UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Revision to Electric Reliability Organization Definition of Bulk Electric System Docket No. RM09-18-000

COMMENTS OF THE
NORTHEAST POWER COORDINATING COUNCIL, INC.
BOARD OF DIRECTORS

The Northeast Power Coordinating Council, Inc. ("NPCC") hereby submits these comments in response to the Federal Energy Regulatory Commission’s ("Commission" or "FERC") Notice of Proposed Rulemaking on Revision to Electric Reliability Organization Definition of Bulk Electric System issued on March 18, 2010 ("NOPR").

I. INTRODUCTION

In a June 14, 2007 filing, the North American Electric Reliability Corporation ("NERC") submitted the Regional Entity definitions of bulk electric system. NERC represented that “[e]ach Regional Entity utilizes the definition of bulk electric system in the NERC Glossary [of Terms Used in Reliability Standards ("NERC Glossary")]; however, as permitted by that definition . . . several Regional Entities define specific characteristics or criteria that the Regional Entity uses to identify the bulk electric system facilities for its members.” In the June 2007 Filing, NERC indicated that four Regional Entities, use the NERC definition of bulk electric system without modification. Three

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3 Id. at 7.
other Regional Entities, including NPCC, use the NERC definition supplemented with additional criteria.

In a December 2008 Order, the Commission directed NERC and NPCC to submit to the Commission a comprehensive list of bulk electric system facilities located within the United States portion of the NPCC Region. The December 2008 Order also sought additional information so that the Commission could better understand the scope and comprehensiveness of the definition of BES used in the NPCC Region.

On February 20, 2009, as supplemented on April 21, 2009, NERC and NPCC jointly submitted a comprehensive list of facilities 100 kV and above within the United States portion of the NPCC Region. NERC and NPCC also provided information on generation facilities in the U.S. portion of NPCC that are subject to compliance with mandatory Reliability Standards. The February 2009 Filing stated that NPCC was undertaking a detailed review of the implementation of a 100 kV bright-line test within the United States portion of NPCC.

In September 2009, NERC and NPCC submitted a joint compliance filing which, in part, evaluated a 100 kV bulk electric system definition for U.S. registered entities within the NPCC footprint which included an optional assessment method utilizing a Transmission Distribution Factor (“TDF”) methodology to determine whether a facility participated in power transfers across the international, interconnected Northeast electric

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5 Id. at P 13.
systems. The September 2009 Filing also indicated NPCC’s continuing belief that its impact-based approach to defining bulk power facilities, coupled with its regionally-specific more stringent reliability criteria, effectively and efficiently provides for an adequate level of reliability. In addition, NPCC indicated its intent to continue its utilization of the A-10 Criteria in identifying those key facilities in both the U.S. and Canadian portions of NPCC to which the more stringent NPCC Criteria would apply and for identifying BES elements in the Canadian portions of NPCC.

II. COMMUNICATIONS

All communications, including any correspondence, pleadings, or other documents, related to this matter should be directed to the following individuals:

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8 Id. at 7.
9 Id.
III. DESCRIPTION OF THE NORTHEAST POWER COORDINATING COUNCIL, INC.

NPCC is the Cross-Border Regional Entity for the Northeastern portion of North America to which NERC has delegated certain statutory functions within the U.S. portion of the Region under Section 215 of the Federal Power Act (“FPA”), pursuant to the delegation agreement between NERC and NPCC that was approved by the Commission in its Order of April 19, 2007.\(^1\) NPCC is responsible for promoting and improving the reliability of the international, interconnected bulk power systems in Northeastern North America through (i) the development of regional reliability standards and compliance assessment and enforcement of continent-wide and regional reliability standards, coordination of system planning, design and operations, and assessment of reliability, and (ii) the establishment of regionally-specific criteria, and monitoring and enforcement of compliance with such criteria.

NPCC U.S. includes the six New England states and the state of New York. NPCC Canada includes the provinces of Ontario, Quèbec and the Maritime provinces of New Brunswick and Nova Scotia. In total, from a net energy for load perspective, NPCC is approximately 45% U.S. and 55% Canadian. With regard to Canada, approximately 70% of Canadian net energy for load is within the NPCC Region. NPCC monitors approximately 293 registered entities in the Region for compliance with mandatory reliability standards.

IV. EXECUTIVE SUMMARY

NPCC appreciates the opportunity to submit these comments on the Commission’s NOPR. As an overarching recommendation, NPCC supports NERC’s comments on the Commission’s NOPR that the BES definition is part and parcel of the NERC Reliability Standards and any changes to that definition should be effectuated through the NERC Reliability Standards Development Process. In addition, as the Cross-Border Regional Entity responsible for establishing Regional Reliability Standards and enforcing mandatory Reliability Standards for the Northeastern United States and Eastern Canada, NPCC’s comments focus specifically on the following issues:

1. **Consistent, Reliability-focused Assessment Process of Requests for BES Facility Exclusion** - NPCC supports the basic framework proposed by the Commission for reviewing exclusions to the NERC BES definition of facilities operated at 100 kV and above, and its consistent application throughout NERC. Additionally, NPCC proposes that responsibility for preparing the technical support for facilities sought to be excluded from the BES definition, and the burden of proof, should rest with the registered entities who are seeking the exclusion, not the Regional Entity. The Regional Entity would perform the initial request review and if the Regional Entity finds significant technical merit in the request for exclusion, based upon the reliability risk-based supporting documentation provided, the Regional Entity would then recommend the exclusion to NERC for review and assessment of consistency of application within the U.S. Final approval would rest with the Commission.

2. **Orderly and Reliable Transition to the Application of A New BES Definition**

   NPCC recommends that the effective date of any new BES definition be 24 months following the Commissions final rule. Within 90 days of the final rule, all registered entities would be required to submit implementation plans to bring all newly identified BES facilities into compliance and submit any needed changes in registration by the effective date of the BES definition. As part of these implementation plans, registered entities may also seek exclusion on a facility by facility basis to the BES definition. Where compliance with NERC reliability standards cannot be demonstrated by the end of the 24 month implementation period, such as the necessity to construct major capital facilities, registered entities would be required to self-report non-compliance and submit mitigation plans. Within the 24 month implementation period, monetary penalties would not be imposed by the Electric Reliability Organization (“ERO”) and Regional Entity.
3. **Changes to the NERC Rules of Procedure** - In order to effect the proposed rule change, NPCC proposes minimal revision to the NERC Rules of Procedure, Section 500 to include a process for evaluating BES exclusions recommended to NERC by the Regional Entities.

4. **Coordination with Canadian Members of NPCC** - Implementation of the 100 kV BES definition for the U.S. registered entities of NPCC may establish different sets of criteria for determining BES elements among NPCC’s U.S and Canadian members. NPCC will seek to work with Provincial governmental and/or regulatory authorities to develop plans to address differences in compliance requirements and will coordinate activities under these plans.

   NPCC looks forward to working with NERC, the Commission and Canadian Provincial governmental and/or regulatory authorities in implementing the new BES definition in the U.S and working to coordinate its implementation with NPCC’s Canadian members.

**V. COMMENTS OF THE NPCC BOARD OF DIRECTORS**

As an overarching recommendation, NPCC supports NERC’s comments on the Commission’s NOPR that the BES definition is part and parcel of the NERC Reliability Standards and any changes to that definition should be effectuated through the NERC Reliability Standards Development Process.

   A. **Develop a Consistent, Robust, Reliability-focused Assessment Process to Consider Industry Requests for BES Facility Exclusion**

   The Commission has proposed to direct NERC to revise, within 90 days of the effective date of a final rule in this proceeding, the ERO’s definition of the term “bulk electric system” to include all electric transmission facilities with a rating of 100 kV or above.\(^{11}\) The Commission “recognizes that there may be limited circumstances when a variation from the proposed uniform 100 kV threshold is appropriate.”\(^{12}\) Approval of exclusions to the BES definition would require that “a Regional Entity must seek ERO

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\(^{11}\) NOPR at P15.

\(^{12}\) NOPR at P18.
approval before it exempts any transmission facility rated at 100 kV or above . . . [and] the ERO must submit to the Commission for review on a facility-by-facility basis any ERO-approved exception.” Only after Commission approval would the proposed exclusion take effect.\textsuperscript{13}

NPCC supports this basic framework for reviewing exclusions to the NERC BES definition of facilities operated at 100 kV and above and its consistent application throughout NERC. Additionally, responsibility for preparing the technical support for facilities sought to be excluded from the BES definition, and the burden of proof, should rest with the registered entities who are seeking the exclusion. A registered entity seeking exclusion should be required to submit the request for exclusions, along with the corresponding technical support, to its Regional Entity for initial review. While the Regional Entity should have primary responsibility for the initial reliability assessment, the Regional Entity should also be required to seek advisory input from the applicable Reliability Coordinator and Planning Coordinator, and also have the discretion to obtain supporting documentation from its technical stakeholder committees as part of that reliability assessment. If the Regional Entity finds significant technical merit in the request for exclusion, the Regional Entity would then recommend the exclusion to NERC for review and assessment of consistency of application within the U.S. Final approval would rest with the Commission. Regional Entity review has the advantage of providing an unbiased, robust reliability assessment of the exclusion request before exclusion is sought from NERC and the Commission and reinforces the Regional Entity’s compliance enforcement role required by existing Regional Delegation Agreements.

\textsuperscript{13} Id.
\textsuperscript{14} Id.
Technical support for a registered entity’s request for exclusions should be reliability risk-based and, without endorsing a specific methodology, could include the following:

1. Impact-based analyses such as a TDF methodology.

Utilizing a Transfer Distribution Factor ("TDF") methodology, transmission facilities that play a significant role in system transfers are identified. Facilities operated at a 100 kV, not explicitly designated as a BES path for generation, which have a one percent or less participation in area, regional or inter regional power transfers could be reviewed for exclusion to the NERC BES definition.¹⁵

2. Determination pursuant to FERC’s Seven Factor Test.

The Seven Factor Test, initially introduced under Order 888 to assist in the determination of what facilities would be booked as distribution rather than transmission, can provide guidance in determining which facilities should be excluded from the BES list of facilities. The Commission proposed seven indicators of local distribution to be evaluated on a case-by-case basis: (1) Local distribution facilities are normally in close proximity to retail customers; (2) Local distribution facilities are primarily radial in character; (3) Power flows into local distribution systems; it rarely, if ever, flows out; (4) When power enters a local distribution system, it is not recognized or transported on to some other market; (5) Power entering a local distribution system is consumed in a comparatively restricted geographical area; (6)

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¹⁵ See September 2009 Filing at 11-13; See also September 2009 Filing Attachment A, “NPCC Assessment of Bulk Electric System Definition” at 11-14.
Meters are based at the transmission/local distribution interface to measure flows into the local distribution system; and (7) Local distribution systems will be of reduced voltage.  

3. Engineering technical studies such as loadflow, stability and fault duty analyses which could demonstrate reliability risk-based support for granting the exclusion.

In addition, NPCC recommends for effectiveness and efficiency that registered entities be permitted to supply consolidated documentation supporting requests for exclusion for a group of similarly situated load serving transmission facilities operated at 100 kV.

B. An Orderly and Reliable Transition to the Application of A New BES Definition

The Commission recognizes that a transition period is appropriate.

[I]t appears that a significant number of transmission lines in the U.S. portion of the NPCC region rated at 115 kV and 138 kV are currently excluded from NPCC’s definition of bulk electric system. The Commission recognizes that, similar to the transition that occurred in the ReliabilityFirst region, entities within the U.S. portion of NPCC would likely require a reasonable period of time to ensure that they can comply with mandatory Reliability Standards for previously-exempt facilities. Therefore, the Commission proposes to allow a Regional Entity impacted by the Commission’s final rule in this matter to submit a transition plan that allows a reasonable period of time for affected entities within that region to achieve compliance with respect to facilities that are subject to mandatory Reliability Standards for the first time.  


17 NOPR at 27.
NPCC proposes the following transition process. Standards should be considered mandatory and enforceable on all newly identified facilities once a new BES definition becomes effective. NPCC recommends that the effective date of any new BES definition be 24 months following the Commission’s final rule. Within 90 days of the Commission’s final rule, all registered entities would be required to submit implementation plans to bring all newly identified BES facilities into compliance and submit any needed changes in registration by the effective date of the BES definition. As part of these implementation plans, registered entities may also seek exclusion on a facility by facility basis to the BES definition.\(^\text{18}\) Within the 24 month implementation period, similar to that used by the ReliabilityFirst Regional Entity,\(^\text{19}\) monetary penalties would not be imposed by the ERO and Regional Entity.\(^\text{20}\) In addition, where compliance with NERC reliability standards cannot be demonstrated by the end of the 24 month implementation period, such as the necessity to construct major capital facilities, registered entities would be required to self-report non-compliance and submit mitigation plans. This approach has the advantage utilizing the existing compliance review processes of the Regional Entities without requiring the addition of new procedures during the transition process. Furthermore, it places the necessary importance on

\(^{18}\) As stated above, NPCC also recommends that for effectiveness and efficiency that registered entities are permitted to supply consolidated documentation supporting requests for exclusion for a group of similarly situated load serving transmission facilities operated at 100 kV.

\(^{19}\) In an October 1, 2007 letter, ReliabilityFirst informed NERC of its transition plan to allow sufficient time for entities with facilities at voltages less than 230 kV to become compliant with mandatory Reliability Standards. Similarly, NPCC identified in its September 21, 2009 filing that while compliance could be achieved for the newly identified BES facilities within 24 months, some standards could take longer. September 2009 Filing at 14.

\(^{20}\) Regional Entity discretion in assessing penalties is consistent with the approach taken during the initial period for the enforcement of the NERC Mandatory Reliability Standards where the Commission proposed that the ERO and Regional Entities use their enforcement discretion in imposing penalties on registered entities during an initial period of mandatory compliance enforcement. \textit{Mandatory Reliability Standards for the Bulk-Power System}, 118 FERC ¶ 61,218 at P221-222 (2007) (Order No. 693); Order No. 693-A at P 64.
compliance with the 100 kV BES definition by ensuring an expeditious and structured process to address the Commission’s concern about risk to the electric system in the absence of a uniform BES definition.\textsuperscript{21}

C. Changes to the NERC Rules of Procedure

The Commission invites comments on NERC Rule changes needed to effect the exclusion evaluation process.\textsuperscript{22}

In order to effect the proposed rule change, NPCC proposes minimal revision to NERC Rules of Procedure, Section 500 to include a process for evaluating BES exclusions recommended to them by the Regional Entities. NPCC observes that this section is best suited for addition of the exclusion evaluation process since it is already tailored to address entity registration by function and includes an existing appeal process.

NPCC offers the following potential additions and modifications to Section 500 of the NERC Rules of Procedure.

Add new Section 508. \textbf{Assessment of BES Facility Exclusions Within the United States}

1. A registered entity must obtain Regional Entity, NERC and FERC approval before any transmission facility operated at 100 kV or above is excluded.
   1.1 The registered entity seeking exclusion shall submit its request to its Regional Entity for the initial reliability assessment.
   1.2 The registered entity seeking the exclusion shall be responsible for preparing the technical support for facilities sought to be excluded from the BES definition.
   1.3 Technical support for a registered entity’s request for exclusions shall be reliability risk-based.
      1.3.1 Support may include the following: impact-based, determinations, determinations pursuant to FERC’s Seven Factor Test, or engineering technical studies such as loadflow, stability and fault duty analysis supporting the basis for granting the exclusion.
      1.3.2 Registered entities shall be permitted to supply consolidated documentation supporting requests for exclusion for a group of

\textsuperscript{21} NOPR at P17.
\textsuperscript{22} NOPR at 18.
similarly situated load serving transmission facilities operated at 100 kV.

2. If the Regional Entity finds technical merit in the request for exclusion based upon the supporting documentation provided, the Regional Entity shall seek the advisory input of the Reliability Coordinator and Planning Coordinator, and consider recommending the exclusion to NERC for review and assessment of consistency of application within the U.S.

3. NERC shall expeditiously review all requests for BES facility exclusions that are referred by the Regional Entities.

4. NERC shall submit to the Commission for review any exclusion that it approves.

5. Only after Commission approval will the proposed exclusion take effect.

6. Within 90 days of the Commission’s final rule, all registered entities seeking exclusion shall also submit implementation plans to their applicable Regional Entity on facilities where compliance with NERC reliability standards cannot be demonstrated.

   6.1. The implementation plans shall bring all newly identified BES facilities into full compliance by the effective date of the BES definition.

   6.2. Registered entities shall register as Transmission Operators on BES facilities not presently covered by NERC reliability standards.

Modify existing section 504. Appeals

1. NERC shall maintain an appeals process to resolve any disputes related to registration or certification activities (Organization Registration and Certification Manual — Appendix 5) or the evaluation of exclusions to the BES.

D. Coordination with Canadian Members of NPCC

Implementation of the 100 kV BES definition for the U.S. registered entities of NPCC may establish different sets of criteria for determining BES elements among NPCC’s U.S and Canadian members. Several of NPCC’s Canadian members have stated they “expect that Canadian provincial [governmental and/or] regulator[ry] [authorities] will not support expenditures when we are unable to demonstrate a commensurate benefit to reliability.” NPCC will seek to work with Provincial governmental and/or regulatory authorities to develop plans to address differences in compliance requirements and will coordinate activities under these plans.

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23 NPCC’s Canadian members do not expect Canadian provincial regulators to support adoption of a bright line test for determining BES facilities as proposed in the NOPR. September 2009 Filing at 12-13.

VI. CONCLUSION

For the foregoing reasons, NPCC respectfully requests that the Commission consider adopting the recommendations proposed by NPCC in its final rule to provide for an orderly transition to a new BES definition.

Respectfully submitted,

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