

FEDERAL ENERGY REGULATORY COMMISSION

WASHINGTON, D. C. 20426

OFFICE OF THE GENERAL COUNSEL

OCT - 7 2019

Dominic Mancini
Acting Administrator
Office of Information and Regulatory Affairs
Office of Management and Budget
725 17th Street NW
Washington, D.C. 20503

Re: Emergency Reinstatement and Extension of the FERC-725M Information Collection

Dear Mr. Mancini,

Under the Paperwork Reduction Act (PRA) and OMB's implementing regulations at 5 CFR 1320.13, the Federal Energy Regulatory Commission (Commission or FERC) is requesting a reinstatement and three-month extension for FERC-725M (Mandatory Reliability Standards: FAC-003-4 (Vegetation Management), OMB Control No. 1902-0263). An emergency extension request and justification were electronically submitted to OMB on September 20, 2019, but the emergency extension request and collection were disapproved on October 2, 2019. We are taking action at the direction of the OMB desk officer following a missed renewal deadline by providing additional information and requesting an OMB decision by October 8, 2019 on this application for emergency extension and reinstatement of FERC-725M.

The Reliability Standard FAC-003-4 (and related reporting and recordkeeping requirements covered by FERC-725M) was approved by Delegated Order.¹

The Commission has a pending Docket No. IC19-32 which solicits public comments on the three-year PRA renewal request for the FERC-725M. The PRA notice was published in the Federal Register on August 27, 2019 (84 FR 44890), with public comments due October 28, 2019 after the former OMB expiration date of September 30, 2019. FERC staff plans to review and respond to public comments, issue the subsequent PRA notice, and submit the three-year PRA approval request to OMB this fall. The emergency extension and reinstatement requested here will ensure the existing critical requirements in FERC-725M continue during completion of the normal PRA renewal process.

FERC-725M includes the information collection requirements for Reliability Standard FAC-003-4, whose purpose is to maintain a reliable electric transmission system by minimizing encroachments from adjacent vegetation, thus preventing the risk of vegetation-related outages that could lead to cascading power outages.

¹ The Delegated Order was issued by the Commission's Director of the Office of Electric Reliability on April 26, 2016 in Docket No. RD16-4-000. The information collection requirements were approved by OMB under FERC-725M.

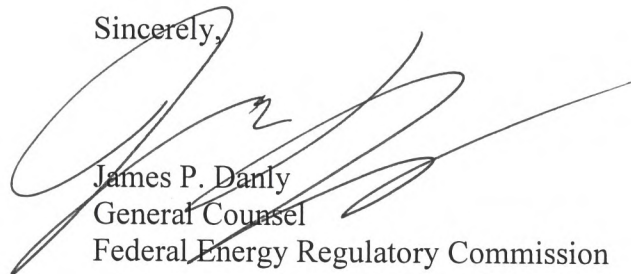
Vegetation contact with transmission lines was a major factor in two significant power blackouts (in the WECC territory in 1996, and the August 2003 Northeast blackout).

Based on information from industry and the Commission, the Reliability Standard and requirements covered by FERC-725M are critical and essential to the Commission's mission. If the Reliability Standard and related FERC-725M information were not mandatory, it could jeopardize the reliability of the nation's Bulk Power System and lead to additional sustained power outages and to public harm.

The enclosure provides additional background on the Commission's electric reliability authority generally and FERC-725M.

Please have your staff contact Ellen Brown (202-502-8663) or Jolinda Murray (202-502-8342) if they need additional information.

Sincerely,

A handwritten signature in black ink, appearing to read 'J. Danly', is written over the typed name and title. The signature is fluid and cursive, with a long horizontal stroke extending to the right.

James P. Danly
General Counsel
Federal Energy Regulatory Commission

cc: Elke Hodson Marten, OMB
Christina Handley, FERC CIO

Enclosure

Background on the Commission's Electric Reliability Program and FERC-725M

On August 8, 2005, The Electricity Modernization Act of 2005, which is Title XII of the Energy Policy Act of 2005 (EPAct 2005), was enacted into law.² EPAct 2005 added a new section 215 to the Federal Power Act (FPA), which requires a Commission-certified Electric Reliability Organization (ERO) to develop mandatory and enforceable Reliability Standards³, which are subject to Commission review and approval. In 2006, the Commission established a process to select and certify an ERO and, subsequently, certified NERC as the ERO.⁴ In 2007, as part of Order No. 693, the Commission approved 83 Reliability Standards (then covered under FERC-725A) submitted by NERC, including the initial version of Reliability Standard FAC-003 (currently covered by FERC-725M).

EPAct gave FERC new authorities and described expectations of the Commission-approved ERO. FERC may certify one ERO if FERC determines that the ERO:

“(1)has the ability to develop and enforce ... reliability standards that provide for an adequate level of reliability of the bulk-power system; and

(2)has established rules that—

(A)assure its independence of the users and owners and operators of the bulk-power system, while assuring fair stakeholder representation ...

(C)provide fair and impartial procedures for enforcement of reliability standards ...

(D)provide for reasonable notice and opportunity for public comment, due process, openness, and balance of interests in developing reliability standards....”

FERC has jurisdiction within the U.S. over the ERO and “any regional entities, and all users, owners and operators of the bulk-power system... for purposes of approving reliability standards established under this section and enforcing compliance with this section. All users, owners and operators of the bulk-power system shall comply with reliability standards that take effect under this section.”

EPAct specifies the Commission's possible options when deciding on proposed standards submitted by the ERO for FERC review and approval.

² The Energy Policy Act of 2005 (EPAct), Pub. L. No 109-58, Title XII, Subtitle A, 119 Stat. 594, 941 (2005), codified at 16 U.S.C. 824o (2000).

³ The Federal Power Act (as modified by the EPAct) states “[t]he term “reliability standard” means a requirement, approved by the Commission under this section, to provide for reliable operation of the bulk-power system. The term includes requirements for the operation of existing bulk-power system facilities, including cybersecurity protection, and the design of planned additions or modifications to such facilities to the extent necessary to provide for reliable operation of the bulk-power system....”

⁴ *North American Electric Reliability Corp.*, 116 FERC ¶ 61,062, *order on reh'g and compliance*, 117 FERC ¶ 61,126 (2006), *order on compliance*, 118 FERC ¶ 61,190, *order on reh'g*, 119 FERC ¶ 61,046 (2007), *aff'd sub nom. Alcoa Inc. v. FERC*, 564 F.3d 1342 (D.C. Cir. 2009).

FERC “may approve, by rule or order, a proposed reliability standard or modification to a reliability standard if it determines that the standard is just, reasonable, not unduly discriminatory or preferential, and in the public interest. The Commission shall give due weight to the technical expertise of the Electric Reliability Organization with respect to the content of a proposed standard or modification to a reliability standard ..., but shall not defer with respect to the effect of a standard on competition. A proposed standard or modification shall take effect upon approval by the Commission....”

If approved by FERC, Reliability Standards (which include reporting and recordkeeping requirements, such as those in FERC-725M) may be enforced either by the ERO (subject to Commission oversight) or by the Commission independently.

FERC-725M

The FERC-725M includes the reporting and recordkeeping requirements⁵ specified in the Reliability Standard FAC-003-4 (Transmission Vegetation Management). As stated in Reliability Standard FAC-003-4, the purpose is to “[t]o maintain a reliable electric transmission system by using a defense- in-depth strategy to manage vegetation located on transmission rights of way (ROW) and minimize encroachments from vegetation located adjacent to the ROW, thus preventing the risk of those vegetation- related outages that could lead to Cascading.”

Since the original version of the standard was approved in 2007, Reliability Standard FAC-003 has been periodically updated (to the current version FAC-003-4) to reduce risk to the bulk power system from blackouts caused by vegetation encroachment.

⁵ The information required by the FERC-725M is generally not submitted to the Commission but is prepared and retained for use by the compliance enforcement authority (the ERO or the Regional Entity).