

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

North American Electric Reliability
Corporation

Docket No. RD23-1-000

**MOTION TO INTERVENE AND COMMENTS OF
TRANSMISSION ACCESS POLICY STUDY GROUP**

The Transmission Access Policy Study Group (“TAPS”) appreciates the opportunity to submit comments on the October 28, 2022 Petition for Approval of Proposed Reliability Standards EOP-011-3 and EOP-012-1 (“Petition”)¹ of the North American Electric Reliability Corporation (“NERC”). As NERC states in the Petition, “[w]hile work remains to be done, the proposed Reliability Standards represent an important and timely step forward in NERC’s efforts to assure the reliability of the Bulk-Power System in cold weather.”² TAPS applauds the hard work of the Standard Drafting Team (“SDT”) and supports NERC’s request for Federal Energy Regulatory Commission (“Commission” or “FERC”) approval of the proposed standards.

As explained below, based on the language of proposed EOP-012-1, the SDT’s intent is clear, and there is only one reasonable way to construe (1) how compliance with the obligation to implement freeze protection measures that “provide capability to operate” at a generator’s Extreme Cold Weather Temperature³ will be judged; and (2) how a Generator Owner can comply with Requirement R2. But due to potentially

¹ NERC, Petition for Approval of Proposed Reliability Standards (Oct. 28, 2022), eLibrary No. 20221028-5393 (“Petition”).

² Petition at 7.

³ Petition, Ex. A-2, Proposed Reliability Standard EOP-012-1 (“EOP-012-1”), Requirements R1 and R2.

confusing wording, we are concerned that these requirements could be misunderstood as to the two important issues noted above. We therefore request that the Commission include, in any order on EOP-012-1, a clear statement of its understanding of Requirements R1 and R2 as to the issues described herein.

I. MOTION TO INTERVENE

TAPS is an association of transmission-dependent utilities (“TDUs”) in 35 states, promoting open and non-discriminatory transmission access.⁴ TAPS members have long recognized the importance of grid reliability. As TDUs, TAPS members are users of the Bulk Power System and are highly reliant on the reliability of facilities owned and operated by others for the transmission service required to meet TAPS members’ loads. In addition, many TAPS members participate in the development of and are subject to compliance with NERC reliability standards, including the proposed standards at issue in this proceeding. TAPS and its members are thus directly affected by the proposed reliability standards and have an interest in the instant proceeding. No other party can adequately represent the interests of TAPS. Accordingly, TAPS should be permitted to intervene with full rights as a party.

⁴ Jane Cirrincione, Northern California Power Agency, is TAPS Chair. Dave Osburn, Oklahoma Municipal Power Authority, is Vice Chair. Terry Huval is TAPS Executive Director.

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II. COMMENTS

Proposed EOP-011-3 and EOP-012-1 address a complicated subject and were developed on a tight deadline, with efforts—appropriately—primarily focused on the technical content of the standards. It is thus unsurprising that some drafting issues remain. NERC states⁵ that in the ongoing Phase 2 of the standards development project, “[a]s the standard drafting team addresses [the remaining standards-related recommendations from the Joint Inquiry Report], it may propose further enhancements to the proposed Reliability Standards to improve clarity or further advance reliability.” TAPS appreciates NERC’s recognition that clarity could be further improved. In particular, while we believe that there is only one reasonable way to read Requirements R1 and R2 of EOP-012-1 as to the issues described below, further clarifications in Phase 2 of the standards development process will reduce the potential for misunderstandings.

The technical content of a standard is of paramount importance; but a standard cannot achieve its purpose unless it communicates that technical content clearly and comprehensibly. Good drafting is not a luxury. Indeed, one of the fundamental criteria

⁵ Petition at 6.

that each reliability standard must meet is that it be “clear and unambiguous regarding what is required and who is required to comply. Users, owners, and operators of the Bulk-Power System must know what they are required to do to maintain reliability.”⁶ TAPS will continue to advocate for greater clarity in Phase 2, including as to the issues described herein, which were originally raised by TAPS in response to the first ballot of EOP-012-1,⁷ and reiterated by TAPS members in response to the second ballot.⁸

To enhance clarity for registered entities and Regional Entities as they implement EOP-012-1, and provide guidance to the SDT as it develops EOP-012-2, TAPS requests that the Commission explicitly state its understanding of Requirements R1 and R2 of EOP-012-1.⁹

A. Compliance with requirements to implement freeze protection measures that “provide capability to operate” at the Extreme Cold Weather Temperature

EOP-012-1, Requirement R1, applicable to new generating units, requires Generator Owners to “[i]mplement *freeze protection measures that provide capability to operate* for a period of not less than twelve (12) continuous hours at the Extreme Cold Weather Temperature for the unit(s), assuming a concurrent twenty (20) mph wind speed

⁶ *Rules Concerning Certification of the Elec. Reliability Org.; & Procs. for the Establishment, Approval, & Enforcement of Elec. Reliability Standards*, Order No. 672, 114 FERC ¶ 61,104, P 325 (2006).

⁷ Petition Ex. F, Comment Report at 748-49 (comments of TAPS).

⁸ *Id.* at 1490-91 (comments of Oklahoma Municipal Power Authority), 1492 (comments of Taunton Municipal Lighting Plant), 1526-27 (comments of Florida Municipal Power Agency); *see also id.* at 1489-90 (comments of Utility Services, making the same points).

⁹ TAPS makes this request only because, while Commission guidance would help avoid the potential for confusion, there is only one reasonable interpretation of the proposed standard as to each of the issues set out herein. A truly vague or ambiguous requirement would need to be revised through the standards development process, rather than interpreted in the first instance by the Commission. *See, e.g., Mandatory Reliability Standards for the Bulk-Power Sys.*, Order No. 693, 118 FERC ¶ 61,218, P 1311, *order on reh’g*, Order No. 693-A, 120 FERC ¶ 61,053 (2007).

on any exposed Generator Cold Weather Critical Components.”¹⁰ The corresponding requirement for existing generators, Requirement R2, directs each Generator Owner to “ensure its generating unit(s) add new or modify existing freeze protection measures as needed to *provide the capability to operate* for a period of not less than one (1) hour at the unit(s) Extreme Cold Weather Temperature.”¹¹

The plain language of Requirements R1 and R2, as well as their associated Measures, make clear that Generator Owners are required to implement freeze control measures that they reasonably believe, based on good engineering judgment and their experience with their particular units and weather patterns, will result in the unit being able to operate continuously for the applicable time at the Extreme Cold Weather Temperature.¹² If a Generator Owner has implemented such freeze protection measures, and then experiences a Forced Outage constituting a Generator Cold Weather Reliability Event, after having operated for less than the time stated in Requirement R1 or Requirement R2 (as applicable), its prior compliance with R1 or R2 will not be re-judged based on hindsight. Instead, pursuant to Requirements R6 and R7, the Generator Owner will develop and implement a Corrective Action Plan to address any vulnerabilities in its existing freeze protection measures revealed by the Forced Outage.

¹⁰ EOP-012-1, Requirement R1 (emphasis added).

¹¹ EOP-012-1, Requirement R2 (emphasis added).

¹² See EOP-012-1, Measure M1 (“Acceptable evidence may include, but is not limited to, the following . . . : Documentation of cold weather preparedness plan, documentation of *design features*, any declaration that contains dated documentation to support constraints identified by the Generator Owner”) (emphasis added) and Measure M2 (“Acceptable evidence may include the following . . . : Identification of generating units [sic] minimum temperature per Part 3.5.2 which is equal to or less than the unit’s Extreme Cold Weather Temperature, documentation of freeze protection measures, cold weather preparedness plan, and CAP(s)”). The “minimum temperature per Part 3.5.2” referenced for existing generators is the “[*d*]esign temperature; [*h*]istorical operating temperature; or [*c*]urrent cold weather performance temperature *determined by an engineering analysis*.” EOP-012-1, Requirement R3.5.2 (emphasis added).

A contrary interpretation would not be just and reasonable. Reliability standards can and should require the good-faith application of engineering expertise and site-specific knowledge. But, as noted by panelists at the April 27-28, 2022 FERC, NERC, and Regional Entities Technical Conference on Improving Winter-Readiness of Generating Units,¹³ a cold weather event cannot be simulated ahead of time to allow full functional testing of a unit's set of winterization measures. The SDT, appropriately, does not attempt to circumvent this reality by mandating clairvoyance in Requirements R1 and R2; instead, Requirements R6 and R7 ensure that Generator Owners will use the lessons learned from any Generator Cold Weather Reliability Event to improve their freeze protection measures going forward.

B. Corrective Action Plans pursuant to Requirement R2

Requirement R2 of EOP-012-1 states that if an existing generating unit is not capable of operating for one hour at its Extreme Cold Weather Temperature, the Generator Owner is to “develop a Corrective Action Plan (CAP) for the identified issues, including identification of any needed modifications to the cold weather preparedness plan required under Requirement R3.”¹⁴ As explained below, based on a logical reading of Requirement R2, as well as Measure M2, it is clearly the SDT's intent that a Generator Owner complies with Requirement R2 *either* by having adequate freeze protection measures in place, *or*, if necessary, by developing a Corrective Action Plan. But instead of laying out these two means of complying with Requirement R2, separated by the word

¹³ See, e.g., Speaker Materials of Andrew Valencia, Lower Colorado River Authority at 8, Docket No. AD22-4-000 (April 29, 2022), eLibrary No. 20220429-4008.

¹⁴ EOP-012-1, Requirement R2.

“or,” the proposed text of Requirement R2 conflates the two options into a requirement that “the Generator Owner shall *ensure its generating unit(s) add new or modify existing freeze protection measures* as needed to provide the capability to operate for a period of not less than one (1) hour at the unit(s) Extreme Cold Weather Temperature.”¹⁵ In other words, if a generating unit’s existing freeze protection measures do not meet the one-hour capability benchmark, then the Generator Owner, to “ensure [the unit] add[s] new or modif[ies] existing freeze protection measures” consistent with R2’s standard, would develop a Corrective Action Plan. This understanding of Requirement R2 is further borne out by Measure M2, which states that “[e]ach Generator Owner will have dated evidence that demonstrates it has freeze protection measures for its unit(s) in accordance with R2, *or* it has developed a CAP for the identified issues.”¹⁶

While the SDT’s intent could be expressed more straightforwardly by structuring R2 differently, there is no other reasonable reading of the requirement; it would be nonsensical to find a Generator Owner that has developed a Requirement R2 Corrective Action Plan noncompliant because its freeze protection measures do not yet meet the one-hour standard.¹⁷ Indeed, had the SDT intended that result, there would be no reason

¹⁵ EOP-012-1, Requirement R2 (emphasis added).

¹⁶ EOP-012-1, Measure M2 (emphasis added).

¹⁷ Requiring that every generator be capable of operating at its Extreme Cold Weather Temperature on the effective date of Requirement R2 would be unreasonable. To upgrade freeze protection measures consistent with R2, Generator Owners must “calculate the Extreme Cold Weather Temperature for each of their generating unit(s), identify Generator Cold Weather Critical Components, and perform the necessary engineering study and analysis to identify and implement freeze protection measures that would provide the required performance capability.” Petition at 52. The proposed implementation period for Requirement R2 recognizes “the significant engineering, design, analysis, and implementation efforts required to support such work across all applicable units in a Generator Owner’s fleet, as well as resource constraints that may make an earlier implementation especially challenging.” *Id.* And, because the proposed implementation period may nevertheless be insufficient in some cases, R2 allows for Corrective Action Plans.

for Requirement R2 to mention Corrective Action Plans at all; it would simply have stated that existing generating units must meet the one-hour standard. Any efforts to become compliant would then have been considered mitigating activities pursuant to NERC's Compliance Monitoring and Enforcement Program, not a Corrective Action Plan.

Despite its facially confusing wording, a review of proposed Requirement R2 demonstrates that, as intended by the SDT, R2 requires Generator Owners either to have adequate freeze protection measures in place, or, if necessary, to develop a Corrective Action Plan for the identified issues.

CONCLUSION

TAPS respectfully requests that in any order on proposed EOP-011-3 and EOP-012-1, the Commission clearly state its understanding of Requirements R1 and R2 of proposed EOP-012-1 with respect to the issues described above.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that I have this day caused the foregoing document to be served upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated on this 1st day of December, 2022.

/s/ Rebecca J. Baldwin

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