time the request is changed to REBID.

<sup>4</sup> Subject to expedited time requirements of Section 17.1 of the *pro forma* tariff. Transmission Providers should make best efforts to respond within 72 hours, or prior to the scheduling deadline, whichever is earlier, to a request for Daily Firm Service received during period 2–30 days ahead of the service start time.

#### Section 4.4 Negotiations—With Competing Bids for Constrained Resources

Competing bids exist when multiple requests cannot be accommodated due to a lack of available transmission capacity. One general rule is that OASIS requests should be evaluated and granted priority on a first-come-first-served basis established by OASIS QUEUED time. Thus, the first to request service should get it, all else being equal.

Exceptions to this first-come-first-served basis occur when there are competing requests for limited resources and the requests have different priorities established by FERC regulations and filed tariffs. Prior to the introduction of price negotiations, the attribute values that have served as a basis for determining priority include:

- Type (Network, Point-to-point)
- Class (Firm, Non-Firm)
- Increment (Hourly, Daily, Weekly, Monthly, Yearly)

- Duration (the amount of time between the Start Date and the Stop Date)
- Amount (the MW amount)

Under a negotiation model, price can also be used as an attribute for determining priority. The negotiation process increases the possibility that a Provider will be evaluating multiple requests that cannot all be accommodated due to limited resources. In this scenario, it is possible that an unconfirmed request with an earlier QUEUED time could be preempted (SUPERSEDED). For this to occur, the subsequent request would be of higher priority or of greater price.

Guide 4.14: Consistent with regulations and filed tariffs, the following are recommended relative priorities of Service Request Tiers.<sup>1</sup> Specific exceptions may exist in accordance with filed tariffs. The priorities refer only to negotiation of service and do not refer to curtailment priority.

4.4.1. Service Request Tier 1: Native load, Network, or Long-term Firm

4.4.2. Service Request Tier 2: Short-term Firm

4.4.3. Service Request Tier 3: Network on Non-designated Resources

4.4.4. Service Request Tier 4: Non-firm

4.4.5. Service Request Tier 5: Service over secondary receipt and delivery points

Guide 4.15: Consistent with regulations and filed tariffs, reservation requests should be handled in a first-come-first-served order based on QUEUE TIME.

Guide 4.16: Consistent with regulations and filed tariffs, Table 4-3 describes the relative priorities of competing service requests and rules for offering right-of-first-refusal. While the table indicates the relative priorities of two competing requests, it also is intended to be applied in the more general case of more than two competing requests.

TABLE 4-3.—PRIORITIES FOR COMPETING RESERVATION REQUESTS

Request 1	Is preempted by request 2	Right of first refusal
Tier 1: Long-term Firm, Native Load, and Network Firm.	N/A—Not preempted by a subsequent request .....	N/A.
Tier 2: Short-term Firm .....	Tier 1: Long-term Firm, Native Load, and Network Firm), while Request 1 is conditional. Once Request 1 is unconditional, it may not be preempted.	No.
Tier 2: Short-term Firm .....	Tier 2: Short-term Firm of longer term (duration) <sup>2</sup> , while Request 1 is conditional. Once Request 1 is unconditional, it may not be preempted.	Yes, while Request 1 is conditional. Once Request 1 is unconditional, it may not be preempted and right of first refusal is not applicable.
Tier 3: Network Service From Non-Designated Resources.	Tiers 1 and 2: All Firm (including Network) .....	No.
Tier 4: All Non-Firm PTP .....	Tiers 1 and 2: All Firm (including Network) .....	No.
Tier 4: All Non-Firm PTP .....	Tier 3: Network Service from Non-Designated Resources .....	No.
Tier 4: All Non-Firm PTP .....	Tier 4: Non-firm PTP of a longer term (duration) <sup>2</sup> . Except in the last hour prior to start (see Standard 4.23).	Yes.

<sup>1</sup> Note: The term Tier is introduced to avoid confusion with existing terms such as TS\_CLASS.



TABLE 4-3.—PRIORITIES FOR COMPETING RESERVATION REQUESTS—Continued

Request 1	Is preempted by request 2	Right of first refusal
Tier 4: All Non-Firm PTP .....	Tier 4: Non-firm PTP of equal term (duration) <sup>2</sup> and higher price, when Request 1 is still unconfirmed and Request 2 is received pre-confirmed. A confirmed non-firm PTP may not be preempted for another non-firm request of equal duration. (See Standards 4.22 and 4.25.).	No.
Tier 5: PTP Service over secondary receipt and delivery points.	Tier 5 can be preempted by Tiers 1 through 4 .....	No.

<sup>2</sup> Longer duration, in addition to being higher SERVICE\_INCREMENT (*i.e.*, WEEKLY has priority over DAILY), also may mean more multiples of the same SERVICE\_INCREMENT (*i.e.*, 3 Days may have priority over 2 Days).

Guide 4.17: For a reservation request that is preempted, the Transmission Provider should indicate the Assignment Reference Number of the reservation that preempted the reservation request.

Guide 4.18: Given competing requests for a limited resource and a right-of-first-refusal is not required to be offered, the Provider may immediately move requests in the CONFIRMED state to DISPLACED, or from an ACCEPTED or COUNTEROFFER state to SUPERSEDED, if the competing request is of higher priority, based on the rules represented in Table 4-3. These state changes require dynamic notification to the Customer if the Customer has requested dynamic notification on OASIS.

Guide 4.19: In those cases where right-of-first-refusal is required to be offered, the Provider shall notify the Customer, through the use of a COUNTEROFFER, of the opportunity to match the subsequent offer.

Guide 4.20: A Customer who has been extended a right-of-first-refusal should have a confirmation time limit equal to the lesser of a) the Customer Confirmation Time Limit in Table 4-2 or b) 24 hours.

Standard 4.21: A Transmission Provider shall apply all rights-of-first-refusal in a non-discriminatory and open manner for all Customers.

Standard 4.22: Once a non-firm PTP request has been confirmed, it shall not be displaced by a subsequent non-firm PTP request of equal duration and higher price.

Standard 4.23: A confirmed, non-firm PTP reservation for the next hour shall not be displaced within one hour of the start of the reservation by a subsequent non-firm PTP reservation request of longer duration.

Guide 4.24: A Transmission Provider should honor any reservation request submitted for an unconstrained Path if the Customer's bid price is equal to or greater than the Provider's posted offer price at the time the request was queued, even if later requests are submitted at a higher price. This guide applies even when the first request is still unconfirmed, unless the Customer Confirmation Time Limit has expired for the first request.

Guide 4.25: Once an offer to provide non-firm PTP transmission service at a given price is extended to a Customer by the Provider, and while this first request is still unconfirmed but within the Customer Confirmation Time Limit, the Provider should not preempt or otherwise alter the status of that first request on receipt of a subsequent request of the same Tier and equal duration at a higher price, unless the

subsequent request is submitted as pre-confirmed.

Guide 4.26: If during a negotiation of service (*i.e.*, prior to Customer confirmation) a subsequent pre-confirmed request for service over the same limited resource of equal duration but higher price is received, the Provider *must* COUNTEROFFER the price of service on the prior COUNTEROFFER or ACCEPTED price to match the competing offer, in order to give the first Customer an opportunity to match the offer. This practice must be implemented in a non-discriminatory manner.

## Section 5—Procurement of Ancillary and Other Services

### Section 5.1 Introduction

Phase IA OASIS data templates allow the coupling of ancillary service arrangements with the purchase of transmission service for the purpose of simplifying the overall process for Customers. Transmission Providers must indicate (consistent with filed tariffs), which services are MANDATORY (must be taken from the Primary Provider), REQUIRED (must be provided for but may be procured from alternative sources), or OPTIONAL (not required as a condition of transmission service).

The Transmission Customer should make known to the Transmission Provider at the time of the reservation request certain options related to arrangement of ancillary services. The Transmission Customer may indicate:

- I will take all the MANDATORY and REQUIRED ancillary services from the Primary Provider.
- I will take REQUIRED ancillary services from Third Party Seller "X".
- I would like to purchase OPTIONAL services.
- I will self provide ancillary services.
- I will arrange for ancillary services in the future (prior to scheduling).

While these interactions are available in the Phase IA S&CP Document, there is a need to clarify the associated business practices. The standards in Section 5 apply to services defined in filed tariffs.

### Section 5.2 Transmission Provider Requirements

Standard 5.1: The Transmission Provider shall designate which ancillary services are MANDATORY, REQUIRED, or OPTIONAL for each offered transmission service to the extent these requirements can be determined in advance of the submittal of a reservation

request on a specific Path by a Transmission Customer.

Guide 5.2: A Transmission Provider may modify a Transmission Customer's service request to indicate the Transmission Provider as the SELLER of any ancillary service, which is MANDATORY, to be taken from the Transmission Provider.

Standard 5.3: For REQUIRED and OPTIONAL services, the Transmission Provider shall *not* select a SELLER of ancillary service without the Transmission Customer first selecting that SELLER.

Guide 5.4: A Transmission Provider may accept a Transmission Customer's request for an ancillary service, which is not MANDATORY or REQUIRED, but shall indicate to the Transmission Customer at the time of acceptance under PROVIDER COMMENTS that the service is not MANDATORY or REQUIRED.

### Section 5.3 Transmission Customer Requirements

Guide 5.5: The Transmission Customer should indicate with the submittal of a transmission reservation request, the preferred options for provision of ancillary services, such as the desire to use an alternative resource.

Guide 5.6: A Transmission Customer may, but is not required to, indicate a third party SELLER of ancillary services, if these services are arranged by the Transmission Customer off the OASIS and if such arrangements are permitted by the Transmission Provider's tariff.

## Section 6—Pathnaming Standards

### Section 6.1 Introduction

The Data Element Dictionary of the OASIS S&CP Document, Version 1.3, defines a path name in terms of a 50-character alphanumeric string:

RR/TPT/PATHPATHPATH/  
OPTIONALFROM-OPTIONALTOTO/SPR

RegionCode/TransmissionProviderCode/  
PathName/OptionalFrom-To(POR-POD)/  
Spare

This definition leaves it to the Transmission Providers to name the paths from their own perspective. The following standards provide an unambiguous convention for naming paths and will produce more consistent path names.

### Section 6.2 Transmission Provider Requirements

Standard 6.1: A transmission provider shall use the path naming convention defined in the S&CP Data Dictionary for the naming of all reservable paths posted on OASIS.

Standard 6.2: A transmission provider shall use the third field in the path name to indicate the sending and receiving control areas. The control areas shall be designated using standard NERC codes for the control areas, separated by a hyphen. For example, the first three fields of the path name will be: RR/TPTP/CAXX-CAYY/

Standard 6.3: A transmission provider shall use the fourth field of the path name to indicate POR and POD separated by a hyphen. For example, a path with a specific POR/POD would be shown as: RR/TPTP/CAXX-CAYY/PORPORPOR-PODPODPOD/

If the POR and POD are designated as control areas, then the fourth field may be left blank (as per the example in 6.2).

Guide 6.4: A transmission provider may designate a sub-level for Points of Receipt and Delivery. For example, a customer reserves a path to POD AAAA. The ultimate load may be indeterminate at the time. Later, the customer schedules energy to flow to a particular load that may be designated by the transmission provider as a sub-level Point of Delivery. This option is necessary to ensure certain providers are not precluded from using more specific service points by the inclusion of the POR/POD in the path name. All sub-level PORs and PODs must be registered as such on www.tsin.com.

[**Note:** This attachment will not appear in the Code of Federal Regulations.]

Sections 13.2, 14.2, 14.7, and 17.5 of the *pro forma* tariff provide as follows:

13.2 Reservation Priority: Long-Term Firm Point-To-Point Transmission Service shall be available on a first-come, first-served basis i.e., in the chronological sequence in which each Transmission Customer has reserved service. Reservations for Short-Term Firm Point-To-Point Transmission Service will be conditional based upon the length of the requested transaction. If the Transmission System becomes oversubscribed, requests for longer term service may preempt requests for shorter term service up to the following deadlines; one day before the commencement of daily service, one week before the commencement of weekly service, and one month before the commencement of monthly service. Before the conditional reservation deadline, if available transmission capability is insufficient to satisfy all Applications, an Eligible Customer with a reservation for shorter term service has the right of first refusal to match any longer term reservation before losing its reservation priority. A longer term competing request for Short-Term Firm Point-To-Point Transmission Service will be granted if the Eligible Customer with the right of first refusal does not agree to match the competing request within 24 hours (or earlier if necessary to comply with the scheduling deadlines provided in section 13.8) from being notified by the Transmission Provider of a longer-term competing request

for Short-Term Firm Point-To-Point Transmission Service. After the conditional reservation deadline, service will commence pursuant to the terms of Part II of the Tariff. Firm Point-To-Point Transmission Service will always have a reservation priority over Non-Firm Point-To-Point Transmission Service under the Tariff. All Long-Term Firm Point-To-Point Transmission Service will have equal reservation priority with Native Load Customers and Network Customers. Reservation priorities for existing firm service customers are provided in Section 2.2.

14.2 Reservation Priority: Non-Firm Point-To-Point Transmission Service shall be available from transmission capability in excess of that needed for reliable service to Native Load Customers, Network Customers and other Transmission Customers taking Long-Term and Short-Term Firm Point-To-Point Transmission Service. A higher priority will be assigned to reservations with a longer duration of service. In the event the Transmission System is constrained, competing requests of equal duration will be prioritized based on the highest price offered by the Eligible Customer for the Transmission Service. Eligible Customers that have already reserved shorter term service have the right of first refusal to match any longer term reservation before being preempted. A longer-term competing request for Non-Firm Point-To-Point Transmission Service will be granted if the Eligible Customer with the right of first refusal does not agree to match the competing request: (a) immediately for hourly Non-Firm Point-To-Point Transmission Service after notification by the Transmission Provider; and, (b) within 24 hours (or earlier if necessary to comply with the scheduling deadlines provided in section 14.6) for Non-Firm Point-To-Point Transmission Service other than hourly transactions after notification by the Transmission Provider. Transmission service for Network Customers from resources other than designated Network Resources will have a higher priority than any Non-Firm Point-To-Point Transmission Service. Non-Firm Point-To-Point Transmission Service over secondary Point(s) of Receipt and Point(s) of Delivery will have the lowest reservation priority under the Tariff.

14.7 Curtailment or Interruption of Service: The Transmission Provider reserves the right to Curtail, in whole or in part, Non-Firm Point-To-Point Transmission Service provided under the Tariff for reliability reasons when, an emergency or other unforeseen condition threatens to impair or degrade the reliability of its Transmission System. The Transmission Provider reserves the right to Interrupt, in whole or in part, Non-Firm Point-To-Point Transmission Service provided under the Tariff for economic reasons in order to accommodate (1) a request for Firm Transmission Service, (2) a request for Non-Firm Point-To-Point Transmission Service of greater duration, (3) a request for Non-Firm Point-To-Point Transmission Service of equal duration with a higher price, or (4) transmission service for Network Customers from non-designated resources. The Transmission Provider also will discontinue or reduce service to the

Transmission Customer to the extent that deliveries for transmission are discontinued or reduced at the Point(s) of Receipt. Where required, Curtailments or Interruptions will be made on a non-discriminatory basis to the transaction(s) that effectively relieve the constraint, however, Non-Firm Point-To-Point Transmission Service shall be subordinate to Firm Transmission Service. If multiple transactions require Curtailment or Interruption, to the extent practicable and consistent with Good Utility Practice, Curtailments or Interruptions will be made to transactions of the shortest term (e.g., hourly non-firm transactions will be Curtailed or Interrupted before daily non-firm transactions and daily non-firm transactions will be Curtailed or Interrupted before weekly non-firm transactions). Transmission service for Network Customers from resources other than designated Network Resources will have a higher priority than any Non-Firm Point-To-Point Transmission Service under the Tariff. Non-Firm Point-To-Point Transmission Service over secondary Point(s) of Receipt and Point(s) of Delivery will have a lower priority than any Non-Firm Point-To-Point Transmission Service under the Tariff. The Transmission Provider will provide advance notice of Curtailment or Interruption where such notice can be provided consistent with Good Utility Practice.

17.5 Response to a Completed Application: Following receipt of a Completed Application for Firm Point-To-Point Transmission Service, the Transmission Provider shall make a determination of available transmission capability as required in Section 15.2. The Transmission Provider shall notify the Eligible Customer as soon as practicable, but not later than thirty (30) days after the date of receipt of a Completed Application either (i) if it will be able to provide service without performing a System Impact Study or (ii) if such a study is needed to evaluate the impact of the Application pursuant to Section 19.1. Responses by the Transmission Provider must be made as soon as practicable to all completed applications (including applications by its own merchant function) and the timing of such responses must be made on a non-discriminatory basis.

[**Note:** This attachment will not appear in the Code of Federal Regulations.]

Section 4.2.10.2 of the S&CP Document provides as follows:

4.2.10.2 Status Values: The possible STATUS values are:

QUEUED = initial status assigned by TSIP on receipt of "customer services purchase request".

INVALID = assigned by TSIP or Provider indicating an invalid field in the request, such as improper POR, POD, source, sink, etc. (Final state).

RECEIVED = assigned by Provider or Seller to acknowledge QUEUED requests and indicate the service request is being evaluated, including for completing the required ancillary services.

STUDY = assigned by Provider or Seller to indicate some level of study is required or being performed to evaluate service request.

REFUSED = assigned by Provider or Seller to indicate service request has been denied

due to availability of transmission capability. SELLER\_COMMENTS should be used to communicate details for denial of service. (Final state).

COUNTEROFFER = assigned by Provider or Seller to indicate that a new OFFER\_PRICE is being proposed.

REBID = assigned by Customer to indicate that a new BID\_PRICE is being proposed.

SUPERSEDED = assigned by Provider or Seller when a request which has not yet been confirmed is displaced by another reservation request. (Final state).

ACCEPTED = assigned by Provider or Seller to indicate the service request at the designated OFFER\_PRICE has been approved/accepted. If the reservation request was submitted PRECONFIRMED the OASIS Node shall immediately set the reservation status to CONFIRMED. Depending upon the type of ancillary services required, the Seller may or may not require all ancillary service reservations to be completed before accepting a request.

DECLINED = assigned by Provider or Seller to indicate that the BID\_PRICE is unacceptable and that negotiations are terminated. SELLER\_COMMENTS should be used to communicate reason for denial of service. (Final state).

CONFIRMED = assigned by Customer in response to Provider or Seller posting "ACCEPTED" status, to confirm service. Once a request has been "CONFIRMED", a transmission service reservation exists. (Final state, unless overridden by DISPLACED or ANNULLED state).

WITHDRAWN = assigned by Customer at any point in request evaluation to withdraw the request from any further action. (Final state).

DISPLACED = assigned by Provider or Seller when a "CONFIRMED" reservation from a Customer is displaced by a longer term reservation and the Customer has exercised right of first refusal (i.e., refused to match terms of new request). (Final state).

ANNULLED = assigned by Provider or Seller when, by mutual agreement with the Customer, a confirmed reservation is to be voided. (Final state).

RETRACTED = assigned by Provider or Seller when the Customer fails to confirm or withdraw the request within the required time period. (Final state).

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BILLING CODE 6717-01-P

**ACTION:** Notice of proposed rulemaking and notice of public hearing.

**SUMMARY:** This document contains proposed regulations that provide guidance under section 4980B of the Internal Revenue Code relating to the COBRA continuation coverage requirements applicable to group health plans. The proposed regulations in this document supplement final regulations being published elsewhere in this issue of the **Federal Register**. The regulations will generally affect sponsors of and participants in group health plans, and they provide plan sponsors and plan administrators with guidance necessary to comply with the law.

**DATES:** Written or electronic comments and outlines of topics to be discussed at the public hearing scheduled for June 8, 1999 at 10 a.m. must be received by May 14, 1999.

**ADDRESSES:** Send submissions to: CC:DOM:CORP:R (REG-121865-98), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered between the hours of 8 a.m. and 5 p.m. to: CC:DOM:CORP:R (REG-121865-98), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC. Alternatively, taxpayers may submit comments electronically via the Internet by selecting the "Tax Regs" option on the IRS Home Page, or by submitting comments directly to the IRS Internet site at [http://www.irs.ustreas.gov/prod/tax\\_regs/comments.html](http://www.irs.ustreas.gov/prod/tax_regs/comments.html).

The public hearing scheduled for June 8, 1999 will be held in room 2615 of the Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Concerning the regulations, Yurlinda Mathis at 202-622-4695; concerning submissions of comments, the hearing, or to be placed on the building access list to attend the hearing, LaNita Van Dyke at 202-622-7190 (not toll-free numbers).

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

The Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) amended the Internal Revenue Code (Code) to add health care continuation coverage requirements. These provisions, now set forth in section 4980B,<sup>1</sup> generally apply to a group

health plan maintained by an employer or employee organization, with certain exceptions, and require such a plan to offer each qualified beneficiary who would otherwise lose coverage as a result of a qualifying event an opportunity to elect, within the applicable election period, COBRA continuation coverage. The COBRA continuation coverage requirements were amended on various occasions,<sup>2</sup> most recently under the Health Insurance Portability and Accountability Act of 1996 (HIPAA).

Proposed regulations providing guidance under the continuation coverage requirements as originally enacted by COBRA, and as amended by the Tax Reform Act of 1986, were published as proposed Treasury Regulation § 1.162-26 in the **Federal Register** of June 15, 1987 (52 FR 22716). Supplemental proposed regulations were published as proposed Treasury Regulation § 54.4980B-1 in the **Federal Register** of January 7, 1998 (63 FR 708). Final regulations are being published elsewhere in this issue of the **Federal Register**.

The new set of proposed regulations being published in this notice of proposed rulemaking addresses how the COBRA continuation coverage requirements apply in business reorganizations. Also proposed are rules relating to the interaction of the COBRA continuation coverage requirements and the Family and Medical Leave Act of 1993, which were previously published as Notice 94-103 (1994-2 C.B. 569), and certain other issues. These provisions in the new set of proposed regulations are summarized in the explanation below. For a summary of the new proposed regulations integrated with a summary of the final regulations, see the "Explanation of Provisions" section of the preamble to the final regulations published elsewhere in this issue of the **Federal Register**.

TAMRA changed the sanction for failure to comply with the continuation coverage requirements of the Internal Revenue Code from disallowance of certain employer deductions under section 162 (and denial of the income exclusion under section 106(a) to certain highly compensated employees of the employer) to an excise tax under section 4980B.

<sup>2</sup> Changes affecting the COBRA continuation coverage provisions were made under the Omnibus Budget Reconciliation Act of 1986, the Tax Reform Act of 1986, the Technical and Miscellaneous Revenue Act of 1988, the Omnibus Budget Reconciliation Act of 1989, the Omnibus Budget Reconciliation Act of 1990, the Small Business Job Protection Act of 1996, and the Health Insurance Portability and Accountability Act of 1996. The statutory continuation coverage requirements have also been affected by an amendment made to the definition of group health plan in section 5000(b)(1) by the Omnibus Budget Reconciliation Act of 1993; that definition is incorporated by reference in section 4980B(g)(2).

<sup>1</sup> The COBRA continuation coverage requirements were initially set forth in section 162(k), but were moved to section 4980B by the Technical and Miscellaneous Revenue Act of 1988 (TAMRA).

## **DEPARTMENT OF THE TREASURY**

### **Internal Revenue Service**

#### **26 CFR Part 54**

[REG-121865-98]

RIN 1545-AW94

### **Continuation Coverage Requirements Applicable to Group Health Plans**

**AGENCY:** Internal Revenue Service (IRS), Treasury.