

(e) *Timing.* (1) Public utilities should provide information to purchasing utilities regarding the timing of opportunities for purchasers to stipulate whether they will purchase or return emissions allowances. A public utility may require a purchasing utility to declare, no later than the beginning of the coordination transaction:

(i) Whether it will purchase or return emissions allowances; and

(ii) If it will return emissions allowances, the date on which those allowances will be returned.

(2) Public utilities may include in agreements with purchasing utilities non-discriminatory provisions for indemnification if the purchasing utility fails to provide emissions allowances by the date on which it declares that the allowances will be returned.

(f) *Other Costing Methods Not Precluded.* The ratemaking treatment of emissions allowance costs endorsed in this Policy Statement does not preclude other approaches proposed by individual utilities on a case-by-case basis.

[59 FR 65938, Dec. 22, 1994, as amended by Order 579, 60 FR 22261, May 5, 1995]

#### § 2.26 Policies concerning review of applications under section 203.

(a) The Commission has adopted a Policy Statement on its policies for reviewing transactions subject to section 203. That Policy Statement can be found at 77 FERC ¶61,263 (1996). The Policy Statement is a complete description of the relevant guidelines. Paragraphs (b)–(e) of this section are only a brief summary of the Policy Statement.

(b) *Factors Commission will generally consider.* In determining whether a proposed transaction subject to section 203 is consistent with the public interest, the Commission will generally consider the following factors; it may also consider other factors:

(1) The effect on competition;

(2) The effect on rates; and

(3) The effect on regulation.

(c) *Effect on competition.* Applicants should provide data adequate to allow analysis under the Department of Justice/Federal Trade Commission Merger Guidelines, as described in the Policy

Statement and Appendix A to the Policy Statement.

(d) *Effect on rates.* Applicants should propose mechanisms to protect customers from costs due to the merger. If the proposal raises substantial issues of relevant fact, the Commission may set this issue for hearing.

(e) *Effect on regulation.* (1) Where the affected state commissions have authority to act on the transaction, the Commission will not set for hearing whether the transaction would impair effective regulation by the state commissions. The application should state whether the state commissions have this authority.

(2) Where the affected state commissions do not have authority to act on the transaction, the Commission may set for hearing the issue of whether the transaction would impair effective state regulation.

(f) Under section 203(a)(4) of the Federal Power Act (16 U.S.C. 824b), in reviewing a proposed transaction subject to section 203, the Commission will also consider whether the proposed transaction will result in cross-subsidization of a non-utility associate company or pledge or encumbrance of utility assets for the benefit of an associate company, unless that cross-subsidization, pledge, or encumbrance will be consistent with the public interest.

[Order 592, 61 FR 68606, Dec. 30, 1996, as amended by Order 669–A, 71 FR 28443, May 16, 2006]

#### NON-MANDATORY GUIDANCE ON SMART GRID STANDARDS

#### § 2.27 Availability of North American Energy Standards Board (NAESB) Smart Grid Standards as non-mandatory guidance.

The Commission informationally lists the following NAESB Business Practices Standards as non-mandatory guidance:

(a) WEQ–016, Specifications for Common Electricity Product and Pricing Definition, WEQ Version 003, July 31, 2012;

(b) WEQ–017, Specifications for Common Schedule Communication Mechanism for Energy Transactions, WEQ Version 003, July 31, 2012;