

I. INTRODUCTION

Pursuant to Rule 212¹ of the Federal Energy Regulatory Commission's ("FERC" or the "Commission") Rules of Practice and Procedure, 18 C.F.R. §§ 385.212, the North American Electric Reliability Corporation ("NERC") requests clarification of the Commission's November 24, 2009 Order No. 729 ("Order No. 729").² Order No. 729 approved modifications to six Modeling, Data, and Analysis (MOD) Reliability Standards and directed that modifications be made to the MOD Reliability Standards to make the processes to calculate available transfer capability and its various components more transparent.

II. STATEMENT OF ISSUE FOR CLARIFICATION

Pursuant to 18 C.F.R. § 385.212, NERC seeks clarification of Paragraph 95 of Order 729, in which FERC directed the following:

As approved, the Reliability Standards shall become effective on the first day of the first calendar quarter that is twelve months beyond the date that the Reliability Standards are approved by all applicable regulatory authorities. The Commission finds that the approved implementation schedule strikes a reasonable balance between the need for timely reform and the needs of transmission service providers and transmission operators to make adjustments to their calculations of available transfer capability, capacity benefit margin and [transmission] reliability margin. To the extent necessary, we clarify that, under this plan, the Reliability Standards shall become effective on the first day of the first quarter occurring 365 days after approval by all applicable regulatory authorities. Approval by the Commission will be effective 60 days after the date of publication of this Final Rule in the Federal Register. If a transmission service provider or transmission operator is unable to implement these Reliability Standards within the time allowed, requests for extension should be considered through NERC's enforcement and compliance program.

NERC requests that the Commission clarify the date when the MOD Reliability Standards adopted in Order No. 729 become effective in the United States.

¹ 18 CFR § 385.212 (2008).

² *Mandatory Reliability Standards for the Calculation of Available Transfer Capability, Capacity Benefit Margins, Transmission Reliability Margins, Total Transfer Capability, and Existing Transmission Commitments and Mandatory Reliability Standards for the Bulk-Power System*, 129 FERC ¶ 61,155 (November 24, 2009).

III. DISCUSSION OF ISSUE ADDRESSED BY THE REQUEST FOR CLARIFICATION

Order No. 729 states that the MOD Reliability Standards will become “effective on the first day of the first calendar quarter that is twelve months beyond the date that the Reliability Standards are approved by all applicable regulatory authorities.” The term “all applicable regulatory authorities” includes FERC and the relevant regulatory authorities in the Canadian provinces of Alberta, British Columbia, Manitoba, New Brunswick, Nova Scotia, Ontario, Quebec and Saskatchewan as well as the National Energy Board. At the time that NERC developed the implementation schedule for the proposed MOD Reliability Standards, all participants anticipated that the processes for approving standards in all jurisdictions would result in approvals that occurred at roughly the same time. Based on these assumptions, NERC and its stakeholders believed that a coordinated implementation of the standards that occurred concurrently across all jurisdictions would result in a more effective transition from current implementations of ATC calculations to the new methodologies mandated in the MOD Reliability Standards. That has not turned out to be the case, and the processes for approval of standards are in various stages of development in various jurisdictions. The result is there is considerable uncertainty as to when the MOD Reliability Standards will actually take effect.

NERC wants to assure the Commission that significant progress has been made to ensure that comparable regulatory regimes for reliability exist across all North American jurisdictions. Legislative authority now exists in each of the Canadian provinces to make reliability standards mandatory and enforceable. However, the regulatory framework is still being developed in certain of the jurisdictions and it is uncertain when those efforts will be completed. Under the circumstances, the goal of contemporaneous implementation of the MOD Reliability Standards

across all jurisdictions is proving to be more challenging than originally expected. NERC has received comments from several stakeholders indicating that the implementation plan proposed by NERC and subsequently approved in Order No. 729 is not sufficiently clear to provide an unambiguous date on which the MOD Reliability Standards will become effective, making it difficult for them to plan their own implementation of the standards.

Accordingly, NERC requests that the Commission clarify the effective date of the MOD Reliability Standards within the United States. Those standards should become effective no earlier than the first day of the first quarter occurring 365 days after the publication of Order No. 729 in the *Federal Register*, in keeping with the implementation plan that was submitted with the MOD Reliability Standards.

IV. CONCLUSION

For the reasons set forth in this filing, NERC requests that the Commission clarify the effective date for the MOD Reliability Standards within the United States, as discussed above.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the foregoing document upon all parties listed on the official service list compiled by the Secretary in this proceeding.

Dated at Washington, D.C. this 22nd day of December, 2009.

/s/ Holly A. Hawkins
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Reliability Corporation*