

## Agenda

# Board of Trustees Meeting

October 26, 2022 | 11:00 a.m.-12:00 p.m. Eastern

Virtual Meeting

**Attendee WebEx Link:** [Join Meeting](#)

**Call to Order and Chair's Remarks**

**NERC Antitrust Compliance Guidelines**

### Agenda

1. Project 2021-07 Extreme Cold Weather Grid Operations, Preparedness, and Coordination\* - Adopt
2. Other Matters, Closing Remarks and Adjournment

# NERC Antitrust Compliance Guidelines

## I. General

It is NERC's policy and practice to obey the antitrust laws and to avoid all conduct that unreasonably restrains competition. This policy requires the avoidance of any conduct that violates, or that might appear to violate, the antitrust laws. Among other things, the antitrust laws forbid any agreement between or among competitors regarding prices, availability of service, product design, terms of sale, division of markets, allocation of customers or any other activity that unreasonably restrains competition.

It is the responsibility of every NERC participant and employee who may in any way affect NERC's compliance with the antitrust laws to carry out this commitment.

Antitrust laws are complex and subject to court interpretation that can vary over time and from one court to another. The purpose of these guidelines is to alert NERC participants and employees to potential antitrust problems and to set forth policies to be followed with respect to activities that may involve antitrust considerations. In some instances, the NERC policy contained in these guidelines is stricter than the applicable antitrust laws. Any NERC participant or employee who is uncertain about the legal ramifications of a particular course of conduct or who has doubts or concerns about whether NERC's antitrust compliance policy is implicated in any situation should consult NERC's General Counsel immediately.

## II. Prohibited Activities

Participants in NERC activities (including those of its committees and subgroups) should refrain from the following when acting in their capacity as participants in NERC activities (e.g., at NERC meetings, conference calls and in informal discussions):

- Discussions involving pricing information, especially margin (profit) and internal cost information and participants' expectations as to their future prices or internal costs.
- Discussions of a participant's marketing strategies.
- Discussions regarding how customers and geographical areas are to be divided among competitors.
- Discussions concerning the exclusion of competitors from markets.
- Discussions concerning boycotting or group refusals to deal with competitors, vendors or suppliers.
- Any other matters that do not clearly fall within these guidelines should be reviewed with NERC's General Counsel before being discussed.

## III. Activities That Are Permitted

From time to time decisions or actions of NERC (including those of its committees and subgroups) may have a negative impact on particular entities and thus in that sense adversely impact competition. Decisions and actions by NERC (including its committees and subgroups) should only be undertaken for the purpose of promoting and maintaining the reliability and adequacy of the bulk power system. If you do not have a

legitimate purpose consistent with this objective for discussing a matter, please refrain from discussing the matter during NERC meetings and in other NERC-related communications.

You should also ensure that NERC procedures, including those set forth in NERC's Certificate of Incorporation, Bylaws, and Rules of Procedure are followed in conducting NERC business.

In addition, all discussions in NERC meetings and other NERC-related communications should be within the scope of the mandate for or assignment to the particular NERC committee or subgroup, as well as within the scope of the published agenda for the meeting.

No decisions should be made nor any actions taken in NERC activities for the purpose of giving an industry participant or group of participants a competitive advantage over other participants. In particular, decisions with respect to setting, revising, or assessing compliance with NERC Reliability Standards should not be influenced by anti-competitive motivations.

Subject to the foregoing restrictions, participants in NERC activities may discuss:

- Reliability matters relating to the bulk power system, including operation and planning matters such as establishing or revising Reliability Standards, special operating procedures, operating transfer capabilities, and plans for new facilities.
- Matters relating to the impact of Reliability Standards for the bulk power system on electricity markets, and the impact of electricity market operations on the reliability of the bulk power system.
- Proposed filings or other communications with state or federal regulatory authorities or other governmental entities.
- Matters relating to the internal governance, management and operation of NERC, such as nominations for vacant committee positions, budgeting and assessments, and employment matters; and procedural matters such as planning and scheduling meetings.

## **Project 2021-07 Extreme Cold Weather Grid Operations, Preparedness, and Coordination**

### **Action**

Adopt the following standards documents and authorize staff to file with applicable regulatory authorities:

- Reliability Standard - EOP-011-3 – Emergency Operations  
[\[EOP-011-3 Standard\]](#) [\[Redline to last approved\]](#)
- Reliability Standard – EOP-012-1 – Extreme Cold Weather Preparedness and Operations  
[\[EOP-012-1 Standard\]](#)
- Definitions
  - Generator Cold Weather Critical Component
  - Extreme Cold Weather Temperature
  - Generator Cold Weather Reliability Event
- Implementation Plan  
[\[Implementation Plan\]](#)
- Violation Risk Factors (VRFs) and Violation Severity Levels (VSLs)  
[\[VRF/VSL Justification\]](#)
- Retirements  
[\[EOP-011-2 Emergency Preparedness and Operations\]](#)

### **Background**

From February 8 - 20, 2021, extreme cold weather and precipitation affected the south central United States. During this time, large numbers of generating units experienced outages, derates, or failures to start, resulting in energy and transmission emergencies and load shed across the Electric Reliability Council of Texas (ERCOT), Southwest Power Pool (SPP), and Midcontinent Independent System Operator (MISO) footprints. System conditions during this event, referred to as the February 2021 Event, resulted in the largest controlled firm load shed event in U.S. history. The system experienced the third largest in quantity of outaged megawatts (MW) of load after the August 2003 northeast blackout and the August 1996 west coast blackout.

In response to the February 2021 Event, a joint inquiry team consisting of staff from the Federal Energy Regulatory Commission (FERC), NERC, and the six Regional Entities, investigated the causes of the event and made recommendations to prevent future reoccurrence. In its November 2021 [report](#), the joint inquiry team made 10 recommendations for NERC Reliability Standards revisions to address cold weather preparedness and operations, along with recommended two-phase timeline for the completion of standards.

In November 2021, the NERC Board of Trustees approved a resolution directing the development of Reliability Standards in two phases to address the recommendations of the Joint Inquiry team, in accordance with the Joint Inquiry team's recommended timelines. Project 2021-07 was initiated to address the Joint Inquiry team recommendations. Proposed Reliability Standards EOP-011-3 and EOP-012-1 mark the conclusion of phase 1 of work under this project. Work is underway to complete the development of Reliability Standards to address the remaining recommendations.

## **Summary**

The Project 2021-07 standard drafting team developed new Reliability Standard EOP-012-1 and revised the approved, but not effective Reliability Standard EOP-011-2 to address the four recommendations from the Joint Inquiry report identified for phase 1 work. These recommendations are related to generating unit cold weather preparedness and improving how load shed is addressed in Transmission Operator emergency Operating Plans (Key Recommendations 1d, 1e, 1f, and 1j).

Proposed Reliability Standard EOP-012-1 is a new generator cold weather preparedness standard. Requirements R1, R2, R4, R6 and R7 are new requirements written to address the Joint Inquiry report recommendations regarding generating unit cold weather preparedness. Requirements R3 and R5 are carried over from Reliability Standard EOP-011-2, which was developed under Project 2019-06 Cold Weather, and revised as appropriate to address the recommendations. Revised Reliability Standard EOP-011-3 reflects additional revisions intended to address the Joint Inquiry team's recommendations regarding the overlap of automatic and manual load shed in emergency Operating Plans.

For additional information on how the proposed requirements address the Joint Inquiry report recommendations slated for completion in phase 1, please see the [Mapping Document](#).

## **Standards Development Process**

On May 18, 2022, the Standards Committee approved a waiver under Section 16.0 of the *Standard Processes Manual* to allow shortened periods for comment and ballot for this project. Specifically, the Standards Committee approved shortening the initial formal comment and ballot period from 45 days to as little as 30 days, with ballot pools formed in the first 15 days and ballots conducted in the last 10 days, shortening the additional formal comment and ballot period(s) from 45 days to as little as 25 days, with ballot conducted during the last 10 days; and shortening the final ballot from 10 days to as little as 5 days.<sup>1</sup>

The initial 33-day formal comment and ballot was from May 19 – June 21, 2022. Proposed Reliability Standards EOP-011-3 and EOP-012-1 were balloted separately. The EOP-011-3 ballot received 69.66 percent approval and 94.59 percent quorum. The EOP-012-1 standard received 21.94 percent approval and 94.27 percent quorum. The implementation plan received 57.74 percent approval and 93.27 percent quorum.

The standard drafting team elected to not make any additional changes to EOP-011-3, but made changes to EOP-012-1 and the implementation plan based on comments received. A 29-

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<sup>1</sup> [See NERC Standards Committee May 18, 2022 Meeting Minutes at 1-2, https://www.nerc.com/comm/SC/Agenda%20Highlights%20and%20Minutes/SC%20May%20Meeting%20Minutes%20-%20Approved%20June%2015,%202022.pdf](https://www.nerc.com/comm/SC/Agenda%20Highlights%20and%20Minutes/SC%20May%20Meeting%20Minutes%20-%20Approved%20June%2015,%202022.pdf).

day formal comment period and second ballot for EOP-012-1 only was conducted from August 3 – September 1, 2022. The standard received 69.43 percent approval and 91.4 percent quorum. The Implementation plan received 78.7 percent approval and 90.71 percent quorum.

The standard drafting team reviewed comments received and made minor clarifying changes for final ballot. The 8-day final ballot was conducted from September 23 – September 30 and the results are provided below.

Standard	Quorum / Approval
EOP-011-3	95.86% / 83.64%
EOP-012-1	95.54% / 79.04%
Implementation Plan	95.19% / 87.89%

### **Minority Issues**

A few responses expressed thoughts that no new or additional cold weather standards should be implemented until market rules allowing for cost recovery are established. The standard drafting team responded that its charge was develop Reliability Standards to address the standards-related recommendations from the Joint Inquiry Report, and that market matters were outside its authority. The standard drafting team revised draft EOP-012-1 to better account for industry concerns while maintaining consistency with the NERC Market Interface principles.

Several commenters expressed concerns regarding NERC’s authority to require generators to implement freeze protection measures on their units for improved reliability during cold weather conditions. The standard drafting team concluded, in consultation with NERC Legal, that such requirements were permitted under the plain words of Section 215 of the Federal Power Act.

Additionally, several commenters raised concerns or suggestions regarding the proposed *Glossary* terms, including the definition of Extreme Cold Weather Temperature and the method used for the determination of this temperature. In addition, several commenters expressed concern about allowing generators to declare that they will not implement freeze protection measures due to technical, commercial, or operational constraints in EOP-012-1, which led into some market concerns. The standard drafting team responded it may take these matters under advisement during its phase 2 work.

### **Pertinent FERC Directives**

None

### **Cost Effectiveness**

The standard drafting team sought stakeholder input on the cost effectiveness of the proposed standards during the formal comment periods. The majority of comments were concerned that, without cost recovery or compensation in place, actions taken to meet the requirements would be cost-prohibitive. Within EOP-012-1, the standard drafting team determined it was appropriate to allow Generator Owners to declare when technical, commercial, or operational

constraints preclude implementation of identified corrective actions providing the required operational capability.

**Additional Information**

A link to the project history and files is included here for reference:

[\[Project 2021-07 Extreme Cold Weather Grid Operations, Preparedness, and Coordination\]](#)