

130 FERC ¶ 61,051
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

North American Electric Reliability Corporation

Docket No. RD09-10-000

ORDER APPROVING RELIABILITY STANDARD

(Issued January 21, 2010)

1. Pursuant to section 215 of the Federal Power Act (FPA), the Commission approves the North American Electric Reliability Corporation's (NERC) modified Nuclear Plant Interface Coordination (NUC) Reliability Standard, NUC-001-2. The modified Reliability Standard addresses directives and concerns set forth in Order No. 716, in which the Commission approved the initial version of the NUC Reliability Standard.¹ The revisions address the Commission's directives to (1) clarify the phrase "coping times" and (2) ensure that integrated utilities document compliance procedures that are to be performed by separate business units, which would otherwise be documented in an agreement among separate companies operating in non-integrated utility systems.

2. The Commission also approves the retirement of the currently effective NUC Reliability Standard, NUC-001-1, upon the effective date of the modified standard, NUC-001-2, as requested by NERC.

I. Background

A. EPAct 2005 and Mandatory Reliability Standards

3. Section 215 of the FPA requires a Commission-certified Electric Reliability Organization (ERO) to develop mandatory and enforceable Reliability Standards, which provide for the reliable operation of the Bulk-Power System, subject to Commission review and approval. Section 215(d)(2) of the FPA states that the Commission may

¹ *Mandatory Reliability Standard for Nuclear Plant Interface Coordination*, Order No. 716, 125 FERC ¶ 61,065 (2008), *order on reh'g*, Order No. 716-A, 126 FERC ¶ 61,122 (2009).

approve, by rule or order, a proposed Reliability Standard or modification to a Reliability Standard if it determines that the Standard is just, reasonable, not unduly discriminatory or preferential, and in the public interest.² Section 215(d)(5) grants the Commission authority, upon its own motion or upon complaint, to order the ERO to submit to the Commission a proposed Reliability Standard or a modification to a Reliability Standard that addresses a specific matter if the Commission considers such a modified Reliability Standard appropriate to carry out section 215. Once approved, the Reliability Standards may be enforced by the ERO, subject to Commission oversight, or by the Commission independently.³

4. Pursuant to section 215 of the FPA, the Commission established a process to select and certify an ERO.⁴ Subsequently, the Commission certified NERC as the ERO.⁵

B. Order No. 716

5. In Order No. 716, the Commission approved Reliability Standard NUC-001-1 (version 1) as mandatory and enforceable. The Reliability Standard requires a nuclear plant generator operator to coordinate operations and planning with transmission entities providing services relating to nuclear plant operating and off-site power delivery requirements.⁶ The nuclear plant generator operators and transmission entities must

² 16 U.S.C. 824o(d)(2) (2006).

³ See 16 U.S.C. § 824o(e)(3).

⁴ *Rules Concerning Certification of the Electric Reliability Organization; and Procedures for the Establishment, Approval and Enforcement of Electric Reliability Standards*, Order No. 672, FERC Stats. & Regs. ¶ 31,204, *order on reh'g*, Order No. 672-A, FERC Stats. & Regs. ¶ 31,212 (2006).

⁵ *North American Electric Reliability Corp.*, 116 FERC ¶ 61,062, *order on reh'g & compliance*, 117 FERC ¶ 61,126 (2006), *aff'd Alcoa, Inc. v. FERC*, 564 F.3d 1342 (D.C. Cir. 2009).

⁶ NERC defines “transmission entities” as transmission entities as “all entities that are responsible for providing services related to Nuclear Plant Interface Requirements (NPIRs),” including transmission operators, transmission owners, transmission planners, transmission service providers, balancing authorities, reliability coordinators, planning authorities, distribution providers, load-serving entities, generator owners and generator operators.

execute and implement interface agreements setting forth expectations and procedures for coordinating operations to meet the nuclear plant licensing requirements and system operating limits affecting nuclear plant operations.

6. Further, in Order No. 716, the Commission directed NERC to develop a modification to one provision, Requirement R9.3.5, to respond to comments stating that the term “coping time” was ambiguous because the term has various meanings or that the term should be clarified to avoid overlap with use of the term in Nuclear Regulatory Commission (NRC) regulatory requirements.⁷ The Commission cited comments stating that Requirement R9.3.5 mixed two separate events incorporated in nuclear power plant design and license conditions: (i) coping times for station blackouts and (ii) restoration of off-site power. Commenters explained that nuclear plant blackouts may include a loss of off-site power and/or select emergency alternating current (AC) power sources (generally on-site) and that a nuclear plant generator operator facing such an event has responsibility to restore the emergency AC power sources within the demonstrated coping time. To resolve these issues, the Commission directed NERC “to modify Requirement R9.3.5 to clarify references to coping times and off-site power restoration to address the concerns raised in the comments through its Reliability Standards development process.”⁸

7. In addition, the Commission expressed concern with the implementation of NUC-001-1 in a situation where a single entity is both the nuclear plant generator operator and the transmission entity, such as a vertically-integrated utility.⁹ Based on NERC’s assurances that the necessary agreement or arrangement can include “mutually agreed upon procedures or protocols” per NUC-001-1, Requirement R2, footnote 1, the Commission found that a formal agreement is not necessary for business units in an integrated utility to meet the obligation have an agreement, procedures, or protocols in place that will comply with Requirement R2. Consequently, the Commission accepted the Reliability Standard, but directed NERC “in enforcing NUC-001-1, to require that an integrated entity provide documentation of its arrangements, including appropriate procedures and protocols, ensuring that its business units perform the functions under NUC-001-1 that would otherwise be met by separate entities.”¹⁰

⁷ Order No. 716, 125 FERC ¶ 61,065 at P 105-07.

⁸ *Id.* P 107.

⁹ *Id.* P 70-73.

¹⁰ *Id.* P 73.

C. NERC Petition

8. On August 14, 2009, NERC submitted a petition seeking Commission approval of “version 2” of the Nuclear Reliability Standard, NUC-001-2. According to NERC, the modified Reliability Standard was developed using the NERC Reliability Standards Development Procedure and approved by the NERC Board of Trustees.

9. To respond to the Commission’s directive to address ambiguity in Requirement R9.3.5, NERC modified the requirement by removing the term “coping times” and replacing it with clarifying language.¹¹ Specifically, modified Requirement R9.3.5 states that a nuclear plant generator operator and applicable transmission entities must include in their interface agreements:

R9.3.5. Provision for considering, within the restoration process, the requirements and urgency of a nuclear plant that has lost all off-site and on-site AC power.

10. In addition, NERC revised Requirement R2, footnote 1 to make explicit that the mutually agreed upon procedures or protocols, to be included in interface agreements, include those “in effect between entities or between departments of a vertically integrated system.” NERC indicates that this revision responds to the Commission directive to require that an integrated entity provide documentation of its arrangements for mutual agreement on nuclear plant interface requirements. NERC also states that the modification makes clear that entities subject to Reliability Standard NUC-001-2 must provide some type of agreement, even in a vertically-integrated system.

11. NERC requests that the Commission approve NUC-001-2 and make it effective “the later of either April 1, 2010 or the first day of the first calendar quarter” after Commission approval. In addition, NERC asks that the version 1 Reliability Standard be retired as of the effective date of the version 2 standard, NUC-001-2.

II. Notices of Filings and Responsive Pleadings

12. Notice of the NERC petition was published in the *Federal Register*, with interventions and protests due on or before September 14, 2009.¹² ISO New England

¹¹ According to NERC, the phrase coping time refers to the period of time a nuclear plant can function without an AC power source. See 10 C.F.R. § 50.63 (NRC regulations).

¹² 74 Fed. Reg. 45193 (Sep. 1, 2009).

Inc., Exelon Corp., and the PSEG Companies filed timely motions to intervene.¹³ No comments or protests were submitted.

III. Discussion

A. Procedural Matters

13. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2009), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

B. Commission Determination

14. The Commission approves the version 2 Reliability Standard, NUC-001-2, effective as requested by NERC. The Commission also approves the retirement of the version 1 Reliability Standard, NUC-001-1, as of the effective date of the version 2 standard.

15. Version 2 of the Reliability Standard resolves ambiguities concerning use of the phrase "coping times" by eliminating the phrase and replacing it with language describing the conditions that nuclear plant generator operators and transmission entities must address in their interface agreements. Specific requirements for nuclear plant coping times are established in the NRC regulations.¹⁴ Thus, modified Requirement R9.3.5 states more clearly that the interface agreement address a nuclear plant generator operator's need for off-site power to meet its licensing requirements pertaining to restoration of both off-site AC power and on-site AC power. The Commission understands this to mean that such provisions would include all circumstances where a nuclear plant has lost off-site AC power or on-site AC power or both. Therefore, we find that NERC satisfies the Commission's directive in Order No. 716 to clarify Requirement R9.3.5.

16. With respect to the issue of documenting coordination procedures by separate business units in an integrated entity, the Commission agrees that version 2 of the NUC Reliability Standard adequately clarifies an entity's obligations. Requirement R2, footnote 1 of the version 2 Reliability Standard states that interface agreements "may include mutually agreed upon procedures or protocols in effect between entities or between departments of a vertically integrated system." Thus, when the departments, or

¹³ The PSEG Companies consist of Public Service Electric and Gas Company, PSEG Power LLC and PSEG Energy Resources & Trade LLC.

¹⁴ 10 C.F.R. § 50.63.

separate business parts or divisions, of an integrated utility develop procedures or protocols to satisfy nuclear plant licensing requirements, these agreements must be documented in compliance with NUC-001-2, Requirement R2. Furthermore, the modification explicitly addresses the Commission's concern. Therefore, we find that the modification addresses the Commission's concern in Order No. 716 and provides for the reliable operation of the Bulk-Power System by more clearly specifying an integrated utility's obligations in the Reliability Standard.

17. In conclusion, we find that the modified Reliability Standard, NUC-001-2, is just, reasonable, not unduly discriminatory or preferential, and in the public interest. Accordingly, we approve NUC-001-2 as mandatory and enforceable, effective as requested by NERC, i.e., the later of either April 1, 2010 or the first day of the first calendar quarter after Commission approval.

The Commission orders:

(A) NERC's petition requesting approval of version 2 of the Nuclear Plant Interface Coordination Reliability Standard, NUC-001-2, is hereby approved, as discussed in this order.

(B) NERC's petition to retire Reliability Standard NUC-001-1 as of the effective date of Reliability Standard NUC-001-2, is hereby approved, as discussed in this order.

By the Commission. Commissioner Norris voting present.

(S E A L)

Kimberly D. Bose,
Secretary.