

Supporting Statement for
**FERC-725F, Mandatory Reliability Standard for Nuclear Plant Interface
Coordination**

As Proposed in Docket No. RM08-3-000
(A Final Rule Issued October 16, 2008)

The Federal Energy Regulatory Commission (Commission) (FERC) requests that the Office of Management and Budget (OMB) review and approve **FERC-725F, Mandatory Reliability Standard for Nuclear Plant Interface Coordination**, for a three year period. FERC-725F (Control No. 1902-0249) is a new Commission data collection, (filing requirements), as contained in 18 Code of Federal Regulations, Part 40.

The Commission requests that OMB approve the projected estimates reported in this submission. The Commission's estimates are based on the potential number of entities who will have to come into compliance with the mandatory standards. The Commission will revise these estimates for these requirements as the ERO completes its registration process and as mandatory standards are updated and enforced.

Compliance with this Reliability Standard will be mandatory and enforceable for the applicable categories of entities identified in the Reliability Standard. These Reliability Standards are approved by the Commission pursuant to its authority under section 215 of the Federal Power Act (FPA), which authorizes the Commission to approve Reliability Standards proposed by the Electric Reliability Organization (ERO) if the Commission determines that it is just and reasonable, not unduly discriminatory or preferential and in the public interest. The Reliability Standard approved in this NOPR is necessary for the reliable operation of the nation's interconnected Bulk-Power System.

Background

On August 8, 2005, the Electricity Modernization Act of 2005, which is Title XII, Subtitle A, of the Energy Policy Act of 2005 (EPAAct 2005), was enacted into law.¹ EPAAct 2005 added a new section 215 to the FPA, which requires a Commission-certified Electric Reliability Organization (ERO) to develop mandatory and enforceable Reliability Standards, which are subject to Commission review and approval. Once approved, the Reliability Standards may be enforced by the ERO subject to Commission oversight, or the Commission can independently enforce Reliability Standards.²

In the aftermath of the 1965 Blackout in the northeast United States, the electric industry established the North American Electric Reliability Council (NERC), a voluntary reliability organization. Since its inception, NERC has developed Operating Policies and Planning Standards that provide voluntary guidelines for operating and planning the North American bulk-power system. In April 2005, NERC adopted "Version O" reliability standards that

¹ Energy Policy Act of 2005, Pub. L. No. 109-58, Title XII, Subtitle A, 119 Stat. 594, 941 (2005), 16 U.S.C. 824o.

² 16 U.S.C. 824o(e)(3).

translated the NERC Operating Policies, Planning Standards and compliance requirements into a comprehensible set of measurable standards. While NERC has developed a compliance enforcement program to ensure compliance with the reliability standards it developed, industry compliance has been voluntary and not subject to mandatory enforcement penalties. Although NERC's efforts have been important in maintaining the reliability of the nation's bulk-power system, NERC itself has recognized the need for mandatory, enforceable reliability standards and has been a proponent of legislation to establish a FERC-jurisdictional ERO that would propose and enforce mandatory reliability standards.

On February 3, 2006, the Commission issued Order No. 672, implementing section 215 of the FPA.³ Pursuant to Order No. 672, the Commission certified one organization, NERC, as the ERO.⁴ The Reliability Standards developed by the ERO and approved by the Commission will apply to users, owners and operators of the Bulk-Power System, as set forth in each Reliability Standard.

In accordance with section 215(d)(2) of the FPA and § 39.5(c) of the Commission's regulations, the Commission is required to give due weight to the technical expertise of the ERO with respect to the content of a Reliability Standard or to a Regional Entity organized on an Interconnection-wide basis with respect to a proposed Reliability Standard or a proposed modification to a Reliability Standard to be applicable within that Interconnection.⁵

The ERO must file with the Commission each new or modified Reliability Standard that it proposes to be made effective under section 215 of the FPA. The Commission can then approve or remand the Reliability Standard. The Commission also can, among other actions, direct the ERO to modify an approved Reliability Standard to address a specific matter if it considers this appropriate to carry out section 215 of the FPA.⁶ Only Reliability Standards approved by the Commission will become mandatory and enforceable.

Each proposed Reliability Standard uses a common organizational format that includes five sections, as follows: (A) Introduction, which includes "Purpose" and "Applicability" sub-sections; (B) Requirements; (C) Measures; (D) Compliance; and (E) Regional Differences. In this NOPR, these section titles are capitalized when referencing a designated provision of a Reliability Standard.

A reliability standard defines obligations or requirements of utilities and other entities that operate, plan and use the Bulk Power System in North America. Meeting these requirements helps ensure the reliable planning and operation of the Bulk Power System. Each NERC

³ Rules Concerning Certification of the Electric Reliability Organization; Procedures for the Establishment, Approval and Enforcement of Electric Reliability Standards, Order No. 672, 71 FR 8662 (Feb. 17, 2006), FERC Stats. & Regs. ¶ 31,204 (2006), order on reh'g, Order No. 672-A, 71 FR 19814 (Apr. 18, 2006), FERC Stats. & Regs. ¶ 31,212 (2006).

⁴ North American Electric Reliability Corp., 116 FERC ¶ 61,062 (ERO Certification Order), order on reh'g & compliance, 117 FERC ¶ 61,126 (ERO Rehearing Order) (2006), order on compliance, 118 FERC ¶ 61,030 (2007) (Jan. 2007 Compliance Order), appeal docket sub nom. Alcoa, Inc. v. FERC, No. 06-1426 (D.C. Cir. Dec. 29, 2006).

⁵ 18 CFR 39.5(c)(1), to be codified at 16 U.S.C.824o.

⁶ Section 215(d)(5) of the FPA.

Reliability Standard details the purpose of the standard, the entities that must comply, the specific actions that constitute compliance, and how the standard will be measured.

Standards address aspects of the operation and planning of the bulk power system such as: real-time transmission operations, balancing load and generation, emergency operations, system restoration and blackstart, voltage control, cyber security, vegetation management, facility ratings, disturbance reporting, connecting facilities to the grid, certifying system operators, and personnel training. Standards detail how the system should perform, but not how the system should be designed. Individual owners, operators and users of the bulk power system determine if the system should be expanded or changed, and how, in order to achieve the standards.

RM08-3-000 NOPR

On November 19, 2007, NERC filed its petition for FERC approval of the Nuclear Plant Interface Coordination Reliability Standard, designated NUC-001-1 (November 19, 2007 Petition). NERC supplemented the filing on December 11, 2007 (December 11, 2007 Supplement) to propose four related NERC Glossary terms: “Nuclear Plant Generator Operator,” “Nuclear Plant Off-site Power Supply (Off-site Power),” “Nuclear Plant Licensing Requirements (NPLRs),” and “Nuclear Plant Interface Requirements (NPIRs).” The November 19, 2007 Petition states that the proposed Reliability Standard addresses the coordination of interface requirements for two domains: (i) Bulk-Power System planning and operations; and (ii) nuclear power plant licensing requirements for off-site power necessary to enable safe nuclear plant operation and shutdown.

The Nuclear Reliability Standard applies to nuclear plant generator operators (generally nuclear power plant owners and operators, including licensees) and “transmission entities,” defined in the Reliability Standard as including a nuclear plant’s suppliers of off-site power and related transmission and distribution services. To account for the variations in nuclear plant design and grid interconnection characteristics, the Reliability Standard defines transmission entities as “all entities that are responsible for providing services related to Nuclear Plant Interface Requirements (NPIRs),” and lists eleven types of functional entities that could provide services related to NPIRs.⁷

According to NERC, nuclear plant generator operators and transmission entities operate according to separate, established reliability and safety procedures. NERC stated that the proposed Reliability Standard requires a nuclear plant generator operator to coordinate operations and planning with its transmission entities by developing procedures that reflect nuclear plant licensing requirements and SOLs,⁸ including interconnection reliability operating

⁷ The list of functional entities consists of transmission operators, transmission owners, transmission planners, transmission service providers, balancing authorities, reliability coordinators, planning authorities, distribution providers, load-serving entities, generator owners and generator operators.

⁸ The NERC glossary defines system operating limit or SOL as “the value . . . that satisfies the most limiting of the prescribed operating criteria for a specified system configuration to ensure operation within acceptable reliability criteria. . . .” 18 CFR Part 40, Facilities Design, Connections and Maintenance Mandatory Reliability Standards, Notice of

limits (IROLs), affecting nuclear plant operations.⁹ The proposed Nuclear Reliability Standard requires nuclear plant generator operators and transmission entities, including off-site power suppliers, to develop expectations and procedures for coordinating operations to meet the nuclear plant licensing requirements, SOLs and IROLs and to execute agreements, called interface agreements, reflecting those expectations and procedures. The resulting operations and planning requirements developed in the agreements to address the nuclear plant licensing requirements, SOLs and IROLs are called NPIRs.¹⁰ NERC states that Requirements R3 through R8, which state that the interface agreement parties will address the NPIRs in planning, operations and facility upgrade and outage coordination, provide additional specificity on these expectations.

NERC's November 19, 2007 Petition notes that nuclear plant generator operators must already fulfill nuclear licensing requirements for off-site power.¹¹ NERC states that, while various forms of agreements exist to meet the nuclear power plant general design criterion for off-site power, NUC-001-1 places a new, mandatory and enforceable obligation under section 215 of the FPA on both nuclear plant generator operators and transmission entities. NUC-001-1 requires these entities to inform one another of limits and requirements on their systems and to enter into agreements to coordinate and operate their systems to address nuclear plant licensing requirements and related system limits.

On May 20, 2008 the Commission issued a NOPR proposing to approve the Nuclear Plant Interface Coordination Reliability Standard developed by NERC. The proposed Reliability Standard requires a nuclear power plant operator and its suppliers of back-up power and related transmission and distribution services to coordinate concerning nuclear licensing requirements for safe nuclear plant operation and shutdown and system operating limits. The Commission also proposed to accept four related definitions for addition to the NERC Glossary of Terms and to direct various changes to proposed violation risk factors, which measure the potential impact of violations of the Reliability Standard on the reliability of the Bulk-Power

Proposed Rulemaking, 72 FR 46413 (Aug. 20, 2007), FERC Stats. and Regs. ¶ 32,622, at P 19 (2007) (Aug. 13, 2007).

⁹ The NERC glossary defines IROL as a "system operating limit that, if violated, could lead to instability, uncontrolled separation, or Cascading Outages that adversely impact the reliability of the bulk electric system." 18 CFR Part 40, Facilities Design, Connections and Maintenance Mandatory Reliability Standards, Order No. 705, 73 FR 1770 (Jan. 9, 2008), 121 FERC ¶ 61,296, at P 118 (2007) (Dec. 27, 2007).

¹⁰ See NUC-001-1, Requirement R2 and the proposed NERC Glossary term, Nuclear Plant Interface Requirements.

¹¹ See also the U.S.-Canada Power System Outage Task Force, Final Report on the August 14, 2003 Blackout in the United States and Canada: Causes and Recommendations, at 112 (April 2004) (Blackout Report), for a description of Nuclear Regulatory Commission (NRC) oversight; available at

<http://www.ferc.gov/industries/electric/indus-act/blackout.asp> :

The NRC, which regulates U.S. commercial nuclear power plants, has regulatory requirements for offsite power systems. These requirements address the number of offsite power sources and the ability to withstand certain transients. Offsite power is the normal source of alternating current (AC) power to the safety systems in the plants when the plant main generator is not in operation. The requirements also are designed to protect safety systems from potentially damaging variations (in voltage and frequency) in the supplied power. For loss of offsite power events, the NRC requires emergency generation (typically emergency diesel generators) to provide AC power to safety systems. In addition, the NRC provides oversight of the safety aspects of offsite power issues through its inspection program, by monitoring operating experience, and by performing technical studies.

System. The proposed rule would benefit the Reliable Operation of the Bulk-Power System by facilitating the provision of off-site power to ensure reliable and safe nuclear power plant operation and shutdown.

RM08-3-000 Final Rule

On October 16, 2008, the Commission issued a Final Rule approving the Nuclear Plant Interface Coordination Reliability Standard developed by NERC. In addition, the Commission directs NERC to develop a modification to the Reliability Standard to address a specific concern, Requirement R9.3.5, to clarify the impact of the Requirement on two important operating procedures, in response to the comments received. This Final Rule largely accepts the explanations and clarifications provided in the ERO's comments and addresses the positions raised by NERC and the other commenters on the specific issues raised in the NOPR. As proposed in the NOPR, this Final Rule does not take any action on the regional difference, because it applies outside of the United States and is not applicable to any facilities within the Commission's jurisdiction.¹² The Final Rule directs modifications to the violation risk factors for the Reliability Standard. Finally, the Final Rule approves four related definitions for addition to the NERC Glossary of Terms, and directs various changes to proposed violation risk factors, which measure the potential impact of violations of the Reliability Standard on the reliability of the Bulk-Power System.

A. Justification

1. CIRCUMSTANCES THAT MAKE THE COLLECTION OF INFORMATION NECESSARY

EPAAct 2005 added a new section 215 to the FPA, which provides for a system of mandatory and enforceable Reliability Standards. Section 215(d)(1) of the FPA provides that the ERO must file each Reliability Standard or modification to a Reliability Standard that it proposes to be made effective, *i.e.*, mandatory and enforceable, with the Commission. On April 4, 2006, and as later modified and supplemented, the ERO submitted 107 Reliability Standards for Commission approval pursuant to section 215(d) of the FPA.

Section 215(d)(2) of the FPA provides that the Commission may approve, by rule or order, a proposed Reliability Standard or modification to a proposed Reliability Standard if it meets the statutory standard for approval, giving due weight to the technical expertise of the ERO. Alternatively, the Commission may remand a Reliability Standard pursuant to section 215(d)(4) of the FPA. Further, the Commission may order the ERO to submit to the Commission a proposed Reliability Standard or a modification to a Reliability Standard that addresses a specific matter if the Commission considers such a new or modified Reliability

¹² NERC proposes to adopt as a regional difference for Canada a separate definition of nuclear plant licensing requirements that does not reference regulatory requirements for off-site power supply for safe plant shutdown because Canada does not have regulatory standards for off-site power comparable to those established by the NRC.

Standard appropriate to “carry out” section 215 of the FPA.¹³ The Commission’s action in this Proposed Rule is based on its authority pursuant to section 215 of the FPA.

Recent Events

A common cause of the past major regional blackouts was violation of NERC’s then Operating Policies and Planning Standards. During July and August 1996, the west coast of the United States experienced two cascading blackouts caused by violations of voluntary Operating Policies.¹⁴ In response to the outages, the Secretary of Energy convened a task force to advise the Department of Energy (DOE) on issues needed to be addressed to maintain the reliability of the bulk-power system. In a September 1998 report, the task force recommended, among other things, that federal legislation should grant more explicit authority for FERC to approve and oversee an organization having responsibility for bulk-power reliability standards.¹⁵ Further, the task force recommended that such legislation provide for Commission jurisdiction for reliability of the bulk-power system and FERC implementation of mandatory, enforceable reliability standards.

Electric reliability legislation was first proposed after issuance of the September 1998 task force report and was a common feature of comprehensive electricity bills since that time. A stand-alone electric reliability bill was passed by the Senate unanimously in 2000. In 2001, President Bush proposed making electric Reliability Standards mandatory and enforceable as part of the National Energy Policy.¹⁶

Under the new electric power reliability system enacted by the Congress, the United States will no longer rely on voluntary compliance by participants in the electric industry with industry reliability requirements for operating and planning the Bulk-Power System. Congress directed the development of mandatory, Commission-approved, enforceable electricity Reliability Standards. The Commission believes that, to achieve this goal, it is necessary to have a strong ERO that promotes excellence in the development and enforcement of Reliability Standards.

A mandatory Reliability Standard should not reflect the “lowest common denominator” in order to achieve a consensus among participants in the ERO’s Reliability Standard development process. Therefore, the Commission will carefully review each Reliability Standard submitted and, where appropriate, later remand if necessary, an inadequate Reliability Standard to ensure that it protects reliability, has no undue adverse effect on competition, and can be enforced in a clear and even-handed manner.

¹³ See 16 U.S.C. 824o(d)(5) (2006).

¹⁴ The Electric Power Outages in the Western United States, July 2-3, 1996, at 76 (ftp://www.nerc.com/pub/sys/all_updl/docs/pubs/doerept.pdf) and WSCC Disturbance Report, For the Power System outage that Occurred on the Western Interconnection August 10, 1996, at 4 (ftp://www.nerc.com/pub/sys/all_updl/docs/pubs/AUG10FIN.pdf).

¹⁵ 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 25-27, 65-67.

¹⁶ Report of the National Energy Policy Development Group, May 2001, at p. 7-6.

The Nuclear Reliability Standard, if adopted, would implement the Congressional mandate of the Energy Policy Act of 2005 to develop mandatory and enforceable Reliability Standards to better ensure the reliability of the nation's Bulk-Power System. Specifically, the proposed Reliability Standard would ensure that system operating limits or SOLs used in the reliability planning and operation of the Bulk-Power System are coordinated with nuclear licensing requirements to ensure the safe operation and shut down of nuclear power plants.

2. **HOW, BY WHOM, AND FOR WHAT PURPOSE THE INFORMATION IS TO BE USED AND THE CONSEQUENCES OF NOT COLLECTING THE INFORMATION**

Prior to enactment of section 215, FERC had acted primarily as an economic regulator of wholesale power markets and the interstate transmission grid. In this regard, the Commission acted to promote a more reliable electric system by promoting regional coordination and planning of the interstate grid through regional independent system operators (ISOs) and regional transmission organizations (RTOs), adopting transmission pricing policies that provide price signals for the most reliable and efficient operation and expansion of the grid, and providing pricing incentives at the wholesale level for investment in grid improvements and assuring recovery of costs in wholesale transmission rates.

As part of FERC's efforts to promote grid reliability, the Commission created a new Division of Reliability within the Office of Markets, Tariffs and Rates. This office on September 20, 2007 became an independent office, the Office of Electric Reliability. One task of this office has been to participate in North American Reliability Council's (NERC's) Reliability readiness reviews of balancing authorities, transmission operators and reliability coordinators in North America to determine their readiness to maintain safe and reliable operations. FERC also directed transmission owners to report by June 2004, on the vegetation management practices they use for transmission and rights of way.¹⁷ FERC's Office of Electric Reliability has also engaged in studies and other activities to assess the longer-term and strategic needs and issues related to power grid reliability.

Sufficient supplies of energy and a reliable way to transport those supplies to customers are necessary to assure reliable energy availability and to enable competitive markets. Reasonable supply relative to demand is essential for competitive markets to work. Without sufficient delivery infrastructure, some suppliers will not be able to enter the market, customer choices will be limited, and prices will be needlessly volatile. The Commission assists in creating a more reliable electric system by:

- Fostering regional coordination and planning of the interstate grid through independent system operators and regional transmission organizations;

¹⁷ 1902-0207, FERC-723 "Vegetation Report" in Docket No. EL04-52-000. EL04-52-000. This was a one-time information collection that expired 10/31/04. FERC submitted a report to Congress in September 2004 that set forth the Commission's findings and recommendations, including the need for mandatory, enforceable reliability rules.

- Adopting transmission policies that provide price signals for the most reliable and efficient operation and expansion of the grid; and
- Providing pricing incentives at the wholesale level for investment in grid improvements and ensuring opportunities for cost recovery in wholesale transmission rates.

The passage of the Electricity Modernization Act of 2005 added to the Commission's efforts identified above, by giving it the authority to strengthen the reliability of the interstate grid through the grant of new authority pursuant to section 215 of the FPA which provides for a system of mandatory Reliability Standards developed by the ERO, established by FERC, and enforced by the ERO and Regional Entities.

Proposed Reliability Standard NUC-001-1 applies to nuclear plant generator operators and transmission entities, including off-site power suppliers and entities that provide distribution and transmission services that affect plant operations. NERC stated that the Reliability Standard meets the criteria that it apply to users, owners and operators of the Bulk-Power System because NUC-001-1 will apply to transmission entities that are responsible for providing services relating to NPIRs. According to NERC, these transmission entities can affect the safety and reliability of the nuclear plant and Bulk-Power System, for instance in the case of a distribution service provider that supplies off-site power from a low-voltage, local distribution system. Therefore, these entities are subject to the Reliability Standard Requirements and may be registered under the NERC compliance registry process.

Proposed Reliability Standard NUC-001-1 requires nuclear plant generator operators and entities that provide generation, transmission and distribution services relating to off-site power (these entities are defined as "transmission entities") to enter into interface agreements with nuclear plant generator operators that will govern certain communication, training, operational and planning elements for use in addressing generation and transmission system limits and nuclear licensing requirements. The Commission understands that most entities subject to this Reliability Standard already have such agreements in place. The responsible entities are also required to retain evidence that they executed such an agreement and incorporated its terms into systems planning and operations. Further, each nuclear plant generator operator and transmission entity must self-certify its compliance to the compliance monitor once every three years.

Proposed Reliability Standard NUC-001-1 does not require responsible entities to file information with the Commission. Nor, with the exception of a three year self-certification of compliance, does the Reliability Standard require responsible entities to file information with the ERO or Regional Entities. However, the Reliability Standard does require responsible entities to develop and maintain certain information for a specified period of time, subject to inspection by the ERO or Regional Entities.

3. DESCRIBE ANY CONSIDERATION OF THE USE OF IMPROVED TECHNOLOGY TO REDUCE BURDEN AND TECHNICAL OR LEGAL OBSTACLES TO REDUCING BURDEN.

The Commission has developed the capability for electronic filing of all major submissions to the Commission. In Order No. 619, the Commission established an electronic filing initiative that permits over 40 qualified types of documents to be filed over the Internet to its website. This includes the ability to submit standard forms using software that is readily available and easy to use. Electronic filing, combined with electronic posting and service over the web site, permits staff and the public to obtain filings in a faster and more efficient manner.

On November 15, 2007, the Commission issued a Final Rule, RM07-16-000, Order No. 703, "Filing via the Internet" 73 Fed. Reg. 65659 (November 23, 2007) revising its regulations for implementing the next version of its system for filing documents via the Internet, eFiling 7.0. The Final Rule allows the option of filing all documents in Commission proceedings through the eFiling interface except for specified exceptions, and of utilizing online forms to allow "documentless" interventions in all filings and quick comments in P (Hydropower Project), PF (Pre-Filing NEPA activities for proposed gas pipelines), and CP (Certificates for Interstate Natural Gas Pipelines) proceedings.

Order No. 703 amended the Commission's regulations¹⁸ to provide that all documents filed with the Commission may be submitted through the eFiling interface except for documents specified by the Secretary. The changes implemented in the Final Rule means that categories such as oversized documents and most confidential documents will be accepted via eFiling. However, at this time, there are principal exceptions, and they are tariffs, tariff revisions and rate change applications; some forms;¹⁹ and documents that are subject to protective orders.

In addition, Order No. 703 became effective 30 days after publication in the Federal Register or December 24, 2007. Implementation of eFiling 7.0 occurred on March 3, 2008. The Secretary of the Commission has announced the implementation of the upgrade in advance and also at that time posted filing instructions.

The Commission has already issued instructions specifying acceptable file formats for filings submitted on CD-ROM, DVD and other electronic media. These can be found at <http://www.ferc.gov/help/submission-guide/electronic-media.asp>. In addition, in some cases Commission staff has issued instructions applying to specific types of filings. Where there are no specifications for a particular type of filing, users must follow the Secretary's instructions. At this time, the eFiling system will accept documents in their native formats. This will include both text or word processing documents, and other more specialized documents such as spreadsheets and maps. It will also accept text documents in searchable formats, including scanned documents that have been saved in searchable form. This same list will serve as the list of acceptable formats for eFiling 7.0. Submitters will be able to choose a suitable format from

18 Rule 2003(c) of the Commission's Rules of Practice and Procedure, 18 CFR 385.2003(c).

19 The following continue to be submitted through eForms: FERC Form No.1, FERC Form No. 2, FERC Form No. 2-A, FERC Form No. 3-Q, FERC Form No. 6, FERC Form No. 6-Q, Form 60, Form 714, and Electric Quarterly Reports. FERC Form 1-F is currently not included in eForms, so it may be efiled. Open Access Transmission Tariff (OATT) filings may also be efiled.

that list unless they are instructed otherwise in specific instances by regulation or by direction from Commission staff. Audio and video files will be accepted only in waveform audio format (.wav) for audio content and either audio-video interleave (.avi) or quicktime (.mov) files for video content, except where submitters are specifically instructed otherwise.

The Commission intends, as far as practicable, to continue decreasing its reliance on paper documents and to continue to upgrade eFiling capabilities in furtherance of the Commission's responsibilities under the Government Paperwork Elimination Act.²⁰ At this time, however, the Commission will not accept tariff filings through the eFiling system.

In order that the Commission is able to perform its oversight function with regard to Reliability Standards that are proposed by the ERO and established by the Commission, it is essential that the Commission receive timely information regarding all or potential violations of Reliability Standards. While section 215 of the FPA contemplates the filing of the record of an ERO or Regional Entity enforcement action, FERC needs information regarding violations and potential violations at or near the time of occurrence. Therefore, it will work with the ERO and regional reliability organizations to be able to use the electronic filing of information so the Commission receives timely information.

The new regulations also require that each Reliability Standard that is approved by the Commission will be maintained on the ERO's Internet website for public inspection. (See item no. 7 for further discussion.)

4. DESCRIBE EFFORTS TO IDENTIFY DUPLICATION AND SHOW SPECIFICALLY WHY ANY SIMILAR INFORMATION ALREADY AVAILABLE CANNOT BE USED OR MODIFIED FOR USE FOR THE PURPOSE(S) DESCRIBED IN INSTRUCTION NO. 2

Filing requirements are periodically reviewed as OMB review dates arise or as the Commission may deem necessary in carrying out its responsibilities under the FPA in order to eliminate duplication and ensure that filing burden is minimized. There are no similar sources of information available that can be used or modified for these reporting purposes.

The Nuclear Regulatory Commission (NRC) regulates U.S. commercial nuclear power plants and has regulatory requirements for offsite power systems. The nuclear plant licensing requirements addressed in the proposed Reliability Standard include requirements for off-site power to enable safe operation and shutdown during an electric system or plant event, and requirements for avoiding nuclear safety issues as a result of changes in electric system conditions during a disturbance, transient or normal conditions. NERC cites general design criterion 17 for nuclear power plants, which requires nuclear plant generator operators to obtain

²⁰ Pub. L. No. 105-277, § 1704, 112 Stat. 2681, 2681-750 (1998).

off-site electric power that will provide sufficient capacity to permit safety systems to function, assure that reactor coolant design limits are not exceeded, prevent core cooling, and maintain containment integrity and other vital functions.²¹

NERC stated that NUC-001-1, in combination with the nuclear license general design criteria requirements, achieves the vital public interest of assuring safe nuclear power generation. According to NERC, the Reliability Standard is beneficial to nuclear plant generator operators because it will assist them in meeting nuclear plant licensing requirements to safely produce nuclear power. It is also beneficial to Bulk-Power System users, due to the significant support that nuclear plants provide to the Reliable Operation of the Bulk-Power System.²²

The filing requirements in proposed FERC-725F will incorporate NERC's requirements. However, all reliability requirements will be subject to FERC approval along with the requirements developed by Regional Entities and Regional Advisory Bodies and the ERO.

5. METHODS USED TO MINIMIZE BURDEN IN COLLECTION OF INFORMATION INVOLVING SMALL ENTITIES

FERC-725F is a filing requirement concerning the implementation of a reliability standard by the Electric Reliability Organization and its responsibilities as well as those of Regional Entities and Regional Advisory Bodies in the development of Reliability Standards. The Electricity Modernization Act specifies that the ERO and Regional Entities are not departments, agencies or instrumentalities of the United States government and will not be like most other businesses, profit or not-for-profit. Congress created the concept of the ERO and Regional Entities as select, special purpose entities that will transition the oversight of the Bulk-Power System reliability from voluntary, industry organizations to independent organizations subject to Commission jurisdiction.

Section 215(b) of the FPA requires all users, owners and operators of the Bulk-Power System to comply with Commission-approved Reliability Standards. Each proposed Reliability Standard submitted for approval by NERC applies to some subset of users, owners and operators. Most of the entities, *i.e.*, planning authorities, reliability coordinators, transmission planners and transmission operators, to which the requirements of this rule would apply do not fall within the definition of small entities.

Based on the available information regarding NERC's compliance registry, approximately 364 entities, including owners and operators of 104 nuclear power plants, will be responsible for compliance with the new Reliability Standard. It is estimated that one-third of the responsible entities, about 130 entities, would be municipal and cooperative organizations. In addition to generator owners and operators and distribution service providers, the proposed

21 NERC November 19, 2007 Petition at 22-23, [citing the NRC regulations](#), 10 CFR Part 50, Appendix A — General Design Criteria for Nuclear Power Plants.

22 The Nuclear Reliability Standard is attached in Appendix A to the NOPR and is available on the Commission's eLibrary document retrieval system in Docket No. RM08-3-000 and also on NERC's website, <http://www.nerc.com>.

Reliability Standard would apply to planning authorities, transmission planners, transmission operators and reliability coordinators, which tend to be larger entities. Thus, the Commission believes that only a portion, approximately 30 to 40 of the municipal and cooperative organizations to which the proposed Reliability Standard would apply, qualify as small entities.²³ The Commission does not consider this a substantial number of all municipal and cooperative organizations. Moreover, as discussed above, the proposed Reliability Standard will not be a burden on the industry since most if not all of the applicable entities currently coordinate operations and planning with nuclear plant generator operators and the proposed Reliability Standard will simply provide a common framework for agreements governing such coordination and many of the entities already have agreements in place to meet prior NRC requirements.

In the NOPR, the Commission noted that some nuclear power plants may obtain auxiliary power through lower voltage facilities that are not included in a Regional Entity's definition of bulk electric system and that other nuclear power plants may retain alternate sources of auxiliary power provided through lower voltage facilities operated by a small utility or cooperative that is not included in a Regional Entity's definition of bulk electric system.²⁴ The Commission sought clarification from NERC on how it would register such entities and how this relates to the definition of bulk electric system.

NERC clarified that "for lower voltage facilities that provide such services to a Nuclear Power Plant, the registration of those entities and the applicability of the NERC Reliability Standards therein to that functional class of entities will be limited to those facilities identified by the Nuclear Plant Generator Operator in its NPIRs."²⁵

Constellation anticipated that some transmission entities, in particular those that are not previously registered, may be reluctant to enter into nuclear interface agreements. Constellation is concerned that small generators that are currently exempt from registration may be unwilling to continue to provide services or enter into new agreements for services if provision of such services causes them to be registered by NERC. Constellation cites the cost burdens and risk of penalties as having a chilling effect on these entities' willingness to continue to provide their discrete services to nuclear power plants. Constellation suggested that the curtailment of such services could impair the ability of nuclear plant generator operators to meet their license requirements. To address these concerns, Constellation requested that the Commission direct

23 According to the DOE's Energy Information Administration (EIA), there were 3,284 electric utility companies in the United States in 2005, and 3,029 of these electric utilities qualify as small entities under the SBA definition. Among these 3,284 electric utility companies are: (1) 883 cooperatives of which 852 are small entity cooperatives; (2) 1,862 municipal utilities, of which 1842 are small entity municipal utilities; (3) 127 political subdivisions, of which 114 are small entity political subdivisions; and (4) 219 privately owned utilities, of which 104 could be considered small entity private utilities. See Energy Information Administration Database, Form EIA-861, Dept. of Energy (2005), [available at http://www.eia.doe.gov/cneaf/electricity/page/eia861.html](http://www.eia.doe.gov/cneaf/electricity/page/eia861.html).

24 NOPR at P 26.

25 NERC comments at 8.

NERC to evaluate these risks and to propose mechanisms to ensure that small entities will not be deterred from providing services.

Commission's Response

The Commission accepts NERC's clarification that registration of lower voltage facilities and the applicability of NUC-001-1 will be limited to those facilities identified by the nuclear plant generator operator in its NPIRs.²⁶ We would expect that any NPIRs agreed to between a nuclear plant generator operator and transmission entity would include all facilities needed to transmit offsite power and auxiliary power to the nuclear facility. The Commission remains sensitive to the need for NERC to register operators of lower-voltage facilities used to deliver off-site power.²⁷ The NOPR stated the Commission's understanding that NERC would register entities operating facilities not currently identified in the Regional Entities' definition of bulk electric system that are needed for Bulk-Power System reliability, through NERC's authority to register an owner or operator of an otherwise exempt facility that is needed for Bulk-Power System reliability, on a facility-by-facility basis.²⁸ We note that it is in the best interest of the nuclear plant generator operator to have any such facility identified in the NPIRs.

We find that NERC's approach should mitigate the concerns of commenters who speculate that small entities may wish to cease providing services rather than become subject to other Reliability Standards applicable to the functional class in which they would be registered. In this manner, application of the Reliability Standard to smaller entities operating lower voltage facilities that were not previously registered is limited to the facilities used to provide services to the nuclear plant generator operator. Commenters' other concerns largely address smaller entities' potential reluctance to continue providing service – that is, so long as these entities are users, owners or operators of the Bulk-Power System they may be registered by NERC and subject to the Reliability Standard. An entity that has failed to execute an interface agreement will be found in violation of the Reliability Standard.

We believe that limited registration of smaller entities, in combination with NERC's use of the registry process and tying enforceability to the receipt of a proposed NPIR (rather than execution of a formal agreement), should limit the majority of concerns raised by commenters on behalf of small entities. Entergy's concern with obtaining reactive power is mitigated by the fact that the Commission's policies recognize alternate sources for ancillary services — reactive power is a required ancillary service to be provided by transmission providers — and the

²⁶ This approach for lower voltage facilities is consistent with our determination in prior proceedings that the ERO may register an entity that falls below the minimum registry criteria on a facility-by-facility basis. See Order No. 693-A at P 38.

²⁷ See NOPR at P 22 and 26.

²⁸ Id. P 26 (citing Order No. 693-A at P 38; NERC Statement of Compliance Registry, Revision 3.1 at 8).

Commission's policies also provide for merchant ancillary service sales where appropriate. However, these issues are best resolved in appropriate registration proceedings.

The Commission notes that in addition to smaller, previously unregistered entities, larger currently-registered entities may also provide service over lower voltage facilities that may be material to the reliability of the Bulk-Power System. These entities' lower-voltage facilities highlight a potential gap in applicability, because it could be argued that those facilities are not currently subject to the Reliability Standards since they may fall outside a Regional Entity's definition of the bulk electric system. This potential gap is illustrated where a larger entity essentially provides a transmission service, but the applicability of NUC-001-1 and other Reliability Standards is uncertain, because service is provided over lower voltage facilities. We direct the ERO to review the impact on the Bulk-Power System for registration purposes of any entity providing service related to NPIRs over a lower-voltage facility similar to other facilities used to provide service, regardless of whether such service is provided by a currently-registered entity or a previously unregistered entity.²⁹

6. CONSEQUENCE TO FEDERAL PROGRAM IF COLLECTION WERE CONDUCTED LESS FREQUENTLY

The Electric Reliability Organization will conduct periodic assessments of the reliability and adequacy of the Bulk-Power System in North America and report its findings to the Commission, the Secretary of Energy, Regional Entities, and Regional Advisory Bodies annually or more frequently if so ordered by the Commission. The ERO and Regional Entities will report to FERC on their enforcement actions and associated penalties and to the Secretary of Energy, relevant Regional entities and relevant Regional Advisory Bodies annually or quarterly in a manner to be prescribed by the Commission. If the information were conducted less frequently or discontinued, the Commission would be placed at a disadvantage in not having the data necessary for monitoring its mandated obligations.

7. EXPLAIN ANY SPECIAL CIRCUMSTANCES RELATING TO THE INFORMATION COLLECTION

FERC-725F is a filing requirement necessary to comply with the applicable provisions of the Electricity Modernization Act of 2005 and section 215 of the Federal Power Act.

²⁹ The Commission notes, however, that the NUC-001-1 drafting team has described such cases of distribution level supply as "the exception, not the rule." See NERC Nuclear Reliability Standard drafting team, Consideration of Comments on 2nd Draft of Nuclear Off-site Power Supply Standard, at 54 (Feb. 7, 2007), filed in November 19, 2007 Petition, Exhibit B, Record of Development of Proposed Reliability Standard.

In accordance with section 39.5 of the Commission's regulations, the ERO must file each Reliability Standard or a modification to a Reliability Standard with the Commission. The filing is to include a concise statement of the basis and purpose of the proposed Reliability Standard, either a summary of the Reliability development proceedings conducted by the ERO or a summary of the Reliability Standard development proceedings conducted by a Regional Entity together with a summary of the Reliability Standard review proceedings of the ERO and a demonstration that the proposed Reliability Standard is "just, reasonable, not unduly discriminatory or preferential, and in the public interest. The ERO must make each effective Reliability Standard available on its Internet website. Copies of the effective Reliability Standards will be available from the Commission's Public Reference Room.

The Commission requires an original and seven copies of the proposed Reliability Standard or to the modification to a proposed Reliability Standard to be filed. This exceeds the OMB guidelines in 5 CFR 1320.5(d) (2) (iii) because of the number of divisions within the Commission that must analyze the standard and corresponding reports in order to carry out the regulatory process. The original is docketed, imaged through e-Library and filed as a permanent record for the Commission. The remaining copies are distributed to the necessary offices of the Commission with one being placed immediately in the Commission's Public Reference Room for public use. Since the time frame for responses to the request is very limited, the multiple hard copies are necessary for the various offices to review, analyze and prepare the final order at the same time. The electronic filing initiative at FERC, may in the near future, allow for relief of the number of copies, but at this time, the program turn around time for docketing, imaging and retrieval does not permit sufficient time to review the filings and to prepare the necessary documents for the processing of these filings.

In addition, individual reliability standards may have records retention schedules that exceed OMB guidelines in 5 CFR 1320.5(d)(2)(iv) of not retaining records for no longer than three years.

**8. DESCRIBE EFFORTS TO CONSULT OUTSIDE THE AGENCY:
SUMMARIZE PUBLIC COMMENTS AND THE AGENCY'S RESPONSE
TO THESE COMMENTS**

Each Commission rulemaking (both NOPRs and Final Rules) are published in the Federal Register, thereby affording all public utilities and licensees, state commissions, Federal

agencies, and other interested parties an opportunity to submit data, views, comments or suggestions concerning the proposed collection of data. The notice procedures also allow for public conferences to be held as required. The Commission has held several workshops and technical conferences to address reliability issues including transition to the NERC reliability standards, operator tools, and reactive power. Comments in response to this NOPR are due 30 days after publication in the Federal Register.

The NOPR required that comments be filed within 30 days after publication in the Federal Register, or April 28, 2008. On April 16, 2008, the Commission granted a motion filed by EEI and NEI extending the comment date to May 13, 2008. Approximately 23 entities filed comments, including several late-filed comments.

Approval of NUC-001-1

NERC and other commenters generally support the NOPR proposal to approve Reliability Standard NUC-001-1.³⁰ EEI, Ameren, Dominion, and Ontario IESO and Hydro One stated that they support approval of the Reliability Standard as improving coordination between nuclear plant generator operators and transmission entities.

In contrast, CenterPoint Energy asserted that NUC-001-1 is flawed and unnecessary, arguing that it deals with contractual matters that should be addressed through a tariff or standard agreement, not a Reliability Standard, to ensure that nuclear plant generator operators do not receive unreasonable competitive advantages over other competitors.³¹ CenterPoint Energy also stated that the Commission should mitigate potential market power and transparency concerns created by the Reliability Standard in regions where an independent transmission operator is not the entity that performs interconnected operations with the nuclear plant generator operators.³² CenterPoint Energy is concerned that a requirement in a NPIR could result in a change in transmission operations and cause significant reliability or market disruptions. According to CenterPoint Energy, this could be mitigated by a requirement that nuclear plant generator operators retain documentation “whenever a nuclear plant operator effectively alters transmission operating decisions of the independent operator due to alleged NPIR concerns.”³³

National Grid emphasized that NUC-001-1 is intended to address technical aspects of the interface between transmission entities and nuclear plant generator operators as opposed to the commercial aspects. According to National Grid, the proposed Reliability Standard obliges all

³⁰ See, e.g., Constellation, Detroit Edison, Dominion, EEI, Entergy, Exelon, Ontario IESO and Hydro One, Midwest ISO, and Ontario Power comments.

³¹ CenterPoint Energy comments at 1.

³² Id. at 3.

³³ Id. at 4.

responsible entities to work together on creating NPIRs suitable to each nuclear power plant, whether the service provided to the nuclear power plant is subject to federal or state jurisdiction. According to National Grid, execution of an interface agreement and subsequent compliance with NPIRs should not change the jurisdictional status of the services provided. National Grid also requested that the Commission direct the ERO and its Regional Entities to ensure that nuclear plant generator operators look to the proper transmission entities for the provision of NPIR-related services and that they bear incremental costs of NPIR compliance.

Commission's Response

The Commission is approving Reliability Standard NUC-001-1 as mandatory and enforceable in accordance with section 215(d) of the Federal Power Act (FPA). The Commission finds that coordination of nuclear licensing requirements and grid operating limits through auditable interface agreements will ensure that an important resource is operated safely and reliably, while minimizing grid disturbances from separation of nuclear power plants from the grid, due to the loss or degradation of auxiliary power supply. Further, the Commission disagrees with CenterPoint Energy that the Reliability Standard is flawed and unnecessary. Nuclear power plants represent an important power resource and provide reliability support throughout the Bulk-Power System. Unlike other large units, nuclear power plants are subject to separate regulatory oversight that mandates stringent operating and auxiliary power requirements, which, if not met, require the plant to separate from the grid. The Commission finds that NUC-001-1 is an appropriate means to ensure that the particular requirements faced by nuclear power plants are met, maximizing the reliability support to be provided while minimizing the potential for grid disruption caused by separation.

CenterPoint Energy has provided no evidence to support its claims that assertions by nuclear plant generator operators concerning NPIRs could be used to affect grid or market operations. The Commission notes that the NRC oversees a nuclear power plant's development of and compliance with its licensing requirements related to facilities that are associated with reactor safety or emergency response through its regulatory proceedings. NUC-001-1 supplements NRC oversight of nuclear plant facilities by providing oversight of the transmission entities that operate facilities on the Bulk-Power System providing off-site power supply and delivery service to meet nuclear plant licensing requirements.

Neither National Grid nor CenterPoint Energy has provided any information on how the NPIRs could result in undue negative impact on competition. Because all jurisdictional tariffs have requirements for the provision of non-discriminatory service, the Commission does not anticipate that transmission entities would agree to NPIRs that do not provide for comparable service. While comparable service includes appropriate cost allocations, that subject is outside of the scope of this Final Rule.³⁴ In regard to National Grid's non-cost-related comments, National Grid has not suggested any way in which the Reliability Standard could change the

³⁴ See NERC November 19, 2007 Petition, Exhibit B, Record of Proposed Reliability Standard Development, "Consideration of Comments, Draft 2 SAR on Nuclear Plant Offsite Power Reliability, May 23, 2005" at 3 of 25 (agreeing that the Nuclear Reliability Standard does not address cost recovery issues).

jurisdictional status of service provided to a nuclear plant generator operator, and therefore, the Commission does not see a need to address this concern in the Final Rule.

Notification of Parties to Interface Agreements

Requirement R1 of NUC-001-1 provides: “[t]he Nuclear Plant Generator Operator shall provide the proposed NPIRs in writing to the applicable transmission entities and shall verify receipt.” In the NOPR, the Commission indicated its understanding that Requirement R1 means that if a nuclear plant generator operator fails to provide all appropriate NPIRs to an applicable transmission entity, the operator will not be in compliance with the Reliability Standard.³⁵ Further, the Commission observed that a nuclear plant generator operator will know, as a result of the NRC licensing process, which applicable entities to contact and what services are needed to meet NRC requirements.

NERC and Entergy agreed that it is unlikely that a nuclear plant generator operator would fail to obtain appropriate services and identify and contact transmission entities. They concurred that a nuclear plant generator operator will know the applicable services it needs through the NRC licensing process. NERC explains that, as an NRC licensing requirement, the nuclear plant generator operator would have previously coordinated with transmission entities.

Entergy described the NRC licensing process and explained that a nuclear plant generator operator will know the capability of its offsite power supplier to supply the power required during operations as well as situations that could result in a loss of off-site power. Entergy concluded that “it is very unlikely” that a nuclear plant generator operator would fail to contact the entities necessary to receive the appropriate services.

NEI agreed with the Commission’s observation that nuclear plant generator operators are capable of identifying and contacting the appropriate transmission entities. However, NEI opposed any proposal to expand this notification requirement into an affirmative requirement that nuclear plant generator operators must “obtain appropriate services” from transmission entities. NEI requested that the Commission clarify that this is a notification requirement, not a requirement to obtain services (that, according to NEI, should not be included in the Reliability Standard).

According to NEI, the obligations of the nuclear plant generator operator to provide notice to transmission entities should be limited to those entities known or reasonably knowable

35 NOPR at P 21.

by the nuclear plant generator operator, since the identity of some transmission entities could be proprietary. NEI argued that transmission entities that have been notified by the nuclear plant generator operator that they are responsible for providing services relating to NPIRs should then have the obligation to provide further notice to other applicable transmission entities that provide services to the first transmission entities.

ATC proposed replacing the phrase “proposed NPIRs” with a reference to nuclear plant licensing requirements including an explicit recognition of a transmission entity’s ability to propose transmission system operating limits to be addressed as NPIRs in the interface agreement. According to ATC, this will remedy the current conundrum, where a nuclear power plant is obligated to “propose NPIRs,” while NPIRs are defined as having been agreed to by both parties.

Commission’s Response

The Commission accepts NERC’s proposal to require nuclear plant generator operators to identify entities that provide services related to off-site power supply or delivery. With NERC’s and other industry representatives’ assurances, the Commission is satisfied that the appropriate transmission entities can be identified based on the nuclear plant generator operators’ historical compliance with NRC licensing requirements to obtain off-site power and develop solutions with grid operators to avoid service interruptions from foreseeable grid disturbances.

The Commission does not share the concern expressed by commenters that Requirement R1 imposes an affirmative obligation on a nuclear plant generator operator to obtain appropriate services. Requirement R1 obligates a nuclear plant generator operator to provide proposed NPIRs in writing to transmission entities. The nuclear plant generator operator is already obligated to obtain service to meet NPIRs that are based on nuclear plant licensing requirements enforced by the NRC. The Commission notes that Requirement R2 does contain an affirmative obligation that the nuclear plant generator operator and transmission entities develop and execute an interface agreement to implement NPIRs. With this understanding, the Commission finds that the nuclear plant generator operators’ role in providing notice of proposed NPIRs to

all applicable transmission entities is appropriate. A nuclear plant generator operator may be found in noncompliance for failing to provide notice to an entity responsible for providing services relating to its off-site power-related licensing requirements.

NERC and industry representatives clarified that the entities that the nuclear plant generator operator is to provide with proposed NPIRs are known to the nuclear plant generator operator based on the nuclear plant generator operator's historic need to obtain service to meet their license requirements. The Commission does not share NEI's concern that the nuclear plant generator operator may not know upstream utilities that provide service to the primary service providers. The Commission notes that Requirement R1 obligates a nuclear plant generator operator to contact entities that provide services to meet NPIRs, which are based on nuclear licensing requirements for off-site power supply and avoiding foreseeable grid disruptions. Any upstream service providers that provide services related to NPIRs must be identified by the nuclear plant generator operator in the NPIRs. Otherwise there is no obligation to identify non-primary service providers.

As for ATC's concern with the use of the phrase "proposed NPIRs" as opposed to a reference to nuclear plant licensing requirements that will form the basis for NPIRs, the Commission finds the current Requirements are sufficiently clear and flexible to accommodate counterproposals by transmission entities to address system limits during interface agreement development.³⁶

Form of Agreements

Several commenters request clarification that existing arrangements may be relied on to meet NUC-001-1 requirements to have an interface agreement in place to address NPIRs.³⁷ These commenters suggest that nuclear plant generator operators and transmission entities may rely on existing interface agreements and that NUC-001-1 does not require execution of a new agreement, and may incorporate by reference matters covered in other agreements or tariff provisions.

The ISO/RTO Council, in particular, asked the Commission to clarify that any entity designated as a transmission entity will be allowed to rely on existing tariffs and contracts to satisfy the mandates of Requirements R2 and R9 and will not be required to execute entirely new agreements that merely duplicate tariff and contractual arrangements that already are in place, allowing nuclear power plants to maintain compliance with existing NRC license criteria. ISO/RTO Council states:

To the extent that an RTO or ISO — or indeed any other transmission operator— provides these services to generators, the services generally are reflected in

³⁶ The Commission notes that ATC originally suggested the language "proposed NPIRs" as an alternative to the original draft language "current" NPIRs. NERC November 19, 2007 Petition, Exhibit B, "Consideration of Comments on 1st Draft of Nuclear Plant Off-site Power Coordination Standard," at 15 of 69 (Aug. 15, 2006).

³⁷ See Constellation, Dominion, and ISO/RTO Council comments.

existing tariffs and agreements between specific transmission operators and generators. For example, in New York, generators and [NYISO] execute a service agreement under the NYISO's Market Administration and Control Area Services Tariff ("Services Tariff"), which governs, among other things, the NYISO's "provision of Control Area Services ... including services related to ensuring the reliable operation of the NYS Power System." The service agreement requires the NYISO and its counterparties, including generators, to follow NYISO tariffs and procedures. The Services Tariff requires the NYISO to "develop, and modify as appropriate, procedures for the ... reliable operation of the NYCA in accordance with the terms and conditions of the Tariff." These procedures are set forth in detail in the NYISO manuals, and already cover the core elements of the agreements mandated pursuant to R9 of NUC-001-1. The technical requirements outlined in R9.2, including identification of system parameters and configurations and applicable limits, largely are reflected in the NYISO's Transmission and Dispatch Manual. The requirements outlined in R9.3 with respect to operations and maintenance coordination largely are reflected in the NYISO's Outage Scheduling manual. These manuals define the NYISO's obligations to specific generators, including nuclear generators, pursuant to the terms of the Services Tariff.³⁸

According to ISO/RTO Council, new service agreements between transmission operators and nuclear plant generator operators under NUC-001-1 should also be incorporated into the applicable transmission operator tariffs or manuals. International Transmission requests clarification on whether parties will be expected already to have a signed agreement which

³⁸ ISO/RTO Council comments at 4-5.

meets the requirements of NUC-001-1 in place on the date on which the Reliability Standard becomes effective. Constellation requests confirmation that multi-party agreements will be accommodated.

EI also requested that the Commission clarify that nuclear plant generator operators and transmission entities, affiliated and unaffiliated, do not need to enter into new agreements if an existing agreement between the parties is sufficient for compliance with NUC-001-1. National Grid stated that NERC should provide additional guidance on what responsible entities must do to comply with the Reliability Standard within fifteen months of regulatory approval. National Grid characterized NERC's position as proposing that parties establish an "overall coordination platform" to meet the NPIRs.

Commission's Response

Based on NERC's statement that parties may rely on less formal procedures and protocols, the Commission finds that NUC-001-1 does not dictate any particular format for the interface agreement. Nuclear plant generator operators and transmission entities may rely on pre-existing arrangements so long as the parties can document the fact that they have agreed that the pre-existing arrangements address all of the NPIRs, cover all required facilities and otherwise fulfill the requirements of NUC-001-1.³⁹ This includes multi-party agreements.

In response to ISO/RTO Council's request, the Commission clarifies that, as with any transmission entity, a regional service provider may rely on existing tariff provisions. However, the Commission understands that, in a region served by a regional service provider such as a

³⁹ Nuclear plant generator operators and transmission entities that choose to rely on generally-applicable tariffs should make provision to ensure that the tariff terms and conditions continue to meet the parties' needs should the tariff or nuclear licensing requirements change, and document such an arrangement.

regional transmission organization (RTO) or independent system operator (ISO), the regional authority will be required to meet NPIRs that require service over its system. Within the geographical boundaries of their service territory, potential transmission entities may also provide service over lower voltage facilities that are not covered by the RTO or ISO tariff. In such a case, the Commission directs the ERO to assess whether the entity providing service over the lower voltage facilities is also subject to NUC-001-1, as discussed in section II(B)(2)(b), above, concerning Transmission Entities and Agreements on NPIRs. If such an entity is providing service that is not covered by the tariff, the nuclear plant generator operator would need to take steps to identify these entities as providing services related to an NPIR and thereby ensure compliance with NUC-001-1 on these lower-voltage facilities as indicated to the Commission's discussion in section II(B)(2)(b) of the Final Rule.

Enforcement and Conflicts with Other Regulations

Comments regarding the enforcement of NUC-001-1 addressed both potential conflicts with the Commission's standards of conduct rules, and potential conflicts with NRC requirements.

EEI requested clarification that the communications required to comply with NUC-001-1 are permitted under the Commission's standards of conduct rules. The Commission previously clarified that transmission providers may communicate with affiliated nuclear power plants regarding certain matters related to the safety and reliability of the transmission system and of the nuclear power plants in order to comply with requirements of the NRC. EEI asked the Commission to clarify that their provisions apply equally to unaffiliated entities that must comply with NUC-001-1 and that a transmission entity is not subject to enforcement under the standards of conduct, applicable tariff or other authority for providing information in compliance with NUC-001-1.⁴⁰

⁴⁰ EEI comments at 9.

NEI stated that while the NUC-001-1 requirements are structured to help identify potential conflicts and coordinate their resolution through changes to the NPIRs, unforeseen situations could arise that are not adequately covered in the NPIRs and interface agreements under NUC-001-1. NEI argued that penalties should not be imposed if a nuclear plant generator operator fails to comply with a NUC-001-1 interface agreement or other Reliability Standard because the nuclear plant generator operator complied instead with NRC requirements. NEI recommends that NUC-001-1 be revised to recognize the primary obligation of nuclear plant generator operators to protect public health and safety through compliance with NRC regulations and the nuclear plant license, and proposed revised language.⁴¹

Similarly, Duke stated that while it does not object to NUC-001-1, the Commission should clearly define the boundary between NRC nuclear safety requirements and Commission grid reliability requirements. According to Duke, because NRC licensing criteria address health and safety issues, those criteria should take precedence and a nuclear plant generator operator should not be penalized for non-compliance with a conflicting interface agreement or other Reliability Standard provision. Duke cited unforeseen circumstances as well as specific examples where NRC safety criteria may take precedence.⁴² Also, Constellation requested assurance that, when there are overlapping requirements, registered entities will be subject to a single penalty only.

Commission Determination

In response to EEI's request for clarification that communications required to comply with this Reliability Standard are permitted under the Commission's standards of conduct regulations, the Commission notes that it has addressed this subject through its rulemaking on standards of conduct in Docket No. RM07-1-000.⁴³ A number of commenters in that docket sought clarification as to whether communications involving the Reliability Standards are exempt from standards of conduct prohibitions. The Final Rule to adopt revised standards of conduct, issued by the Commission, addresses the subject of exemptions.

Comments suggesting that mitigating circumstances may warrant waiver of penalties are beyond the scope of this proceeding and should be addressed in an appropriate enforcement proceeding. The

⁴¹ NEI proposed that an additional paragraph be added to NUC-001-1 to address this potential conflict between the Commission and the NRC: "FERC recognizes the necessity of nuclear plant generator operators to protect the public health and safety through compliance with NRC regulations and license obligations. A nuclear power generator operator's compliance with NPIRs is excused if necessary to comply with NRC regulations or license obligations. Notwithstanding any other provisions of FERC rules or regulations, any penalty that might be imposed arising from compliance by a nuclear plant generator operator arising from compliance with NRC regulations or license obligations shall not be imposed." NEI comments at 11.

⁴² Duke proposed the following examples: (a) the inability of a nuclear generator to exceed its license power limits to respond to underfrequency events, (b) specific license requirements for support from the grid, such as priority off site power after a blackout, and (c) license-required separation in response to degraded grid voltage or frequency conditions.

⁴³ Standards of Conduct for Transmission Providers, Notice of Proposed Rulemaking, Docket No. RM07-1-000, 73 FR 16228 (Mar. 27, 2008), FERC Stats. and Regs. ¶ 32,630 (2008). Revisions to the Standards of Conduct for Transmission Providers, Final Rule, Docket No. RM07-1-000, 125 FERC ¶ 61,062 (2008).

Commission understands that the NPIRs are specifically identified to enable a nuclear plant generator operator to meet its NRC licensing requirements at all times. As such, there should be no question of priority of the NRC criteria and NUC-001-1 Requirements. As to Duke's examples, all of the existing Reliability Standards have a sound engineering basis and do not require exceeding defined power limits, identify priorities, and account for known interactions such as separation of any generating facility due to degraded grid voltage or frequency.

Requirement R9.3.5

Commenters raised concerns regarding Requirement R9.3.5, which were not anticipated in the NOPR. According to NEI, Requirement R9.3.5 mixes two separate events incorporated in nuclear power plant design and license conditions: (i) coping times for station blackouts and (ii) restoration of off-site power.⁴⁴ NEI explains that station blackouts include a loss of off-site power and select emergency alternating current (AC) power sources (generally on-site). In the case of such an event, NEI explained that the nuclear plant generator operator has responsibility to restore the emergency AC power sources within the demonstrated coping time. NEI stated, however, that a transmission entity should assign off-site power restoration priority independent of coping time and that NERC should clarify Requirement R9.3.5 references to station blackout and off-site power restoration priority. Specifically, NEI recommended appending the requirement with the phrase "to ensure restoration of Off-site Power is afforded priority reflecting that reliance on emergency AC power sources is not preferred."⁴⁵

Southern stated that the phrase "coping times" in Requirement R9.3.5 is ambiguous because the term has various meanings in the nuclear context and does not necessarily equate to a specific time period. Southern proposed the following alternative language for NERC consideration: "Provision to consider the [nuclear plant licensing requirements] related to the coordination of grid and nuclear plant restoration following a nuclear plant loss of Off-site Power."⁴⁶

Commission's Response

Based on the industry comments received, it appears that the references in Requirement R9.3.5 to coping times for station blackouts and restoration of off-site power are ambiguous — insofar as commenters suggest that the relationship between the two issues is not clear, and thus, is not adequately addressed as presented in Requirement R9.3.5. Therefore, the Commission directs the ERO to modify Requirement 9.3.5 to clarify references to coping times and off-site power restoration to address the concerns raised in the comments through its Reliability Standards development process. This approach permits a full vetting of new suggestions raised by commenters in NOPR comments and encourages interested entities to participate in the ERO

44 Requirement R9 establishes a minimum set of elements to be addressed in interface agreements. Requirement R9.3.5 states that the operations and maintenance coordination elements should include "Provision to consider nuclear plant coping times required by the nuclear plant licensing requirements and their relation to the coordination of grid and nuclear plant restoration following a nuclear plant loss of off-site power." See also TVA comments, Enclosure at 1.

45 NEI comments at 11-12.

46 Southern comments at 8.

Reliability Standards development process rather than wait to express their views until a proposed new or modified Reliability Standard is filed with the Commission.⁴⁷ The Commission agrees with commenters that the provision is inartfully drafted and needs to be clarified; however, there does not appear to be any reason that parties to an interface agreement should not coordinate concerning both issues as an interim measure. The Commission is directing NERC to develop a modification to Requirement R9.3.5. In addition, to ensure the matter is addressed expeditiously, the Commission directs NERC to submit a timeline for developing and filing the modification as a compliance filing to be made within 30 days of the date of this Final Rule.

Addressing System Changes

Requirements R7 and R8 require parties to inform each other of design, configuration, operations, limits, protection systems, or capabilities that may impact their ability to meet NPIRs.

Entergy asked the Commission to clarify the level of proposed change that would trigger a Requirement R7 and R8 information exchange. According to Entergy, proposals to change a plant's "design, configuration, operations, limits, protection systems, or capabilities" are evaluated routinely, due to the multitude of complex systems within a nuclear power plant, and the long lifetimes of such facilities. Entergy pointed out that the NRC has extensive general design criteria and requirements for changes.⁴⁸ Entergy noted that proposals may never be approved, scheduled, or implemented and suggested that transmission system and facility proposals may be subject to similar concerns.

Entergy noted the limitations in the Requirements that the proposed changes to be reported are those that "may impact the ability of the electric system to meet the NPIRs," but claimed that the description lacks clarity. Entergy suggested that nuclear plant generator operators and transmission entities will not be able to implement the Requirements without a determination of what changes to communicate and questions whether every discussion about a possible design change, technological improvement, or sale of facilities must be communicated. Entergy proposed that the Commission bypass agreement of the parties to an interface agreement and establish a limitation to include proposed changes that are formally approved, scheduled for implementation, and could significantly impact the ability of the Bulk-Power System to meet the NPIRs.

Commission's Response

The Commission declines to direct the clarification requested by Entergy. The Commission disagrees that the requirement to communicate changes that "may impact the ability of the electric system to meet the NPIRs" is not a clear requirement. It is an example of "what" is required, not "how" it should be performed which should be included in the

⁴⁷ Order No. 693 at P 188.

⁴⁸ See 10 CFR Part 50, Appendix B and 10 CFR 50.59.

agreements. The Commission believes that there are many plant-specific issues and does not expect they will be individually addressed in the Reliability Standard. However, it is clear what is required and the compliance audits will check that the entities have sufficiently covered them in their agreements.

9. EXPLAIN ANY PAYMENT OR GIFTS TO RESPONDENTS

No payments or gifts have been made to respondents.

10. DESCRIBE ANY ASSURANCE OF CONFIDENTIALITY PROVIDED TO RESPONDENTS

The Commission generally does not consider the data filed to be confidential. However, certain standards may have confidentiality provisions in the standard.

The Commission has in place procedures to prevent the disclosure of sensitive information, such as the use of protective orders and rules establishing critical energy infrastructure information (CEII). However, the Commission believes that the specific, limited area of cyber security Incidents requires additional protections because it is possible that system security and reliability would be further jeopardized by the public dissemination of information involving incidents that compromised the cyber security system of a specific user, owner or operator of the Bulk-Power System. In addition, additional information provided with a filing may be submitted with a specific request for confidential treatment to the extent permitted by law and considered pursuant to 18 C.F.R. 388.112 of FERC's regulations.

11. PROVIDE ADDITIONAL JUSTIFICATION FOR ANY QUESTIONS OF A SENSITIVE NATURE THAT ARE CONSIDERED PRIVATE.

There are no questions of a sensitive nature that are considered private.

12. ESTIMATED BURDEN OF COLLECTION OF INFORMATION

The Public Reporting burden for the requirements as estimated in the NOPR was as follows:

Data Collection	No. of Respondents	No. of Responses	Hours Per Respondent	Total Annual Hours
FERC-725F				
Nuclear Plant Owners or Operators	104	1	Reporting: 80	Reporting: 8,320
			Recordkeeping: 40	Recordkeeping: 4,160
Investor Owned Utilities	130	1	Reporting: 80	Reporting: 10,400

			Recordkeeping: 40	Recordkeeping: 5,200
Large Municipals, Cooperatives and other agencies	130	1	Reporting: 80	Reporting: 10,400
			Recordkeeping: 40	Recordkeeping: 5,200
Total	364	1		43,680

Total Hours: (Reporting 29,120 hours + Recordkeeping 14,560 hours) = 43,680 hours.

The Commission sought comment on its burden estimate but no comments were received. The Commission will retain the same estimate in the Final Rule.

13. ESTIMATE OF THE TOTAL ANNUAL COST BURDEN TO RESPONDENTS

Information Collection Costs: It has projected the average annualized cost to be the total annual hours (Reporting) 29,120 times \$120 = \$3,494,400.
 Recordkeeping = @ \$40/hour = \$ 582,400, with labor calculated as file/record clerk @ \$17 an hour + supervisory @ \$23 an hour. Total costs = \$4,076,800.

The Commission believes that this estimate may be conservative because most if not all of the applicable entities currently have agreements in place to provide for coordination between a nuclear plant generator operator and its local transmission, distribution and off-site power suppliers. Furthermore, multiple plants are located on certain sites, and one entity may operate multiple plants, providing for potential economies in updating, drafting and executing the interface agreements.

The Commission sought comments on its costs estimates in the NOPR. No comments were received and so it will retain the same estimate in the Final Rule.

14. ESTIMATED ANNUALIZED COST TO FEDERAL GOVERNMENT

The estimate of the cost to the Federal Government is based on salaries for professional and clerical support, as well as direct and indirect overhead costs. Direct costs include all costs directly attributable to providing this information, such as administrative costs and the cost for information technology. Indirect or overhead costs are costs incurred by an organization in support of its mission. These costs apply to activities which benefit the whole organization rather than anyone particular function or activity. It is difficult to provide an assessment at this stage of what the costs will be to the Commission in its review and of Reliability Standards submitted to it. These requirements are at the preliminary stages and the Regional Entities and Regional Advisory bodies are being created. Both organizations will play a role in standards development prior to their submission to the Commission.

Initial Estimates anticipate that 1.5 FTE's will review these Reliability standards at the Commission or a total cost of $1.5 \times \$126,384 = \$189,576$ ⁴⁹

15. REASONS FOR CHANGES IN BURDEN INCLUDING THE NEED FOR ANY INCREASE

This is a new information collection requirement that implements the provisions of the Electricity Modernization Act of 2005. The Act created section 215 of the Federal Power Act which provides for a system of mandatory reliability rules developed by the ERO, established by the Commission, and enforced by the Commission, subject to Commission review. The Reliability Standard, as adopted, would implement the Congressional mandate of the Energy Policy Act of 2005 to develop mandatory and enforceable Reliability Standards to better ensure the reliability of the nation's Bulk-Power System. Specifically, this Reliability Standard will ensure that system operating limits or SOLs are used in the coordination of nuclear licensing requirements for safe nuclear plant operation and shutdown.

Nuclear licensing requirements specify that the electric grid be used as the primary source of normal and emergency power to plant equipment required for safe shutdown (see 10 CFR 50, Appendix A - General Design Criterion 17). Therefore, the Bulk Power System must be planned and operated in a manner that assures grid voltage, frequency, and stability requirements for the nuclear licensing requirements will be met in the event a plant accident occurs, causing a loss of power at the generation source and the subsequent application of safety system loads.

In order to ensure the transmission system has the capacity and capability to support the safe operation of nuclear licensing requirements safety systems, the electric transmission systems serving the nuclear power plant must use the nuclear power plant operator's specific licensing and design requirements as the transmission system performance standard in addition to existing NERC reliability standards. These licensing requirements shall be specified in written agreements between the nuclear power plant operator and the Transmission System Operator.

16. TIME SCHEDULE FOR THE PUBLICATION OF DATA

The filed Reliability Standards are available on the Commission's eLibrary document retrieval system in Docket No. RM08-3-000 and the Commission will require that all Commission-approved Reliability Standards be available on the ERO's website, with an effective date (http://www.nerc.com/~filez/nerc_filings_ferc.html).

⁴⁹ An FTE = Full Time Employee. The \$126,384 "cost" consists of approximately \$102,028 in salaries and benefits and \$24,356 in overhead. The Cost estimate is based on the estimated annual allocated cost per Commission employee for Fiscal Year 2008.

Entities will have to file one time to initially comply with the rule, and then on occasion as needed to revise or modify. In addition, annual and three-year self-certification requirements will apply. Copies of the filings are made available to the public within two days of submission to FERC via the Commission's web site. There are no other publications or tabulations of the information.

17. DISPLAY OF THE EXPIRATION DATE

It is not appropriate to display the expiration date for OMB approval of the information collected. The information will not be collected on a standard, preprinted form which would avail itself to that display and with the exception of the initial filing, the information will not be filed with FERC. In addition, the information contains a mixture of narrative descriptions and empirical support that varies depending on the nature of the transaction.

18. EXCEPTIONS TO THE CERTIFICATION STATEMENT

Item No. 19(g) (vi) see Instruction No. 17 above for further elaboration. In addition, the data collected for this reporting requirement is not used for statistical purposes. Therefore, the Commission does not use as stated in item no. 19(i) "effective and efficient statistical survey methodology." The information collected is case specific to each Reliability Standard.

B. COLLECTION OF INFORMATION EMPLOYING STATISTICAL METHODS.

This is not a collection of information employing statistical methods.