

CAN Comment Form

CAN Number 0009

Please complete the CAN Comment Form and email it to cancomments@nerc.net.

Commenter Information

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Entity (ies) Represented: MRO NSRF consisting of: Madison Gas and Electric Company, Alliant Energy, Western Area Power Administration, Great River Energy, Xcel Energy, Rochester Public Utilities, Basin Electric Power Cooperative, Lincoln Electric System, American transmission Company, Wisconsin Public Service, Omaha Public Power District, Minnkota Power Cooperative, Midwest ISO, Otter Tail Power Company, Muscatine Power and Water, Nebraska Public Power District

Region(s): MRO

Primary Interest Groups

Compliance Enforcement Authority (CEA)

Transmission Owner (TO)

Generation Owner (GO)

Do you disagree with the groups mentioned? **No**

If yes, explain why:

Issue - Should CEAs find a violation of FAC-008 R1 or FAC-009 when it is determined that constructed Facilities do not match design specifications?

For the purpose of aiding CEAs, this CAN provides instruction for assessing compliance with FAC-008 R1 and FAC-009 R1 when an entity's constructed Facilities do not match its design specifications.

Do you disagree with the issue statement of the CAN? **Yes**

If yes, explain why:

The MRO NSRF is recommending that this CAN be deleted.

There is no wording in FAC-008 or FAC-009 that identifies a violation if design information and field construction do not match. These words are not present in either standard or any of the requirements.

NERC has incorrectly, through this CAN process created a new requirement which is explicitly forbidden by NERC's own Rules of Procedure and the CAN process.

The purpose of FAC-008 is instructive as to the intent of FAC-008 being to ensure that ratings are determined based on an established methodology. Nowhere does the purpose read that entities are to ensure that constructed facilities exactly match the line design.

FAC-008-1 R1 instructs entities to document their current methodology. Sub-requirements under R1 specify the scope and items to be covered in the methodology.

FAC-008-1 R2 instructs entities to make their ratings methodology available for inspection

FAC-008-1 R3 instructed entities to make changes to their methodology when required.

An analysis of the requirements indicates an entity can be in violation for not having a methodology, for not making their methodology available, or for not making appropriate changes to their methodology in the required time frame. Nowhere do the requirements force entities ensure that constructed facilities exactly match the line design.

FAC-009 has the same purpose as FAC-008. FAC-009-1 R1 instructs entities to establish ratings that are "consistent" with the associated ratings methodology. Therefore if an entity shows how the rating is to be calculated and the rating calculation is consistent with the specified rating reported to neighboring NERC registered operating entities there is no violation.

FAC-009-1 R2 instructs entities to provide ratings for its facilities to neighboring NERC registered entities. Again, nowhere do the requirements force entities ensure that constructed facilities exactly match the line design. Entities can be found in violation for playing "games" such as changing ratings to benefit specific entities or to adapt to changing conditions again to benefit specific entities. The goal was to provide open, transparent, ratings that everyone could understand.

In short, NERC through the CAN process has attempted to validate that the NERC Alert on Consideration of Actual Field Conditions in Determination of Facility Ratings is actually part of FAC-008 and FAC-009 and therefore carries NERC violation penalties when this is untrue. This is a grave overreach of NERC authority, and opens NERC to potential legal actions.

NERC should rescind and eliminate this CAN. All efforts to enforce NERC FAC-008 and FAC-009 penalties related to the NERC Alert on Consideration of Actual Field Conditions in Determination of Facility Ratings should cease.

Background

NERC's *Recommendation to Industry: Consideration of Actual Field Conditions in Determination of Facility Rating*² (Recommendation) identified a reliability concern due to Facilities in the field not

matching a registered entity's design specifications. This Recommendation contained a call to action for industry with key dates.

Do you disagree with the background statement of the CAN? **Yes**
If yes, explain why:

The CAN process was designed to provide clarity to ambiguous NERC standards and requirements. This background solely discusses a NERC Alert, not a NERC Standard. This alone shows the fundamental flaw to the CAN and NERC's wrong attempt to link an unenforceable NERC Alert to enforceable NERC standards.

Compliance Application

FAC-008-1 requires a registered entity to have a documented FRM for developing Facility Ratings of its solely and jointly owned Facilities.

FAC-009-1 R1 requires TOs and GOs to establish Facility Ratings for their solely and jointly owned Facilities that are consistent with the associated FRM, which is required under FAC-008 R1.

FAC-009-1 R2 requires TOs and GOs to provide Facility Ratings for solely and jointly owned existing Facilities and new Facilities, as well as any modifications to existing Facilities or re-ratings of existing Facilities to their associated RCs, Planning Authorities (PA), Transmission Planners (TP), and TOPs as scheduled by such requesting entities.

Do you disagree with the compliance application section of the CAN? **Yes**
If yes, explain why:

The CAN Application section is long and convoluted in attempting to answer the question which is **Should CEAs find a violation of FAC-008 R1 or FAC-009 when it is determined that constructed Facilities do not match design specifications?**

The question can be answered simply as, "No. No language exists in the NERC standards FAC-008 or FAC-009 that specifies a violation when field construction does not match a design rating. Further the NERC Alert by definition is not law and cannot be the sole basis for an enforcement action."

Effective Period for CAN

This revised CAN supersedes the original CAN, as well as all prior communications. CEAs are to use this CAN to assess compliance from January 7, 2011.

Do you disagree with the effective period of the CAN? **Yes**
If yes, explain why:

The CAN is wrong and unlawful. There should not be an effective date and the CAN should be rescinded.

Evidence of Compliance

In the event a CEA determined that there are discrepancies between the design and actual field conditions that are outside the registered entity's design tolerances, the following will be strong considerations in the determination of a zero-dollar penalty:

- the registered entity's continuation of its robust FRM;
- timely and thorough evaluations by the registered entity of its system using accurate measurement methods and technologies;
- timely self-disclosure of any compliance gaps; and
- prompt corrective actions and consistent completion of its Mitigation Plan milestones.

Do you disagree with the evidence of compliance mentioned in the CAN? **Yes**

If yes, explain why:

The CAN process was designed to provide clarity to ambiguous NERC standards and requirements. This background solely discusses a NERC Alert, not a NERC standard. This alone shows the fundamental flaw to the CAN and NERC's wrong attempt to link an unenforceable NERC Alert to enforceable NERC standards.

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