

Proposed FERC Regulations Would Grant FERC Access to NERC Non-Public Transmission and Generation System Databases

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FERC proposes to grant itself access to NERC's Transmission Availability Data System, Generating Availability Data System, and Protection System Misoperations Database.

On September 17, the **Federal Energy Regulatory Commission** (FERC or Commission) issued a Notice of Proposed Rulemaking (NOPR) proposing to amend its regulations to require the North American Electric Reliability Corporation (NERC) to provide the Commission with access to certain non-public transmission and generation databases. This access is intended to provide more granular information to the Commission for its use in determining whether to order NERC to develop new or modified reliability standards. Although NERC's databases cover portions of Canada and Mexico, FERC's proposed regulations would only apply to information in those databases that relate to US facilities.

Comments on the NOPR are due 60 days following its publication in the Federal Register.

Background

The proposal applies to three NERC databases: (1) the Transmission Availability Data System (TADS), (2) the Generating Availability Data System (GADS), and (3) the Protection System Misoperations Database.

Key characteristics of the databases include the following:

TADS Database—TADS data is used to develop transmission metrics that analyze outage frequency, duration, causes, and other factors related to transmission outages for bulk electric system AC circuits (overhead and underground), transmission transformers (except generator step-up units), bulk electric system AC/DC back-to-back converters, and bulk electric system DC circuits. NERC issues an annual public report based on this data to show aggregate metrics for each NERC region.

GADS Database—GADS data contains operating information on power plant availability, including event, performance, and design data to support equipment reliability, availability analyses, and benchmarking studies. NERC uses GADS data to measure generation reliability and publishes aggregate performance metrics for each NERC region in publicly available annual reports.

Protection System Misoperations Database—NERC uses protection system misoperations data to assess protection system performance and trends in protection system performance that may negatively impact reliability. NERC publishes aggregate misoperation information for each NERC region in annual reports.

Rationale for the Proposed Rule

FERC believes that the proposed rule will facilitate its monitoring of outages and detection of emerging reliability issues. FERC expects its proposed access to the three databases to more efficiently and comprehensively inform the Commission and its staff about reliability trends or reliability gaps that might require FERC to direct NERC to develop new or modified reliability standards pursuant to Section 215 of the Federal Power Act. FERC also believes that access to the three databases will assist its understanding of the reliability and adequacy assessments periodically submitted by NERC, as well as provide the Commission with data supporting requests for additional related assessments or reports from NERC. FERC's rationale implies that its current understanding of NERC's periodic reports needs to be supplemented with its direct access to the databases, despite the fact that NERC provides periodic reports that draw heavily from the data contained in the three databases. FERC plans to locate the proposed requirement within section 39.11 of its regulations, which governs the preparation and submission of NERC's reliability reports.

Confidentiality

Recognizing that its proposal might raise confidentiality issues regarding the data contained in the databases, FERC plans to provide Critical Energy Infrastructure Information (CEII) protections to the data. This raises several concerns. First, the

Commission's CEII protections cover only a small subset of the information protected under NERC's confidentiality rules, and it is probable that at least some of the information in the three NERC databases do not constitute CEII and instead fall under a separate category of confidential information protected by NERC under Section 1500 of the NERC Rules of Procedure. Second, the Commission's CEII rules require certain labeling and affirmative representations from the entity submitting the information before FERC's CEII protections apply, and the proposed regulations do not explain whether those CEII protections will apply if the required processes are not followed by NERC when it provides information from its databases.

Comment Procedures

Comments on the NOPR are due 60 days following its publication in the Federal Register, and may be filed electronically via the eFiling link on the Commission's web site.

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