

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

Reliability Standards Development and            )  
NERC and Regional Entity Enforcement        )        AD10-14-000

**COMMENTS OF THE ELECTRIC POWER SUPPLY ASSOCIATION**

The Electric Power Supply Association<sup>1</sup> (EPSA) submits these comments pursuant to the Federal Energy Regulatory Commission's (FERC or Commission) July 7, 2010 Notice establishing a date for comments in response to the July 6, 2010 technical conference in the above captioned proceeding.<sup>2</sup> The July 6 standards development technical conference had two panels: (1) implementation of the National Electric Reliability Corporation (NERC) as the Electric Reliability Organization (ERO) and how standards development process is working among NERC, the Commission, and industry; and, (2) what changes are needed to the existing standards development process.

EPSA appreciates the Commission's recognition that improved dialogue among FERC, NERC, Canadian governmental authorities and industry is

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<sup>1</sup> EPSA is the national trade association representing competitive power suppliers, including generators and marketers. These suppliers, who account for 40 percent of the installed generating capacity in the United States, provide reliable and competitively priced electricity from environmentally responsible facilities. EPSA seeks to bring the benefits of competition to all power customers. The comments contained in this filing represent the position of EPSA as an organization, but not necessarily the views of any particular member with respect to any issue.

<sup>2</sup> *Notice establishing date for comments re: Reliability Standards Development and NERC and Regional Entity Enforcement*, Docket No. AD10-14 (July 7, 2010).

necessary in order to ensure that the North American public/private relationship envisioned by Congress continues to evolve in an effective manner. Each of EPSA's 21 member companies operates in four or more NERC regions and together represent over 700 separate entities in the NERC registry. EPSA and its members therefore have a significant interest in grid reliability and in the development of enforceable standards that ensure reliability.

The conference highlighted the need for greater dialogue among the four groups that are integral for a successful reliability regime: the Commission, NERC, Canadian governmental authorities and industry. The recent March 18 orders issued by FERC, and the response by NERC and industry to those orders, demonstrated the need for better communications so that the current public/private reliability collaboration can continue to be enhanced. As Commissioner Moeller characterized at the conference:

...It's probably a bit overdue that we could talk about these issues....I think these meetings need to be held on a regular basis, so that FERC, NERC and the industry are able to continue a dialogue.<sup>3</sup>

Therefore, it was little surprise that much of the technical conference's discussion focused on future communications among the groups and potential ways to facilitate and improve them. Herein, EPSA provides comments on the technical conference discussions.

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<sup>3</sup> Transcript, p. 6, lines 13-14 and 18-20, (Commissioner Moeller).

## **I. COMMUNICATIONS**

All pleadings, correspondence and other communications concerning this proceeding should be directed to:

Nancy Bagot, Vice President of Regulatory Affairs  
Electric Power Supply Association  
1401 New York Avenue, N.W., 11<sup>th</sup> Floor  
Washington, D.C. 20005  
(202) 628-8200  
[NancyB@epsa.org](mailto:NancyB@epsa.org)

## **II. COMMENTS**

### **A. Reliability Summit**

The July 6 technical conference highlighted the need for better communication and a more cooperative relationship among FERC, NERC, Canadian governmental authorities and industry going forward. Early in the conference Chairman Wellinghoff noted:

You're all saying we need to collaborate more, we need to open a dialogue, we need to move forward to better understanding of our respective positions and ways that we can work together, and I hear that and we're going to do that. I commit to that.<sup>4</sup>

EPSA supports the Chairman's commitment. As to how this is best achieved, the conference discussion indicated that there is no clear consensus regarding what level of policy discussion is required, what the format should be for future discussion, how the discussions should be structured, and who should participate. Because of these lingering questions, next steps should be

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<sup>4</sup> Transcript, p. 48-49, lines 24-25 and 1-3, (Chairman Wellinghoff).

considered carefully in order to move forward in a way that fosters better FERC, NERC, Canadian governmental authorities and industry dialogue thereby improving the standards development process.

Generally, competitive suppliers support convening future “Reliability Summits” that would focus on providing high level policy guidance, improving feedback from the Commission, and setting priorities. Optimally, these summits would be held annually, and in many ways would reflect the format of the July 6 conference. However, as the July 6 conference demonstrated, limiting the forum to CEO participation only is impractical and likely will not result in the kind of broad participation, robust discussion and resulting guidance from FERC that necessitated the technical conference in the first place. EPISA recommends that future Reliability Summits should be held to bring reliability leaders together for discussion and collaboration. Such convocations would of course be open to CEOs and other senior management personnel, but will require the input of policy, legal and subject matter experts as well. In addition these reliability leadership forums should not involve or require the formation of a new chartered group or committee, which would add another layer of bureaucracy and associated cost to the standards development process, likely impairing the standards development process and discouraging participation by resource-constrained entities.

## **B. Policy Guidance for Reliability Issues and Standards Development**

NERC clearly can benefit from FERC policy guidance on certain issues. In the relationship between FERC and NERC as Regulator and ERO, respectively it is FERC rather than NERC that is the policy setting body. Gerry Cauley of NERC provided examples of high level policy issues that NERC would welcome Commission input on:

A few of the complex questions needing policy-level resolution include are we moving from a definition of bulk power system reliability as avoiding instability, uncontrolled separation or cascading failures, to one that includes avoidance of load loss? What is the proper balance between reliability and cost to customers? Both issues we heard earlier on the first panel. But also what are our strategic objectives and design basis threats with regard to protecting the physical and cyber security of our critical infrastructure? How should we address the integration of renewables, demand-side management and SmartGrid devices? What are our most significant unresolved risks to the grid today, and how should these be addressed?<sup>5</sup>

While EPSA supports discussions that would yield answers for NERC on these issues, some items on the list also suggest that the dialogue will often need to go deeper than high level policy discussions to provide the proper Commission guidance. Several of the standards development issues that underpinned the July 6 technical conference and were discussed at the conference (e.g., frequency response, cascading failures and load loss, protection equipment and contingency planning) demonstrated how certain policy discussions require more technical investigation to allow consideration of the appropriate policy guidance. Consequently, the conference itself provides a record that there is a need for further dialogue, but that future discussions will

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<sup>5</sup> Transcript, p. 123, lines 7-20, (Gerry Cauley).

require contributions from not only senior executives and Commissioners, but from subject matter experts from the ranks of industry, Commission Staff and NERC.

Because reliability issues are by their very nature complex, sound policy guidance needs to include input from all individuals – industry leaders and others – who can best provide information on and context to efficient standards development. Throughout the day on July 6, conference speakers of various ranks and perspectives implored the Commission to provide more clarity on its view of what constitutes a sufficient standard. Providing the Regional perspective, Louise McCarren of WECC said:

I think the second area of clarity needs to be what are the attributes of good standards, good standards from the FERC's perspective? You know, it took us again, it took us a while to understand the attributes of a good settlement, the attributes of a good notice of penalty, and I think that would go a long way if we had better clarity on how prescriptive the standard should be, and from FERC's point of view, the policies it would like to see implemented on good standards.<sup>6</sup>

A Reliability Summit organized similarly to the July 6 technical conference would allow for technical input to be provided to the Commission, as well as discussion among reliability leaders, so that rulemaking processes can be best informed. As Nicholas Ingman of the Canadian Electricity Association provided:

Technical conferences such as this, if held more frequently, could provide a forum for industry to inject technical inputs to notices of proposed rulemakings and orders in an open forum before they are issued.<sup>7</sup>

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<sup>6</sup> Transcript, p. 32, lines 4-13, (Louise McCarren).

<sup>7</sup> Transcript, p. 150, lines 13-17, (Nicholas Ingman).

Billy Ball of Southern Company speaking for EEI presented a similar concept that would increase the efficiency of communications among FERC, NERC, and industry as standards come before the Commission:

To this end, the EEI believes that the Commission should consider adopting new avenues for communicating its technical concerns and questions about a draft standard before there's a NOPR. There are several ways that I think you could do this. The Commission or its staff could convene a technical conference or a workshop on a draft standard, to review Commission concerns. Pre-filing of proposed standards may be a way to facilitate this. The Commission could issue a preliminary staff report on a proposed standard, as you did prior to the issuance of Order 693. I think that process worked very well in getting some ideas and issues on the table, before the NOPR was issued.<sup>8</sup>

The Commission should consider the suggestions that technical concerns arising in the standards development process need to be included in a Reliability Summit prior to any NOPR process in order to avoid regulatory delay such as that associated with the March 18 orders or, worse, excessive litigation.

### **C. Priorities**

Another area highlighted by the technical conference is the need to include the establishment of priorities for standards as part of the dialogue. Regular discussions among FERC, NERC, Canadian governmental authorities and industry will provide the needed dialogue and shared understanding so that standards development resources are deployed in a manner consistent with mutually agreed upon priorities. The request for Commission input on priorities

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<sup>8</sup> Transcript, p. 143-144, lines 23-25 and 1-10, (Billy Ball).

came from NERC, industry and the Regions. NERC Board of Trustees President John Q. Anderson urged at the conference:

.....what are the priorities for new standards, what are the priorities for improving existing standards that have high impact and high risk, and that's where we should focus our energy, I think, on now where to come to agreement (sic).<sup>9</sup>

ELCON's John A. Anderson also addressed the need for improved communications on priorities and the need for leadership at the Commissioner level:

We don't get a sense of the priorities from FERC, and then to be honest with you, we haven't really asked or found a good way to ask.<sup>10</sup>

We think there's one more input that we need, and that's from the very senior level, from the commissioner level, on setting those priorities.<sup>11</sup>

From the regional perspective, WECC's Louise McCarren also called for Commission to clarify its reliability process priorities, "The third issue is I think what needs improvement is focus on the most important issues."<sup>12</sup> Clearly with the current number of standards being developed and pending approval at the Commission, and the immediate need for clarity in the compliance area, having the Commission and ERO reach consensus on priorities is important for the success of the current North American reliability standards development regime.

The July 6 conference came about due to the need for better communications which can be achieved if a clear feedback loop is established.

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<sup>9</sup> Transcript, p. 88, lines 12-16, (John Q. Anderson).

<sup>10</sup> Transcript, p. 99, lines 16-19, (John A. Anderson).

<sup>11</sup> Transcript, p. 100, lines 3-6, (John A. Anderson).

<sup>12</sup> Transcript, p. 32, lines 14-15, (Louise McCarren).

One-sided communications either from NERC to the Commission, or from the Commission to NERC, will not promote efficiency given the complexity of reliability issues. The standards development process needs to foster discussion so that FERC, NERC, Canadian governmental authorities and industry can establish a common understanding of one another's concerns. Importantly, communication about concerns is only effective when it occurs well in advance of the issuance of a Commission order. Several participants highlighted that a better coordinated feedback loop which offers substantive information will be constructive to the standards development process. Mid-American CEO Greg Abel stated:

Sometimes we're stepping back saying we're not sure why we've been debating the standard or where the gray is in it, and we struggle when we say why should we go (sic) this next interpretation of it or why does this standard have to be developed? We don't get a lot of good feedback, and that's an important part of the process. Maybe if there's a better dialogue there, we can engage in a more proactive way. But often it's left as sort of well we can't give you that type of feedback. We can't answer the why part of it, and then there's that frustration that builds and probably a lack of trust between the two, or all the organizations.<sup>13</sup>

Mr. Abel was commenting on the need to improve the feedback from the Commission to those engaged in the standards development process. However, there are other areas that would benefit from Commission feedback, such as filed documents, e.g. NERC's Three-Year Assessment. This was addressed at the conference by John Q. Anderson:

There's been no official response back from FERC on it. My reading of those documents, and I sort of helped put them together,

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<sup>13</sup> Transcript, p. 96-97, lines 25 and 1-12, (Greg Abel).

is that NERC was saying hey, we think we're doing a real good job. And you get nothing back, it's kind of strange. It would be helpful, I would think, that when something like that is put forth, to get something. That's another way of getting a dialogue within the existing process. So I think if we can just realize we're learning and we're going to continue to learn, I think it's really quite important.<sup>14</sup>

Mr. Anderson's comments suggest the importance of an improved communications protocol so that NERC can receive timely feedback from the Commission regarding standards and assessments. Developing such an enhanced communication channel would avoid the sort of surprise that resulted from the March 18 FERC issuances and orders.

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<sup>14</sup> Transcript, p. 90, lines 10-20, (John Q. Anderson).

### III. CONCLUSION

Wherefore, EPSA agrees that the North American electric grid reliability and associated standards development will benefit from better communication and collaboration among FERC, NERC, Canadian governmental authorities and industry. To that end EPSA supports the Commission convening future reliability summits but does not support the formation of an additional structured, chartered group or committee. Competitive suppliers also respectfully request that the Commission adopt the conference recommendations referenced herein that address the need for greater clarity on reliability policies and standards development, including clear, consensus-driven priorities and improved feedback from the Commission.

Respectfully Submitted,



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Nancy Bagot, Vice President of Regulatory Affairs  
Jack Cashin, Director of Regulatory Affairs  
Electric Power Supply Association  
1401 New York Avenue, NW, 11th Floor  
Washington, DC 2000  
(202) 628-8200  
[NancyB@epsa.org](mailto:NancyB@epsa.org)

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**CERTIFICATE OF SERVICE**

I hereby certify that I have served a copy of the Comments via email upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Washington, D.C. July 26, 2010.



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Nancy Bagot, VP of Regulatory Affairs