

FERC Rejects Industry Understanding of NERC Transmission Planning Reliability Standard, Proposes to Impose Broader Interpretation

March 19, 2010

On March 18, in a Notice of Proposed Rulemaking (NOPR) likely to have wide-ranging effects on the planning of transmission systems across the United States, the Federal Energy Regulatory Commission (FERC) proposed to reject the industry understanding of a crucial Transmission Planning (TPL) Reliability Standard developed by the North American Electric Reliability Corporation (NERC), and instead impose a broader requirement on Planning Authorities and Transmission Planners when they assess the reliability of their systems under single contingency conditions and plan appropriate changes to their systems.

Under FERC's proposed interpretation of Reliability Standard TPL-002-0 Requirement R1.3.10, Planning Authorities and Transmission Planners will now need their system assessments to demonstrate that their portions of the bulk-power system are planned so that under a single-contingency condition the system is stable, both thermal and voltage limits remain within applicable ratings, and there is no loss of demand or curtailed firm transfers even when an applicable primary protection system misoperates or fails.

Under Section 215 of the Federal Power Act, NERC, through a stakeholder-driven process, develops Reliability Standards and official interpretations of those Reliability Standards, but before those Reliability Standards and interpretations can take effect as mandatory and enforceable for users, owners, and operators of the bulk electric system within the United States, they must be approved by FERC. Reliability Standard TPL-002-0 was approved by FERC in Order No. 693, and later, in response to a stakeholder request, NERC developed an interpretation of TPL-002-0 Requirement R1.3.10 and filed it with FERC. That interpretation had, in part, proposed to interpret this Reliability Standard as not requiring that planning assessments consider protection system misoperations or failures when assessing system reliability under single contingency conditions. The interpretation had been developed by NERC through an extensive industry stakeholder process and then approved by the NERC Board of Trustees before it was filed with FERC for approval. In issuing the interpretation, NERC stated that it had "applied a standard of strict construction that does not expand the reach of the Reliability Standard or correct a perceived gap or deficiency in the standard."

In proposing to reject this interpretation, FERC explained that NERC had miscategorized the nonoperation of a nonredundant primary protection scheme as a protection system failure that is only assessed under TPL-003-0 and TPL-004-0. On the contrary, FERC explained, Requirement R1.3.10 of TPL-002-0 requires that Planning Authorities and Transmission Planners, when assessing the reliability

of their systems under single-contingency conditions, study the misoperation or nonoperation of primary protection systems in order to determine how the reliance on redundant or backup protection systems will affect system reliability.

As a result, when performing system assessments, Planning Authorities and Transmission Planners must determine whether the system will remain reliable when there is a single contingency **and** the relevant primary protection scheme does not operate or misoperates, while accounting for the operation of a redundant or backup protection scheme or the lack of any redundant protection system. If the planning assessment under these conditions does not meet the Category B reliability requirements under TPL-002-0, changes to the relevant protection systems may be necessary, such as the addition of redundant protection schemes for bulk-power system facilities.

Under FERC’s proposal, this Reliability Standard interpretation will take effect without any NERC stakeholder process for developing a formal interpretation. Instead, FERC explained, the interpretation will take effect prospectively beginning from the effective date of FERC’s final rule on the interpretation. While FERC indicated that there will be no “financial” penalties for acting inconsistently with this interpretation prior to the effective date, there may be penalties upon the effective date of the final rule, which could be issued at any time after the comment period. Thus, the time period for becoming compliant could be very short, especially given the complexity of the planning studies and resulting protection system changes that may be necessary.

Comments, interventions, and protests on this NOPR will be due 45 days following its publication in the Federal Register.

If you have any questions or would like more information on any of the issues discussed in this LawFlash, please contact any of the following Morgan Lewis attorneys:

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