

Public Reference Room during normal business hours (8:30 a.m. to 5 p.m. Eastern time) at 888 First Street, NE., Room 2A, Washington, DC 20426.

49. From the Commission's Home Page on the Internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

50. User assistance is available for eLibrary and the Commission's Web site during normal business hours from FERC Online Support at (202) 502-6652 (toll free at 1-866-208-3676) or e-mail at ferconlinesupport@ferc.gov, or the Public Reference Room at (202) 502-8371, TTY (202) 502-8659. E-mail the Public Reference Room at public.referenceroom@ferc.gov.

By direction of the Commission.

Kimberly D. Bose,
Secretary.

[FR Doc. E8-28087 Filed 11-25-08; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 40

[Docket No. RM08-12-000]

Western Electricity Coordinating Council Regional Reliability Standard Regarding Automatic Time Error Correction

November 20, 2008.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Pursuant to section 215(d)(2) of the Federal Power Act (FPA), the Federal Energy Regulatory Commission proposes to approve a regional Reliability Standard, BAL-004-WECC-01 (Automatic Time Error Correction), submitted to the Commission by the North American Electric Reliability Corporation (NERC). As a separate action, pursuant to section 215(d)(5) of the FPA, the Commission proposes to direct WECC to develop several modifications to the regional Reliability Standard. The proposed regional Reliability Standard would require balancing authorities within the Western Interconnection to maintain interconnection frequency within a predefined frequency profile and ensure

that time error corrections are effectively conducted in a manner that does not adversely affect the reliability of the Interconnection.

DATES: Comments are due January 12, 2009.

ADDRESSES: You may submit comments, identified by docket number by any of the following methods:

- *Agency Web Site:* <http://ferc.gov>.

Documents created electronically using word processing software should be filed in native applications or print-to-PDF format and not in a scanned format.

- *Mail/Hand Delivery:* Commenters unable to file comments electronically must mail or hand deliver an original and 14 copies of their comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street, NE., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT:

Jonathan First (Legal Information), Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502-8529.

Katherine Waldbauer (Legal Information), Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502-8232.

E. Nick Henery (Technical Information), Office of Electric Reliability, Division of Policy Analysis and Rulemaking, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502-8636.

SUPPLEMENTARY INFORMATION:

1. Pursuant to section 215(d)(2) of the Federal Power Act (FPA), the Federal Energy Regulatory Commission proposes to approve a regional Reliability Standard, BAL-004-WECC-01 (Automatic Time Error Correction), submitted to the Commission by the North American Electric Reliability Corporation (NERC). As a separate action, pursuant to section 215(d)(5) of the FPA, the Commission proposes to direct the Western Electricity Coordinating Council (WECC) to develop several modifications to the regional Reliability Standard. The proposed regional Reliability Standard would require balancing authorities within the WECC region to implement an automatic time error correction procedure for the purpose of maintaining Interconnection frequency within a predefined frequency profile and ensuring that time error corrections are effectively conducted in a manner

that does not adversely affect reliability.¹

2. The proposed Reliability Standard would benefit the reliable operation of the Bulk-Power System by creating an operating environment that encourages system operators to minimize the difference between the net actual and net scheduled interchanges, thus reducing the number of manual time error corrections required by the Western Interconnection Time Monitor, and reducing accumulated inadvertent interchange energy between Western Interconnection balancing authorities. The Commission also proposes to accept three related definitions for inclusion in the NERC Reliability Standards Glossary (NERC glossary). The Commission further proposes modifications to the violation risk factors for the regional Reliability Standard. Pursuant to Order No. 672,² the Commission may accept two types of regional Reliability Standards that differ from continent-wide NERC Reliability Standards, provided they are otherwise just, reasonable, not unduly discriminatory or preferential and in the public interest, as required under the statute: (1) A regional difference that is more stringent than the continent-wide Reliability Standard, including a regional difference that addresses matters that the continent-wide Reliability Standard does not, and (2) a regional Reliability Standard that is necessitated by a physical difference in the Bulk-Power System. As discussed below, the Commission is proposing to find that the regional Reliability Standard proposed by WECC is more stringent than the applicable continent-wide NERC Reliability Standard.

I. Background

3. Section 215 of the FPA requires a Commission-certified Electric Reliability Organization (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.³

¹ The proposed regional Reliability Standard will be in effect within the Western Interconnection-wide WECC Regional Entity. In this proceeding, the Commission proposes to take action to make mandatory the regional Reliability Standard as it applies within the U.S. portion of the Western Interconnection.

² *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 (2006), *order on reh'g*, Order No. 672-A, FERC Stats. & Regs. ¶ 31,212 (2006).

³ See FPA 215(e)(3), 16 U.S.C. 824o(e)(3).

4. In February 2006, the Commission issued Order No. 672, implementing section 215 of the FPA. Pursuant to Order No. 672, the Commission certified one organization, NERC, as the ERO.⁴ Reliability Standards that the ERO proposes to the Commission may include Reliability Standards that are proposed to the ERO by a Regional Entity.⁵ When the ERO reviews a regional Reliability Standard that would be applicable on an Interconnection-wide basis and that has been proposed by a Regional Entity organized on an Interconnection-wide basis, the ERO must rebuttably presume that the regional Reliability Standard is just, reasonable, not unduly discriminatory or preferential, and in the public interest.⁶

5. In reviewing the ERO's submission, the Commission will give due weight to the ERO's technical expertise, except concerning the effect of a proposed Reliability Standard on competition.⁷ The Commission will also give due weight to the technical expertise of a Regional Entity organized on an Interconnection-wide basis with respect to a proposed Reliability Standard to be applicable within that Interconnection.⁸

6. The Commission may approve a proposed Reliability Standard if the Commission finds it is just, reasonable, not unduly discriminatory or preferential, and in the public interest.⁹ In addition, the Commission explained in Order No. 672 that "uniformity of Reliability Standards should be the goal and the practice, the rule rather than the exception."¹⁰ Yet, the Commission recognized that "the goal of greater uniformity does not, however, mean that regional differences cannot exist."¹¹ The Commission then provided the following guidance:

As a general matter, we will accept the following two types of regional differences, provided they are otherwise just, reasonable, not unduly discriminatory or preferential, and in the public interest, as required by the statute: (1) a regional difference that is more stringent than the continent-wide Reliability Standard, including a regional difference that addresses matters that the continent-wide Reliability Standard does not; and (2) a regional Reliability Standard that is

necessitated by a physical difference in the Bulk-Power System.¹²

7. On March 16, 2007, the Commission issued Order No. 693, approving 83 of the 107 Reliability Standards originally proposed by NERC.¹³ In addition, pursuant to section 215(d)(5) of the FPA, the Commission directed NERC to develop modifications to 56 of the 83 approved Reliability Standards.¹⁴ Relevant to the immediate proceeding, the Commission approved continent-wide Reliability Standard BAL-004-0 (Time Error Correction), but noted that WECC's regional approach appears to serve as a more effective means of accomplishing time error corrections.¹⁵

8. On April 19, 2007, the Commission approved delegation agreements between NERC and each of the eight Regional Entities, including WECC.¹⁶ Pursuant to such agreements, the ERO delegated responsibility to the Regional Entities to enforce the mandatory, Commission-approved Reliability Standards. In addition, the Commission approved, as part of each delegation agreement, a Regional Entity process for developing regional Reliability Standards. In the Delegation Agreement Order, the Commission accepted WECC as a Regional Entity organized on an Interconnection-wide basis and accepted WECC's Standards Development Manual which sets forth the process for development of WECC's Reliability Standards.¹⁷

9. In a June 2007 Order, the Commission approved eight regional Reliability Standards that apply in the WECC region.¹⁸

¹² *Id.*

¹³ *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).

¹⁴ 16 U.S.C. 824o(d)(5). Section 215(d)(5) provides, "The Commission * * * may order the Electric Reliability Organization 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 new or modified reliability standard appropriate to carry out this section."

¹⁵ Order No. 693, FERC Stats. & Regs. ¶ 31,242 at P 377, 382. The Commission also directed NERC to develop a modification to BAL-004-0 to include Levels of Non-Compliance and additional Measures for Requirement R3.

¹⁶ *See North American Electric Reliability Corp.*, 119 FERC ¶ 61,060, *order on reh'g*, 120 FERC ¶ 61,260 (2007) (Delegation Agreement Order).

¹⁷ *Id.* PP 469-470.

¹⁸ *North American Electric Reliability Corp.*, 119 FERC ¶ 61,260.

The Proposed WECC Regional Reliability Standard

A. NERC Filing

10. On July 29, 2008, NERC submitted for Commission approval, in accordance with section 215(d)(1) of the FPA,¹⁹ regional Reliability Standard BAL-004-WECC-01, which would apply to balancing authorities within the Western Interconnection. NERC states that the primary purpose of the regional Reliability Standard is to reduce the number of time error corrections imposed on the Western Interconnection by requiring balancing authorities that operate synchronously to the Western Interconnection to automatically correct for their contribution to time error. According to NERC, BAL-004-WECC-01 provides the added benefit of a superior approach over the current NERC manual time error correction (BAL-004-0) for assigning costs and providing the equitable payback of inadvertent interchange.²⁰

11. NERC states that Automatic Time Error Correction or "ATEC" has been a regional reliability practice in WECC, effectively reducing manual time error corrections, reducing the number of hours of manual time error correction for the Western Interconnection, and reducing the accumulated inadvertent interchange in the Western Interconnection since 2003. NERC asserts that the proposed WECC regional Reliability Standard is more stringent or covers matters not addressed by NERC's continent-wide Reliability Standards, BAL-004-0 and BAL-006-1 (Inadvertent Interchange).

12. Proposed regional Reliability Standard BAL-004-WECC-01 contains four requirements, summarized as follows:

¹⁹ 16 U.S.C. 824o (2006).

²⁰ The NERC glossary defines "interchange" as the energy transfers that cross balancing authority boundaries, and defines "inadvertent interchange" as the difference between the balancing authority's net actual interchange and its net scheduled interchange. Within a synchronous Interconnection, during real-time operations, a balancing authority may engage in "inadvertent interchange," if it experiences an operational problem that prevents its net actual interchange of energy from matching its net scheduled interchange with other balancing authorities within the Interconnection. This discrepancy will indicate what is referred to as a "time error"—i.e., because the Interconnection will operate at a frequency (number of cycles per second) that is different from the Interconnection's scheduled frequency of 60 Hz (60 cycles per second). Time error also serves as a means to measure of how much and which balancing authority within the Interconnection is at fault. To correct the time error using the ATEC method, it is necessary for the balancing authority that was at fault to adjust the Interconnection's frequency so that it equalizes its prior inadvertent energy exchange with the Interconnection.

⁴ *See North American Electric Reliability Corp.*, 116 FERC ¶ 61,062 (*ERO Certification Order*), *order on reh'g and compliance*, 117 FERC ¶ 61,126 (2006).

⁵ 16 U.S.C. 824o(e)(4).

⁶ 16 U.S.C. 824o(d)(3); 18 CFR 39.5(b).

⁷ 16 U.S.C. 824o(d)(2).

⁸ *Id.*

⁹ *Id.*

¹⁰ Order No. 672, FERC Stats. & Regs. ¶ 31,204 at P 290.

¹¹ *Id.* P 291.

13. Requirement R1. Based on the ATEC methodology, this requirement is necessary to ensure that all balancing authorities continuously participate in Automatic Time Error Correction through their automatic generation control systems. The sub-requirement (R1.1.) limits the payback amount to minimize any operating metric violations, while R1.2. addresses actions for cases when invalidated implementation of the ATEC methodology occurs and requires adjustments.

14. Requirement R2. Requires a balancing authority that operates in any automatic generation control operating mode other than ATEC to notify all other balancing authorities of its operating mode. To avoid large accumulation of inadvertent interchanges, Requirement R2 limits a balancing authority's use of operating modes other than ATEC to a maximum of 24 hours per calendar quarter.

15. Requirement R3. Requires balancing authorities to have the capability to switch between different automatic generation control operating modes in case of islanding or loss of frequency telemetry.

16. Requirement R4. Requires each balancing authority to calculate and record its hourly "Primary Inadvertent Interchange" when hourly checkout is complete.

17. NERC also proposes the following three new definitions.

18. Automatic Time Error Correction: A frequency control automatic action that a Balancing Authority uses to offset its frequency contribution to support the Interconnection's scheduled frequency.

19. Primary Inadvertent Interchange: The component of area (n) inadvertent interchange caused by the regulating deficiencies of area (n) itself.

20. Secondary Inadvertent Interchange: The component of area (n) inadvertent interchange caused by the regulating deficiencies of area (i).

21. In its filing, NERC asserts that the ATEC procedure set forth in the proposed regional Reliability Standard has been effective in mitigating three problems relating to correction of time errors in the Western Interconnection. First, the ATEC procedure has reduced the need for the WECC Time Monitor to conduct manual time error corrections from 216 manual time error corrections in 2003 to 106 manual time error corrections in 2007. Second, since time error is directly related to inadvertent interchange, the ATEC procedure reduces both time error and accumulated inadvertent interchange. Third, according to NERC, the ATEC procedure better identifies the balancing

authorities responsible for inadvertent interchange and provides a more equitable and more immediate payback of the inadvertent interchange to the balancing authorities that should receive it (i.e., the balancing authorities that did not cause the inadvertent interchange and supported the interconnection's scheduled frequency) than the current NERC time error correction process in BAL-004-0.

22. NERC also states that the proposed regional Reliability Standard satisfies the factors set forth in Order No. 672 that the Commission considers when determining whether a proposed Reliability Standard is just, reasonable, not unduly discriminatory or preferential and in the public interest.²¹ According to NERC, BAL-004-WECC-01 is clear and unambiguous regarding what is required and who is required to comply (balancing authorities). NERC also states that the proposed regional Reliability Standard has clear and objective measures for compliance and achieves a reliability goal (namely, creating an operating environment that encourages system operators to minimize the difference between the net actual and net scheduled interchanges, and to better control frequency) effectively and efficiently.

23. NERC notes that, during the NERC posting process, one commenter criticized the proposed regional Reliability Standard as using intentionally imbalanced interchange schedules to correct time error without adjusting the scheduled interconnection frequency, and offered another approach. According to NERC, WECC considered the commenter's concerns and respectfully disagrees, explaining that the two approaches produce only a very slight variability in the calculation of the Control Performance Standard1 (CPS1).²²

B. Development of the Regional Reliability Standard

24. NERC states that on August 7, 2007, WECC submitted a request to NERC to approve, and submit to the Commission for approval, BAL-004-WECC-01. NERC states that WECC developed the regional Reliability

Standard following its Process for Developing and Approving WECC Standards and, therefore, NERC rebuttably presumes that the standard is just, reasonable, and not unduly discriminatory or preferential, and in the public interest. According to NERC, the proposed regional Reliability Standard establishes requirements that are more stringent than, or covers areas not covered by, current continent-wide NERC Reliability Standards, thereby meeting the Commission criteria for consideration of a regional Reliability Standard.

25. Upon receipt of WECC's request, NERC commenced an evaluation of the regional Reliability Standard and initiated a 45-day public comment period. WECC responded to the comments presented during the NERC posting and requested NERC to present the regional Reliability Standard for board of trustees approval. During the evaluation, NERC identified shortcomings that WECC agreed to address by submitting a revised version of the regional Reliability Standard to the NERC board, which approved the regional Reliability Standard on March 26, 2008.

II. Discussion

26. The Commission proposes to approve BAL-004-WECC-01, effective as proposed by NERC (the first quarter after approval by the Commission). In addition, the Commission proposes to direct modifications of BAL-004-WECC-01 pursuant to the Process for Developing and Approving WECC Standards and relevant NERC Rules of Procedure. The Commission also proposes to approve the three proposed new definitions, Automatic Time Error Correction, Primary Inadvertent Interchange and Secondary Inadvertent Interchange. The Commission proposes to approve the Violation Risk Factors, but proposes specific modifications to the Violation Risk Factors as well.

A. Regional Reliability Standard

27. Pursuant to section 215(d) of the FPA, the Commission proposes to approve BAL-004-WECC-01 as just, reasonable, not unduly discriminatory or preferential and in the public interest. Further, the Commission proposes to find that the regional Reliability Standard is more stringent than the related continent-wide NERC Reliability Standard, BAL-004-1 (Time Error Correction).²³ Pursuant to section 215(d)(5) of the FPA, the Commission also proposes to direct modifications to

²¹ Order No. 672, FERC Stats. & Regs. ¶ 31,204 at P 323-337.

²² A balancing authority's Area Control Error (ACE) equation shows the instantaneous difference between a balancing authority's net actual interchange and net scheduled interchange. The Control Performance Standard (CPS1) is a statistical measure of the variability of a balancing area's ACE equation over a specified period. Thus, the balancing authority's CPS1 serves as an operating metric that demonstrates how closely the balancing authority is operating to the interconnection's frequency schedule.

²³ See Order No. 672, FERC Stats. & Regs. ¶ 31,204 at P 291.

BAL-004-WECC-01, as discussed below.

28. Pursuant to the continent-wide NERC Reliability Standard BAL-004-1, when accumulated time error increases to a predetermined level, the Interconnection's "time monitor" instructs all balancing authorities in the Interconnection to manually change the scheduled Interconnection's frequency until the Interconnection's accumulated time error has been reduced to a set level. However, the requirements of BAL-004-1 do not require each balancing authority to determine what portion of the Interconnection's time error that it alone caused.

29. Under the proposed WECC ATEC methodology, each balancing authority in the Western Interconnection is required to calculate its "primary inadvertent interchange"²⁴ and enter its "primary inadvertent interchange" into its ACE equation. When all balancing authorities input their portion of "primary inadvertent interchange" into their ACE equation,²⁵ they continuously correct for their own "primary time error" and, in turn, reduce the Western Interconnection's total time error.

30. This differs from the methodology used in NERC's BAL-004-1, in that ATEC is designed to place the responsibility to correct primary time error on the balancing authority that causes it. Further, as explained by NERC, the proposed regional Reliability Standard is more stringent or covers matters not addressed by the related continent-wide NERC Reliability Standards BAL-004-0 and BAL-006-1. It appears that the proposed regional Reliability Standard provides for automatic correction of time error, using a more refined primary inadvertent interchange term than that included in the continent-wide NERC Reliability Standards for manual correction of time error.²⁶ The Commission is proposing to find that the regional Reliability Standard proposed by WECC is more stringent than the continent-wide NERC Reliability Standard, because it provides for continuous capture of inadvertent interchange, and thereby (1) contributes to better operation of balancing authorities by operators, and (2) ensures that discrepancies between a balancing area's net scheduled interchange and its net actual interchange are adjusted more

quickly and accurately. Based on this understanding, pursuant to section 215(d) of the FPA, the Commission proposes to approve BAL-004-WECC-01 as just, reasonable, not unduly discriminatory or preferential and in the public interest.

31. During the NERC posting of the WECC ATEC standard, one commenter asserted that BAL-004-WECC-01 does not maintain the integrity of the CPS1 reliability requirement because the WECC ATEC methodology uses intentionally imbalanced interchange schedules to correct time error without adjusting the scheduled interconnection frequency, and thus the adjustment to the scheduled frequency is not transparent. Contending that the failure to have balanced interchange schedules causes a failure to comply with necessary conditions to maintain the integrity of the CPS1 criteria, the commenter argues, the WECC ATEC methodology poses a threat to the reliability of the Interconnection.

32. According to NERC, WECC disagrees with the commenter because the increase in variability of CPS1 measurement that occurs with the use of the ATEC methodology is still well within the threshold defined by NERC's Reliability Standard BAL-001-0 (Real Power Balancing Control Performance), and the only difference between the two methods is a slight variability in the calculation of CPS1.²⁷ When balancing the slight loss of precision in CPS1 scores with the benefit of fewer manual time error corrections, WECC does not believe the ultimate impact of using the ATEC procedure is a threat to reliability.²⁸ According to NERC and WECC, empirical data from the use of the ATEC procedure over the past four years confirm this view. Further, WECC states, implementation of the commenter's proposed alternative—requiring each WECC balancing authority to undertake significant changes to Automatic Generation Control technology—could have a potential cost in excess of \$1 million, for a marginal increase in precision (not accuracy) of calculation of the operating metric CPS1.

33. Order No. 672 provides that a Reliability Standard must be designed to achieve a specified reliability goal and must contain a technically sound means to achieve this goal.²⁹ Likewise, the Reliability Standard should be based on actual data and lessons learned from

actual operations.³⁰ The Commission believes that the ATEC procedure satisfies these considerations. NERC and WECC make clear that balancing authorities in the Western Interconnection have applied the ATEC methodology since 2003, improving time error and reducing the need for manual adjustments. Moreover, the ACE equation with ATEC currently being used in the Western Interconnection to maintain the interconnection frequency is identical in value to the ACE equation with ATEC recommended by the commenter, and differs from the commenter's proposed ACE equation with ATEC only in form.³¹ Thus, we consider the use of the ATEC procedure to be compliant with Order No. 672's directive that the proposed Reliability Standard achieves a reliability goal and contains a technically sound means to achieve the goal, and is based on actual data and lessons learned.

B. Proposed Definitions

34. As mentioned above, the Commission proposes to accept the three new definitions, Automatic Time Error Correction, Primary Inadvertent Interchange and Secondary Inadvertent Interchange.

C. Modifications Required by the Commission

35. While the Commission is satisfied with the substance of the regional Reliability Standard, the Commission has identified a number of concerns with regard to the style and format of the Standard.³²

36. Requirement R1.2 provides in part, "[l]arge accumulations of primary inadvertent [energy] point to an invalid implementation of ATEC, loose control, metering or accounting errors. A

³⁰ *Id.*

³¹ As noted at footnote 22, *supra*, CPS1 is the operating metric that demonstrates how well a balancing authority is controlling its area (i.e., the extent to which a balancing authority is meeting the Interconnection's scheduled frequency and preventing inadvertent interchange). To comply with NERC Standard BAL-001, the balancing authority must operate in such a way that CPS1 will be calculated to be equal to or greater than 100 percent. The commenter's recommended ACE equation with ATEC term allows CPS1 to be calculated with slightly greater precision than the WECC-proposed ACE equation with ATEC. However, WECC points out and NERC agrees, that "[p]resent Balancing Authority CPS1 scores in the Western Interconnection are generally well above the 100% minimum NERC requirement" (NERC filing at 20; see also <http://www.nerc.com/filez/cps.html>, showing that as of May 2007, the average CPS1 score of the WECC entities is 185 percent, and the lowest is 156 percent). Thus, any reductions in CPS1 due to the above calculation issue would have only a minimal effect on the measurement of overall interconnection reliability.

³² *Cf.*, *North American Electric Reliability Corporation*, 119 FERC ¶ 61,260 at P 54–55.

²⁴ The balancing authority causing the frequency error is said to have created "primary time error" and caused "primary inadvertent interchange." The other balancing authorities in the Interconnection responding to correct system frequency are said to have created "secondary time error" and caused "secondary inadvertent interchange."

²⁵ See n.20, *supra*.

²⁶ NERC filing at 10.

²⁷ NERC filing at 31.

²⁸ *Id.*

²⁹ Order No. 672, FERC Stats. & Regs. ¶ 31,204 at P 324.

[balancing authority] in such a situation should identify the source of the error(s) and make the corrections.”³³ The phrases “large accumulation” and “in such a situation” are not defined and thus, while likely obvious in many circumstances, leaves to individual interpretation when a “large” amount of primary inadvertent has accumulated. Likewise, the phrase “in such a situation” is not sufficiently clear. The Commission proposes to direct WECC to develop revisions to this provision so that a balancing authority will know with specificity the circumstances that trigger the actions required by Requirement R1.2.

37. Requirement R2 states that “[e]ach [balancing authority] while synchronously connected to the Western Interconnection will be allowed to have ATEC out of service for a maximum of 24 hours per calendar quarter, for reasons including maintenance and testing”³⁴ (emphasis added). The Commission proposes to direct WECC to develop a modification that clarifies whether the “maximum of 24 hours per calendar quarter” refers to a single occurrence of up to 24 hours in the calendar quarter, or whether several occurrences are permitted as long as they add up to 24 hours or less within a calendar quarter.

D. Violation Risk Factors

1. Background

38. As part of its compliance and enforcement program, NERC must assign a “lower,” “medium,” or “high” violation risk factor to each Requirement of each mandatory Reliability Standard to associate a violation of the Requirement with its potential impact on the reliability of the Bulk-Power System. Violation risk factors are defined as follows:

39. High Risk Requirement: (a) Is a requirement that, if violated, could directly cause or contribute to Bulk-Power System instability, separation, or a cascading sequence of failures, or could place the Bulk-Power System at an unacceptable risk of instability, separation, or cascading failures; or (b) is a requirement in a planning time frame that, if violated, could, under emergency, abnormal, or restorative conditions anticipated by the preparations, directly cause or contribute to Bulk-Power System instability, separation, or a cascading sequence of failures, or could place the Bulk-Power System at an unacceptable risk of instability, separation, or

cascading failures, or could hinder restoration to a normal condition.

40. Medium Risk Requirement: (a) Is a requirement that, if violated, could directly affect the electrical state or the capability of the Bulk-Power System, or the ability to effectively monitor and control the Bulk-Power System, but is unlikely to lead to Bulk-Power System instability, separation, or cascading failures; or (b) is a requirement in a planning time frame that, if violated, could, under emergency, abnormal, or restorative conditions anticipated by the preparations, directly affect the electrical state or capability of the Bulk-Power System, or the ability to effectively monitor, control, or restore the Bulk-Power System, but is unlikely, under emergency, abnormal, or restoration conditions anticipated by the preparations, to lead to Bulk-Power System instability, separation, or cascading failures, nor to hinder restoration to a normal condition.

41. 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.³⁵

42. In the Violation Risk Factor Order, the Commission addressed violation risk factors filed by NERC for Version 0 and Version 1 Reliability Standards. In that order, the Commission used five guidelines for evaluating the validity of each violation risk factor assignment: (1) Consistency with the conclusions of the Blackout Report, (2) consistency within a Reliability Standard, (3) consistency among Reliability Standards with similar Requirements, (4) consistency with NERC’s proposed definition of the violation risk factor level, and (5) assignment of violation risk factor levels to those Requirements in certain Reliability Standards that co-mingle a higher risk reliability objective and a lower risk reliability objective.³⁶

43. The Commission notes that in NERC’s July 29, 2008 petition, a “lower” violation risk factor is assigned to only

the main Requirements and no violation risk factor is assigned to any of the sub-Requirements. The Commission understands that NERC, and WECC, will apply the violation risk factor for the main Requirement to any violation of a sub-Requirement, unless separate violation risk factors are assigned to the Requirement and the sub-Requirement. The Commission also notes that neither NERC nor WECC provided in the petition a discussion explaining the justification of the proposed violation risk factor assignments.

2. Commission Proposal

44. The Commission proposes to direct the ERO to modify the violation risk factor assigned to BAL-004-WECC-01, Requirements R1, R2, R3, and R4 from “lower” to “medium” as discussed below. In the absence of justification for the proposed violation risk factor assignments, the Commission generally believes that each of the subject Requirements provides an element necessary for a balancing authority’s participation in time error correction within the Western Interconnection. As such, the Commission believes that the potential reliability risk that a violation of any of the subject Requirements presents with regard to participation in time error correction in the Western Interconnection is the same.

3. Requirements R1, R2, R3, and R4

45. Proposed regional Reliability Standard BAL-004-WECC-01, Requirements R1, R2, R3, and R4, collectively, have the reliability objective to provide for a balancing authority’s participation in time error correction within the Western Interconnection. Requirement R1 specifies a methodology and establishes that a balancing authority must continuously operate utilizing time error correction methodology in its automatic generation control system. Requirement R2 establishes that a balancing authority that operates its automatic generation control using any other methodology other than time error correction methodology must notify all other balancing authorities of its operating mode. Requirement R3 establishes that a balancing authority must have the capability to switch between different automatic generation control modes. Requirement R4 establishes that each balancing authority must calculate and record its hourly primary inadvertent interchange to correct the time error.

46. The continent-wide NERC Reliability Standard BAL-004-0, Requirement R3 shares the same reliability objective as the proposed

³³ NERC filing, Exhibit A at 4.

³⁴ *Id.*

³⁵ *North American Electric Reliability Corp.*, 119 FERC ¶ 61,145, at P 9 (Violation Risk Factor Order), order on reh’g, 120 FERC ¶ 61,145 (2007) (Violation Risk Factor Rehearing Order).

³⁶ For a complete discussion of each factor, see the Violation Risk Factor Order at P 19–36.

regional Reliability Standard: Namely, to provide for participation of all balancing authorities in time error correction. The Commission has previously determined that participation in an interconnection's time error correction is critical and can directly affect the state of the Bulk-Power System.³⁷ The Commission explained that, "[i]f a balancing authority does not participate in time error correction when called upon, coordinated actions with the other balancing authorities to correct the deviation will not reflect that balancing authority's contribution to the deviation and, thus, those corrective actions will not be fully effective, thereby adversely affecting the state of the Bulk-Power System."³⁸ The Commission determined that the potential reliability risk that a violation of Reliability Standard BAL-004-0, Requirement R3 presents is consistent with the definition of a "medium" violation risk factor. Accordingly, BAL-004-0, Requirement R3 is assigned a "medium" violation risk factor.

47. The Commission expects consistency among violation risk factor assignments of Requirements that share the same reliability objective.³⁹ As explained previously in the NOPR, BAL-004-WECC-01, Requirements R1, R2, R3, and R4, collectively, and Reliability Standard BAL-004-0, Requirement R3 have the same reliability objective—to ensure a balancing authority's participation in time error correction. BAL-004-WECC-01 seeks to accomplish this objective regionally through automatic correction, and BAL-004-0 seeks to do so nationally through manual correction. Therefore, consistent with Guideline 3, the Commission proposes to direct the ERO to modify the assigned violation risk factor for BAL-004-WECC-01, Requirements R1, R2, R3, and R4 from "lower" to "medium" and requests comment on this proposal.

E. Violation Severity Levels

48. For each Requirement of a Reliability Standard, NERC states that it will also define up to four violation severity levels—lower, moderate, high and severe—as measurements of the degree to which the Requirement was violated. For a specific violation of a particular Requirement, NERC or the Regional Entity will establish the initial value range for the base penalty amount by finding the intersection of the

applicable violation risk factor and violation severity level in the Base Penalty Amount Table in Appendix A of NERC's Sanction Guidelines.⁴⁰

49. In its July 29, 2008 petition, NERC proposes violation severity levels that apply generally to all violations of the Requirements of BAL-004-WECC-01 and not to any one specific Requirement. Therefore, the Commission proposes to direct the ERO to submit new violation severity levels for each Requirement and sub-Requirement that has been assigned a violation risk factor. With regard to the assignment of violation risk factors, the Commission reiterates that it understands that NERC and WECC will apply the violation risk factor for the main Requirement to any violation of a sub-Requirement, unless separate violation risk factors are assigned to the Requirement and the sub-Requirement.

50. In summary, proposed Regional Reliability Standard BAL004-WECC-01 appears to be just, reasonable, not unduly discriminatory or preferential, and in the public interest. Accordingly, the Commission proposes to approve regional Reliability Standard BAL004-WECC-01 as mandatory and enforceable. In addition, the Commission proposes to direct the ERO to modify the proposed regional reliability standard and the proposed violation risk factors and violation severity levels, as described above. The Commission invites comments on these proposals.

III. Information Collection Statement

51. The Office of Management and Budget (OMB) regulations require approval of certain information collection requirements imposed by agency rules.⁴¹ 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 an agency rule will not be penalized for failing to respond to these collections of information unless the collections of information display a valid OMB control number. The Paperwork Reduction Act (PRA)⁴² requires each federal agency to seek and obtain OMB approval before undertaking a collection of information directed to ten or more

persons, or continuing a collection for which OMB approval and validity of the control number are about to expire.⁴³

52. This order approves and requires modifications of one regional Reliability Standard that was submitted by NERC as the ERO. Section 215 of the FPA authorizes the ERO to submit Reliability Standards to provide for the reliable operation of the Bulk-Power System. Pursuant to the statute, the ERO must submit each Reliability Standard that it proposes to be made effective to the Commission for approval.⁴⁴

53. The proposed regional Reliability Standard, which applies to approximately 35 balancing authorities in the U.S. portion of the Western Interconnection, does not require balancing authorities to file information with the Commission. It does require balancing authorities to develop and maintain certain information for a specified period of time, subject to inspection by WECC. However, the Commission does not believe that approval of the WECC regional Reliability Standard will result in an increase in reporting burdens as compared to current practices in WECC. As NERC indicates, since 2003, WECC has used the automatic time error correction practice set forth in BAL-004-WECC-01. Thus, the Commission finds that the requirement to develop and maintain information in the regional Reliability Standard mirrors customary and usual business practice and, therefore, imposes minimal burden on balancing authorities and eliminates any possible confusion between current industry practice and the standard, and that the proposed modifications to the current Reliability Standard effected by this proposed rule will not increase the reporting burden nor impose any additional information collection requirements.

54. The Commission does not foresee any impact on the reporting burden for small businesses. However, we will submit this proposed rule to OMB for informational purposes.

55. Interested persons may obtain information on the reporting requirements by contacting: Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426 [Attention: Michael Miller, Office of the Executive Director, Phone: (202) 502-8415, fax: (202) 273-0873, e-mail: michael.miller@ferc.gov]. Comments on the requirements of this order may also be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington,

³⁷ *North American Electric Reliability Corporation*, 121 FERC ¶ 61,179, at P 43 (2007).

³⁸ *Id.*

³⁹ Violation risk factor Guideline 3.

⁴⁰ See *North American Electric Reliability Corp.*, 119 FERC ¶ 61,248, at P 74 (2007) (directing NERC to develop up to four violation severity levels (lower, moderate, high, and severe) as measurements of the degree of a violation for each requirement and sub-requirement of a Reliability Standard and submit a compliance filing by March 1, 2008).

⁴¹ 5 CFR 1320.8.

⁴² 44 U.S.C. 3501–3520.

⁴³ 44 U.S.C. 3502(3)(A)(i), 44 U.S.C. 3507(a)(3).

⁴⁴ See 16 U.S.C. 824(d).

DC 20503 [Attention: Desk Officer for the Federal Energy Regulatory Commission], e-mail: oir_submission@omb.eop.gov.

IV. Environmental Analysis

56. The Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any action that may have a significant adverse effect on the human environment.⁴⁵ The Commission has categorically excluded certain actions from this requirement as not having a significant effect on the human environment. Included in the exclusion are rules that are clarifying, corrective, or procedural or that do not substantially change the effect of the regulations being amended.⁴⁶ The actions proposed herein fall within this categorical exclusion in the Commission's regulations.

V. Regulatory Flexibility Act Certification

57. The Regulatory Flexibility Act of 1980 (RFA)⁴⁷ generally requires a description and analysis of final rules that will have significant economic impact on a substantial number of small entities. The RFA mandates consideration of regulatory alternatives that accomplish the stated objectives of a proposed rule and that minimize any significant economic impact on a substantial number of small entities. The Small Business Administration's Office of Size Standards develops the numerical definition of a small business. (See 13 CFR 121.201.) For electric utilities, a firm is small if, including its affiliates, it is primarily engaged in the transmission, generation and/or distribution of electric energy for sale and its total electric output for the preceding twelve months did not exceed four million megawatt hours.

58. In drafting a rule an agency is required to: (1) Assess the effect that its regulation will have on small entities; (2) analyze effective alternatives that may minimize a regulation's impact; and (3) make the analyses available for public comment.⁴⁸ In its NOPR, the agency must either include an initial regulatory flexibility analysis (initial RFA)⁴⁹ or certify that the proposed rule will not have a "significant impact on

a substantial number of small entities."⁵⁰

59. As noted above, the Commission has determined that the regional Reliability Standard will not impose any new burden on balancing authorities within the Western Interconnection, as the practice has been used in the region since 2003. Further, the regional reliability standard would apply to about 35 balancing areas in the Western Interconnection. The Commission estimates that of these balancing areas, approximately two to four qualify as small entities, because the total electric output of each of these entities for the preceding twelve months did not exceed four million megawatt hours. Thus, few small entities are impacted by the proposed rule. Therefore, the Commission certifies, for informational purposes only, that the regional Reliability Standard will not have a significant impact on a substantial number of small entities.

VI. Comment Procedures

60. The Commission invites interested persons to submit comments on the matters and issues proposed in this notice to be adopted, including any related matters or alternative proposals that commenters may wish to discuss. Comments are due January 12, 2009. Comments must refer to Docket No. RM08-12-000, and must include the commenter's name, the organization they represent, if applicable, and their address in their comments.

61. The Commission encourages comments to be filed electronically via the eFiling link on the Commission's Web site at <http://www.ferc.gov>. The Commission accepts most standard word processing formats. Documents created electronically using word processing software should be filed in native applications or print-to-PDF format and not in a scanned format. Commenters filing electronically do not need to make a paper filing.

62. Commenters that are not able to file comments electronically must send an original and 14 copies of their comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street, NE., Washington, DC 20426.

63. All comments will be placed in the Commission's public files and may be viewed, printed, or downloaded remotely as described in the Document Availability section below. Commenters on this proposal are not required to serve copies of their comments on other commenters.

⁵⁰ 5 U.S.C. 605(b).

VII. Document Availability

64. In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the Internet through FERC's Home Page (<http://www.ferc.gov>) and in FERC's Public Reference Room during normal business hours (8:30 a.m. to 5 p.m. Eastern time) at 888 First Street, NE., Room 2A, Washington, DC 20426.

65. From FERC's Home Page on the Internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

66. User assistance is available for eLibrary and the FERC's website during normal business hours from FERC Online Support at 202-502-6652 (toll free at 1-866-208-3676) or email at ferconlinesupport@ferc.gov, or the Public Reference Room at (202) 502-8371, TTY (202) 502-8659. E-mail the Public Reference Room at public.referenceroom@ferc.gov.

List of Subjects in 18 CFR Part 40

Electric power, Electric utilities, Reporting and recordkeeping requirements.

By direction of the Commission.

Kimberly D. Bose,
Secretary.

[FR Doc. E8-28088 Filed 11-25-08; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG-2008-1095]

RIN 1625-AA09

Drawbridge Operation Regulation; Chehalis, Hoquiam, and Wishkah Rivers, Aberdeen and Hoquiam, WA, Schedule Change

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to modify the drawbridge operation regulation for the Washington State drawbridges across the Chehalis, Hoquiam, and Wishkah Rivers at Grays

⁴⁵ Order No. 486, *Regulations Implementing the National Environmental Policy Act of 1969*, 52 FR 47,897 (Dec. 17, 1987), FERC Stats. & Regs., Regulations Preambles 1986-1990 ¶ 30,783 (1987).

⁴⁶ 18 CFR 380.4(a)(2)(ii).

⁴⁷ 5 U.S.C. 601-612.

⁴⁸ 5 U.S.C. 601-604.

⁴⁹ 5 U.S.C. 603(a).