

FERC Directs Revisions to “Bulk Electric System” Definition; More Facilities Likely to Be Subject to Reliability Standards

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The Federal Energy Regulatory Commission (FERC or Commission), in an order released on November 18, has directed changes to the definition of the term “Bulk Electric System,” a definition that determines which facilities are subject to mandatory Reliability Standards.¹ According to the order, the North American Electric Reliability Corporation (NERC) may either adopt the Commission’s preferred approach and define all facilities operated at or above 100 kV as part of the Bulk Electric System, or develop its own recommendation to address the Commission’s concerns with the present definition that would be “as effective, or more effective than, the Commission’s proposed approach.” The imposition of a 100 kV bright-line threshold within the Northeast Power Coordinating Council, Inc. (NPCC) Region and the Western Electricity Coordinating Council (WECC) Region will result in capturing a significant number of facilities that have previously been considered non-Bulk Electric System facilities.

The Commission rejected the use of an “impact based” methodology, such as that used within the NPCC Region, for defining the Bulk Electric System, noting that such an approach considers only the effect of the loss of an element, not whether that element is needed to operate the system. The Commission also rejected the contention that in the Western Interconnection, facilities operating between 100 kV and 200 kV are often distribution-level facilities with little reliability impact on the wider system. The Commission explained that certain WECC Rated Paths include 100 kV facilities; therefore, a bright-line threshold above that level would be inappropriate as it would exclude operationally significant facilities. The Commission noted that entities with true distribution-level facilities operating at 100 kV or above could seek to exclude such facilities from Reliability Standards compliance through an exemption process to be developed by NERC.

Pursuant to the order, NERC has one year to make a compliance filing proposing a revised definition. The Commission has stated that it believes the transition period to the revised definition should not take more than 18 months. At that point, the affected utilities will need to be able to demonstrate compliance with the applicable Reliability Standards for all of the newly subject facilities.

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

¹ *Revision to Electric Reliability Organization Definition of Bulk Electric System*, 133 FERC ¶ 61,150 (2010).

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