

144 FERC ¶ 61,027
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

18 CFR Part 40

[Docket No. RM12-19-000; Order No. 782]

Revisions to Modeling, Data, and Analysis Reliability Standard

(Issued July 18, 2013)

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule

SUMMARY: In this Final Rule, pursuant to section 215 of the Federal Power Act, the Federal Energy Regulatory Commission (Commission) approves 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. The Commission finds that the proposed Reliability Standard represents an improvement over the currently-effective standard, MOD-028-1 because the proposed Reliability Standard clarifies the timing and frequency of Total Transfer Capability calculations needed for Available Transfer Capability calculations. The Commission also approves NERC's proposed implementation plan and retirement of the currently-effective standard.

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

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SUPPLEMENTARY INFORMATION:

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FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinohoff, Chairman;
Philip D. Moeller, John R. Norris,
Cheryl A. LaFleur, and Tony Clark.

Revisions to Modeling, Data, and Analysis Reliability Standard Docket No. RM12-19-000

ORDER NO. 782

FINAL RULE

(Issued July 18, 2013)

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

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 final rule, 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,

(continued...)

calculating Total Transfer Capability (TTC) using the area interchange methodology for the on-peak and off-peak intra-day and next day time periods. The Commission also approves NERC's proposed implementation plan and retirement of the currently-effective Reliability Standard MOD-028-1.

I. Background

A. Mandatory Reliability Standards

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

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 where appropriate.

³ *Id.* 824o(d)(2).

⁴ *Id.* 824o(e)(3).

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 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

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).

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) (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.

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 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 require certain users, owners, and operators of the bulk power system to develop consistent and transparent methodologies for the

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).

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

¹¹ *Id.* P 51.

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 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

¹² *Id.* P 1.

¹³ *Id.* P 51.

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).

B. 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 stated 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 explained that, upon reviewing FPL’s request for interpretation, the NERC Standards Committee determined that providing this clarification might require a modification to the Standard.¹⁶ In its Petition, NERC asserted 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 stated:

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).

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

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 proposed 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.

~~R3.1.2. Load~~ A daily or hourly load forecast for the applicable period being calculated ~~TTCs used in current-day and next-day ATC calculations.~~

~~R3.1.3.~~ A daily load forecast for TTCs used in ATC calculations for days two through 31.

~~R3.1.2.~~ R3.1.4. A monthly load forecast for TTCs used in ATC calculations for months two through 13 months TTCs.

C. Notice of Proposed Rulemaking

10. On March 21, 2013, the Commission issued a Notice of Proposed Rulemaking (NOPR) proposing to approve Reliability Standard MOD-028-2 as just, reasonable, not

¹⁷ Petition at 7 (emphasis added).

unduly discriminatory or preferential, and in the public interest.¹⁸ The Commission proposed to approve Reliability Standard MOD-028-2 after determining that it clarified requirement R3.1 of Reliability Standard MOD-028-1 and did not present reliability concerns.

11. While proposing to approve Reliability Standard MOD-028-2, the NOPR also identified possible market implications of NERC's proposed modification to requirement R3.1. The NOPR stated that, 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.¹⁹

12. The NOPR stated that NERC's proposed revision to requirement 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. The NOPR sought comments regarding whether a transmission operator could potentially use a load forecast assumption that is not applicable to the period being calculated. As an example, the NOPR stated that 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.

¹⁸ *Revisions to Modeling, Data, and Analysis Reliability Standard*, Notice of Proposed Rulemaking, 78 Fed. Reg. 19,152 (Mar. 29, 2013), 142 FERC ¶ 61,210 (2013).

¹⁹ *Id.* P 11 (citing Order No. 729, 129 FERC ¶ 61,155 at PP 109, 135).

13. Comments in support of the NOPR were filed by NERC and Southern Company Services, Inc., acting as agent for Alabama Power Company, Georgia Power Company, Gulf Power Company, and Mississippi Power Company (Southern Company Services).

II. Discussion

14. Pursuant to section 215(d)(2) of the FPA, we approve Reliability Standard MOD-028-2 as just, reasonable, not unduly discriminatory or preferential, and in the public interest. The Commission also approves NERC's proposed implementation plan, i.e., that the standard shall become effective on the first day of the first calendar quarter after Commission approval, and retirement of the currently-effective Reliability Standard MOD-028-1. NERC's clarifying revision to Requirement R3.1.2 of MOD-028-2 allows a transmission operator the flexibility to choose either a daily or hourly load forecast when forecasting current-day and next-day TTC. This revision does not present reliability concerns.

15. In the NOPR, the Commission asked for comment on a potential market-related concern regarding whether 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. In response to the NOPR, two entities submitted comments, both supporting Commission approval of MOD-028-2. Southern Company Services comments that the flexibility in Requirement R3.1 does not give rise to the potential for undue discrimination in ATC calculations. NERC states that the proposed modification to Reliability Standard MOD-028-2 clarifies the existing language and

provides flexibility for operators to select a methodology that best fits their needs. NERC comments that it “expect[s] that entities will implement proposed Reliability Standard MOD-028-2 consistent with their existing legal obligations, i.e., pursuant to open access transmission tariffs, etc.”²⁰ NERC adds that, “while it might be possible for an entity to use a load forecast assumption that is not applicable to the period being calculated, the Commission can mitigate such risks through complaints and the Commission’s market oversight authority.”²¹

16. We are satisfied that the modification to Requirement R3.1 does not give rise to any immediate market-related concerns in the instant proceeding. No entity filed comments raising the concern that a transmission operator would use a load forecast assumption that is not applicable to the period being calculated. However, we agree with NERC that, consistent with Order No. 729, the risk of a transmission service provider using parameters and assumptions to skew its ATC values can be mitigated through complaints and market oversight authority.²² In addition, as NERC also acknowledges, transmission operators must implement the revised Reliability Standard MOD-028-2 in a

²⁰ NERC Comments at 3-4.

²¹ *Id.* at 3.

²² *See* Order No. 729, 129 FERC ¶ 61,155 at P 135.

manner consistent with their existing legal obligations, including their obligations under their open access transmission tariffs.²³

17. Accordingly, pursuant to FPA section 215(d)(2), we approve Reliability Standard MOD-028-2.

III. Information Collection Statement

18. The Office of Management and Budget (OMB) regulations require that OMB approve certain reporting and recordkeeping (collections of information) imposed by an agency.²⁴ The information contained here is also subject to review under section 3507(d) of the Paperwork Reduction Act of 1995.²⁵

19. As stated above, the Commission previously approved, in Order No. 729, the Reliability Standard that is the subject of the current rulemaking. This Final Rule approves one revision to a previously approved Reliability Standard developed by NERC as the ERO. The minor revision relates to an existing Reliability Standard and does not add to or otherwise increase entities' current reporting burden. Thus, the revision does 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

²³ To the extent a market-related issue arises as a result of future changes to Reliability Standard MOD-028, we can address it at that time.

²⁴ 5 CFR 1320.11 (2012).

²⁵ 44 U.S.C. 3507(d).

information collection requirements were reviewed and approved, accordingly.²⁶ The Commission submitted the revised Reliability Standard to OMB as a request for “no material” or “nonsubstantive” change²⁷ at the NOPR stage. OMB approved the nonsubstantive change, requiring no further Commission action related to the information collection requirements.

IV. Environmental Analysis

20. 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.²⁸ 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.²⁹ The actions proposed herein fall within this categorical exclusion in the Commission’s regulations.

²⁶ See Order No. 729, 129 FERC ¶ 61,155 at PP 307-312.

²⁷ This type of submittal means that there is no change to the existing burden estimates and the existing expiration date.

²⁸ *Regulations Implementing the National Environmental Policy Act*, Order No. 486, 52 FR 47897 (Dec. 17, 1987), FERC Stats. & Regs. Regulations Preambles 1986-1990 ¶ 30,783 (1987).

²⁹ 18 CFR 380.4(a)(2)(ii).

V. Regulatory Flexibility Act

21. The Regulatory Flexibility Act of 1980 (RFA)³⁰ generally requires a description and analysis of final 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 final 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.³¹ 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 adopted herein to materially affect the cost for small entities to comply with the proposed Reliability Standard. As discussed above, the clarifying revision allows transmission service providers more flexibility in calculating ATC and only *de minimis* costs are associated with implementation of the revision. Therefore, the Commission certifies that the Final Rule will not have a significant economic impact on a substantial number of small entities.

³⁰ 5 U.S.C. 601-612.

³¹ See 13 CFR 121.201.

VI. 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.

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VII. Effective Date and Congressional Notification

25. 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.

By the Commission.

Kimberly D. Bose,
Secretary.