

Supporting Statement for
FERC-725A, Mandatory Reliability Standards for the Bulk-Power System
As Proposed in Docket No. RM09-18-000
(A Notice of Proposed Rulemaking Issued March 18, 2010)

The Federal Energy Regulatory Commission (Commission) (FERC) requests that the Office of Management and Budget (OMB) review and approve **FERC-725A, Mandatory Reliability Standards for the Bulk Power System**, for a three year period. FERC-725A (Control No. 1902-0244) is an existing information collection requirement, as contained in 18 Code of Federal Regulations, Part 40.

FERC-725A is an information collection implementing Reliability standards that were previously part of a voluntary program. Compliance with these Reliability Standards will be mandatory and enforceable for the applicable categories of entities identified in each 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 they are just and reasonable, not unduly discriminatory or preferential and in the public interest. The Reliability Standards proposed in this Notice of Proposed Rulemaking are 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 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.

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 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

¹ The Energy Policy Act of 2005, Pub. L. No 109-58, Title XII, Subtitle A, 119 Stat. 594, 941 (2005), to be codified at 16 U.S.C. 824o (2000).

system, NERC itself has recognized the need for mandatory, enforceable reliability standards and was 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, which implemented section 215 of the FPA and provided specific processes for the certification of one entity as the Electric Reliability Organization (ERO), the development and approval of mandatory Reliability Standards, and the compliance with and enforcement of approved Reliability Standards (see OMB Control No. 1902-0225). On April 4, 2006, NERC made two filings: (1) an application for certification of NERC Corporation as the ERO and (2) a petition for Commission approval of 102 Reliability Standards, as well as eight regional differences and a glossary of terms.² On July 20, 2006, the Commission issued an order certifying NERC Corporation as the ERO.³

The Commission believes these Reliability Standards form a solid foundation on which to develop and maintain the reliability of the North American Bulk-Power System. However, the Commission recognized, as did NERC, that the Version 0 and Version 1 standards were developed as an initial step in the transition to clear, enforceable Reliability Standards. Therefore, some technical, enforceability and policy aspects of the 107 Reliability Standards proposed and submitted by the ERO needed to be improved.

On March 16, 2007, in Order No. 693,⁴ pursuant to section 215(d) of the FPA. Order No. 693 also added part 40, to the Commission's regulations. The Final Rule stated that this part applies to all users, owners and operators of the Bulk-Power System within the United States (other than Alaska or Hawaii). It also requires that each Reliability Standard identify the subset of users, owners and operators to which that particular Reliability Standard applies. These 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.

The Commission approved 83 of 107 proposed Reliability Standards, six of the eight proposed regional differences, and the Glossary of Terms used in Reliability Standards as developed by the North American Electric Reliability Corporation (NERC). NERC as noted above was certified by the Commission as the Electric Reliability Organization (ERO) responsible for developing and enforcing mandatory Reliability Standards. Those Reliability Standards meet the requirements of section 215 of the FPA and Part 39 of the Commission's regulations.

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2 The April 4, 2006 filing contained 102 Reliability Standards, a Glossary of Terms Used in Reliability Standards and eight regional differences. On August 28, 2006, NERC filed an additional 19 Reliability Standards and withdrew three of the 102 Reliability Standards. Eleven of the nineteen reliability Standards replace those filed on April 4, 2006.

3 ERO Certification Order, 116 FERC ¶ 61,062.

4 See Mandatory Reliability Standards for the Bulk-Power System, Order No. 693, FERC Stats. & Regs. ¶ 31,242, order on reh'g, Order No. 693-A, 120 FERC ¶ 61,053 (2007) (directing improvements to 56 of the 83 approved Reliability Standards and leaving 24 Reliability Standards as pending until further information is provided).

On March 18, the Commission issued a Notice of Proposed Rulemaking “Revision to Electric Reliability Organization Definition of Bulk Electric System”. This NOPR proposes to direct the ERO to revise its definition of the term bulk electric system to provide a 100 kV threshold for identifying bulk electric system facilities and requiring ERO and Commission approval of a Regional Entity definition of bulk electric system that varies from the ERO’s definition of the term. In Order No. 693, the Commission approved the ERO’s definition of the term bulk electric system. As noted above, the Commission also approved 83 Reliability Standards submitted by the ERO. The Commission’s proposed action in this NOPR does not specify any information collection requirements. However, the proposal would likely result in certain responsible entities having to comply with mandatory Reliability Standards with respect to certain facilities in the 100 kV to 200 kV range for the first time. While the previously-approved Reliability Standards do not require reporting to the Commission, they do require responsible entities to develop and maintain certain information for a specified period of time, subject to inspection by the ERO or Regional Entities. Therefore, the proposed revision to the ERO’s definition of bulk electric system in this proceeding would likely increase the public reporting burden estimate provided in Order No. 693.⁵

A. Justification

1. **CIRCUMSTANCES THAT MAKE THE COLLECTION OF INFORMATION NECESSARY**

EPA 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. As mentioned above, 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 Standard appropriate to “carry out” section 215 of the FPA.⁶ The Commission’s action in this Final Rule is based on its authority pursuant to section 215 of the FPA.

Recent Events

⁵ See Order No. 693, FERC Stats. and Regs. ¶ 31,242 at P 1904.

⁶ See 16 U.S.C. 824o(d)(5) (2006).

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.⁷ 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.⁸ 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.⁹

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.

The Commission proposes to direct the Electric Reliability Organization (ERO) to revise its definition of the term "bulk electric system" to include all electric transmission facilities with a rating of 100 kV or above. The Commission proposes that a Regional Entity must seek ERO and Commission approval before exempting any facility rated at 100 kV or above from

7 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).

8 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.

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

compliance with mandatory Reliability Standards. The Commission believes that a 100 kV threshold for identifying bulk electric system facilities will protect the reliability of the bulk electric system. The proposal would also provide consistency across the nation's reliability regions regarding the identification of bulk electric system facilities.¹⁰

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 (now a separate Office within the Commission, 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.¹¹ 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;
- Adopting transmission policies that provide price signals for the most reliable and efficient operation and expansion of the grid; and

¹⁰ The Commission is not proposing any new or modified text to its regulations.

¹¹ 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.

- 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.

The Commission stated in Order No. 693 that, "at least for an initial period, the Commission will rely on the NERC definition of bulk electric system and NERC's registration process to provide as much certainty as possible regarding the applicability to and the responsibility of specific entities to comply with the Reliability Standards" ¹² The Commission directed NERC to submit an informational filing that includes regional definitions of bulk electric system and any regional documents that identify critical facilities to which the Reliability Standards apply (i.e., facilities below 100 kV).

In a June 14, 2007 filing, NERC submitted the regional definitions of bulk electric system. ¹³ NERC represented that "[e]ach Regional Entity utilizes the definition of bulk electric system in the NERC Glossary of Terms Used in Reliability Standards (NERC Glossary); however, as permitted by that definition . . . several Regional Entities define specific characteristics or criteria that the Regional Entity uses to identify the bulk electric system facilities for its members. In addition, the Reliability Standards apply to load shedding and special protection relay facilities below 100 kV, which are monitored by Regional Entities, in compliance with NERC's Reliability Standards." ¹⁴

NERC's June 2007 Filing also indicated that Northeast Power Coordinating Council (NPCC) also asserts that it uses the NERC definition of bulk electric system supplemented by additional criteria. Unlike the supplemental criteria of other Regional Entities, however, NPCC utilizes a significantly different approach to identifying bulk electric system elements. According to NERC, NPCC identifies elements of the bulk electric system using an impact-based methodology, not a voltage-based methodology. Further, as part of its approach to defining the bulk electric system, NPCC includes its own definition of "bulk power system" as follows:

The interconnected electrical systems within northeastern North America comprised of system elements on which faults or disturbances can have a significant adverse impact outside of the local area.

According to NERC, NPCC analyzes all system elements within its footprint regardless of size

¹² *Id.* P 75; *see also* Order No. 693-A, 120 FERC ¶ 61,053 at P 19 ("the Commission will continue to rely on NERC's definition of bulk electric system, with the appropriate regional differences, and the registration process until the Commission determines in future proceedings the extent of the Bulk-Power System").

¹³ NERC Informational Filing, Docket No. RM06-16-000 (June 14, 2007) (June 2007 Filing).

¹⁴ *Id.* at 7.

(voltage) to determine impact based on this definition. NERC's filing included NPCC's "Classification of Bulk Power System Elements," which provides further information on the above definition and how it is applied.¹⁵ Each balancing authority conducts studies in accordance with NPCC Document A-10 to develop a list of Bulk-Power System assets, which must be approved by NPCC's Task Force on System Studies.

In September 2009, NERC and NPCC submitted a compliance filing in which NPCC evaluated the impact and usefulness of a 100 kV "bright-line" bulk electric system definition as well as another optional method which utilizes Transmission Distribution Factor calculations to determine reliability impacts. The NPCC definition would exclude radial portions of the transmission system.¹⁶ However, NPCC stated that it continues to believe that its current impact-based approach provides an adequate level of reliability and, therefore, intended to continue to apply the impact-based approach in classifying its bulk-electric system elements.¹⁷

Based on the Commission's experience in implementing FPA section 215 over the past four years and events that have either caused or contributed to significant bulk electric system disturbances and cascading outages, the Commission has reevaluated the definition of "bulk electric system" contained in Commission-approved NERC Glossary and has determined that the definition needs to be modified in order to protect the reliability of the Nation's Bulk-Power System.¹⁸ Accordingly, the Commission proposes to direct the ERO to revise, within 90 days of the effective date of a final rule in this proceeding, the ERO's definition of the term "bulk electric system" to include all electric transmission facilities with a rating of 100 kV or above.¹⁹

This proposal would eliminate the discretion provided in the current definition for a Regional Entity to define "bulk electric system" within a region. Importantly, however, the Commission emphasizes that it is not proposing to eliminate all regional variations and it does not anticipate that the proposed change would affect most entities. The goal of the proposal is to eliminate significant inconsistencies across regions and provide a backstop review to ensure that any regional variations do not compromise reliability and that facilities that could significantly impact reliability are subject to mandatory rules. Simply put, if the Commission does not take

15 NERC June 2007 Filing, Attachment 1 (NPCC Document A-10, Classification of Bulk Power System Elements (April 28, 2007)).

16 NERC and NPCC Compliance Filing and Assessment of Bulk Electric System Report (September 21, 2009), Docket No. RC09-3-000. NPCC would define "radial portions of the transmission system to include (1) an area serving load that is connected to the rest of the network at a single transmission substation at a single transmission voltage by one or more transmission circuits; (2) tap lines and associated facilities which are required to serve local load only; (3) transmission lines that are operated open for normal operation; or (4) additionally as an option, those portions of the NPCC transmission system operated at 100 kV or higher not explicitly designated as a BES path for generation which have a one percent or less participation in area, regional or inter regional power transfers. *Id.* at 11.

17 *Id.* at 7-8. See also *id.* at 14 ("[i]f directed by the Commission to adopt the developed [bulk electric system] definition for U.S. registered entities within the NPCC footprint, NPCC would need additional time to carefully consider and develop a more extensive and detailed implementation plan").

18 As with Reliability Standards, the Commission reviews and approves revisions to the NERC glossary pursuant to FPA section 215(d)(2). Further, the Commission may direct a modification to address a specific matter identified by the Commission pursuant to section 215(d)(5). See Order No. 693, FERC Stats. & Regs. ¶ 31,242 at P 1893-98.

19 While the Commission indicated in Order No. 693, FERC Stats. & Regs. ¶ 31,242 at P 77, that the Commission may reconsider the scope of the statutory term Bulk Power System in a future proceeding, in this proceeding the Commission is addressing only the ERO's definition of the term bulk electric system.

this step, the Commission is concerned that it would not be fulfilling the intent of Congress in enacting section 215 to protect reliability of the Nation's Bulk-Power System, including reliability in major cities.

In summary, the Commission proposes to direct the ERO to submit to the Commission, within 90 days of the effective date of a final rule, a revised ERO definition of bulk electric system that provides a 100 kV threshold for facilities that are included in the bulk electric system and eliminates the currently-allowed discretion of a Regional Entity to define bulk electric system within its system without ERO or Commission oversight.²⁰ The Commission proposes that a Regional Entity must seek ERO and Commission approval before it exempts a transmission facility rated at 100 kV or above from compliance with mandatory Reliability Standards. A Regional Entity may develop a transition plan that allows a reasonable period of time for affected entities within that region to achieve compliance with respect to facilities that are subject to mandatory Reliability Standards for the first time.

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. The Commission is working to expand the qualified types of documents that can be filed over the Internet.

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 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.

²⁰ As discussed above, the Commission does not propose to change the provision of the ERO's definition that "[r]adial transmission facilities serving only load with one transmission source are generally not included in this definition." Likewise, Regional Entities may identify "critical" facilities, rated at less than the 100 kV, that are subject to mandatory Reliability Standards, without application to the ERO and the Commission.

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 filing requirements in FERC-725A will incorporate NERC's requirements. However, all reliability requirements are 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-725A is a filing requirement concerning the implementation of reliability standards 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.

In Order No. 693, the Commission discussed NERC's plan to in the future, identify in a particular Reliability Standard limitations on applicability based on electric facility characteristics.²¹ The Commission agreed that it is important to examine the impact a particular entity may have on the Bulk-Power System in determining the applicability of a specific Reliability Standard. However, the Commission stated that a "blanket waiver" approach that would exempt entities below a threshold level from compliance with all Reliability Standards would not be appropriate because there may be instances where a small entity's compliance is critical to reliability. The Commission also proposed to direct NERC to develop procedures that permit a joint action agency or similar organization to accept compliance responsibility on behalf of their members.

²¹ *Id.* P 49-53.

In addition, the Commission solicited comment on whether, despite the existence of a threshold in a particular standard (e.g., generators with a nameplate rating of 20 MW or over), the ERO or a Regional Entity should be permitted to include an otherwise exempt facility, e.g., a 15 MW generator, on a facility-by-facility basis, if it determines that the facility is needed for Bulk-Power System reliability and, if so, what, if any, process the ERO or Regional Entity should provide when making such a determination.

NERC has provided in a subsequent supplemental filing, a Statement of Compliance Registry Criteria that describes how NERC will identify organizations that may be candidates for registration and assign them to the compliance registry. For example, NERC registered only those distribution providers or LSEs that have a peak load of 25 MW or greater and are directly connected to the bulk electric system or are designated as a responsibility entity as part of a required underfrequency load shedding program or a required undervoltage load shedding program. For generators, NERC registered individual units of 20 MVA or greater that are directly connected to the bulk electric system, generating plants with an aggregate rating of 75 MVA or greater, any blackstart unit material to a restoration plan, or any generator “regardless of size, that is material to the reliability of the Bulk-Power System.”

The compliance registry identifies specific categories of users, owners and operators that correlate to the types of entities responsible for performing specific functions described in the NERC Functional Model.²² These same functional types are also used by the ERO to identify the entities responsible for compliance with a particular Reliability Standard in the Applicability section of a given standard. Thus, each registered entity is registered under one or more appropriate functional categories, and that registration by function determines with which Reliability Standards – and Requirements of those Reliability Standards – the entity must comply. In other words, a user, owner or operator of the Bulk-Power System would be required to comply with each Reliability Standard that is applicable to any one of the functional types for which it is registered.

The Commission believes that the immediate effect of the proposed directive that the ERO revised its current definition of bulk electric system to establish a 100 kV threshold would likely be limited to certain transmission owners, transmission operators and transmission service providers in the U.S. portion of the NPCC region. Most transmission owners, transmission operators and transmission service providers do not fall within the definition of small entities.²³ The Commission estimates that approximately four of the 33 transmission owners, transmission operators and transmission services providers may fall within the definition of small entities.

²² The Statement of Compliance Registry Criteria, as well as the Functional Model, identify, *inter alia*, the following functions: balancing authority, distribution provider, generator operator, generator owner, load serving entity, planning authority, purchasing-selling entity, transmission owner, transmission operator and transmission service provider. An entity may be registered under one or more of these functions.

²³ The RFA definition of “small entity” refers to the definition provided in the Small Business Act (SBA), which defines a “small business concern” as a business that is independently owned and operated and that is not dominant in its field of operation. *See* 15 U.S.C. 632 (2006). According to the SBA, a small electric utility is defined as one that has a total electric output of less than four million MWh in the preceding year.

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

The Electric Reliability Organization conducts periodic assessments of the reliability and adequacy of the Bulk-Power System in North America and reports 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 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-725A 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.

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. The Commission has not prescribed a set data retention period to apply to all Reliability Standards. The Commission is not persuaded that a one-size fits all approach to data retention is appropriate, however, because different Reliability Standards may require data to be retained for shorter or longer periods. Nor has the Commission been persuaded that it should set a data retention requirement for any Reliability Standard for which one is currently lacking. The Commission directed the ERO to review and update the data retention requirements in each Reliability Standard as it is reevaluated through its Reliability Standards development process and submit the result for Commission approval.

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.

Stakeholders in the electric utility industry have also participated in dialogues on the international implications of the ERO and Cross-Boarder Regional Entities during three public bilateral workshops held in the United States and Canada. On August 9, 2005, the Federal – Provincial-Territorial (FPT) Working Group in Canada and DOE jointly submitted to the Commission “Principles for an Electric Reliability Organization that can Function on an International Basis” (bilateral principles) based on these stakeholder dialogues.

The Commission issued the NOPR on March 18, 2010, and required that comments be filed within 45 days after publication in the Federal Register, or May 7, 2010.

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 eight Transmission Operations (TOP) Reliability Standards apply to transmission operators, generator operators and balancing authorities. The goal of these Reliability Standards is to ensure that the transmission system is operated within operating limits. Specifically, these Reliability Standards cover the responsibilities and decision-making authority for reliable operations, requirements for operations planning, planned outage coordination, real-time operations, provision of operating data, monitoring of system conditions, reporting of operating limit violations and actions to mitigate such violations. The Interconnection Reliability Operations and Coordination (IRO) group of Reliability Standards complement these proposed TOP Reliability Standards.

For example, TOP-002-1 Reliability Standard TOP-002-2 requires transmission operators and balancing authorities to look ahead to the next hour, day and season, and have operating plans ready to meet any unscheduled changes in system configuration and generation dispatch. The Reliability Standard addresses the following matters: (1) procedures to mitigate System Operating Limit (SOL) and Interconnection Reliability Operating Limit (IROL) violations; (2) verification of real and reactive reserve capabilities; (3) communications; (4) modeling; (5) information exchange and (6) data confidentiality restrictions. The goal of TOP-002-1 is to ensure that resources and operational plans are in place to enable system operators to maintain the Bulk-Power System in a reliable state.

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

As noted earlier, the Commission's proposed action in this NOPR does not specify any information collection requirements. However, the proposal would likely result in certain responsible entities having to comply with mandatory Reliability Standards with respect to certain facilities in the 100 kV to 200 kV range for the first time. While the previously-approved Reliability Standards do not require reporting to the Commission, they do require responsible entities to develop and maintain certain information for a specified period of time, subject to inspection by the ERO or Regional Entities. Thus, the proposed revision to the ERO's definition of bulk electric system in this proceeding would likely increase the public reporting burden estimate provided in Order No. 693.²⁴

The Commission believes that only one Regional Entity, NPCC, would be immediately affected by the Commission's proposal. In particular, the Commission believes that transmission owners, transmission operators and transmission service providers in the U.S.

²⁴ See Order No. 693, FERC Stats. and Regs. ¶ 31,242 at P 1904.

portion of the NPCC region would be affected by the Commission’s proposal. Based on registration information available on NPCC’s website, it appears that approximately 33 transmission owners, transmission operators and transmission service providers in the U.S. portion of the NPCC region would potentially be affected by the Commission’s proposal.²⁵ These entities are currently responsible for complying with applicable mandatory Reliability Standards approved by the Commission in Order No. 693 and subsequent orders. A final rule in this proceeding would result in the extension of compliance under these Reliability Standards to additional facilities within the U.S. portion of the NPCC region.

Based on currently available information, the Commission estimates that the increased Public Reporting Burden as follows:

Data Collection	No. of Respondents	No. of Responses	Hours Per Respondent	Total Annual Hours
FERC-725-A				
Transmission Owners, Transmission Operators and Transmission Service Providers in the U.S. portion of the NPCC Region:	33	1	Reporting: 0	Reporting: 0
			Recordkeeping: 500	Recordkeeping: 16,500
Total				16,500

Current Inventory:

Total Annual Hours for Collection:

Number of Respondents: 1,439 (170 Investor owned Utilities + 80 Municipals and Large Cooperatives + 670 Small Municipals and Cooperatives + 360 Generator Operators + 159 Power Marketers)

Number of Responses: 1,439

Number of Hours per Response: 890.5142

Total Number of Hours: 1,281,450 hours

Proposed

Number of Respondents: 1,472

²⁵ “NPPC Registered Entities as of January 13, 2010,” available on the NPCC website: <http://www.npcc.org/>.

Number of Responses: 1,472

Total Hours = 1,281,450 (reporting) (of which 113,880 (recordkeeping) + 16,500 hours (recordkeeping) = **1,297,950** hours.

13. ESTIMATE OF THE TOTAL ANNUAL COST BURDEN TO RESPONDENTS

Information Collection Costs: The Commission is seeking comments about the costs needed to comply with these requirements.

Cost to Comply:

It has projected the average annualized cost to be the total annual hours

Recordkeeping = 16,500 @ \$40/hour = \$660,000

Labor (file/record clerk @ \$17 an hour + supervisory @ \$23 an hour)

- Total costs = \$ 660,000.

Current Inventory:

Reporting = 1,138,800 @ \$114/hour = \$129,823,200

1,138,800 hours @ 114 per hour (average cost of attorney (\$200 per hour), consultant (\$150), technical (\$80) and administrative support (\$25)).

Recordkeeping = 113,880 @ \$17/hour = \$1,935,960

113,880 hours @ \$17 per hour (file/record clerk @ \$17 an hour)

Total Costs: Reporting (\$129,823,200) + Recordkeeping (\$1,935,960) = \$131,759,160.

Sources: Bureau of Labor Statistics, Department of Labor, Occupational Outlook Handbook, <http://www.bls.gov/oco/ocos268.htm>.

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. The Commission estimates that as it has noted in previous Reliability Orders, it will take 3.5 FTE's to review the Reliability standards at the Commission for a total cost of $3.5 \times \$137,874 = \$482,559$.²⁶

²⁶ An FTE = Full Time Employee. The \$137,874 "cost" consists of approximately \$110,299.44 in salaries and benefits and \$27,574.61 in overhead. The Cost estimate is based on the estimated annual allocated cost per Commission employee for Fiscal Year 2010.

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

As noted above, this NOPR does not add or decrease to the information collection requirements that implement the provisions of section 215 of the Federal Power Act. The proposed revision to the ERO's definition of the term bulk electric system, 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 proposal would ensure that certain facilities needed for the reliable operation of the nation's bulk electric system are subject to mandatory and enforceable Reliability Standards.

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. RM06-16-000 and likewise this NOPR is also available on eLibrary as Docket No. RM09-18-000. 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).

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. Rather the Electric Reliability Organization must prepare and submit filings that reflect unique or specific circumstances related to the Reliability Standard. 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.