

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

North American Electric Reliability)
Corporation) Docket No. RD25-7-000

**REQUEST FOR CLARIFICATION OF
AMERICAN PUBLIC POWER ASSOCIATION,
ELECTRIC POWER SUPPLY ASSOCIATION,
LARGE PUBLIC POWER COUNCIL,
NATIONAL RURAL ELECTRIC COOPERATIVE ASSOCIATION, AND
TRANSMISSION ACCESS POLICY STUDY GROUP**

Pursuant to Rule 212 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“Commission” or “FERC”),¹ American Public Power Association (“APPA”), Electric Power Supply Association (“EPSA”), Large Public Power Council (“LPPC”), National Rural Electric Cooperative Association (“NRECA”), and Transmission Access Policy Study Group (“TAPS”) (collectively, “Joint Trade Associations”) hereby request clarification of the Commission’s September 18, 2025 order in the above-captioned proceeding,² which approved Reliability Standard EOP-012-3 proposed by the North American Electric Reliability Corporation (“NERC”).³

Specifically, Joint Trade Associations ask the Commission to clarify that, in accepting Reliability Standard EOP-012-3 but “modify[ing] NERC’s implementation

¹ 18 C.F.R. § 385.212.

² *N. Am. Elec. Reliability Corp.*, 192 FERC ¶ 61,229 (2025) (“September 18 Order”). EPSA filed a timely unopposed motion to intervene in this docket, making it a party to the proceeding. *Id.* at PP 22, 27. Although they are not parties to this docket, APPA, LPPC, NRECA, and TAPS join in this filing, and request waiver of Commission Rule 212(a)(2) to the extent necessary to permit such joinder. Even if the Commission deems the entities other than EPSA ineligible to join this request for clarification, the Commission should address the substance of the clarification request. *See, e.g., Venture Global CP2 LNG, LLC*, 189 FERC ¶ 61,005, at P 5 (2024) (addressing merits of joint motion even though one of the filers was not a party to the proceeding).

³ September 18 Order at PP 1, 29 & Ordering Paragraph (A). The Commission also approved the reliability standard’s associated violation risk factors and violation severity levels, the revised defined term Generator Cold Weather Constraint declaration, and the proposed retirement of Reliability Standard EOP-012-2 immediately prior to the effective date of proposed Reliability Standard EOP-012-3. *Id.*

plan” to set an effective date of October 1, 2025,⁴ the Commission acted based on the provision in the proposed implementation plan specifying that the proposed standard could become effective “as otherwise provided for by the applicable governmental authority.”⁵ Joint Trade Associations emphasize that, in seeking clarification on this legal point, they are neither objecting to the Commission’s approval of Reliability Standard EOP-012-3, nor asking for an effective date other than October 1, 2025.

I. BACKGROUND

In the Petition, NERC requested approval, pursuant to section 215 of the Federal Power Act (“FPA”),⁶ of proposed Reliability Standard EOP-012-3.⁷ Relevant for Joint Trade Associations’ clarification request, the implementation plan for the proposed standard included the following language addressing the effective date:

Where approval by an applicable governmental authority is required, the standard and associated definitions shall become effective on the later of: (1) October 1, 2025; or (2) the first day of the first calendar quarter that is three (3) months after the effective date of the applicable governmental authority’s order approving the standard, or as otherwise provided for by the applicable governmental authority.⁸

This language indicates that, if the Commission were to approve EOP-012-3 after July 1, 2025, but prior to October 1, 2025, the standard would go into effect January 1, 2026, (*i.e.*, “the first day of the first calendar quarter that is three (3) months after the effective date of the...order”) unless the Commission specified a different effective date pursuant to the “as

⁴ *Id.* at P 31.

⁵ NERC, Petition for Approval of Proposed Reliability Standard EOP-012-3, Exhibit B (Implementation Plan) at 3 (April 10, 2025) (“NERC Petition”).

⁶ 16 U.S.C. § 824o.

⁷ *See* September 18 Order at P 9.

⁸ NERC Petition, Exhibit B (Implementation Plan) at 3.

otherwise provided for by the applicable governmental authority” proviso in the proposed standard.

Citing the implementation plan, the Commission observed in the September 18 Order that “NERC proposed that the Standard be effective October 1, 2025 or three months after regulatory approval, whichever is later.”⁹ The Commission, however, “accept[ed]” EOP-012-3 effective October 1, 2025, finding that “in this case, it is reasonable to modify NERC’s implementation plan, and adopt the earlier effective date, such that the proposed Standard is in effect prior to this upcoming winter season.”¹⁰

II. REQUEST FOR CLARIFICATION

Joint Trade Associations respectfully submit that the September 18 Order is unclear regarding the source of the Commission’s authority to establish an effective date of October 1, 2025, for Reliability Standard EOP-012-3. Granting clarification on this issue as discussed below would resolve legal uncertainty and likely avoid unproductive disputes in the future over the Commission’s authority to modify effective dates included in proposed reliability standards.

Under FPA section 215(d)(4), if FERC concludes that a proposed reliability standard is not just and reasonable, in whole or in part, the Commission must remand the standard to NERC for further consideration.¹¹ The Commission has long acknowledged the

⁹ September 18 Order at P 31.

¹⁰ *Id.* In adopting an effective date of October 1, 2025, the Commission pointed to, *inter alia*, industry’s awareness of the pending changes to EOP-012, “given that industry was involved in NERC’s standard development process.” *Id.* Joint Trade Associations observe, however, that when July 1, 2025, passed without Commission approval of the implementation plan, industry assumed – based on their involvement in the standards development process – that EOP-012-03 would become effective no earlier than January 1, 2026.

¹¹ 16 U.S.C. § 824o(d)(4) (“The Commission shall remand to the Electric Reliability Organization for further consideration a proposed reliability standard or a modification to a reliability standard that the Commission disapproves in whole or in part.”).

constraint that FPA section 215(d)(4) places on its authority to modify a proposed reliability standard without remand.¹²

The effective date is a component of a proposed reliability standard. Section 2.5 of the Commission-approved NERC Standards Process Manual (Appendix 3A to the NERC Rules of Procedure (“ROP”)) makes this clear, identifying the effective date(s) as one of the elements of a reliability standard. Indeed, the Standards Process Manual specifically states that “[t]he only mandatory and enforceable components of a Reliability Standard are the: (1) applicability, (2) Requirements, and *the (3) effective dates.*”¹³ Consistent with NERC’s ROP, the Commission has indicated that the proposed effective date(s) is an element that it considers in determining whether a proposed reliability standard is just and reasonable under FPA section 215.¹⁴ Thus, while the Commission can influence the effective date by directing that NERC revise a standard by a particular date,¹⁵ FPA section 215(d)(4) constrains FERC’s authority simply to change a proposed effective date without remand to NERC.

Here, however, the Commission indicated that it was “modify[ing] NERC’s implementation plan” to require an October 1, 2025, effective date (rather than three

¹² See, e.g., *Rules Concerning Certification of the Elec. Reliability Org; and Procedures for the Establishment, Approval, and Enforcement of Elec. Reliability Standards*, Order No. 672, 114 FERC ¶ 61,104, at P 390, *order on reh’g*, Order No. 672-A, 114 FERC ¶ 61,328 (2006).

¹³ NERC Rules of Procedure, Appendix 3A § 2.5 (emphasis added).

¹⁴ See, e.g., Order No. 672 at P 333 (“[i]n considering whether a proposed Reliability Standard is just and reasonable, the Commission will consider also the timetable for implementation of the new requirements, including how the proposal balances any urgency in the need to implement it against the reasonableness of the time allowed for those who must comply to develop the necessary procedures, software, facilities, staffing or other relevant capability.”).

¹⁵ Order No. 672 at P 408; see also 18 C.F.R. § 39.5(g) (“The Commission, when remanding a Reliability Standard to the Electric Reliability Organization or ordering the Electric Reliability Organization to submit to the Commission a proposed Reliability Standard or proposed modification to a Reliability Standard that addresses a specific matter may order a deadline by which the Electric Reliability Organization must submit a proposed or modified Reliability Standard.”).

months after regulatory approval) without directing a remand.¹⁶ The Commission’s reference to “modify[ing]” the implementation plan is ambiguous, as is the legal authority on which the Commission purported to rely in making this “modification” without remand to NERC.¹⁷

This ambiguity could be resolved by clarifying that, in setting an effective date of October 1, 2025, the Commission acted based upon the “as otherwise provided for by the applicable governmental authority” language in the implementation plan.¹⁸ That proviso expressly *permitted* the Commission to set an effective date that deviated from the “later of October 1, 2025 or three months after Commission approval” rubric *without* directing a remand to NERC to adopt a different effective date. In other words, the Commission was not altering proposed Reliability Standard EOP-012-3, but exercising discretion granted by the proposed standard itself as to the effective date. In that context, the Commission’s reference to “modify[ing]” the implementation plan can be understood as referring to application of that discretion to deviate from the “later of” effective date formula in the plan.

Accordingly, Joint Trade Associations request the Commission to clarify that, in “modify[ing] NERC’s implementation plan” to set an effective date of October 1, 2025,

¹⁶ September 18 Order at P 31.

¹⁷ *Id.* The Commission states that it “has previously modified a Reliability Standard’s implementation period,” *id.* (citing *Supply Chain Risk Mgmt. Reliability Standards*, 162 FERC ¶ 61,044, at P 44 (2018)), but the cited support for this assertion is a 2018 *proposal* to modify a proposed reliability standard effective date (subject to receiving comments on the proposal). The Commission in that case ultimately *accepted* the effective date proposed by NERC. *See Supply Chain Risk Mgmt. Reliability Standards*, Order No. 850, 165 FERC ¶ 61,020, at P 72 (2018) (“We do not adopt the NOPR proposal to reduce the implementation period and instead approve the implementation plan and effective date as proposed by NERC.”).

¹⁸ NERC Petition, Exhibit B (Implementation Plan) at 3.

for Reliability Standard EOP-012-3,¹⁹ the Commission acted based on the provision in the proposed implementation plan specifying that the proposed standard could become effective “as otherwise provided for by the applicable governmental authority.”²⁰ Joint Trade Associations respectfully submit that the requested clarification would resolve uncertainty created by the September 18 Order regarding the Commission’s authority to modify an implementation plan in establishing an effective date for a proposed reliability standard. Joint Trade Associations reiterate that, in requesting clarification on this legal point, they are neither objecting to the Commission’s approval of Reliability Standard EOP-012-3, nor asking for an effective date other than October 1, 2025.

III. CONCLUSION

Joint Trade Associations respectfully request the Commission to clarify its September 18, 2025 order in this proceeding as set forth herein.

Respectfully submitted,

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¹⁹ September 18 Order at P 31.

²⁰ NERC Petition, Exhibit B (Implementation Plan) at 3.

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DATED: October 20, 2025

CERTIFICATE OF SERVICE

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

Dated at Washington, D.C., this 20th day of October, 2025.

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