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UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

North American Electric Reliability Corporation)
)

Docket No. _____

**PETITION OF THE
NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION
FOR APPROVAL OF PROPOSED RELIABILITY STANDARD CIP-014-2**

Pursuant to Section 215(d)(1) of the Federal Power Act (“FPA”),¹ Section 39.5 of the regulations of the Federal Energy Regulatory Commission (“FERC” or “Commission”),² and Order No. 802,³ the North American Electric Reliability Corporation (“NERC”)⁴ hereby submits for Commission approval proposed Reliability Standard CIP-014-2.⁵ Consistent with Order No. 802, proposed Reliability Standard CIP-014-2 modifies Reliability Standard CIP-014-1 by removing the term “widespread” from Requirement R1. As discussed below, removing the term “widespread” will help ensure that: (1) applicable entities identify the appropriate critical facilities under Requirement R1; and (2) the ERO enforces the Reliability Standard in a consistent manner. NERC requests that the Commission approve proposed Reliability Standard CIP-014-2 (Exhibit A) as just, reasonable, not unduly discriminatory, or preferential, and in the public interest.

¹ 16 U.S.C. § 824o (2006).

² 18 C.F.R. § 39.5 (2014).

³ *Physical Security Reliability Standard*, Order 802, 149 FERC ¶ 61,140 (2014).

⁴ The Commission certified NERC as the electric reliability organization (“ERO”) in accordance with Section 215 of the FPA on July 20, 2006. *North American Electric Reliability Corporation*, 116 FERC ¶ 61,062 (2006).

⁵ Unless otherwise designated, all capitalized terms shall have the meaning set forth in the *Glossary of Terms Used in NERC Reliability Standards*, available at http://www.nerc.com/files/Glossary_of_Terms.pdf.

As required by Section 39.5(a) of the Commission's regulations,⁶ this Petition presents the technical basis and purpose of the proposed Reliability Standard, a summary of its development history (Exhibit F), and a demonstration that the proposed Reliability Standard meets the criteria identified by the Commission in Order No. 672⁷ (Exhibit C). The NERC Board of Trustees adopted proposed Reliability Standard CIP-014-2 and the associated Implementation Plan on May 7, 2015.

I. NOTICES AND COMMUNICATIONS

Notices and communications with respect to this filing may be addressed to the following:⁸

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⁶ 18 C.F.R. § 39.5(a) (2014).

⁷ *Rules Concerning Certification of the Electric Reliability Organization; and Procedures for the Establishment, Approval, and Enforcement of Electric Reliability Standards*, Order No. 672, FERC Stats. & Regs. ¶ 31,204, at P 262, 321-37, *order on reh'g*, Order No. 672-A, FERC Stats. & Regs. ¶ 31,212 (2006).

⁸ Persons to be included on the Commission's service list are identified by an asterisk. NERC respectfully requests a waiver of Rule 203 of the Commission's regulations, 18 C.F.R. § 385.203 (2014), to allow the inclusion of more than two persons on the service list in this proceeding.

II. BACKGROUND

A. Regulatory Framework

By enacting the Energy Policy Act of 2005,⁹ Congress entrusted the Commission with the duties of approving and enforcing rules to ensure the reliability of the Nation's Bulk-Power System, and with the duty of certifying an ERO that would be charged with developing and enforcing mandatory Reliability Standards, subject to Commission approval. Section 215(b)(1)¹⁰ of the FPA states that all users, owners, and operators of the Bulk-Power System in the United States will be subject to Commission-approved Reliability Standards. Section 215(d)(5)¹¹ of the FPA authorizes the Commission to order the ERO to submit a new or modified Reliability Standard. Section 39.5(a)¹² of the Commission's regulations requires the ERO to file for Commission approval each Reliability Standard that the ERO proposes should become mandatory and enforceable in the United States, and each modification to a Reliability Standard that the ERO proposes to make effective.

The Commission has the regulatory responsibility to approve Reliability Standards that protect the reliability of the Bulk-Power System and to ensure that such Reliability Standards are just, reasonable, not unduly discriminatory or preferential, and in the public interest. Pursuant to Section 215(d)(2) of the FPA¹³ and Section 39.5(c)¹⁴ of the Commission's regulations, the Commission will give due weight to the technical expertise of the ERO with respect to the content of a Reliability Standard.

⁹ 16 U.S.C. § 824o (2006).

¹⁰ *Id.* § 824o(b)(1).

¹¹ *Id.* § 824o(d)(5).

¹² 18 C.F.R. § 39.5(a) (2014).

¹³ 16 U.S.C. § 824o(d)(2).

¹⁴ 18 C.F.R. § 39.5(c)(1).

B. NERC Reliability Standards Development Procedure

The proposed Reliability Standard was developed in an open and fair manner and in accordance with the Commission-approved Reliability Standard development process.¹⁵ NERC develops Reliability Standards in accordance with Section 300 (Reliability Standards Development) of its Rules of Procedure and the NERC Standard Processes Manual.¹⁶ In certifying NERC as the ERO, the Commission found that NERC's proposed rules provide for reasonable notice and opportunity for public comment, due process, openness, and a balance of interests in developing Reliability Standards and thus satisfies certain of the criteria for approving Reliability Standards. The development process is open to any person or entity with a legitimate interest in the reliability of the Bulk-Power System. NERC considers the comments of all stakeholders, and a vote of stakeholders and the NERC Board of Trustees is required to approve a Reliability Standard before NERC submits the Reliability Standard to the Commission for approval.

C. Order No. 802

On November 20, 2014, the Commission issued Order No. 802 approving Reliability Standard CIP-014-1. NERC developed Reliability Standard CIP-014-1 in response to a Commission order issued March 7, 2014 in Docket No. RD14-6-000 directing NERC to submit for approval one or more Reliability Standards to address physical security risks and vulnerabilities of critical facilities on the Bulk-Power System.¹⁷ The Commission found that Reliability Standard CIP-014-1 satisfied the directives in the March 7 Order.

¹⁵ *Rules Concerning Certification of the Electric Reliability Organization; and Procedures for the Establishment, Approval, and Enforcement of Electric Reliability Standards*, Order No. 672 at P 334, FERC Stats. & Regs. ¶ 31,204, *order on reh'g*, Order No. 672-A, FERC Stats. & Regs. ¶ 31,212 (2006).

¹⁶ The NERC Rules of Procedure are available at <http://www.nerc.com/AboutNERC/Pages/Rules-of-Procedure.aspx>. The NERC Standard Processes Manual is available at http://www.nerc.com/comm/SC/Documents/Appendix_3A_StandardsProcessesManual.pdf.

¹⁷ *Reliability Standards for Physical Security Measures*, 146 FERC ¶61,166 (2014) ("March 7 Order").

In addition to approving Reliability Standard CIP-014-1, the Commission directed NERC to remove the term “widespread” from Requirement R1 of CIP-014-1, or alternatively, to propose modifications to the Reliability Standard that address the Commission’s concerns related to the term “widespread.”¹⁸ In the March 7 Order, the Commission stated that a critical facility is:

one that, if rendered inoperable or damaged, could have a critical impact on the operation of the interconnection through instability, uncontrolled separation or cascading failures on the Bulk- Power System.

Requirement R1 of CIP-014-1, which addresses the directive in the March 7 Order that owners and operators of the Bulk-Power System perform a risk assessment of their systems to identify their critical facilities, includes much of the language from the March 7 Order with the addition of the term “widespread” before the term “instability.” Specifically, CIP-014-1, Requirement R1 provides that Transmission Owners must perform risk assessments:

designed to identify the Transmission station(s) or Transmission substation(s) that if rendered inoperable or damaged could result in *widespread* instability, uncontrolled separation, or Cascading within an Interconnection. (Emphasis added).

In Order No. 802, the Commission determined that inclusion of the undefined term “widespread” is unclear with respect to the obligation it imposes on applicable entities and introduces excessive uncertainty in identifying critical facilities under Requirement R1.¹⁹ The Commission stated that the identification of critical facilities under Requirement R1 “should not be dependent on how an applicable entity interprets the term ‘widespread’ but instead should be modified to make clear that a facility that has a critical impact on the operation of an Interconnection is critical and therefore subject to Requirement R1.”²⁰

¹⁸ Order No. 802 at PP 18-19, 31-35.

¹⁹ *Id.* at PP 19, 35.

²⁰ *Id.* at P 33.

The Commission directed NERC to submit a responsive modification to address the Commission's concerns within six months from the effective date of Order No. 802, which is May 20, 2015.

D. Procedural History of Proposed Reliability Standard CIP-014-2

As further described in Exhibit F hereto, following the issuance of Order No. 802, NERC posted a revised Standards Authorization Request for a 30-day information comment period to address the directives issued in Order No. 802. On February 20, 2015, NERC posted the proposed Reliability Standard for an initial 45-day comment period and 10-day ballot. The initial ballot received a quorum of 88.33% and an approval of 89.95%. After addressing industry comments on the initial draft of the proposed Reliability Standard, NERC posted the proposed Reliability Standard for a final ballot, which received a quorum of 92% and approval of 92.35%. The NERC Board of Trustees adopted proposed Reliability Standard CIP-014-2 and the associated Implementation Plan on May 7, 2015.

III. JUSTIFICATION FOR APPROVAL

As discussed below and in Exhibit C, proposed Reliability Standard CIP-014-2 satisfies the Commission's criteria in Order No. 672 and is just, reasonable, not unduly discriminatory or preferential, and in the public interest. Consistent with Order No. 802, proposed Reliability Standard CIP-014-2 modifies Reliability Standard CIP-014-1 by removing the term "widespread" from Requirement R1. As revised, Requirement R1 reads, in relevant part, as follows:

Each Transmission Owner shall perform an initial risk assessment and subsequent risk assessments of its Transmission stations and Transmission substations (existing and planned to be in service within 24 months) that meet the criteria specified in Applicability Section 4.1.1. The initial and subsequent risk assessments shall consist of a transmission analysis or transmission analyses designed to identify the Transmission station(s) and Transmission substation(s) that if rendered inoperable or damaged could result in widespread instability, uncontrolled separation, or Cascading within an Interconnection.

Removing the term “widespread” will help provide for more consistent implementation and enforcement of Requirement R1. As the Commission recognized, the term “widespread” is susceptible to varying interpretations and may introduce uncertainty in identifying critical facilities under Requirement R1.²¹ Under the proposed Reliability Standard, the identification of critical assets will not depend on the manner in which a particular entity understands the term “widespread”; instead, entities will focus on the critical impact of the facility on the operation of the Interconnection, consistent with the March 7 Order.

The Commission clarified in Order No. 802 that only an instability that has a critical impact on the operation of the interconnection warrants finding that the facility causing the instability is critical under Requirement R1.²² To provide additional guidance to stakeholders on identifying critical facilities according to Requirement R1, the standard drafting team included the following in the Rationale for Requirement R1 appended to the proposed Reliability Standard:

The requirement is not intended to bring within the scope of the standard a Transmission station or Transmission substation unless the applicable Transmission Owner determines through technical studies and analyses based on objective analysis, technical expertise, operating experience and experienced judgment that the loss of such facility would have a critical impact on the operation of the Interconnection in the event the asset is rendered inoperable or damaged. In the November 20, 2014 Order, FERC reiterated that “only an instability that has a “critical impact on the operation of the interconnection” warrants finding that the facility causing the instability is critical under Requirement R1.” The Transmission Owner may determine the criteria for critical impact by considering, among other criteria, any of the following:

- Criteria or methodology used by Transmission Planners or Planning Coordinators in TPL-001-4, Requirement R6;
- NERC EOP-004-2 reporting criteria
- Area or magnitude of potential impact

²¹ Order No. 802 at P 31-33.

²² *Id.* at P 33.

Aside from removing the term “widespread,” NERC did not change any other aspect of Requirement R1.

IV. EFFECTIVE DATE

In the March 7 Order, the Commission stated that “NERC should develop an implementation plan that requires owners or operators of the Bulk-Power System to implement the Reliability Standards in a timely fashion, balancing the importance of protecting the Bulk-Power System from harm while giving the owners or operators adequate time to meaningfully implement the requirements.”²³ Consistent with the Commission’s directive and as provided in the proposed Implementation Plan, attached hereto as Exhibit B, NERC respectfully requests that the Commission approve proposed Reliability Standard CIP-014-2 to become effective on the later of the first day following the effective date of CIP-014-1 or the first day after the effective date of the Commission’s order approving CIP-014-2. The proposed effective date is designed to provide responsible entities regulatory certainty by limiting the time, if any, that CIP-014-1 would be effective.

²³ March 7 Order at P 12.

V. **CONCLUSION**

For the reasons set forth above, NERC respectfully requests that the Commission approve:

- proposed Reliability Standard CIP-014-2 and associated elements included in Exhibit A, effective as proposed herein;
- the proposed implementation plan included in Exhibit B; and
- the retirement of Reliability Standard CIP-014-1.

Respectfully submitted,

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