

Federal Energy Regulatory Commission

Small Entity Compliance Guide Mandatory Reliability Standards (Order No. 693)



This Guide is prepared in accordance with the requirements of section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996. It is intended to help small entities—small businesses, small organizations and small governmental jurisdictions—to comply with the new rule, Order No. 693, adopted by the Federal Energy Regulatory Commission (FERC or Commission). As guidance, it is not binding on either the FERC or the public. FERC notes, however, that the regulation that is the basis for this booklet establishes requirements for all covered activities. For this reason, FERC strongly recommends that affected parties consult the regulation at 18 C.F.R. § 40 as well as applicable Reliability Standards, in addition to reading this booklet.

Although we have attempted to cover all parts of the rule that might be especially important to small entities, the coverage may not be exhaustive. This Guide may not apply in a particular situation based upon the circumstances, and the FERC retains the discretion to adopt approaches on a case-by-case basis that may differ from this Guide, where appropriate. Any decisions regarding a particular small entity will be based on the statute and regulations. The FERC may decide to revise this Guide without public notice to reflect changes in the FERC's approach to implementing a rule, or to clarify or update the text of the Guide.

INTRODUCTION

Historically, while the Commission regulated access to the transmission grid, it had no role in the approval or enforceability of Reliability Standards. Prior to 1965, reliability of the interconnected electric grid was managed by individual electric utilities, or groups of interconnected utilities, which were, to varying degrees, accountable to state and local regulators. Following the Northeast Blackout of 1965, regional reliability organizations and, later, the North American Electric Reliability Corporation (NERC), were formed to develop voluntary reliability rules and to encourage reliable operating practices.

In August 2005, the Energy Policy Act of 2005 (EPAct 2005) added to the Federal Power Act a new section 215 on reliability. It directed the Commission to promulgate new rules addressing establishment of an Electric Reliability Organization (ERO) to develop mandatory and enforceable Reliability Standards aimed at maintaining and improving the reliability of the nation's Bulk-Power System, which are subject to Commission review and approval. For the first time, the Commission was granted authority to oversee mandatory Reliability Standards governing the Nation's electric grid. The Commission finalized rules on the certification of an ERO and on procedures for the establishment, approval and enforcement of mandatory Reliability Standards. In July 2006, the Commission certified NERC as the ERO. Thus, NERC will develop and submit to the Commission for approval proposed Reliability Standards. Once approved by the Commission, the Reliability Standards may be enforced by the ERO, subject to Commission oversight or the Commission can independently enforce Reliability Standards.¹

Section 215(d)(2) of the FPA and the Commission's regulations provide that the Commission may approve a proposed Reliability Standard if it determines that the proposal is just, reasonable, not unduly discriminatory or preferential, and in the public interest. In Order No. 693, the Commission approved 83 Reliability Standards developed by the ERO, which became effective on June 18, 2007.

Purpose of this Booklet

This booklet was created to inform small users, owners and operators of the Bulk-Power System about the new FERC regulations that are in effect.

¹ 16 U.S.C. 824o(e)(3).

RULES, PROCEDURES AND RELIABILITY STANDARDS APPROVED BY THE COMMISSION

The Commission adopted Part 40 of its regulations, which applies to all users, owners and operators of the Bulk-Power System within the United States (other than Alaska or Hawaii), including, but not limited to, entities described in section 201(f) of the FPA. Section 201(f) of the FPA generally exempts the United States, a state or any political subdivision of a state, an electric cooperative that receives financing under the Rural Electrification Act of 1936 (7 U.S.C. 901 *et seq.*) or that sells less than 4,000,000 megawatt hours of electricity per year from Part II of the FPA. Part 40 requires each applicable user, owner or operator of the Bulk-Power System to comply with Commission-approved Reliability Standards developed by the ERO.

IMPACT ON SMALL ENTITIES

A small entity is required to comply with Commission-approved mandatory Reliability Standards if it is registered by a Regional Entity as a user, owner or operator of the Bulk-Power System. A Regional Entity is an entity which has entered into an agreement, approved by the Commission, with the ERO by which the ERO delegates authority its authority to propose and enforce Reliability Standards. Order No. 693 stated that the 83 Commission-approved Reliability Standards will apply to organizations that are registered by the ERO. Generally, the Regional Entity will register entities who use, own or operate the electrical generation resources, transmission lines, interconnections with neighboring systems, and associated equipment generally operated at voltages of 100 kV or higher.

Further, the ERO has established criteria for registering users, owners and operators of the Bulk-Power System that must comply with Reliability Standards and the Commission approved these criteria in Order No. 693. Generally, NERC will register those distribution providers or Load-Serving Entities that have a peak load of 25 MW or greater and are directly connected to the bulk electric system or are designated as a responsible entity as part of a required underfrequency load shedding program or a required undervoltage load shedding program. For generators, the ERO plans to register individual units of 20 MVA or greater that are directly connected to the bulk electric system, generating plants with an aggregate rating of 75 MVA or greater, any blackstart unit material to a restoration plan, or any generator “regardless of size, that is material to the reliability of the Bulk-Power System.”²

² More details are available at the NERC website. See <http://www.nerc.com/~org/>
or

STEPS A SMALL ENTITY MUST FOLLOW TO COMPLY WITH THE FINAL RULE

The Regional Entity or ERO will contact each entity it believes should be registered. If an entity believes that the ERO has made an error, it may submit a challenge in writing to the ERO within 21 days and, if still not satisfied, may lodge an appeal with the Commission. Therefore, a small entity may appeal to the Commission if it believes it should not be registered by the ERO for compliance with the Reliability Standards.

The ERO will identify those entities that must comply with Reliability Standards in three steps:

- the ERO will identify and register those entities that use, own or operate facilities that meet its definition of bulk electric system;
- each registered entity will be registered in one or more appropriate functional categories³ and
- the registered entity must then identify each Reliability Standard for which it is responsible by consulting a matrix provided by NERC on its website.⁴

Each Commission-approved Reliability Standard includes an “Applicability” provision that identifies the functional categories that must comply with a particular Reliability Standard. The Commission-approved Reliability Standards are available at http://www.nerc.com/~filez/standards/Reliability_Standards_Regulatory_Approved.html

If there is an entity that is not registered and the ERO later discovers that the entity should have been subject to the Reliability Standards, the ERO has the ability to add the entity to the registration list and to direct corrective action by that entity on a going-forward basis. It may not retroactively enforce Reliability Standards on those entities not on its registry.

ftp://www.nerc.com/pub/sys/all_updl/ero/Statement_of_Compliance_Registry_Criteria_Rev3.pdf.

³ The functional categories include: (1) reliability coordinator, (2) balancing authority, (3) planning authority, (4) transmission planner, (5) transmission operator, (6) transmission service provider, (7) transmission owner, (8) resource planner, (9) distribution provider, (10) generator owner, (11) generator operator, (12) load-serving entity, (13) purchasing-selling entity and (14) compliance monitor.

⁴ See <http://www.nerc.com/~org/>.

ALTERNATIVES THAT MAY LESSEN THE BURDEN ON SMALL ENTITIES

As discussed above, the ERO has developed criteria for identifying users, owners and operators of the Bulk-Power System and provides an opportunity to appeal a registration determination. In addition, the ERO permits (but does not require) an organization, such as a joint action agency, generation and transmission cooperative or similar organization to accept compliance responsibility on behalf of its members. Under this process, a “central” organization will be able to register as being responsible for compliance for itself and collectively on behalf of its members. Each member within a central organization may separately register to be accountable for a particular reliability function defined by the Reliability Standards. The ERO will not register an entity that has transferred responsibility for compliance with mandatory Reliability Standards to a joint action agency or other organization.

ADDITIONAL RESOURCES/LINKS

Additional information regarding registration and compliance with mandatory Reliability Standards is available at:

NERC Website: <http://www.nerc.com/>

Commission-approved Reliability Standards:
<http://www.ferc.gov/industries/electric/indus-act/reliability/standards.asp>

NERC Organization Registration and Certification: <http://www.nerc.com/~org/>

NERC Statement of Compliance Registry:
ftp://www.nerc.com/pub/sys/all_updl/ero/Statement_of_Compliance_Registry_Criteria_Rev3.pdf

NERC Compliance Registry: <http://www.nerc.com/~org/>

FERC Reliability Homepage: <http://www.ferc.gov/industries/electric/indus-act/reliability.asp>