



BILLING CODE 6717-01-P
DEPARTMENT OF ENERGY
FEDERAL ENERGY REGULATORY COMMISSION

18 CFR Part 40

[Docket No. RM12-16-000; Order No. 785]

Generator Requirements at the Transmission Interface

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule.

SUMMARY: Pursuant to section 215 of the Federal Power Act, the Federal Energy Regulatory Commission (Commission) approves modifications to four existing Reliability Standards submitted by the North American Electric Reliability Corporation (NERC), the Commission certified Electric Reliability Organization. Specifically, the Commission approves Reliability Standards FAC-001-1 (Facility Connection Requirements), FAC-003-3 (Transmission Vegetation Management), PRC-004-2.1a (Analysis and Mitigation of Transmission and Generation Protection System Misoperations), and PRC-005-1.1b (Transmission and Generation Protection System Maintenance and Testing). The modifications improve reliability either by extending applicability of the Reliability Standard to certain generator interconnection facilities, or by clarifying that the existing Reliability Standard is and remains applicable to generator interconnection facilities. The Commission also approves the related Violation Risk Factors and Violation Severity Levels, as well as the implementation plan and effective dates proposed by NERC.

EFFECTIVE DATE: This rule will become effective **[insert date 60 days after publication in the FEDERAL REGISTER]**.

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SUPPLEMENTARY INFORMATION:

144 FERC ¶ 61,221
DEPARTMENT OF ENERGY
FEDERAL ENERGY REGULATORY COMMISSION

Generator Requirements at the
Transmission Interface

Docket No. RM12-16-000

ORDER NO. 785

FINAL RULE

(Issued September 19, 2013)

1. Pursuant to section 215 of the Federal Power Act (FPA),¹ the Commission hereby approves modifications to four existing Reliability Standards submitted by the North American Electric Reliability Corporation (NERC), the Commission certified Electric Reliability Organization. Specifically, the Commission approves Reliability Standards FAC-001-1 (Facility Connection Requirements), FAC-003-3 (Transmission Vegetation Management), PRC-004-2.1a (Analysis and Mitigation of Transmission and Generation Protection System Misoperations), and PRC-005-1.1b (Transmission and Generation Protection System Maintenance and Testing). The modifications to these standards improve reliability either by extending their applicability to certain generator interconnection facilities, or by clarifying that the existing Reliability Standard is and remains applicable to generator interconnection facilities. The Commission also approves the related Violation Risk Factors and Violation Severity Levels, as well as the implementation plan and effective dates proposed by NERC.

¹ 16 U.S.C. 824o (2006).

I. Background

A. Regulatory Background - Section 215 of the FPA

2. Section 215 of the FPA requires a Commission-certified Electric Reliability Organization (ERO) to develop mandatory and enforceable Reliability Standards, which are subject to Commission review and approval.² Once approved, the Reliability Standards may be enforced either by the ERO (subject to Commission oversight), or by the Commission independently.³

3. In 2006, the Commission established a process to select and certify an ERO⁴ and, subsequently, certified NERC as the ERO.⁵ In 2007, in Order No. 693, the Commission approved 83 Reliability Standards submitted by NERC, including initial versions of Reliability Standards FAC-001, FAC-003, PRC-004, and PRC-005.⁶ Further, in Order No. 693, the Commission approved NERC's compliance registry process, including NERC's Statement of Compliance Registry Criteria (Registry Criteria), which describes

² *Id.* 824o(c) and (d).

³ *See id.* 824o(e).

⁴ *Rules Concerning Certification of the Electric Reliability Organization; and Procedures for the Establishment, Approval and Enforcement of Electric Reliability Standards*, Order No. 672, FERC Stats. & Regs. ¶ 31,204, *order on reh'g*, Order No. 672-A, FERC Stats. & Regs. ¶ 31,212 (2006).

⁵ *North American Electric Reliability Corp.*, 116 FERC ¶ 61,062, *order on reh'g and compliance*, 117 FERC ¶ 61,126 (2006), *aff'd sub nom. Alcoa, Inc. v. FERC*, 564 F.3d 1342 (D.C. Cir. 2009).

⁶ *Mandatory Reliability Standards for the Bulk-Power System*, Order No. 693, FERC Stats. & Regs. ¶ 31,242 (2007) (Order No. 693), *order on reh'g*, Order No. 693-A, 120 FERC ¶ 61,053 (2007).

how NERC and the Regional Entities⁷ will identify the entities that should be registered for compliance with mandatory Reliability Standards.⁸ While that process allows a Regional Entity to register an entity over its objection, NERC's Rules of Procedure provide a mechanism for NERC review of the Regional Entity's registration decision and, ultimately, for appeal to the Commission if NERC upholds the Regional Entity's decision.⁹

B. Related Commission Orders and Genesis of Project 2010-07

4. In several fact-specific cases on appeal from a NERC registration determination, the Commission has addressed the need to apply Reliability Standard requirements that are generally applicable to a registered transmission owner or transmission operator to the owner or operator of a generator interconnection facility or tie-line. In *New Harquahala Generating Co., LLC*, 123 FERC ¶ 61,173 (2008) (*Harquahala*), the Commission upheld NERC's registration of New Harquahala Generating Company (Harquahala) as a transmission owner and transmission operator, agreeing that Harquahala's 26-mile, 500 kV generator tie-line was "material to the reliability of the bulk power system."¹⁰ The Commission went into some detail concerning the impact on the transmission

⁷ NERC is authorized to delegate certain authority to regional entities as prescribed by FPA section 215(e)(4). *See* 16 U.S.C. 824o(e)(4).

⁸ Order No. 693, FERC Stats. & Regs. ¶ 31,242 at PP 92-95. The Commission has approved subsequent amendments to the Registry Criteria. *See, e.g., North American Electric Reliability Corp.*, 122 FERC ¶ 61,101 (2008).

⁹ Rules of Procedure of the North American Electric Reliability Corporation, Rule 501.1.3.4.

¹⁰ *Harquahala*, 123 FERC ¶ 61,173 at P 44.

network of an event on Harquahala's facilities,¹¹ and noted that it was affirming the Western Electricity Coordinating Council's (WECC's) and NERC's findings "based on the specific facts of this case."¹² Similarly, in *Cedar Creek Wind Energy, LLC*, 135 FERC ¶ 61,241 (2011) (*Cedar Creek*), the Commission upheld the registration of two wind farm owners, Milford Wind Corridor Phase I, LLC (Milford) and Cedar Creek Wind Energy, LLC (Cedar Creek), as transmission owners and transmission operators, again based on the specific tie-line facilities involved.¹³

5. In both *Harquahala* and *Cedar Creek*, the Commission found that there would be a reliability risk if certain Reliability Standards generally applicable to transmission owners and operators were not also applied to Harquahala, Cedar Creek and Milford, and cited to specific Reliability Standards and requirements that should apply to those entities. However, the Commission recognized that it may not be appropriate to require these entities to comply with all Reliability Standards otherwise applicable to transmission owners and operators, and in each case ordered NERC to negotiate with the generating company to develop a list of transmission owner and transmission operator Reliability Standard requirements applicable to that individual entity.¹⁴

¹¹ See *id.* PP 45-55.

¹² *Id.* P 44.

¹³ *Cedar Creek Wind Energy, LLC*, 135 FERC ¶ 61,241 (*Cedar Creek*), order on reh'g and clarification, 137 FERC ¶ 61,141 (2011), order on compliance filing, 139 FERC ¶ 61,214 (2012) (*Cedar Creek Compliance Order*).

¹⁴ See *Harquahala*, 123 FERC ¶ 61,173 at PP 56-57; *Cedar Creek*, 135 FERC ¶ 61,241 at PP 88-89.

On December 21, 2011, NERC submitted its compliance filing to the *Cedar Creek* order identifying which standards should apply to the registered entities subject to that order. In accepting NERC's filing, the Commission noted that the *Cedar Creek* order did not preclude NERC from pursuing a generic approach through the standards development process to determine which Reliability Standards should apply to generators.¹⁵

6. After the *Harquahala* decision, NERC announced the formation of an Ad Hoc Group for Generator Requirements at the Transmission Interface (Ad Hoc Group) to address concerns about perceived reliability gaps associated with generator interconnection facilities.¹⁶ The Ad Hoc Group issued a report (Ad Hoc Group Report) suggesting a fairly broad approach to address these perceived gaps, including proposed changes to standard applicability and requirement language, as well as the introduction of two new terms for the Glossary of Terms Used in NERC Reliability Standards (NERC Glossary or Glossary).¹⁷ NERC initiated Project 2010-07 on January 15, 2010, following the issuance of a standard authorization request as developed by the Ad Hoc Group.¹⁸

C. Revised Reliability Standards and NERC Petition

7. On July 30, 2012, NERC filed a petition (NERC Petition or Petition) seeking Commission approval of proposed Reliability Standards FAC-001-1, FAC-003-3, PRC-

¹⁵ *Cedar Creek Compliance Order*, 139 FERC ¶ 61,214 at P 19.

¹⁶ See NERC Petition at 11.

¹⁷ *Id.*; see also Final Report of the Ad Hoc Group for Generator Requirements at the Transmission Interface (Nov. 16, 2009), available at: www.nerc.com/files/GO-TO_Final_Report_Complete_2009Nov16.pdf.

¹⁸ NERC Petition at 11, 28.

004-2.1a, and PRC-005-1.1b. The FAC-001 and FAC-003 standards currently in effect are applicable only to transmission owners and operators, and NERC is proposing to extend their applicability to certain generator interconnection facilities. By contrast, the current version of PRC-004 and PRC-005 do apply to generator owners as well as transmission owners. Accordingly, NERC asserted that the proposed modifications in Reliability Standards PRC-004-2.1a and PRC-005-1.1b are designed merely to clarify that their requirements extend not only to protection systems associated with the generating facility or station itself, but also to any protection systems associated with the generator interconnection facilities.

8. In its Petition, NERC maintained that the changes proposed for these four Reliability Standards will address the reliability gap for generator interconnection facilities “for the vast majority of Generator Owners and Generator Operators.”¹⁹ NERC also explained that the proposed modifications to these standards will result in the application of certain Reliability Standards to generator owners without the need to register them as transmission owners or transmission operators only as a result of the generator interconnection facilities.²⁰ NERC stated that these are the only standards that need to be applied to generator owners and generator operators to ensure appropriate coverage of generator interconnection facilities “[e]xcept as necessary on a fact-specific

¹⁹ *Id.* at 5.

²⁰ *Id.* at 12.

basis.”²¹ NERC specifically acknowledged that some generator interconnection facilities may require a more expansive approach:

The drafting team acknowledges that some Facilities used solely to connect generators to the transmission system are more complex and may therefore require individual assessment. The reliability gaps associated with such Facilities should not be addressed simply through application of all standards applicable to Transmission Owners and Transmission Operators, but instead through an assessment of the impact of such a Facility on neighboring transmission Facilities. Such assessment should then be used to determine exactly which Reliability Standards and requirements should apply to that Facility and whether additional entity registration is warranted. This assessment should, at a minimum, be based upon the output of transmission planning and operating studies used by the Reliability Coordinator, Transmission Operator and Transmission Planner in complying with applicable Reliability Standards (specifically, IRO, TOP and TPL).²²

9. With respect to implementation, NERC requested an effective date of one year following the first quarter after regulatory approvals for FAC-001-1, and for FAC-003-3

²¹ *Id.* at 5. NERC noted in its Petition that the standard drafting team reviewed and assessed the Reliability Standards as identified in the Ad Hoc Group’s Report, as well as the Reliability Standards identified in *Cedar Creek*. According to NERC, the Project 2010-07 standard drafting team reviewed 34 Reliability Standards and 102 requirements to determine what requirements should be extended to generator owners and generator operators that own or operate generator interconnection facilities, many of which had also been addressed in the Ad Hoc Group’s Report. *Id.* at 11. However, the Project 2010-07 standard drafting team ultimately chose a different approach than that proposed in the Ad Hoc Group Report. The standard drafting team elected not to include clarifying language about a Reliability Standard’s applicability to generator interconnection facilities in most standards otherwise applicable to generator owners or generator operators, and to instead focus on modifying certain Reliability Standards not currently applicable to generating entities. *Id.* at 11-12.

²² *Id.* at 12-13.

Requirement R3. For the remaining requirements of FAC-003-3, NERC requested an effective date of two years following the first calendar quarter after regulatory approvals. NERC requested that PRC-004-2.1a and PRC-005-1.1b become effective upon receiving required regulatory approvals.

D. Notice of Proposed Rulemaking

10. On April 18, 2013, the Commission issued a Notice of Proposed Rulemaking proposing to approve Reliability Standards FAC-001-1, FAC-003-3, PRC-004-2.1a and PRC-005-1.1b.²³ The Commission explained that the modifications to FAC-001 and FAC-003 would enhance reliability by extending certain requirements to appropriate generator interconnection facilities.²⁴ In addition, the Commission found that the clarifications proposed in PRC-004-2.1a and PRC-005-1.1b would mitigate the possibility that the standards' requirements could be interpreted to exclude the generator interconnection facilities.²⁵

11. In addition to the proposal to approve the four revised Reliability Standards and to accept NERC's overall approach to registration of generator owners and operators going forward, the Commission sought comment in the NOPR in two areas. First, the Commission sought further comment on its understanding of the meaning of the term "generator interconnection facility," as used in the proposed standards. The Commission

²³ *Generator Requirements at the Transmission Interface*, Notice of Proposed Rulemaking, 143 FERC ¶ 61,049 (2013) (NOPR).

²⁴ *Id.* PP 19-20.

²⁵ *Id.* P 21.

indicated that it understood the term to refer to “generator interconnection tie-lines and their associated facilities extending from the secondary (high) side of a generator owner’s step-up transformer(s) to the point of interconnection with the host transmission owner.”²⁶

12. Second, the Commission stated that “our proposal to approve the revised Reliability Standards is based on the understanding that additional Reliability Standards or individual requirements may need to be applied to generator interconnection facilities as NERC acknowledges in its Petition, based on ‘individual assessments.’”²⁷ The Commission sought further information and comment on the particular circumstances that could trigger an “individual assessment” of generation interconnection facilities.

13. Finally, the NOPR proposed to approve the Violation Risk Factors and Violation Severity Levels, as well as the implementation plan and effective dates for each modified Reliability Standard as proposed by NERC.²⁸

14. Comments were due regarding the NOPR on June 24, 2013. In addition to the comments filed by NERC, the Commission received twelve sets of substantive comments (identified in the Appendix to the Final Rule). In addition, on July 9, 2013, NERC filed reply comments in response to certain arguments raised by other commenters.

²⁶ *Id.* P 22 (footnotes omitted).

²⁷ *Id.* P 24.

²⁸ *Id.* P 25.

II. Discussion

15. Pursuant to Section 215(d) of the FPA, we approve Reliability Standards FAC-001-1, FAC-003-3, PRC-004-2.1a and PRC-005-1.1b, including the associated implementation plan, as just, reasonable, not unduly discriminatory or preferential, and in the public interest. As discussed in Section A below, we believe the revised Reliability Standards will enhance reliability by extending certain obligations to generator owners and operators and by clarifying certain existing obligations for protective relay systems on generator interconnection facilities. We also discuss the following: (1) use of the term generator interconnection facilities; (2) criteria and process for conducting individual assessments; and (3) sufficiency of NERC's proposed revisions.

A. Reliability Standards to be Applied to Generator Owners and Generator Operators

NOPR Proposal

16. In the NOPR, the Commission proposed to approve the four revised Reliability Standards as proposed in NERC's petition, but noted that "this NOPR addresses the four Reliability Standards for which NERC seeks approval and makes no proposal about . . . other Reliability Standards and requirements that NERC identified in its Petition for informational purposes."²⁹ The Commission also recognized that "while certain facilities may be adequately addressed through a generic evaluation, other facilities may, as NERC indicates, require 'individual assessment' to properly determine which Reliability

²⁹ NOPR, 143 FERC ¶ 61,049 at P 23.

Standards apply to a facility.”³⁰ Accordingly, the Commission’s proposed approval of the four revised Reliability Standards was “based on the understanding that additional Reliability Standards or individual requirements may need to be applied to generator interconnection facilities . . . based on ‘individual assessments.’”³¹

Comments

17. NERC and all other entities filing comments support the approval of the revised Reliability Standards, with many noting their strong support for NERC’s package of revisions as a whole. EPSA/ELCON views the revised Reliability Standards and NERC’s modified approach to registration as a “substantial improvement in addressing reliability concerns with respect to generator interconnection Facilities.”³² APPA similarly supports approval of NERC’s petition, claiming that such approval “will ensure reliability, clarify roles and responsibilities in the area of bulk electric system reliability for both generators and their host transmission owner/operators, and lessen ambiguity regarding registration questions for existing generators.”³³

18. BP Wind Energy strongly supports the NOPR’s proposed approval of the revised Reliability Standards, asserting that the NOPR’s approach is “a tailored approach that addresses perceived generator interconnection reliability gap issues from a practical perspective without resulting in unnecessary increased costs and burdens on generator

³⁰ *Id.* P 24.

³¹ *Id.*

³² EPSA/ELCON Comments at 8.

³³ APPA Comments at 2.

owners and generator operators”³⁴ Likewise, ITC supports approval of each of the revised standards, and notes that “[a]pplying these standards to the facilities as the NOPR proposes will not only improve reliability, but will also level the playing field between transmission owners and owners of facilities which are similar in terms of operation and potential system impact.”³⁵

Commission Determination

19. We approve each of the four revised Reliability Standards as proposed by NERC, as discussed further below. We agree with NERC that the changes proposed for these four Reliability Standards will address the reliability gap for generator interconnection facilities for the majority of generator owners and generator operators. Closing these gaps is an important reliability benefit. We also confirm our understanding that additional Reliability Standards or individual requirements may need to be applied on a case-by-case basis to generator interconnection facilities in certain circumstances, but that for the majority of generator owners and operators, NERC will not pursue registration of generator owners and operators as transmission owners or transmission operators due solely to their ownership or operation of generator interconnection facilities.

³⁴ BP Wind Energy Comments at 5.

³⁵ ITC Comments at 5-6; *see also* CDWR Comments at 5 (supporting approval of the four modified Reliability Standards); PPL Comments at 3.

1. **Approval of Reliability Standard FAC-001-1**

NOPR Proposal

20. In the NOPR, the Commission proposed to approve changes to the existing FAC-001 Reliability Standard, which requires transmission owners to document, maintain, and publish facility connection requirements that comply with NERC, regional, and individual criteria for generation facilities, transmission facilities, and end-user facilities. The proposed modification would extend the standard's obligations to any generator owner that has executed an "[a]greement to evaluate the reliability impact of interconnecting a third party Facility to the Generator Owner's existing Facility . . . used to interconnect to the interconnected Transmission systems."³⁶ The Commission proposed to approve this modification, finding it would enhance reliability by extending obligations to develop and make available facility connection requirements as appropriate, i.e., in the relatively uncommon situation where an agreement stemming from an interconnection request has been executed.³⁷

³⁶ NOPR, 143 FERC ¶ 61,049 at P 9 (citing to NERC Petition at Ex. B (Proposed FAC-001-1, Requirement R1)). The NOPR noted NERC's characterization of the circumstances the modification was designed to address as being the "rare" circumstance where a generator owner is required by a regulatory body to interconnect a third party generator to its tie-line. While NERC recognized that the arrangement could result in the generator owner ultimately being registered as a transmission owner or operator, the modification to FAC-001-1 would provide "appropriate reliability coverage until any additional registration is required," while ensuring that "the standard does not impact any Generator Owner that never executes an [a]greement as described in the standard." *See id.* P 10.

³⁷ *Id.* P 19.

Comments

21. None of the commenters object to the revisions reflected in FAC-001-1. ITC explicitly supports the revision, asserting that the proposed changes are “critical to avoid any potential gap in reliability standards prior to a generator owner’s registration as a new functional entity.”³⁸ ITC further notes that the information required under Requirement R3.1 enhances ITC’s ability to maintain safe and reliable transmission service, and will be useful in its and other ISOs’/RTOs’ transmission planning processes as it will allow them to account for any third party interconnections and their impacts on the overall transmission system.

22. Similarly, AWEA supports the modifications reflected in FAC-001-1 due to its limited application to generator owners and operators that have executed an agreement to evaluate the impacts of interconnection, which AWEA argues is “appropriately balanced.”³⁹ However, AWEA expresses concern about the uncertainties as to when a generator owner must offer interconnection or transmission service to third parties, and therefore (1) asks NERC to ensure that FAC-001-1 is not applied to generators that are not required to accept interconnection requests; and (2) asks the Commission to clarify that the standard only applies when a generator is required to accept an interconnection request, and not merely upon receipt of such a request.

³⁸ ITC Comments at 6.

³⁹ AWEA Comments at 5.

Commission Determination

23. We approve proposed Reliability Standard FAC-001-1, as it will enhance reliability by expanding the obligation to develop and make available facility connection requirements to generators who have executed an agreement to interconnect with a third party, which will assist in the transmission planning process. With respect to AWEA's request for clarification, we do not believe the standard itself is unclear as to when it will apply to a generator owner or operator, but note that a mere request for interconnection would not immediately trigger the application of the standard to a generator owner or operator receiving such a request. Instead, FAC-001-1 would apply as soon as an agreement to evaluate the reliability impact of an interconnection is executed, whether the generator owner is required to do so by regulatory order or has entered into such an agreement without such a regulatory mandate.

2. Approval of Reliability Standard FAC-003-3

NOPR Proposal

24. In the NOPR, the Commission proposed to approve the modifications in Reliability Standard FAC-003-3, which would extend the FAC-003-2 vegetation management requirements to certain generator interconnection facilities, indicating that the proposal addresses a potential reliability gap in the currently-effective standard.

Comments

25. None of the commenters object to the approval of Reliability Standard FAC-003-3, and several commenters explicitly state their support for it. ITC states that the extension of the vegetation management standards to generator interconnection facilities

that meet the proposed criteria “will help avoid future vegetation-related events,” and notes that the types of generator interconnection facilities that will be subject to the vegetation management requirements under FAC-003-3 are “functionally similar to transmission facilities with respect to the significant impact that failure or misoperations of such tie line facilities could potentially have on the bulk electric system.”⁴⁰ AWEA supports the limitations on applicability reflected in the proposed standard as a “reasonable and balanced approach,” asserting that application of the vegetation management requirements of FAC-003-3 to all generator interconnection facilities would be excessive, especially for interconnection facilities of limited length, and points out that generator owners and operators have “every incentive” to maintain the facilities in order to deliver energy.⁴¹

Commission Determination

26. We approve Reliability Standard FAC-003-3. Consistent with the NOPR, we find that the modifications to FAC-003 address a potential reliability gap in the current set of Reliability Standards, since they do not include a requirement for generator owners to perform vegetation management on their tie-lines or to maintain minimum levels of clearance between vegetation and significant overhead generator interconnection facilities. Further, we conclude that the proposed limits on applicability reflected in FAC-003-3 are reasonable, as it is common for generator interconnection facilities of

⁴⁰ ITC Comments at 7.

⁴¹ AWEA Comments at 6.

relatively short span (i.e., less than one mile) to cross only areas with limited or no vegetation.⁴²

27. Further, we adopt our proposed guidance that the exemption for overhead lines with a clear line of sight from the generator to the point of interconnection should be “interpreted narrowly,” meaning there should be “no obstructions . . . that prevent personnel from identifying potential reliability hazards over the full length of the line.”⁴³

3. **Approval of Reliability Standards PRC-004-2.1a and PRC-005-1.1b**

NOPR Proposal

28. In the NOPR, the Commission proposed to approve the clarifying language NERC proposed for PRC-004 and PRC-005.

Comments

29. None of the commenters object to the changes to Reliability Standards PRC-004 and PRC-005, and several expressly support the changes. AWEA states that the proposed modifications provide greater certainty to generator owners and operators regarding their responsibilities under the standards.⁴⁴ Similarly, ITC believes the changes will avoid future misunderstandings as to rights and responsibilities.⁴⁵

⁴² See NOPR, 143 FERC ¶ 61,049 at P 20.

⁴³ *Id.*

⁴⁴ AWEA Comments at 6-7.

⁴⁵ ITC Comments at 7.

Commission Determination

30. We approve Reliability Standards PRC-004-2.1a and PRC-005-1.1b. We agree with NERC that the changes mitigate the possibility that entities could interpret the standards to exclude generator interconnection facilities.⁴⁶

B. Definition of Generator Interconnection Facility

NOPR Proposal

31. While proposing to approve the use of the term “generator interconnection facility” as proposed in the revised Reliability Standards, the Commission indicated in the NOPR that further clarification of that term may be warranted. The Commission stated its understanding of the term to refer to “generator interconnection tie-lines and their associated facilities extending from the secondary (high) side of a generator owner’s step-up transformer(s) to the point of interconnection with the host transmission owner.”⁴⁷ The Commission sought comment on its understanding of the term, as well as its understanding that a generator owner or operator’s compliance obligations with respect to the generator interconnection facilities extend to the point of interconnection with the host transmission owner.⁴⁸

Comments

32. NERC agrees with the Commission’s understanding of the term “generator interconnection facility” as well as its understanding of the extent of the generator owner

⁴⁶ See NOPR, 143 FERC ¶ 61,049 at P 21.

⁴⁷ *Id.* P 22 (footnotes omitted).

⁴⁸ *Id.*

or operator's obligations with respect to those facilities.⁴⁹ EPSA/ELCON also agree that the Commission's understanding of the term is consistent with that used during the standard development process (i.e., Project 2010-07), and with common industry practice and understanding.⁵⁰

33. However, a number of commenters argue that the Commission's understanding of the term generator interconnection facility requires further refinement or modification, and several of these commenters ask the Commission to adopt a formal definition of the term, either within the context of the relevant Reliability Standard or as a defined Glossary term. AWEA and E.ON Renewables ask the Commission to clarify that a generator owner/operator's compliance obligations extend only to the point where there is a change in ownership to another transmission owner, "whether those facilities are classified as interconnection, or transmission facilities."⁵¹ E.ON Renewables states that this proposed refinement will ensure that the obligations of the generator owner or operator extend only to the facilities it owns or operates, and is consistent with the concept of point of change of ownership as commonly reflected in generator interconnection agreements.⁵² BP Wind Energy argues for a similar clarification, but

⁴⁹ NERC Comments at 3-4.

⁵⁰ EPSA/ELCON Comments at 4.

⁵¹ AWEA Comments at 9; *see also* E.ON Renewables at 3 (proposing that the term as clarified should include facilities "to the point of interconnection where there is a change in ownership with the host transmission owner's interconnection or transmission facilities, as applicable").

⁵² E.ON Renewables Comments at 3-4.

asserts that the term as clarified should also be memorialized either in the NERC Glossary or in each relevant standard.⁵³

34. BPA also contends that the term “generator interconnection facility” should be formally defined, but seeks a more substantial modification to the Commission’s understanding of the term. BPA is concerned that in situations where the host transmission owner owns the tie-line and other interconnection facilities down to the high-side of the step-up transformer, the generator owner would not own a “generator interconnection facility” at all as the Commission would define the term.⁵⁴

35. Alameda raises a concern with respect to the Commission’s understanding of the term “generator interconnection facility,” asserting that it fails to address the situation where a generator interconnection facility is *not* owned by the generator owner or operator of the facility, but by a third party. Alameda suggests that the term should encompass generator interconnection tie-lines and associated facilities owned by entities *other* than the generator owner/operator of the relevant generating resource, and argues that these entities, like the generator owner or generator operator, should not be required to register as a transmission owner or operator solely because of its interconnection facilities.⁵⁵

⁵³ BP Wind Energy Comments at 10-11.

⁵⁴ BPA Comments at 3-4.

⁵⁵ Alameda Comments at 6.

36. NERC responds to the comments of AWEA and E.ON Renewables, *inter alia*, by asserting that their requested modification is unnecessary, since generator owners and operators are responsible only for the facilities they own or operate (or for which they volunteer to be responsible) under NERC's Reliability Standards framework.⁵⁶ In response to comments seeking adoption of a formal definition of the term "generator interconnection facility," NERC states that the standard drafting team considered and rejected that approach. NERC notes nonetheless that interested parties are free to initiate the development of a defined term pursuant to the procedures outlined in its standard processes manual.⁵⁷

Commission Determination

37. We affirm our understanding that the term "generator interconnection facility" refers to "generator interconnection tie-lines and their associated facilities extending from the secondary (high) side of a generator owner's step-up transformer(s) to the point of interconnection with the host transmission owner."⁵⁸ We are not persuaded by the commenters that further refinement of this understanding is warranted.

38. Further, we agree with NERC that a generator owner or operator would not have compliance obligations associated with facilities it does not own or operate (unless it

⁵⁶ NERC Reply Comments at 4-5.

⁵⁷ NERC Reply Comments at 5-6.

⁵⁸ NOPR, 143 FERC ¶ 61,049 at P 22 (footnotes omitted).

volunteers to undertake such obligations).⁵⁹ While we do not agree that a modification of the term is necessary to address AWEA and E.ON Renewables' concerns, we confirm that our intent is to ensure that a generator owner or operator's obligations with respect to generator interconnection facilities extend to the point of change of ownership from the generator owner/operator to the next interconnected registered entity, which may not occur at the point of interconnection between the tie-line as a whole and the larger, interconnected transmission grid.

39. Nor are we persuaded that BPA's suggested modification is necessary to cover a potential reliability gap. In the situation described by BPA, the Reliability Standards and requirements normally applicable to generator interconnection facilities would apply due to the owner's status as a registered transmission owner, and any facilities below the high side of the step-up transformer should be covered as part of the Reliability Standards and requirements generally applicable to generator owners and operators.

40. Finally, we reject Alameda's requested modification to the term "generator interconnection facility" in order to address the circumstance where a third entity owns or operates all or a portion of the interconnection facilities between the generating resource and the interconnected transmission system. In such cases, we agree that it *may* be more appropriate for the entity to be subject to the Reliability Standards applicable to generator owners and operators (including the four standards at issue here) rather than to the full panoply of standards applicable to transmission owners and operators, but we will not

⁵⁹ See NERC Reply Comments at 4-5.

make such a blanket finding here. Rather, NERC and the Regional Entities can consider the appropriate registry status for an entity in this position on a case-by-case basis. Further, any categorical change to applicability of specific Reliability Standards should be addressed in the Reliability Standards development process.

C. Individual Assessments

NOPR Proposal

41. In the NOPR, the Commission proposed to accept NERC's approach to the registration of generator owners and operators going forward, whereby most generator owners and operators would not, solely as a result of their interconnection facilities, be registered as transmission owners and operators, and would only be subject to the Reliability Standards and requirements applicable to generator owners and operators (including the four revised standards at issue in this proceeding). The Commission explicitly based its approval of this approach on its "understanding that additional Reliability Standards or individual requirements may need to be applied to generator interconnection facilities . . . based on 'individual assessments.'"⁶⁰ The Commission sought comment on several aspects of NERC's expectations for these individual assessments, as follows:

[W]e seek comment as to what circumstances could trigger such an individual assessment. We also seek comment on how NERC envisions the individual assessments will be performed as part of the transmission planning and operating studies NERC mentions in the Petition, when the individual assessments will occur, what percentage of generator

⁶⁰ NOPR, 143 FERC ¶ 61,049 at P 24.

interconnection facilities are “complex” and thereby likely to trigger such an individual assessment (including the number of existing generator interconnection facilities that will be required to adhere to additional transmission owner or transmission operator Reliability Standards), and how the results of the individual assessments will be coordinated among the interested parties.⁶¹

Comments

42. NERC comments that “several events” could trigger an individual assessment, including: (1) NERC gaining new information, for example, from NERC’s analysis of an event or off-normal occurrence on the system, which NERC would pursue through development of a new or revised standard if of a general nature; (2) NERC gaining additional information specific to an individual generator owner or operator, which might lead NERC and the Regional Entity to pursue additional registration; and (3) through review of an element as part of the bulk electric system definition exception process.⁶² NERC adds that “the existing processes and roles and responsibilities of NERC and the regions should ensure that ‘complex’ generator interconnection facilities will be identified and appropriately addressed on a case-specific basis.”⁶³

43. With respect to the prevalence of such individual assessments going forward, NERC states that it “expects that widespread registration of Generator Owner or Generator Operators as Transmission Owners and Transmission Operators should not be

⁶¹ *Id.*

⁶² NERC Comments at 5-6. PPL concurs with NERC’s identified triggering events, and supports NERC’s proposed approach for individual assessments. PPL Comments at 4-5.

⁶³ NERC Comments at 6.

necessary in the future.”⁶⁴ NERC further states that, with the approval of the four modified Reliability Standards, it “believes it has addressed the reliability concerns that caused NERC to pursue registration of certain Generator Owners and Generator Operators as Transmission Owners and Transmission Operators (thereby subjecting them to some additional Requirements).”⁶⁵

44. EPSC/ELCON agrees with NERC’s general approach, i.e., identification of the set of standards and requirements that need to be applied to generator owners and operators in general to close any reliability gap, with the expectation that “only a limited narrow subset of generators could potentially be ‘complex’ and thereby subject to further assessment for either application of limited TO or TOP Reliability Standards and specific limited requirements therein.”⁶⁶ To the extent that individual circumstances warrant additional registration as a transmission owner or transmission operator, EPSC/ELCON argues for development of a specific process for that assessment, which should be used only as a last resort. EPSC/ELCON argues for the development of a process, utilizing industry input and modeled after the bulk electric system exception process, which will allow independent assessment of the perceived reliability gap by a technical review panel. Dominion and APPA support EPSC/ELCON’s proposed approach in developing a

⁶⁴ *Id.* at 5.

⁶⁵ *Id.* at 6-7.

⁶⁶ EPSC/ELCON Comments at 5.

process required for individual assessment,⁶⁷ although Dominion adds that the process “should involve an assessment by the entity’s Balancing Authority, Reliability Coordinator, Transmission Operator, and Transmission Provider.”⁶⁸

45. E.ON Renewables comments that NERC’s description of the circumstances that might trigger an individual assessment is vague.⁶⁹ E.ON Renewables and AWEA argue that NERC should be required to identify the specific criteria to be used to establish a facility as “complex,” with examples and an explanation of the reliability gap associated with that example, as well an explanation of how assessments will be performed. E.ON Renewables argues that these criteria and processes should be identified on the record in this or another proceeding, and be subject to industry comment. Finally, E.ON Renewables asks the Commission to find, in this proceeding, that (1) generator interconnection facilities that connect to the transmission system at a single point of interconnection are not “complex,” and (2) the only additional requirements that can be applied to the owner or operator of “complex” generator interconnection facilities are those needed to close the identified reliability gap, rather than “classification as a TO or TOP and the attendant registry and compliance associated with a TO and TOP.”⁷⁰

⁶⁷ Dominion Comments at 3; APPA Comments at 2-3 (commenting that “it is difficult to identify in advance the factors and considerations that may come into play as part of a specific complex generator interconnection”).

⁶⁸ Dominion Comments at 3-4.

⁶⁹ E.ON Renewables Comments at 4.

⁷⁰ *Id.* at 5-6. *See also* AWEA Comments at 7-8.

46. BP Wind Energy makes similar arguments regarding the need for the establishment of “clear and defined parameters regarding individual assessments, set forth either in the NERC registry or other Commission-approved rule, procedure or document.”⁷¹ BP Wind Energy asserts that generator owners and operators should be involved in the development of the parameters and process.

47. TDU Systems states it does not object to individual assessment of “truly complex generator interconnection facilities,” but argues that such assessments must be narrowly tailored to ensure that the vast majority of generator owners and operators are not subject to such an assessment.⁷² Despite TDU Systems’ recognition that individual assessments may be warranted in some cases, it asks the Commission to “confirm” that an entity owning or operating generator interconnection facilities and no other transmission facilities need not be registered as a transmission owner or transmission operator going forward (i.e., after approval of the four Reliability Standards at issue in this proceeding).⁷³

48. In its Response, NERC states that a process for conducting individual assessments is unnecessary at this time because there are existing mechanisms under the NERC Rules

⁷¹ BP Wind Energy Comments at 8.

⁷² TDU Systems at 6-7.

⁷³ *Id.* at 4-5.

of Procedure to deal with any registration changes that may be warranted.⁷⁴ Accordingly, NERC further maintains that the development of such a process is premature.⁷⁵

49. In responding to the requests for further clarification or “confirmation” that generator owners and operators will not be subject to registration as a transmission owner or operator based solely on their interconnection facilities, NERC reiterates that it “will generally no longer pursue registration of Generator Owners and Generator Operators as Transmission Owners and Transmission Operators.”⁷⁶ However, NERC asserts that it “cannot *guarantee* that it will never be necessary to register a Generator Owner or Generator Operator as a Transmission Owner or Transmission Operator as such a statement would be inconsistent with NERC’s obligations as the Electric Reliability Organization.”⁷⁷

Commission Determination

50. We find NERC’s proposed approach to determining whether an individual assessment, or whether additional Reliability Standards need to be more broadly applied, to be reasonable. Given NERC’s expectation that “the number of such facilities is low,” it seems unnecessary at this time to require a new process tailored to such individual

⁷⁴ NERC Response at 2-3.

⁷⁵ NERC notes that it will be reviewing its registration process in 2014. NERC Response at 3 & n.7.

⁷⁶ *Id.* at 3 (quoting NERC Comments at 7).

⁷⁷ *Id.*

assessments.⁷⁸ Should greater transparency and consistency across the regions become necessary, there are existing mechanisms under the NERC Rules of Procedure to deal with any changes to the registration criteria that may be warranted.⁷⁹

51. We reject E.ON Renewable's request for a finding that generator interconnection facilities that connect to the transmission system at a single point of interconnection are categorically not "complex." We believe it is inappropriate to make a blanket finding as to any specific configuration, and note that we upheld NERC's registration of Harquahala as a transmission owner although the generator interconnection facilities in that case connected to the transmission system at a single point.

52. We also reject TDU Systems' and other commenters' request to "clarify" that generator owners and operators will no longer be asked to register as transmission owners or operators under any circumstances. Quite the contrary, as we stated in the NOPR, our proposed approval of the revised Reliability Standards was "based on the understanding that additional Reliability Standards or individual requirements may need to be applied to the generator interconnection facilities . . . based on 'individual assessments.'"⁸⁰ We leave open the possibility that in some cases, the interconnection facilities may be so extensive that the entity should not only be registered as a transmission owner or operator, but should be subject to all of the Reliability Standards and requirements

⁷⁸ NERC Comments at 6.

⁷⁹ See NERC Rules of Procedure §§ 500 and 1400; *see also* NERC Response at 3.

⁸⁰ NOPR, 143 FERC ¶ 61,049 at P 24.

applicable to such an entity. In other cases, it may be appropriate to waive a significant portion of the standards or requirements generally applicable to transmission owners and operators, even if the entity is technically registered as a transmission owner or operator.

53. However, consistent with our prior decisions in *Harquahala* and *Cedar Creek*, we clarify that for the anticipated small number of generator owners and operators owning facilities deemed to be “complex” and therefore potentially subject to additional Reliability Standards, NERC should evaluate, in consultation with the Regional Entity, which Reliability Standards should apply to the particular entity based on the specific facts and circumstances. We further clarify that the generator owner or operator should only be obligated to comply with those Reliability Standards and requirements necessary to close the identified reliability gap.⁸¹ To the extent that disputes remain about the appropriate application of Reliability Standards and requirements, we note that generator owners and operators continue to have the right to bring any such dispute to the Commission.

D. Impact on Current Registrations and Registration Process
NOPR Proposal

54. In the NOPR, the Commission noted NERC’s position that acceptance of its proposed revisions would “not have the effect of de-registering any entity from the

⁸¹ See NERC Comments at 6.

NERC Compliance Registry.”⁸² The Commission also recognized that the Petition was not intended to overturn any previous orders, citing to *Cedar Creek* and *Harquahala*.⁸³

Comments

55. TDU Systems asks for clarification regarding the process by which entities currently registered as a transmission owner or operator may seek de-registration.⁸⁴ In particular, TDU Systems seeks clarification that a request for de-registration under NERC’s Rules of Procedure will not be treated as an appeal of an existing registration listing, i.e., it will not be subject to the 21 day deadline for filing an appeal from an initial registration decision. In the alternative, TDU Systems asks the Commission to direct NERC to explain the process that should be used for de-registration of an entity currently registered as a transmission owner or operator. BP Wind Energy also seeks clarification that entities are free to seek a change in their registry status as a transmission owner or operator, or to modify the requirements with which they are required to comply.⁸⁵

56. In its response, NERC reiterates that this proceeding will not have the effect of de-registering any entity from the NERC Compliance Registry, and states that any changes to registration will be governed by its Rules of Procedure.⁸⁶

⁸² NOPR, 143 FERC ¶ 61,049 at P 17.

⁸³ *Id.* n.37.

⁸⁴ TDU Systems at 5-6.

⁸⁵ BP Wind Energy Comments at 9-10.

⁸⁶ NERC Response at 2-3.

Commission Determination

57. We confirm that this final rule does not have the effect of de-registering any entity from the NERC Compliance Registry. However, we grant the requested clarification that this order does not alter an entity's right to seek a change in its registration status under NERC's Rules of Procedure.

III. Information Collection Statement

58. The Office of Management and Budget (OMB) regulations require that OMB approve certain reporting and recordkeeping requirements (collections of information) imposed by an agency.⁸⁷ Upon approval of a collection of information, OMB will assign an OMB control number and expiration date. Respondents subject to the filing or recordkeeping requirements of this rule will not be penalized for failing to respond to these collections of information unless the collections of information display a valid OMB control number.

59. The Commission is submitting these reporting and recordkeeping requirements to OMB for its review and approval under section 3507(d) of the Paperwork Reduction Act (PRA). The Commission solicited comments on the need for this information, whether the information will have practical utility, the accuracy of the provided burden estimate, ways to enhance the quality, utility, and clarity of the information to be collected, and any suggested methods for minimizing the respondent's burden, including the use of

⁸⁷ 5 CFR 1320.11 (2013).

automated information techniques. The Commission did not receive any comments on the reporting burden estimate.

60. This Final Rule approves Reliability Standards FAC-001-1, FAC-003-3, PRC-004-2.1a, and PRC-005-1.1b, which would replace currently effective Reliability Standards FAC-001-0, FAC-003-1,⁸⁸ PRC-004-2a, and PRC-005-1b. The modifications included in PRC-004-2.1a and PRC-005-1.1b are clarifications of existing requirements, do not extend those existing requirements to any new entity or to additional facilities, and do not affect the existing burden related to those standards.⁸⁹

61. The modifications reflected in FAC-001-1 extend the obligation to document, maintain, and publish interconnection requirements to any generator owner that has an executed agreement with a third party to evaluate the reliability impact of a requested or required interconnection. NERC states, and we agree, that the number of affected generator owners is likely to be extremely small.⁹⁰ Moreover, it is likely that any increase in an entity's recordkeeping and reporting requirements would occur through a change in that entity's NERC registration status in any case, i.e., NERC would likely be

⁸⁸ As of the date of issuance of this Final Rule, the currently effective standard is FAC-003-1. While a revised version of that standard, FAC-003-2, was approved in Docket No. RM12-4-000, it has yet to go into effect.

The information collection requirements of Reliability Standard FAC-003-2 were approved by the OMB on May 29, 2013, under FERC-725A (OMB Control No. 1902-0244).

⁸⁹ The information collection requirements and related burden (both unchanged in this Final Rule) of Reliability Standards PRC-004-2a and PRC-005-1b are covered under FERC-725A(OMB Control No. 1902-0244).

⁹⁰ See NERC Petition at 20.

considering registration of the entity as a transmission owner, with the corresponding responsibilities. Accordingly, the Commission views the potential increase in recordkeeping and reporting burden from revised standard FAC-001-1 as minimal, but has provided an estimate of that burden in the table set out below.

62. The modifications reflected in FAC-003-3 extend NERC's vegetation management requirements to certain generator interconnection facilities, including requirements to create and maintain records related to the generator owner's vegetation management work plan and performance of inspections. Generator owners typically already maintain the vegetation surrounding the right-of-way for the generator interconnection facility that connects the generating station switchyard to the point of interconnection with a transmission owner's facility. However, the proposed requirements outlined in FAC-003-3 may exceed a generator owner's current vegetation management program, particularly with respect to recordkeeping and reporting.

63. Public Reporting Burden: The burden and cost estimates below are based on the increase in the reporting and recordkeeping burden imposed by the proposed Reliability Standards. Our estimate of the number of respondents affected is based on the NERC Compliance Registry as of July 30, 2013. According to the Compliance Registry, NERC has registered 881 generator owners within the United States, and we estimate that approximately 10 percent (or 88) of these generator owners have interconnection facilities that meet the proposed requirements for applicability of the new standard (i.e., having overhead lines that are greater than 200 kV or are part of an IROL or WECC

Transfer Path, and that are either longer than one mile or without a clear sightline to the point of interconnection with the host transmission system).

64. The burden estimates reflect the changes in the standards and the number of affected entities (e.g., the generator owner's one-time burden to develop, or review and modify, an existing vegetation management program, and the on-going, relatively minor burden of preparing quarterly reports of relevant outages). Estimates for the proposed additional burden imposed by the Final Rule in RM12-16 follow.⁹¹

FERC-725M	Number of Respondents⁹² (1)	Number of Responses per Respondent (2)	Average Burden Hours Per Response (3)	Total Annual Burden Hours (1)x(2)x(3)	Total Annual Cost⁹³
FAC-003-3 (Transmission Vegetation Management)					

⁹¹ The NOPR used the identifier FERC-725A (OMB Control No. 1902-0244). However, for administrative purposes and to submit the information collection requirements to OMB timely, the requirements were labeled FERC-725M (OMB Control No. 1902-0263) in the submittal to OMB associated with the NOPR. We are using FERC-725M in this Final Rule and in the associated submittal to OMB.

⁹² GO = Generator Owner; RE = Regional Entity. The respondents are generator owners, unless otherwise indicated.

⁹³ The estimates for cost per hour are derived as follows:

- \$52/hour, the average of the salary plus benefits for an engineer and a forester, from Bureau of Labor and Statistics at http://bls.gov/oes/current/naics3_221000.htm
- \$70/hour, the average of the salary plus benefits for a manager and an engineer, from Bureau of Labor and Statistics at http://bls.gov/oes/current/naics3_221000.htm
- \$28/hour, based on a Commission staff study of record retention burden cost.

Strategies, documentation, processes, & procedures (M3)	88	1	32	2,816 (one-time)	\$146,432 one-time [@\$52/hr.]
Quarterly Reporting (Compliance 1.4)	96 ⁹⁴	4	0.25	96	\$6,720 [@\$70/hr.]
Annual Veg. Inspect. Doc. (M6); annual veg. work plan (M7); evidence of mgt. of veg. (M1 & M2), confirmed veg. condition (M4) & corrective action (M5)	88	1	2	176	\$12,320 [@\$70/hr.]
Record Retention (Compliance 1.2)	88	1	1	88	\$2,464 [@\$28/hr.]
FAC-001-1 (Facility Connection Requirements)					
Facility connection reqs. (R2, R3, M2, & M3)	5	1	16	80 (one-time)	\$5,600 (one-time) [@\$70/hr.]
Record Retention ⁹⁵	5	1	1	5	\$140 [@\$28/hr.]
Total in First Year				3,261	\$173,676

⁹⁴ Number of respondents includes 88 generator owners, who may be subject to the recordkeeping and reporting burdens of FAC-003 for the first time, and 8 Regional Entities, who may have a slight increase in recordkeeping and reporting requirements due to the increase in entities covered by the vegetation management standard.

⁹⁵ Regional Entities may have a de minimis increase in burden due to the increase in the number of entities potentially subject to the revised standard; that burden has been rolled into the estimated Average Burden Hours per Response.

Title: Mandatory Reliability Standards for the Bulk-Power System

Action: Proposed revisions to FERC-725M

OMB Control No.: 1902-0263

Respondents: Businesses or other for-profit institutions; not-for-profit institutions.

Frequency of Responses: One-time, annual, and quarterly.

Necessity of the Information: The revisions to the four Reliability Standards noted above are part of the implementation of the Congressional mandate of the Energy Policy Act of 2005, to develop mandatory and enforceable Reliability Standards to better ensure the reliability of the nation's Bulk-Power System.

Internal Review: The Commission has reviewed the revisions to the four Reliability Standards and made a determination that its action is necessary to implement section 215 of the FPA. The Commission has assured itself, by means of its internal review, that there is specific, objective support for the burden estimate associated with the information requirements.

65. Interested persons may obtain information on the reporting requirements by contacting the following: Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426 [Attention: Ellen Brown, Office of the Executive Director, e-mail: DataClearance@ferc.gov, phone: (202) 502-8663, fax: (202) 273-0873].

66. For submitting comments concerning the collection of information and the associated burden estimates, please send your comments to the Commission, and to the Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, DC 20503 [Attention: Desk Officer for the Federal Energy Regulatory

Commission, phone: (202) 395-4718, fax: (202) 395-7285]. For security reasons, comments to OMB should be submitted by e-mail to: oir_submission@omb.eop.gov. Comments submitted to OMB should include Docket Number RM12-16, FERC-725M and OMB Control Number 1902-0263.

IV. Regulatory Flexibility Act Certification

67. The Regulatory Flexibility Act of 1980 (RFA)⁹⁶ generally requires a description and analysis of proposed rules that will have significant economic impact on a substantial number of small entities. The RFA mandates consideration of regulatory alternatives that accomplish the stated objectives of a proposed rule and that minimize any significant economic impact on a substantial number of small entities. The Small Business Administration's (SBA's) Office of Size Standards develops the numerical definition of a small business.⁹⁷ The SBA has established a size standard for electric utilities, stating that a firm is small if, including its affiliates, it is primarily engaged in the transmission, generation and/or distribution of electric energy for sale and its total electric output for the preceding twelve months did not exceed four million megawatt hours.⁹⁸

68. Reliability Standards FAC-001-1, FAC-003-3, PRC-004-2.1a, and PRC-005-1.1b will help to ensure that generator interconnection facilities are properly maintained and operated. The number of small business entities affected is expected to be small, because FAC-001-1 will apply only to the small subset of generator owners that have executed an

⁹⁶ 5 U.S.C. 601-612 (2006).

⁹⁷ 13 CFR 121.101 (2013).

⁹⁸ 13 CFR 121.201, Sector 22, Utilities & n.1.

agreement to interconnect with a third party, and FAC-003-3 will only affect generator owners with overhead transmission lines that: (1) are operated at 200 kV or higher, or, are elements of an IROL or of a Major WECC Transfer Path, and (2) are longer than one mile or lacking in clear sightlines to the point of interconnection with the host transmission system.⁹⁹ Comparison of the NERC Compliance Registry with data submitted to the Energy Information Administration on Form EIA-861 indicates that, of the 881 generator owners in the United States registered by NERC, 49 qualify as small businesses.¹⁰⁰ Of these, only five entities (about ten percent of the small entities) are expected to have qualifying interconnection facilities.

69. For the number of small generator owners that do have applicable facilities, the primary cost increase is expected to be in documentation, recordkeeping, and reporting burdens as discussed above. In addition, we estimate that for each of the estimated five small generator owners there will be an additional cost for the two hours to perform the annual inspection of the lines (at \$47.00 per hour,¹⁰¹ or an additional \$94.00 per owner annually). Therefore, the estimated cost in the first year for the increased data collection and retention for these entities is approximately \$3,144.00 per entity (\$3,050.00 for the

⁹⁹ Some of the standards may also affect Regional Entities; however, they do not qualify as small entities.

¹⁰⁰ See NERC Compliance Registry as of July 30, 2013; U.S. Energy Information Administration Form EIA-861 – Annual Electric Power Industry Report, Preliminary Data for 2012 (released August 15, 2013).

¹⁰¹ This wage figure is taken from the Bureau of Labor and Statistics at <http://bls.gov/oes/current/naics3.221000.htm>.

one-time and recurring reporting and record retention requirements from the table above plus \$94.00 for the annual inspection of the line). In subsequent years, after completion of the one-time recordkeeping or reporting requirements, the cost will be reduced. Based on the above, the Commission does not consider the costs associated with NERC's revisions to the four Reliability Standards to constitute a significant economic impact for small entities, because it should not represent a significant percentage of an affected small entity's operating budget. Accordingly, the Commission certifies that the revised requirements set forth in the four Reliability Standards will not have a significant economic impact on a substantial number of small entities, and no regulatory flexibility analysis is required.

V. Environmental Analysis

70. The Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any action that may have a significant adverse effect on the human environment.¹⁰² The Commission has categorically excluded certain actions from this requirement as not having a significant effect on the human environment. Included in the exclusion are rules that are clarifying, corrective, or procedural or that do not substantially change the effect of the regulations being amended.¹⁰³ The actions proposed here fall within this categorical exclusion in the Commission's regulations.

¹⁰² *Regulations Implementing the National Environmental Policy Act of 1969*, Order No. 486, FERC Stats. & Regs., Regulations Preambles 1986-1990 ¶ 30,783 (1987).

¹⁰³ 18 CFR 380.4(a)(2)(ii).

VI. Document Availability

71. 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 the Commission's Home Page (<http://www.ferc.gov>) and in the Commission's Public Reference Room during normal business hours (8:30 a.m. to 5:00 p.m. Eastern time) at 888 First Street, NE, Room 2A, Washington, DC 20426.

72. From the Commission's Home Page on the Internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

73. User assistance is available for eLibrary and the Commission's website during normal business hours from the Commission's Online Support at 202-502-6652 (toll free at 1-866-208-3676) or email at ferconlinesupport@ferc.gov, or the Public Reference Room at (202) 502-8371, TTY (202) 502-8659. E-mail the Public Reference Room at public.referenceroom@ferc.gov.

VII. Effective Date and Congressional Notification

74. These regulations are effective **[Insert Date 60 Days after publication in the Federal Register.]** The Commission has determined, with the concurrence of the Administrator of the Office of Information and Regulatory Affairs of OMB, that this rule is not a "major rule" as defined in section 351 of the Small Business Regulatory

Enforcement Fairness Act of 1996. The Commission will submit this Final Rule to both houses of Congress and the Government Accountability Office.

By direction of the Commission.

Nathaniel J. Davis, Sr.,
Deputy Secretary.

Note: The Appendix will not appear in the *Code of Federal Regulations*.

Appendix

Commenters

American Public Power Association (APPA)

American Wind Energy Association (AWEA)

Bonneville Power Administration (BPA)

BP Wind Energy North America, Inc. (BP Wind Energy)

City of Alameda, California (Alameda)

California Department of Water Resources State Water Project (CDWR)

Dominion Resources Services, Inc. (Dominion)

Electric Power Supply Association and Electricity Consumers Resource Council (EPSA/ELCON)

E.ON Climate & Renewables North America, LLC (E.ON Renewables)

International Transmission Company d/b/a ITC Transmission, Michigan Electric Transmission Company, LLC, ITC Midwest LLC and ITC Great Plains LLC (ITC)

Louisville Gas and Electric Company, Kentucky Utilities Corporation, Lower Mount Bethel Energy, LLC, PPL Brunner Island, LLC, PPL Electric Utilities Corporation, PPL EnergyPlus, LLC, PPL Holtwood, LLC, PPL Ironwood, LLC, PPL Martins Creek, LLC, PPL Montana, LLC, PPL Montour, LLC, and PPL Susquehanna, LLC (PPL)

North American Electric Reliability Corporation (NERC)

Transmission Dependent Utility Systems (TDU Systems)

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