

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Smart Grid Interoperability Standards

Docket No. RM11-2-000

SUPPLEMENTAL NOTICE REQUESTING COMMENTS

(February 16, 2011)

1. On January 31, 2011, Federal Energy Regulatory Commission (Commission) staff held a technical conference in this proceeding to obtain further information to aid the Commission's determination of whether there is "sufficient consensus" that certain smart grid interoperability standards are ready for Commission consideration in a rulemaking proceeding, as directed by section 1305(d) of the Energy Independence and Security Act of 2007 (EISA), which requires that:

At any time after the [National Institute of Standards and Technology's (NIST)] work has led to sufficient consensus in the Commission's judgment, the Commission shall institute a rulemaking proceeding to adopt such standards and protocols as may be necessary to insure smart-grid functionality and interoperability in interstate transmission of electric power, and regional and wholesale electricity markets.^[1]

In light of the discussion among panelists at the conference, staff seeks specific comment on the questions below. Commenters may also provide their views on any of the topics raised at the conference.

2. On July 16, 2009, the Commission issued a Smart Grid Policy Statement² in which, among other things, the Commission explained its view that EISA does not make any smart grid standards mandatory and does not give the Commission authority to make or enforce any such standards. The Commission clarified that, under current law, its authority, if any, to make smart grid standards mandatory must derive from the Federal Power Act (FPA).³ Similarly, its authority to allow rate recovery of smart grid costs must

¹ EISA § 1305(d), Public Law No. 110-140, 121 Stat. 1492, 1788 (2007) (to be codified at 15 U.S.C. § 17385(d)).

² *Smart Grid Policy*, 128 FERC ¶ 61,060 (2009)

³ 16 U.S.C. §§ 791a – 824r (2006).

derive from the FPA. The Commission concluded that the authority to adopt standards under EISA does not change the scope of the Commission's ratemaking or reliability jurisdiction. Several panelists at the conference expressed concern that adoption of a smart grid standard by the Commission under EISA could lead either the Commission or other regulators, such as state utility regulators, to effectively enforce compliance with the standard by, for example, requiring compliance in order to receive cost recovery or to avoid penalties for non-compliance. Staff seeks comment on the following questions:

- In your view, would making standards enforceable best serve the intent of Congress to facilitate development and use of interoperability standards? Please explain.
- How does the determination of sufficient consensus implicate the requirement to "institute a rulemaking proceeding to adopt" standards and protocols? Please explain.
- What meaning should the Commission give to the phrase "as may be necessary to insure smart-grid functionality and interoperability in interstate transmission of electric power, and regional and wholesale electricity markets?" Should the Commission evaluate for adoption only those standards that are critical for applications and that may implicate the functionality and interoperability of interstate transmission or wholesale electricity markets?
- How does the smart grid review process consider and evaluate "normative references" (*i.e.*, standards embedded within candidate standard for adoption, needed in order to comply with the standard)?
- How does the NIST process assure that a standard has undergone sufficient review of interoperability and cyber security and is ready for consideration by regulators?

3. Staff seeks comment on ways in which "sufficient consensus" may be defined and used by the Commission to fulfill the purposes of EISA with respect to the appropriate venue for determining and documenting consensus, whether individual attributes of standards require documentation of consensus, and the appropriate role of testing and certification:

- Should the Commission rely solely on the results of the NIST process, and not conduct independent analysis with respect to consensus? If the Commission were to define consensus in this manner, what changes, if any, would be required to the currently effective NIST process?
- Alternatively, should the Commission independently determine consensus? If so, how?

- What benefit does documentation of key attributes of a standard (cyber security, functionality, architectural relevance, interoperability, reliability, and implementation issues) bring? Is it necessary? Are there other attributes that should be included, or are any of the attributes noted here unnecessary?
- Is it appropriate for reliability and implementation issues to be reviewed by a separate panel, as some panelists commented at the technical conference, composed of utility representatives and NERC?
- How should testing and certification for cyber security requirements be incorporated into the adoption process?

4. Several commenters made the point that the process used for the five families of standards differs from the going forward process. Given that the first five families of standards have been posted for consideration, and a number of commenters at the technical conference point to deficiencies in the process used to identify those standards as ready for consideration, staff requests comment on:

- Whether there is a need for additional process concerning the five families of standards and if so, how, for example, the identified cyber security issues can be addressed given the NIST and FERC structures and the language of EISA.
- Whether the criteria for the Commission's evaluation should differ for interoperability and functionality, and the extent to which cyber security is an element of each.

5. And finally:

- What are the key smart grid benefits that standards should enable? How can the Commission encourage the standards development process to incorporate the continual, but gradual, growth in functionality that is occurring in smart grid implementations and pilot programs?

6. Persons wishing to comment on the issues discussed above, or any other topic raised at the technical conference, should submit comments to the Commission no later than March 9, 2011. Reply comments should be submitted by March 23, 2011.

Kimberly D. Bose,
Secretary.

Document Content(s)

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