

148 FERC ¶ 61,192
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

18 CFR Part 40

[Docket No. RM14-12-000]

Demand and Energy Data Reliability Standard

(September 18, 2014)

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission proposes to approve Demand and Energy Data Reliability Standard MOD-031-1 developed by the North American Electric Reliability Corporation, which the Commission has certified as the Electric Reliability Organization responsible for developing and enforcing mandatory Reliability Standards.

DATES: Comments are due [**60 days after publication in the FEDERAL REGISTER**].

ADDRESSES: Comments, identified by docket number, may be filed in the following ways:

- Electronic Filing through <http://www.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.

Instructions: For detailed instructions on submitting comments and additional information on the rulemaking process, see the Comment Procedures Section of this document.

FOR FURTHER INFORMATION CONTACT:

Susan Morris (Technical Information)
Office of Electric Reliability, Division of Reliability Standards and Security
Federal Energy Regulatory Commission
888 First Street, NE
Washington, DC 20426
Telephone: (202) 502-6803
Susan.Morris@ferc.gov

Robert T. Stroh (Legal Information)
Office of the General Counsel
Federal Energy Regulatory Commission
888 First Street, NE
Washington, DC 20426
Telephone: (202) 502-8473
Robert.Stroh@ferc.gov

SUPPLEMENTARY INFORMATION:

148 FERC ¶ 61,192
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Demand and Energy Data Reliability Standard

Docket No. RM14-12-000

NOTICE OF PROPOSED RULEMAKING

(September 18, 2014)

1. Pursuant to section 215(d) of the Federal Power Act (FPA),¹ the Commission proposes to approve Reliability Standard MOD-031-1 (Demand and Energy Data) developed by the North American Electric Reliability Corporation (NERC), which the Commission has certified as the Electric Reliability Organization (ERO) responsible for developing and enforcing mandatory Reliability Standards. Reliability Standard MOD-031-1 provides authority for applicable entities to collect demand, energy and related data to support reliability studies and assessments and to enumerate the responsibilities and obligations of requestors and respondents of that data. In addition, the Commission proposes to approve NERC's proposed definitions for the terms Demand Side Management and Total Internal Demand. The Commission also proposes to approve the associated implementation plan, violation risk factors and violation severity levels, and NERC's proposed retirement of the currently-effective Reliability Standards MOD-016-1.1, MOD-017-0.1, MOD-018-0, MOD-019-0.1, and MOD-021-1 (Existing MOD C Standards).

¹ 16 U.S.C. § 824o(d) (2012).

I. Background

2. Section 215 of the FPA requires a Commission-certified ERO to develop mandatory and enforceable Reliability Standards, which are subject to Commission review and approval. Once approved, the Reliability Standards are enforced by the ERO, subject to Commission oversight, or by the Commission independently. In 2006, NERC submitted the initial version of Reliability Standards MOD-016-1.1, MOD-017-0.1, MOD-018-0, MOD-019-0.1, MOD-020-0, and MOD-021-1. The Existing MOD C Standards are designed to help ensure that historical and forecasted demand and energy data are available for past event validation and future system assessment. In particular, the Existing MOD C Standards, along with Reliability Standard MOD-020-0, require the collection of actual and forecast demand data necessary to analyze the resource needs to serve peak demand while maintaining a sufficient margin to address operating events.² In Order No. 693, the Commission approved the Existing MOD C Standards and Reliability Standard MOD-020-0. In addition, the Commission directed NERC to develop certain modifications to the standards.

II. NERC Petition

3. NERC states that proposed Reliability Standard MOD-031-1 provides planners and operators access to actual and forecast demand and energy data, as well as other

² *Mandatory Reliability Standards for the Bulk-Power System*, Order No. 693, FERC Stats. & Regs. ¶ 31,242, at PP 1223, 1235, *order on reh'g*, Order No. 693-A, 120 FERC ¶ 61,053 (2007).

related information, needed to perform resource adequacy studies.³ NERC explains that the proposed Reliability Standard also supports the continued development of the reliability assessments prepared by NERC. NERC states that the proposed Reliability Standard improves the Existing MOD C Standards by: (1) streamlining them to clarify data collection requirements; (2) including transmission planners as applicable entities that must report demand and energy data; (3) requiring applicable entities to report weather normalized annual peak hour actual demand data from the previous year to allow for meaningful comparison with forecasted values; and (4) requiring applicable entities to provide an explanation of how their demand side management forecasts compare to actual demand side management for the prior calendar year and how their peak demand forecasts compare to actual demand for the prior calendar year with due regard to any relevant weather-related variations.⁴

4. Proposed Reliability Standard MOD-031-1 contains four requirements.

Requirement R1 mandates that each planning coordinator or balancing authority that identifies a need for the collection of demand and energy data shall develop and issue a data request for such data to the relevant entities in its area. The requirement mandates that the data request identify: (i) the entities responsible for providing the data; (ii) the data to be provided by each entity; and (iii) the schedule for providing the data.

³ NERC Petition at 3. The proposed MOD Reliability Standard is not attached to the NOPR. The complete text of the Reliability Standard is available on the Commission's eLibrary document retrieval system in Docket No. RM14-12 and is posted on the ERO's web site, *available at*: <http://www.nerc.com>.

⁴ NERC Petition at 4.

Requirement R2 obligates the entities identified in a Requirement R1 data request to provide the requested data to their planning coordinator or balancing authority.

Requirement R3 requires that the planning coordinator or the balancing authority provide the data collected under Requirement R2 to their Regional Entity, if requested, to facilitate NERC's development of reliability assessments. Requirement R4 requires entities to share their demand and energy data with any applicable entity that demonstrates a reliability need for such data, subject to applicable confidentiality, regulatory or security restrictions.⁵

5. The term Demand Side Management is currently defined in the NERC Glossary as: “[t]he term for all activities or programs undertaken by a Load-Serving Entity or its customers to influence the amount or timing of electricity they use.” NERC proposes to modify the definition of “Demand Side Management” as “[a]ll activities or programs undertaken by any applicable entity to achieve a reduction in Demand.” NERC states that, consistent with the Commission directive in Order No. 693, the proposed definition for Demand Side Management is not limited to “activities or program undertaken by Load Serving Entities or its customers” but is expanded to include “activities or programs undertaken by any applicable entity.”⁶

6. NERC requests that the Commission approve the proposed Reliability Standard, the proposed new and modified NERC Glossary terms and the retirement of the Existing

⁵ *Id.* at 5.

⁶ *Id.* at 15-16.

MOD C Standards, effective on the first day of the first calendar quarter that is twelve months after Commission approval. NERC states that the 12-month implementation period is designed to provide applicable entities sufficient time to transition from compliance with the Existing MOD C Standards to proposed Reliability Standard MOD-031-1.⁷

III. Discussion

7. Pursuant to section 215(d)(2) of the FPA, the Commission proposes to approve Reliability Standard MOD-031-1 as just, reasonable, not unduly discriminatory or preferential, and in the public interest. We also propose to approve the new and modified glossary definitions, implementation plan, associated violation risk factors and violation severity levels as well as the retirement of the Existing MOD C Standards, as requested by NERC.

8. The Commission believes that the proposed Reliability Standard MOD-031-1 continues to provide planners and operators access to complete and accurate demand and energy data to allow such entities to conduct their own resource adequacy analyses to serve peak demand. The proposed Reliability Standard also appears to provide for consistent documentation and information sharing practices for demand and energy data, and promotes efficient planning practices across the industry and supports the identification of needed system reinforcements. The Commission believes that proposed Reliability Standard MOD-031-1 improves the Existing MOD C Standards by providing

⁷ *Id.* at 31.

applicable entities the authority to collect demand and energy data, and related information, to support reliability assessments and also includes transmission planners as applicable entities that must report demand and energy data. Furthermore, the proposed Reliability Standard requires applicable entities to provide an explanation of current and previous demand side management forecasts and how their peak demand forecasts compare to actual demand for the prior calendar year.

9. While we propose to approve Reliability Standard MOD-031-1, we seek comment on the collection of data through mechanisms other than data requests. Requirements R1 through R3 specifically reference the obtaining of data through data requests as follows:

R1. Each Planning Coordinator or Balancing Authority that identifies a need for the collection of Total Internal Demand, Net Energy for Load, and Demand Side Management data shall develop and issue a data request to the applicable entities in its area. The data request shall include:...

R2. Each Applicable Entity identified in a data request shall provide the data requested by its Planning Coordinator or Balancing Authority in accordance with the data request issued pursuant to Requirement R1.

R3. The Planning Coordinator or the Balancing Authority shall provide the data collected under Requirement R2 to the applicable Regional Entity within 75 calendar days of receiving a request for such data, unless otherwise agreed upon by the parties.

In its petition, NERC states that Requirement R1 applies when a planning coordinator or balancing authority “identifies a need” for the collection of demand and energy data.⁸

According to NERC, this language of Requirement R1:

⁸ NERC Petition at 22.

is intended to reflect that certain Planning Coordinators and Balancing Authorities may not need to collect Demand and energy data through a data request issued pursuant to the proposed Reliability Standard. That is because certain Planning Coordinators and Balancing Authorities obtain the data through alternative mechanisms or develop the data themselves. For instance, many Planning Coordinators, such as independent system operators (ISOs) and regional transmission organizations (RTOs), collect the necessary data and information from entities within their footprint pursuant to requirements in their Open Access Transmission Tariffs. Additionally, ISOs/RTOs are often in a better position to develop the necessary Demand and energy forecasts or aggregate the historical data than the entities in their area. Accordingly, the requirement is drafted so as to only require a Planning Coordinator or Balancing Authority to issue a data request if there is a need to do so.⁹

10. The Commission understands NERC's explanation to mean that, while a planning coordinator or balancing authority may collect demand and energy forecast data under a tariff or other arrangement, the planning coordinator or balancing authority always retains the option to seek the necessary data through a Requirement R1 data request if, for example, the data are not forthcoming through other means. The Commission seeks comment on this understanding. Further, the Commission seeks clarification from NERC and other commenters whether a planning coordinator or balancing authority that receives data "through alternative mechanisms" remains obligated to provide such data (i.e., within the scope of Requirement R1) to a Regional Entity upon request, as set forth in Requirement R3.

⁹ *Id.* at 22-23.

IV. Information Collection Statement

11. The collection of information contained in this Notice of Proposed Rulemaking (NOPR) is subject to review by the Office of Management and Budget (OMB) under section 3507(d) of the Paperwork Reduction Act of 1995.¹⁰ OMB's regulations require approval of certain information collection requirements imposed by agency rules.¹¹ Upon approval of a collection(s) of information, OMB will assign an OMB control number and an expiration date. Respondents subject to the filing requirements of a 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.

12. We solicit comments on the need for this information, whether the information will have practical utility, the accuracy of the burden estimates, ways to enhance the quality, utility, and clarity of the information to be collected or retained, and any suggested methods for minimizing respondents' burden, including the use of automated information techniques. Specifically, the Commission asks that any revised burden or cost estimates submitted by commenters be supported by sufficient detail to understand how the estimates are generated.

13. Interested persons may obtain information on the reporting requirements by contacting the following: Federal Energy Regulatory Commission, 888 First Street, NE,

¹⁰ 44 U.S.C. 3507(d) (2012).

¹¹ 5 CFR 1320.11.

Washington, DC 20426 [Attention: Ellen Brown, Office of the Executive Director, e-mail: DataClearance@ferc.gov, phone: (202) 502-8663, fax: (202) 273-0873].

14. Comments concerning the information collection proposed in this NOPR and the associated burden estimates should be sent to the Commission in this docket and may also be sent to the Office of Management and Budget, Office of Information and Regulatory Affairs [Attention: Desk Officer for the Federal Energy Regulatory Commission]. For security reasons, comments should be sent by e-mail to OMB at the following e-mail address: oira_submission@omb.eop.gov. Please reference FERC-725L and the docket number of this Notice of Proposed Rulemaking (Docket No. RM14-12-000) in your submission.

15. The Commission proposes to approve Reliability Standard MOD-031-1, which will replace MOD-016-1.1, MOD-017-.01, MOD-018-0, MOD-019-0.1 and MOD-021-1 (Existing MOD C Standards). As stated above, the Existing MOD C Standards were approved by the Commission in Order No. 693. All information collection estimates associated with the collection of demand and energy data and subsequent retention were assessed in Order No. 693 and will not be repeated here. The proposed Reliability Standard expands the actual data to be submitted in two areas: (1) weather normalized annual peak hour actual demand for the prior calendar year if this demand varies due to weather-related conditions (e.g., temperature, humidity or wind speed); and (2) summaries detailed in Requirement R1, Subparts 1.5.4 and 1.5.5. The additional data and summaries will increase reporting and preparation time for some applicable entities. Most entities already normalize their actual demand data based on weather. However,

some entities may have a one-time cost of determining the method to “weather normalize” the actual demand data. Accordingly, the information collection costs will consist of an annual cost for all applicable entities and, for a small percentage, additional costs will occur during the first year of implementation.

Public Reporting Burden: Reliability Standard MOD-031-1 requires each “Applicable Entity” to provide the data requested by its planning coordinator or balancing authority in accordance with the data request issued pursuant to Requirement R1.¹² Our estimate below regarding the number of respondents is based on the NERC Compliance Registry as of July 31, 2014. According to the NERC Compliance Registry, NERC has registered 478 distribution providers, 469 load-serving entities, 179 transmission planners and 107 balancing authorities. However, under NERC’s compliance registration program, entities may be registered for multiple functions, so these numbers incorporate some double counting. The total number of unique entities that may be identified as a data provider (e.g. applicable entity) in accordance with proposed Reliability Standard MOD-031-1 will be approximately 561 entities registered in the United States as a distribution provider, load-serving entity, transmission planner and/or balancing authority.¹³ The Commission estimates the annual reporting burden and cost as follows:

¹² Requirement R1, Subpart 1.1 refers to “Applicable Entities” as the list of transmission planners, balancing authorities, load-serving entities and distribution providers that are required to provide the data.

¹³ This estimate assumes all of the unique entities will be identified to provide demand and energy data.

	Number and Type of Respondents (1)	Annual Number of Responses per Respondent (2)	Total Number of Responses (1)*(2)=(3)	Avg. Burden & Cost Per Response (4)	Total Annual Burden Hours & Total Annual Cost (3)*(4)=(5)	Cost per Respondent¹⁴ (5)÷(1)
(One-time) Determine method to weather normalize annual peak hour actual demand.	28 ¹⁵ (DP, LSE, TP and/or BA) ¹⁶	1	28	240 hrs. & \$14,309	6,720 hours & \$400,646	\$14,309
(On-going) Develop summary in accordance w/ Requirement R1, Subparts 1.5.4 and 1.5.5.	561 (DP, LSE, TP and/or BA)	1	561	8 hrs. & \$477	4,488 hours & \$267,575	\$477
TOTAL			589		11,208 hours & \$668,221	

¹⁴ The estimated hourly costs (salary plus benefits) are based on Bureau of Labor Statistics (BLS) information (*available at* http://bls.gov/oes/current/naics3_221000.htm#17-0000) for an electrical engineer (\$59.62/hour).

¹⁵ This value represents the number of entities that have not already determined a method to weather normalize annual peak actual demand data. We estimate approximately 5 percent of the applicable entities fall into this category.

¹⁶ DP = distribution provider, LSE = load-serving entity, TP = transmission planner and BA = balancing authority, are functions the applicable entities perform in conjunction or individually. We estimate the total number of unique entities performing one or more of these functions to be 561.

Title: Mandatory Reliability Standards for the Bulk-Power System: MOD Reliability Standards.

Action: Proposed FERC-725L.

OMB Control No: 1902-0261

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

Frequency of Responses: One-time and ongoing.

Necessity of the Information: Reliability Standard MOD-031-1, if adopted, would implement 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. Specifically, the purpose of the proposed Reliability Standard is to provide authority for applicable entities to collect demand, energy and related data to support reliability studies and assessments and to enumerate the responsibilities and obligations of requestors and respondents of that data.

Internal Review: The Commission has reviewed the requirements pertaining to the proposed Reliability Standard for the Bulk-Power System and determined that the proposed requirements are necessary to meet the statutory provisions of the Energy Policy Act of 2005. These requirements conform to the Commission's plan for efficient information collection, communication and management within the energy industry. The Commission has assured itself, by means of internal review, that there is specific, objective support for the burden estimates associated with the information requirements.

V. Regulatory Flexibility Act Certification

16. The Regulatory Flexibility Act of 1980 (RFA)¹⁷ generally requires a description and analysis of proposed rules that will have significant economic impact on a substantial number of small entities. As shown in the information collection section, the proposed Reliability Standard applies to 561 entities. Comparison of the applicable entities with the Commission's small business data indicates that approximately 249 are small entities.¹⁸ Of these, the Commission estimates that approximately five percent, or twelve of these small entities expect to be affected by the new requirements of the proposed Reliability Standard.¹⁹

17. Proposed Reliability Standard MOD-031-1 is designed to replace, consolidate and improve upon the Existing MOD C Standards in addressing the collection and aggregation of demand and energy data necessary to support reliability assessments performed by the ERO and Bulk-Power System planners and operators. The reliability of the Bulk-Power System is dependent on having an adequate amount of resources and transmission infrastructure available to serve peak demand while also maintaining a

¹⁷ 5 U.S.C. 601-612 (2012).

¹⁸ The Small Business Administration sets the threshold for what constitutes a small business. Public utilities may fall under one of several different categories, each with a size threshold based on the company's number of employees, including affiliates, the parent company, and subsidiaries. The possible categories for the applicable entities have a size threshold ranging from 250 employees to 1,000 employees. For the analysis in this proposed rule, we are using the 1,000 employee threshold for each applicable entity type.

¹⁹ See n.15 *supra*.

sufficient margin to address operating events.²⁰ The Commission estimates that the small entities that will be affected by proposed Reliability Standard MOD-031-1 will incur one-time compliance costs ranging up to \$14,309 (i.e. the cost of determining the method of weather normalizing annual peak hour actual demand), plus the annual development of summary narratives in accordance with Requirement R1, Subparts 1.5.4 and 1.5.5, resulting in costs of \$477. These costs represent an estimate of the costs a small entity could incur if the entity is identified as an applicable entity; the entity's annual peak hour actual demand varies due to weather-related conditions; and the entity has not yet determined a method for weather normalizing actual demand data. The Commission does not consider the estimated costs per small entity to have a significant economic impact on a substantial number of small entities. Accordingly, the Commission certifies that this NOPR will not have a significant economic impact on a substantial number of small entities.

VI. Environmental Analysis

18. 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.²¹ The Commission has categorically excluded certain actions from this requirement as not having a significant effect on the human environment.

²⁰ NERC Petition at 2.

²¹ *Regulations Implementing the National Environmental Policy Act of 1969*, Order No. 486, 52 FR 47897 (Dec. 17, 1987), FERC Stats. & Regs., Regulations Preambles 1986-1990 ¶ 30,783 (1987).

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.²² The actions proposed herein fall within this categorical exclusion in the Commission's regulations.

VII. Comment Procedures

19. 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 [**60 days after publication in the FEDERAL REGISTER**]. Comments must refer to Docket No. RM14-12-000, and must include the commenter's name, the organization they represent, if applicable, and their address in their comments.

20. 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.

21. Commenters that are not able to file comments electronically must send an original of their comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE, Washington, DC, 20426.

22. 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

²² 18 CFR 380.4(a)(2)(ii).

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

VIII. Document Availability

23. 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.

24. 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.

25. 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.

List of subjects in 18 CFR Part 40

By direction of the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.