DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 35

[Docket No. RM00–10–000]

Open Access Same-Time Information System Phase II

Issued July 14, 2000.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Advance notice of proposed rulemaking (ANOPR).

SUMMARY: The Federal Energy Regulatory Commission (Commission) requests the submission of detailed proposals, by February 15, 2001, that will enable the Commission to adopt by regulation certain communications protocols and standards for business practices to implement Open Access Same-Time Information System (OASIS) Phase II. OASIS Phase II will be more functional than the current OASIS Phase IA, will incorporate electronic scheduling and will apply to the communications and related business practices between customers and Transmission Providers, including Regional Transmission Organizations (RTOs).

DATES: Proposals are due on February 15, 2001.

ADDRESSES: Proposals should be filed with the Office of the Secretary and should refer to Docket No. RM00–10–000. Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

Advance Notice of Proposed Rulemaking

The Federal Energy Regulatory Commission (Commission) requests the submission of detailed proposals, by February 15, 2001, that will enable the Commission to adopt by regulation certain communications protocols and standards for business practices to implement Open Access Same-Time Information System (OASIS) Phase II. OASIS Phase II will be more functional than the current OASIS Phase IA, will incorporate electronic scheduling and will apply to the communications and related business practices between customers and Transmission Providers.[1]

I. Background

In Order No. 889,[2] the Commission began the process of standardizing electronic communication in the electric industry by requiring public utilities that own, control, or operate facilities used for the transmission of electric energy in interstate commerce to create or participate in an Internet-based information system called OASIS. The rules established in Order No. 889 were for a basic (Phase I) OASIS. OASIS Phase I became operational on January 3, 1997. Order No. 889 also contemplated that an enhanced (Phase II) OASIS would be later established.[3] In March 1997, the Commission issued Order No. 889–A that required on-line negotiations for discounts as well as the posting of discounts on the OASIS. In June 1998[4] and September 1998[5] we adopted comprehensive updates of the OASIS and Standards and Communications Protocols Document (Phase IA SC&P) that implemented on-line negotiations as well as other improvements suggested by the industry for OASIS. The Phase IA rules became operational on March 1, 1999 and improved the operations of the basic Phase I OASIS as an interim step toward the development of the enhanced OASIS Phase II.[6]

In Order No. 889 the Commission requested the industry to file a consensus report proposing standards for OASIS Phase II.[7] On November 3, 1997, the Commercial Practices Working Group (CPWG)[8] and the OASIS How Group (How Group) filed a report entitled ''Industry Report to the Federal Energy Regulatory Commission on the Future of OASIS'' (Industry Report). The Industry Report did not propose standards for Phase II but instead presented lessons learned from OASIS Phase I and posed several broad policy issues relating to the future scope and development of OASIS. In particular, the report raised the question of whether the standards to be developed should be regional or national in scope.

On June 19, 1998, the CPWG and the How Group filed a report entitled ''Industry Report to the Federal Energy Regulatory Commission on OASIS Phase IA Business Practices'' (June 19 Report) offering a set of uniform business practice standards and guidelines for adoption by the Commission. The June 19 Report argued that, because many OASIS-related business practice implementation details were left for transmission providers to determine for themselves, significant variation arose among business practices across OASIS nodes. To reduce this variation and to promote greater consistency in the implementation of the Commission's open access policy and OASIS policy, the CPWG/How Group proposed that the Commission adopt its recommended ''Phase IA Business Practice Standards and Guides'' (Business Practices). On February 25, 2000, in Order No. 638, the Commission adopted the proposed Business Practices.[9] On December 20, 1999, the Commission issued a Final Rule (Order No. 2000) to advance the formation of Regional Transmission Organizations (RTOs).[10] Order No. 2000, among other things, established

[1] For ease in reference, we use the term Transmission Provider as a shorthand for all public utilities that own and/or control facilities used for the transmission of electric energy in interstate commerce. This definition also encompasses Independent System Operators and Regional Transmission Organizations.

[2] Open Access Same-Time Information System (Formerly Real-Time Information Networks) and Standards of Conduct, Order No. 889, FERC Stats. & Regs. ¶ 31,035 at 31,583 (1996), *order on reh'g*, Order No. 889–A, FERC Stats. & Regs. ¶ 31,049 (1997), *order on reh'g*, Order No. 889–B, 81 FERC ¶ 61,253 (1997).

[3] We explained that the inclusion of scheduling as part of the OASIS requirements would be addressed in OASIS Phase II.

[4] Open Access Same-Time Information System and Standards of Conduct, 83 FERC ¶ 61,360 at 62,452 (1998) (June 18 Order).

[5] Open Access Same-Time Information System and Standards of Conduct, 84 FERC ¶ 61,329 (1998).

[6] OASIS ''Phase IA'' is a label devised by the industry to refer to revisions to the OASIS Phase I requirements that implemented 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).

[7] Order No. 889, FERC Stats. & Regs. ¶ 31,035 at 31,627 (1996) .

[8] The CPWG is no longer functioning. Its activities have been taken over by a successor industry group, the Market Interface Committee (MIC).

[9] Open Access Same-Time Information System and Standards of Conduct, Order No. 638, 90 FERC ¶ 61,202 (2000).

[10] Regional Transmission Organizations, Order No. 2000, 65 FR 809 (January 6, 2000), FERC Stats. & Regs. ¶ 31,089 (2000), *order on reh'g*, Order No. 2000–A, 65 FR 12,088 (March 8, 2000), FERC Stats. & Regs. ¶ 31,092 (2000), *petitions for review pending sub nom.*, Public Utility District No. 1 of Snohomish County, Washington v. FERC, Nos. 00–1174, *et al.*

minimum characteristics and functions that an RTO must satisfy.

In Order No. 2000, we stated:

How Group and other commenters address issues relating to the standardization of transmission transactions. Standardization of transactions involves two separate concerns: (1) Many transactions will cross RTO boundaries; and (2) numerous customers will do business with multiple RTOs. Without standardized communications protocols and business practices, the costs of doing business will be increased as market participants will be required to install additional software and add personnel to transact with different RTOs and regions. Therefore, to promote interregional trade, standardized methods of moving power into, out of, and across RTO territories will be needed.

We believe that standards for communications between customers and RTOs must be developed to permit customers to acquire expeditiously common services among RTOs. For example, we envision the creation of standardized communications protocols to schedule power movements and to acquire auction rights. These protocols would not standardize what the rights are, or the nature of the auctions. Instead, the focus of the communications protocols would be on how customers communicate their intentions to an RTO and how customers receive an RTO's responses.

We agree with How Group and others that certain business and communication standards are necessary, and we believe that these standards will facilitate the development of efficient markets. We believe, however, that these issues need further examination based on a complete record.[11]

II. Discussion

In Orders Nos. 888 and 889, the Commission established OASIS for two purposes: (1) To help mitigate transmission market power by providing non-discriminatory access to transmission information and services; and (2) to promote the development of competitive markets for power by setting national standards for the reservation of transmission capacity. Our objective of promoting the development of uniform standards to support competitive markets for power still remains. In the four years since Order Nos. 888 and 889 were issued, the Commission has found that transmission market power could be mitigated more effectively by RTOs. We also found that RTOs would promote more efficient grid management and reliability needed for competitive electricity markets. Thus, OASIS changes may be needed to promote and complement the development of RTOs.

Any revised standards, like the current OASIS standards, will apply to each public utility that owns and/or controls facilities used for the transmission of electric energy in interstate commerce, including RTOs. We also stated in Order No. 2000 that ''an RTO must be the single OASIS site administrator for all transmission facilities under its control.'' [12] The RTO's function as a single OASIS site administrator will help to ensure standardization within each RTO; however, customers will also obtain transmission service across multiple RTOs and compatibility among RTOs with respect to transmission information and transaction requirements is essential. Efficient wholesale power markets require that communication protocols not raise barriers to the ability of parties to make trades in a timely manner. Such impediments should be eliminated, or, at a minimum, reduced to the maximum extent possible. Order No. 2000 recognized this, not only by establishing OASIS as a separate function of an RTO, but also by establishing interregional coordination as one of the functions for an RTO.

We also intend to facilitate communication between customers and Transmission Providers for services and critical market information, *e.g.,* auctions for transmission rights, the posting of available transmission capacity (ATC), total transmission capacity (TTC) and capacity benefit margin (CBM), prices for transmission and ancillary services, information on curtailments and interruptions and transmission facility status.

The Commission is soliciting proposals, to be filed by February 15, 2001, containing detailed, standard communication protocols and associated business practices that all Transmission Providers and customers would use in reserving and scheduling power, and to reserve and schedule transmission to accommodate power flows into, out of, and across RTOs. The Commission intends to review the proposals received in response to the ANOPR and issue a Notice of Proposed Rulemaking (NOPR) or take other appropriate action.

We continue to believe that the communications standards and protocols of OASIS Phase II, like the current OASIS Phase IA, shall make use of: (1) The Internet for communications; (2) interactive displays using World Wide Web browsers; [13] (3) file uploads and downloads for computer-to-computer communication; and (4) templates defining the file uploads and downloads. In addition, submitted proposals should address what modifications to the existing OASIS Standards and Communications Protocols and related business practices [14] are necessary to implement OASIS Phase II.

In various OASIS-related orders, we postponed adding certain functionality to OASIS until Phase II. The most pressing of these is electronic scheduling.[15] In addition, other functionality was incorporated as OASIS developed (such as a modified form of dynamic notification [16] and formats for electronic submission of tariffs [17]) and other functionality was no longer needed because OASIS, the market or technology developed in a different direction (*e.g.,* breaking large files into 100,000 byte segments [18]). The proposals should discuss whether the additional functionality of complete dynamic notification should be integrated in OASIS Phase II, and, furthermore, the industry should consider whether generator-run status information should be incorporated into OASIS Phase II.

Also, our experience with OASIS Phase I has taught us that business practices standards, in addition to communication standards and protocols are needed for the development of efficient markets and for the efficient use of the transmission grid. Accordingly, submitted proposals should identify any business practices that need to be standardized.

The Commission's experience with Order No. 889 and Order No. 636 has taught us that industry standards, when needed, should be established as early as possible. Our goal is to identify standardization issues before entities

[11] Order No. 2000, FERC Stats. & Regs. ¶ 31,089 at 31,145 (2000) (footnote omitted).

[12] Order No. 2000, FERC Stats. & Regs. ¶ 31,089 at 31,144 (2000). Furthermore, we concluded in Order No. 2000 that an RTO has the flexibility to contract out OASIS responsibilities to another independent entity or participate in a ''super-OASIS'' jointly with other RTOs. *See id.* at 31,145.

[13] In the past we have not required standardization of WWW displays. However, in developing proposals, the industry should consider any need for a ''common look and feel'' for displays.

[14] Order No. 638, FERC Stats. & Regs. ¶ 31,093 at 31,402 (2000).

[15] *See* Order No. 889, FERC Stats. & Regs. ¶ 31,035 at 31,594 and 31,628 (1996); June 18 Order at 62,451; Open Access Same-time Information System and Standards of Conduct, 84 FERC ¶ 61,324 at 62,455 (1998).

[16] *See* June 18 Order at 62,463–64. Dynamic notification occurs when an OASIS node automatically (without a re-query by a customer) notifies a customer of information changes such as the current ATC for a given path or the status of a pending service request.

[17] *See* Order No. 889–A, FERC Stats. & Regs. ¶ 31,049 at 30,575 (1997).

[18] Order No. 889, FERC Stats. & Regs. ¶ 31,035 at 31,625 (1996).

invest extensive capital in a system. We intend, therefore, to have OASIS Phase II operational by December 15, 2001 (the RTO startup date). In this way, we hope to avoid unnecessary expenditures by the industry.

Timetable and Other Information

The Commission expects the proposals to be sufficiently detailed so they may be included in a NOPR. The comments and proposals submitted on February 15, 2001, should also propose an implementation schedule or plan to transition from OASIS Phase IA to OASIS Phase II, including time for testing, to allow the standards to be fully implemented by December 15, 2001.

The Commission urges representatives of the various segments of the industry to work together to achieve a consensus on these proposals. The Commission's earlier efforts in this area benefitted greatly from the input of a number of industry working groups. The Commission continues to believe that the industry should take the lead in developing and implementing standards that will be both practical and workable for the variety of business transactions that will take place. Commission staff intends to consult and participate in this process. The Commission will give proposals developed through a collaborative industry process considerable weight. However, collaborative input can only be considered if it is provided to us in a timely manner so that we may adhere to the timetables set forth here.

III. Document Availability

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the Internet through FERC's Home Page (http://www.ferc.fed.us) and in FERC's Public Reference Room during normal business hours (8:30 a.m. to 5 p.m. Eastern time) at 888 First Street, NE., Room 2A, Washington, DC 20426.

From FERC's Home Page on the Internet, this information is available in both the Commission Issuance Posting System (CIPS) and the Records and Information Management System (RIMS).

• CIPS provides access to the texts of formal documents issued by the Commission since November 14, 1994. CIPS can be accessed 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 8.0 format for viewing, printing, and/or downloading.

• RIMS contains images of documents submitted to and issues by the Commission after November 16, 1981. Documents from November 1995 to the present can be viewed and printed from FERC's Home Page using the RIMS link or the Energy Information Online icon. Descriptions of documents back to November 16, 1981, are also available from RIMS-on-the-Web; requests for copies of these and other older documents should be submitted to the Public Reference Room.

User assistance is available for RIMS, CIPS, and the Website during normal business hours from our Help line at (202) 208–2222 (e-mail to WebMaster@ferc.fed.us) of the Public Reference Room at (202) 208–1371 (e-mail to public.referenceroom@ferc.fed.us).

During normal business hours, documents can also be viewed and/or printed in FERC's Public Reference Room, where RIMS, CIPS, and the FERC Website are available. User assistance is also available.

By direction of the Commission. Commissioner Hebert concurred with a separate statement attached.

Linwood A. Watson, Jr.,

Acting Secretary.

HeBERT, Commissioner *concurring:*

The Commission today issues an Advance Notice of Proposed Rulemaking on standards for electronic communications among participants in the transmission market. The document solicits detailed proposals by February 2001, with the goal for the system to operate by December 15 of that year. Some may consider this a major step forward in the development of competitive markets. If I viewed this rulemaking in isolation from Order No. 2000 and the collaborative process that we and the industry have undertaken to form Regional Transmission Organizations (RTO's), I would agree. Looking at the big picture, however, I consider our action today unnecessary, at best, and, at worst, a potential distraction from the more important job of reaching the goal we all endorse: competition through a viable stand-alone transmission business.

I consider a rulemaking at this juncture a waste of time because Order No. 2000 already covered this ground . In particular, Section 35.34(k)(5) makes the RTO the OASIS administrator within the organizations's boundaries. In addition, section 35.34(k)(8) describes interregional coordination as ''ensur[ing] the integration of reliability practices within an interconnection and market practices among regions.'' (Emphasis added). The section in the Preamble on interregional coordination explains, ''The integration of market interface practices involves developing some level of standardization of inter-regional market standards, including the co-ordination of * * * transmission reservation practices, * * * as well as other market coordination requirements covered elsewhere in the Final Rule.'' Order No. 2000, mimeo at 497.

Since all regulated transmission owners are participating in the process of forming RTO's, the industry is already engaged in the process we seek to start today. Transco's especially need to ensure proper communications, for reservations and scheduling, or they cannot establish a viable transmission business. In addition, entrepreneurs are engaged now in trying to improve, or supplant, OASIS, a system that all admit uses obsolete technology. I fail to see why we need to do anything drastic, such as issuing a new rule on one aspect of what we covered in Order No. 2000. In that regard, I point out that the order states that we may take ''other appropriate action,'' not necessarily issuing a Notice of Proposed Rulemaking. Mimeo at 7.

I consider a rulemaking a potential distraction because of the timetables the Commission imposes. Order No. 2000 recognized that electronic communication with organizations that may not exist presents a problem. Therefore, we stated that, instead of an implementation schedule, the RTO filings should ''provide a schedule for * * * follow-up details on how [the RTO] is meeting the coordination requirements.* * *'' Order No. 2000, Mimeo at 494–95. In contrast, we solicit ''detailed'' proposals (mimeo at 7) by February 15, 2001, and hope to have the system operate concurrently with the commencement of RTO's. With tight timetables, parties may divert their attention from the more important issues of scope and pricing, to the subsidiary one of information technology.

The timetables have another, opposite drawback: stifling innovation. If the industry thinks that we might impose new requirements by December 15, 2001, inventors who may have innovations ready sooner will stop dead in their tracks. The market, the transmission owners and their customers, will loath to spend money if, in the end, FERC will not approve of the results. At least in the Order No. 2000, we allowed the parties to adopt whatever works. Rather than making OASIS an end in itself, as we seem to today, we make it a means toward the

goal of an efficient transmission business.

I would keep my eye on the destination. I urge the comments on this advance notice to discuss these issues, lest we lose the forest for some trees.

I concur.

Curt L. Hébert, Jr.,

Commissioner.

[FR Doc. 00–18500 Filed 7–25–00; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 1

[FHWA Docket No. FHWA–2000–7116]

RIN 2125–AE73

Engineering Services

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of proposed rulemaking (NPRM); request for comments.

SUMMARY: The FHWA is proposing to amend the regulation for engineering services by removing a sentence that defined expenditures for the establishment, maintenance, general administration, supervision, and other overhead of the State highway department, or other instrumentality or entity referred to in the regulation, as ineligible for Federal participation. This proposed amendment to the regulation stems from a provision in the Transportation Equity Act for the 21st Century (TEA–21) that changed statutory requirements to allow for eligibility of administrative costs for State transportation departments.

DATES: Comments must be received on or before September 25, 2000.

ADDRESSES: Submit written, signed comments to the docket number that appears in the heading of this document to the Docket Clerk, U.S. DOT Dockets, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590–0001. All comments received will be available for examination at the above address from 9 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped envelope or postcard.

FOR FURTHER INFORMATION CONTACT: Mr. Max Inman, Federal-aid Financial Management Division, (202) 366–2853 or Mr. Steve Rochlis, Office of the Chief Counsel, (202) 366–1395, Federal Highway Administration, 400 Seventh Street SW., Washington, D.C. 20590. Office hours are from 7:45 a..m. to 4:45 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

Internet users may access all comments received by the U.S. DOT Dockets, Room PL–401, by using the universal resource locator (URL): *http://dms.dot.gov*. It is available 24 hours each day, 365 days each year. Please follow the instructions online for more information and help.

An electronic copy of this document may be downloaded using a modem and suitable communications software from the Government Printing Office's Electronic Bulletin Board Service (202) 512–1661. Internet users may reach the Office of the **Federal Register**'s home page at *http://www.nara.gov/fedreg* and the Government Printing Office's database at *http://www.access.gpo.gov/nara*.

Background

Prior to the TEA–21 (Pub. L. 105–178, 112 Stat. 107 (1998)), expenditures for the establishment, maintenance, general administration, supervision, and other overhead of the State highway department, or other instrumentality or entity referred to in paragraph (b) of 23 CFR 1.11, were not eligible for Federal participation. However, section 1212(a) of the TEA–21 revised subsection (b) of 23 U.S.C. 302 stating that compliance with subsection 302(a) had long been interpreted as restricting the Federal eligibility of State overhead costs. Subsection 302(b) now clarifies that cost eligibility is not restricted.

Section 302 of title 23, U.S.Code, requires a State to have a functioning transportation department as a condition for receiving Federal-aid highway funds. The FHWA has interpreted this provision, in accordance with legislative intent, to mean that the costs of operating the State transportation department were not eligible for Federal highway funds. This policy was inconsistent with general government policy issued by the Office of Management and Budget which allows Federal participation in a State's indirect or overhead costs. The purpose for this statutory change was to provide for a consistent policy, especially among Federal transportation agencies.

Therefore, the FHWA is proposing to amend the regulation for engineering services. In 23 CFR 1.11(a), the first paragraph would be amended by removing the last sentence of the paragraph, ''Expenditures for the establishment, maintenance, general administration, supervision, and other overhead of the State highway department, or other instrumentality or entity referred to in paragraph (b) of this section shall not be eligible for Federal participation.''

Rulemaking Analyses and Notices

All comments received before close of business on the comment closing date indicated above will be considered and will be available for examination in the docket at the above address. Comments received after the comment closing date will be filed in the docket and will be considered to the extent practicable, but the FHWA may issue a final rule at any time after the close of the comment period. In addition to the late comments, the FHWA will also continue to file in the docket relevant information that becomes available after the comment closing date, and interested persons should continue to examine the docket for new material.

Executive Order 12866 (Regulatory Planning and Review)and DOT Regulatory Policies and Procedures

We have determined that this proposed action is neither a significant rulemaking action within the meaning of Executive Order 12866 nor a significant rulemaking under the regulatory policies and procedures of this Department. It is anticipated that the economic impact of this proposed rule will be minimal; therefore, a full regulatory evaluation is not required. Nevertheless, the FHWA solicits comments, information, and data on this issue.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act [5 U.S.C. 601–612], we have evaluated the effects of this proposed action on small entities. Based on the evaluation and since this rulemaking action makes only minor amendments to the current regulations, the FHWA does not anticipate that the proposed rule will have a significant economic impact on a substantial number of small entities. In any event, States are not included in the definition of ''small entity'' as set forth in 5 U.S.C. 601. Therefore, this proposed action would not have a significant economic impact on a substantial number of small entities for purposes of the Regulatory Flexibility Act.

Executive Order 13132 (Federalism)

This proposed action has been analyzed in accordance with the principles and criteria contained in