

(Planning Resource Adequacy Assessment Reliability Standard)

The Federal Energy Regulatory Commission (Commission or FERC) requests that the Office of Management and Budget (OMB) review and approve, for a three-year period, the proposed FERC-725H in the Notice of Proposed Rulemaking (NOPR) in Docket No. RM10-10. This NOPR proposes to approve a new regional Reliability Standard, BAL-502-RFC-02¹, Planning Resource Adequacy Analysis, Assessment and Documentation.

The proposed standard was developed by ReliabilityFirst Corporation (RFC), a Regional Entity, and submitted by the Electric Reliability Organization (ERO) to FERC for review and approval. The affected RFC-member planning coordinators have been subject to these requirements since 8/2009 and would continue to be subject to them, even if the Commission did not approve proposed BAL-502-RFC-02 as a regional Reliability Standard. The Commission therefore concludes that this proposed rule will not substantively increase the reporting burden. Therefore, FERC is submitting this proposed rule to OMB for review and approval of the reporting requirements and proposing a de minimis burden increase to reflect the prior implementation by RFC as part of its region's standard practices.

Background

The Electricity Modernization Act of 2005 was enacted into law as part of the Energy Policy Act of 2005 by President George W. Bush on August 8, 2005. Subtitle A of the Electricity Modernization Act amended the Federal Power Act (FPA) by adding a new section 215, titled "Electric Reliability." Section 215 of the FPA buttresses the Commission's efforts to strengthen the reliability of the interstate grid through the grant of new authority which provides for a system of mandatory Reliability Standards developed by the ERO² and reviewed and approved by FERC.

In the aftermath of the 1965 Blackout in the northeast United States, the electric industry established the North American Electric Reliability Council, a voluntary reliability organization and predecessor to the North American Electric Reliability Corporation (NERC). 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 0" reliability standards that translated the NERC Operating Policies, Planning Standards and compliance requirements into a comprehensible set of measurable standards. While NERC developed a compliance enforcement program to ensure compliance with the reliability standards it developed, industry compliance was still 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

1 Reliability standards are posted on the NERC website at <http://www.nerc.com/index.php>. This proposed standard BAL-502-RFC-02 is available at <http://www.nerc.com/files/BAL-502-RFC-02.pdf>.

2 "Electric Reliability Organization" or "ERO" means the organization certified by the Commission, with the purpose of establishing and enforcing Reliability Standards for the Bulk-Power System, subject to Commission review.

Proposed FERC-725H (NOPR in Docket RM10-10, Issued 10/21/2010; RIN 1902-AE15) 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 In Order No. 672, the Commission certified one organization, NERC, as the ERO.⁴ Reliability Standards that the ERO proposes to the Commission may include Reliability Standards that are proposed to the ERO by a Regional Entity.⁵ A Regional Entity is an entity that has been approved by the Commission to enforce Reliability Standards under delegated authority from the ERO.⁶ When the ERO reviews a regional Reliability Standard that would be applicable on an Interconnection-wide basis and that has been proposed by a Regional Entity organized on an Interconnection-wide basis, the ERO must rebuttably presume that the regional Reliability Standard is just, reasonable, not unduly discriminatory or preferential, and in the public interest.⁷

RM06-16-000 Final Rule

On March 16, 2007, the Commission issued Order No. 693, a Final Rule that 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. The new regulations also required that each Reliability Standard 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 was certified by the Commission as the Electric Reliability Organization responsible for developing and enforcing mandatory Reliability Standards. Those Reliability Standards meet the requirements of section 215 of the FPA and Part 39 of the Commission's regulations. However, although the Commission believes it is in the public interest to make these Reliability Standards mandatory and enforceable, the Commission also found that much work remained to be done. Specifically, the Commission believed that many of these Reliability Standards require significant improvement to address, among other things, the recommendations of the Blackout Report. Therefore, in accordance with section 215(d)(5), the Commission required the ERO to submit significant improvements to 56 of the 83 Reliability Standards that were approved as mandatory

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

4 *See North American Electric Reliability Corp.*, 116 FERC ¶ 61,062 (*ERO Certification Order*), *order on reh'g and compliance*, 117 FERC ¶ 61,126 (2006).

5 16 U.S.C. § 824o (e)(4).

6 16 U.S.C. §§ 824o(a)(7) and (e)(4).

7 16 U.S.C. § 824o (d)(3); 18 C.F.R. § 39.5 (b).

Proposed FERC-725H (NOPR in Docket RM10-10, Issued 10/21/2010; RIN 1902-AE15) and enforceable. The remaining 24 Reliability Standards remain pending at the Commission until further information is provided.

RFC as a Regional Entity and Proposed Standard BAL-502-RFC-02 in this NOPR

On April 19, 2007, the Commission approved delegation agreements between NERC and eight Regional Entities. Pursuant to such agreements, the ERO delegated responsibility to the Regional Entities to enforce the mandatory, Commission-approved Reliability Standards. In addition, the Commission approved, as part of each delegation agreement, a Regional Entity process for developing regional Reliability Standards. In the Delegation Agreement Order, the Commission accepted RFC as a Regional Entity and accepted RFC's Standards Development Manual which sets forth the process for RFC's development of regional Reliability Standards. The RFC region is a less than interconnection-wide region that covers all or portions of 14 states and the District of Columbia.

On December 14, 2009, NERC submitted for FERC approval, in accordance with section 215(d)(1) of the FPA, regional Reliability Standard BAL-502-RFC-02 and four associated new definitions. The stated purpose of regional Reliability Standard BAL-502-RFC-02 is to establish common criteria, based on "one day in ten year" loss of load expectation principles, for the analysis, assessment and documentation of resource adequacy in the RFC region. NERC states that the proposed regional Reliability Standard establishes requirements for planning coordinators in the RFC region regarding resource adequacy assessment, subject matter which is not currently addressed in NERC's continent-wide Reliability Standards.

A. Justification

1. CIRCUMSTANCES THAT MAKE THE COLLECTION OF INFORMATION NECESSARY

Since 1935, the Commission has regulated certain electric utility activities under the FPA. Under FPA Sections 205 and 206, the Commission oversees the rates, terms and conditions of sales for resale of electric energy and transmission service in interstate commerce by public utilities. The Commission must ensure that those rates, terms and conditions are just and reasonable and not unduly discriminatory or preferential. One of the Commission's continuing priorities is to promote electricity grid reliability. Recent legislation has enhanced the Commission's efforts to strengthen the reliability of the interstate grid by granting it with new authority.

A common cause of the past three 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.⁸ In response to the outages, the Secretary of Energy convened a task force to

⁸ Information is available in [The Electric Power Outages in the Western United States, July 2-3, 1996](http://www.nerc.com/docs/docs/pubs/doerept.pdf) (at <http://www.nerc.com/docs/docs/pubs/doerept.pdf>) and the 1996 System Disturbances Review of Selected 1996 Electric

Proposed FERC-725H (NOPR in Docket RM10-10, Issued 10/21/2010; RIN 1902-AE15)

advise the Department of Energy (DOE) on issues that 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.⁹ 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 has been 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.¹⁰

Congress directed the development of mandatory, Commission-approved, enforceable electricity Reliability Standards. Section 215 of the FPA provides for a system of mandatory, enforceable Reliability Standards. 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. 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 may approve a proposed Reliability Standard if the Commission finds it is just, reasonable, not unduly discriminatory or preferential, and in the public interest.¹¹ In addition, the Commission explained in Order No. 672 that “uniformity of Reliability Standards should be the goal and the practice, the rule rather than the exception.”¹² Yet, the Commission

System Disturbances in North America, August 2002 (at <http://www.nerc.com/files/disturb96.pdf>).

Information on the major blackout in 2003 is available in the Final Report on the August 14, 2003 Blackout in the United States and Canada: Causes and Recommendations (April 2004) at <https://reports.energy.gov/BlackoutFinal-Web.pdf>.

⁹ 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, at <http://www.nerc.com/docs/docs/pubs/esrfinal.pdf>

¹⁰ Report of the National Energy Policy Development Group, May 2001, at p. 7-6 at <http://www.ne.doe.gov/pdfFiles/nationalEnergyPolicy.pdf>

¹¹ 16 U.S.C. § 824o (d)(2).

¹² Order No. 672 at P 290.

recognized that “the goal of greater uniformity does not, however, mean that regional differences cannot exist.”¹³ The Commission then provided the following guidance:

As a general matter, we will accept the following two types of regional differences, provided they are otherwise just, reasonable, not unduly discriminatory or preferential, and in the public interest, as required by the statute: (1) a regional difference that is more stringent than the continent-wide Reliability Standard, including a regional difference that addresses matters that the continent-wide Reliability Standard does not; and (2) a regional Reliability Standard that is necessitated by a physical difference in the Bulk-Power System.¹⁴

Consistent with section 215 of the FPA, the Commission will approve proposed regional Reliability Standard BAL-502-RFC-02 if the Commission finds it is just, reasonable, not unduly discriminatory or preferential, and in the public interest. In summary, proposed regional Reliability Standard BAL-502-RFC-02 appears to be just, reasonable, not unduly discriminatory or preferential, and in the public interest. Accordingly, the Commission proposes to approve regional Reliability Standard BAL502-RFC-02 as mandatory and enforceable and to accept the four related defined terms as terms applicable to the RFC region only.

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.

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 ISOs and RTOs;

¹³ *Id.* at 291.

¹⁴ *Id.*

Proposed FERC-725H (NOPR in Docket RM10-10, Issued 10/21/2010; RIN 1902-AE15)

- 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.

As part of FERC's efforts to promote grid reliability, the Commission created a new Office of Electric Reliability (OER) in 2007. This office oversees the development and review of mandatory Reliability and Security standards, procedures, and measures. OER also ensures compliance with the approved mandatory standards by users, owners, and operators of the Bulk Power System, and maintains a situational awareness monitoring tool to provide wide area visibility of the Bulk Power System.

This Notice of Proposed Rulemaking proposes to approve one new regional Reliability Standard, BAL-502-RFC-02, that was developed by RFC, a Regional Entity, and submitted by NERC as the ERO.¹⁵ The proposed regional Reliability Standard requires planning coordinators within the RFC geographical footprint to analyze, assess and document resource adequacy, annually, and to document and post projected load and resource capability in each area and transmission-constrained sub-area identified in the resource adequacy assessment. The proposed regional Reliability Standard, which applies to approximately four planning coordinators located in the eastern portion of the U.S., does not require planning coordinators to file information with the Commission. It does require planning coordinators to develop, document, publicly post, and retain certain information, subject to compliance monitoring by RFC.

FERC uses the data to participate in NERC's Reliability Standards Development process. The Commission also uses the data when approving certain regional Reliability Standards such as those produced by RFC, WECC, and others. In addition, FERC's Office of Electric Reliability uses the data to engage in studies and other activities to assess the longer-term and strategic needs and issues related to power grid reliability.

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

¹⁵ The proposed regional Reliability Standard is a new standard and was not included in the original standards submitted for review and approval by OMB. In addition, Commission approval of proposed regional Reliability Standard BAL-502-RFC-02 would make the standard mandatory and enforceable. Therefore, the Commission submits this proposed rule to OMB for review and approval of the reporting requirements and proposes a de minimis burden to reflect the prior implementation by RFC as part of its region's standard practices.

Proposed FERC-725H (NOPR in Docket RM10-10, Issued 10/21/2010; RIN 1902-AE15)

The Commission has developed the capability for electronic filing of nearly all submittals to FERC. In Order No. 619 (issued 9/14/2000), the Commission established an electronic filing initiative that permitted over 40 qualified types of documents to be filed over the Internet to its website. Since that time, FERC has expanded its eFiling options in phases to include nearly all document types and security levels (such as privileged information and Critical Energy Infrastructure Information (CEII)). 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. More information on FERC's eFiling program is available at <http://www.ferc.gov/docs-filing/efiling.asp>.

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, the Commission works with the ERO and regional reliability organizations to be able to access and use the electronic filing of information so the Commission has timely information.

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. 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-725H is a filing requirement associated with reliability standards by NERC and its Regional Entities (RFC, in this instance). 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

Proposed FERC-725H (NOPR in Docket RM10-10, Issued 10/21/2010; RIN 1902-AE15)

Standard, submitted for approval by NERC, applies to some subset of users, owners and operators. Each proposed Reliability Standard includes an “applicability” statement that identifies the functional classes of entities responsible for compliance. Such functional classes include reliability coordinators, balancing authorities, transmission operators, transmission owners, generator operators, generator owners, interchange authorities, transmission service providers, market operators, planning authorities, transmission planners, resource planners, load-serving entities, purchasing-selling entities, and distribution providers.¹⁶

As explained by NERC, a generator operator, for example, could include any entity that operates a generator interconnected to the grid, be it a large unit in excess of 1,000 MW or a small generator of one MW or less. NERC states that to ensure that Reliability Standards are applied cost effectively and that the applicability of Reliability Standards is focused on entities having a material impact on Bulk-Power System reliability; it will begin providing greater specificity in the applicability section of a Reliability Standard.¹⁷

The Commission believes that Reliability Standards in general may cause some small entities to experience economic impact. While the Commission is mindful of the possible impact on small entities, the Commission is also concerned that Bulk-Power-System reliability not be compromised based on an unwillingness of entities, large or small, to incur reasonable expenditures necessary to preserve such reliability. As the Commission explained in Order No. 672:

A proposed Reliability Standard may take into account the size of the entity that must comply with the Reliability Standard and the cost to those entities of implementing the proposed Reliability Standard. However, the ERO should not propose a “lowest common denominator” Reliability Standard that would achieve less than excellence in operating system reliability solely to protect against reasonable expenses for supporting this vital national infrastructure. For example, a small owner or operator of the Bulk Power-System must bear the cost of complying with each Reliability Standard that applies to it.^[18]

While the Commission cannot rule on the merits until a specific proposal has been submitted, the Commission believes that reasonable limits on applicability based on size may be an acceptable alternative to lessen the economic impact on the proposed rule on small entities. The Commission emphasizes, however, that any such limits must not weaken Bulk-Power-System reliability.

The Commission does not foresee any impact, due to this NOPR and proposed reliability standard in Docket RM10-10, on the reporting burden for small businesses. As RFC has represented, the 4 affected RFC-member planning coordinators have been subject to these

¹⁶ See NERC Petition at 9-10.

¹⁷ *Id.* at 81-82.

¹⁸ Order No. 672 at P 330.

Proposed FERC-725H (NOPR in Docket RM10-10, Issued 10/21/2010; RIN 1902-AE15)
requirements since August 2009 and would continue to be subject to them even if the Commission did not approve BAL-502-RFC-02 as a regional Reliability Standard.

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. RFC has indicated that the information will continue to be conducted even if the FERC does not approve the standard. FERC approval makes the standard mandatory and enforceable. RFC, NERC, and FERC would be at a serious disadvantage if the data were not available.

7. EXPLAIN ANY SPECIAL CIRCUMSTANCES RELATING TO THE INFORMATION COLLECTION

FERC-725H is a proposed 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 proposed standard requires the Planning Coordinator to retain information from the most current and prior two years and the Compliance Monitor to retain any audit data for five years. This 5-year retention requirement for the Compliance Monitor exceeds the OMB guidelines in 5 CFR 1320.5(d) (2) (iv) which directs that agencies should not require the public to retain records for more than three years. The reliability standard and associated retention requirements were developed, approved, and implemented by the industry [before the proposed standard was submitted to FERC for review and approval] to ensure adequate reliability.

Proposed FERC-725H (NOPR in Docket RM10-10, Issued 10/21/2010; RIN 1902-AE15)

[In addition, there is no explicit statute of limitations set forth in FPA section 215, and no statute of limitations appears in the FPA. In Order No. 670, the Commission declined to designate a statute of limitations or otherwise adopt an arbitrary time limitation on complaints or enforcement actions that may arise. However, the Commission noted, that when a statutory provision under which civil penalties may be imposed lacks its own statute of limitations, the general statute of limitations for collection of civil penalties, 28 U.S.C. 2462, applies.¹⁹ Section 2462 in 28 U.S.C. imposes a five-year limitations period on any “action, suit, or proceeding for the enforcement of any civil fine, penalty, or forfeiture, pecuniary or otherwise.”²⁰]

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

The ERO process to establish Reliability Standards is a collaborative process with the ERO, Regional Entities and others developing and reviewing drafts, and providing comments.²¹ According to the NERC website at <http://www.nerc.com/files/BAL-502-RFC-02.pdf> (page 8 of 8), the standard proposed in Docket RM10-10 followed the ERO process (comment, ballot, and consideration by the RFC board, etc.). The standard was later submitted by the ERO to FERC for review and approval.

In addition, each FERC rulemaking (both proposed and final rules) is published in the Federal Register, thereby providing 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. This Notice of Proposed Rulemaking in Docket RM10-10 requests public comments.

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 to be confidential. If necessary, information provided with a filing may be submitted with a specific request for confidential treatment to the extent permitted by law. The request is considered by FERC pursuant to 18 C.F.R. 388.112 and federal guidelines.

**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.

¹⁹ See, e.g., United States v. Godbout-Bandal, 232 F.3d 637, 639 (8th Cir. 2000).

²⁰ 28 U.S.C. 2462 (2000). The five-year limitation runs “from the date the claim first accrued.” Id.

²¹ Details of the ERO standards development process are available on the NERC website at http://www.nerc.com/docs/standards/sc/Standard_Processes_Manual_Approved_May_2010.pdf.

12. ESTIMATED BURDEN OF COLLECTION OF INFORMATION

The Commission's estimates below are based on the average annual reporting burden associated with the proposed standard in RM10-10. As RFC has represented, the affected RFC-member planning coordinators have been subject to these requirements since August 2009 and would continue to be subject to them even if the Commission did not approve BAL-502-RFC-02 as a regional Reliability Standard. Thus, the Commission finds that the requirement to develop, document, and maintain information in the regional Reliability Standard is a current and ongoing requirement for RFC members and, therefore, the Commission's proposed action in this NOPR would not impose substantive additional burden on RFC-member planning coordinators. The Commission therefore concludes that this proposed rule will not substantively increase the reporting burden nor impose any additional information collection requirements.

However, the proposed regional Reliability Standard is a new standard and was not included in the original standards submitted for review and approval by OMB. In addition, Commission approval of proposed regional Reliability Standard BAL-502-RFC-02 makes the standard mandatory and enforceable. Therefore, the Commission proposes a de minimis burden increase to reflect the prior implementation by RFC of this reliability standard as part of its region's standard practices.

Proposed Data Collection FERC-725H	No. of Respondents	No. of Responses	Hours Per Respondent	Total Annual Hours
Registered planning coordinators ²² in the RFC region	4	1	10	40
Total				40

13. ESTIMATE OF THE TOTAL ANNUAL COST BURDEN TO RESPONDENTS

The Commission is seeking comments on the costs to comply with the proposed requirements in RM10-10. Total annual costs = \$2,651.41 ((40 hours/2080 hours/year) X \$137,874/year).

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

²² At this time, there are only four (4) registered planning coordinators in the RFC region.

Proposed FERC-725H (NOPR in Docket RM10-10, Issued 10/21/2010; RIN 1902-AE15)
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 any one particular function or activity. Based on the staff and resources involved in processing the information, the estimated average annual cost to FERC follows.

Annual staff costs: \$56,528 (.41 FTE x 137,874)

Data clearance annual cost: \$1,528

TOTAL cost in one year of operation: \$58,056

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

There is an estimated program increase of 40 total annual hours, associated with the proposed reliability standard. The burden has been an existing part of the business process for the four registered planning coordinators in the RFC region, so the program increase is de minimis.

16. TIME SCHEDULE FOR THE PUBLICATION OF DATA

There is no publication 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, RFC, and four registered planning coordinators in the RFC region must prepare and retain filings that reflect unique or specific circumstances related to the proposed Reliability Standard. In addition, the information may contain a mixture of narrative descriptions and empirical support that varies depending on the situation.

18. EXCEPTIONS TO THE CERTIFICATION STATEMENT

See No. 17 above for additional information. 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 the Reliability Standard and situation.

B. COLLECTION OF INFORMATION EMPLOYING STATISTICAL METHODS.

This is not a collection of information employing statistical methods.

Proposed FERC-725H

(NOPR in Docket RM10-10, Issued 10/21/2010; RIN 1902-AE15)