

134 FERC ¶ 61,118
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;
Marc Spitzer, Philip D. Moeller,
John R. Norris, and Cheryl A. LaFleur.

Mandatory Reliability Standards for the Calculation of Available Transfer Capability, Capacity Benefit Margins, Transmission Reliability Margins, Total Transfer Capability, and Existing Transmission Commitments and Mandatory Reliability Standards for the Bulk-Power System Docket No. RM08-19-004

ORDER DISMISSING REQUEST FOR EXTENSION

(Issued February 17, 2011)

1. On December 30, 2010, the WestConnect Utilities¹ filed a request for an extension of time to comply with the requirements of certain of the North American Electric Reliability Corporation (NERC) Modeling, Data and Analysis (MOD) Reliability Standards. In this order, the Commission dismisses without prejudice the request for extension and directs the WestConnect Utilities to address their concerns with NERC.

¹ The WestConnect Utilities include: Arizona Public Service Co. (APS), Salt River Project Agricultural Improvement and Power District, Tucson Electric Power Co. (Tucson), Western Area Power Administration (WAPA), Southwest Transmission Cooperative, Inc. (SWTC), Public Service Company of New Mexico, El Paso Electric Co., NV Energy, Inc., TriState Generation and Transmission Association, Inc. (TriState), and Imperial Irrigation District (IID). SRP, WAPA, SWTC, TriState, and IID join the request only with regard to FERC's jurisdiction of NERC Reliability Standards under section 215 of the Federal Power Act (FPA). 16 U.S.C. § 824o (2006).

I. Background

2. In Order No. 729,² the Commission approved six MOD Reliability Standards submitted to the Commission by NERC, the Commission-certified Electric Reliability Organization (ERO) for the United States.³ The approved Reliability Standards establish methodologies for the consistent and transparent calculation of available transfer capability or available flowgate capability. Pursuant to section 215(d)(5) of the Federal Power Act (FPA),⁴ the Commission directed the ERO to develop certain modifications to the MOD Reliability Standards. The Commission also directed NERC to retire the existing MOD Reliability Standards replaced by the versions approved in the Final Rule once the new versions became effective.

3. Accepting the schedule proposed by NERC,⁵ the Commission stated that the MOD Reliability Standards would become effective on the first calendar quarter that is twelve months beyond the date that the Reliability Standards are approved “by all applicable regulatory authorities.”⁶ The Commission found that this implementation schedule struck a reasonable balance between the need for timely reform and the needs of transmission service providers and transmission operators to make adjustments to their calculations of available transfer capability, capacity benefit margin and transfer reserve margin. In response to comments on its notice of proposed rulemaking, the Commission clarified that, under this plan, the Reliability Standards shall become effective on the first day of the first quarter occurring 365 days after approval by all applicable regulatory authorities.

² *Mandatory Reliability Standards for the Calculation of Available Transfer Capability, Capacity Benefit Margins, Transmission Reliability Margins, Total Transfer Capability, and Existing Transmission Commitments and Mandatory Reliability Standards for the Bulk-Power System*, Order No. 729, 129 FERC ¶ 61,155 (2009), *order on clarification*, Order No. 729-A, 131 FERC ¶ 61,109 (2010), *order on reh’g and reconsideration*, Order No. 729-B, 132 FERC ¶ 61,027 (2010).

³ *North American Electric Reliability Corp.*, 116 FERC ¶ 61,062, *order on reh’g & compliance*, 117 FERC ¶ 61,126 (2006), *aff’d sub nom. Alcoa Inc. v. FERC*, 564 F.3d 1342 (D.C. Cir. 2009).

⁴ 16 U.S.C. § 824o(d)(5) (2006).

⁵ Order No. 729, 129 FERC ¶ 61,155 at P 95.

⁶ *Id.*

Approval by the Commission would be effective 60 days after the date of publication of the Final Rule in the *Federal Register*.⁷

4. Issued concurrently with Order No. 729, Order No. 676-E set the implementation date for compliance with the North American Electric Standards Board's (NAESB) version 2.1 business practice standards coincident with the effective date of the MOD Reliability Standards approved in Order No. 729. Accordingly, public utilities subject to the NAESB business practice standards were directed to comply with these Version 002.1 business practice standards as of the first day of the first quarter occurring 365 days after approval of the MOD Reliability Standards by all applicable regulatory authorities. Implementation of some of the NAESB business standards will require tariff revisions. The Commission also directed public utilities to submit necessary tariff revisions, including any revisions to Attachment C of their OATT, at least ninety days before the prescribed date for compliance with the revised standards.⁸

5. Questions arose regarding the implementation timeline of the MOD Reliability Standards and the corresponding deadline for tariff revisions associated with the NAESB business practice standards approved in Order No. 676-E. In Order No. 729-A, the Commission accepted a clarification offered by NERC in its comments and clarified that the Reliability Standards shall become effective within the United States on the first day of the first quarter occurring 365 days after Order No. 729 was published in the *Federal Register*, i.e., January 1, 2011.⁹ Several requests for rehearing were filed arguing that this was not an appropriate timeline since the Commission had said, in Order No. 729, that approval by the Commission would not be effective until 60 days after publication in the *Federal Register*. In Order No. 729-B, the Commission granted rehearing and clarified that the Reliability Standards shall become effective within the United States as of the first day of the first quarter occurring 365 days after their approval by the Commission,

⁷ *Id.*

⁸ APS and Tucson requested an 18-month extension to file their revisions to Attachment C of their OATTs. On January 13, 2011, the Secretary of the Commission issued a notice granting a 30-day extension of the requirement for each to file a revised OATT implementing all of the provisions of the Version 002.1 business practice standards that do not relate to the six MOD Reliability Standards. The notice also granted a 60-day extension of the requirement for each to file revisions to its OATT implementing the provisions of the Version 002.1 business practice standards that relate to the six MOD Reliability Standards. *Tucson Elec. Power Co., Ariz. Pub. Svc. Co.*, Docket Nos. ER11-2644-000, ER11-2614-000 (Jan. 13, 2011).

⁹ Order No. 729-A, 131 FERC ¶ 61,109 at P 7.

i.e., April 1, 2011. Thus, pursuant to Order No. 676-E, public utilities had until January 3, 2011 to file the tariff revisions associated with implementation of the NAESB business practice standards.

II. Request for Extension

6. The WestConnect Utilities state that they have been working diligently to implement the requirements of the NERC Reliability Standards but, based on technical studies, they have identified impacts to transfer capability on their transmission paths. The WestConnect Utilities state that for most of the major paths, such as the defined Western Electric Coordinating Council (WECC) Rated paths, they support the use of the methodology for calculating available transfer capability that is provided in NERC Reliability Standard MOD-029-1. The WestConnect Utilities contend, however, that this methodology does not work well for the calculation of transfer capability over some Extra High Voltage (EHV) (345 kV and 500 kV) and High Voltage (115 kV to 230 kV) paths and most paths that are internal to a transmission provider's network. The WestConnect Utilities further contend that use of this methodology would result in significant reductions of available transfer capability on these paths without increasing the reliability of the Western Interconnection and will risk unnecessary curtailment of native load and existing transmission service and a reduced ability to accommodate new transactions. Moreover, the WestConnect Utilities contend that compliance with MOD-029-1 will result in significant increases in the cost to customers, as generation will be dispatched out of economic order to replace more economic generation that must be curtailed as a result of reductions of transfer capability.

7. Although they acknowledge that they could implement MOD-29-1 by April 1, 2011 without significant negative reductions in transfer capability on many of the EHV paths, the WestConnect Utilities request an 18-month delay in implementation of the MOD Reliability Standards. The WestConnect Utilities offer that they may be able to resolve these concerns by switching to an alternative methodology but such a switch, they argue, is not feasible by the current implementation date of April 1, 2011. The WestConnect Utilities argue that the additional time will allow them to find a solution for complying with the MOD Reliability Standards while retaining transfer capability in a reliable manner.

8. On January 14, 2011, NERC filed reply comments to address the WestConnect Utilities' requested extension of time. NERC states that it understands that the WestConnect Utilities have concerns related to their implementation of the MOD Reliability Standards that need to be considered. NERC contends, however, that it is not appropriate for questions related to compliance with mandatory Reliability Standards to be handled initially at the Commission. Although the Commission may take certain actions if it believes that an entity is about to violate a Reliability Standard, NERC states that any such actions in this case would be premature. Accordingly, NERC asks the Commission to dismiss the WestConnect Utilities' request and to direct those entities to

work with NERC and WECC as the compliance enforcement authorities for the subject standards. NERC pledges to work with the WestConnect Utilities to determine the best approach for resolving their concerns moving forward.

9. On January 21, 2011, the Southwest Transmission Dependent Utility Group (Southwest TDUs) filed a motion to intervene and comments.¹⁰ The Southwest TDUs state that they were advised by the WAPA that implementation of Reliability Standard MOD-029-1 may cause a derating in the Shiprock area in northwestern New Mexico and, perhaps, elsewhere. They also state that they have found evidence that utilities within WECC did not anticipate the potential impact of implementing MOD-029-1 on commercial paths. Admitting that the risk is not absolute, the Southwest TDUs state that they should not be subject to any such potential risk. In response to NERC's comments, the Southwest TDUs state that they are not aware of any authority that NERC has under Section 215 of the FPA to extend a compliance deadline. The Southwest TDUs ask the Commission to grant the eighteen-month extension requested by the WestConnect Utilities.¹¹

10. On January 25, 2011, the WestConnect Utilities filed a response to NERC's answer. The WestConnect Utilities agree that it should continue to work with NERC and WECC to resolve the implementation issues related to the MOD Reliability Standards. In fact, the WestConnect Utilities note that it has scheduled a meeting with NERC to continue efforts to address the problem. Nevertheless, the WestConnect Utilities urge the Commission to grant the requested eighteen-month extension to allow the WestConnect Utilities, NERC, and WECC the opportunity to resolve the WestConnect Utilities' concerns. The WestConnect Utilities state that it is solely within the Commission's authority to extend the effective date of these MOD Reliability Standards.

¹⁰ The Southwest TDUs include: Aguila Irrigation District, Ak-Chin Energy Services, Buckeye Water Conservation and Drainage District, Central Arizona Water Conservation District, Electrical District No. 4, Electrical District No. 4, Electrical District No. 5, Electrical District No. 6, Electrical District No. 7, Electrical District No. 8, Harquahala Valley Power District, Maricopa County Municipal Water District No. 1, McMullen Valley Water Conservation and Drainage District, City of Needles, Roosevelt Irrigation District, City of Safford, Tonopah Irrigation District, and Wellton-Mohawk Irrigation and Drainage District.

¹¹ The Southwest TDUs have included, as an attachment to their filing, a copy of a letter from WECC dated December 3, 2010. In the letter, WECC's chief operating officer acknowledges concerns about the potential adverse impact of the MOD-029-1. In closing, the letter encourages WAPA and any other entity that foresees a condition of non-compliance as of the effective date of the standard, to file a timely mitigation plan.

11. On January 26, 2011, NERC filed a letter responding to the WestConnect Utilities' answer. NERC notes that, in Order No. 729, the Commission directed transmission service providers or transmission operators unable to implement the MOD Reliability Standards within the time allowed to request extension through NERC's enforcement and compliance program.¹²

III. Commission Determination

12. The Commission hereby dismisses the requested extension for compliance with the MOD Reliability Standards approved in Order No. 729. The implementation schedule for these MOD Reliability Standards was vetted through the NERC stakeholder process and approved by the Commission. According to that schedule, NERC will have the authority to enforce these MOD Reliability Standards within the continental United States as of April 1, 2011. In Order No. 729, the Commission determined that, if a transmission service provider or transmission operator is unable to implement the MOD Reliability Standards approved therein within the time allowed, requests for extension should be considered through NERC's enforcement and compliance program.¹³ Consistent with that direction, we dismiss the WestConnect Utilities' request for extension without prejudice and direct the WestConnect Utilities to address their compliance concerns to NERC. We believe that this result strikes in this instance a reasonable balance between the roles of NERC and the Commission in the enforcement of mandatory Reliability Standards.

The Commission orders:

The WestConnect Utilities' request for extension of compliance date is hereby dismissed without prejudice.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.

¹² Order No. 729, 129 FERC ¶ 61,155 at P 95.

¹³ *Id.*

Document Content(s)

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