

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

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

COMMENTS OF THE NEW YORK STATE RELIABILITY COUNCIL, L.L.C.

Pursuant to the Federal Energy Regulatory Commission’s (“FERC” or “Commission”) notice of proposed rule making (“NOPR”) issued in the above-captioned docket on March 18, 2010, the New York State Reliability Council, L.L.C. (“NYSRC”) submits these comments.

I. Background

The Commission proposes to direct the Electric Reliability Organization (“ERO”) to revise its definition of the term “bulk electric system” to include all electric transmission facilities with a rating of 100kV or above. A Regional Entity would have to seek ERO and Commission approval before exempting any facility rated at 100kV or above from compliance with the mandatory 100kV definition. The Commission emphasizes that it is not proposing to eliminate all regional variations. The goals of the proposal are to (1) eliminate significant inconsistencies across regions, (2) provide a backstop review to ensure that any regional variations do not compromise reliability, and (3) ensure that facilities that could significantly impact reliability are subject to mandatory rules. The Commission states that it believes there is adequate technical justification for the proposed mandatory 100kV threshold for facilities to be included within the definition of the bulk electric system, because facilities rated at 115kV and

138kV have either caused or contributed to significant electric system disturbances and cascading outages. The Commission also notes several concerns with respect to the number and type of facilities that are not included within the Northeast Power Coordinating Council (“NPCC”) definition of bulk electric system facilities.

II. Communications

The names, titles, mailing addresses, and telephone numbers of those persons to whom correspondence and communications concerning this filing should be addressed are as follows:

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III. New York State Reliability Council

The NYSRC was approved by the Commission in 1998 as part of the comprehensive restructuring of the competitive wholesale electricity market in New York State.¹ Under the restructuring, the New York Power Pool (“NYPP”) was replaced by the New York System Independent System Operator (“NYISO”) as the entity with the primary responsibility for the reliable operation of the State’s bulk-power system. The NYISO also assumed responsibility for administration of the newly established competitive wholesale electricity markets.

¹ *Central Hudson Gas & Electric Corp., et al.*, 83 FERC ¶ 61,352 (1998).

The NYSRC was established to promote and preserve the reliability of the New York State power system by developing, maintaining and, from time to time, updating the reliability rules (“Reliability Rules”) that govern the NYISO’s operation of the State’s bulk-power system. The NYSRC develops Reliability Rules in accordance with standards, criteria and regulations of the North American Electric Reliability Corporation (“NERC”), NPCC, the New York Public Service Commission, the Commission, and the Nuclear Regulatory Commission.² The NYISO/NYSRC Agreement provides that the NYISO and all entities engaged in transactions on the New York State power system must comply with the Reliability Rules adopted by the NYSRC.³ Compliance with NYSRC Reliability Rules, which are incorporated into the NYISO’s procedures, are made binding on market participants through the NYISO’s tariff.⁴

In addition to, these planning and operating rules had been developed by the NYPP in the operation of the New York bulk-power system. In addition to incorporating NERC and NPCC reliability criteria, the NYSRC Reliability Rules include criteria that are more specific or more stringent than NERC and NPCC criteria that are necessary to meet the special requirements of the New York Control Area. These special requirements include the specific electric system characteristics and demographics of New York State, the complexities related to the maintenance of reliable transmission in New York State given the configuration of the State’s bulk-power system, and the severe consequences that result from power interruptions in New York State and, in particular, New York City and Long Island.

² Agreement Between the NYISO and the NYSRC, Dec. 1999, § 4.1 (“NYISO/NYSRC Agreement”), available at http://www.nysrc.org/pdf/Agreements/nysrc_nyiso_agmt.pdf.

³ NYISO/NYSRC Agreement, §§ 2.1, 3.1.

⁴ NYISO Market Administration and Control Area Services Tariff, §§ 5.1, 5.6.

IV. Comments

A. Northeast Power Coordinating Council

The NYSRC agrees that lower voltage facilities may have a significant impact on the bulk electric system, and when that is the case, they should be designated as bulk electric system facilities. That fact, however, does not mean that it is necessary to mandate that all lower voltage facilities be designated as bulk electric system facilities without consideration of their impact on the bulk electric system.

In resolving the issues raised in this NOPR, the Commission should give consideration to the history of NPCC as a regional reliability organization. Since its formation in 1966, NPCC has developed and implemented reliability standards for a significant portion of the United States and Canada. Its region includes some of the most densely populated areas in the United States and Canada. During this time, NPCC has been a national leader in the development of effective standards to protect the reliability of the bulk electric system and has implemented reliability standards that are more stringent than the national standards developed by NERC in order to address the particular needs of the bulk electric system in its region. Prior to the enactment of the Energy Policy Act of 2005, NPCC reliability standards were mandatory for entities with bulk electric facilities in its region. While the NYSRC appreciates the Commission's interest in uniformity with respect to national reliability standards, the NYSRC submits that the proposed rulemaking does not provide a sufficient basis for concluding that the NPCC's impact-based methodology for identifying facilities that should be included in the definition of the bulk electric system does not currently meet or exceed the level of reliability provided by the 100kV "bright line" methodology that would be mandated under the NOPR.

B. NPCC Impact Methodology

The impact methodology used by the NPCC to identify bulk electric system facilities is designed to address the specific needs and characteristics of the NPCC region. NPCC uses an impact-based methodology to identify those facilities that would have a “significant adverse impact” on the bulk electric system in its region, rather than using a single voltage-based “bright line” methodology. This approach is viewed by NPCC, and many others with extensive experience and expertise in the field of bulk-power system reliability, as an improvement over a voltage-based approach because it permits an informed engineering assessment of the potential impact of a facility and whether it should be designated as a component of the bulk electric system. The impact approach permits the responsible entities and the reliability coordinators to focus attention and resources on those facilities, rather than on facilities that do not have a significant impact on the bulk electric system.

C. Examples of Events Involving 115kV and 138kV Line that Affected the Bulk-Power System

The NOPR refers to several examples of events involving 115kV and 138kV facilities that impacted bulk electric system reliability. None of these examples, however, in any way demonstrates that the NPCC impact approach is not an appropriate methodology for the designation of bulk electric system facilities.

The NOPR refers to an event on February 26, 2008, in the Florida Reliability Coordinating Council (“FRCC”) region which resulted in widespread outages that originated from a fault at a facility connected to a 138kV transmission system. However, as noted in the NOPR, FRCC already uses the 100kV threshold. Thus, this incident does not demonstrate that

the use of the 100kV threshold is more effective in protecting reliability than an impact-based approach.

The same observation applies to the event on June 13, 2008 regarding the failure of a 138kV motor operated switch on a 138kV – 13kV transformer located in the ReliabilityFirst region since ReliabilityFirst has also adopted the 100kV threshold. Furthermore, it is our understanding that this event involved the inappropriate operation of equipment, and was not related to whether a facility had been designated as part of the bulk electric system.

D. Events Involving Lower Voltage Facilities in NPCC

The NOPR also makes some observations concerning the results of the NPCC impact test, which suggest that the NPCC impact methodology does not result in including facilities that affect bulk electric system reliability. However, these observations do not demonstrate that the NPCC impact test does not provide an adequate level of reliability. For example, the NOPR notes that reliability coordinators within NPCC have declared transmission loading relief (“TLR”) events on a specific flow gate (i.e., Center East interface), but NPCC does not classify every line that is part of the Center East interface as a bulk electric facility. However, it is our understanding that the TLRs were issued in response to unanticipated clockwise flow around Lake Erie (i.e., unscheduled imports from the Independent Electricity System Operator into NYISO) in order to mitigate the adverse impact on the NYISO’s unit commitment and dispatch schedules. Therefore, it does not appear that this event would have been affected by the designation of the lower voltage facilities as bulk electric system facilities.

E. The Statutory Definitions in Section 215 Do Not Provide a “Bright Line” Test for Bulk Electric System Facilities

We note that the statutory definition of “bulk-power system” does not provide a threshold based on the size of the facility. The definition of bulk-power system in Section 215 of the Federal Power Act reads as follows:

“The term “bulk-power system” means—

- (A) facilities and control systems necessary for operating an interconnected electric energy transmission network (or any portion thereof); and
- (B) electric energy from generation facilities needed to maintain transmission system reliability.

The term does not include facilities used in the local distribution of electric energy.

And the term of “reliable operation” is defined as:

operating the elements of the bulk-power system within equipment and electric system thermal, voltage, and stability limits so that instability, uncontrolled separation, or cascading failures of such system will not occur as a result of a sudden disturbance, including a cyber security incident, or unanticipated failure of system elements. (emphasis added)

These definitions, taken separately and together, indicate a statutory intent that the Commission’s jurisdiction be limited to facilities that are actually necessary to provide for the reliable operation of the bulk-power system. Reliable operation is defined in terms of widespread disturbances and not local events that do not affect the bulk-power system. This concept is embedded in NPCC’s impact-based methodology. A Commission mandate that ERO standards be applied to all facilities 100kV and above, without regard to whether they are “necessary for operating an interconnected electric energy transmission network”, would appear

to raise a jurisdictional issue worthy of the Commission's consideration. Aside from the jurisdictional issue, the Commission should consider whether it is appropriate to mandate a 100kV threshold when a sufficient basis has not been provided for concluding that the NPCC impact approach does not provide a comparable level of reliability.

The NYSRC respectfully recommends that, rather than mandating the NPCC to adopt a 100kV threshold, the Commission should permit NPCC to further explain its current impact methodology and, if necessary, to revise the methodology to the extent necessary to address the Commission's specific concerns.

F. Exemption Process – Transition Period

The NOPR recognizes that if a 100kV threshold is adopted, there is a need for a process to exempt certain facilities from mandatory compliance with ERO Reliability Standards. In paragraph 18, the NOPR states that a Regional Entity must seek ERO approval for an exemption, and any ERO approved exemption must be submitted to the Commission for review on a facility by facility basis. The NOPR proposes that any such submission must include adequate supporting information explaining why it is appropriate to exempt a specific transmission facility. The exemption would take effect only after Commission approval.

The NYSRC is concerned that the exemption process outlined in the NOPR may be unnecessarily onerous and time consuming. If the Commission adopts a 100kV threshold, the NYSRC respectfully recommends that the Commission adopt procedures that will permit the expeditious exemption of facilities that do not have a significant impact on the reliability of the bulk electric system. For example, the Commission should consider permitting the exemption of coherent groups of facilities with similar characteristics, rather than requiring that a separate

demonstration be made for each facility. The NYSRC further recommends that the Commission expressly authorize the use of a “material impact” criterion as a basis for granting an exemption. It is our understanding that one such approach has been proposed by the Western Electricity Coordinating Council. The Commission also should consider permitting exemptions to become effective upon ERO approval, pending Commission review.

If the Commission adopts a 100kV threshold, it also will be necessary for the Commission to grant affected entities sufficient time to comply with the mandate. The NYSRC is concerned that an inadequate transition period could be counter-productive from a reliability perspective, because it may result in a disproportionate expenditure of time and resources on bringing facilities that may not have a significant impact on the bulk electric system into compliance with ERO standards.

V. Conclusion

The NYSRC respectfully requests that the Commission accept the recommendations herein:

- (i) The Commission should permit NPCC to continue to use an impact methodology to determine which facilities should be included in the definition of the bulk electric system, with modifications to the extent necessary.
- (ii) If the Commission decides to mandate a 100kV threshold for BES facilities, then the Commission should adopt efficient procedures for the exemption of facilities that do not have a significant impact on the bulk electric system, which would permit:
 - (a) the exemption of coherent groups of facilities with similar characteristics;

- (b) the use of a "material impact" criterion as basis for an exemption; and
- (c) an exemption to become effective upon approval by the Regional Entity and the ERO, pending Commission review.

(iii) If the Commission mandates a 100kV threshold, it should grant affected entities sufficient time to comply with the mandate in an orderly fashion in order to avoid a disproportionate expenditure of limited time and resources to achieve compliance.

Respectfully submitted,

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