129 FERC ¶ 61,191
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;
Suedeen G. Kelly, Marc Spitzer,
and Philip D. Moeller.

North American Electric Reliability Corporation Docket No. RD09-6-000

ORDER ON RELIABILITY STANDARD INTERPRETATION

(Issued December 2, 2009)

1. Pursuant to section 215 of the Federal Power Act (FPA),[1] the Commission approves the North American Electric Reliability Corporation's (NERC) interpretation of certain requirements of the Commission-approved Transmission Operations (TOP) Reliability Standard, TOP-002-2 – Normal Operations Planning, as discussed below.

I. Background

A. EPAct 2005 and Mandatory Reliability Standards

2. Section 215 of the FPA requires a Commission-certified Electric Reliability Organization (ERO) to develop mandatory and enforceable Reliability Standards, which are subject to Commission review and approval. Specifically, the Commission may approve, by rule or order, a proposed Reliability Standard or modification to a Reliability Standard if it determines that the Standard is just, reasonable, not unduly discriminatory or preferential, and in the public interest.[2] Once approved, the Reliability Standards may be enforced by the ERO, subject to Commission oversight, or by the Commission independently.[3]

[1] 16 U.S.C. § 824o (2006).

[2] *Id.* § 824o(d)(2).

[3] *See id.* § 824o(e)(3) (2006).

3. Pursuant to section 215 of the FPA, the Commission established a process to select and certify an ERO[4] and, subsequently, certified NERC as the ERO.[5] On April 4, 2006, as modified on August 28, 2006, NERC submitted to the Commission a petition seeking approval of 107 proposed Reliability Standards. On March 16, 2007, the Commission issued a Final Rule, Order No. 693, approving 83 of these 107 Reliability Standards, including TOP-002-2, and directing other action related to these Reliability Standards.[6] In addition, pursuant to section 215(d)(5) of the FPA, the Commission directed NERC to develop modifications to 56 of the 83 approved Reliability Standards.[7]

4. NERC's Rules of Procedure provide that a person that is "directly and materially affected" by Bulk-Power System reliability may request an interpretation of a Reliability Standard.[8] In response, the ERO assembles a team with relevant expertise to address the requested interpretation and forms a ballot pool. NERC's Rules provide that, within 45 days, the team will draft an interpretation of the Reliability Standard and submit it to the ballot pool. If approved, the interpretation is appended to the Reliability Standard and filed with the applicable regulatory authority for regulatory approval.

B. NERC Petition

5. On March 5, 2009, NERC submitted a petition seeking Commission approval of an interpretation of TOP-002-2, Requirement R11. Reliability Standard TOP-002-2 requires transmission operators and balancing authorities to look ahead to the next hour, day and season and prepare operating plans to meet any unscheduled changes in system configuration and generation dispatch. Pursuant to Requirement R11, transmission

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[4] *Rules Concerning Certification of the Electric Reliability Organization; and Procedures for the Establishment, Approval and Enforcement of Electric Reliability Standards*, Order No. 672, FERC Stats. & Regs. ¶ 31,204, *order on reh'g*, Order No. 672-A, FERC Stats. & Regs. ¶ 31,212 (2006).

[5] *North American Electric Reliability Corp.*, 116 FERC ¶ 61,062, *order on reh'g and compliance*, 117 FERC ¶ 61,126 (2006), *aff'd Alcoa, Inc. v. FERC*, 564 F.3d 1342 (D.C. Cir. 2009).

[6] *Mandatory Reliability Standards for the Bulk-Power System*, Order No. 693, FERC Stats. & Regs. ¶ 31,242, at P 1599-1608, *order on reh'g*, Order No. 693-A, 120 FERC ¶ 61,053 (2007).

[7] 16 U.S.C. § 824o(d)(5).

[8] NERC Rules of Procedure, Appendix 3A, Reliability Standards Development Procedure, Version 6.1, at 26-27 (2007).

operators and balancing authorities perform seasonal, next-day and current-day studies of the bulk electric system to determine system operating limits (SOLs). TOP-002-2, Requirement R11 provides:

> The Transmission Operator shall perform seasonal, next-day, and current-day Bulk Electric System studies to determine SOLs. Neighboring Transmission Operators shall utilize identical SOLs for common facilities. The Transmission Operator shall update these Bulk Electric System studies as necessary to reflect current system conditions; and shall make the results of Bulk Electric System studies available to the Transmission Operators, Balancing Authorities (subject confidentiality requirements), and to its Reliability Coordinator.

6. In the petition, NERC explains that the Orlando Utilities Commission (Orlando) asked three questions. First, Orlando requested NERC to interpret whether the transmission operator must conduct a unique study for each operating day, even when the actual or expected system conditions are identical to other days already studied, or may use a study for more than one day. Second, Orlando requested clarification whether specific actions are required to implement a study and what constitutes a study. Third, Orlando asked whether the obligation to "determine SOLs" under Requirement R11 means that a transmission operator is to establish updated SOLs for the study period or identify potential SOL violations. According to Orlando, uncertainty with the terms SOL and study may result in either too little or unnecessary study under TOP-002-2.

7. Consistent with the NERC Rules of Procedure, NERC assembled a team to respond to the request for interpretation and presented the proposed interpretation to industry ballot, similar to the Reliability Standards development process. NERC states that stakeholders developed and approved the interpretation using this process and the NERC Board of Trustees (Board) approved the resulting interpretation in February 2009. The interpretation does not modify the language contained in the requirements under review.

8. In the interpretation discussed below, NERC clarifies under what circumstances a transmission owner may rely on past studies.[9] NERC requests that the Commission approve the interpretation and make it effective immediately after approval, consistent with the Commission's procedures.

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[9] NERC proposes to designate the Reliability Standard and appended interpretation as TOP-002-2a.

II. Notices of Filings and Responsive Pleadings

9. Notice of the NERC petition was published in the *Federal Register*, with interventions and protests due on or before May 8, 2009.[10] ISO New England Inc., Exelon Corporation, and Modesto Irrigation District filed timely motions to intervene. The Cogeneration Association of California (California Cogeneration) filed a timely motion to intervene and protest.

III. Discussion

A. Procedural Matters

10. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2009), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

B. Interpretation of TOP-002-2, Requirement R11

11. The Commission approves NERC's interpretation of Requirement R11 of TOP-002-2, as discussed below.

12. The TOP Reliability Standards apply to transmission operators, generator operators and balancing authorities.[11] The goal of these Reliability Standards is to ensure that the transmission system is operated within operating limits. Specifically, these Reliability Standards establish the responsibilities and decision-making authority for reliable systems operations. Such responsibilities include operations planning, planned outage coordination, real-time operations, provision of operating data, monitoring of system conditions and reporting and mitigation of operating limit violations.

1. NERC Interpretation

13. NERC's formal interpretation of Reliability Standard TOP-002-2, Normal Operations Planning, clarifies that each transmission operator is required to have a study in advance of each day that can be applied to the system conditions in advance and during the day. In response to Orlando's first question, NERC clarifies that it is not necessary to generate a unique study for each day. Instead, a transmission operator may use a study for multiple days if system conditions on those days are similar to study conditions.

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[10] 74 Fed. Reg. 17,474 (Apr. 15, 2009).

[11] *See* Order No. 693, FERC Stats. & Regs. ¶ 31,242 at P 1567-1682 (discussing the TOP Reliability Standards).

In response to Orlando's second question, NERC states that Requirement R11 gives no mandate on a particular type of review or study, which "may be based on complex computer studies or a manual reasonability review of previously existing study results." Finally, in response to Orlando's third question, NERC clarifies that studies provide real-time and near real-time information that should be used both to determine new SOLs and identify potential "exceedences" of established SOLs, based on potential or current conditions. NERC specifies that if the transmission operator determines that prior studies and SOLs may be outdated, a new study must be performed. The standard leaves it to a transmission operator's discretion "when to look for new SOLs and when to rely on its current set of SOLs."

14. NERC asserts that its interpretation supports the Reliability Standard goal because it reinforces the duties of the transmission operator necessary to meet the objectives of the standard and ensure reliability of the Bulk-Power System. The interpretation does not modify, redact, or add to Requirement 11.

2. Comments

15. California Cogeneration protests the interpretation. California Cogeneration states that the proposed interpretation would unreasonably burden generator owners that are also transmission owners based on the characteristics of their generator lead lines. California Cogeneration asserts that generator lead lines have no independent effect on network operations except during an outage, when the effect is the same as a generator outage, which is addressed by the balancing authority's control of contingency reserves. California Cogeneration further states that SOLs are long-term operating characteristics for generator lead lines that are determined during the generator interconnection process, thus any requirement to regularly perform or update studies on the lead line's operations would produce no operational benefit. California Cogeneration concludes that the requirement and the interpretation should be revised to apply only to network elements of the Bulk Electric System whose SOLs may change under varying operating conditions, and not to generator lead lines. California Cogeneration also suggests that the Functional Model be revised so that not all transmission lines are required to meet the entire portfolio of standards applicable to Transmission Operators.

3. Commission Determination

16. The Commission approves the ERO's interpretation of Requirement R11 of TOP-002-2. The ERO's interpretation is reasonable and is consistent with and adds clarity to the TOP-002-2 Reliability Standard.

17. The petition does not propose to create any new requirements to the Reliability Standard, but clarifies that the existing requirement that a "unique" Bulk Electric System study need not be produced each day, that there is no particular constitution of a study,

and that Requirement 11 mandates identification of existing and potential exceedances of operating limits in the determination of SOLs.

18. NERC answers Orlando's first question stating that each day-ahead and current-day must have a study that applies to it. However, it is not necessary to generate a "unique" study each day. It is acceptable to use a previously-generated study for subsequent days if system conditions on those days are similar to those addressed in the study. We agree that it is not necessary to generate a "unique" study when a previously generated study would provide the same result. The interpretation correctly notes that a review still must be performed to determine system conditions and ensure that a specific study is not necessary based on those conditions. The Commission agrees with the interpretation. Study and review are performed in multiple stages, including data gathering, review of the data by transmission operators and, if necessary, review of simulations or other generation and power flow information. New data is gathered for each operating day, and if incoming data indicate that anticipated conditions are addressed in a prior analysis, then it is not necessary to perform additional studies or simulations.

19. NERC's answer to Orlando's second question clarifies that "the requirement does not mandate a particular type of review or study." The Commission notes that this determination is consistent with Order No. 672, which generally states that Reliability Standards should define "what" needs to be accomplished rather than "how" it should be accomplished.[12]

20. NERC's answer to Orlando's third question states that studies must determine both SOLs and potential violations of those SOLs. The Commission agrees with NERC that if the transmission operator's review of current and anticipated system conditions indicates that prior studies and SOLs may be outdated, it must address changes in the system, and conduct an updated study to identify SOLs for new conditions.[13]

21. The Commission denies California Cogeneration's protest. California Cogeneration seeks changes to the requirements set forth in the TOP-002-2 Reliability Standard. The protest is a collateral attack on the Commission's order accepting the TOP Reliability Standards.[14] Likewise, California Cogeneration's proposed remedy to revise the standard to not apply to generator lead lines is outside of the scope of the

[12] Order No. 672, FERC Stats. & Regs. ¶ 31,204 at P 260.

[13] Additionally, the Commission notes that Requirement R10 of TOP-002-2 requires balancing authorities and transmission operators to plan to meet SOLs.

[14] Order No. 693, FERC Stats. & Regs. ¶ 31,242 at P 1599-1608.

interpretation request. California Cogeneration's request should have been raised as part of the NERC Reliability Standards development process. At this point, its request may be pursued through the NERC Reliability Standards development process.

22. Based on the foregoing, the Commission approves the ERO's interpretation of Requirement R11 of TOP-002-2.

The Commission orders:

NERC's interpretation of Requirement R11 of Reliability Standard TOP-002-2 is hereby approved, as discussed in this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.