

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

Standards for Business Practices and)
Communication Protocols for Public)
Utilities

Docket No. RM05-5-017

**COMMENTS OF
THE ELECTRIC POWER SUPPLY ASSOCIATION**

The Electric Power Supply Association (“EPSA”)¹ submits these comments in response to the Federal Energy Regulatory Commission’s (“FERC” or the “Commission”) Notice of Proposed Rulemaking (the “NOPR”) issued September 17, 2009, in the above-referenced proceeding, *Standards for Business Practices and Communication Protocols for Public Utilities*.² The Commission proposes to incorporate by reference in its regulations at 18 C.F.R. § 38.2 the North American Energy Standards Board’s (“NAESB”) Standards to categorize various demand response products and services and to support measurement and verification of these products and services in the wholesale electric markets (NAESB Phase I M&V Standards).

EPSA has supported the NAESB process since the Wholesale Electric Quadrant (WEQ) was created and endorses the use of ANSI-certified consensus-based industry processes for the development of WEQ standards. Therefore, EPSA recommends that the Commission incorporate the Phase I M&V standards by reference into the

¹ EPSA is the national trade association representing competitive power suppliers, including generators and marketers. These suppliers, who account for 40 percent of the installed generating capacity in the United States, provide reliable and competitively priced electricity from environmentally responsible facilities serving power markets. EPSA seeks to bring the benefits of competition to all power customers. The comments contained in this filing represent the position of EPSA as an organization, but not necessarily the views of any particular member with respect to any issue.

² *Standards for Business Practices and Communications Protocols for Public Utilities*, 128 FERC ¶ 61,263 (2009).

Commission's regulations as a first step in the process of streamlining wholesale electric demand response business practices.

Competitive suppliers appreciate the Commission's effort to address issues to improve competition in organized wholesale electricity markets by adopting consistent and transparent standards for demand response measurement and verification (M&V). Demand response, in addition to generation and transmission additions, plays an increasingly important role in meeting wholesale electric demand. All of these options must be equally considered. Planning robust, reliable markets requires accurate and verifiable demand resources. Verifiability, accuracy and responsiveness to market price signals are especially important as the use of demand response increases in electric wholesale markets. EPSA is concerned that the proposed M&V standards are not thorough enough and urges the Commission to set a deadline for the development of the remaining necessary standards for demand response M&V as discussed below.

I. BACKGROUND

In April of 2007, NAESB started the process that has produced this initial set of business practice standards for the measurement and verification of demand response products and services now before the Commission. The Phase I M&V Standards include 40 definitions and 31 business practice standards that identify the major demand response product categories: energy service, capacity service, reserve service and regulation service. Additionally, the standards identify the key characteristics of demand response measurement and verification, as well as the operational categories associated with demand response.

NAESB noted in its submission that these initial standards will need to be followed by the development of more detailed technical standards for the measurement and verification of demand response products and services in organized markets with Independent System Operators (ISOs) and Regional Transmission Organizations (RTOs). The Phase I work took over 2 years to complete and recognizes that the standards will require more detail to be truly viable. Given the prominent and emerging role that demand response plays in today's wholesale electric market and its impact on future reliability, the Phase II standards must be produced more rapidly than the Phase I standards. EPISA recognizes the hard work done by various segments of industry to develop the Phase I standards and hopes the Commission will encourage greater participation by industry in the ensuing Phase II process. However, it is important that the Phase II process keep pace with the need for precise and clear demand response M&V standards. Consequently, the Commission should set a deadline for the development of Phase II standards.

II. DISCUSSION AND COMMENTS

EPISA supports policies that allow demand resources to participate on an equal footing with generation supply resources. Therefore, the development of standards that can measure demand side resources and ensure that the resources can be verified is appropriate. EPISA supports broad inclusion and participation by qualified resources in forward capacity markets and has previously expounded on the important role that

demand response can play as a wholesale electric market resource by improving efficiency and producing more efficient price signals to the marketplace.³

Generally, EPSA asserts that as ISOs and RTOs work to make demand response resources more viable market participants, the Commission must ensure that these resources are subject to the same performance verification, measurement and rules, testing and performance requirements and obligations as all other resources in order to maintain the reliability and viability of the market. Demand response resources can provide reliability benefits to the system, but all resources must be held accountable to detailed measurement and verification standards to perform when needed. Like traditional providers, demand resources that intend to provide ancillary services must test to demonstrate acceptable functionality, and then consistently provide the reliability products that they sell when required. A lack of comparability among resources runs the risk of artificially skewing incentives towards potentially less reliable resources, discouraging investments needed for reliable demand response, and ultimately compromising the reliability of the system.

Based on these needs and as recognized by NAESB and the Commission, more detail is needed than the Phase I M&V standards provide. While the standards distinguish product types, the broad categories need more precise definitions to accurately count demand response and ensure comparability with other resources. The standards do not provide requirements for compensation, design, operation or use of demand response services. Some capacity market designs currently include significant

³ See Comments of EPSA regarding the Advanced Notice of Proposed Rulemaking on Wholesale Competition in Regions with Organized Electric Markets, Docket No. RM07-19, et al., pgs. 11-36, September 14, 2007.

participation by demand resources that are already a critical element in the composition of committed capacity resources and the pricing of resources that support investments needed for system reliability. However, some RTOs/ISOs may currently have inadequate and/or unreliable mechanisms to determine whether all committed demand response resources can be completely relied upon by the RTO/ISO when needed to ensure system reliability. Many of those demand resources are also not price responsive and activation of those resources may well depress valid pricing signals, especially during scarcity situations. Consequently, accurate and reliable measures of the availability and performance of demand response resources need to be developed expeditiously to ensure that all RTO/ISOs have adequate tools to verify the expected reliance upon demand response resources.

All market participants rely on the rules established by transmission providers in their tariffs for comparability and non-discriminatory markets. The tariff provides the basis for fair operation and compensation, as well as the legal provisions should a dispute arise. The Phase I M&V standards properly give substantial deference to RTO and ISO tariffs, but this only highlights the need for all parties and the Commission to carefully review the relevant tariff provisions for effectiveness and to reduce needless and costly disparities among the various RTO/ISO tariffs. The deference to RTO and ISO tariff requirements raises practical questions regarding the value of adopting the NAESB standards other than to provide an opportunity to state a standard exists. From the standard:

In the event of a conflict between these business practices and System Operators Tariffs, market rules or operating procedures, protocols or manuals, the Tariff, market rules, operating procedures, protocols or

manuals shall have preference. Terms defined in the Definition of Terms do not modify or supersede market rule or tariff definitions that apply to the compensation design and operation of use of Demand Response Services.

The standard essentially provides that the NAESB standards will have little weight or effectuate standardization and effective M&V relative to the demand response rules that exist today. Moreover, the standard suggests that these rules are not part of the tariff, such that reliance on such rules calls into question their enforceability. Thus, rules needed for reliability of demand resources will continue to exist as business practices rather than as tariff provisions until the Phase II M&V standards are completed.

While the proposed standard states that demand response services will comply in the future with the mandatory and enforceable NERC standards with which competitive suppliers currently must comply, there is little in the proposal to require demand response entities to currently comply with these NERC standards. NERC is in the process of developing demand response measurement through its Demand Response Availability Data System (DADS). The NERC Rules of Procedure (ROP) will require a change to make it mandatory for demand response entities to respond to surveys about how much dispatchable and controllable demand response they provide. Moreover, NERC is in the process of defining demand response entities in its Functional Model. After completion of these changes NERC will be able to define demand response and curtailment service entities for inclusion in the compliance registry. Thus, NERC is in the process of being able to accurately measure demand response entities and their contribution to reliability. Also, many demand response entities are not currently registered by NERC and do not have to comply with reliability standards. Therefore, the NAESB Phase I M&V standards statement that demand response

entities have to comply with NERC standards may not apply to a number of demand response resources.

While NERC registration for demand response entities does not exist today, fast track proposals to require such registration will be reviewed by the NERC Board of Trustees and then by the Commission in the first half of 2010. It would not appear that the NAESB timetable for Phase II M&V standards will allow completion of those standards by that time. If the Phase I timetable is replicated, Phase II standards may take years.

The Commission should provide a schedule for the NAESB Phase II M&V standards so that the process is completed in a timely manner. Demand response resources are being relied upon in growing quantities within wholesale markets to provide services that system operators count on to maintain reliability of the bulk power system. Additionally, these resources are being factored into ISO/RTO reliability planning processes and therefore it is critical to know what resources are really available to ensure long-term reliability objectives are met. Therefore, the deadlines associated with this schedule should be aligned with the NERC process and actions regarding demand response entities. Only when such standards and rules are established can measurable comparability be ensured in organized wholesale electric markets.

III. CONCLUSION

EPISA respectfully requests that the Commission incorporate by reference the NAESB Phase I M&V standards for demand response products and services for the

wholesale electric market. For the reasons listed herein, the Commission should provide deadlines for the completion of the Phase II M&V standards that aligns with NERC's timetable for registering demand response entities. The Phase II standards should set out the M&V standards that are to be consistently applied across all of the ISOs and RTOs ensuring market comparability among generation and demand response entities.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the comments via email upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Washington, D.C., October 22, 2009.

N. Bagot

Nancy Bagot, VP of Reg. Policy