*www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. If unable to be filed electronically, documents may be paper-filed. To paper-file, an original plus seven copies should be mailed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. More information about this project can be viewed or printed on the eLibrary link of Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (P–12576) in the docket number field to access the document. For assistance, call toll-free 1–866–208–3372.

Dated: November 15, 2011.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2011–30024 Filed 11–21–11; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Project No. 2246–058]**

### Yuba County Water Agency; Notice of Panel Meeting and Technical Conference Details

On October 20, 2011, the National Oceanic and Atmospheric Administration's, National Marine Fisheries Service (NMFS), filed a Notice to initiate a formal study dispute resolution process, pursuant to 18 CFR 5.14, in the relicensing proceeding for the Yuba County Water Agency's (YCWA) Yuba River Hydroelectric Project No. 2246. NMFS disputed the treatment of several of its study requests, filed on March 7, 2011, in the Commission's study plan determination, issued on September 30, 2011. NMFS specifically identified study requests one through six and study request eight as the disputed components of its, March 7, 2011 filing. In its study requests one through six NMFS requested studies of the effects of project and related activities on: (1) Fish passage for anadromous fish; (2) hydrology for anadromous fish; (3) water temperatures for anadromous fish migration, holding, spawning, and rearing needs; (4) coarse substrate for anadromous fish: Sediment supply, transport, and storage; (5) large wood and riparian habitat for anadromous fish; and (6) loss of marine-derived nutrients in the Yuba River, respectively. In study request eight, NMFS requested a study of, ''anadromous fish ecosystem effects analysis: Synthesis of direct, indirect, and cumulative effects of the project and related facilities on anadromous fish. On November 7, 2011, the dispute resolution panel convened. On November 9, 2011, the Commission issued a Notice of Dispute Resolution Process Schedule, Panel Meeting, and Technical Conference. The technical conference date is repeated below with additional logistical details.

The purpose of the technical conference is for the disputing agency, the applicant, and the Commission to provide the panel with additional information necessary to evaluate the disputed studies. All local, state, and federal agencies, Indian tribes, and other interested parties are invited to attend the meeting as observers. The panel may also request information or clarification on written submissions as necessary to understand the matters in dispute. The panel will limit all input that it receives to the specific studies or information in dispute and will focus on the applicability of such studies or information to the study criteria stipulated in 18 CFR 5.9(b). If the number of participants wishing to speak creates time constraints, the panel may, at its discretion, limit the speaking time for each participant.

**Technical Conference**

*Date:* Wednesday, November 30, 2011.

*Time:* 9 a.m.–5 p.m.

*Place:* Holiday Inn, Sacramento—Capitol Plaza, 300 J Street, Sacramento, CA 95814, (916) 446–0100.

For more information, please contact Stephen Bowler, the dispute panel chair, at *stephen.bowler@ferc.gov* or (202) 502–6861.

Dated: November 16, 2011.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2011–30124 Filed 11–21–11; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[137 FERC ¶61,131; Docket No. RD11–3–000]**

### Before Commissioners: Jon Wellinghoff, Chairman; Philip D. Moeller, John R. Norris, and Cheryl A. LaFleur; North American Electric Reliability Corporation; Order Approving Reliability Standard

1. On January 28, 2011, the North American Electric Reliability Corporation (NERC) submitted a petition seeking approval of a revised Facilities Design, Connections, and Maintenance (FAC) Reliability Standard FAC–013–2—Assessment of Transfer Capability for the Near-Term Transmission Planning Horizon, pursuant to section 215(d)(1) of the Federal Power Act (FPA) [1] and section 39.5 of the Commission's regulations.[2] The revised Reliability Standard requires planning coordinators to have a transparent methodology for, and to annually perform, an assessment of transmission transfer capability for the Near-Term Transmission Planning Horizon, as a basis for identifying system weaknesses or limiting facilities that could limit energy transfers in the future. NERC also requests approval of two new terms utilized in the proposed Reliability Standard, to be included in NERC's Glossary of Terms Used in NERC Reliability Standards (NERC Glossary or Glossary). Finally, NERC requests approval of its implementation plan for Reliability Standard FAC–013–2, setting an effective date that will allow planning coordinators a reasonable time, after certain related Modeling, Data, and Analysis (MOD) Reliability Standards have gone into effect, to meet the requirements of the revised Reliability Standard.

2. As explained below, we find that revised Reliability Standard FAC–013–2 (including the associated new Glossary terms and implementation plan) is just, reasonable, not unduly discriminatory or preferential and in the public interest. We accept the violation risk factors and violation severity levels associated with the standard as proposed by NERC, with three exceptions described below. We also deny a request by the Electric Reliability Council of Texas (ERCOT) for an exemption from Reliability Standard FAC–013–2.

**I. Background**

3. The Commission certified NERC as the Electric Reliability Organization (ERO), as defined in section 215 of the FPA, in July 2006.[3] In Order No. 693, the Commission reviewed an initial set of Reliability Standards as developed and submitted for review by NERC, accepting 83 standards as mandatory

[1] 16 U.S.C. 824o(d)(1) (2006).

[2] 18 CFR 39.5 (2011).

[3] *North American Electric Reliability Corp.,* 116 FERC ¶ 61,062, *order on reh'g and compliance,* 117 FERC ¶ 61,126 (2006), *order on compliance,* 118 FERC ¶ 61,190, *order on reh'g* 119 FERC ¶ 61,046 (2007), *aff'd sub nom. Alcoa Inc.* v. *FERC,* 564 F.3d 1342 (DC Cir. 2009).

and enforceable.[4] In Order No. 693, the Commission, *inter alia,* accepted Reliability Standard FAC–013–1, which sets out requirements for communication of transfer capability calculations. In addition, the Commission directed NERC to modify FAC–013 so that it would apply to all reliability coordinators.[5]

4. Also related to NERC's immediate proposal, the Commission, in Order No. 693, neither approved nor remanded Reliability Standard FAC–012–1, which set out proposed requirements for documenting the methodologies used by reliability coordinators and planning authorities in determining transfer capability.[6] Because additional information was needed regarding the standards' reference to regional implementation, the Commission did not act on proposed FAC–012–1, but directed certain changes to be included in a revised version of FAC–012–1. In particular, the Commission stated that the standard should provide a framework for the calculation of transfer capabilities, including data inputs and modeling assumptions.[7] Further, the Commission stated that the process and criteria used to determine transfer capabilities must be consistent with the process and criteria used in planning and operating the system.[8]

5. Subsequently, as part of its submission of revised Modeling, Data, and Analysis (MOD) Reliability Standards, which govern the calculation of Available Transfer Capability (ATC), NERC requested that it be permitted to withdraw FAC–012–1 and retire FAC–013–1. In Order No. 729, the Commission found that FAC–012–1 and FAC–013–1 had not been wholly superseded by the revised MOD Reliability Standards because the revised MOD Reliability Standards did not address the calculation of transfer capabilities in the planning horizon.[9] Moreover, the Commission found that the existing versions of FAC–012–1 (as adopted by NERC) and FAC–013–1 (as approved by FERC) were insufficient to address the Commission's concerns as stated in Order No. 693, and ordered NERC to develop specific modifications to comply with those outstanding directives.[10]

6. The Commission explained in Order No. 729 the potential value of assessing transfer capabilities in the planning horizon, as a means of improving the long-term reliability of the Bulk-Power System:

> The Commission recognizes that the calculation of transfer capabilities in the planning horizon (years one thorough five) may not be so accurate to support long-term scheduling of the transmission system but we do believe that such forecasts will be useful for long-term planning, in general, by measuring sufficient long-term capacity needed to ensure the reliable operation of the Bulk-Power System. Although regional planning authorities have developed similar efforts in response to Order No. 890, we believe that the requirements imposed by FAC–012 and FAC–013 need not be duplicative of those existing efforts and, by contrast, should be focused on improving the long-term reliability of the Bulk-Power System pursuant to the ERO's Reliability Standards.[11]

Thus, the Commission directed NERC to develop modifications to FAC–012–1 and FAC–013–1 to comply with the directives of Order No. 693 and to otherwise revise those Standards to be consistent with the revised MOD Reliability Standards.[12]

## II. NERC's Petition

7. In its Petition, NERC explains that FAC–013–2 was developed in response to Commission directives in Order Nos. 693 and 729 (as discussed above) to require appropriate entities to perform an annual assessment of transfer capability in the planning horizon and to do so using data inputs and modeling assumptions that are consistent with other planning uses. Under Requirement R1, each planning coordinator must have a documented methodology for performing an annual assessment of transfer capability in the Near-Term Transmission Planning Horizon. Under Requirement R2, each planning coordinator must share its methodology with adjacent planning coordinators and transmission planners, and with other functional entities with a reliability-related need for the information. Under Requirement R3, planning coordinators must provide a documented response to comments made by an interested party about the methodology. Under Requirement R4, planning coordinators must conduct and document an annual simulation or assessment of transfer capability for at least one year in the Near-Term Transmission Planning Horizon. Under Requirement R5, planning coordinators must make the results of the assessment available to the same types of parties identified in Requirement R2. Finally, under Requirement R6, planning coordinators must provide data to support the assessment if requested by identified interested parties.[13]

8. NERC explains in its Petition that the proposed Reliability Standard addresses the Commission's directives by requiring planning coordinators to undertake an annual assessment of transfer capability in the planning horizon, and by requiring the use of certain data inputs and modeling assumptions to identify future transmission system weaknesses or limiting facilities.

9. NERC also requests approval of the terms ''Near-Term Transmission Planning Horizon'' and ''Year One'' to be added to the NERC Glossary. Finally, NERC proposes an implementation plan that includes an effective date for the revised Reliability Standard that is the later of (1) the first day of the calendar quarter twelve months after Commission approval of FAC–013–2, or (2) the first day of the calendar quarter six months after Reliability Standards MOD–001–1, MOD–028–1, MOD–029–1, and MOD–030–1 go into effect.[14] At that time, the plan calls for the retirement of existing Reliability Standards FAC–012–1 and FAC–013–1.[15]

## III. Notice of Filing and Responsive Pleading

10. Notice of NERC's Petition was issued on Feb. 2, 2011 and published on Feb. 10, 2011 in the **Federal Register**, with comments, protests and motions to intervene due on or before Feb. 28, 2011.[16] Two sets of comments were received. The Midwest Independent Transmission System Operator, Inc. (MISO) and the New York Independent System Operator, Inc. (NYISO) filed a joint set of comments asking the Commission to reject FAC–013–2 as duplicative of the now-effective Transmission Planning (TPL) Standards. In addition, the ERCOT filed a motion to intervene out-of-time, asking the Commission to find that ERCOT should

[4] *Mandatory Reliability Standards for the Bulk-Power System,* Order No. 693, FERC Stats. & Regs. ¶ 31,242, *order on reh'g,* Order No. 693–A, 120 FERC ¶ 61,053 (2007).

[5] *Id.* P 790, 794.

[6] *Id.* P 776, 782. *See also id.* P 287 (discussing ''fill-in-the-blank'' standards). NERC's proposed FAC–013–2 addresses directives pertaining to related to both FAC–013–1 and FAC–012–1.

[7] *Id.* P 779.

[8] *Id.* P 782.

[9] *Mandatory Reliability Standards for the Calculation of Available Transfer Capability, Capacity Benefit Margins, Transmission Reliability Margins, Total Transfer Capability and Existing Transmission Commitment and Mandatory Reliability Standards for the Bulk-Power System,* Order No. 729, 129 FERC ¶ 61,155, at P 291 (2009); *order on reh'g,* Order No. 729–A, 131 FERC ¶ 61,109, *order on reh'g,* Order No. 729–B, 132 FERC ¶ 61,027 (2010).

[10] *Id.*

[11] *Id.* P 290.

[12] *Id.* P 291.

[13] *See* NERC Petition at 8–10, Ex. A.

[14] The relevant MOD Reliability Standards went into effect on April 1, 2011.

[15] NERC Petition at Ex. B.

[16] 76 FR 7557 (2011).

be exempt from FAC–013–2's requirements.

11. MISO and NYISO state that Reliability Standard FAC–013–2 will not provide any reliability benefits beyond those conferred by the current TPL Reliability Standards, arguing that proposed Reliability Standard FAC–013–2 is ''substantially similar'' to the approved TPL Reliability Standards in purpose and in the assessments required.[17] MISO and NYISO further argue that both the proposed Reliability Standard and the TPL Reliability Standards (particularly TPL–002) require an assessment of system conditions over the Near-Term Transmission Planning Horizon using similar assumptions or inputs, including contingencies, system conditions, projected firm transfers or transmission uses, and system demand levels.[18]

12. MISO and NYISO note that the TPL Reliability Standards require applicable entities not only to perform system simulations and related annual assessments to identify reliability issues based on current and projected firm transmission commitments, but also to take affirmative action to address any identified reliability issues based on those commitments. MISO and NYISO argue that the very similar assessment required under Reliability Standard FAC–013–2, which is intended ''to identify potential future Transmission System weaknesses and limiting Facilities that could impact the Bulk Electric System's (BES) ability to reliability transfer energy,'' does not provide a similar obligation to rectify any deficiencies identified from the assessment as is found in the TPL Standards, and therefore has questionable value.[19] As an example, MISO and NYISO note that if an assessment performed under Reliability Standard FAC–013–2 found that incremental transfer capability was 0 MW at some point within the Near-Term Transmission Planning Horizon, FAC–013–2 does not provide any guidance about steps to be taken to address the identified weaknesses. Accordingly, MISO and NYISO argue that Reliability Standard FAC–013–2 is unnecessary and could lead to confusion with respect to the responsible entities' obligations to preserve the reliability of the BES.[20]

13. Finally, MISO and NYISO note that a calculation of transfer capability that is set one to five years in the future (i.e., the Near-Term Transmission Planning Horizon) does not provide any useful information for the future reliable operation of the system, because system conditions are likely to be significantly different than those assumed for the required assessment.[21]

14. ERCOT initially notes its support for MISO and NYISO's position that FAC–013–2 is unnecessary given its overlap with the requirements of the TPL Reliability Standards.[22] However, if Reliability Standard FAC–013–2 is approved over MISO and NYISO's objections, ERCOT asks the Commission to provide an exemption for the ERCOT region. ERCOT notes that the revised Reliability Standard was developed in response to the Commission's directive to apply the transfer capability methodology requirements, as implemented in the MOD Reliability Standards, to the planning horizon.[23] ERCOT states that the Commission has already found that the requirements of the MOD Reliability Standards governing the calculation of ATC provide no reliability benefit in the ERCOT region, essentially recognizing that ERCOT has no transmission market (and instead manages congestion through re-dispatch of generation), and that ERCOT has no interchange with neighboring regions. ERCOT argues that the same rationale applies for Reliability Standard FAC–013–2 with respect to the planning horizon, as ERCOT's reliability planning analyses are performed using the same assumptions as are used for operations.[24]

15. ERCOT notes that the Texas Reliability Entity, Inc. (Texas RE)[25] supported ERCOT's position on the propriety of an ERCOT exemption through comments submitted during NERC's Standards Development Process. Texas RE provided the following rationale for the exemption: ''ERCOT does not need to address transmission allocation issues either in the operating horizon or in the planning horizon. To the extent that ERCOT does planning studies to examine transfers, those studies are related more to economic planning than to reliability.''[26] ERCOT further argues that the Standards Drafting Team failed to draw a meaningful distinction between the MOD requirements regarding calculation of transfer capabilities in the operating horizon, which are not applicable to ERCOT by virtue of a FERC-granted exemption, and FAC–013–2's requirements related to assessment of transfer capabilities in the planning horizon.[27]

## IV. Discussion

16. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.214, the timely joint motion to intervene filed by MISO and NYISO serves to make them parties to this proceeding. Pursuant to Rule 214(d) of the Commission's Rules of Practice and Procedure, 18 CFR 385.214(d), the Commission will grant ERCOT's late-filed motion to intervene, given its interest in the proceeding, the early stage of the proceeding, and the absence of undue prejudice or delay.

### *A. Reliability Standard FAC–013–2*

17. We approve Reliability Standard FAC–013–2 and find that the standard is just, reasonable, not unduly discriminatory or preferential, and in the public interest. We also approve the proposed implementation plan for Reliability Standard FAC–013–2, which would retire Reliability Standards FAC–012–1 and FAC–013–1 when FAC–013–2 becomes effective. We accept the addition of the terms ''Near-Term Transmission Planning Horizon'' and ''Year One'' to the NERC Glossary. Finally, we find that the proposed Reliability Standard satisfies our outstanding directives in Order Nos. 693 and 729 regarding the non-discriminatory assessment of transfer capability in the planning horizon.[28]

18. Contrary to the arguments of MISO and NYISO, we find that Reliability Standard FAC–013–2 provides a unique reliability benefit beyond that conferred by the TPL Standards. Reliability Standard FAC–013–2 is designed to ensure that planning coordinators perform annual assessments to identify potential weaknesses and limiting facilities of the bulk electric system. Such potential weaknesses and limitations could ultimately affect reliable transfers of energy. Further, in performing the required annual assessment, the

[17] MISO and NYISO Comments at 3–4.

[18] *Id.* at 4.

[19] *Id.* at 5.

[20] *Id.*

[21] *Id.* at 6.

[22] ERCOT Comments at 2.

[23] *Id.* at 3.

[24] *Id.* at 3–4 (noting that the Commission agreed with ERCOT's position that applying the MOD Reliability Standards to ERCOT would not provide any reliability benefits due to physical differences in ERCOT's transmission system (citing Order No. 729, 129 FERC ¶ 61,155 at P 292–93, 296 and 298)).

[25] Texas RE is the approved regional entity, as defined under FPA section 215(e)(4), for the ERCOT region, with delegated authority from NERC to develop, monitor, assess, and enforce compliance with NERC Reliability Standards within that region.

[26] ERCOT Comments at 5 (quoting from Texas RE Comments submitted to NERC in the Standards Development Process).

[27] *Id.* at 6.

[28] *See* Background Section above describing the pending Commission directives from Order No. 693 and Order No. 729.

planning coordinator must consider both current approved and *projected* transmission uses.[29]

19. By contrast, the TPL Reliability Standards set out specific performance requirements for all transmission planners (as well as planning authorities and coordinators), requiring among other things a demonstration that each transmission planner's portion of the bulk electric system is designed to maintain system stability and to stay within thermal and voltage limits, while serving forecast customer demand and all projected firm (non-recallable) reserved transmission services.[30] Thus, the TPL Reliability Standards do not require a planning assessment that reflects all projected transmission uses but, rather, an assessment that reflects only projected *firm reserved* transmission uses. In other words, Reliability Standard FAC–013–2 differs from the TPL standards because the former focuses on identifying potential weaknesses that could limit energy transfers across a broader region and requires the planning coordinator to consider any expected transmission uses, regardless of whether they have been scheduled or otherwise reserved, and thereby allows for an assessment that may be more accurate in the outer years of the planning horizon.

20. As MISO and NYISO note, Reliability Standard FAC–013–2 does not impose an obligation to develop a plan to address identified limitations in transfer capability in the Near-Term Transmission Planning Horizon. However, the lack of such an obligation does not detract from the Reliability Standard's value as an informational tool for the early identification of inter-regional or intra-regional limitations on transfers. In Order No. 729, the Commission recognized that the calculation of transfer capabilities in the planning horizon (years one through five) may not be accurate enough to support long-term scheduling of the transmission system.[31] The Commission nonetheless determined that such forecasts would be useful ''for long-term planning, in general, by measuring sufficient long-term capacity needed to ensure the reliable operation of the Bulk-Power System.'' [32]

21. Consistent with its purpose as a planning tool with a regional focus, rather than a mechanism for ensuring that individual systems are planned to reliably meet projected load and known transmission uses, Reliability Standard FAC–013–2 provides the planning coordinator flexibility in determining what transfers to assess. Moreover, an assessment conducted pursuant to FAC–013–2 may include transmission uses that are expected but which are not yet scheduled or reserved (*e.g.,* expected interconnection of a large group of renewable generators), and can be used as a regional coordination tool rather than as a means of ensuring adequate planning for reliable system performance. Accordingly, we find that Reliability Standard FAC–013–2 does confer reliability benefits beyond those provided by the TPL Reliability Standards, and we are not persuaded by the arguments of MISO and NYISO on this issue.

22. We further find that Reliability Standard FAC–013–2 satisfies certain outstanding directives from Order Nos. 693 and 729 which are not satisfied by the TPL Reliability Standards. Reliability Standard FAC–013–2 requires the planning coordinator to perform an annual assessment of transfer capability for at least one year in the Near-Term Transmission Planning Horizon, and to document that the assumptions and criteria used to perform the assessment are consistent with the planning coordinator's planning practices. By contrast, the TPL Reliability Standards impose system performance requirements under various conditions, and do not require a specific assessment of transfer capabilities within a single system or across interconnected transmission systems. While we agree that Reliability Standard FAC–013–2 and the TPL Reliability Standards are designed primarily to encourage adequate longer-term planning rather than to generate accurate measures of ATC or total transfer capability (TTC), we believe that our outstanding directives regarding the review of transfer capability within the planning horizon are not satisfied by the TPL Reliability Standards.

### *B. Violation Risk Factors and Violation Severity Levels*

23. We find that the violation risk factors (VRFs) assigned to Requirements R2, R3, R5 and R6 are consistent with the Commission's established guidelines and approve them as filed.[33] However, we find that NERC has not adequately justified its proposed ''lower'' VRF designation for Requirements R1 and R4, and direct NERC to either provide additional justification for these VRF designations or propose a revised VRF designation that addresses our concerns.

24. NERC states that Requirements R1 and R4 meet the definition of a ''lower'' risk requirement because they are ''strictly administrative in nature and are in the planning timeframe,'' and because ''it is not anticipated that under emergency, abnormal or restorative conditions violation of this requirement would affect the electric state or capability of the BES.'' [34]

25. Requirement R4 does not appear to be ''administrative in nature,'' in that it requires the planning coordinator to annually conduct a simulation assessing transfer capability on its system during at least one year in the near-term planning time frame. Requirement R4 requires an affirmative action by the applicable entity, and not merely documentation of the results of the study.

26. We have similar concerns with respect to R1, as it is a substantive requirement to adopt and document a methodology for assessing transfer capability that is consistent with the specific criteria set out in sub-requirements R1.1.2–1.5. This requirement goes further than mere documentation, and instead establishes the criteria that must be incorporated into a compliant methodology.

27. Finally, we approve the violation severity levels (VSLs) for FAC–013–2 as proposed, with the exception of the VSL triggers for R1, which appear to contain a typographical error. The VSL language for R1, as filed by NERC, uses the same description for ''medium,'' ''high,'' and ''severe'' violations, as follows:

The Planning Coordinator has a Transfer Capability methodology, but failed to

[29] *See* proposed Reliability Standard FAC–013–2 R.1.4.4.

[30] *See* Reliability Standard TPL–001–0.1 R1.

[31] Order No. 729, 129 FERC ¶ 61,155 at P 290.

[32] *Id.*

[33] *See North American Electric Reliability Corp.,* 119 FERC ¶ 61,145, *order on reh'g,* 120 FERC ¶ 61,145, at P 8–13 (2007); *North American Electric Reliability Corp.,* 123 FERC ¶ 61,284, at P 20–35, *order on reh'g & compliance,* 125 FERC ¶ 61,212 (2008); *North American Electric Reliability Corp.,* 135 FERC ¶ 61,166 (2011). Given the significant change in the scope of FAC–013–2 as compared to the original standards from which its requirements derive (FAC–012–1 and FAC–013–2), a reduction in the assigned VRF levels appears to be warranted for at least some of the requirements.

[34] NERC Petition at 33–34. The approved NERC definition for a ''lower'' VRF designation is as follows:

Lower Risk Requirement: Is administrative in nature and (a) is a requirement that, if violated, would not be expected to affect the electrical state or capability of the Bulk-Power System, or the ability to effectively monitor and control the Bulk-Power System; or (b) is a requirement in a planning time frame that, if violated, would not, under the emergency, abnormal, or restorative conditions anticipated by the preparations, be expected to affect the electrical state or capability of the Bulk-Power System, or the ability to effectively monitor, control, or restore the Bulk-Power System.

*See North American Electric Reliability Corporation,* 119 FERC ¶ 61,145, at P9, *order on compliance,* 121 FERC ¶ 61,179, at P 2 and Appendix A (2007).

incorporate one of [sub-requirements 1.1 through 1.5] of Requirement R1 into that methodology.

It appears that these triggers were intended to be progressive, i.e., the failure to incorporate one component was intended to be a medium level violation, as is currently stated in NERC's filed version of FAC–013–2, but a high level violation should require a failure to incorporate *two* components, and so on. Accordingly, we will direct NERC to modify the VSL language for Requirement R1 to correct this apparent error.

28. For the reasons stated above, we direct NERC to submit a compliance filing within 60 days of issuance of this order, that (1) either proposes a ''medium'' VRF designation for Requirements R1 and R4, or provides additional justification for a ''lower'' VRF level; and (2) corrects the proposed VSL language for R1.

*C. Applicability to ERCOT*

29. For the reasons discussed below, we are not persuaded by ERCOT's arguments and, therefore, deny ERCOT's request for an exemption. ERCOT points out that the Commission granted an exemption to ERCOT regarding certain modeling, data and analysis, or MOD, Reliability Standards and believes that the Commission should grant ERCOT a similar exemption regarding compliance with FAC–013–2. Reliability Standard FAC–013–2, however, is distinguishable from the MOD Reliability Standards because the MOD Reliability Standards address methodologies for calculating ATC and total transfer capability (TTC) for the purpose of allocating transmission capacity. In Order No. 729, the Commission agreed that the MOD Reliability Standards would not provide any reliability benefit to ERCOT due to physical differences in ERCOT's transmission system.[35]

30. In contrast to the MOD Reliability Standards, FAC–013–2 is not designed primarily to ensure non-discriminatory allocation of transmission capacity among transmission market participants, but is instead a planning tool, with a particular focus on identifying weaknesses or limitations in transfer capability between regions (including constrained regions within a single market such as ERCOT). We believe ERCOT, like other regions, will benefit from the assessment of potential limitations in transfer capability in the planning horizon over the Near-Term Transmission Planning Horizon that is required under FAC–013–2.

31. Moreover, ERCOT concedes that it currently has a planning process in place that allows it to address ''prospective weaknesses and limiting facilities that may arise under all probable prospective operating conditions.'' [36] That ERCOT already undertakes these kinds of planning assessments leads to the conclusion that such assessments are in fact useful to ERCOT. Incorporating an obligation to continue performing such an assessment as part of a mandatory and enforceable Reliability Standard, especially one that will provide for greater levels of transparency as to how the assessments are done, will not only provide a meaningful reliability benefit but also would presumably impose little additional burden on ERCOT.

## V. Information Collection Statement

32. The Office of Management and Budget (OMB) regulations require approval of certain information collection requirements imposed by agency action.[37] Upon approval of a collection(s) of information, OMB will assign an OMB control number and an expiration date. Respondents subject to the filing requirements of this Order will not be penalized for failing to respond to these collections of information unless the collections of information display a valid OMB control number.

33. The Commission will submit these reporting and recordkeeping requirements to OMB for its review and approval under section 3507(d) of the Paperwork Reduction Act. Comments are solicited within 60 days of the date this order is published in the **Federal Register** on the Commission's need for this information, whether the information will have practical utility, the accuracy of provided burden estimates, ways to enhance the quality, utility, and clarity of the information to be collected, and any suggested methods for minimizing the respondent's burden, including the use of automated information techniques. Comments should be submitted following the Commission's submission guidelines at *http://www.ferc.gov/help/submission-guide.asp* and should reference Docket No. RD11–3.

34. Rather than creating entirely new obligations with respect to the assessment of transfer capability for the near-term transmission planning horizon, Reliability Standard FAC–013–2 upgrades the existing planning requirements contained in FAC–013–1 and specifically requires planning coordinators to have a methodology for and to perform an annual assessment identifying potential future transmission system weaknesses and limiting facilities that could impact the bulk electric system's ability to reliably transfer energy in the near-term transmission planning horizon. Thus, this Order does not impose entirely new burdens on the affected entities. For example, FAC–013–1 requires each applicable entity to have a documented methodology for assessing transfer capability and to share the results of that assessment with specific entities. FAC–013–2 imposes relatively minimal new requirements regarding the information that must be included in the documented methodology, the frequency of the assessment and the number of days allocated to make the assessment results available to other entities.

35. *Burden Estimate:* Our estimate below regarding the number of respondents is based on the NERC compliance registry as of August 29, 2011. According to the registry, there are 80 planning authorities [38] that will be involved in providing information. This Order will require applicable entities to review their transfer capability methodologies and document compliance with the Reliability Standard's requirements. For those planning coordinators that do not already comply with the Standard's requirement for having a documented methodology for assessing transfer capability in the Near-Term Transmission Planning Horizon, they will be required to update their methodology documents and compliance protocols. In addition, planning coordinators must ensure that the required assessment will be performed at least once per calendar year.[39] The estimated burden for the requirements in this Order follow:

[35] Order No. 729, 129 FERC ¶ 61,155, at P 292–93, 296 (noting, *inter alia,* that ERCOT does not have a transmission market and manages transmission congestion through redispatch of generation).

[36] ERCOT Comments at 7.

[37] 5 CFR 1320.11.

[38] The term ''planning coordinator'' is synonymous with the term ''planning authority,'' in the NERC Glossary.

[39] While the document retention requirements are being increased under the new Reliability Standard (from one to three years), the usual and customary practice currently is to retain documentation needed to demonstrate compliance for the period since the last audit, which is on a three year schedule. In addition, while planning coordinators must ensure that they perform an appropriate transfer capability assessment at least once per year, they are already required to establish transfer capabilities and disseminate information about those capabilities. Thus, there should be no increase in burden other than the one-time cost of (1) setting up a procedure to ensure that the assessment will be performed at least once per year, and (2) adjusting the methodology (if needed) to

Continued

| Data collection | Number of respondents | Number of responses per respondent | Hours per respondent per response | Total annual hours |
|---|---|---|---|---|
| | (A) | (B) | (C) | (A × B × C) |
| Review and possible revision of methodology (one-time) | [40] 20 | 1 | 80 | 1,600 |
| Procedure to perform the Transfer Capability Assessment annually (one-time) | 80 | 1 | 80 | 6,400 |
| Total | | | | 8,000 |

*Information Collection Costs:* The Commission seeks comments on the costs to comply with these requirements and recordkeeping burden associated with Reliability Standard FAC–013–2.

- *Total Burden Hours for Collection:* (Compliance/Documentation) = 8,000 hours.
- *Burden Hours Averaged Over Three Years*[41] *= 2,667.*
- *Total One-Time Compliance Cost* = 8,000 hours @ $120/hour = $960,000.
- *Total First Year Cost* = $960,000.
- *Title:* Order Approving Reliability Standard.
- *Action:* Proposed Collection in FERC–725A.
- *OMB Control No:* 1902–0244.
- *Respondents:* Business or other for profit, and/or not for profit institutions.
- *Frequency of Responses:* On occasion.
- *Necessity of the Information:* Reliability Standard FAC–013–2 satisfies certain directives the Commission issued in Order No. 729 requiring applicable entities to specify the framework used for calculating transfer capabilities in the Near-Term Transmission Planning Horizon and to ensure that the framework is consistent with the processes and criteria used for other operating and planning purposes. It also requires some entities to update their Transfer Capability methodology documents and procedures to perform assessments annually.

36. Interested persons may obtain information on the reporting requirements by contacting: Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426 [*Attention:* Ellen Brown, Office of the Executive Director, *email: DataClearance@ferc.gov, Phone:* (202) 502–8663, *fax:* (202) 273–0873].

**VI. Effective Date**

37. This order will become effective January 23, 2012.

*The Commission orders:*

(A) Reliability Standard FAC–013–2 is hereby approved as just, reasonable, not unduly discriminatory, and in the public interest.

(B) NERC's addition of the terms ''Year One'' and ''Near-Term Transmission Planning Horizon'' to the NERC Glossary is hereby approved.

(C) NERC's proposed implementation plan for Reliability Standard FAC–013–2 is hereby approved, including the retirement of existing Reliability Standards FAC–012–1 and FAC–013–1 upon the effective date of Reliability Standard FAC–013–2.

(D) The VRF levels and VSL levels proposed for FAC–013–2 are approved with the exceptions discussed above, and NERC is directed to submit a compliance filing within 60 days of this order addressing the Commission's stated concerns with respect to the VRF levels of R1 and R4 and the VSL language of R1.

By the Commission. Commissioner Spitzer is not participating.

Dated: Issued November 17, 2011.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2011–30116 Filed 11–21–11; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[Project No. 14306–000]**

## The City of East Providence; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On October 14, 2011, The City of East Providence filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act (FPA), proposing to study the feasibility of the Hunt's Mill Dam Hydropower Project (Hunt's Mill Dam Project or project) to be located on Ten Mile River, in the City of East Providence, Providence County, Rhode Island. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land-disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed project would consist of the following: (1) The existing 175-foot-long Hunt's Mill dam, which is owned by the City of East Providence, Rhode Island and includes a 125-foot-long, 10-foot-high curved stone masonry spillway; (2) an existing 32 acre impoundment with 140 acre-feet of storage capacity at elevation 33.5 feet NAVD 88; (3) a newly constructed or refurbished powerhouse; (4) a new or refurbished vertical Francis turbine/generator with total hydraulic capacity of 100 cubic feet per second (cfs) and total installed generating capacity of 0.3 megawatts connected to a rehabilitated or new penstock; (5) a rehabilitated intake, with new downstream fish protection measures; (6) an existing 900-foot-long open tailrace channel; (7) an existing switchyard with interconnected transmission line located at the existing powerhouse; and (8) appurtenant facilities. The estimated annual generation of the Hunt's Mill Dam Project would be 0.85 gigawatt-hours (GWH).

*Applicant Contact:* Mr. Jonathan Petrillo, Agent, The Essex Partnership, LLC, 27 Vaughan Ave., Newport, RI 02840; *phone:* (401) 619–4872.

*FERC Contact:* John Ramer; *phone:* (202) 502–8969.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Competing applications and notices of intent must meet the requirements of 18

comply with the more specific requirements set out in the new Reliability Standard.

[40] Requirement R1 applies to planning coordinators. We estimate that 25 percent of all planning coordinators will have to update their methodology documents.

[41] While this is a one-time burden, information collections tend to be on a three year approval cycle. Therefore, we are averaging the one-time burden estimate over three years.