

November 20, 2015

VIA OVERNIGHT MAIL

Sheri Young, Secretary of the Board
National Energy Board
517 – 10th Avenue SW
Calgary, Alberta
T2R 0A8

RE: *North American Electric Reliability Corporation*

Dear Ms. Young:

The North American Electric Reliability Corporation (“NERC”) hereby submits Notice of Filing of the North American Electric Reliability Corporation of Proposed Reliability Standard MOD-031-2. NERC requests, to the extent necessary, a waiver of any applicable filing requirements with respect to this filing.

Please contact the undersigned if you have any questions.

Respectfully submitted,

/s/ Holly A. Hawkins

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*Associate General Counsel for the North
American Electric Reliability Corporation*

Enclosure

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**BEFORE THE
NATIONAL ENERGY BOARD**

**NORTH AMERICAN ELECTRIC)
RELIABILITY CORPORATION)**

**NOTICE OF FILING OF THE
NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION
OF PROPOSED RELIABILITY STANDARD MOD-031-2**

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discussed below, consistent with the directives in Order No. 804, proposed Reliability Standard MOD-031-2 improves upon MOD-031-1 by clarifying the compliance obligations related to (1) providing data to Regional Entities, and (2) responding to a request for data subject to confidentiality restrictions.

I. NOTICES AND COMMUNICATIONS

Notices and communications with respect to this filing may be addressed to the following:

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II. BACKGROUND

A. NERC Reliability Standards Development Procedure

The proposed Reliability Standard was developed in an open and fair manner and in accordance with the Reliability Standard development process. NERC develops Reliability Standards in accordance with Section 300 (Reliability Standards Development) of its Rules of Procedure and the NERC Standard Processes Manual.⁴ NERC's proposed rules provide for reasonable notice and opportunity for public comment, due process, openness, and a balance of interests in developing Reliability Standards and thus satisfies certain of the criteria for approving

⁴ The NERC Rules of Procedure are available at <http://www.nerc.com/AboutNERC/Pages/Rules-of-Procedure.aspx>. The NERC Standard Processes Manual is available at http://www.nerc.com/comm/SC/Documents/Appendix_3A_StandardsProcessesManual.pdf.

Reliability Standards. The development process is open to any person or entity with a legitimate interest in the reliability of the Bulk-Power System. NERC considers the comments of all stakeholders. Further, a vote of stakeholders and adoption by the NERC Board is required before NERC submits the Reliability Standard to the applicable governmental authorities for approval.

B. Order No. 804

In Order No. 804, FERC approved Reliability Standard MOD-031-1, finding that the standard “should continue 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.”⁵ FERC also found that Reliability Standard MOD-031-1 “should 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.”⁶

While approving Reliability Standard MOD-031-1, FERC also directed that NERC:

1. Develop a modification to MOD-031-1 to clarify that Planning Coordinators and Balancing Authorities must provide demand and energy data upon request of a Regional Entity, as necessary to support NERC’s development of seasonal and long-term reliability assessments.
2. Consider the compliance obligations of an applicable entity upon receipt of a data request that seeks confidential data.

Providing Data to Regional Entities. In Order No. 804, FERC noted that while MOD-031-1, Requirement R3 requires Planning Authorities and Balancing Authorities to provide the Demand and energy data they collect pursuant to Requirements R1 and R2 of the standard to the applicable Regional Entity, Requirement R3 does not also obligate Planning Authorities and

⁵ Order No. 804 at P 14.

⁶ Order No. 804 at P 15.

Balancing Authorities to provide Demand and energy data they obtain through alternative mechanisms to the Regional Entities.⁷ FERC stated that “NERC has the statutory responsibility to conduct periodic assessments of the reliability and adequacy of the Bulk-Power System, and we believe that it is incumbent on users, owners and operators subject to compliance with section 215 of the FPA to provide the necessary data to support such assessments.”⁸ To that end, FERC directed NERC to develop a modification to MOD-031 to clarify that Planning Coordinators and Balancing Authorities must provide Demand and energy data to a Regional Entity, upon request, irrespective of whether that data is collected pursuant to the Reliability Standard or through alternative arrangements.⁹

Requests for Confidentiality Data. Reliability Standard MOD-031-1, Requirement R4 requires applicable entities, within 45 days of a request, to share their Demand and energy data with certain other entities to help ensure that planners and operators of the Bulk-Power System have access to complete and accurate data necessary to conduct their own resource adequacy assessments. If, however, providing some or all of the requested data would conflict with the applicable entity’s confidentiality, regulatory or security requirements, Requirement R4, Part 4.1

⁷ *Id.* at P 18. As NERC explained in FERC Docket No. RM14-12-000, Requirements R1 and R2 of MOD-031-1 provide Planning Coordinators and Balancing Authorities the authority to issue data requests for Demand and energy data, but do not require them to do so as they may have alternative mechanisms to attain the data. *Petition of the North American Electric Reliability Corporation for Approval of Proposed Reliability Standard MOD-031-1* at 22-23, Docket No. RM14-12-000 (May 13, 2014); *Comments of the North American Electric Reliability Corporation in Response to Notice of Proposed Rulemaking* at 2-3, Docket No. RM14-12-000 (Dec. 1, 2014) (MOD-031-1 NOPR Comments).

⁸ Order No. 804 at P 18. In its MOD-031-1 NOPR Comments, NERC stated that while the intent of Requirement R3 was to require Planning Coordinators and Balancing Authorities to provide the necessary data to their Regional Entities to support NERC’s development of seasonal and long-term reliability assessments irrespective of the mechanisms by which they obtain the data, a strict reading of Requirement R3 indicates that it applies only to data collected pursuant to MOD-031-1. MOD-031-1 NOPR Comments at 2-3. As such, NERC committed to modify Requirement R3 to clarify that Planning Coordinators and Balancing Authorities must provide their demand and energy data to their Regional Entity whether that data is collected pursuant to MOD-031-1 or through alternative arrangements.

⁹ Order No. 804 at P 18.

stipulates that the entity need not provide the data; however, it must respond to the requesting entity, within 30 days of the request, specifying the data that is not being provided and on what basis.

In response to comments from the Edison Electric Institute (“EEI”) related to “potential conflicts” between a transmission provider’s obligation to provide data under MOD-031-1 and the transmission provider’s confidentiality obligations under an OATT or other confidentiality restrictions, FERC directed NERC to consider these issues during standard development and, as necessary, clarify the compliance obligations of an applicable entity upon receipt of a request for confidential data.¹⁰

C. Development of the Proposed Reliability Standard

As further described in Exhibit D hereto, following the issuance of Order No. 804, NERC initiated a standard development project to address the directives in Order No. 804. NERC posted a Standard Authorization Request for informal comment from April 16, 2015 through May 19, 2015. Using the same standard drafting team that developed Reliability Standard MOD-031-1, proposed MOD-031-2 was posted for a 45-day initial comment period and ballot on July 31, 2015. The initial ballot resulted in the requisite stakeholder approval, receiving a quorum of 85.57% and an approval of 87.36%. After addressing industry comments on the initial draft of the proposed Reliability Standard, NERC posted the proposed Reliability Standard for a final ballot, which received a quorum of 89.60% and approval of 90.01%. The NERC Board of Trustees adopted proposed Reliability Standard MOD-031-2 and the associated Implementation Plan on November 5, 2015.

¹⁰ *Id.* at PP 19-20.

III. JUSTIFICATION

As discussed below and in Exhibit C, the proposed Reliability Standard satisfies the Reliability Standards criteria and is just, reasonable, not unduly discriminatory, or preferential, and in the public interest. The following section provides an explanation of the manner in which the proposed Reliability Standard addresses the directives in Order No. 804.

A. Proposed Modifications to Reliability Standard MOD-031

1) Providing Data to Regional Entities

Consistent with Order No. 804, proposed Reliability Standard MOD-031-2 modifies Requirement R3 to clarify that Planning Authorities and Balancing Authorities must provide Demand and energy data to their Regional Entity, upon request, whether the Planning Authority or Balancing Authority collected that data pursuant to Reliability Standard MOD-031 or through alternative mechanisms. Specifically, proposed Requirement R3 states:

The Planning Coordinator or the Balancing Authority shall provide the data listed under Requirement R1 Parts 1.3 through 1.5 for their area to the applicable Regional Entity within 75 calendar days of receiving a request for such data, unless otherwise agreed upon by the parties.

In contrast, MOD-031-1, Requirement R3 provides:

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.

Changing the phrase “collected under Requirement R2” to “listed under Requirement R1 Parts 1.3 through 1.5” clarifies that the requirement to provide data to a Regional Entity applies broadly to the Demand and energy data listed in Requirement R1, whether the data was collected pursuant to a data request under the standard or through alternative mechanisms. The proposed modification will help ensure that NERC and the Regional Entities have the necessary data to conduct reliability assessments.

2) Requests for Confidential Data

After considering EEI's comments on potential confidentiality conflicts, the standard drafting team modified Requirement R4 to clarify that an entity "shall provide the requested data within 45 calendar days of the written request, subject to part 4.1 of this requirement; *unless providing the requested data would conflict with the Applicable Entity's confidentiality, regulatory, or security requirements.*" (Emphasis added). The standard drafting team concluded that it could not anticipate all the various confidentiality restrictions that might apply to Demand and energy data and tailor the language of the requirement to account for every type of confidentiality restriction. Instead, in the Rationale for Requirement R4, appended to proposed MOD-031-2, the standard drafting team explained:

The obligation to share data under Requirement R4 does not supersede or otherwise modify any of the Applicable Entity's existing confidentiality obligations. For instance, if an entity is prohibited from providing any of the requested data pursuant to confidentiality provisions of an Open Access Transmission Tariff or a contractual arrangement, Requirement R4 does not require the Applicable Entity to provide the data to a requesting entity. Rather, under Part 4.1, the Applicable Entity must simply provide written notification to the requesting entity that it will not be providing the data and the basis for not providing the data. If the Applicable Entity is subject to confidentiality obligations that allow the Applicable Entity to share the data only if certain conditions are met, the Applicable Entity shall ensure that those conditions are met within the 45-day time period provided in Requirement R4, communicate with the requesting entity regarding an extension of the 45-day time period so as to have additional time to meet all those conditions, or provide justification under Part 4.1 as to why those conditions cannot be met under the circumstances.

In short, if data is subject to a confidentiality restriction that prohibits the sharing of that data, the entity need not provide that data. It is the responsibility of each entity receiving a data request under Requirement R4, however, to understand any confidentiality obligations applicable to the requested data and act accordingly.

B. Enforceability of the Proposed Reliability Standards

The proposed Reliability Standard includes VRFs and VSLs. The VRFs and VSLs provide guidance on the way that NERC will enforce the requirements of the proposed Reliability Standard. The VRFs and VSLs for the proposed Reliability Standard comport with NERC and FERC guidelines related to their assignment.

The proposed Reliability Standard also include measures that support each requirement by clearly identifying what is required and how the ERO will enforce the requirement. These measures help ensure that the requirements will be enforced in a clear, consistent, and non-preferential manner and without prejudice to any party.

IV. EFFECTIVE DATE

The proposed Reliability Standards will become effective as set forth in the proposed Implementation Plan, provided in Exhibit B hereto. The proposed Implementation Plan is designed to match the effective date of the proposed Reliability Standard with the effective date of MOD-031-1, while also ensuring that entities will have sufficient time to develop the necessary process to implement this standard. The Implementation Plan provides that proposed MOD-031-2 shall become effective on the later of the effective date of MOD-031-1 or the first day of the first calendar quarter that is six months after the date that this standard is approved or as otherwise provided for in a jurisdiction where approval by an applicable governmental authority is required for a standard to go into effect. Where approval by an applicable governmental authority is not required, the standard shall become effective on the later of the effective date of MOD-031-1 or the first day of the first calendar quarter that is six months after the date the standard is adopted by the NERC Board of Trustees or as otherwise provided for in that jurisdiction.

Respectfully submitted,

/s/ Shamai Elstein

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Date: November 20, 2015

EXHIBITS A—B and D – E

(Available on the NERC Website at

<http://www.nerc.com/FilingsOrders/ca/Canadian%20Filings%20and%20Orders%20DL/MOD-031-2%20exhibits.pdf>)

EXHIBIT C

Reliability Standards Criteria

The discussion below explains how the proposed Reliability Standard has met or exceeded the Reliability Standards criteria:

1. Proposed Reliability Standards must be designed to achieve a specified reliability goal and must contain a technically sound means to achieve that goal.

Proposed Reliability Standard MOD-031-2 achieves the specific reliability goal of ensuring that Demand and energy data necessary to support reliability assessments conducted by the ERO and Bulk-Power System planners and operators is available to such entities. The proposed Reliability Standard enumerates the responsibilities of applicable entities with respect to the provision and/or collection of Demand and energy data. By providing for consistent documentation and information sharing practices for the collection and aggregation of such data, proposed Reliability Standard MOD-031-1 promotes efficient planning practices and supports the identification of needed system reinforcements. The modifications in proposed MOD-031-2 clarify the compliance obligations related to (1) providing data to Regional Entities, and (2) responding to a request for data subject to confidentiality restrictions.

2. Proposed Reliability Standards must be applicable only to users, owners and operators of the bulk power system, and must be clear and unambiguous as to what is required and who is required to comply.

The proposed Reliability Standard is clear and unambiguous as to what is required and who is required to comply. The proposed Reliability Standard applies to Planning Coordinators, Transmission Planners, Balancing Authorities, Resource Planners, Load Serving Entities and Distribution Providers. The proposed Reliability Standard clearly articulates the actions that such entities must take to comply with the standard.

3. A proposed Reliability Standard must include clear and understandable consequences and a range of penalties (monetary and/or non-monetary) for a violation.

The Violation Risk Factors (“VRFs”) and Violation Severity Levels (“VSLs”) for the proposed Reliability Standard comport with NERC and FERC guidelines related to their assignment. The assignment of the severity level for each VSL is consistent with the corresponding requirement and the VSLs should ensure uniformity and consistency in the determination of penalties. The VSLs do not use any ambiguous terminology, thereby supporting uniformity and consistency in the determination of similar penalties for similar violations. For these reasons, the proposed Reliability Standard includes clear and understandable consequences.

4. A proposed Reliability Standard must identify clear and objective criterion or measure for compliance, so that it can be enforced in a consistent and non-preferential manner.

The proposed Reliability Standard contains measures that support each requirement by clearly identifying what is required to demonstrate compliance. These measures help provide clarity regarding the manner in which the requirements will be enforced, and help ensure that the requirements will be enforced in a clear, consistent, and non-preferential manner and without prejudice to any party.

5. Proposed Reliability Standards should achieve a reliability goal effectively and efficiently — but do not necessarily have to reflect “best practices” without regard to implementation cost or historical regional infrastructure design.

The proposed Reliability Standard achieves the reliability goal effectively and efficiently. The proposed Reliability Standard clearly enumerates the responsibilities of applicable entities with respect to the provision and/or collection of Demand and energy data necessary to support reliability assessments.

- 6. Proposed Reliability Standards cannot be “lowest common denominator,” *i.e.*, cannot reflect a compromise that does not adequately protect Bulk-Power System reliability. Proposed Reliability Standards can consider costs to implement for smaller entities, but not at consequences of less than excellence in operating system reliability.**

The proposed Reliability Standard does not reflect a “lowest common denominator” approach. To the contrary, the proposed Reliability Standard contains significant benefits for the Bulk-Power System. The requirements of the proposed Reliability Standard help ensure that entities that conduct reliability assessments, which are fundamental to analyzing the reliability of the grid, have access to complete and accurate data necessary to conduct those assessments.

- 7. Proposed Reliability Standards must be designed to apply throughout North America to the maximum extent achievable with a single Reliability Standard while not favoring one geographic area or regional model. It should take into account regional variations in the organization and corporate structures of transmission owners and operators, variations in generation fuel type and ownership patterns, and regional variations in market design if these affect the proposed Reliability Standard.**

The proposed Reliability Standard applies throughout North America and does not favor one geographic area or regional model. In fact, the proposed Reliability Standard supports the various ways in which Demand and energy data is collected across the continent.

- 8. Proposed Reliability Standards should cause no undue negative effect on competition or restriction of the grid beyond any restriction necessary for reliability.**

The proposed Reliability Standard has no undue negative impact on competition. The proposed Reliability Standard requires the same performance by each of the applicable Functional Entities in the provision or collection of Demand and energy data. The standard does not unreasonably restrict the available transmission capability or limit use of the Bulk-Power System in a preferential manner.

9. The implementation time for the proposed Reliability Standard is reasonable.

The proposed effective date for the standard is just and reasonable and appropriately balances the urgency in the need to implement the standard against the reasonableness of the time allowed for those who must comply to develop necessary procedures, software, facilities, staffing or other relevant capability. This will allow applicable entities adequate time to ensure compliance with the requirements. The proposed effective date is explained in the proposed Implementation Plan, attached as Exhibit B.

10. The Reliability Standard was developed in an open and fair manner and in accordance with the Reliability Standard development process.

The proposed Reliability Standard was developed in accordance with NERC's ANSI-accredited processes for developing and approving Reliability Standards. Exhibit F includes a summary of the Reliability Standard development proceedings, and details the processes followed to develop the Reliability Standards. These processes included, among other things, comment and balloting periods. Additionally, all meetings of the drafting team were properly noticed and open to the public. The initial and final ballots achieved a quorum and exceeded the required ballot pool approval levels.

11. NERC must explain any balancing of vital public interests in the development of proposed Reliability Standards.

NERC has identified no competing public interests regarding the request for approval of the proposed Reliability Standard. No comments were received that indicated the proposed Reliability Standard conflicts with other vital public interests.

12. Proposed Reliability Standards must consider any other appropriate factors.

No other negative factors relevant to whether the proposed Reliability Standard is just and reasonable were identified.