

I. BACKGROUND

a. Applicability of Proposed Reliability Standard TOP-001-3

As discussed in greater detail in the TOP/IRO Petition, proposed Reliability Standard TOP-001-3 contains 20 requirements relating to transmission operations and applies primarily to the responsibilities of Transmission Operators and Balancing Authorities for maintaining reliable operations.⁶ The only other functional entities subject to requirements under proposed Reliability Standard TOP-001-3 are Distribution Providers and Generator Operators, whose sole responsibilities under the proposed standard are to:

- comply with Operating Instructions⁷ issued by a Transmission Operator or Balancing Authority (Requirements R3 and R5); or
- notify the Transmission Operator or Balancing Authority if they are unable to comply with the Transmission Operator's or Balancing Authority's Operating Instructions (Requirements R4 and R6).

As explained in the TOP/IRO Petition, proposed Reliability Standard TOP-001-3 replaces currently-effective Reliability Standards TOP-001-1a and certain requirements from other currently-effective TOP and IRO Reliability Standards.⁸ The requirement for Distribution Providers and Generator Operators to comply with Operating Instructions issued by a Transmission Operator is a carry-over from Reliability Standard TOP-001-1a, Requirements R3 and R4, which require Generator Operators (Requirement R3) and Distribution Providers (Requirement R4) to comply with "reliability directives" issued by a Transmission Operator unless

⁶ See TOP/IRO Petition at 21-26.

⁷ As defined in the Glossary of Terms Used in NERC Reliability Standards, an "Operating Instruction" is "[a] command by operating personnel responsible for the Real-time operation of the interconnected Bulk Electric System to change or preserve the state, status, output, or input of an Element of the Bulk Electric System or Facility of the Bulk Electric System. (A discussion of general information and of potential options or alternatives to resolve Bulk Electric System operating concerns is not a command and is not considered an Operating Instruction.)"

⁸ See Exhibit D to the TOP/IRO Petition.

such actions would violate safety, equipment, regulatory or statutory requirements.⁹ Requirement R4 also required LSEs to comply with the reliability directives issued by a Transmission Operator. LSEs were not subject to any other requirements in TOP-001-1a nor were LSEs subject to the other currently-effective TOP/IRO requirements that proposed Reliability Standard TOP-001-3 is designed to replace. While LSEs were initially included in Requirements R3-R6 of proposed Reliability Standard TOP-001-3 along with Distribution Providers and Generator Operators, the standard drafting team decided to remove LSEs from the proposed standard following the NERC Board of Trustee's approval of proposed revisions to the NERC Rules of Procedure to eliminate the LSE functional registration category.

The proposal to eliminate the LSE functional registration category was part of a broader initiative at NERC, referred to as the RBR initiative, to revise the NERC registration criteria to ensure that the right entities are subject to the right set of Reliability Standards using a consistent approach to risk assessment and registration. The goal of the RBR initiative was to develop enhanced registry criteria, including the use of thresholds and specific Reliability Standards applicability, where appropriate, to better align compliance obligations with material risk to Bulk Electric System reliability. Eliminating the LSE functional registration category was one of a number of reforms proposed as part of the RBR initiative. On December 11, 2014, in Docket No. RR15-4-000, NERC filed a petition with the Commission for approval of proposed revisions to the NERC Rules of Procure to implement the reforms proposed as part of the RBR initiative (the "RBR Petition").

⁹ As explained in the TOP/IRO Petition (at 20-21), the term "Operating Instruction" replaces the term "reliability directive" used in currently effective Reliability Standards TOP-001-1a. TOP-001-1a did not require Generator Operators, Distribution Providers, or LSEs to comply with reliability directives issued by a Balancing Authority.

b. RBR Order

On March 19, 2015, the Commission issued the RBR Order, ruling on the RBR Petition. Among other things, the Commission denied, without prejudice, NERC's proposal to remove the LSE function and directed NERC to submit a compliance filing providing additional information on the effect of deregistering LSEs.¹⁰ The Commission found NERC's analysis incomplete, stating that it is concerned that NERC has not adequately explained how certain LSE reliability tasks will be performed going forward.¹¹ In particular, the Commission focused on the LSEs' role as a provider of information required for reliable operation of the Bulk Electric System.¹² The Commission stated:

Upon elimination of the load-serving entity as a registered function, it is unclear whether and how some entities will continue to provide information or who will assume their obligations. It appears that some of the load-serving entities will be required to continue to provide the information through their responsibilities as other registered functions. However, NERC has not adequately explained which entities will continue to provide this information. Because of the gaps in NERC's analysis, discussed below, we are unable to satisfactorily conclude on the current record in this proceeding that the elimination of the load-serving entity function will have no material impact on the reliability of the Bulk-Power System.¹³

More specifically, the Commission expressed concern with the information provided by LSEs that serve as inputs into power system models and assessments under the Modeling, Data, and Analysis ("MOD") group of Reliability Standards:

NERC does not adequately address whether, going forward, all balancing authorities and planners will have the ability to reasonably estimate demand and energy forecast data for areas where the load-serving entity is deregistered. In areas

¹⁰ RBR Order at PP 37-43.

¹¹ *Id.*

¹² RBR Order at PP 37-41. As provided in the NERC Functional Model (at 55), LSEs, among other things, provide (1) load profiles and characteristics, plans, and forecasts as needed to the Balancing Authorities, Purchasing-Selling Entities, Planning Coordinators, Resource Planners, and Transmission Planners, (2) information as to self-provided reliability-related services to the Balancing Authority, and (3) generation commitments and dispatch schedules to the Balancing Authority.

¹³ RBR Order at P 37.

of significant load-growth, the cumulative effect of deregistered entities not having to provide accurate load data projections as required by certain MOD Reliability Standards could have an increasing effect on reliability over time as load increases, e.g., as a result of demand and energy forecast data omitted or not accurately depicted in power system models and assessments.¹⁴

To obtain additional information about the effects of deregistering LSEs, the Commission directed NERC to submit a compliance filing that provides, among other things: (1) an adjusted estimate on the number of LSEs that would be deregistered; (2) additional information regarding the peak load of such entities on an individual and balancing authority basis; and (3) for the LSEs for which NERC anticipates deregistration, specific information regarding the alternative sources of authority which will ensure the continuation of LSE reliability activities by either the deregistered entity or another registered entity.¹⁵

Additionally, in response to NERC's statement that NERC is in the process of removing the LSE function from a number of Reliability Standards, the Commission stated:

When and if NERC submits one or more petitions for revised Reliability Standards that propose to remove the load-serving entity as an applicable entity, NERC must provide an adequate explanation of how the previous load-serving entities obligations will continue. In particular, an explanation that the removal of the load-serving entity function is consistent with the RBR initiative would be inadequate, if not circular, in light of NERC's rationale in the immediate docket that the impact from eliminating the load-serving entity function is lessened by the removal of the function from Reliability Standards. NERC is responsible to explain in the context of a particular modified Reliability Standard whether removal of the load-serving entity would result in a reliability gap and, if so, how the gap is addressed.¹⁶

In light of this directive, NERC is providing supplemental information to the TOP/IRO Petition to provide further explanation for removing LSEs as an applicable entity under proposed Reliability Standard TOP-001-3. As explained below, removing LSEs from proposed Reliability

¹⁴ RBR Order at P 40 (internal citations omitted).

¹⁵ RBR Order at P 41.

¹⁶ RBR Order at P 43 (internal citations omitted).

Standard TOP-001-3 will not create a reliability gap, and the Commission should approve proposed Reliability Standard TOP-001-3 as just, reasonable, not unduly discriminatory or preferential, and in the public interest.

II. SUPPLEMENTAL INFORMATION

The stated purpose of proposed Reliability Standard TOP-001-3 is to “prevent instability, uncontrolled separation, or Cascading outages that adversely affect the reliability of the Interconnection by ensuring prompt action to prevent or mitigate such occurrences.”¹⁷ As noted above, the proposed standard achieves this reliability goal, in part, by providing Transmission Operators and Balancing Authorities the authority to direct the actions of certain other functional entities (via the issuance of Operating Instructions) to maintain reliability during Real-time operations. In contrast to prior versions of proposed Reliability Standard TOP-001-3, LSEs are not included in the list of entities that must comply with a Transmission Operator’s or Balancing Authority’s Operating Instructions.¹⁸ As explained below, that is because none of the functions performed by LSEs, as described in the NERC Functional Model, necessitate that LSEs be subject to a requirement to comply with such Operating Instructions to ensure that a Transmission Operator or Balancing Authority can maintain the reliability of its Transmission Operator Area or Balancing Authority Area, respectively.

As explained in the NERC Functional Model,¹⁹ an LSE is “the functional entity that secures energy and transmission service (and reliability-related services) to serve the electrical demand

¹⁷ See TOP/IRO Petition at 21.

¹⁸ As noted above, the only requirement in previous versions of proposed Reliability Standard TOP-001-3 applicable to LSEs was for LSEs to comply with “reliability directives” issued by a Transmission Operator. There was previously no requirement for LSEs to comply with the directives of a Balancing Authority.

¹⁹ The NERC Functional Model is available at: http://www.nerc.com/pa/Stand/Functional%20Model%20Archive%201/Functional_Model_V5_Final_2009Dec1.pdf The NERC Functional Model was approved by the NERC Board of Trustees and provides the framework for the development and applicability of NERC’s Reliability Standards. See *Mandatory Reliability Standards for the Bulk-*

and energy requirements of its end-use customers.”²⁰ An LSE does not own or operate Bulk Electric System facilities or equipment or the facilities or equipment used to serve end-use customers.²¹ As provided in the NERC Functional Model, an LSE’s tasks are limited to the following:

1. *Ahead of Time Tasks:*

- Submits load profiles and characteristics, plans, and forecasts to Balancing Authorities, Purchasing-Selling Entities, Planning Coordinators, Resource Planners, and Transmission Planners.
- Identifies new facility connection needs for end-use customers.
- Provides generation commitments and dispatch schedules to the Balancing Authority.
- Provides information as to self-provided reliability-related services to the Balancing Authority.
- Provides planned purchases to the Resource Planner and Transmission Planner for system modeling and reliability evaluation.
- Arranges for transmission service from Transmission Service Providers and makes arrangements for reliability-related services with Generator Owners or Load-Serving Entities.
- Submits Requests For Interchange to Interchange Coordinators.
- Notifies Generator Operators if Arranged Interchange requests are approved or denied.
- Receives final approval or denial of Arranged Interchange from Interchange Coordinator.
- Coordinates with Distribution Provider on identifying new facility interconnection needs.
- Receives notification from Purchasing-Selling Entity if Arranged Interchange requests approved or denied.

Power System, Order No. 693, 72 FR 16416 at PP 117-129 (Apr. 4, 2007), FERC Stats. & Regs. ¶ 31,242, *order on reh’g*, Order No. 693-A, 120 FERC ¶ 61,053 (2007).

²⁰ NERC Functional Model at 55. As defined in the NERC Glossary, an LSE “[s]ecures energy and transmission service (and related Interconnected Operations Services) to serve the electrical demand and energy requirements of its end-use customers.”

²¹ The Distribution Provider is the functional entity that provides facilities that interconnect an end-use customer load and the electric system for the transfer of electrical energy to the end-use customer. If a company registered as an LSE also owned facilities, the company would be registered for other functions as well.

2. *Real-Time Tasks:*

- Receives requests from the Balancing Authority and Distribution Provider for voluntary load curtailment.
- Communicates requests for voluntary load curtailment to end-use customers as directed by the Balancing Authority and Distribution Provider.
- Notifies Interchange Coordinators of Confirmed Interchange cancellations or terminations.
- Receives notice of Confirmed Interchange curtailments from Interchange Coordinator.²²

In evaluating these functional obligations, the standard drafting team for proposed Reliability Standard TOP-001-3 did not identify any circumstances under which a Transmission Operator or Balancing Authority would need to issue an Operating Instruction to an LSE to meet the goal of the standard (i.e., to prevent instability, uncontrolled separation, or Cascading outages that adversely affect the reliability of the Interconnection in Real-time).²³ First, with respect to the LSE's role as a provider of information to other functional entities, which was the Commission's focus in the RBR Order, that role is primarily carried out ahead of Real-time and would not be the subject of an Operating Instruction. For instance, the LSE's submission of (1) load profiles and characteristics, plans, and forecasts, (2) generation commitments and dispatch schedules, and (3) information as to self-provided reliability related services to the Balancing Authority occurs in advance of Real-time operations. As explained above, the purpose of issuing Operating Instructions is to provide Transmission Operators and Balancing Authorities the authority to direct the actions of others so as to maintain reliable transmission operation in Real-time. Proposed

²² NERC Functional Model at 55.

²³ In its compliance filing on the RBR Order, NERC will provide further analysis on removing the LSE function from currently-effective Reliability Standards and proposed Reliability Standards pending Commission approval. This supplement solely focusses on the removal of the LSE from proposed Reliability Standard TOP-001-3.

Reliability Standard TOP-001-3 is not the standard by which Transmission Operators or Balancing Authorities obtain operational or planning data from other functional entities.

Additionally, the LSE's Real-time role with respect to voluntary load curtailment does not necessitate requiring LSEs to comply with Operating Instructions issued by a Transmission Operator or Balancing Authority. In order to maintain reliability in their areas and prevent instability, uncontrolled separation, or Cascading outages, there may be circumstances under which Transmission Operators and Balancing Authorities need to shed load (i.e. direct non-voluntary load curtailment). Such action is implemented in Real time to address imminent or existing reliability issues such as an exceedance of an Interconnection Reliability Operating Limit or System Operating Limit, or a voltage problem. Due to the urgent nature of these circumstances, the Reliability Coordinator, Balancing Authority, or Transmission Operator may issue Operating Instructions directly to the Distribution Provider for physical implementation of load shedding (except when this can be accomplished directly by the Transmission Operator). As indicated by the NERC Functional Model, as the LSE does not own or operate equipment, the LSE does not play a role in shedding load in Real-time.²⁴ It is the Distribution Provider that provides the switches and reclosers used to shed load for emergency action at the direction of the Transmission Operator or Balancing Authority.²⁵

In contrast to a Distribution Provider's role in load shedding, the LSE's role in load curtailment is voluntary and typically arranged ahead of Real-time. In many cases, the LSE obtains interruptible load contracts with end-use customers for the purpose of providing market price relief

²⁴ Because the LSE does not own or operate equipment, LSEs cannot shed load or perform other corrective actions. LSEs thus have no control that they could exercise for purposes of load shedding even if they were directed to take action by a Transmission Operator or Balancing Authority.

²⁵ NERC Functional Model at 47.

or assistance to the Balancing Authority in tight capacity/energy situations. The LSE often notifies the Balancing Authorities and Distribution Providers of the agreements so that voluntary load curtailment may be requested under specified conditions.²⁶ In Real-time, the LSE's role is simply to "[c]ommunicate requests for *voluntary* load curtailment to end-use customers as directed by the Balancing Authority and Distribution Provider."²⁷ An LSE's compliance with such requests, however, is not necessary for the Transmission Operator or Balancing Authority to maintain reliability in its area. Transmission Operators and Balancing Authorities have the ability to shed load absent agreement by the LSE or the end-use customer, as noted above. Requiring an LSE to comply with an Operating Instruction to exercise its rights to curtail load is thus unnecessary to maintain reliability and prevent instability, uncontrolled separation, or Cascading outages. If an LSE receives a request from a Transmission Operator or Balancing Authority to curtail load, the LSE may exercise its contractual rights to curtail or risk having its load shed by the Reliability Coordinator, Balancing Authority, Transmission Operator, and Distribution Provider according to established load shedding procedures.²⁸

²⁶ Voluntary load curtailment is a tool used to address capacity deficiencies, not to control transmission constraints. Under Reliability Standard EOP-001-2.1b, Requirement R4, each Transmission Operator and Balancing Authority must have an emergency plan that includes, among other things, public appeals for voluntary load reductions and energy conservation. Similarly, under proposed Reliability Standard EOP-011-1, Requirement R2, Balancing Authorities must have an Operating Plan to mitigate Capacity Emergencies and Energy Emergencies that includes, among other things, public appeals for voluntary load reductions. Removing LSEs from proposed Reliability Standard TOP-001-3 does not change the requirement for Transmission Operators and Balancing Authorities to appeal for voluntary load reduction from an LSE or directly from end-use customers. Note that LSEs are not an applicable entity under EOP-001-2.1b or EOP-011-1.

²⁷ NERC Functional Model at 55 (emphasis added).

²⁸ NERC's Reliability Standards should not dictate when an LSE must exercise its contractual rights to curtail load, particularly where there are other mechanisms to maintain reliable operations.

III. Conclusion

NERC respectfully requests that the Commission consider the supplemental information provided herein and approve the proposed TOP and IRO Reliability Standards as just, reasonable, not unduly discriminatory or preferential, and in the public interest.

Respectfully submitted,

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