

FERC-725E (OMB Control No. 1902-0246)
Final Rule in Docket No. RM09-14 (issued 4/21/2011; RIN 1902-AE20)

Supporting Statement for
**FERC-725E, Mandatory Reliability Standards
for the Western Electric Coordinating Council (WECC)**

The Federal Energy Regulatory Commission (Commission or FERC) requests that the Office of Management and Budget (OMB) review and approve the revisions in the Final Rule (available at <http://elibrary.ferc.gov/idmws/common/OpenNat.asp?fileID=12630481>) in Docket No. RM09-14¹) to FERC-725E. The current FERC-725E is contained in 18 Code of Federal Regulations (CFR) Part 40.

Background

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 O” 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 recognized the need for mandatory, enforceable Reliability Standards and has been a proponent of legislation to establish a FERC-jurisdictional Electric Reliability Organization (ERO)² that would propose and enforce mandatory Reliability Standards.

A. JUSTIFICATION

1. CIRCUMSTANCES THAT MAKE THE COLLECTION OF INFORMATION NECESSARY

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.³ In response to the outages, the Secretary of Energy convened a task force to advise

1 The submittal of this clearance package was delayed because there were other packages under this control number pending OMB review. Due to ROCIS system constraints, only one package per OMB control number may be pending OMB review at a time.

2 “Electric Reliability Organization” or “ERO” means the organization certified by the Commission. The purpose of the ERO is to establish and enforce Reliability Standards for the Bulk-Power System, subject to Commission review.

3 The Electric Power Outages in the Western United States, July 2-3, 1996, at 76, and WSCC Disturbance Report, For the Power System outage that Occurred on the Western Interconnection August 10, 1996, at 4.

FERC-725E (OMB Control No. 1902-0246)

Final Rule in Docket No. RM09-14 (issued 4/21/2011; RIN 1902-AE20)

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.⁴ 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.⁵

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 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 ERO and reviewed and approved by FERC.

Under the new electric power reliability system enacted by Congress, the United States no longer relies on voluntary compliance by participants in the electric industry with industry reliability requirements for operating and planning the Bulk-Power System.

On February 3, 2006, the Commission issued Order No. 672, implementing section 215 of the FPA.⁶ Pursuant to Order No. 672, the Commission certified one organization, NERC, as the ERO.⁷ Reliability Standards that the ERO proposes to the Commission may include Reliability Standards that are proposed to the ERO by a Regional Entity.⁸ A Regional Entity is an entity that has been approved by the Commission to enforce Reliability Standards under delegated authority from the ERO.⁹ 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

4 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.

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

6 *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).

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

8 16 U.S.C. § 824o (e)(4).

9 16 U.S.C. §§ 824o(a)(7) and (e)(4).

FERC-725E (OMB Control No. 1902-0246)

Final Rule in Docket No. RM09-14 (issued 4/21/2011; RIN 1902-AE20)

Reliability Standard is just, reasonable, not unduly discriminatory or preferential, and in the public interest.¹⁰

On March 16, 2007, the Commission issued Order No. 693¹¹, a Final Rule that:

- added 18 CFR Part 40
- approved 83 of 107 proposed Reliability Standards, six of the eight proposed regional differences, and the Glossary of Terms Used in Reliability Standards developed by NERC
- applied to all users, owners and operators of the Bulk-Power System within the United States (other than Alaska or Hawaii)
- required that each Reliability Standard identify the subset of users, owners and operators to which that particular Reliability Standard applies
- required each FERC-approved Reliability Standard be maintained on the ERO's Internet website for public inspection.

On March 26, 2007, NERC submitted for approval eight proposed regional Reliability Standards for WECC. These regional Reliability Standards applied to the Western Interconnection in addition to the 83 mandatory Reliability Standards developed by NERC that took effect on a nation-wide basis in June 2007.¹² In accordance with section 215(d)(2) of the FPA, FERC approved the regional Reliability Standards. The approval of the regional Reliability Standards allowed for the continuation of certain reliability practices that were currently in effect in the Western Interconnection. In addition, the Commission directed WECC to develop several specific modifications to the regional Reliability Standards when WECC would develop, through its Reliability Standards development process, permanent, replacement Reliability Standards.

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.¹³ 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.”¹⁴ Yet, the Commission recognized that “the goal of greater uniformity does not, however, mean that regional differences cannot exist.”¹⁵ 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

10 16 U.S.C. § 824o (d)(3); 18 C.F.R. § 39.5 (b).

11 The reporting requirements associated with Order No. 693 are approved by OMB under FERC-725A (OMB Control No. 1902-0244).

12 See *Mandatory Reliability Standards for the Bulk-Power System*, Order No. 693, 118 FERC ¶ 61,218 (March 16, 2007), 72 Fed. Reg. 16,416 (April 4, 2007).

13 16 U.S.C. § 824o (d)(2).

14 Order No. 672 at P 290.

15 *Id.* at P 291.

FERC-725E (OMB Control No. 1902-0246)

Final Rule in Docket No. RM09-14 (issued 4/21/2011; RIN 1902-AE20)

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.¹⁶

Western Electricity Coordinating Council (WECC)

WECC was formed on April 18, 2002, by the merger of Western Systems Coordinating Council (WSCC), Southwest Regional Transmission Association (SWRTA), and Western Regional Transmission Association (WRTA). The formation of WECC was accomplished over a four-year period through the cooperative efforts of WSCC, SWRTA, WRTA, and other regional organizations in the West.

WECC is responsible for coordinating and promoting electric system reliability. In addition to promoting a reliable electric power system in the Western Interconnection, WECC supports efficient competitive power markets, assures open and non-discriminatory transmission access among members, provides a forum for resolving transmission access disputes, and provides an environment for coordinating the operating and planning activities of its members as set forth in the WECC Bylaws.

The WECC region encompasses a vast area of nearly 1.8 million square miles. It is the largest and most diverse of the ten regional councils of the North American Electric Reliability Council. WECC's service territory extends from Canada to Mexico. It includes the provinces of Alberta and British Columbia, the northern portion of Baja California, Mexico, and all or portions of the 14 western states in between. Transmission lines span long distances connecting the Pacific Northwest, with its abundant hydroelectric resources, to the arid Southwest, with its large coal-fired and nuclear resources. WECC and the nine other regional reliability councils were formed due to national concern regarding the reliability of the interconnected Bulk-Power Systems, the ability to operate these systems without widespread failures in electric service, and the need to foster the preservation of reliability through a formal organization.

Final Rule in Docket No. RM09-14

The primary purpose of this regional Reliability Standard is to ensure that actual flows and associated scheduled flows on major WECC transfer paths do not exceed system operating limits for more than 30 minutes. The Commission also approves the retirement of WECC regional Reliability Standard TOP-STD-007-0, which is replaced by the regional Reliability Standard approved in this Final Rule. The Commission also directs WECC to modify the associated violation risk factors and violation severity levels.

¹⁶ *Id.*

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

Approved TOP-007-WECC-01 requires transmission operators for the transmission paths in the most current table titled “Major WECC Transfer Paths in the Bulk Electric System”¹⁷ to maintain evidence for three years plus the current year:

- that actual power flow has not exceeded the System Operating Limit (SOL) for more than 30 minutes
- that Net Scheduled Interchange has not exceeded the SOL when the Transmission Operator implements real-time schedules as required by R2.¹⁸

The information maintained under this Reliability Standard is used by the Compliance Enforcement Authority to verify that the transmission operator has complied with the standard. A failure to maintain and/or provide compliance monitoring could lead to a Bulk-Power System more prone to cascading outages.

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

This Reliability Standard does not require information to be filed with the Commission, but does require information to be retained for a set period of time. The Commission does not prescribe the manner in which the information is retained.

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

¹⁷ The table is found at <http://www.wecc.biz/Standards/Approved%20Standards/Supporting%20Tables/Table%20Major%20Paths%204-28-08.pdf>.

¹⁸ **R2.** The Transmission Operator shall not have the Net Scheduled Interchange for power flow over an interconnection or Transmission path above the path’s SOL when the Transmission Operator implements its real-time schedules for the next hour. For paths internal to a Transmission Operator Area that are not scheduled, this requirement does not apply.

[Violation

Risk Factor: Low] [Time Horizon: Real-time Operations]

R2.1. If the path SOL decreases within 20 minutes before the start of the hour, the Transmission Operator shall adjust the Net Scheduled Interchange within 30 minutes to the new SOL value. Net Scheduled Interchange exceeding the new SOL during this 30-minute period will not be a violation of R2.

See http://www.nerc.com/files/TOP-007-WECC-1_Final.pdf for the full text of the standard.

FERC-725E (OMB Control No. 1902-0246)

Final Rule in Docket No. RM09-14 (issued 4/21/2011; RIN 1902-AE20)

duplication and ensure that filing burden is minimized. There are no known similar sources of information available that can be used or modified for these reporting purposes.

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

In general, 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.¹⁹

Because there is no burden changes associated with this proceeding, there is no significant impact on small entities due to the requirements of the final rule.

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

The ERO 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 prescribed by the Commission. The information maintained under this Reliability Standard is used by the Compliance Enforcement Authority to verify that the transmission operator has complied with the standard. A failure to maintain and/or provide compliance monitoring could lead to a Bulk-Power System more prone to cascading outages.

7. EXPLAIN ANY SPECIAL CIRCUMSTANCES RELATING TO THE INFORMATION COLLECTION

¹⁹ Order No. 672 at P 330.

FERC-725E (OMB Control No. 1902-0246)

Final Rule in Docket No. RM09-14 (issued 4/21/2011; RIN 1902-AE20)

For approved standard TOP-007-WECC-1, Transmission Operators shall keep evidence for Measure M1 through M2 for three years plus the current year, or since the last audit, whichever is longer. This 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. These time periods were found to be necessary, and proposed, by the ERO and industry through their process of proposal, discussion, and voting.

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

The ERO standard development process provides opportunity for the affected entities to participate in development, review, and voting on proposed Reliability Standards before they are approved by the NERC Board of Trustees and submitted to FERC for review and approval.

In addition, each Commission rulemaking (both Notice of Proposed Rulemaking (NOPR) and Final Rule) is 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 NOPR in RM09-14 was published in the Federal Register December 27, 2010. The Commission received comments on specific Requirements in the regional Reliability Standard, which were addressed in the Final Rule. However, we did not receive any comments on our reporting burden estimates. The Commission's responses to the comments can be found in the Final Rule at <http://elibrary.ferc.gov/idmws/common/OpenNat.asp?fileID=12630481>.

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.

Section 215(e) of the FPA as well as section 39.7(d) of the Commission's regulations regarding enforcement of Reliability Standards provides for public notice and opportunity for a hearing with respect to both the ERO (or Regional Entity) enforcement proceedings and proceedings before the Commission involving review of a proposed penalty for violation of a Reliability Standard. The Commission has in place procedures to prevent the disclosure of sensitive information, such as the use of protective orders and rules establishing CEII.

FERC-725E (OMB Control No. 1902-0246)

Final Rule in Docket No. RM09-14 (issued 4/21/2011; RIN 1902-AE20)

In addition, 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 CFR 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 approved TOP-007-WECC-1 standard does not modify or otherwise affect the burden related to the collection of information already in place (for the old standard being replaced by the new standard). Thus, the replacement Reliability Standard will neither increase the reporting burden nor impose any additional information collection requirements. The currently approved burden and cost figures of FERC-725E are not being modified at this time.

Burden Estimate: The Public Reporting burden for the requirements in the currently approved inventory follows:

	Number of Respondents Annually (1)	Number of Responses Per Respondent (2)	Average Burden Hours Per Response (3)	Total Hours
FERC-725E				
Reporting	478	1	20.273	9,690*
Recordkeeping			.951	455*
Total				10,145

*Rounded off

13. ESTIMATE OF THE TOTAL ANNUAL COST BURDEN TO RESPONDENTS

The approved collection FERC-725E has an estimated total annual cost burden of \$1,175,540. Impacts from individual categories follow:

- Reporting/Compliance: 9,690 hours @ \$120/hour = \$1,162,800
- Recordkeeping: 455 hours @ \$28/hour = \$12,740

For reporting, the Commission has set a rate that combines time for legal, technical and administrative support. With regard to recordkeeping, the hourly rate results from a 2010 Commission staff-led study on the burden of Commission recordkeeping requirements imposed on industry.

14. ESTIMATED ANNUALIZED COST TO FEDERAL GOVERNMENT

FERC-725E (OMB Control No. 1902-0246)

Final Rule in Docket No. RM09-14 (issued 4/21/2011; RIN 1902-AE20)

The approved TOP-007-WECC-1 standard does not modify or otherwise affect the federal costs related to the collection of information already in place (for the old standard replaced by the newly approved standard).

The estimate of the cost to the Federal Government for the existing requirements 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 any one particular function or activity.

Program Costs = $\$142,372^{20} \times .26 \text{ FTE}^{21} = \$37,017.$

Data Clearance=\$1,575

Total Cost = \$38,592

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

The approved standard in the Final Rule in RM09-14 does not modify or otherwise affect the burdens related to the collection of information already in place (for the old standard replaced by the newly approved standard).-

16. TIME SCHEDULE FOR THE PUBLICATION OF DATA

There are no 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 because the information, standards, and requirements are posted on the website of the ERO and WECC (rather than a FERC website, form, or regulations).

The information will not be collected on a standard, preprinted form which would avail itself to that display. Rather certain entities must prepare and submit filings or retain records that reflect unique or specific circumstances related to the Reliability Standards. 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

²⁰ Estimated annual cost per FTE, including benefits and overhead.

²¹ "FTE" is "Full-Time Equivalent", which means the amount of time one employee works per year (2080 hours).

FERC-725E (OMB Control No. 1902-0246)

Final Rule in Docket No. RM09-14 (issued 4/21/2011; RIN 1902-AE20)

The data collected or maintained for this reporting requirement is not used for statistical purposes.

B. COLLECTION OF INFORMATION EMPLOYING STATISTICAL METHODS.

This is not a collection of information employing statistical methods.