

136 FERC ¶ 61,177  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

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

North American Electric Reliability Corporation

Docket No. RD11-7-000

ORDER APPROVING RELIABILITY STANDARD

(Issued September 15, 2011)

1. On April 19, 2011, the North American Electric Reliability Corporation (NERC), the Commission-certified Electric Reliability Organization (ERO), submitted a petition for Commission approval of Personnel Performance, Training and Qualification (PER) Reliability Standard PER-003-1 (Operating Personnel Credentials). This Reliability Standard requires reliability coordinators, transmission operators, and balancing authorities to ensure that system operators performing reliability-related tasks are certified through the NERC System Operator Certification Program when filling a real-time operating position responsible for control of the Bulk Electric System (BES). NERC also requests that the Commission approve the retirement of currently effective Reliability Standard PER-003-0 concurrent with the effective date of the proposed Reliability Standard PER-003-1.

2. In this order, the Commission finds proposed Reliability Standard PER-003-1 to be just, reasonable, not unduly discriminatory or preferential, and in the public interest. Therefore, the Commission approves Reliability Standard PER-003-1 with an effective date, i.e., the date on which applicable entities are subject to mandatory compliance with the Reliability Standard, of the first calendar day of the first calendar quarter twelve months after the date of Commission approval. The Commission also approves NERC's proposed assignment of associated Violation Risk Factors and Violation Severity Levels and the retirement of currently-effective Reliability Standard PER-003-0 on the effective date of PER-003-1.

**I. Background**

3. Section 215 of the FPA requires a Commission-certified ERO to develop mandatory and enforceable Reliability Standards, which are subject to Commission

review and approval. Once approved, the Reliability Standards may be enforced by the ERO, subject to Commission oversight, or by the Commission independently.<sup>1</sup>

4. Pursuant to section 215 of the FPA, the Commission established a process to select and certify an ERO<sup>2</sup> and, subsequently, certified NERC as the ERO.<sup>3</sup>

5. On March 16, 2007, the Commission issued Order No. 693 approving 83 Reliability Standards proposed by NERC, including Reliability Standard PER-003-0 (Operating Personnel Credentials).<sup>4</sup> Reliability Standard PER-003-0 contains a single Requirement, Requirement R1, which provides:

[e]ach Transmission Operator, Balancing Authority, and Reliability Coordinator shall staff all operating positions that meet both of the following criteria with personnel that are NERC-certified for the applicable functions: R1.1 Positions that have the primary responsibility, either directly or through communications with others, for the real-time operation of the interconnected Bulk Electric System. R1.2 Positions directly responsible for complying with NERC standards.

6. In Order No. 693, the Commission also directed the ERO to modify Reliability Standard PER-003-0 to: (i) specify the minimum competencies that a system operator must demonstrate to become and remain a certified system operator; and (ii) identify the minimum competencies operating personnel must demonstrate to be certified.<sup>5</sup> In addition, the Commission, noting that there are some long tenured unionized transmission

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<sup>1</sup> See 16 U.S.C. § 824o(e).

<sup>2</sup> *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).

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

<sup>4</sup> *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).

<sup>5</sup> *Id.* P 1408-1409.

operators who are very capable operators but who may be unable to secure certification, directed the ERO to consider grandfathering certification requirements for such transmission operator personnel.<sup>6</sup>

## II. NERC Petition

7. In its April 29, 2011 petition,<sup>7</sup> NERC requests Commission approval of proposed Reliability Standard PER-003-1, and concurrent retirement of currently-effective Reliability Standard PER-003-0. NERC states that Reliability Standard PER-003-1 ensures that all real-time operators responsible for reliability-related tasks are proficient to perform their role under normal and emergency conditions, and that non-NERC certified personnel performing any reliability-related task of a real-time operating position must be under the direct supervision of a NERC Certified System Operator.<sup>8</sup>

8. The stated purpose of Reliability Standard PER-003-1 is to ensure that system operators performing reliability-related tasks of the Reliability Coordinator, Balancing Authority and Transmission Operator are certified through the NERC System Operator Certification Program when filling a real-time operating position responsible for control of the Bulk Electric System. Proposed Reliability Standard PER-003-1 contains three main Requirements.

9. Requirement R1 requires each reliability coordinator to staff its real-time operating positions performing reliability coordinator reliability-related tasks with system operators who have demonstrated minimum competency in the “areas of competency” listed in the Sub-requirement, by obtaining and maintaining a valid NERC Reliability Operator certificate. Requirements R2 and R3 are identical except that they apply, respectively, to transmission operators and balancing authorities. Each of the three Requirements includes a Sub-requirement that lists the “areas of competency” that related to performing reliability coordinator reliability-related tasks, transmission operator reliability-related tasks, or balancing authority reliability-related tasks. Reliability Standard PER-003-1 further requires that non-NERC certified personnel performing a reliability-related task of an operating position must be under the direct supervision of a NERC Certified System Operator stationed at that operating position who maintains the

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<sup>6</sup> *Id.* P 1407 and 1409.

<sup>7</sup> *North American Electric Reliability Corp.*, April 29, 2011 Petition for Approval of a Personnel Performance, Training, and Qualifications Reliability Standard (NERC Petition).

<sup>8</sup> *Id.* at 10.

ultimate responsibility for the performance of the reliability-related tasks. NERC states that this explains the responsibilities of NERC Certified System Operators when non-NERC certified “trainee” personnel are performing any reliability-related task, and removes ambiguities in the existing standard PER-003-0.<sup>9</sup>

10. NERC states that proposed Reliability Standard PER-003-1 improves upon currently effective Reliability Standard PER-003-0 and addresses the Commission’s directives in Order No. 693.<sup>10</sup> NERC states that Reliability Standard PER-003-1 improves reliability by requiring system operators who are filling a real-time operating position for a reliability coordinator, balancing authority or transmission operator to be NERC certified through the NERC System Operator Certification Program and by requiring demonstration of minimum competencies in certain areas dependent upon the position being filled. NERC explains that its System Operator Certification Program provides the framework for the examinations used to obtain initial certification in one of four NERC credentials: transmission operator; balancing and interchange operator; balancing, interchange and transmission operator; and reliability operator. The System Operator Certification Program awards certification credentials to those individuals who demonstrate that they have attained sufficient knowledge relating to NERC Reliability Standards as well as the basic principles of Bulk-Power System operations. The certification must be maintained by accumulating a specified number of continuing education hours within a specified period of time. Last, NERC states that PER-003-1 satisfies the factors set forth in Order No. 672, which the Commission uses to determine whether a Reliability Standard is just, reasonable, not unduly discriminatory or preferential and in the public interest.<sup>11</sup>

11. NERC also requests Commission approval of an effective date for Reliability Standard PER-003-1 that is the first day of the first calendar quarter twelve months after the date of Commission approval. The effective date is the date upon which the new Reliability Standard becomes mandatory and enforceable. NERC also seeks Commission approval of the retirement of currently effective Reliability Standard PER-003-0 on the effective date of PER-003-1.

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<sup>9</sup> *Id.* at 21.

<sup>10</sup> *Id.*

<sup>11</sup> *Id.* at 12-33. *See 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).

12. With respect to the Order No. 693 directive that NERC consider “grandfathering” certain transmission operator personnel, NERC states that the standard drafting team extensively considered the issue and decided against allowing grandfathering.<sup>12</sup> NERC states that the major factors for not allowing grandfathering were as follows. First, the standards drafting team (SDT) concluded that passing a certification examination is NERC’s only available method to verify the minimum knowledge level of a System Operator. Second, the SDT found no convincing evidence that experienced system operators would not be able to pass a certification exam. Third, the SDT did not find that employers may face a labor relations issue if part of its workforce were required to hold a NERC System Operator Certification. Last, in response to the concern about smaller entities being able to retain personnel once they obtain a NERC System Operator Certification, which may make such system operators more “marketable,” the SDT found that the importance of verifying a system operator’s competency through the certification process is more important than possible personnel retention concerns.

13. Finally, NERC states that proposed Reliability Standard PER-003-1 includes clear and understandable consequences for a violation by assigning a violation risk factor (VRF) and violation severity level (VSL) to each primary requirement. Specifically, NERC has assigned a VRF of “High” and a VSL of “Severe” to each main Requirement.

### **III. Notice of Filing, Interventions and Comments**

14. On July 5, 2011, notice of NERC’s Filing was published in the *Federal Register* with interventions and protests due on or before July 18, 2011.<sup>13</sup> A motion to intervene was timely filed by American Municipal Power, Inc. (AMP). Pursuant to Rule 214 of the Commission’s Rules of Practice and Procedure,<sup>14</sup> the timely, unopposed motion to intervene serves to make AMP a party to this proceeding.

### **IV. Commission Determination**

15. The Commission finds Reliability Standard PER-003-1 to be just, reasonable, not unduly discriminatory or preferential and in the public interest.<sup>15</sup> By specifying the minimum competencies which must be demonstrated to obtain and maintain a NERC System Operator Certification, PER-003-1 improves the currently-effective Reliability Standard PER-003-0, and addresses the relevant directive in Order No. 693.

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<sup>12</sup> NERC Petition at 7.

<sup>13</sup> 76 Fed. Reg. 39,081-39,082 (July 5, 2011).

<sup>14</sup> 18 C.F.R. § 385.214 (2011).

<sup>15</sup> 16 U.S.C. § 824(d)(2).

16. The Commission also finds that the comprehensive discussion of “grandfathering” in NERC’s petition demonstrates that the standard drafting team met the Commission’s second directive to consider that issue.

17. Accordingly, the Commission approves Reliability Standard PER-003-1 and the proposed implementation plan. Specifically, the “effective date” for mandatory compliance with Reliability Standard PER-003-1 will be the first day of the first calendar quarter twelve months after the date of Commission approval. In addition the Commission approves the retirement of currently-effective Reliability Standard PER-003-0 concurrent with the effective date of Reliability Standard PER-003-1.

#### **V. Violation Risk Factors/Violation Severity Levels**

18. To determine a base penalty amount for a violation of a Reliability Standard Requirement, NERC must first determine an initial range for the base penalty amount. To do so, NERC assigns a VRF to each Requirement of a Reliability Standard that relates to the expected or potential impact of a violation of the Requirement on the reliability of the Bulk-Power System. The Commission has established guidelines for evaluating the validity of each VRF assignment.<sup>16</sup>

19. NERC also assigns each Requirement one of VSLs – low, moderate, high, and severe – as measurements for the degree to which the Requirement was violated in a specific circumstance. On June 19, 2008, the Commission issued an order establishing four guidelines for the development of VSLs.<sup>17</sup>

20. On May 19, 2011, the Commission accepted a revised approach to assigning VRFs and VSLs proposed by NERC to address potential confusion relating to the assignment of VRFs and VSLs to both a main requirement and associated components.<sup>18</sup> Under the new approach, each main Requirement will have a single VRF that will, if necessary, consider the main requirement and components in their entirety to the extent that the components contribute to the specific reliability outcome of the main requirement.<sup>19</sup>

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<sup>16</sup> See *North American Electric Reliability Corp.*, 119 FERC ¶ 61,145, *order on reh’g*, 120 FERC ¶ 61,145, at P 8-13 (2007).

<sup>17</sup> *North American Electric Reliability Corp.*, 123 FERC ¶ 61,284, at P 20-35, *order on reh’g & compliance*, 125 FERC ¶ 61,212 (2008).

<sup>18</sup> *North American Electric Reliability Corp.*, 135 FERC ¶ 61,166 (2011).

<sup>19</sup> *Id.* P 12.

VSLs will be assigned similarly based on an analysis of the performance required to satisfy a particular requirement.<sup>20</sup>

21. With respect to Reliability Standard PER-003-1, NERC has assigned a VRF of “High” and a VSL of “Severe” to each main Requirement.<sup>21</sup>

22. The Commission finds the proposed VRF and VSL assignments are consistent with Commission guidelines. Therefore, the Commission approves the VRFs and VSLs assigned to the three main Requirements in Reliability Standard PER-003-1.

## **VI. Information Collection Statement**

23. The Office of Management and Budget (OMB) regulations require approval of certain information collection requirements imposed by agency action.<sup>22</sup> The information contained here is also subject to review under section 3507(d) of the Paperwork Reduction Act of 1995.<sup>23</sup>

24. As stated above, Reliability Standard PER-003-1 clarifies which NERC certification(s) are applicable to each class of affected entities and identifies evidence required to show compliance. Currently effective Reliability Standard PER-003-0 currently requires each applicable entity to staff all operating positions that either have primary responsibility for the real-time operation of the Bulk Electric System or are directly responsible for complying with NERC standards with NERC-certified personnel. Therefore, the clarification provided in Reliability Standard PER-003-1 concerning the specific NERC certifications required will not impose a new burden on the affected entities. In addition, currently effective Reliability Standard PER-003-0 generally identifies the evidence that will be used to monitor compliance. The evidence identified in Reliability Standard PER-003-1 reflects the evidence that an affected entity would maintain for audit purposes under usual and customary industry practices. Specifically, it is usual and customary for affected entities to create, maintain and store the same or equivalent information identified in Reliability Standard PER-003-1 for the purposes of exhibiting compliance with Reliability Standard PER-003-0. For example, a list of real-

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<sup>20</sup> *Id.* P 13.

<sup>21</sup> Requirements R1, R2, and R3 of proposed Reliability Standard PER-003-1 are binary requirements written in a pass/fail format. Binary requirements are assigned a “severe” VSL designation.

<sup>22</sup> 5 CFR § 1320.11.

<sup>23</sup> 44 U.S.C. § 3507(d).

time operating positions and a list of System Operators assigned to those positions, information which is now specifically identified as necessary evidence of compliance in Reliability Standard PER-003-1, are necessary to conduct the analysis called for in Reliability Standard PER-003-0 to show compliance on a triennial basis. Finally, it is usual and customary for affected entities to maintain evidence of compliance for the full period in between audits, typically approximately every three years, in order to exhibit compliance with the Reliability Standards for the full audit period. Thus, this order does not impose new burdens on the affected entities.<sup>24</sup> The order relates to modification to an existing Reliability Standard, and the Commission does not expect it to affect entities' current reporting burden. Accordingly, we will submit this order to OMB for informational purposes only.

The Commission Orders:

(A) Reliability Standard PER-003-1, submitted by the North American Electric Reliability Corporation, is approved, as discussed in the body of this order.

(B) Reliability Standard PER-003-0 shall be retired upon the effective date of Reliability Standard PER-003-1, as discussed in the body of this order.

By the Commission.

( S E A L )

Kimberly D. Bose,  
Secretary.

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<sup>24</sup> 5 C.F.R. § 1320.3(b)(2)