Supporting Statement for
FERC-725E, Mandatory Reliability Standards
For the Western Electric Coordinating Council

The Federal Energy Regulatory Commission (Commission or FERC) requests that the Office of Management and Budget (OMB) review and approve the proposed revisions, in the Notice of Proposed Rulemaking (NOPR, issued 10/21/2010) in Docket No. RM09-19, to FERC-725E (Mandatory Reliability Standards for the Western Electric Coordinating Council), for a three-year period.[1] FERC-725E (OMB Control No. 1902-0246) is contained in 18 Code of Federal Regulations (CFR), Part 40. This NOPR proposes to approve a new regional Reliability Standard, IRO-006-WECC-1[2], which will replace currently effective regional Reliability Standard IRO-STD-006-0 (approved by the Commission on June 8, 2007). (Reliability Standard IRO-STD-006-0 was one of the Reliability Standards contained in FERC Docket RR07-11 and OMB subsequently approved on 10/10/2007 in OMB ICR 200706-1902-001).)

Background

In the aftermath of the 1965 Blackout in the northeast United States, the electric industry established the North American Electric Reliability Council, a voluntary reliability organization and predecessor to the North American Electric Reliability Corporation (NERC). Since its inception, NERC has developed Operating Policies and Planning Standards that provide voluntary guidelines for operating and planning the North American bulk-power system. In April 2005, NERC adopted "Version 0" reliability standards that translated the NERC Operating Policies, Planning Standards and compliance requirements into a comprehensible set of measurable standards. While NERC developed a compliance enforcement program to ensure compliance with the reliability standards it developed, industry compliance was still voluntary and not subject to mandatory enforcement penalties. Although NERC's efforts have been important in maintaining the reliability of the nation's bulk-power system, NERC itself recognized the need for mandatory, enforceable reliability standards and has been a proponent of legislation to establish a FERC-jurisdictional ERO that would propose and enforce mandatory reliability standards.

On February 3, 2006, the Commission issued Order No. 672, implementing section 215 of the FPA.[3] In 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

1 Because the final rule in RM09-15 was pending OMB review, the request for review and approval of the reporting requirements in the NOPR in Docket RM09-19 could not be submitted until completion of the OMB review.
2 The proposed standard is available on NERC's website at http://www.nerc.com/files/IRO-006-WECC-1_Final.pdf .

3 *Rules Concerning Certification of the Electric Reliability Organization; 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).

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).

Standards that are proposed to the ERO by a Regional Entity.[5] A Regional Entity is an entity that has been approved by the Commission to enforce Reliability Standards under delegated authority from the ERO.[6] 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.[7]

Order No. 693 (RM06-16-000 Final Rule)

On March 16, 2007, the Commission issued Order No. 693, a Final Rule that added part 40, to the Commission's regulations. The Final Rule stated that this part applies to all users, owners and operators of the Bulk-Power System within the United States (other than Alaska or Hawaii). It also requires that each Reliability Standard identify the subset of users, owners and operators to which that particular Reliability Standard applies. The new regulations also required that each Reliability Standard approved by the Commission will be maintained on the ERO's Internet website for public inspection.

The Commission approved 83 of 107 proposed Reliability Standards, six of the eight proposed regional differences, and the Glossary of Terms used in Reliability Standards as developed by the North American Electric Reliability Corporation. NERC was certified by the Commission as the Electric Reliability Organization (ERO) responsible for developing and enforcing mandatory Reliability Standards. Those Reliability Standards meet the requirements of section 215 of the FPA and Part 39 of the Commission's regulations. However, although the Commission believes it is in the public interest to make these Reliability Standards mandatory and enforceable, the Commission also found that much work remained to be done. Specifically, the Commission believed that many of these Reliability Standards require significant improvement to address, among other things, the recommendations of the Blackout Report. Therefore, in accordance with section 215(d)(5), the Commission required the ERO to submit significant improvements to 56 of the 83 Reliability Standards that were approved as mandatory and enforceable. The remaining 24 Reliability Standards remain pending at the Commission until further information is provided.

RR07-11-000 ORDER APPROVING REGIONAL RELIABILITY STANDARDS FOR THE WESTERN INTERCONNECTION

5 16 U.S.C. § 824o (e)(4).

6 16 U.S.C. §§ 824o(a)(7) ana (e)(4).

7 16 U.S.C. § 824o (d)(3); 18 C.F.R. § 39.5 (b).

On March 26, 2007, the North American Electric Reliability Corporation submitted for approval eight proposed regional Reliability Standards for the Western Electricity Coordinating Council (WECC). These regional Reliability Standards apply to the Western Interconnection in addition to the 83 mandatory Reliability Standards developed by NERC that took effect on a nation-wide basis in June 2007.[8] In accordance with section 215(d)(2) of the FPA, the Commission approved the regional Reliability Standards. The approval of the regional Reliability Standards allows for the continuation of certain reliability practices that were currently in effect in the Western Interconnection. In addition, the Commission directed WECC to develop several specific modifications to the regional Reliability Standards when WECC develops, through its Reliability Standards development process, permanent, replacement Reliability Standards.

RM09-19-000 Notice of Proposed Rulemaking

On October 21, 2010, the Commission issued a Notice of Proposed Rulemaking (NOPR) to approve regional Reliability Standard IRO-006-WECC-1 (Qualified Transfer Path Unscheduled Flow Relief) as submitted for approval by NERC. (The purpose of this Reliability Standard is to mitigate transmission overloads due to unscheduled flow on qualified transfer paths). A "Qualified Transfer Path means a transfer path designated by the **WECC** Operating Committee as being qualified for **WECC** unscheduled flow mitigation Specifically, the NERC continent-wide Reliability Standard IRO-006-4 Reliability Standard requires a Reliability Coordinator experiencing a potential or actual System Operating Limit ("SOL") or Interconnection Reliability Operating Limit ("IROL") violation to take appropriate actions to relieve transmission loading relief using local or Interconnection-wide procedures (Requirement R1). However, the proposed regional Reliability Standard goes beyond the NERC requirements by establishing a process to reduce schedules that prevent potential overloads during the next operating hour. Furthermore, IRO-006-WECC-1 R1 requires each Reliability Coordinator to approve (actively or passively) or deny a request submitted by a Transmission Operator of a Qualified Transfer Path within five minutes. IRO-006-WECC-1 Requirement R2 requires each Balancing Authority to approve the curtailment requests to the schedules as submitted, implement alternative actions, or a combination thereof that collectively meet the Relief Requirement.

While the Commission proposes to approve this regional Reliability Standard IRO-006-WECC-1, NERC's petition for approval raised some concerns for which the Commission is seeking additional information. Depending upon the responses received, the Commission may in the Final Rule, as a separate action under section 215(d)(5) of the FPA, direct the WECC to develop modifications to the regional Reliability Standard to address its concerns.

A. Justification

8 *See Mandatory Reliability Standards for the Bulk-Power System*, Order No. 693, 118 FERC ¶ 61,218 (March 16, 2007), 72 Fed. Reg. 16,416 (April 4, 2007).

1. CIRCUMSTANCES THAT MAKE THE COLLECTION OF INFORMATION NECESSARY

Since 1935, the Commission has regulated certain electric utility activities under the FPA. Under FPA Sections 205 and 206, the Commission oversees the rates, terms and conditions of sales for resale of electric energy and transmission service in interstate commerce by public utilities. The Commission must ensure that those rates, terms and conditions are just and reasonable and not unduly discriminatory or preferential. One of the Commission's continuing priorities is to promote electricity grid reliability. Recent legislation has enhanced the Commission's efforts to strengthen the reliability of the interstate grid by granting it with new authority.

A common cause of the past three major regional blackouts was violation of NERC's then Operating Policies and Planning Standards. During July and August 1996, the west coast of the United States experienced two cascading blackouts caused by violations of voluntary Operating Policies.[9] In response to the outages, the Secretary of Energy convened a task force to advise the Department of Energy (DOE) on issues needed to be addressed to maintain the reliability of the bulk-power system. In a September 1998 report, the task force recommended, among other things, that federal legislation should grant more explicit authority for FERC to approve and oversee an organization having responsibility for bulk-power reliability standards.[10] Further, the task force recommended that such legislation provide for Commission jurisdiction for reliability of the bulk-power system and FERC implementation of mandatory, enforceable reliability standards.

Electric reliability legislation was first proposed after issuance of the September 1998 task force report and has been a common feature of comprehensive electricity bills since that time. A stand-alone electric reliability bill was passed by the Senate unanimously in 2000. In 2001, President Bush proposed making electric Reliability Standards mandatory and enforceable as part of the National Energy Policy.[11]

The Electricity Modernization Act of 2005 was enacted into law as part of the Energy Policy Act of 2005 by President Bush on August 8, 2005. Subtitle A of the Electricity Modernization Act amended the Federal Power Act (FPA) by adding a new section 215, titled "Electric Reliability." Section 215 of the FPA buttresses the Commission's efforts to strengthen the reliability of the interstate grid through the grant of new authority which provides for a

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9 Information is available in The Electric Power Outages in the Western United States, July 2-3, 1996 (at http://www.nerc.com/docs/docs/pubs/doerept.pdf) and the 1996 System Disturbances Review of Selected 1996 Electric System Disturbances in North America, August 2002 (at http://www.nerc.com/files/disturb96.pdf).
Information on the major blackout in 2003 is available in the Final Report on the August 14, 2003 Blackout in the United States and Canada: Causes and Recommendations (April 2004) at https://reports.energy.gov/BlackoutFinal-Web.pdf.

10 Maintaining Reliability in a Competitive U.S. Electricity Industry, Final report of the Task Force on Electric System Reliability, Secretary of Energy Advisory Board, U.S. Department of Energy (September 1998), at 25-27, 65-67, at http://www.nerc.com/docs/docs/pubs/esrfinal.pdf

11 Report of the National Energy Policy Development Group, May 2001, at p. 7-6 at http://www.ne.doe.gov/pdfFiles/nationalEnergyPolicy.pdf

system of mandatory Reliability Standards developed by the Electric Reliability Organization (ERO)[12] and reviewed and approved by FERC.

Congress directed the development of mandatory, Commission-approved, enforceable electricity Reliability Standards. Section 215 of the FPA provides for a system of mandatory, enforceable Reliability Standards. Under the new electric power reliability system enacted by the Congress, the United States will no longer rely on voluntary compliance by participants in the electric industry with industry reliability requirements for operating and planning the Bulk-Power System. The Commission believes that, to achieve this goal, it is necessary to have a strong ERO that promotes excellence in the development and enforcement of Reliability Standards.

A mandatory Reliability Standard should not reflect the "lowest common denominator" in order to achieve a consensus among participants in the ERO's Reliability Standard development process. Therefore, the Commission will carefully review each Reliability Standard submitted and, where appropriate, later remand if necessary, an inadequate Reliability Standard to ensure that it protects reliability, has no undue adverse effect on competition, and can be enforced in a clear and even-handed manner.

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.[13] 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."[14] Yet, the Commission recognized that "the goal of greater uniformity does not, however, mean that regional differences cannot exist.[15] 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.[16]

Western Electricity Coordinating Council (WECC)

12 "Electric Reliability Organization" or "ERO" means the organization certified by the Commission the purpose of which is to establish and enforce Reliability Standards for the Bulk-Power System, subject to Commission review.

13 16 U.S.C. § 824o (d)(2).

14 Order No. 672 at P 290.

15 *Id.* at 291.

16 *Id.*

WECC was formed on April 18, 2002, by the merger of Western Systems Coordinating Council (WSCC), Southwest Regional Transmission Association (SWRTA), and Western Regional Transmission Association (WRTA). The formation of WECC was accomplished over a four-year period through the cooperative efforts of WSCC, SWRTA, WRTA, and other regional organizations in the West. WECC's interconnection-wide focus is intended to complement current efforts to form Regional Transmission Organizations (RTO) in various parts of the West.

WECC is responsible for coordinating and promoting electric system reliability. In addition to promoting a reliable electric power system in the Western Interconnection, WECC supports efficient competitive power markets, assures open and non-discriminatory transmission access among members, provides a forum for resolving transmission access disputes, and provides an environment for coordinating the operating and planning activities of its members as set forth in the WECC Bylaws.

The WECC region encompasses a vast area of nearly 1.8 million square miles. It is the largest and most diverse of the ten regional councils of the North American Electric Reliability Council. WECC's service territory extends from Canada to Mexico. It includes the Canadian provinces of Alberta and British Columbia, the northern portion of Baja California, Mexico, and all or portions of the 14 western states in between. Transmission lines span long distances connecting the Pacific Northwest with its abundant hydroelectric resources to the arid Southwest with its large coal-fired and nuclear resources. WECC and the nine other regional reliability councils were formed due to national concern regarding the reliability of the interconnected bulk power systems, the ability to operate these systems without widespread failures in electric service, and the need to foster the preservation of reliability through a formal organization.

WECC developed a Reliability Management System (RMS) pursuant to which transmission operators in the Western Interconnection agreed by contract to be bound by the WECC reliability criteria and sanctions for non-compliance. According to WECC, the criteria are recognized by all WECC members but are contractually binding only on members that signed an RMS Agreement.[17]

Among the 83 Reliability Standards approved by the Commission in Order No. 693 was Reliability Standard IRO-006-3 entitled "Reliability Coordination – Transmission Loading Relief."[18] The Commission also directed the ERO to develop modifications to IRO-006-3 and other approved Reliability Standards to address specific issues identified by the Commission, pursuant to section 215(d)(5) of the FPA.

NERC Reliability Standard IRO-006-3 establishes a Transmission Loading Relief (TLR) process for use in the Eastern Interconnection to alleviate loadings on the system by curtailing or changing transactions based on their priorities and according to different levels of TLR procedures. Requirement R2.2 provides that "the equivalent Interconnection-wide transmission

17 *See* WECC April 17, 2007 Comments at 16.

18 *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).

loading relief procedure for use in the Western Interconnection is the WECC Unscheduled Flow Mitigation Plan." This document provides detailed instructions for addressing unscheduled flows, e.g., parallel path flows, based on the topography and configuration of the Bulk-Power System in the Western Interconnection. The Unscheduled Flow Mitigation Plan identifies nine "steps" to address unscheduled flows. In the first three steps, the Mitigation Plan relies on phase angle regulators, series capacitors, and back-to-back DC lines to mitigate contingencies without curtailing transactions. Steps four and above involve curtailment of transactions.

On March 19, 2009, the Commission approved IRO-006-4, which modified the prior version of the Reliability Standard and addressed the Commission's directives from Order No. 693.[19] The Commission subsequently accepted an erratum to that Reliability Standard that corrected the reference in Requirement R1.2 to the Unscheduled Flow Mitigation Plan (Mitigation Plan).[20]

The regional Reliability Standard applies to transmission operators, load-serving entities and balancing authorities within the Western Interconnection. Currently effective IRO-STD-006-0 addresses the mitigation of transmission overloads due to unscheduled line flow on specified paths.

NERC stated that the revised regional Reliability Standard addresses the Commission's prior concerns by removing load-serving entities as an applicable entity, no longer referring to receivers, and addressing formatting changes required by NERC and the Commission's June 8, 2007 Order. Further, NERC stated the proposed Reliability Standard is justified on the basis that the regional Reliability Standard's requirements are more stringent than those contained in the associated NERC Reliability Standard IRO-006-4. NERC explained that the NERC Reliability Standard IRO-006-4 requires a reliability coordinator experiencing a potential or actual System Operating Limit (SOL) or Interconnection Reliability Operating Limit (IROL) violation to take appropriate actions to relieve transmission loading using local or Interconnection-wide procedures.

According to NERC, Requirement R1 of the proposed regional Reliability Standard IRO-006-WECC-1 goes beyond the NERC requirements by establishing a process to reduce schedules that prevents potential overloads during the next operating hour. In addition, the proposed Reliability Standard requires each reliability coordinator to approve or deny a request submitted by a Qualified Transfer Path transmission operator within five minutes. Requirement R2 of the proposed regional Reliability Standard requires each balancing authority to approve

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19 *Modification of Interchange and Transmission Loading Relief Reliability Standards; and Electric Reliability Organization Interpretation of Specific Requirements of Four Reliability Standards*, Order No. 713-A, 126 FERC ¶ 61,252 (2009).

20 *North American Electric Reliability Corp.*, Docket No. RD09-9-000 (Dec. 10, 2009) (unpublished letter order). Note that Reliability Standard IRO-006-4.1, Requirement R1.2 refers to the "WECC Unscheduled Flow Reduction Procedure," which is Attachment 1 to the Mitigation Plan, the term we use herein.

curtailment requests to the schedules as submitted, implement alternative actions, or a combination thereof, which collectively meet the relief requirement.

In the Petition, NERC explained that, when WECC submitted IRO-006-WECC-1 for NERC's review, NERC was concerned that the proposed Standard no longer contains requirements that are more stringent than the continent-wide NERC Reliability Standard IRO-006-4, which was the main justification for consideration of IRO-006-WECC-1 as the regional Reliability Standard.[21] Among NERC's concerns:

- First, the proposed Standard only includes the curtailment portion of the Mitigation Plan. In contrast, the current regional Reliability Standard IRO-STD-006-0 references WECC's Mitigation Plan, which contains directions in steps one through three to reduce flows through use of phase-angle regulators, series capacitors, and back-to-back DC lines before transaction curtailment. WECC explained that the proposed regional Reliability Standard contains the curtailment portion of the Mitigation Plan "because the remaining items contain procedural requirements explaining 'how,' not 'what.'"[22] WECC explained to NERC that the two WECC regional Reliability Standards work together. Proposed IRO-006-WECC-1 prevents overloads during the next hour by requiring applicable entities to reduce schedules and adjust generation patterns. In addition, regional Reliability Standard TOP-007-WECC-1 (System Operating Limits) contains instructions for mitigation of an actual, real-time overload.[23] According to WECC, these regional Reliability Standards, combined, ensure that the transmission operator will utilize the phase-angle regulators, series capacitors, and back-to-back DC lines before transaction curtailment.

- In addition, NERC provided additional supplemental information in Exhibit C of its Petition regarding how WECC envisions the implementation of proposed regional Reliability Standard IRO-006-WECC-1. Exhibit C contains the complete development record of proposed regional Reliability Standard IRO-006-WECC-1 and includes WECC's undated response to NERC's concerns regarding the interaction between TOP-007-WECC-1 and IRO-006-WECC-1.[24]. NERC raised the concern that "IRO-006-WECC-1 removed a requirement for the Transmission Operator (TOP) to request relief through the WECC Qualified Path Unscheduled Flow Relief Procedure when a qualified transfer path exceeded or was close to exceeding a System Operating Limit (SOL)."

  In response, WECC stated that "the requirements of another WECC regional reliability standard, TOP-STD-007-0 (interim approved Tier 1 standard), as well as the WECC proposed replacement regional reliability standard TOP-007-WECC-1,

21 *Id* 26-27.
22*Id.* at 30.
23 NERC's petition for approval of regional Reliability Standard TOP-007-WECC-1 is currently pending before the Commission in Docket No. RM09-14-000.
24 The document is titled, "Interaction between TOP-007-WECC-1 and IRO-006-WECC-1."

require the TOP to take actions to ensure that SOLs are not exceeded."[25] WECC further explained that TOP-WECC-007-1 requires Transmission Operators to keep path flows and schedules at or below SOLs for 40 identified paths. WECC stated that "TOPs, in coordination with the Reliability Coordinators, may select from several methods" to reduce flows, and provide several examples, such as on path schedule curtailments, adjust controllable devices (e.g., phase shifters, series capacitors), use of the WECC Mitigation Plan if the path experiencing the loading is a qualified path, or local procedures, as well as other examples. WECC further explained that the "key point" with respect to qualified paths, "is that it is TOP-007-WECC-1, not IRO-006-WECC-1, requires that the TOP to take actions to reduce flows to within SOLs."[26] In situations where the Transmission Operator has taken action to reduce the flows on qualified paths, but the flows remain near or exceeding the SOL, "IRO-006-WECC-1 requires curtailment of Contributing Schedules or provision of comparable relief through other means, as identified in the Unscheduled Flow Reduction Procedure [a portion of the Mitigation Plan]."[27]

The proposed Reliability standard does not require submitting the information to FERC. Rather it requires Reliability Coordinators and Balancing Authorities to develop and maintain certain information for a specified period of time. That information would then be subject to inspection and/or audits by the ERO, Regional Entity, or FERC.

2. HOW, BY WHOM, AND FOR WHAT PURPOSE THE INFORMATION IS TO BE USED AND THE CONSEQUENCES OF NOT COLLECTING THE INFORMATION

Prior to enactment of section 215, FERC had acted primarily as an economic regulator of wholesale power markets and the interstate transmission grid. In this regard, the Commission acted to promote a more reliable electric system by promoting regional coordination and planning of the interstate grid through regional independent system operators (ISOs) and regional transmission organizations (RTOs), adopting transmission pricing policies that provide price signals for the most reliable and efficient operation and expansion of the grid, and

25 Exhibit C to NERC Petition, Interaction between TOP-007-WECC-1 and IRO-006-WECC-1 at 1.
Requirement WR1 of the currently applicable regional Reliability Standard, TOP-STD-007-0 provides, in part, that "Actual power flow and net scheduled power flow over an interconnection or transfer path shall be maintained within Operating Transfer Capability Limits." The NERC Glossary defines Operating Transfer Capability Limit as "the maximum value of the most critical system operating parameter(s) which meets: (a) precontingency criteria as determined by equipment loading capability and acceptable voltage conditions, (b) transient criteria as determined by equipment loading capability and acceptable voltage conditions, (c) transient performance criteria, and (d) post-contingency loading and voltage criteria."
Proposed regional Reliability Standard TOP-007-WECC-1, Requirement R1 provides that "When the actual power flow exceeds an SOL for a Transmission path, the Transmission Operators shall take immediate action to reduce the actual power flow across the path such that at no time shall the power flow for the Transmission path exceed the SOL for more than 30 minutes."
26 Exhibit C to Petition, Interaction between TOP-007-WECC-1 and IRO-006-WECC-1 at 2.
27 *Id.* at 2-3.

providing pricing incentives at the wholesale level for investment in grid improvements and assuring recovery of costs in wholesale transmission rates.

Sufficient supplies of energy and a reliable way to transport those supplies to customers are necessary to assure reliable energy availability and to enable competitive markets. Reasonable supply relative to demand is essential for competitive markets to work. Without sufficient delivery infrastructure, some suppliers will not be able to enter the market, customer choices will be limited, and prices will be needlessly volatile. The Commission assists in creating a more reliable electric system by:

- Fostering regional coordination and planning of the interstate grid through ISOs and RTOs;
- Adopting transmission policies that provide price signals for the most reliable and efficient operation and expansion of the grid; and
- Providing pricing incentives at the wholesale level for investment in grid improvements and ensuring opportunities for cost recovery in wholesale transmission rates.

The passage of the Electricity Modernization Act of 2005 added to the Commission's efforts identified above, by giving it the authority to strengthen the reliability of the interstate grid through the grant of new authority pursuant to section 215 of the FPA which provides for a system of mandatory Reliability Standards developed by the ERO, established by FERC, and enforced by the ERO and Regional Entities.

As part of FERC's efforts to promote grid reliability, the Commission created a new Office of Electric Reliability (OER) in 2007. This office oversees the development and review of mandatory Reliability and Security. OER also ensures compliance with the approved mandatory standards by users, owners, and operators of the Bulk Power System, and maintains a situational awareness monitoring tool to provide wide area visibility of the Bulk Power System.

In a June 17, 2009 filing, NERC requested Commission approval of the proposed regional Reliability Standard IRO-006-WECC-1, which was developed in response to the Commission's directives in the June 8, 2007 Order, to replace the currently effective regional Standard. NERC stated that the purpose of IRO-006-WECC-1 is to mitigate transmission overloads due to unscheduled flow on Qualified Transfer Paths. Under the Reliability Standard, reliability coordinators are responsible for initiating schedule curtailments and balancing authorities are responsible for implementing the curtailments. Specifically, proposed regional Reliability Standard IRO-006-WECC-1 contains the following two Requirements:

R.1. Upon receiving a request of Step 4 or greater (see Attachment 1-IRO-006-WECC-1) from the Transmission Operator of a Qualified Transfer Path, the Reliability Coordinator shall approve (actively or passively) or deny that request within five minutes.

R.2. The Balancing Authorities shall approve curtailment requests to the schedules as submitted, implement alternative actions, or a combination there of that collectively meets the Relief Requirement.

The data developed in response to these requirements is retained for access and possible audit by the ERO, Regional Entity, and/or FERC. This NOPR proposes to approve IRO-006-WECC-1[28], which will replace currently effective regional Reliability Standard IRO-STD-006-0 (approved by the Commission on June 8, 2007). This proposed rule would approve a revised Reliability Standard modifying the existing requirement for entities to respond to requests for curtailment. The proposed Reliability Standard requires entities to maintain documentation evidencing their response to such requests.

The proposed IRO-006-WECC-1 regional reliability standard contains unscheduled flow curtailment requirements for the Western Interconnection that are currently cover in IRO-STD-006-0. The NERC standard IRO-006-4 contains requirements transmission loading relief requirements for the Eastern Interconnection and only references the WECC regional reliability standard IRO-STD-006-0, which contains the transmission loading relief requirements for the Western Interconnection. The WECC regional reliability standard IRO-STD-006-0 and Qualified Path Unscheduled Flow Relief responsibilities do not conform to the current NERC functional model. The WECC regional reliability standard IRO-STD-006-0 standard assigns Load Serving Entities (LSEs) the responsibility of curtailing schedules to reduce unscheduled flow, a reliability function that the NERC functional model now assigns to Reliability Coordinators and Balancing Authorities. In the functional model, NERC holds that LSEs should not be assigned responsibility for reliability. Therefore, the assignment of reliability functions to LSEs is not compatible with the NERC functional model or NERC Standard IRO-006. Additionally, the existing IRO-STD-006 standard places the sole responsibility for providing relief upon the LSE without providing the ability for the LSE to ensure compliance (e.g. the Balancing Authority does not have to approve a curtailment request made by the LSE).

The proposed standard improves the efficiency of the program, provides for more certain Unscheduled Flow relief, and results in fewer complications associated with multiple entities taking partial responsibility for curtailment activity. For these reasons, the proposed Reliability Standard is technically sound and is superior to the existing approved IRO-STD-006-0 standard.

The Commission uses the data to participate in NERC's Reliability Standards Development process. The Commission also uses the data when approving certain regional Reliability Standards such as those produced by WECC. In addition, FERC's Office of Electric Reliability uses the data to engage in studies and other activities to assess the longer-term and strategic needs and issues related to power grid reliability.

28 The proposed standard is available on NERC's website at http://www.nerc.com/files/IRO-006-WECC-1_Final.pdf .

3. DESCRIBE ANY CONSIDERATION OF THE USE OF IMPROVED TECHNOLOGY TO REDUCE BURDEN AND TECHNICAL OR LEGAL OBSTACLES TO REDUCING BURDEN.

The Commission has developed the capability for electronic filing of nearly all submittals to FERC. In Order No. 619 (issued 9/14/2000), the Commission established an electronic filing initiative that permitted over 40 qualified types of documents to be filed over the Internet to its website. Since that time, FERC has expanded its eFiling options in phases to include nearly all document types and security levels (such as privileged information and Critical Energy Infrastructure Information (CEII)). Electronic filing, combined with electronic posting and service over the web site, permits staff and the public to obtain filings in a faster and more efficient manner. More information on FERC's eFiling program is available at http://www.ferc.gov/docs-filing/efiling.asp.

In order that the Commission is able to perform its oversight function with regard to Reliability Standards that are proposed by the ERO and established by the Commission, it is essential that the Commission receive timely information regarding all or potential violations of Reliability Standards. While section 215 of the FPA contemplates the filing of the record of an ERO or Regional Entity enforcement action, FERC needs information regarding violations and potential violations at or near the time of occurrence. Therefore, the Commission works with the ERO and regional reliability organizations to be able to access and use the electronic filing of information so the Commission has timely information.

4. DESCRIBE EFFORTS TO IDENTIFY DUPLICATION AND SHOW SPECIFICALLY WHY ANY SIMILAR INFORMATION ALREADY AVAILABLE CANNOT BE USED OR MODIFIED FOR USE FOR THE PURPOSE(S) DESCRIBED IN INSTRUCTION NO. 2

Filing requirements are periodically reviewed as OMB review dates arise or as the Commission may deem necessary in carrying out its responsibilities under the FPA in order to eliminate duplication and ensure that filing burden is minimized. There are no similar sources of information available that can be used or modified for these reporting purposes. All reliability requirements will be subject to FERC approval along with the requirements developed by Regional Entities and Regional Advisory Bodies and the ERO.

5. METHODS USED TO MINIMIZE BURDEN IN COLLECTION OF INFORMATION INVOLVING SMALL ENTITIES

FERC-725E is a filing requirement concerning the implementation of reliability standards by NERC and its responsibilities as well as those of Regional Entities (in this instance WECC) and Regional Advisory Bodies in the development of Reliability Standards. The Electricity Modernization Act specifies that the ERO and Regional Entities are not departments, agencies or instrumentalities of the United States government and will not be like most other businesses,

profit or not-for–profit. Congress created the concept of the ERO and Regional Entities as select, special purpose entities that will transition the oversight of the Bulk-Power System reliability from voluntary, industry organizations to independent organizations subject to Commission jurisdiction.

Section 215(b) of the FPA requires all users, owners and operators of the Bulk-Power System to comply with Commission-approved Reliability Standards. Each proposed Reliability Standard submitted for approval by NERC applies to some subset of users, owners and operators. Each proposed Reliability Standard includes an "applicability" statement that identifies the functional classes of entities responsible for compliance. Such functional classes include reliability coordinators, balancing authorities, transmission operators, transmission owners, generator operators, generator owners, interchange authorities, transmission service providers, market operators, planning authorities, transmission planners, resource planners, load-serving entities, purchasing-selling entities, and distribution providers.[29]

As explained by NERC, a generator operator, for example, could include any entity that operates a generator interconnected to the grid, be it a large unit in excess of 1,000 MW or a small generator of one MW or less. NERC states that to ensure that Reliability Standards are applied cost effectively and that the applicability of Reliability Standards is focused on entities having a material impact on Bulk-Power System reliability; it will begin providing greater specificity in the applicability section of a Reliability Standard.[30]

The Commission believes that these Reliability Standards may cause some small entities to experience economic impact. While the Commission is mindful of the possible impact on small entities, the Commission is also concerned that Bulk-Power-System reliability not be compromised based on an unwillingness of entities, large or small, to incur reasonable expenditures necessary to preserve such reliability. As the Commission explained in Order No. 672:

> A proposed Reliability Standard may take into account the size of the entity that must comply with the Reliability Standard and the cost to those entities of implementing the proposed Reliability Standard. However, the ERO should not propose a "lowest common denominator" Reliability Standard that would achieve less than excellence in operating system reliability solely to protect against reasonable expenses for supporting this vital national infrastructure. For example, a small owner or operator of the Bulk Power-System must bear the cost of complying with each Reliability Standard that applies to it. [31]

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29 See NERC Petition at 9-10.

30 Id. at 81-82.

31 Order No. 672 at P 330.

The proposed WECC regional Reliability Standard is to be applied on an interconnection-wide basis. Because there was no strong technical objection from commenters, and because the regional Reliability Standard was developed by those from the Western Interconnection to apply in the Western Interconnection through a process that enabled all those with an interest in the standards to be heard, NERC did not object to the technical merits of the proposed regional Reliability Standard. Additionally,

> Rather than creating entirely new requirements, the proposed regional Reliability Standard instead modifies and improves the existing regional Reliability Standard governing qualified transfer path unscheduled flow relief. Thus, this proposed rulemaking imposes a minimal additional burden on the affected entities. The proposed Reliability Standard does not require responsible entities to file information with the Commission. However, it does require responsible entities to develop, provide, and maintain certain information for a specified period of time, subject to inspection by WECC. Specifically, the proposed Reliability Standard requires the reliability coordinator and balancing authorities to document and maintain information regarding actions taken in response to requests to mitigate unscheduled flow. The Commission believes its approval of WECC regional Reliability Standard IRO-006-WECC-1 will result in a minimal increase in reporting burdens as compared to current practices in WECC.

> Most of the entities, (i.e., reliability coordinators and balancing authorities), to which the requirements of this rule would apply do not fall within the definition of small entities. The Commission estimates that only 2-4 of the 35 balancing authorities (or a maximum of 11.4%) are small. Moreover, the proposed Reliability Standard reflects a modification of existing requirements. Therefore, this Proposed Rule will not have a significant impact on a substantial number of small entities. Most of the entities (i.e., reliability coordinators and balancing authorities) to which the requirements of this Proposed Rule would apply do not fall within the definition of small entities.[32] The Commission estimates that only 2-4 of the 35 balancing authorities (or a maximum of 11.4%) are small.

While the Commission cannot rule on the merits until a specific proposal has been submitted, the Commission believes that reasonable limits on applicability based on size may be an acceptable alternative to lessen the economic impact on the proposed rule on small entities. The Commission emphasizes, however, that any such limits must not weaken Bulk-Power-System reliability.

6. CONSEQUENCE TO FEDERAL PROGRAM IF COLLECTION WERE CONDUCTED LESS FREQUENTLY

32 The RFA definition of "small entity" refers to the definition provided in the Small Business Act (SBA), which defines a "small business concern" as a business that is independently owned and operated and that is not dominant in its field of operation. *See* 15 U.S.C. 632. According to the SBA, a small electric utility is defined as one that has a total electric output of less than four million MWh in the preceding year.

The Electric Reliability Organization conducts periodic assessments of the reliability and adequacy of the Bulk-Power System in North America and reports its findings to the Commission, the Secretary of Energy, Regional Entities, and Regional Advisory Bodies annually or more frequently if so ordered by the Commission. The ERO and Regional Entities report to FERC on their enforcement actions and associated penalties and to the Secretary of Energy, relevant Regional Entities and relevant Regional Advisory Bodies annually or quarterly in a manner to be prescribed by the Commission. If the information were conducted less frequently or discontinued, the Commission would be placed at a disadvantage in not having the data necessary for monitoring its mandated obligations.

7. EXPLAIN ANY SPECIAL CIRCUMSTANCES RELATING TO THE INFORMATION COLLECTION

FERC-725E is a filing requirement necessary to comply with the applicable provisions of the Electricity Modernization Act of 2005 and section 215 of the Federal Power Act.

In accordance with section 39.5 of the Commission's regulations, the ERO must file each Reliability Standard or a modification to a Reliability Standard with the Commission. The filing is to include a concise statement of the basis and purpose of the proposed Reliability Standard, either a summary of the Reliability development proceedings conducted by the ERO or a summary of the Reliability Standard development proceedings conducted by a Regional Entity together with a summary of the Reliability Standard review proceedings of the ERO and a demonstration that the proposed Reliability Standard is "just, reasonable, not unduly discriminatory or preferential, and in the public interest. Data to be retained in response to IRO-006-WECC-1 regional reliability standard is to be retained for a period of three years.

The ERO must make each effective Reliability Standard available on its Internet website. Copies of the effective Reliability Standards will be available from the Commission's Public Reference Room.

There is no explicit statute of limitations set forth in FPA section 215, and no statute of limitations appears in the FPA. In Order No. 670, the Commission declined to designate a statute of limitations or otherwise adopt an arbitrary time limitation on complaints or enforcement actions that may arise. However, the Commission noted, that when a statutory provision under which civil penalties may be imposed lacks its own statute of limitations, the general statute of limitations for collection of civil penalties, 28 U.S.C. 2462, applies.[33] Section 2462 in 28 U.S.C. imposes a five-year limitations period on any "action, suit, or proceeding for the enforcement of any civil fine, penalty, or forfeiture, pecuniary or otherwise."[34]

33 See, e.g., United States v. Godbout-Bandal, 232 F.3d 637, 639 (8th Cir. 2000).
34 28 U.S.C. 2462 (2000). The five-year limitation runs "from the date the claim first accrued." Id.

8. DESCRIBE EFFORTS TO CONSULT OUTSIDE THE AGENCY: SUMMARIZE PUBLIC COMMENTS AND THE AGENCY'S RESPONSE TO THESE COMMENTS

Each Commission rulemaking (both NOPR and Final Rules) are published in the Federal Register, thereby affording all public utilities and licensees, state commissions, Federal agencies, and other interested parties an opportunity to submit data, views, comments or suggestions concerning the proposed collection of data. The notice procedures also allow for public conferences to be held as required. The Commission has held several workshops and technical conferences to address reliability issues including transition to the NERC Reliability Standards, operator tools, and reactive power.

A notice of proposed information collection and request for comments was published in the Federal Register on October 29, 2010, 75 FR 209, 10/29/2010; and also posted at http://edocket.access.gpo.gov/2010/pdf/2010-27408.pdf. Comments are due 12/28/2010.

9. EXPLAIN ANY PAYMENT OR GIFTS TO RESPONDENTS

No payments or gifts have been made to respondents.

10. DESCRIBE ANY ASSURANCE OF CONFIDENTIALITY PROVIDED TO RESPONDENTS

The Commission generally does not consider the data filed to be confidential.

Section 215(e) of the FPA as well as section 39.7(d) of the Commission's regulations regarding enforcement of Reliability Standards provides for public notice and opportunity for a hearing with respect to both the ERO (or Regional Entity) enforcement proceedings and proceedings before the Commission involving review of a proposed penalty for violation of a Reliability Standard. Section 39.7(b)(4) provides a limited exception to this notice requirement and allows for non-public proceedings for enforcement actions that involve a Cybersecurity Incident,[35] unless FERC determines on a case-by-case basis that such protection is not necessary. The Commission has in place procedures to prevent the disclosure of sensitive information, such as the use of protective orders and rules establishing critical energy infrastructure information (CEII). However, the Commission believes that the specific, limited area of Cybersecurity Incidents requires additional protections because it is possible that system security and reliability would be further jeopardized by the public dissemination of information involving incidents that compromised the cybersecurity system of a specific user, owner or operator of the Bulk-Power System. In addition, additional information provided with a filing may be submitted with a specific request for confidential treatment to the extent permitted by law and considered pursuant to 18 C.F.R. 388.112 of FERC's regulations.

35 The term "Cybersecurity Incident" is defined as a malicious act or suspicious event that disrupts, or was an attempt to disrupt, the operation of those programmable electronic devices and communications networks including hardware, software and data that are essential to the Reliable Operation of the Bulk-Power System.

11. PROVIDE ADDITIONAL JUSTIFICATION FOR ANY QUESTIONS OF A SENSITIVE NATURE THAT ARE CONSIDERED PRIVATE.

There are no questions of a sensitive nature that are considered private.

12. ESTIMATED BURDEN OF COLLECTION OF INFORMATION

The Commission's estimates the burden for the requirements in this proposed rule in RM09-19 to be:

Data Collection FERC-725E	No. of Respondents	No. of Responses	Hours Per Response	Total Annual Hours
35 Balancing Authorities and 1 Reliability Coordinator-Reporting Requirement	36	1	1	36
35 Balancing Authorities and 1 Reliability Coordinator-Recordkeeping Requirement	36	1	1	36
Total				72

Total Annual hours for Collection: 36 reporting +36 recordkeeping = 72 hours.

Current OMB Inventory:

Annual Number of Respondents: 472

Annual Number of Responses: 472

Annual Number of Hours: 8,305

If the NOPR RM09-19-000 is adopted, OMB's inventory will be revised as follows:

Annual Number of Respondents: 472

Annual Number of Responses: 508

Annual Number of Hours: 8,377

13. ESTIMATE OF THE TOTAL ANNUAL COST BURDEN TO RESPONDENTS

The Commission seeks comments on the costs to comply with these requirements. It has projected the average annualized cost to be $5760, as shown below:

Reporting = 36 hours @ $120/hour = $4,320

Recordkeeping = 36 hours @ $40/hour = $1440

Total Costs = Reporting ($4320) + Recordkeeping ($1440) = $5760

(The hourly rate figure is a composite figure. For reporting, the Commission has set a rate that combines time for legal, technical and administrative support. With regard to recordkeeping, the hourly rate represents both supervisory and support staff hourly rates.)

If RM09-19-000 NOPR is adopted, total costs for FERC-725E will be $941,960.

14. ESTIMATED ANNUALIZED COST TO FEDERAL GOVERNMENT

The estimate of the cost to the Federal Government is based on salaries for professional and clerical support, as well as direct and indirect overhead costs. Direct costs include all costs directly attributable to providing this information, such as administrative costs and the cost for information technology. Indirect or overhead costs are costs incurred by an organization in support of its mission. These costs apply to activities which benefit the whole organization rather than anyone particular function or activity.

Direct Costs = $137,874 x .15 FTE = $20,681.

If RM09-19-000 NOPR is adopted, total Federal costs for FERC-725E will be $56,528.

15. REASONS FOR CHANGES IN BURDEN INCLUDING THE NEED FOR ANY INCREASE

There is a program increase of 72 hours proposed in the NOPR in Docket RM09-19. This NOPR proposes to approve a new regional Reliability Standard, IRO-006-WECC-1, which will replace currently effective regional Reliability Standard IRO-STD-006-0 approved by the Commission on June 8, 2007. Rather than creating entirely new requirements, the proposed regional Reliability Standard instead modifies and improves the existing regional Reliability

Standard governing qualified transfer path unscheduled flow relief. Thus, this proposed rulemaking imposes a minimal additional burden on the affected entities.

In modifying the regional Reliability Standard, WECC has eliminated the reference to the Mitigation Plan, included in both the NERC standard, IRO-006-4, and the currently effective WECC standard. The Mitigation Plan includes nine steps to address unscheduled flows; steps four and above requiring varying levels of curtailments of transactions. Requirement R1 of proposed IRO-006-WECC-1 provides that "[u]pon receiving a request of Step 4 or greater … from the Transmission Operator of a Qualified Transfer Path, the Reliability Coordinator shall approve … or deny that request within five minutes," however, steps one through three are no longer referenced in IRO-006-WECC-1 or in the related regional Standard TOP-007-WECC-1.

On the other hand, NERC Reliability Standard IRO-006-4 continues to specifically reference the Mitigation Plan with regard to transmission loading relief in the Western Interconnection. However, the Mitigation Plan has not been updated to include the requirement that the reliability coordinator act on a request for relief within five minutes, an improvement contained in WECC's proposed IRO-006-WECC-1. Likewise, the Mitigation Plan continues to reference and require action by "receivers," while that term is removed from the proposed WECC regional Reliability Standard, in conformance with the Commission's directive in the June 8, 2007 Order.

Because of these dichotomies between the proposed regional Reliability Standard and the corresponding NERC Standard, the Commission has several areas of concern regarding how the proposed regional Standard would work in practice to ensure Reliable Operation in the Western Interconnection. Specifically, the Commission is concerned with: (1) how entities will know whether to follow the national or regional Standard in a given situation; (2) WECC's and NERC's reliance on TOP-007-WECC-1 to ensure that entities manage power flows using steps one through three of the Mitigation Plan prior to requesting curtailments; (3) how the webSAS tool will work with respect to the national and regional Standard; and (4) the potential reliability impact of reliability coordinators' inability to request curtailments.

16. TIME SCHEDULE FOR THE PUBLICATION OF DATA

There are no publications or tabulations of the information.

17. DISPLAY OF THE EXPIRATION DATE

It is not appropriate to display the expiration date for OMB approval of the information collected. The information will not be collected on a standard, preprinted form which would avail itself to that display. Rather, the Electric Reliability Organization must prepare and submit filings that reflect unique or specific circumstances related to the Reliability Standard. In addition, the information contains a mixture of narrative descriptions and empirical support that varies depending on the nature of the transaction.

18. **EXCEPTIONS TO THE CERTIFICATION STATEMENT**

Item No. 19(g) (vi) see Instruction No. 17 above for further elaboration. In addition, the data collected for this reporting requirement is not used for statistical purposes. Therefore, the Commission does not use as stated in item no. 19(i) "effective and efficient statistical survey methodology." The information collected is case specific to each Reliability Standard.

B. COLLECTION OF INFORMATION EMPLOYING STATISTICAL METHODS.

This is not a collection of information employing statistical methods.