



the Commission's directives and expects to file such a petition by no later than December 31, 2013, based on the current standard development schedule.<sup>4</sup>

## **I. BACKGROUND**

On December 20, 2012, in Order No. 773, the Commission issued a Final Rule approving modifications to the currently-effective definition of BES developed by NERC. In Order No. 773-A, the Commission issued an order on rehearing and clarification. In the orders, the Commission has directed NERC to: (1) modify the exclusions for radial systems (Exclusion E1) and local networks (Exclusion E3) so that they do not apply to tie-lines, *i.e.* generator interconnection facilities, for BES generators; and (2) modify the local network exclusion to remove the 100 kV minimum operating voltage to allow systems that include one or more looped configurations connected below 100 kV to be eligible for the local network exclusion.<sup>5</sup>

In Order No. 773-A the Commission noted that facilities below 100 kV can be a significant factor in a major blackout. The Commission cited the joint NERC and Commission staff report on the September 8, 2011, Arizona-Southern California blackout<sup>6</sup> in support of its decision to include all facilities that have a material impact on the reliability of the Bulk-Power System.<sup>7</sup> The Commission's analysis of the impact of the revisions to the definition of BES reflects the fact that the revised definition is not expected to dramatically impact the footprint of the BES.<sup>8</sup> Yet, as more fully discussed below, the specific language in Order Nos. 773 and 773-A has caused several unintended consequences that may actually thwart the Commission's intent and not gain the potential reliability improvements in the manner intended.

---

<sup>4</sup> Additional information regarding Phase 2 is available on the project page: [http://www.nerc.com/pa/Stand/Pages/Project2010-17\\_BES.aspx](http://www.nerc.com/pa/Stand/Pages/Project2010-17_BES.aspx).

<sup>5</sup> Order No. 773 at PP 155, 164.

<sup>6</sup> Available at <http://www.ferc.gov/legal/staff-reports/04-27-2012-ferc-nerc-report.pdf>.

<sup>7</sup> Order No. 773-A at n.56.

<sup>8</sup> Order No. 773-A at PP 132-136.

The Commission's directives are being addressed in Phase 2 of the BES Project. NERC is on schedule to implement the definition of BES by the July 1, 2013 effective date of Orders No. 773 and 773-A, but NERC recognizes there may be associated unintended consequences resulting from the Commission's orders that can be remedied if the instant motion is granted.

## **II. MOTION**

NERC respectfully requests that the Commission grant an extension of time of the effective date of the definition of BES from July 1, 2013 to July 1, 2014 and requests expedited Commission action. As noted herein, the Commission accepted the definition of BES in Order No. 773, which goes into effect on July 1, 2013, but it also directed changes which are being implemented through the NERC standard development process. Therefore, absent Commission action, there would be a period of time during which the existing definition – without the Commission-directed modifications – would be in effect (“Transition Period”).

Order Nos. 773 and 773-A have produced an unintended consequence, *i.e.*, regulatory uncertainty. First, under the current Commission-approved definition of BES, as of July 1, 2013, under Exclusion E1 or E3 generators could submit a notification of self-determined exclusion that has the effect of excluding their tie-lines from the definition of BES. This directly contravenes the Commission's directives,<sup>9</sup> currently being addressed in Phase 2. These directives would preclude such notifications and would require entities to submit an Exclusion Exception request instead.<sup>10</sup> As a result of the notification of self-determined exclusion, such generators would no longer be subject to all applicable Reliability Standards as they are today.

---

<sup>9</sup> See Order No. 773 at P 164 (“we direct NERC to implement exclusion E1 so that the exclusions for radial systems do not apply to tie-lines for bulk electric system generators identified in inclusion I2.”); see Order No. 773-A at P 50 (“rather than direct NERC to implement exclusions E1 and E3 as described above, we direct NERC to modify the exclusions pursuant to FPA section 215(d)(5) to ensure that generator interconnection facilities at or above 100 kV connected to bulk electric system generators identified in inclusion I2 are not excluded from the bulk electric system. We find that the Phase 2 standard development process is an appropriate means to address the Commission's concern.”).

<sup>10</sup> See Appendix 5C of the NERC Rules of Procedure.

During the Transition Period, implementing the current definition of BES would require NERC to accept a Registered Entity's application of the then-effective definition and Exclusions E1 and E3, while NERC simultaneously implements the exception process to bring such Elements back into the BES.

Second, under the current Commission-approved definition of BES, as of July 1, 2013, under Exclusion E3, certain entities are not eligible to submit a notification of a self-determined exclusion that will be in effect as a result of the Commission directive.<sup>11</sup> The practical effect is to require affected entities that wish to remove their Elements from the BES during the Transition Period to submit an Exclusion Exception request, which will not be required once the changes that were directed by the Commission have been approved and made effective. The submittal of an Exclusion Exception request requires the submission of detailed information and can take several months to process.

The confluence of these two circumstances has produced tremendous uncertainty and anxiety within the industry and a need for prompt course correction. While NERC is prepared to issue guidance on the treatment of Elements during the Transition Period, only Commission action will provide the regulatory certainty that would resolve the issues noted above.

NERC is committed to working with industry through the standard development process to comply with the Commission's directives and expects to file such a petition by no later than December 31, 2013, based on the current standard development schedule. NERC respectfully requests that the Commission issue an order granting the extension prior to June 30, 2013, in

---

<sup>11</sup> See Order No. 773 at P 155 ("we direct NERC to modify exclusion E3 to remove the 100 kV minimum operating voltage in the local network definition. This modification will enable configurations similar to figures 3 and 5 to be assessed for the local network exclusion. The Commission believes this modification, together with satisfying the criteria outlined in exclusion E3, will appropriately exclude local network configurations that are not necessary to the reliable operation of the interconnected transmission network.").

order to resolve the uncertainty created by the above-referenced directives in Order Nos. 773 and 773-A, and requests expedited Commission action on this motion.

### **III. CONCLUSION**

NERC respectfully requests that the Commission grant this motion to: (1) extend the effective date of the definition of BES from July 1, 2013 to July 1, 2014; (2) shorten the answer period for this motion; and (3) issue an order prior to June 30, 2013 to extend the effective date.

Respectfully submitted,

*/s/ Stacey Tyrewala*

Charles A. Berardesco  
Senior Vice President and General Counsel  
Holly A. Hawkins  
Assistant General Counsel  
Stacey Tyrewala  
Senior Counsel  
North American Electric Reliability Corporation  
1325 G Street, N.W., Suite 600  
Washington, D.C. 20005  
(202) 400-3000  
(202) 644-8099– facsimile  
[charlie.berardesco@nerc.net](mailto:charlie.berardesco@nerc.net)  
[holly.hawkins@nerc.net](mailto:holly.hawkins@nerc.net)  
[stacey.tyrewala@nerc.net](mailto:stacey.tyrewala@nerc.net)

**May 23, 2013**

*Counsel for North American Electric  
Reliability Corporation*

**CERTIFICATE OF SERVICE**

I hereby certify that I have served a copy of the foregoing document upon all parties listed on the official service list compiled by the Secretary in this proceeding.

Dated at Washington, D.C. this 23rd day of May, 2013.

/s/ Stacey Tyrewala  
Stacey Tyrewala

*Counsel for North American Electric  
Reliability Corporation*