
**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

Version Two Facilities Design, Connections) Docket No. RM08-11-000
and Maintenance Reliability Standards))

**REQUEST OF THE
NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION
FOR CLARIFICATION AND, IN THE ALTERNATIVE, REHEARING OF ORDER No.
722 REGARDING VERSION TWO FACILITIES, DESIGN, CONNECTIONS, AND
MAINTENANCE RELIABILITY STANDARDS**

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I. INTRODUCTION

Pursuant to Rules 212¹ and 713² of the Federal Energy Regulatory Commission's ("FERC" or the "Commission") Rules of Practice and Procedure, 18 C.F.R. §§ 385.212 and 385.713, the North American Electric Reliability Corporation ("NERC") requests clarification and, in the alternative, rehearing, of the Commission's March 20, 2009 Order No. 722³ ("FAC Order"). The Commission's FAC Order, among other things: (i) approved Reliability Standards FAC-010-2, FAC-011-2 and FAC-014-2 that NERC filed with the Commission on June 30, 2008; and (ii) approved with modifications the Violation Severity Levels ("VSLs") for the three Reliability Standards.

By this filing, NERC requests clarification and, in the alternative, rehearing with respect to one key element of the FAC Order.

II. STATEMENT OF ISSUES/SPECIFICATION OF ERROR FOR CLARIFICATION AND, IN THE ALTERNATIVE, REQUEST FOR REHEARING

Pursuant to 18 C.F.R. § 385.713, NERC seeks rehearing on the following issue:

Issue 1: In Attachment A to the FAC Order, the Commission directed changes to VSLs for several of the requirements that create **(a)** proposed VSLs that result in different VSLs for the same instance of non-compliance; and **(b)** proposed binary VSLs for sub-requirements when the nature of the requirement language lends itself to a non-binary approach. If the Commission does not grant the requested clarifications discussed below, NERC respectfully requests that the Commission grant rehearing and reverse its determinations on this issue in the FAC Order.

¹ 18 CFR § 385.212 (2008).

² 18 CFR § 385.713 (2008).

³ *Version Two Facilities, Design, Connections and Maintenance Reliability Standards*, 126 FERC ¶ 61,255 (2009) (the "FAC Order").

III. DISCUSSION OF ISSUES ADDRESSED BY THE REQUEST FOR CLARIFICATION AND, IN THE ALTERNATIVE, REHEARING

Issue 1: In Attachment A to the FAC Order, the Commission directed changes to VSLs for several of the requirements that create (a) proposed VSLs that result in different VSLs for the same instance of non-compliance; and (b) proposed binary VSLs for sub-requirements when the nature of the requirement language lends itself to a non-binary approach. If the Commission does not grant the requested clarifications discussed below, NERC respectfully requests that the Commission grant rehearing and reverse its determinations on this issue in the FAC Order.

(a) The Proposed VSLs Result in Different VSLs for the Same Instance of Non-compliance.

In the Commission-directed assignment of modified VSLs in the FAC Order, several proposed VSLs result in two different potential penalties or sanctions for the same violation. This result conflicts with FERC's Guideline 2⁴ from the Violation Severity Level Order from June, 2008 that VSL assignments should ensure uniformity and consistency in the determination of penalties. In the examples that follow, NERC requests that the Commission clarify how it intends NERC to utilize its Sanction Guidelines in the determination of a base penalty amount to ensure uniformity and consistency in the determination of penalties when two base penalty amounts are clearly possible in the Commission-directed changes to VSLs. Specifically, the assigned VSLs for each main requirement include language that addresses each of the sub-requirements. However, each sub-requirement also is assigned a VSL at the "Severe" level, because the Commission directed that all sub-requirements to be treated as binary, "yes/no" type requirements. For a violation of a sub-requirement then, there are two options for identifying the applicable VSL – the one specified at the sub-requirement level, or the one assigned at the main requirement level. In the following cases, the assigned VSLs for the main requirement and sub-requirement are different. As a result, NERC and the Regional Entities have no basis for clearly

⁴ *North American Electric Reliability Corporation*, "Order on Violation Severity Levels Proposed by the Electric Reliability Organization," 123 FERC ¶ 61,284(2008) at PP 22-23.

identifying the base penalty amount from NERC’s Sanction Guidelines if it is not clear what VSL should be used.

FAC-010-2 – System Operating Limits Methodology for the Planning Horizon

- The Commission-directed VSLs for R1.2 and R1.3 conflict with the Commission-approved VSLs for R1 as follows:
 - The VSL for a violation of R1.2 is rated as “Moderate” using the set of Commission-approved VSLs for R1, and rated as “Severe” using the Commission-directed VSLs for R1.2.
 - The VSL for a violation of R1.3 is rated as “High” using the set of Commission-approved VSLs for R1, and rated as “Severe” using the Commission-directed VSLs for R1.3.
- The Commission-directed VSLs for R3.1 through R3.6 conflict with the Commission-approved VSLs for R3 as follows:
 - The VSL for a violation of R3.1 is rated as “Lower” using the set of the Commission-approved VSLs for R3, and rated as “Severe” using the Commission-directed VSLs for R3.1.
 - The VSL for a violation of R3.2 is rated as “Lower” using the set of Commission-approved VSLs for R3, and rated as “Severe” using the Commission-directed VSLs for R3.2.
 - The VSL for a violation of R3.3 is rated as “Lower” using the set of Commission-approved VSLs for R3, and rated as “Severe” using the Commission-directed VSLs for R3.3.
 - The VSL for a violation of R3.4 is rated as “Lower” using the set of Commission-approved VSLs for R3, and rated as “Severe” using the Commission-directed VSLs for R3.4.
 - The VSL for a violation of R3.5 is rated as “Lower” using the set of Commission-approved VSLs for R3, and rated as “Severe” using the Commission-directed VSLs for R3.5.
 - The VSL for a violation of R3.6 is rated as “Lower” using the set of Commission-approved VSLs for R3, and rated as “Severe” using the Commission-directed VSLs for R3.6.
- The Commission-directed VSLs for R4.1 through R4.3 conflict with the Commission-approved VSLs for R4 as follows:
 - The VSL for a violation of R4.1 is rated as “Lower” using the set of Commission-approved VSLs for R4, and rated as “Severe” using the Commission-directed VSLs for R4.1.

- The VSL for a violation of R4.2 is rated as “Lower” using the set of Commission-approved VSLs for R4, and rated as “Severe” using the Commission-directed VSLs for R4.2.
- The VSL for a violation of R4.3 is rated as “Lower” using the set of Commission-approved VSLs for R4, and rated as “Severe” using the Commission-directed VSLs for R4.3.

FAC-011-2 – System Operating Limits Methodology for the Operations Horizon

- The Commission-directed VSLs for R1.2 and R1.3 conflict with the Commission-approved VSLs for R1 as follows:
 - The VSL for a violation of R1.2 is rated as “Moderate” using the set of Commission-approved VSLs for R1, and rated as “Severe” using the Commission-directed VSLs for R1.2.
 - The VSL for a violation of R1.3 is rated as “High” using the set of Commission-approved VSLs for R1, and rated as “Severe” using the Commission-directed VSLs for R1.3.
- The Commission-directed VSLs for FAC-011-2, R3.1 through R3.7 conflict with the Commission-approved NERC VSLs for FAC-011-2, R3 as follows:
 - The VSL for a violation of R3.1 is rated as “Lower” using the set of Commission-approved VSLs for R3, and rated as “Severe” using the Commission-directed VSLs for R3.1.
 - The VSL for a violation of R3.2 is rated as “Lower” using the set of Commission-approved VSLs for R3, and rated as “Severe” using the Commission-directed VSLs for R3.2.
 - The VSL for a violation of R3.3 is rated as “Lower” using the set of Commission-approved VSLs for R3, and rated as “Severe” using the Commission-directed VSLs for R3.3.
 - The VSL for a violation of R3.4 is rated as “Lower” using the set of Commission-approved VSLs for R3, and rated as “Severe” using the Commission-directed VSLs for R3.4.
 - The VSL for a violation of R3.5 is rated as “Lower” using the set of Commission-approved VSLs for R3, and rated as “Severe” using the Commission-directed VSLs for R3.5.
 - The VSL for a violation of R3.6 is rated as “Lower” using the set of Commission-approved VSLs for R3, and rated as “Severe” using the Commission-directed VSLs for R3.6.
 - The VSL for a violation of R3.7 is rated as “Lower” using the set of Commission-approved VSLs for R3, and rated as “Severe” using the Commission-directed VSLs for R3.7.
- The Commission-directed VSLs for FAC-011-2, R4.1 through R4.3 conflict with the Commission-approved VSLs for FAC-011-2, R4 as follows:

- The VSL for a violation of R4.1 is rated as “Lower” using the set of Commission-approved VSLs for R4, and rated as “Severe” using the Commission-directed VSLs for R4.1.
- The VSL for a violation of R4.2 is rated as “Lower” using the set of Commission-approved VSLs for R4, and rated as “Severe” using the Commission-directed VSLs for R4.2.
- The VSL for a violation of R4.3 is rated as “Lower” using the set of Commission-approved VSLs for R4, and rated as “Severe” using the Commission-directed VSLs for R4.3.

FAC-014-2 – Establish and Communicate System Operating Limits

- The Commission-directed VSLs for R5.1.3, R5.1.4, R5.2, R5.3 and R5.4 all conflict with the Commission-approved VSLs for R5 as follows:
 - The VSL for a violation of R5.1.3 is rated as “High” using the set of Commission-approved VSLs for R5, and rated as “Severe” using the Commission-directed VSLs for R5.1.3.
 - The VSL for a violation of R5.1.4 is rated as “Moderate” using the set of Commission-approved VSLs for R5.1, and rated as “Severe” using the Commission-directed VSLs for R5.1.4.
 - The VSL for a violation of R5.2, or R5.3, or R5.4 is rated as either “Moderate” or “High” (depending upon the number of requesting entities that were not provided requested SOLs within the associated schedule) using the Commission-approved VSL language in R5, or depending upon the completeness of the set of SOLs or the completeness of the information associated with the SOL. However the violation for not providing the SOLs according to schedule or for not providing the SOLs to all requesting entities, or for not providing the SOLs with all the supporting information, is rated as “Severe” in the Commission-directed VSLs for R5.2, R5.3, and R5.4.

(b) The Commission-determined VSLs for Sub-requirements Are Improperly Designated as Binary When the VSL Language Lends Itself to a Non-binary Approach for the Same Instance of Non-compliance.

In assigning revised VSLs in the FAC Order, the Commission treated each of the sub-requirements or sub-subrequirements as “binary,” that is, an entity either complied wholly (passed) or not at all (failed). Previously, the Commission provided guidance on this matter in its discussion on Guideline 2a in the Violation Severity Level Order from June 2008, stating:

...although the Commission agrees that the binary approach is appropriate for certain requirements, the Commission notes that, as a general rule, gradated [VSLs], wherever possible, would be preferable to binary [VSLs] since the

application of any penalty for a violation could be more consistently and fairly applied commensurate with the degree of the violation.⁵

Upon review of the requirement language itself, several of the sub-requirements contain multiple parts that, using previous Commission guidance, would seem to warrant a non-binary approach.

In anticipation of the September 18, 2009, compliance filing relative to the Commission VSL guidelines, NERC requests further clarity from the Commission on the application of Guideline 2a in these cases to ensure a more complete understanding as to when to apply the binary versus gradated approach.

In the changes to the VSLs directed by the Commission, there are several situations where the text of a sub-requirement includes multiple criteria and developing a spectrum of VSLs is possible, and seemingly preferable based on to the Commission's previous guidance.

For example, FAC-010-2, sub-requirement R2.1 states:

In the pre-contingency state and with all Facilities in service, the BES shall demonstrate transient, dynamic and voltage stability; all Facilities shall be within their Facility Ratings and within their thermal, voltage and stability limits. In the determination of [System Operating Limits], the BES condition used shall reflect expected system conditions and shall reflect changes to system topology such as Facility outages.

In this example, there could be non-compliance where:

- the responsible entity's methodology meets all criteria except for expected changes to system topology; or
- the entity's methodology requires a demonstration of dynamic and voltage stability, but does not require a demonstration of transient instability; or
- the methodology identifies that in the pre-contingency state Facilities have to be within their thermal, voltage and stability limits, but fails to mention that Facilities have to be within their Facility ratings.

Yet, the Commission directed a "pass/fail" binary approach to be applied covering all of these components. This approach appears contradictory to the articulated Commission guidance from its June 2008 Violation Severity Level Order.

⁵ *Id.* at P 27.

Similarly, the following requirements contain multiple parts that the Commission directed NERC to assign binary VSLs. Based on previous Commission guidance, a non-binary approach seems preferable for each of the following sub-requirements:

- **FAC-010-2:** Sub-requirements R2.1, R2.2, R2.2.1, R2.2.2, R2.5, R3.1, R3.5, R3.6, R4.1, R4.2, and R4.3.
- **FAC-011-2:** Sub-requirements R2.1, R2.2, R2.2.1, R2.2.2, R3.1, R3.3.1, R3.6, R3.7, R4.1, R4.2, and R4.3.
- **FAC-014-2:** Sub-requirements R5.1, R5.1.1, R5.1.2, R5.2, R5.3 and R5.4.

If the Commission does not grant the requested clarifications discussed above, NERC respectfully requests that the Commission grant rehearing and reverse its determinations to apply a binary approach for these requirements in the FAC Order.

IV. CONCLUSION

For the reasons set forth in this filing, NERC requests that the Commission issue an order granting the request for clarification and alternative request for rehearing as set forth above.

Respectfully submitted,

/s/ Rebecca J. Michael

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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 20th day of April, 2009.

/s/ Rebecca J. Michael
Rebecca J. Michael
Attorney for North American Electric
Reliability Corporation