

STATE OF NEW YORK DEPARTMENT OF PUBLIC SERVICE

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PUBLIC SERVICE COMMISSION

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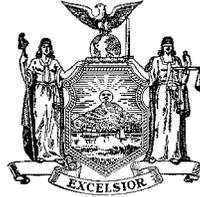
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Secretary

June 26, 2006

Honorable Magalie R. Salas, Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Room 1-A209
Washington, D.C. 20426

Re: Docket No. RM06-16-000 - Mandatory Reliability
Standards for the Bulk-Power System

Dear Secretary Salas:

For filing, please find the Notice of Intervention and Comments of the New York State Public Service Commission in the above-entitled proceeding. Should you have any questions, please feel free to contact me at (518) 473-8178.

Very truly yours,

David G. Drexler
Assistant Counsel

Attachment

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

Mandatory Reliability Standards) Docket No. RM06-16-0000
for the Bulk-Power System)

**NOTICE OF INTERVENTION AND COMMENTS
OF THE NEW YORK STATE PUBLIC SERVICE COMMISSION**

BACKGROUND

On April 4, 2006, the North American Electric Reliability Council and its affiliate, North American Electric Reliability Corporation (jointly NERC) filed proposed electric reliability standards for approval by the Federal Energy Regulatory Commission (FERC or Commission). On May 11, 2006, the Commission released FERC Staff's preliminary assessment of NERC's proposed standards (Preliminary Assessment). The Commission plans to issue a Notice of Proposed Rulemaking with its proposals on each reliability standard after receiving comments on the Preliminary Assessment.

NOTICE OF INTERVENTION

The New York State Public Service Commission (NYSPSC) hereby submits its Notice of Intervention and Comments pursuant to the

Notice of Comment Period issued on May 11, 2006, and Rule 214 of the Commission's Rules of Practice and Procedure. Copies of all correspondence and pleadings should be addressed to:

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INTRODUCTION AND SUMMARY

Ensuring the reliability of the electric system is a paramount interest of the NYPSC. We have worked closely with utilities in New York State to develop comprehensive standards that ensure the State's electric system is constructed and operated in a safe and reliable manner. However, as we experienced during the August 14, 2003 blackout, events in other regions can have a significant impact on the State's ability to maintain reliability. As such, the NYPSC supports FERC's adoption of comprehensive national reliability standards that are enforceable.

We commend FERC for undertaking the difficult task of transforming NERC's 102 proposed reliability standards, which were originally written to apply generically on a voluntary basis, into mandatory standards that can be precisely measured

in order to ensure compliance. FERC Staff's Preliminary Assessment provides a good starting point and goes a long way towards ensuring national reliability standards are implemented in a timely manner.

In sum, we support the conditional approval of NERC's proposed reliability standards while any standards are remanded to NERC to address deficiencies. This approach will avoid any gaps in the standards and provide some assurance of reliability during this interim period. We also support the use of a functional test for determining which facilities are both part of and affect the Bulk Power System. Such test is needed in order to avoid inappropriate designations of facilities and the unnecessary imposition of costs associated with establishing reliability standards for non-bulk facilities.

Further, we ask the Commission to accommodate regional differences and to provide utilities with the necessary flexibility to comply with certain standards. For example, the standards which touch upon vegetation management plans and planning criteria for contingencies should provide flexibility so that utilities can address regional circumstances and needs. Finally, we caution the Commission against prescribing planning standards based on all extreme events, due to their low probability of occurring and the potentially significant costs compared to the marginal reliability benefits gained.

DISCUSSION

I. The Commission Should Conditionally Approve All Reliability Standards That Will Be Remanded To NERC In Order To Avoid Gaps In The Standards

The Preliminary Assessment notes various deficiencies with some of the proposed standards, and suggests that it may be appropriate to remand them to NERC for revisions. However, the existing standards developed by NERC are designed to form an interrelated whole, whereby compliance with the standards in their entirety ensures reliability. In other words, the standards are not designed to stand alone or to be implemented on an individual basis. Implementing only some standards would create gaps in the comprehensive approach to meeting reliability objectives. Moreover, adopting some mandatory standards, while remanding others and leaving them voluntary, could lead to a patchwork of standards and create an incentive for utilities to pursue compliance with only those standards that are mandatory.

Therefore, we support the adoption of NERC's proposed standards on a conditional basis, so that comprehensive reliability standards are in place, pending the outcome of further revisions to address any deficiencies. As noted, this "conditional approval authority will enable some assurance of reliability while NERC has an opportunity to improve the

standard in question."¹ Such approval also furthers the Commission's goal of establishing "sound and enforceable Reliability Standards as soon as practicable."²

II. The Commission Should Utilize A Functional Test For Designating Which Facilities Are Part Of The Bulk-Power System In Order To Avoid Inappropriate Designations

The Commission Staff's Preliminary Assessment would apparently designate certain facilities as part of the Bulk-Power System, despite their having no impact on such System.³ As noted therein, NERC's definition of the bulk electric system "does not appear to include all the system components from *all non-distribution* voltage levels, control systems, and electric energy from all generating facilities needed to maintain

¹ Preliminary Assessment, p. 8, fn 10.

² Preliminary Assessment, p. 8.

³ The term "bulk-power system" means "(A) facilities and control systems necessary for operating an *interconnected* electric energy transmission network (or any portion thereof); and (B) electric energy from generating facilities needed to maintain transmission system reliability. The term does not include facilities used in the local distribution of electric energy." Electricity Modernization Act of 2005, Pub. L. No. 109-58, Title XII, Subtitle A, 119 Stat. 594, 941 (2005) (Energy Policy Act of 2005) (emphasis added).

transmission system reliability included in the definition of Bulk-Power System."⁴

As FERC moves forward with adoption of mandatory standards for the reliable operation of the nation's Bulk-Power System, the Commission should carefully interpret the Energy Policy Act's definition of the Bulk-Power System in order to avoid the inappropriate designation of facilities. This approach should be consistent with the Federal Power Act's indication that the Bulk-Power System does not cover "facilities and control systems [un]necessary for operating an *interconnected* electric energy transmission network."⁵

Requiring utilities to adopt reliability standards for facilities that do not affect the "interconnected" Bulk-Power System could be costly to implement, with no justifiable increase in reliability benefit. Moreover, this approach could raise significant jurisdictional issues.

Although it is essential that standards are in place to address all elements of the Bulk-Power System and facilities

⁴ Preliminary Assessment, p. 26 (emphasis added). NERC defines the Bulk Electric System as follows: "As defined by the Regional Reliability Organization [(RRO)], the electrical generation resources, transmission lines, interconnections with neighboring systems, and associated equipment, generally operated at voltages of 100 kV or higher. Radial transmission facilities serving only load with one transmission source are generally not included in this definition."

⁵ Id. (emphasis added).

affecting such System, simply designating the Bulk-Power System as everything except the distribution system (i.e., *all non-local distribution facilities*), as FERC Staff appears to suggest, ignores the fact that certain facilities operate at transmission voltage levels, yet are not involved in the movement of energy on the "interconnected" Bulk-Power System, nor affect such System. Similarly, not all generation facilities are necessary to maintain Bulk-Power System reliability.

Generally, there is a layer of "area" transmission facilities below the bulk power system and above distribution facilities that serves to move energy within a service territory and toward load centers. For example, there are radial lead lines in New York that are operated at voltages above 100 kV, yet do not serve a bulk system function due to the high concentration of load served by those lines. Further, a loss of such lead lines would not have an affect upon the reliable operation of the bulk electric system.

While FERC Staff's concern is that delegating the task of defining the Bulk Electric System to the RRO could result in "conflicting multiple definitions that subject [or exclude] different facilities to...the requirements of the standards,"⁶ this

⁶ Preliminary Assessment, p. 25.

delegation is entirely appropriate so that functional differences in system designs between regions are recognized. Regional differences in facilities that support the Bulk-Power System may also be identified through functional tests, such as the Northeast Power Coordinating Council's (NPCC) definition of the bulk power system, which is used to identify facilities having an adverse impact on the bulk systems.⁷

III. The Commission Should Accommodate Regional Differences And Provide Flexibility For Utilities To Comply With Certain Reliability Measures

While enforceable measures must be developed in order to ensure compliance, the Commission should avoid overly-stringent and formulaic requirements in situations where utilities require flexibility based on specific regional circumstances. For example, growing cycles in States like New York, with greater rainfall than in drier States like Arizona, may require more frequent inspections in order to ensure proper vegetation management. However, the Preliminary Assessment appears to take a stringent approach, by noting that the vegetation management standard "does not designate maximum allowable inspection

⁷ The NPCC defines the bulk power system as "the interconnected electrical systems within northeastern North America comprising generation and transmission facilities on which faults or disturbances can have a significant adverse impact outside of the local area. In this context, local areas are determined by the Council members." See, <http://www.npcc.org/publicFiles/reliability/criteriaGuidesProcedures/a-07.pdf>.

intervals."⁸ Thus, we suggest an approach whereby the Commission would require compliance with specific vegetation management measures, such as minimum clearances between facilities and vegetation, yet would allow utilities the flexibility in developing inspection programs that will ensure compliance with those measures based on regional conditions.

Furthermore, we caution the Commission against mandating planning standards based on a rigid set of contingencies, such as the loss of a single element defined as a generator, transmission circuit, or transformer.⁹ While all single event contingencies should be included in the planning process so that their consequences and costs of risk avoidance can be considered, specifying the exact list of contingencies to be studied could lead to complacency and relieve system planners of the obligation to seek out and model the most constraining contingencies that are likely to take place on the system. As a result, this could lead to an unreliable system vulnerable to cascading outages.

IV. The Commission Should Not Mandate Planning Standards That Address Extreme Events

The Preliminary Assessment notes that NERC's standards "do not require that consideration be given either to reducing the

⁸ Preliminary Assessment, p. 57.

⁹ Preliminary Assessment, p.110-11.

probability of the loss of multiple elements or mitigating the impact" of extreme events, including the loss of a substation, generating unit or transmission line caused by events such as ice storms or hurricanes.¹⁰ This statement implies that the standards should encompass planning criteria based on pre-defined extreme events.

While extreme events may have a significant impact, there is a very low probability that they will occur. Therefore, requiring the system to be built to withstand all such extreme events could be cost-prohibitive given the incremental reliability benefits gained. Moreover, it is unrealistic to anticipate every conceivable scenario and to plan for it. Notwithstanding, a reasonable approach should include a requirement to analyze extreme events as part of developing and refining system restoration plans.

¹⁰ Preliminary Assessment, p. 111-12.

CONCLUSION

The Commission should incorporate the NYPSC's comments, as discussed above, into the upcoming Notice of Proposed Rulemaking.

Respectfully submitted,

Dawn Jablonski Ryman
General Counsel
Public Service Commission
of the State of New York

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Dated: June 26, 2006
Albany, New York

CERTIFICATE OF SERVICE

I, David G. Drexler, do hereby certify that I will serve on June 26, 2006, the foregoing Notice of Intervention and Comments of the New York State Public Service Commission upon each of the parties of record, indicated on the official service list compiled by the Secretary in this proceeding.

Date: June 26, 2006
Albany, New York

David G. Drexler