

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Transmission Relay Loadability
Reliability Standard

Docket No. RM08-13-001

**MOTION OF THE AMERICAN PUBLIC POWER
ASSOCIATION AND THE TRANSMISSION ACCESS
POLICY STUDY GROUP FOR CLARIFICATION,
OR RECONSIDERATION**

Pursuant to Rule 212 of the Commission’s Rules of Practice and Procedure, 18 C.F.R. § 385.212, the American Public Power Association (“APPA”) and the Transmission Access Policy Study Group (“TAPS”) ask the Commission to clarify or reconsider Order No. 733-A, the Commission’s Order on Rehearing, Clarification, and Request for an Extension of Time, issued February 17, 2011.¹

APPA and TAPS appreciate the Commission’s efforts in Order No. 733-A to improve the tone of Order No. 733² and provide clarifications in response to the requests for rehearing submitted by APPA and TAPS, as well as others. The Commission, the North American Electric Reliability Corporation (“NERC”), and the industry have come a long way in the year since issuance of Order No. 733 on March 18, 2010. We take this unusual step of seeking clarification or reconsideration out of concern that Order No. 733-A, while well-intentioned and leaving some additional room for NERC to develop alternative approaches to address the Commission’s concerns, continues to include overly prescriptive directives based on premises that well-respected industry experts conclude

¹ 134 FERC ¶ 61,127 (2011) (“Order No. 733-A”).

² Transmission Relay Loadability Reliability Standard, Order No. 733, 75 Fed. Reg. 16,914 (Apr. 2, 2010), 130 FERC ¶ 61,221 (2010).

are technically unsound and may undermine our shared goal of improved reliability. This puts both the Commission and NERC in an awkward position. We therefore approach the Commission to provide an additional opportunity to avert a result that Congress did not intend when it enacted Section 215 of the Federal Power Act (“FPA”). 16 U.S.C. § 824o.

APPA and TAPS have reviewed the affidavits today submitted by Edison Electric Institute (“EEI”) and National Rural Electric Cooperative Association (“NRECA”), which merit serious consideration. We note particularly the Affidavit of Thomas E. Weidman, PE, who, among other things, was a principal investigator of the August 14, 2003 blackout, drafted the protection-related reliability recommendations included in the April, 2004 Blackout Report,³ and went on to perform continuing analysis of the blackout. This Affidavit raises serious concerns as to the technical validity of Order No. 733-A’s analysis of some aspects of the Blackout Report, on which analysis the Commission grounds several of its prescriptive directives (*see* PP 16, 33-38 (regarding the tests for operationally significant facilities below 200 kV); PP 106-111 (regarding stable power swings)). The Weidman Affidavit also includes the troubling conclusion that implementation of the directives that are based on an incomplete understanding of the Blackout Report may not only fail to advance reliability, but may in some cases harm reliability.⁴ The Affidavit of William J. Miller, PE, similarly raises concerns as to the

³ U.S.-Canada Power System Outage Task Force, Final Report on the August 14, 2003 Blackout in the United States and Canada: Causes and Recommendations (Apr. 2004) (“Blackout Report”), *available at* <http://www.ferc.gov/industries/electric/indus-act/reliability/blackout.asp>.

⁴ Weidman’s Affidavit confirms the views expressed in the Affidavit of Frank Gaffney, that not allowing any relay to operate for a stable power swing can harm reliability, submitted in support of the Comments of the Transmission Access Policy Study Group, Docket No. RM08-13-000 (Aug. 17, 2009), eLibrary No. 20090817-4005.

technical basis for and adverse impact of the Commission's directive to eliminate the exclusion of all supervisory relays.

We therefore request clarification or reconsideration to enable the Commission to consider a more complete record and thereby avoid inadvertently adding unnecessary costs or worse, harming reliability, and better conform to the letter and spirit of Section 215. The disagreement regarding the basis for and impact of Order No. 733-A's prescriptive directives attests to the need for the Commission to be judicious in exercising its Section 215(d)(5) authority. By granting NERC sole authority to develop and draft reliability standards and directing the Commission to give due weight to NERC's technical expertise on the content of reliability standards, Congress provided for highly technical disputes to be fully vetted, debated, and resolved through the NERC standard development process, rather than through the Commission rulemaking process.

While Order No. 733-A's differentiation between the Commission's "concerns" and "guidance" is helpful, Order No. 733-A still includes rather prescriptively described concerns that must be addressed (*see, e.g.*, the directive to develop a standard that requires relays to differentiate between faults and stable power swings (PP 100, 105) rather than merely directing NERC to develop a standard to address the impacts on reliability of relay operation for stable power swings). And it restricts NERC's options in addressing those concerns to those NERC can demonstrate are "equally efficient and effective" as the approach reflected in the Commission's technical guidance, as explained at great length in Order Nos. 733 and 733-A (*see* directives as to content of the test for operationally significant facilities below 200 kV, PP 39-75).

APPA and TAPS firmly believe that the Commission can and should identify specific matters that the Electric Reliability Organization (“ERO”) must address through the standards development process. But we urge the Commission to be less prescriptive in its directives to help move the debate on highly technical issues to technical discussions with NERC and industry task forces and through the NERC standards development process. We encourage the Commission to facilitate the direct participation of its technical staff within such processes, to support timely development of consensus in support of technically excellent reliability standards.

Thus, the Commission should clarify or reconsider its directives, particularly those premised on an interpretation of the Blackout Report that is seriously challenged as technically unsound, by expressing them in a less prescriptive manner. Specifically, APPA and TAPS urge the Commission to require NERC to examine whether and how operation of protective relays during stable power swings should be addressed through a standard, without imposing minimum conditions on the content of such a standard beyond fully addressing the Commission’s concerns. With regard to the tests for determining the “operationally significant” facilities below 200 kV to which PRC-023 should apply, NERC should be directed to develop tests that achieve the reliability objectives of this standard—to ensure that the protective relay settings will not limit transmission loadability; not interfere with system operators’ ability to take remedial action to protect system reliability; and be set to reliably detect all fault conditions and protect the electrical network from these faults, without imposing further conditions. Similarly, the Commission should leave no doubt that its directive to eliminate the exclusion of supervisory relays does not foreclose NERC’s development of more tailored

approaches to applicability – eliminating some, but not others, where technically justified. The discussion in Order No. 733-A at Paragraph 134 is a good start in that direction, but the Commission should make clear that NERC may adopt a standard more specific than the directive based on careful consideration of industry comments that identify the potential for unintended, negative impacts on reliability that could occur with an overly broad description.

At minimum, the Commission should make clear that it will flexibly apply its “equally efficient and effective” test when reviewing standards developed through the standards development process to respond to the Section 215(d)(5) directives contained in Order Nos. 733 and 733-A. Section 215(d)(5) authorizes the Commission to direct NERC to submit a standard “that addresses a specific matter.” The resulting standard is reviewed under Section 215(d)(2) for whether it is just, reasonable, not unduly discriminatory and in the public interest, giving “due weight to the technical expertise of the Electric Reliability Organization with respect to the content of a proposed standard,” with remand the Commission’s only course if a proposed standard does not pass muster. The statute does not restrict NERC, in addressing specific matters identified under Section 215(d)(5), to alternatives “equally efficient and effective” to the guidance provided by the Commission. Particularly given the serious technical questions regarding directives included in Order Nos. 733 and 733-A, the Commission should be open to standards that emerge from a robust standards development process that address the

objectives of the Commission's directives, while avoiding potential reliability pitfalls and unjustified costs, consistent with the purpose of Section 215.⁵

Finally, we urge the Commission to continue its ongoing efforts to reassess its approach to and use of its Section 215(d)(5) authority in evaluating reliability standards, so we don't again reach this late point in the process with such serious questions as to whether directives are technically sound and whether they are helpful or harmful to reliability.

Respectfully submitted,

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⁵ On March 18, 2011, NERC made its initial compliance filing in response to Order No. 733. *See* Petition of NERC for Approval of a Facilities Design, Connections, and Maintenance Reliability Standard, Docket No. RM08-13-000 (Mar. 18, 2011), eLibrary No. 20110318-4009, http://elibrary.ferc.gov:0/idmws/file_list.asp?document_id=13901588. The request of APPA and TAPS that the Commission be particularly flexible in its application of the "equally efficient and effective" test should not be viewed as suggesting that NERC's compliance effort fails to satisfy even a stringent application of that standard.