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UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

18 CFR Part 40

(Docket No. RM06-16-000)

Mandatory Reliability Standards for the Bulk-Power System

(October 20, 2006)

Régie de l'énergie
DOSSIER: R 3557-2016
DÉPOSÉE EN AUDIENCE
PAR RTA
Date: 3 mai 2018
Pièces no: NON

COTE

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: Pursuant to section 215 of the Federal Power Act (FPA), the Commission is proposing to approve 83 of 107 proposed Reliability Standards, including six of the eight regional differences, and the Glossary of Terms Used in Reliability Standards developed by the North American Electric Reliability Council, on behalf of its wholly-owned subsidiary, 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. Those Reliability Standards meet the requirements of section 215 of the FPA and Part 39 of the Commission's regulations. However, although we believe it is in the public interest to make these Reliability Standards mandatory and enforceable by June 2007, we also find that much work remains to be done. Specifically, we believe that many of these Reliability Standards require significant improvement to address, among other things, the recommendations of the Blackout Report. We therefore propose, pursuant to section 215(d)(5), to require the ERO to make significant improvements to many of the

58. Further, the Commission proposes to require that any Reliability Standard that references a regional reliability organization as a compliance monitor be modified to refer to the ERO as the compliance monitor.

59. Finally, for the remaining seven Reliability Standards (fill-in-the-blank standards),⁴⁹ we propose to request additional information on these proposed Reliability Standards pending receipt of additional information, as detailed below in the discussion on fill-in-the-blank standards.

5. **Bulk-Power System v. Bulk Electric System**

60. As noted above, Commission-approved Reliability Standards are to provide for the Reliable Operation of the Bulk-Power System. Generally speaking, the Nation's Bulk-Power System has been described as consisting of "generating units, transmission lines and substations, and system controls."⁵⁰ The transmission system component of the Bulk-Power System is understood to provide for the movement of power in bulk to points of distribution for allocation to retail electricity customers. Essentially, whereas transmission lines and other parts of the transmission system, including control facilities serve to transmit electricity in bulk form from the generation sources to concentrated

⁴⁹ MOD-001, MOD-002, MOD-003, MOD-004, MOD-005, MOD-008, and MOD-009.

⁵⁰ Maintaining Reliability in a Competitive U.S. Electricity Industry, Final Report of the Task Force on Electric System Reliability, Secretary of Energy Advisory Board, U.S. Department of Energy (September 1998) at 2, 6-7.

areas of retail customers, the distribution system moves the electricity to where these retail customers consume it at a home or business.

61. Section 215(b)(1) of the FPA provides that all users, owners and operators of the Bulk-Power System must comply with Commission-approved Reliability Standards. For purposes of section 215, the statute defines “Bulk-Power System” to mean:

(A) facilities and control systems necessary for operating an interconnected electric energy transmission network (or any portion thereof); and (B) electric energy from generating facilities needed to maintain transmission system reliability. The term does not include facilities used in the local distribution of electric energy.⁵¹

62. Notably, the statutory definition of Bulk-Power System does not establish voltage threshold limits on applicable transmission facilities or electric energy from generating facilities. It does, however explicitly exclude facilities used in the local distribution of electricity. The NERC glossary, in contrast, states that Reliability Standards apply to the “bulk electric system,” which is defined in terms of a voltage threshold, as follows:

As defined by the Regional Reliability Organization, the electrical generation resources, transmission lines, interconnections with neighboring systems, and associated equipment, generally operated at voltages of 100

⁵¹ 16 U.S.C. 824o (a)(1).

kV or higher. Radial transmission facilities serving only load with one transmission source are generally not included in this definition.⁵²

63. While NERC's definition generally excludes transmission facilities operated below 100 kV, NERC allows each regional reliability organization to add specificity to this general obligation.

64. The Staff Preliminary Assessment expressed concern that differences between the statutory definition of Bulk-Power System and NERC's definition of bulk electric system create a discrepancy that could result in reliability gaps.⁵³ Staff also expressed concern that allowing a regional reliability organization to define what facilities are included in the bulk electric system could result in conflicting definitions -- potentially subjecting or excluding similar facilities from compliance with the Reliability Standards.

65. NERC recommends that, for the initial approval of proposed Reliability Standards, the continued use of NERC's definition of Bulk Electric System is appropriate. In the longer term, NERC suggests that change may be appropriate but that any global change at this juncture will affect many Reliability Standards and is best achieved through the Reliability Standards development process. Some commenters emphasize that all

⁵² See NERC Petition, Exhibit A, NERC glossary at 2.

⁵³ Staff Preliminary Assessment at 25-26. For example, the two 230 kV cables that connect Mirant's Potomac River Plant and the 69 kV transmission facilities that supply portions of Washington, DC were not included in the MAAC definition of bulk electric system. New York City's 138 kV system is not included in NPCC's definition of bulk electric system.

facilities necessary for Bulk-Power System reliability must be covered by the Reliability Standards, and none should be omitted by a discretionary act of a regional reliability organization. Many commenters, however, state that these excluded transmission systems have not been the cause of any of the large blackouts and therefore should not be considered as part of the Bulk-Power System.⁵⁴ Furthermore, some commenters, including those representing small transmission owners, prefer the continued use of the NERC definition and caution against simply replacing all references to bulk electric system with Bulk-Power System because (1) the latter term as defined in section 215 of the FPA is ambiguous and (2) it would likely lead to an unintended substantive change in various Reliability Standards.

66. We believe that Congress intended that the definitions of Bulk-Power System and Reliable Operation⁵⁵ in section 215 of the FPA to further the objective of maintaining the

⁵⁴ Staff review of selected Form No. 1 reports filed with the Commission indicates that 25 percent or more of many public utilities' total transmission line miles operate below 100 kV. Yet such facilities may well be as much a part of an entity's portion of the nation's integrated transmission system component of the Bulk-Power System as the transmission facilities operating at or above 100 kV because these lower voltage facilities support the higher voltage facilities. Indeed, it is not unusual to see outages of 69 kV transmission facilities limiting the higher voltage transmission facilities with which they are networked.

⁵⁵ As mentioned earlier, "Reliable Operation means operating the elements of the Bulk-Power System within equipment and electric system thermal, voltage, and stability limits so that instability, uncontrolled separation, or cascading failures of such system will not occur as a result of sudden disturbance, including a Cybersecurity Incident, or unanticipated failure of system elements." See Order No. 672 at P 64. See also 18 CFR 39.1.

reliability of the entire Bulk-Power System, including maintaining the reliability of all of the elements of the transmission component of the Bulk-Power System. We believe that the transmission elements excluded under NERC's bulk electric system approach, including transmission that serves critical load centers, are subject to the Commission's jurisdiction under section 215.

67. The term Bulk-Power System as defined in section 215 of the FPA is one determinant of the Commission's jurisdiction for reliability purposes (the phrase "user, owner or operator" being another). While we do not believe that it is appropriate to categorically exclude any class of facilities from the definition of Bulk-Power System, we recognize that a particular Reliability Standard may appropriately only need to apply to a subset of facilities that comprise the Bulk-Power System. Thus, the Commission may approve a Reliability Standard that applies to the bulk electric system as defined by NERC without limiting the ability of the ERO to develop and propose standards applicable to the broader set of facilities encompassed by the statutory definition as may be necessary.

68. The Commission believes that the ERO has suggested a sensible transition approach. The Commission proposes that, for the initial approval of proposed Reliability Standards, the continued use of NERC's definition of bulk electric system as set forth in the NERC glossary is appropriate.⁵⁶ However, we interpret the term "bulk electric

⁵⁶ We note that the regional definitions have not been submitted to us and we are not determining the appropriateness of any regional definition in this proceeding.

system” to apply to all of the ≥ 100 kV transmission systems and any underlying transmission system (< 100 kV) that could limit or supplement the operation of the higher voltage transmission systems. It would also include transmission to all significant local distribution systems (but not the distribution system itself), load centers, and transmission connecting generation that supplies electric energy to the system. If there is a question concerning which underlying transmission system limits or supplements the operation of the higher voltage transmission system, the Commission proposed that the ERO would provide the final determination on a case by case basis.

69. Continued reliance on multiple regional interpretations of the NERC definition of bulk electric system, which omits significant portions of the transmission system component of the Bulk-Power System that serve critical load centers, is not appropriate. We propose that NERC eventually revise the current definition of bulk electric system to ensure that all facilities, control systems, and electric energy from generation resources that impact system reliability are included within the scope of applicability, and that NERC’s revision is consistent with the statutory term Bulk-Power System.

70. While the approach outlined above may result initially in a Reliability Standard applying to a set of Bulk-Power System facilities that is less than that of the full reach of the Commission’s jurisdiction pursuant to section 215 of the FPA (the “gap” to which the Staff Preliminary Assessment referred), we agree with the commenters that a wholesale substitution of one term for another could lead to unintended substantive changes within certain Reliability Standards.

71. The Commission solicits comment on this interpretation and whether the Regional Entities should, in the future, play a role in either defining the facilities that are subject to a Reliability Standard or be allowed to determine an exception on a case-by-case basis.

C. Mandatory Reliability Standards

1. Legal Standard for Approval of Reliability Standards

72. Section 215(d)(2) of the FPA states that the Commission may approve a Reliability Standard if it determines that a Reliability Standard is just, reasonable, not unduly discriminatory or preferential, and in the public interest. In Order No. 672, the Commission addressed issues regarding the application of the statutory standard in our review of a proposed Reliability Standard. The Commission identified a series of factors it would consider when assessing whether to approve or remand a Reliability Standard.⁵⁷ Further, Order No. 672 stated that the Commission would, consistent with the statute, give “due weight” to the technical expertise of the ERO with respect to the content of a proposed Reliability Standard. However, due weight does not equate to a rebuttable presumption that a proposed Reliability Standard meets the statutory requirement of being just, reasonable, not unduly discriminatory or preferential, and in the public interest.⁵⁸ Further, the Commission review of a proposed Reliability Standard would

⁵⁷ Order No. 672 at P 262, 321-37.

⁵⁸ Id. at P 345.

