

142 FERC ¶ 61,210
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

18 CFR Part 40

[Docket No. RM12-19-000]

Revisions to Modeling, Data, and Analysis Reliability Standard

(Issued March 21, 2013)

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: Under section 215 of the Federal Power Act (FPA), the Federal Energy Regulatory Commission (Commission) proposes to approve Reliability Standard MOD-028-2, submitted to the Commission for approval by the North American Electric Reliability Corporation (NERC), the Commission-certified Electric Reliability Organization. NERC proposes one modification to the currently-effective Reliability Standard MOD-028-1, pertaining to the information a transmission service provider must include when calculating Total Transfer Capability using the area interchange methodology for the on-peak and off-peak intra-day and next day time periods. The Commission also proposes to approve NERC's proposed implementation plan and retirement of the currently-effective standard.

DATES: Comments are due **[insert date 45 days after publication in the FEDERAL REGISTER]**.

ADDRESSES: You may submit comments, identified by docket number by any of the following methods:

- Agency Web Site: <http://ferc.gov>. Documents created electronically using word processing software should be filed in native applications or print-to-PDF format and not in a scanned format.
- Mail/Hand Delivery: Those unable to file electronically may mail or hand-deliver comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street, NE, Washington, DC 20426.

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SUPPLEMENTARY INFORMATION:

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Revisions to Modeling, Data, and Analysis Reliability
Standard

Docket No. RM12-19-000

NOTICE OF PROPOSED RULEMAKING

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NOTICE OF PROPOSED RULEMAKING

(Issued March 21, 2013)

1. Pursuant to section 215 of the Federal Power Act (FPA),¹ the Commission proposes to approve Modeling, Data, and Analysis (MOD) Reliability Standard MOD-028-2, submitted to the Commission for approval by the North American Electric Reliability Corporation (NERC), the Commission-certified Electric Reliability Organization (ERO). NERC proposes one modification to the currently-effective Reliability Standard MOD-028-1, pertaining to the information a transmission service provider² must include when calculating Total Transfer Capability (TTC) using the area

¹ 16 U.S.C. 824o (2006).

² NERC defines “transmission service provider” as “[t]he entity that administers the transmission tariff and provides Transmission Service to Transmission Customers under applicable transmission service agreements.” NERC, *Glossary of Terms Used in NERC Reliability Standards* 64 (2011), http://www.nerc.com/files/Glossary_of_Terms.pdf. We also use the term “transmission operator” in this proposed rulemaking, which is defined by NERC as “[t]he entity responsible for the reliability of its ‘local’ transmission system, and that operates or directs the operations of the transmission facilities.” *Id.* These terms indicate distinct NERC functional entities, to which different requirements within the same Reliability Standard may apply. Accordingly, in the context of describing the requirement of a Reliability Standard, we necessarily use either or both terms when appropriate.

interchange methodology for the on-peak and off-peak intra-day and next day time periods. The Commission also proposes to approve NERC's proposed implementation plan and retirement of the currently-effective standard.

I. Background

2. Section 215 of the FPA requires a Commission-certified ERO to develop mandatory and enforceable Reliability Standards, subject to Commission review and approval. Specifically, the Commission may approve, by rule or order, a proposed Reliability Standard or modification to a Reliability Standard if it determines that the Standard is just, reasonable, not unduly discriminatory or preferential, and in the public interest.³ Once approved, the Reliability Standards may be enforced by the ERO, subject to Commission oversight, or by the Commission independently.⁴ Pursuant to section 215 of the FPA, the Commission established a process to select and certify an ERO,⁵ and subsequently certified NERC.⁶

3. In March 2007, the Commission issued Order No. 693, evaluating 107 Reliability Standards, including 23 MOD standards pertaining to methodologies for calculating

³ 16 U.S.C. 824o(d)(2).

⁴ *Id.* 824o(e)(3).

⁵ *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).

⁶ *North American Electric Reliability Corp.*, 116 FERC ¶ 61,062, *order on reh'g & compliance*, 117 FERC ¶ 61,126 (2006), *aff'd sub nom. Alcoa, Inc. v. FERC*, 564 F.3d 1342 (D.C. Cir. 2009).

Available Transfer Capability (ATC) and Available Flowgate Capability (AFC).⁷ The Commission approved one out of the 23 MOD standards unconditionally, approved nine with direction for modification and left the remaining 13 pending with direction for modification.⁸

4. On November 24, 2009, the Commission issued Order No. 729,⁹ which approved Available Transmission System Capability Reliability Standard MOD-001-1 as part of a set of Reliability Standards that pertain to methodologies for the consistent and transparent calculation of ATC and AFC. These Reliability Standards were designed to ensure, among other things, that transmission service providers maintain awareness of available system capability and future flows on their own systems, as well as those of their neighbors, and to reduce transmission service provider discretion and enhance

⁷ *Mandatory Reliability Standards for the Bulk-Power System*, Order No. 693, FERC Stats. & Regs. ¶ 31,242 at P 1046, *order on reh'g*, Order No. 693-A, 120 FERC ¶ 61,053 (2007). *See also Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, FERC Stats. & Regs. ¶ 31,241, *order on reh'g*, Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 (2007), *order on reh'g*, Order No. 890-B, 123 FERC ¶ 61,299 (2008), *order on reh'g*, Order No. 890-C, 126 FERC ¶ 61,228 (2009), *order of clarification*, Order No. 890-D, 129 FERC ¶ 61,129 (2009) (directing public utilities to develop Reliability Standards and business practices to improve the consistency and transparency of ATC calculations).

⁸ Order No. 693, FERC Stats. & Regs. ¶ 31,242 at P 1010.

⁹ *Mandatory Reliability Standards for the Calculation of Available Transfer Capability, Capacity Benefit Margins, Transmission Reliability Margins, Total Transfer Capability, and Existing Transmission Commitments and Mandatory Reliability Standards for the Bulk Power System*, Order No. 729, 129 FERC ¶ 61,155 (2009), *order on clarification*, Order No. 729-A, 131 FERC ¶ 61,109, *order on reh'g and reconsideration*, Order No. 729-B, 132 FERC ¶ 61,027 (2010).

transparency in the calculation of ATC.¹⁰ Requirement R1 of MOD-001-1 required a transmission operator to select one of three methodologies for calculation of ATC or AFC for each available ATC path for each time frame (hourly, daily or monthly). NERC developed these three methodologies as detailed in Reliability Standards MOD-028-1 (the area interchange methodology), MOD-029-1a (the rated system path methodology), and MOD-030-2 (the flowgate methodology).¹¹

5. The MOD Reliability Standards related to this discussion require certain users, owners, and operators of the bulk power system to develop consistent and transparent methodologies for the calculation of ATC or AFC.¹² Three currently-effective Reliability Standards – MOD-028-1, MOD-029-1a, and MOD-030-2 – address three different methodologies for calculating ATC or AFC.¹³ MOD-028-1, which describes the area interchange methodology for determining ATC, only applies to those transmission operators and transmission service providers that elect to implement this particular methodology as part of their reliability compliance with Reliability Standard MOD-001-1. MOD-001-1 requires transmission service providers to “[adhere] to a specific documented and transparent methodology” and “to select one of three methodologies for

¹⁰ Order No. 729, 129 FERC ¶ 61,155 at PP 87-89.

¹¹ *Id.* P 51.

¹² *Id.* P 1.

¹³ *Id.* P 51.

calculating [ATC] or [AFC] for each available transfer capability path for each time frame (hourly, daily or monthly) for the facilities in its area.”¹⁴

6. Requirement R3.1 of MOD-028-1 details the information a transmission operator must include in its TTC determination under the area interchange methodology for the on-peak and off-peak intra-day and next day time periods, as well as future days two through 31 and for months two through 13.¹⁵

II. NERC Petition

7. On August 24, 2012, NERC submitted a Petition for Approval of Proposed Reliability Standard (Petition), seeking Commission approval of a proposed Reliability Standard, MOD-028-2, Area Interchange Methodology, Requirement R3.1, which would revise the currently effective “Version 1” standard – MOD-028-1.

8. NERC states that Florida Power & Light Company (FPL) requested that NERC interpret MOD-028-1, Requirement R3.1. Specifically, FPL requested that NERC clarify whether Requirement R3.1, which instructs transmission operators to include data “[f]or on peak and off peak intra-day and next day TTCs,” actually requires transmission operators to provide separate TTC numbers for different portions of the current day. NERC explains that, upon reviewing FPL’s request for interpretation, the NERC Standards Committee determined that providing this clarification might require a

¹⁴ *Id.* P 19.

¹⁵ *Id.* P 57 (stating that this information includes: expected generation and transmission outages, additions, and retirements; load forecasts; and unit commitment and dispatch order).

modification to the standard.¹⁶ In its Petition, NERC asserts that it intended the language of MOD-028-1 to specify that, for TTC used in current-day and next-day ATC calculations, the load forecast used should be consistent with the period being calculated. Specifically, NERC states:

Requirement R3 of the MOD-028-1 standard is proposed to be modified to clarify language regarding load forecasting, to indicate that for days two through 31, a daily load forecast is required (identical to the current standard); for months two through 13, a monthly load forecast is required (identical to the current standard); and for current-day and next-day, entities may use *either* a daily or hourly load forecast (the language being clarified). The new language clarifies and is consistent with the intent of the original requirement language, and does not materially change the standard.¹⁷

9. NERC thus proposes Reliability Standard MOD-028-2, which revises MOD-028-1 as follows:

R3. When calculating TTCs for ATC Paths, the Transmission Operator shall include the following data for the Transmission Service Provider's area ...

R3.1. ~~For on peak and off peak intra day and next day~~For TTCs, use the following (as well as any other values and additional parameters as specified in the ATCID).

R3.1.1. Expected generation and Transmission outages, additions, and retirements, included as specified in the ATCID.

R.3.1.2. A daily or hourly load forecast for the applicable period being calculatedTTCs used in current-day and next-day ATC calculations.

¹⁶ Petition, Exhibit E (Record of Development of Proposed Reliability Standard).

¹⁷ Petition at 7 (emphasis added).

R.3.1.3. A daily load forecast for TTCs used in ATC calculations for days two through 31.

~~R.3.1.2.~~R3.1.4. A monthly load forecast for TTCs used in ATC calculations for months two through 13 months TTCs.

III. Discussion

10. Pursuant to section 215(d) of the FPA, we propose to approve NERC's proposed Reliability Standard MOD-028-2, as just, reasonable, not unduly discriminatory or preferential and in the public interest. We agree with NERC that the proposed Reliability Standard clarifies the existing provision and does not present any reliability concerns.

11. However, we have identified a concern regarding possible market implications of NERC's proposed modification to Requirement R3.1 of MOD-028-2. Although NERC's statutory functions are properly focused on the reliability of the Bulk-Power System, the Commission has determined that the ERO should also attempt to develop Reliability Standards that have no undue negative effect on competition. In Order No. 729, the Commission stated "that a proposed Reliability Standard should not unreasonably restrict [ATC] ... beyond any restriction necessary for reliability."¹⁸ The Commission noted that a transmission service provider could use parameters and assumptions to skew its ATC values, but stated that it expected such risks to be mitigated through complaints and the Commission's market oversight authority.¹⁹ In Order No. 672, the Commission stated

¹⁸ Order No. 729, 129 FERC ¶ 61,155 at P 109.

¹⁹ *Id.* P 135.

that, “[a]mong other possible considerations, a proposed Reliability Standard should not unreasonably restrict [ATC] ... beyond any restriction necessary for reliability and should not limit use ... in an unduly preferential manner.”²⁰

12. Although section 215(d)(2) of the FPA requires the Commission to give “due weight” to the technical expertise of the ERO, the statute is clear that “due weight” is not to be given “with respect to the effect of a standard on competition.”²¹

13. We believe that NERC’s proposed revision to R3.1.2 allows a transmission operator flexibility to choose either a daily or hourly load forecast when forecasting current-day and next-day TTC. However, we seek comments regarding whether a transmission operator could potentially use a load forecast assumption that is not applicable to the period being calculated. For example, a transmission operator using daily on-peak load forecasts in determining off-peak TTC for the current day could, either purposefully or inadvertently, suppress off-peak ATC used by generators that make off-peak sales, or other customers who purchase hourly service. Accordingly, we seek comment whether this gives rise to any market-related concerns or the potential for undue discrimination in ATC calculations.

IV. Information Collection Statement

14. The Office of Management and Budget (OMB) regulations require that OMB approve certain reporting and recordkeeping (collections of information) imposed by an

²⁰ Order No. 672, FERC Stats. & Regs. ¶ 31,204 at P 332.

²¹ 16 U.S.C. 824o(d)(2).

agency.²² The information contained here is also subject to review under section 3507(d) of the Paperwork Reduction Act of 1995.²³

15. As stated above, the Commission previously approved, in Order No. 729, the Reliability Standard that is the subject of the current rulemaking. This proposed rulemaking proposes to approve one revision to a previously approved Reliability Standard developed by NERC as the ERO. The proffered revision relates to an existing Reliability Standard and does not change this standard; therefore, it does not add to or otherwise increase entities' current reporting burden. Thus, the current proposal would not materially affect the burden estimates relating to the currently effective version of the Reliability Standards presented in Order No. 729. The MOD-028-1 Reliability Standard that is subject of the approved revision was approved in Order No. 729, and the related information collection requirements were reviewed and approved, accordingly.²⁴ The Commission will submit the revised Reliability Standard to OMB as a request for "no material" or "nonsubstantive" change.²⁵

V. Environmental Analysis

16. The Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any action that may have a significant adverse effect

²² 5 C.F.R. 1320.11.

²³ 44 U.S.C. 3507(d).

²⁴ See Order No. 729, 129 FERC ¶ 61,155 at PP 307-312.

²⁵ This type of submittal means that there is no change to the existing burden estimates and the existing expiration date.

on the human environment.²⁶ 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.²⁷ The actions proposed herein fall within this categorical exclusion in the Commission's regulations.

VI. Regulatory Flexibility Act Analysis

17. The Regulatory Flexibility Act of 1980 (RFA)²⁸ 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 Office of Size Standards develops the numerical definition of a small business.²⁹ For electric utilities, 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. The Commission does not expect the revision discussed herein to

²⁶ *Regulations Implementing the National Environmental Policy Act*, Order No. 486, 52 FR 47,897 (Dec. 17, 1987), FERC Stats. & Regs., Regulations Preambles 1986-1990 ¶ 30,783 (1987).

²⁷ 18 C.F.R. 380.4(a)(2)(ii).

²⁸ 5 U.S.C. 601-612.

²⁹ *See* 13 C.F.R. 121.201.

materially affect the cost for small entities to comply with the proposed Reliability Standard. Therefore, the Commission certifies that the proposed rule will not have a significant economic impact on a substantial number of small entities.

VII. Comment Procedures

18. The Commission invites interested persons to submit comments on the matters and issues proposed in this notice to be adopted, including any related matters or alternative proposals that commenters may wish to discuss. Comments are due [date that is 45 days from publication in the FEDERAL REGISTER]. Comments must refer to Docket No. RM12-19-000, and must include the commenter's name, the organization they represent, if applicable, and their address in their comments.

19. The Commission encourages comments to be filed electronically via the eFiling link on the Commission's web site at <http://www.ferc.gov>. The Commission accepts most standard word processing formats. Documents created electronically using word processing software should be filed in native applications or print-to-PDF format and not in a scanned format. Commenters filing electronically do not need to make a paper filing.

20. Commenters that are not able to file comments electronically may mail or hand-deliver comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE, Washington, DC 20426.

21. All comments will be placed in the Commission's public files and may be viewed, printed, or downloaded remotely as described in the Document Availability section

below. Commenters on this proposal are not required to serve copies of their comments on other commenters.

VIII. Document Availability

22. 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.

23. 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.

24. User assistance is available for eLibrary and the Commission's web site 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.

By direction of the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.