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U.S. Energy Regulator Proposes Increased Operational Regulation of Solar, Wind Generators

*By Mark C. Williams and J. Paul Forrester**

Under a series of new orders released by the U.S. Federal Energy Regulatory Commission, certain U.S. inverter-based generating resources, including almost all solar and wind generators, that presently are not subject to federal operational reliability regulation will become regulated. The authors of this article explain the new orders.

Certain U.S. inverter-based generating resources (IBRs), including almost all solar and wind generators, that presently are not subject to federal operational reliability regulation will become regulated under a series of new orders released by the U.S. Federal Energy Regulatory Commission (FERC) on November 17, 2022 (IBR Orders).¹

BACKGROUND

Under the U.S. Federal Power Act, as amended, FERC appoints the North American Electric Reliability Corporation (NERC), a special-purpose non-profit corporation, as the national electric reliability organization, and NERC, in turn, delegates day-to-day reliability oversight to regional reliability entities. NERC reliability regulation extends to reporting, equipment and communications testing and inspection, record-keeping, audits, cybersecurity, physical security, and operational practices.

Prior to the IBR Orders, a generating resource was only subject to NERC reliability registration and compliance if (1) the resource was interconnected to a bulk electric system transmission or sub-transmission facility rated at or above 100 kV; (2) the generating resource was larger than 20 MVA or, in the case of

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¹ Registration of Inverter-based Resources, Docket No. RD22-4-000 (Registration Order); Reliability Standards to Address Inverter-Based Resources, Docket No. RM22-12-000 (Reliability Standards Order); Order Approving Reliability Standards FAC-001-4 AND FAC-002-4, Docket No. RD22-5-000 (Interconnection Order). Drafts of each were posted Nov. 18, 2022, together with related FERC Staff discussion, at <https://www.ferc.gov/news-events/news/ferc-proposes-ibr-standards-registration-improve-grid-reliability>.

a complex of generating units, 75 MVa; or (3) a particular generating resource was otherwise determined under NERC rules to be material to reliability.

WHAT HAS BEEN DECLARED AND ORDERED

For the first time, the IBR Orders declare that IBRs, generically, are material to reliability and direct NERC to develop criteria and rules for registering those IBRs that are interconnected to transmission or sub-transmission lines.²

The three IBR Orders direct NERC to:

- Under the Registration Order, take certain rule development and data collection actions over a three-year-plus timeline to (1) complete modifications to NERC's registration processes within 12 months; (2) identify all owners and operators of jurisdictional IBRs that in the aggregate affect the reliable operation of the grid within 24 months; and (3) register owners and operators of IBRs that in the aggregate have a material impact on the reliable operation of the Bulk-Power System within 36 months.
- Under the Reliability Standards Order, develop new or modified standards that address four reliability gaps related to IBRs concerning (1) data sharing; (2) model validation; (3) planning and operational studies; and (4) performance requirements (in particular, the ability of IBRs to ride-through system disturbances).
- Under the Interconnection Order, adopt certain additional reliability standards relating to facility interconnection that will include IBRs as assets subject to regulation.

WHICH IBRs MAY BE AFFECTED

At the outset, it should be noted that IBRs that are larger than NERC exemptions provide and/or are interconnected to higher-voltage transmission facilities have always been subject to NERC registration and regulation, and, absent specific findings of materiality to reliability, smaller IBRs and those interconnected at the local distribution level have never been subject to NERC registration and regulation. What the IBR Orders change is that, prospectively, NERC will presumptively treat all IBRs of any size as being subject to NERC registration and regulation except those IBRs that are interconnected only to distribution facilities. IBRs that are grid-level interconnected but now are unregistered with NERC—potentially irrespective of size—will become subject

² IBRs that are interconnected only to distribution facilities are not subject to the IBR Orders, absent some NERC or regional reliability entity finding that is addressed to particular generators.

to NERC registration and regulation. The Registration Order notes that IBRs “regardless of size and transmission or sub-transmission voltage, have a material impact on . . . reliability.”³

FERC has issued no information on how many IBRs may be affected by the IBR Orders. There are tens of thousands of solar and wind facilities currently interconnected to transmission and distribution facilities, and many are very substantially below 20 MVA⁴ and are therefore now unregistered with NERC.⁵ While the IBR Orders suggest that full NERC reliability regulation might not extend to some unregistered and now newly regulated IBRs, with NERC retaining some discretion to apply some but not all reliability requirements to IBRs depending on materiality,⁶ the IBR Orders nonetheless create the near-guarantee of complex, time-consuming, and potentially costly operational responsibilities now attaching to non-dispatchable and essentially passive power supply resources.

WHAT TO EXPECT GOING FORWARD

The FERC and NERC proceedings that will establish exactly what responsibilities will apply to which IBRs will be protracted; for example, the Registration Order is not expected to result in currently unregistered IBRs actually becoming NERC-registered until more than 36 months have elapsed from the date the IBR Orders were released⁷—a date that could easily be extended by subsequent order. But the long delay in the IBR Orders’ results becoming fully defined and effective should not lull investors in IBRs into assuming that the requirements will be nondisruptive. The IBR Orders will result in NERC regulation applying to many times the number of entities than they apply to today, and even small IBRs that are not physically configured will be swept into the new regime with significant uncertainty regarding the nature, amount and timing of any required investments in equipment or controls.

³ Registration Order at Para. 30.

⁴ At electrical unity, a 20 MVA generating facility has a nominal generating capacity of 20 MW. Solar and wind generating facilities of no larger than 20 MW are normally exempt from most FERC non-reliability regulation. 18 C.F.R. Part 292 Subpart F.

⁵ At least 10,000 new solar and wind “qualifying facility” generators of no larger than 20 MW have been developed since 2015, although many, if not all, are or will be interconnected only to local distribution facilities and might therefore not be affected by the IBR Orders.

⁶ Registration Order at Para. 34.

⁷ See FERC Staff Presentation, posted at: <https://www.ferc.gov/news-events/news/joint-presentation-items-e-1-registration-inverter-based-resources-and-e-2>.