

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

Cedar Creek Wind Energy, LLC	)	Docket No. RC11-1-002
	)	
Milford Wind Corridor Phase I, LLC	)	Docket No. RC11-2-002
	)	
	)	(Not Consolidated)

**COMMENTS OF THE ELECTRIC POWER SUPPLY ASSOCIATION,  
THE EDISON ELECTRIC INSTITUTE, AND  
THE AMERICAN WIND ENERGY ASSOCIATION**

The Electric Power Supply Association (“EPSA”),<sup>1</sup> the Edison Electric Institute (“EEI”),<sup>2</sup> and the American Wind Energy Association (AWEA)<sup>3</sup> (collectively, the “Trade Associations”) hereby submit these comments on the North American Electric Reliability Corporation’s (“NERC”) compliance filing submitted to the Federal Energy Regulatory Commission (the “Commission”) in the above-captioned proceedings.<sup>4</sup> As detailed below, the Compliance Filing includes a proposed list of transmission owner (“TO”) and transmission operator (“TOP”) Reliability Standards and requirements to apply to Milford

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<sup>1</sup> EPSA is the national trade association representing competitive power suppliers, including generators and marketers. Competitive suppliers, which, collectively, 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> EEI is the association of the nation’s shareholder-owned electric utilities, international affiliates, and industry associates world-wide.

<sup>3</sup> AWEA is a national trade association representing a broad range of entities with a common interest in encouraging the expansion and facilitation of wind energy resources in the United States. AWEA’s members include wind turbine manufacturers, component suppliers, project developers, project owners and operators, financiers, researchers, renewable energy supporters, utilities, marketers, customers, and their advocates.

<sup>4</sup> Compliance Filing of the North Am. Elec. Reliability Corp., Docket Nos. RC11-1-002 and RC11-2-002 (filed Dec. 2, 2011) (“Compliance Filing”).

Wind Corridor Phase I, LLC (“Milford”) and Cedar Creek Wind Energy, LLC (“Cedar Creek”), both generator owners, by virtue of their ownership and operation of generator tie-lines.<sup>5</sup> In addition to the Reliability Standards with which the Commission expressly ordered Milford and Cedar Creek to comply, NERC has added Reliability Standards that are not technically relevant to generators with tie-lines. The Trade Associations request that the Commission reject the inclusion of these additional standards and requirements in the Compliance Filing.

The Compliance Filing also includes a description of how NERC intends to update the list of applicable TO and TOP Reliability Standards going forward.<sup>6</sup> Although the Trade Associations understand that FERC will need to review any proposed changes regarding the applicability of Reliability Standards to Milford and Cedar Creek at a future date, they take this opportunity to bring to the Commission’s attention concerns they have with the approach outlined in the Compliance Filing for determining which TO and TOP Reliability Standards will apply in the future. Because NERC’s approach is inconsistent with Section 215 of the Federal Power Act (“FPA”)<sup>7</sup> and the Commission’s November 17, 2011 order in these proceedings,<sup>8</sup> the Trade Associations strongly urge the Commission to direct NERC to implement the entire scope of Project 2010-07 – Generator Requirements at the Transmission Interface (“Project 2010-07”).<sup>9</sup>

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<sup>5</sup> *Id.* at 2-4.

<sup>6</sup> *Id.* at 4-5.

<sup>7</sup> 16 U.S.C. § 824o (2006).

<sup>8</sup> *Cedar Creek Wind Energy, LLC and Milford Wind Corridor Phase I, LLC*, 137 FERC ¶ 61,141 (2011) (“*Cedar Creek Order*”).

<sup>9</sup> The Trade Associations understand that Project 2010-07 remains subject to additional approvals, including the Commission’s approval. For the purpose of these comments, references to Project 2010-07 are with that understanding in mind.

## I. BACKGROUND

On June 16, 2011, the Commission issued an order upholding the registrations of Milford and Cedar Creek as TOs and TOPs with respect to their ownership and operation of generator tie-lines, and identified certain minimum TO and TOP Reliability Standards with which Milford and Cedar Creek must comply.<sup>10</sup> The Commission also ordered NERC, the Western Electricity Coordinating Council (“WECC”), and the affected generators to negotiate whether any additional TO and TOP Reliability Standards should be applied, and directed NERC to submit a compliance filing identifying those standards.<sup>11</sup> On November 17, 2011, the Commission issued the *Cedar Creek Order* denying rehearing and partially granting clarification on the *June 16 Order*.

NERC submitted the Compliance Filing on December 2, 2011, and identified twelve TO and TOP Reliability Standards proposed to apply to Milford and Cedar Creek (“Appendix A List”). The Appendix A List includes five Reliability Standards not in the *June 16 Order* (EOP-005-1, FAC-001-0, PER-002-0, PRC-005-1, and TOP-006-1), and identifies additional requirements for three Reliability Standards that were included in the *June 16 Order* (PRC-004-1, PRC-001-1, and FAC-003-1).

The Compliance Filing also outlined NERC’s approach to revising the list of applicable TO and TOP Reliability Standards going forward. Specifically, NERC intends that if a future initiative results in a minimum applicable list of standards different from that included in the Compliance Filing, the parties will request necessary approvals to

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<sup>10</sup> *Cedar Creek Wind Energy, LLC and Milford Wind Corridor Phase I, LLC*, 135 FERC ¶ 61,241 (2011) (“*June 16 Order*”).

<sup>11</sup> *Id.* at PP 73, 89.

update the list of Reliability Standards “with the list that results from the initiative.”<sup>12</sup> In addition, the Compliance Filing explained that “any standards that become effective as a product of Project 2010-07 will supersede and replace comparable standards included in the list of the standards provided herewith or any comparable standards that are implemented as a product of any future initiative.”<sup>13</sup>

## II. COMMENTS

### A. Project 2010-07 – Generator Requirements at the Transmission Interface

The goal of Project 2010-07 is “to ensure that an adequate level of reliability is maintained in the [bulk electric system] by clearly describing which standards need to be applied to generator interconnection Facilities that are not already applicable to Generator Owners or Generator Operators.”<sup>14</sup> In developing its recommendations, the Project 2010-07 standards drafting team (“SDT”) has “reviewed 34 reliability standards and 102 requirements to determine what changes are necessary to close a reliability gap with respect to what is commonly known as the generator interconnection Facility.”<sup>15</sup> Although NERC claims it will not prejudge the results of Project 2010-07,<sup>16</sup> the Compliance Filing appears to do just that by limiting the application of Project 2010-

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<sup>12</sup> Compliance Filing at 4.

<sup>13</sup> *Id.*

<sup>14</sup> See Project 2010-07: Generator Requirements at the Transmission Interface, Background Resource Document at 2, *available at* [http://www.nerc.com/docs/standards/sar/2010-07\\_Project\\_2010-07\\_Background\\_Resource\\_Document\\_061711.pdf](http://www.nerc.com/docs/standards/sar/2010-07_Project_2010-07_Background_Resource_Document_061711.pdf).

<sup>15</sup> See Project 2010-07: Technical Justification Resource Document at 1, *available at* [http://www.nerc.com/docs/standards/sar/2011\\_09\\_30\\_Technical\\_Justification\\_Document.pdf](http://www.nerc.com/docs/standards/sar/2011_09_30_Technical_Justification_Document.pdf) (“Project 2010-07: Technical Justification Resource Document”). To the extent necessary, the Trade Associations incorporate by reference herein the Project 2010-07: Technical Justification Resource Document.

<sup>16</sup> Compliance Filing at 4.

07 based on the Appendix A List. The Compliance Filing states that standards that become effective as a result of Project 2010-07 “will supersede and replace comparable standards” included in the Appendix A List.<sup>17</sup> However, to the extent that Project 2010-07 determines certain TO/TOP Reliability Standards are not applicable to generators with generator tie-lines, and, as a result, does not require revision to such standards, NERC does not intend to seek removal of those standards from the Appendix A List. NERC’s election to ignore this material aspect of Project 2010-07 not only effectively displaces the standards development process required by Section 215 of the FPA, but is flatly inconsistent with the *Cedar Creek Order*.

In connection with the ownership and operation of generator tie-lines, the Project 2010-07 SDT has identified four<sup>18</sup> Reliability Standards that should be modified and found that no “further modifications to standards are necessary to maintain an appropriate level of reliability.”<sup>19</sup> The Compliance Filing identifies twelve Reliability Standards that should apply to Milford and Cedar Creek. Assuming the standards modified by the Project 2010-07 SDT become effective, under the approach outlined in the Compliance Filing, NERC would continue to seek compliance with the eight additional Reliability Standards identified in the Compliance Filing, even though those standards have been determined to be unnecessary for generator tie-lines by Project

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<sup>17</sup> *Id.*

<sup>18</sup> Although Project 2010-07 has only posted modifications to three Reliability Standards, the Project 2010-07: Technical Justification Resource Document acknowledges that a fourth standard (PRC-005-1) should be modified and is in the process of developing revisions. See Project 2010-07: Technical Justification Resource Document at 4.

<sup>19</sup> *Id.* at 2.

2010-07.<sup>20</sup> Similarly, NERC's proposed approach fails to address the deregistering of Cedar Creek and Milford as TOs and TOPs. The Project 2010-07 SDT is charged with revising any standards that are necessary to address a possible reliability gap with respect to owners and operators of generator interconnection facilities, so as to eliminate the need for TO and TOP registrations. If NERC intends to continue to seek registration of owners and operators of generator interconnection facilities as TOs and TOPs, it will be ignoring yet another significant aspect of Project 2010-07.

NERC's approach runs afoul of Section 215 of the FPA, which specifies that NERC is to have in place and follow rules "that provide reasonable notice and opportunity for public comment, due process, openness, and balance of interests in developing reliability standards and otherwise exercising its duties."<sup>21</sup> As discussed below, Project 2010-07 has been the only standards development process to address generator interconnection issues that meets the transparency requirements of Section 215. Because the approach NERC has outlined in the Compliance Filing for applying TO/TOP Reliability Standards limits the application of Project 2010-07 and evidences a blatant disregard for Section 215 of the FPA, NERC's approach must be rejected.

In addition, limiting the effect of Project 2010-07 conflicts with the *Cedar Creek Order*. First, the *Cedar Creek Order* made clear that Project 2010-07 is an overarching effort and will be dispositive on which Reliability Standards should apply to generator tie-lines generally. The order recognizes that "NERC, through its standards development process in Project 2010-07 is analyzing more generally which standards

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<sup>20</sup> See *id.* at 4-15 (reviewing other standards considered by the SDT, but not included among the four revised Reliability Standards).

<sup>21</sup> 16 U.S.C. § 824o(c)(2)(D).

should be applicable to all generator interconnection lines, and industry will have input into NERC's determination."<sup>22</sup> As such, the Commission's decision that Milford and Cedar Creek must comply with certain TO/TOP Reliability Standards, does not "dictate the outcome of the Reliability Standard development process or the Project 2010-07 effort."<sup>23</sup> Rather, Project 2010-07 is to be a comprehensive process that includes an open forum where "[a]ny generator owner or operator has the opportunity to participate in Project 2010-07 to propose which standards should be applicable to generator interconnection lines."<sup>24</sup> NERC cannot now restrict the application of Project 2010-07 based on the specific facts relevant to Milford and Cedar Creek.

Second, and equally important, is that NERC's approach runs directly counter to the Commission's encouragement for "NERC to develop an approach to this matter that satisfies Bulk-Power System reliability concerns and also allows entities to understand upfront the scope of their compliance responsibilities."<sup>25</sup> NERC's comments in the Compliance Filing with respect to its intended limited application of Project 2010-07 does anything but allow entities to understand upfront the scope of their compliance responsibilities. NERC is creating confusion as to what standards will apply in the future, and appears to be leaving open the possibility of TO and TOP registrations for generator interconnection facilities even though Project 2010-07 is intended to address a possible reliability gap without requiring such registrations. In order to prevent NERC from perpetuating the uncertainty that Project 2010-07 is designed to eliminate, the

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<sup>22</sup> *Cedar Creek Order* at P 26.

<sup>23</sup> *Id.* at P 28. *See also id.* at P26 (indicating that the current proceedings "do not prejudice NERC's ongoing effort" in this regard).

<sup>24</sup> *Id.* at P 27.

<sup>25</sup> *Id.* at P 25 (internal citations omitted).

Trade Associations urge the Commission to make it clear that the approach outlined in the Compliance Filing circumvents the standards development process required by Section 215 of the FPA and the *Cedar Creek Order*.

**B. Draft Compliance Process Directive #2011-CAG-001, Directive Regarding Generator Transmission Leads (“Draft Directive”)**

The Compliance Filing also indicates that “[t]o the extent that any future initiative (including specifically NERC’s Draft Compliance Process Directive #2011-CAG-001, Directive Regarding Generator Transmission Leads) would result in a minimum applicable list of standards” different from that included in the Compliance Filing, the parties would request necessary approvals to update the list of Reliability Standards “with the list that results from the initiative.”<sup>26</sup>

The Draft Directive is intended to provide “interim guidance” and to support “longer term efforts of reliability standard drafting teams,” including that of Project 2010-07.<sup>27</sup> As discussed in detail in EPSC’s Comments on the Draft Directive, which are incorporated by reference herein and included as Attachment A, there are due process concerns around the use of the Draft Directive to address a possible gap in reliability. The proper process for addressing possible gaps in reliability is to develop or modify Reliability Standards through the stakeholder process required by FPA Section 215(c)(2)(D). NERC created the Reliability Standards Development process set forth in Section 300 of its Rules of Procedure to meet that requirement.<sup>28</sup> Section 300 is

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<sup>26</sup> Compliance Filing at 4.

<sup>27</sup> See Draft Compliance Process Directive #2011-CAG-001 at 1, *available at* <http://www.nerc.com/files/GO%20TO%20Directive%2010.07.11.pdf>.

<sup>28</sup> See North Am. Elec. Reliability Corp. Rules of Procedure, *available at* [http://www.nerc.com/files/NERC\\_Rules\\_of\\_Procedure\\_EFFECTIVE\\_20111117.pdf](http://www.nerc.com/files/NERC_Rules_of_Procedure_EFFECTIVE_20111117.pdf).

supplemented with the NERC Standards Processes Manual, which is included as Appendix 3A to the Rules of Procedure.<sup>29</sup> The NERC Standards Processes Manual clearly states that the “Standards Committee is responsible for managing the standards processes for development of standards” and will “appoint a drafting team” to develop a new or revised standard.<sup>30</sup> The Project 2010-07 SDT was formed through this process in December 2010. The Draft Directive, on the other hand, was created entirely outside of the established process for developing standards. Using the Draft Directive as the basis for applying Reliability Standards, even on an interim basis, circumvents the requirements of the Section 215 and strengthens the Trade Associations’ concern that NERC may choose to disregard material aspects of Project 2010-07. The Trade Associations request that the Commission provide guidance to all interested participants in the industry that NERC’s proposed actions are contrary to the approved standards development process and that such actions should not be used to undermine Project 2010-07.

### **C. Additional Proposed Reliability Standards and Requirements**

NERC represents that the Appendix A List “identifies all TO and TOP Reliability Standards to which the parties have agreed will apply to Milford and Cedar Creek.”<sup>31</sup> As the list includes the standards and requirements identified in the *June 16 Order*,<sup>32</sup> it appears to be a comprehensive list of all TO/TOP Reliability Standards and

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<sup>29</sup> See North Am. Elec. Reliability Corp. Standards Processes Manual, *available at* [http://www.nerc.com/files/Appendix\\_3A\\_Standard\\_Processes\\_Manual\\_20110825.pdf](http://www.nerc.com/files/Appendix_3A_Standard_Processes_Manual_20110825.pdf)

<sup>30</sup> *Id.* at 8 and 14.

<sup>31</sup> Compliance Filing at 2.

<sup>32</sup> As the *Cedar Creek Order* confirmed, the “Reliability Standards described in the *June 16 Order* are ones with which Cedar Creek and Milford must comply, and were not listed for illustrative purposes.” *Cedar Creek Order* at P 28.

requirements that NERC proposes will apply to Milford and Cedar Creek. The list includes a number of additional Reliability Standards and requirements in addition to those identified in the *June 16 Order* that NERC intends to apply to the generators, but for which no technical justification has been provided.

As reflected in the chart below, the source of the additional requirements is the Draft Directive. Requirements from Reliability Standards in the chart that are underlined and in bold are those that are not listed in the June 16 Order, and are not applicable to generators with tie-lines under Project 2010-07.

<b>Reliability Standard</b>	<b>June 16 Order</b>	<b>Draft Directive</b>	<b>Appendix A List</b>	<b>Project 2010-07</b>
<b>EOP-005-1</b>		R1, R2, R5, R6, R7	<b><u>R1, R2, R5, R6, R7</u></b>	
<b>FAC-001-0</b>		R1, R1.1, R1.2, R1.3, R2, R2.1, R2.1.1, R2.1.2, R2.1.3, R2.1.4, R2.1.5, R2.1.6, R2.1.7, R.2.1.8, R2.1.9, R2.1.10, R2.1.11, R2.1.12, R2.1.13, R2.1.14, R2.1.15, R2.1.16, R3	<b><u>R1, R1.1, R1.2, R1.3, R2, R2.1, R2.1.1, R2.1.2, R2.1.3, R2.1.4, R2.1.5, R2.1.6, R2.1.7, R.2.1.8, R2.1.9, R2.1.10, R2.1.11, R2.1.12, R2.1.13, R2.1.14, R2.1.15, R2.1.16, R3</u></b>	R2, R2.1, R2.1.1, R2.1.2, R2.1.3, R2.1.4, R2.1.5, R2.1.6, R2.1.7, R.2.1.8, R2.1.9, R2.1.10, R2.1.11, R2.1.12, R2.1.13, R2.1.14, R2.1.15, R2.1.16 <sup>33</sup>
<b>FAC-003-1</b>	R1, R2	R1, R1.1, R1.2, R1.2.1, R1.2.2, E1.2.2.1, R1.2.2.2, R1.3, R1.4, R1.5, R2, R3, R3.1, R3.2, R3.3, R3.4, R3.4.1, R3.4.2, R3.4.3	R1, R1.1, R1.2, R1.2.1, R1.2.2, E1.2.2.1, R1.2.2.2, R1.3, R1.4, R1.5, R2, R3, R3.1, R3.2, R3.3, R3.4, R3.4.1, R3.4.2, R3.4.3	R1, R1.1, R1.2, R1.2.1, R1.2.2, E1.2.2.1, R1.2.2.2, R1.3, R1.4, R1.5, R2, R3, R3.1, R3.2, R3.3, R3.4, R3.4.1, R3.4.2, R3.4.3
<b>FAC-014-2</b>	R2	R2	R2	

<sup>33</sup> Project 2010-07 proposes a new R2 that is substantively similar to applying existing R3 to generator tie-lines, and renumbers the existing R2 requirements as R3. For purposes of this chart, the numbering from FAC-001-0 has been retained.

<b>Reliability Standard</b>	<b>June 16 Order</b>	<b>Draft Directive</b>	<b>Appendix A List</b>	<b>Project 2010-07</b>
<b>PER-002-0</b>		R2, R3, R3.1, R3.2, R3.3, R3.4, R4	<b><u>R2, R3, R3.1, R3.2, R3.3, R3.4, R4</u></b>	
<b>PER-003-1</b>	R1, R1.1, R1.2		R1	
<b>PRC-001-1</b>	R2, R2.2, R4, [R6]	R2, R2.2, R4	R2, R2.2, R4, <b><u>R6</u></b> <sup>34</sup>	
<b>PRC-004-1</b>	R1	R1, R3	R1, R3	R2 <sup>35</sup>
<b>PRC-005-1</b>		R1, R2	R1, R2	R1, R2
<b>TOP-001-1</b>	R1	R1	R1	
<b>TOP-004-2</b>	R6, R6.1, R6.2, R6.3, R6.4	R6	R6	
<b>TOP-006-1</b>		R3, R6	<b><u>R3, R6</u></b>	

But, in addition to the Section 215 transparency concerns associated with the promulgation of the Draft Directive, the Draft Directive itself insufficiently explained the applicability of the Reliability Standards it identified for generators with tie-lines. In fact, when EPSA evaluated the Reliability Standards identified in the Draft Directive, it supported that only FAC-001-1, FAC-003-1, and PRC-004-1a should apply.<sup>36</sup> This is consistent with the findings in the Project 2010-07: Technical Justification Resource Document.<sup>37</sup> In addition, the Technical Justification Resource Document specifically addressed why certain Reliability Standards and requirements in the Draft Directive

<sup>34</sup> The *June 16 Order* determined that Milford needed to comply with R6 of PRC-001-1, but not Cedar Creek. The difference in treatment indicates that there are pertinent technical differences between the Milford and Cedar Creek facilities. NERC has not addressed the application of R6 to Cedar Creek.

<sup>35</sup> Project 2010-07 proposes changes to R2 that are substantively similar to applying R1 and R3 to generator tie-lines.

<sup>36</sup> See Attachment A at 18-26.

<sup>37</sup> Project 2010-07: Technical Justification Resource Document at 3-4. The Project 2010-07 SDT also suggested revisions to PRC-005-1 to conform to the proposed changes to PRC-004-1a.

should not apply to generator tie-lines. It concluded that no requirements from EOP-005-1,<sup>38</sup> PER-002-0,<sup>39</sup> and TOP-006-1<sup>40</sup> should apply to generator tie-lines, and, although it proposed applying certain requirements of FAC-001-0, it determined it was not necessary to do so for R1, R1.1, R1.2, and R1.3.<sup>41</sup> The Commission should give significant weight to the Project 2010-07 Technical Justification Resource Document, as it reflects the technical expertise of the industry. For these reasons, FERC should reject the inclusion of any requirements from EOP-005-1, PER-002-0, and TOP-006-1, as well as R1, R1.1, R1.2, and R1.3 of FAC-001-0 in the Compliance Filing.

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<sup>38</sup> *Id.* at 6-8.

<sup>39</sup> *Id.* at 9-11.

<sup>40</sup> *Id.* at 14-15.

<sup>41</sup> *See id.* at 3.



**Attachment A**

**EPSA's Comments on the Draft Compliance Process Directive #2011-CAG-001,  
Directive Regarding Generator Transmission Leads**

## Compliance Directive #2011-CAG-001 Regarding Generator Transmission Leads Industry Comment Form

Please channel your comments through your respective Trade Organization to be received by NERC no later than November 18, 2011

<p>1. Is the Directive clear in its applicability to a specific set of GO/GOPs? Yes___ No <u>X</u></p>
<p>Comments:</p>
<p>2. Is the Directive clear that the Directive will limit the number of GO/GOPs that will be registered as TO/TOPs due to their ownership of transmission facilities that are traditionally known as 'generator leads'? Yes___ No <u>X</u></p>
<p>Comments:</p>
<p>3. Please review the efforts of <a href="#">Project 2010-07 Generator Requirements Transmission Interface 0611</a>. Are you a contributor to their efforts? Yes <u>X</u> No___</p>
<p>Comments: EPSA has members participating on the SDT and have provided comment to the Standard drafting effort as well as providing comments on all the associated efforts that have preceded the SDT effort, such as the Ad Hoc Team Report.</p>
<p>4. Is the Directive clear that the Directive is an interim measure not intended to prejudge, and should not be read as prejudging, the outcome of any of the Standard Development Process Projects. Yes___ No <u>X</u></p>
<p>Comments:</p>
<p>5. Is Appendix 1 an appropriate list of Applicable Standards? In the comments section below, please list those Standards you would add to or delete from the list of Applicable Standards with technical reasons as to your recommendation. Yes___ No <u>X</u></p>
<p>Comments: EPSA generally agrees with the Project 2010-07 list of applicable standards and reviews and comments on the Appendix 1 Standards in more detail herein. EPSA is part of and supports the</p>

Joint Trade Association comments on the draft Directive.

Additional Comments:

**COMMENTS OF THE ELECTRIC POWER SUPPLY ASSOCIATION  
REGARDING NERC COMPLIANCE PROCESS DIRECTIVE #2011-CAG-001**

The Electric Power Supply Association<sup>1</sup> (EPSA) appreciates the opportunity to provide these comments on the Draft NERC Compliance Process Directive #2011-CAG-001 (Draft Directive).<sup>2</sup> EPSA's comments oppose the use of the Draft Directive and are organized to address (i) due process concerns (Sections A - C) and (ii) revisions to the Draft Directive and Memorandum of Understanding (MOU) if NERC elects to implement the Draft Directive and MOU (Section D and Attachment A).

In October, 2011, NERC posted the Draft Directive, which states that the directive is intended to address the following reliability gap:

Generator Owner (GO) and/or Generator Operator (GOP) owned and/or operated transmission facilities that were not registered for the NERC Reliability Standards that cover Transmission Owners (TO) and/or Transmission Operators (TOP).

The Draft Directive, proposed to ensure consistency in the registration of GOs/GOPs as TOs/TOPs, is intended as an interim solution to support the longer term efforts with respect to generator transmission leads, including that of Project 2010-07 – Generator Requirements at the Transmission Interface (Project 2010-07). The Draft Directive sets forth criteria for determining the application of the Draft Directive to GOs/GOPs and includes an initial set of NERC Reliability Standards that Regional Entities can reduce or supplement on a case-by-case basis.

EPSA supports NERC's efforts to address the issue of TO/TOP registrations related to generator interconnection facilities. However, such registrations serve only to further

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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 serving power markets. Each EPSA member typically operates in four or more NERC regions, and members represent over 700 registered entities in the NERC registry. 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> EPSA is also included as one of the Trade Associations submitting the "Comments of Trade Associations on NERC Compliance Process Directive #2011-CAG-001: Directive Regarding Generator Transmission Leads" (Trade Comments).

violate the due process rights reserved for all industry stakeholders, including owners of generation. As NERC recognizes in the Draft Directive, “a GO/GOP does not operate a generator transmission lead similarly to the manner in which a traditional utility operates other transmission facilities.” This is not an insignificant observation. In fact, given this difference, it would be expected that the TO/TOP Reliability Standards themselves would account for the significant differences and would have been tailored to address such

<sup>3</sup> Registry Criteria, Section III.d.1.

<sup>4</sup> Registry Criteria at 10.

<sup>5</sup> Registration is also consistent with the intent of the criteria as the applicable size restrictions were present to keep smaller entities that are typically not material to the reliability of the system from being burdened with mandatory Reliability Standards.

<sup>6</sup> See Rehearing (at page 25-28) for a more detailed discussion of this issue.

<sup>7</sup> For example, two interconnections would apply with one to a combined function (TOP/BA) and another to the remaining function (GOP) while three interconnections would apply with one to each of the three separate entities performing the functions.

<sup>8</sup> The MOU uses “8.0” where other Sections 1-7 do not use the “.0.” Section 8.0 should be revised to Section 8 for consistency.

<sup>9</sup> The following Reliability Standards included in Appendix 1 have been superseded as indicated: PRC-004-1, PRC-005-1, TOP-004-1, and TOP-006-1 are now PRC-004-1a, PRC-005-1a, TOP-004-2, and TOP-006-2, respectively.

<sup>10</sup> NERC’s September 9, 2010 petition for approval is at [http://www.nerc.com/files/Final\\_Order\\_No\\_693\\_Standard\\_Filing.pdf](http://www.nerc.com/files/Final_Order_No_693_Standard_Filing.pdf)

<sup>11</sup> The “interconnecting TOP” is the TOP that operates transmission facilities that connect to the GO’s interconnection facilities.

<sup>12</sup> <http://www.ferc.gov/legal/maj-ord-reg/land-docs/order2003.asp>

<sup>13</sup> TOP-004-2 is the current enforceable version; the directive references TOP-004-1. The directive also only mentions R6 and not the subsequent subparts. EPSA has included them because we believe their inclusion is implied by the construction of the last sentence in R6.

<sup>14</sup> TOP-006-2 is the current enforceable version; the directive references TOP-006-1.

differences. A review of the TO/TOP Reliability Standards, however, indicates that no such distinction was made. In fact, when the TO/TOP Reliability Standards are compared with obligations under GO/GOP Reliability Standards, co-application of TO/TOP Reliability Standards often requires reconciliation of the standards that is, at best, strained when applied to generator interconnection facilities.

Below, EPSA addresses due process concerns with respect to TO/TOP registrations of GOs/GOPs by virtue of the generator interconnection facilities, the use of the Draft Directive to address a possible gap in reliability, and how such gap should be addressed in a manner that is consistent with Section 215 of the Federal Power Act (FPA) and NERC's Rules of Procedure (RoP). In the event NERC nevertheless elects to direct Regional Entities to pursue TO/TOP registrations for generator interconnection facilities, EPSA identifies revisions to the Draft Directive and the proposed MOU.

**A. TO/TOP Registrations For Generator Interconnection Facilities Violate Due Process Rights.**

While EPSA is perplexed as to whether the Draft Directive is addressing a potential gap in reliability or a potential gap in registration, addressing either concern must comport with due process rights specifically reserved to industry stakeholders under FPA Section 215. The continued registrations of GOs/GOPs as TOs/TOPs, as well as the Draft Directive, are inconsistent with FPA Section 215.

Applied in the context of TO and TOP registrations, Section III.d.1 of the NERC Registry Criteria (Registry Criteria) specifies, among other things, that TO/TOP registration is for an owner or operator of an "integrated transmission element."<sup>3</sup> As has been argued with respect to the TO/TOP registrations of New Harquahala Generating Company, LLC (Harquahala) (Docket No. RC08-4-000), Cedar Creek Wind Energy, LLC (Cedar Creek) (Docket No. RC11-1-000), and Milford Wind Corridor Phase I, LLC (Milford) (Docket No. RC11-2-000), FERC precedent treats generator interconnection facilities as not integrated. While FERC has elected not to address this issue, instead relying on Note 1 to the Registry Criteria, it is an important issue because it reflects that when the TO/TOP Registry Criteria and TO/TOP Reliability Standards were developed, the industry (in the absence of a NERC-specific definition) relied upon this FERC precedent in viewing generator interconnection facilities as part of the generating facility subject to GO/GOP Reliability Standards and not TO/TOP registration and Reliability Standards. Certainly, if the industry had been on notice at the time the TO/TOP Registry Criteria and TO/TOP Reliability Standards were being developed, the issues surrounding this registration/gap issue would have been raised and addressed then. The fact that they were not dictates that, in order to comport with the principles of due process, a process other than that used to date to register GOs/GOPs as TOs/TOPs is required.

While FERC has avoided addressing the "integrated transmission element" issue, it has

let stand registrations of GOs/GOPs as TOs/TOPs in connection with generator interconnection facilities based solely on Note 1 to the Registry Criteria. Reliance on Note 1 is inconsistent with FPA Section 215. Note 1 is improperly being used as a “blanket authorization” or “catch-all” to register entities. As such, continued application of Note 1 on this basis violates due process rights.

Note 1 to the Registry Criteria states, in relevant part:

The Regional Entity considering registration of an organization not meeting (e.g., smaller in size than) the criteria may propose registration of that organization if the Regional Entity believes and can reasonably demonstrate that the organization is a bulk power system owner, or operates, or uses bulk power system assets, and is material to the reliability of the bulk power system.<sup>4</sup>

Note 1 is not function specific and does not provide guidance on determining under which specific functions entities can be registered. The note can be interpreted (i) narrowly so as to be consistent with the associated registration criteria for a particular function and Section 215, or (ii) broadly without regard to the associated registration criteria for a particular function and/or Section 215. A reasonable interpretation of Note 1 is that an entity that actually performs the types of activities contemplated for the particular function could be registered for that function, even though it does not meet all the criteria. Using the example from Note 1, registration could apply to an entity that is smaller than what is set forth in the criteria, but still performs the functions that are specifically addressed in the Reliability Standards for the applicable function.<sup>5</sup> In this scenario, (1) there is a rational relationship between the reliability function and the activities of the smaller entity being registered. and (2) Note 1 complements the stated criteria. The broader interpretation of Note 1 ignores the stated criteria and, taken to its logical conclusion, would permit registration of any entity to any function if a determination is made that the entity should be subject to a particular requirement in a particular Reliability Standard, regardless of whether the Reliability Standard was developed for application to the type of entity being registered. Such an interpretation is unsupported. Nevertheless, to the extent NERC continues to rely on Note 1, such reliance is no more than a classic case of the “ends justifying the means.” This approach flies in the face of the principle of due process and FPA Section 215.

FPA Section 215 contemplates an approach to electric reliability that has roles for FERC, NERC as the Electric Reliability Organization (ERO), and industry stakeholders. With respect to FERC’s role, Section 215(b)(1) states, in relevant part, that:

[t]he Commission shall have jurisdiction, within the United States, over the ERO certified by the Commission under subsection (c) of this section, any regional entities, and all users, owners and operators of the bulk-power system, including but not limited to the

entities described in section 201(f) of this title, for purposes of approving reliability standards established under this section and enforcing compliance with this section.

With respect to NERC's role, Section 215(c) provides, in relevant part, that:

The Commission may certify one such ERO if the Commission determines that such ERO –

(1) has the ability to develop and enforce, subject to subsection (e)(2) of this section, reliability standards that provide for an adequate level of reliability of the bulk-power system.

NERC's role in the development of Reliability Standards is subject to the requirement of Section 215(c)(2)(D), which addresses industry stakeholder participation:

The Commission may certify one such ERO if the Commission determines that such ERO –

(2) has established rules that –

(D) provide for reasonable notice and opportunity for public comment, due process, openness, and balance of interests in developing reliability standards and otherwise exercising its duties.

To the extent there are gaps in reliability, NERC is given the opportunity to develop or modify Reliability Standards through the stakeholder process of Section 215(c)(2)(D), the product of which is to be filed with FERC for review. Only upon FERC's approval of new or revised Reliability Standards to address a gap can an entity be subject to compliance with such standard. The continued registration of GOs/GOPs as TOs/TOPs because of their generator interconnection facilities is in violation of Section 215.

In stark contrast to the approach that has been taken to date, the only NERC process currently underway that satisfies the principles of due process and is otherwise consistent with FPA Section 215 is the process underway with Project 2010-07. Accordingly, TO/TOP registrations for generator interconnection facilities should not be pursued by Regional Entities or NERC. Instead, the Reliability Standards Development process should be followed to resolve this issue.

For a more complete discussion of the TO/TOP registration issue, EPSA refers NERC to the Joint Request for Clarification and Rehearing of the Electric Power Supply Association, Independent Power Producers of New York, Inc., KGen Power Management Inc., TransCanada Power Marketing Ltd., and TransCanada Maine Wind Development Inc. (Rehearing) filed in Docket Nos. RC11-1-001 and RC11-2-001 on July 18, 2011. FERC issued its Order Denying Rehearing And Partially Granting Clarification in these

dockets on November 17, 2011 (November Order). Importantly, FERC recognizes in the November Order that the current process underway for Project 2010-07 correctly encompasses industry participation (Paragraphs 26-27). However, FERC continues to err in failing to address the violation of due process that will continue pending completion of the Project 2010-07 process (Paragraph 27).

**B. The Draft Directive Fails To Correctly Identify The Reliability Gap That The Specified TO/TOP Reliability Standards Are Intended To Address.**

As indicated above, the Draft Directive appears to identify the “reliability gap” in terms of a registration gap – GOs/GOPs that were not registered for Reliability Standards that cover TOs/TOPs. Recognizing the mismatch of trying to apply the full panoply of TO/TOP Reliability Standards/Requirements to limited generator interconnection facilities, the Draft Directive identifies a subset of eleven TO/TOP Reliability Standards. However, by treating the gap as a registration gap and failing to identify the specific reliability issues the Reliability Standards/Requirements are intended to address, the Draft Directive is flawed. By not addressing the specifics of the gap, the ability to assess the TO/TOP Reliability Standards and their applicability to the gap is compromised. Addressing the specifics of the gap is particularly critical where the TO/TOP Reliability Standards were not drafted with generator interconnection facilities in mind that, as NERC recognizes, are not operated in the manner in which traditional utilities operate their transmission facilities. By failing to address the specifics of the gap, it is unclear whether the solution is tailored to the problem. Further, without the specifics, it is difficult to determine whether GO/GOP Reliability Standards already adequately address a concern. Additionally, it is not apparent whether NERC included in its assessment consideration of FERC’s generator interconnection policies and how reliability concerns are addressed in those policies and in interconnection agreements.<sup>6</sup> To the extent the issues are addressed by FERC’s policies and/or interconnection agreements, the only issue would be narrowed to one of the absence of enforcement of NERC Reliability Standards pending completion of a process such as that underway in Project 2010-07.

Additionally, by failing to address the specifics of the gap, NERC fails to address whether a particular generator’s facilities “will have a material impact on the reliability of the Bulk-Power System.” In Harquahala, Cedar Creek, and Milford, a fact-specific analysis was required to support whether the facilities in question would have a material impact on the reliability of the bulk power system. In the orders in those proceedings, FERC indicated that such determinations were limited to the facts and circumstances of those generators. The Draft Directive dispenses with that approach. Instead, the Draft Directive establishes an end-results process based on generic applicability criteria (Applicability Criteria). The Applicability Criteria does not cure the fundamental flaw that registering GOs/GOPs and TOs/TOPs remains inconsistent with FPA Section 215.

And there are concerns with respect to the Applicability Criteria. The Draft Directive

identifies the following numbered characteristics for entering into an MOU:

1. has blackstart capability, or
2. a facility that is/has some portion operated at 100 kV or higher and has interconnections with neighboring Generator Operators, Transmission Operators, and Balancing Authorities, or
3. meets the criteria for registration as a TO/TOP as set forth in the NERC Statement of Registry Criteria, or
4. a facility that has some portion operated at 100 kV or higher and has a generator transmission line leading to the inter-connection that has a visual impediment to the inter-connection or has at least three tower structures that include the one connecting span at each end tower.

First, no analysis is provided to demonstrate a nexus with a reliability gap. For example, with respect to No. 1, merely because a unit has blackstart capability does not mean that that capability is needed. Second, it is not clear what is intended by the characteristics included in No. 2. The reference to “interconnections” suggests more than one interconnection and the use of “and” in the reference to neighboring GOPs, TOPs, and Balancing Authorities would indicate that a minimum of two or three interconnections<sup>7</sup> would be required for this characteristic to apply. Third, the characteristics included in No. 4 are not clear. For example, from where is a visual impediment to be determined? What if the visual impediment is from the site but not from the road running along the site? Additionally, what if the facilities are in an area where there is no vegetation or if there is existing vegetation, the growth pattern and rate will not impact the facilities? Fourth, the characteristic under No. 3 raises the issues discussed above of whether the facilities are an integrated transmission element or otherwise being captured under Note 1. Further, given the inclusion of No. 3, it is not clear whether Nos. 1, 2, and 4 are intended to be a subset of No. 3 or to expand beyond No. 3. To the extent the latter applies, the Draft Directive fails to address how this expansion of registry criteria is consistent with FPA Section 215.

**C. FPA Section 215 Requires The Use Of The Standards Development Process To Address Any Reliability Gap With Respect To Generator Interconnection Facilities.**

As discussed above, the proper process for addressing gaps in reliability is to develop or modify Reliability Standards through the stakeholder process of FPA Section 215(c)(2)(D). That process is the Reliability Standards Development process set forth in Section 300 of the RoP, not the interim measure proposed in the Draft Directive. Section 300 is supplemented with the NERC Standards Processes Manual, which is included as Appendix 3A to the RoP. Project 2010-07, formed specifically to address gaps in

reliability associated with generator interconnection facilities, is the process by which concerns over a gap in reliability should be addressed. The November Order supports this approach (Paragraphs 26-27).

Section 304 of the RoP sets forth the following six principles for the development of Reliability Standards: (1) Openness; (2) Transparency; (3) Consensus-building; (4) Fair Balance of Interests; (5) Due Process; and (6) Timeliness. While all six principles are relevant, EPSCA will emphasize two of the principles. First, "Consensus-building" contemplates, among other things, consensus with respect to the need and justification of a standard. Second, "Due Process" requires, among other things, the opportunity to "express views on a proposed standard and the basis for those views, and to have that position considered in the development of the standards." With the initial appeal of Harquahala's TO/TOP registration, the attention of the industry has focused on the issue of registering GOs/GOPs as TOs/TOPs. That attention resulted in the formation of the Ad Hoc Group for Generator Requirements at the Transmission Interface with the issuance of its Final Report on November 16, 2009. The Final Report was followed by the completion of a Standard Authorization Request Form approved by the Standards Committee on January 20, 2010. The Project 2010-07 Standards Drafting Team (SDT) issued a White Paper in March 2011 for industry comment. Subsequent to the White Paper, the SDT has issued proposed revisions to FAC-001, FAC-003, and PRC-004. With the proposed revisions, the SDT has issued supporting materials, including a Technical Justification that addresses each of the three proposed revised Reliability Standards as well as Reliability Standards identified in the Final Report. The initial ballot with respect to the proposed revisions to the Reliability Standards closes on November 18, 2011. Unlike the Draft Directive, Project 2010-07, as part of the consensus-building process, not only addresses the need and justification for the proposed revisions, Project 2010-07 addresses why revisions to other Reliability Standards are not appropriate. Significantly, the comment and ballot processes for Project 2010-07 provide parties the opportunity to express views and have those views considered subject to the ballot process. In contrast, the Draft Directive, because it is not part of the Reliability Standards Development process, is not subject to the RoP Section 304 Due Process principle. Instead, it is an initiative, the process of which is controlled by NERC management, that is not subject to the ballot process or, ultimately, the FERC review and approval process for Reliability Standards required under FPA Section 215. The bottom line is that the rollout of the Draft Directive provides none of the safeguards that are in place in the Reliability Standards Development process.

In the Draft Directive, NERC highlights Section 8(c) of the Regional Delegation Agreements (RDA) as the authority for the issuance of the Draft Directive. While Section 8(c) provides that NERC may issue directives, NERC's authority to do so is not unlimited. As reflected in the Whereas clauses and Section 8 of the RDAs, the purpose of the delegation is to carry out the responsibilities of the ERO under FPA Section 215.

Accordingly, a directive that is inconsistent with FPA Section 215 has no force and effect. Because registrations of GOs/GOPs as TOs/TOPs is inconsistent with FPA Section 215, the Draft Directive and delegation under the RDAs to implement such registrations are likewise inconsistent with FPA Section 215 and should have no force and effect.

**D. If TO/TOP Registrations Are Pursued, Revisions To The Draft Directive And MOU Are Required.**

Clearly, the industry has been struggling with how to effectively and fairly address reliability issues associated with generator interconnection facilities. EPSA empathizes with NERC and Regional Entities with respect to the challenges NERC and Regional Entities face in addressing issues surrounding generator interconnection facilities. EPSA understands that this issue is driven by NERC's commitment to ensure the reliability of the bulk power system. In their roles as owners, operators, and/or users of the bulk power system, EPSA members clearly recognize the benefits of a reliable system. EPSA also recognizes that NERC's efforts at this time include both the Draft Directive and Project 2010-07. As between the two efforts, EPSA believes that industry resources should be used to support and implement Project 2010-07. EPSA supports this approach because Project 2010-07 is a fair and open process that is bringing significant clarity and that can provide the certainty needed to resolve the reliability concerns surrounding generator interconnection facilities. In the November Order, FERC recognizes that Project 2010-07 is underway to address these concerns (Paragraphs 26-27).

While maintaining its position that any gap in reliability associated with generator interconnection facilities should be addressed under the Reliability Standards Development process, EPSA can see possible benefits with the conceptual approach proposed in the Draft Directive. Compared to the processes leading up to Harquahala, Cedar Creek, and Milford of registering GOs/GOPs as TOs/TOPs and the challenge of identifying applicable TO/TOP Reliability Standards/Requirements, the Draft Directive and MOU have the potential to more efficiently address TO/TOP registration and compliance issues. However, such recognition should not be interpreted as support for the Draft Directive and MOU. Nevertheless, if Regional Entities and NERC intend to pursue TO/TOP registration notwithstanding the efforts of Project 2010-07 and use the Draft Directive and MOU in those efforts, EPSA has concerns specific to the Draft Directive and MOU as discussed below.

**1. Timing of the Draft Directive and Issuance of a Revised Draft Directive.**

With Project 2010-07 currently out for comment (10/05/11 - 11/18/11) and initial ballot (11/09/11 - 11/18/11) the roll-out of the Draft Directive should have been deferred so that the process in Project 2010-07 could have been used to inform the development of the Draft Directive. As discussed above, the Project 2010-07 SDT has issued supporting materials, including materials addressing both Reliability Standards proposed for revision

by Project 2010-07 and Reliability Standards for which no revisions are proposed. In addition, comments and ballot results will be available. NERC should take advantage of this information being generated in connection with Project 2010-07 in preparing its directive. To that end, EPSA requests that NERC (1) evaluate the Project 2010-07 SDT-prepared supporting materials together with comments and ballot results for the purpose of identifying the TO/TOP Reliability Standards/Requirements to include in Appendix 1 (including the basis for such inclusion) and (2) give parties another opportunity to comment on a revised Draft Directive that is based on the results of (1).

**2. Necessary Revisions to the Draft Directive.**

**a. *The Draft Directive/MOUs Must Reflect Their Interim Status.***

Draft Directive states that it

is an interim solution because it supports the longer term efforts of reliability standard drafting teams charged with revising NERC Reliability Standards specifically associated with generator transmission leads, such as the *Generator Requirements at the Transmission Interface (GO/TO)* Standards Drafting Team.

While the Draft Directive acknowledges that it is an interim solution, it fails to address the process for its phase out. Specifically, the phase out of the Draft Directive and executed MOUs needs to (1) coincide with transitioning to application of the results of Project 2010-07 and (2) provide for the deregistration of GOs/GOPs registered as TOs/TOPs. With respect to (1), the complete phase out should correspond with the effective date of the Reliability Standards revised through Project 2010-07 (Project 2010-07 Standards). If the Draft Directive insists on applying Reliability Standards beyond the Project 2010-07 Standards, there should be an interim phase out of the non-Project 2010-07 Standards included in Appendix 1 of executed MOUs effective as of the date FERC issues an order on the Project 2010-07 Standards. With respect to (2), EPSA agrees with the approach included in the Trade Comments that the MOU not include registration as a TO/TOP. However, if NERC retains the registration approach in the Draft Directive, the deregistration should apply to registrations through the Draft Directive/MOU process in addition to all other GOs/GOPs registered as TOs/TOPs based on the ownership/operation of generator interconnection facilities.

**b. *Entering into a MOU Should Not be Construed as Agreement.***

Recognizing that the Draft Directive is intended to be an interim measure, and provided NERC does not adopt the registration approach proposed in the Trade Comment, the Draft Directive should provide that entering into a MOU shall not be interpreted as agreement that the entity being registered under the MOU as a TO/TOP agrees that it

qualifies as a TO/TOP. Effectively, the MOU should be treated as an agreement that, for the limited purpose of the MOU, the Registered Entity agrees to be registered as a TO/TOP. In addition, Section 8.0 of the MOU, which provides that “termination does not affect registration as a TO/TOP,” must be revised to eliminate a continuation of TO/TOP registrations. Such a revision reflects the interim nature of the MOU and would not bar a Regional Entity from otherwise pursuing TO and TOP registrations by other means post-MOU termination. The benefit to Regional Entities and NERC is that it can reduce challenges to registration in connection with the MOU, facilitating agreement with respect to entering into an MOU.

If, however, NERC intends to use the MOU to lock-in TO/TOP registrations by retaining the current language in Section 8.0 of the MOU, the Draft Directive and the MOU need to reflect that such registration is without prejudice to being challenged in the event a MOU is terminated. This approach would preserve a Registered Entity’s right to challenge such registration in connection with MOU termination. Thus, if notice to terminate the MOU is given, the Registered Entity agrees to remain registered as a TO/TOP, however, it has the right to challenge such continued registration. That process could be initiated under Section 1.3.5 of Section 500 – Organization Registration and Certification of the RoP. Because Section 1.3.5 does not specify the process to be followed for challenging an existing registration, it would be agreed that the process under Section 1.3 of Section 500 of the RoP would apply.

In the event Section 1.3.5 of Section 500 of the RoP or another provision of the RoP does not provide that right, the Directive and MOU would need to address that contingency. Under the circumstance where the RoP does not otherwise permit or otherwise address a process for challenging such registration once registered, the MOU would reflect that the registration as a TO/TOP would terminate as of the effective date of the termination. Importantly, such right would be moot in the event the MOU and the corresponding TO/TOP registration status were terminated by other means such as implementation of Project 2010-07.

***c. Clarification of the Applicability Criteria is Required.***

As discussed in Section B, above, clarification of the Applicability Criteria is required. Clarification of the Applicability Criteria should be subject to the opportunity to comment.

***d. The Applicable Reliability Standards/Requirements Should be Limited to Those in Project 2010-07.***

The Draft Directive includes a list of eleven TO/TOP Reliability Standards that would be subject to a Regional Entity determining whether TO/TOP Reliability Standards/Requirements should be added to or excluded from the list of eleven. As discussed in Section B, above, and Attachment A hereto, NERC has not demonstrated that the eleven

TO/TOP Reliability Standards are necessary to address a specific gap in reliability. As the Draft Directive is an interim measure, it should be narrowly tailored to address a specific gap in reliability. Project 2010-07, building upon the Final Report, has identified three TO/TOP Reliability Standards to be revised to apply to a generator's interconnection facilities. These are the three standards that should apply to a MOU, subject only to reducing these Reliability Standards/Requirements on a case-by-case basis.

The Draft Directive also provides that those GOs/GOPs already registered as TOs/TOPs (Group I) may request that their respective list of TO/TOP Reliability Standards/Requirements be reevaluated by the Regional Entity. For those GOs/GOPs/TOs/TOPs with a FERC-approved list (Group II), the Draft Directive provides for FERC approval before a change in the list can be implemented. The Draft Directive does not go far enough. While the basis for differentiating between Group I and Group II is clear, differentiating between Group I and Registered Entities entering into MOUs (Group III) is not. Unless NERC can provide a compelling reason to treat Group I differently from Group III, Group I should be treated comparably to Group III and offered the opportunity to enter into a MOU in lieu of maintaining their current status.

***e. Eliminate Dual Function Status For Generator Step-Up Transformers (GSUs).***

Attachment 1 to the Draft Directive appears to split GSUs for registration purposes with the high side the responsibility of a TO/TOP and the low side the responsibility of a GO/GOP. The Draft Directive provides no assessment of why a GSU, as a single piece of equipment, should be split between the GO/GOP function and the TO/TOP function. To the extent a GSU is owned by the generator, it should remain part of the GO/GOP function. If a GSU is not owned by a generator, it is appropriately included with a TO/TOP function. Splitting the GSU between these functions where there is different ownership would not make sense. Similarly, where the GO/GOP and TO/TOP are the same, NERC has not articulated a reason to include a GSU under both the GO/GOP function and the TO/TOP function.

**3. MOU-Specific Issues.**

***a. Required Revisions to Whereas Clauses.***

***i. Whereas Clauses***

As discussed in Section D.2.a, above, the Draft Directive is intended to be an interim measure. A Whereas clause should be added to reflect (1) that the MOU is an interim measure and (2) the phase out of the MOU. Additionally, the last Whereas clause needs to be revised to add termination by phase out to the existing termination by a party.

As discussed in Section D.2.b, above, entering into the MOU as a TO/TOP should not be

construed as the Registered Entity's agreement with such registration. To the extent TO/TOP status is not terminated upon termination of the MOU, a Whereas clause should be added to reflect that, for the limited purpose of the MOU, the Registered Entity agrees to be registered as a TO/TOP and otherwise reserves its rights to challenge continuing registration as a TO/TOP.

As discussed in Section B with respect to the Applicability Criteria, there are different characteristics identified that NERC may use for TO/TOP registration. A Whereas clause should be added to identify the specific Applicability Criteria that serves as the basis for entering into the MOU, a change of which shall serve as the basis to terminate the MOU and deregistration of the TO/TOP status, to the extent the MOU does not otherwise provide for deregistration generally upon termination as discussed in Section D.2.a, above.

**ii. Section 2**

Clarify in Section 2 that registration may be limited to specific units at a facility.

**iii. Section 3**

The Draft Directive provides that entities executing a MOU will have six months from the date the MOU is executed to come into compliance with the applicable TO/TOP Reliability Standards/Requirements. The MOU does not capture this six month period. Add a new paragraph to Section 3 to address the six month period.

As proposed, Section 3 provides for a Regional Entity's unilateral additions of Reliability Standards to the MOU once the MOU is executed. As discussed in Section D.2.d, above, the applicable TO/TOP Reliability Standards/Requirements should be limited. If, however, NERC retains discretion for Regional Entities to supplement the Minimum Applicable Reliability Standards, such discretion should be tempered. Specifically, the Regional Entity should first discuss the potential supplementing of the Minimum Applicable Reliability Standards with the Registered Entity. Such supplementing would be limited to new or revised Reliability Standards. Additionally, that discussion shall include the date (Start Date) to serve as the start of the period of time to be provided to become compliant (Implementation Period) before the new Applicable Reliability Standard becomes enforceable. The Implementation Period shall be the longer of six months from the State Date or the time between the Start Date and effective date approved by FERC for the Reliability Standard. Finally, the MOU should be amended by the parties to reflect a change in the Minimum Applicable Reliability Standards.

Additionally, as discussed in Section D.2.a, above, and to the extent the Minimum Applicable Reliability Standards are not limited as discussed in Section D.3.a.v, below, Section 3 needs to be revised to reflect the change in the Minimum Applicable Reliability

Standards in connection with FERC action on Project 2010-07-related Reliability Standards.

**iv. Section 8<sup>8</sup>**

As discussed in Section D.2.b, above, Section 8 provides that “termination does not affect registration as a TO/TOP.” Per that discussion, Section 8 should be revised to provide for deregistration upon termination.

If deregistration is not provided for upon termination, as discussed in Section D.3.a.i, above, an exception should be made where there is a change in the basis for the registration.

As discussed in Section D.2.b, above, entering into the MOU should not be construed as the Registered Entity’s agreement with such registration. Consistent with Section D.2.b, above, Section 8 should be revised to the Registered Entity rights to challenge continuing registration as a TO/TOP if such status is not terminated upon termination of the MOU.

If deregistration is not provided for upon termination as discussed in Section D.3.a.i, above, Section 8 should be revised to require the Regional Entity to provide six months prior notice of termination. This will serve to put the Registered Entity on notice that upon termination it will remain registered as a TO/TOP, at which point it can challenge the continued registration as discussed in Section D.2.b, above, and, otherwise, take steps necessary to implement any additional TO/TOP Reliability Standards/Requirements that would apply post-termination.

As discussed in Section D.2.a, above, Section 8 also needs to be revised to reflect the MOU’s interim status and the termination of the MOU and TO/TOP status.

**v. Appendix 1<sup>9</sup>**

Appendix 1 to the MOU is intended to identify the Applicable Reliability Standards that are the Minimum Applicable Reliability Standards under the MOU. As discussed in Section D.2.d, above, the applicable TO/TOP Reliability Standards/Requirements should be limited. NERC has not explained how requiring compliance with the eleven TO/TOP Reliability Standards enhance reliability in light of its own statement that “a GO/GOP does not operate a generator transmission lead similarly to the manner in which a traditional utility operates other transmission facilities.” As discussed in Attachment A hereto, certain Applicable Reliability Standards/Requirements identified in Appendix 1 (1) do not enhance reliability, (2) are simply unnecessary with respect to generator interconnection facilities, (3) have the potential to compromise reliability, and/or (4) are inconsistent with existing interconnection agreements and/or FERC interconnection policy.

Accordingly, as discussed in Section D.2.d, above, EPISA recommends that Appendix 1

include only those Reliability Standards Project 2010-07 has identified for revision.

If NERC seeks to include in Appendix 1 TO/TOP Reliability Standards/Requirements beyond those in Project 2010-07, NERC should explain how each addresses the specific reliability gap NERC seeks to address. Additionally, parties should be given the opportunity to review NERC's position and submit comments.

## Attachment A

### Introduction

Below is an assessment of the eleven Reliability Standards identified in the Draft Directive, three of which are proposed for revision in Project 2010-07.

### Acceptable Proposed Standards/Requirements in the Draft Directive

For the purpose of the MOU, EPSA proposes that the following three Reliability Standards identified in Project 2010-07 apply as described below:

#### **1. FAC-001-1 – Facility Connection Requirements**

All TO requirements for FAC-001-1 would apply if and when a GO executes an agreement to evaluate the reliability impact of interconnecting a third party facility to its existing generation interconnection facility. The execution of the agreement is necessary to comply with FAC-002-1 and start the compliance clock with the applicable regulatory authority. This is the approach proposed in Project 2010-07 and discussed in the Project 2010-07 Technical Justification, which states, "If, and only if, the existing owner of a generator interconnection Facility has an executed Agreement to evaluate the reliability impact of interconnecting a third party Facility to its existing generation Facility" then FAC-001-1 should apply. (Standard: <http://www.nerc.com/files/FAC-001-0.pdf>.)

#### **2. FAC-003-1 – Transmission Vegetation Management**

EPSA believes that Reliability Standard FAC-003-1 should be applicable to GOs that own a generation interconnection including overhead conductors exceeding a specified length. The Ad Hoc Group Report originally excluded such a facility from this requirement if its length is less than two spans, but the Project 2010-07 SDT agreed to revise the exclusion so that it applies to a facility if its length is one mile or 1.609 kilometers beyond the fenced area of the generating station switchyard to approximate line of sight from a fixed point. Currently, the STD is posting both versions. EPSA believes that the mileage version is more precise and is the appropriate way to distinguish the applicable facilities for FAC-003-1 with which a generator would comply.

Appendix 1 to the MOU indicates that all TO requirements would apply “for a facility that has a generator transmission line leading to the interconnection point with at least three tower structures which includes two adjacent spans; or includes a visual impediment.” NERC should clarify what is meant by “adjacent spans.” For example, it is unclear whether a span from a tower structure to any structure other than a tower would be one adjacent span. Therefore EPSA believes that the mileage distinction for FAC-003-1 should be adopted for the Draft Directive.

(Standard: <http://www.nerc.com/files/FAC-003-1.pdf>.)

### **3. PRC-004-1a– Analysis and Mitigation of Transmission and Generation Protection System Misoperations**

PRC-004-1a is the currently effective version of this standard for US entities. PRC-004-2 was approved by the NERC Board of Trustees (BOT) on August 5, 2010, and later modified to incorporate an interpretation that the BOT approved on February 17, 2011. FERC has not yet ruled on the NERC’s original petition for approval of PRC-004-2.<sup>10</sup> Project 2010-17’s SDT proposed modification to PRC-004-2 in a new version PRC-004-2.1. This new version addresses interconnection facilities directly by including them requirements applicable to GOs. Under the Draft Directive, TO requirements that address the analysis of misoperations (R1) and the development of corrective action plans (R3) would apply to a generator’s interconnection facilities. Currently, Project 2010-17 suggests language changes that will ensure that PRC-004-2.1 is clear and can be complied with by TOs and GOs with interconnection facilities.

(Standard: <http://www.nerc.com/files/PRC-004-1a.pdf>.)

Standards in the Draft Directive That Should Not Apply to GOs With Interconnection Facilities

**The following seven Reliability Standards identified in the Draft Directive should not apply to generators with interconnection facilities.**

#### **1. EOP-005-1 — System Restoration Plan**

The Draft Directive would require TOP registration a blackstart unit to comply with the following requirements:

- R1.** Each Transmission Operator shall have a restoration plan to reestablish its electric system in a stable and orderly manner in the event of a partial or total shutdown of its system, including necessary operating instructions and procedures to cover emergency conditions, and the loss of vital telecommunications channels. Each Transmission Operator shall include the applicable elements listed in Attachment 1-EOP-005 in developing a restoration plan.
- R2.** Each Transmission Operator shall review and update its restoration plan at least annually and whenever it makes changes in the power system network, and shall correct deficiencies found during the simulated restoration exercises.

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- R5. Each Transmission Operator and Balancing Authority shall periodically test its telecommunication facilities needed to implement the restoration plan.
- R6. Each Transmission Operator and Balancing Authority shall train its operating personnel in the implementation of the restoration plan. Such training shall include simulated exercises, if practicable.
- R7. Each Transmission Operator and Balancing Authority shall verify the restoration procedure by actual testing or by simulation.

Reliability Standard EOP-005-1 is intended to address system restoration requirements applicable to the TOP with which a blackstart generator is interconnected. Blackstart units included in the interconnecting TOP's restoration would participate fully as required by that TOP's restoration plan. Therefore, GOs with blackstart units are providing the needed reliability and do not need EOP-005-1 to be applicable to them. Moreover, blackstart is not a criterion for registering an entity as a TOP. Using blackstart as a criteria of applicability is unnecessary to register GO/GOP also as a TO/TOP. Doing so would create redundant administrative tasks and not enhance reliability.

The blackstart criteria being used to establish a need for GO EOP-005-1 applicability assumes that GOs own the leads/facilities in question, which is often not the case. Distribution Providers or TOs may own the interconnection facilities to which a blackstart facility is connected. Consequently, the connection the Draft Directive draws between blackstart and EOP-005-1 is not correct.

Blackstart is one feature of EOP-005-1 and in Docket No. RC08-4-000, NERC, WECC and Harquahala agreed to a list of applicable requirements, "Attachment A TO/TOP Harquahala Applicability Table." None of the cited orders in the Draft Directive provide justification that supports including blackstart as a criteria. The Draft Directive excludes EOP-005-1 R 8, 9, 10 and 10.1 (the blackstart requirements). See also additional EOP-005-1 comments below respecting EOP-005-2 in Order No. 749.

Standard EOP-005-2 is an approved Standard with an implementation date of July 2013. If a reliability gap of a more urgent nature had been identified during development, it is reasonable to conclude it would have been addressed by the Standard Drafting Team, NERC or FERC during the recently concluded process. Instead, in Order No. 749, Docket No. RM10-16-000, FERC approved EOP-005-2 and stated:

By enhancing the rigor of the restoration planning process, the Reliability Standards [EOP-001-1, EOP-005-2, and EOP-006-2] represent an improvement from the current Standards and will improve the reliability of the Bulk-Power System. The Commission is not directing any modifications to the three new Reliability Standards.

The Commission did not find any reliability gaps in the EOP Standards when approving them. Therefore, the Directive does not adequately establish a reason for the need for the EOP Reliability Standard to be applicable to generators with interconnection facilities because of their blackstart units.

Regarding the EOP Reliability Standards, the Draft Directive appears to want a blackstart generator with interconnection facilities to develop its own "restoration plan" as a subset of the

interconnecting TOP's larger restoration plan. This would create confusion that would potentially threaten restoration because now multiple restoration plans would exist for the same blackstart unit – the generator interconnection facilities and their restoration plan and the TOP's restoration plan.

EPSA recommends that the Draft Directive not include application of EOP-005-1 to a GO's interconnection facilities. Creating duplicative restoration plans will only create unnecessary confusion with more potential to undermine, rather than enhance, reliability.

If NERC decides to proceed with the Draft Directive, clarification will be needed. While Appendix 1 to the MOU refers to units with "blackstart capability," we believe that NERC intends this standard to apply to "the blackstart generating units in its [the TOPs] restoration plan" (R10) and not to all units that have "blackstart capability." The latter would include units that are not in the interconnecting TOP's restoration plan.<sup>11</sup>

(Standard: <http://www.nerc.com/files/EOP-005-1.pdf>)

## **2. FAC-014-2 — Establish and Communicate System Operating**

The Draft Directive would require compliance with FAC-014-2, R2 by a TOP responsible for a generator's interconnection facilities by establishing System Operating Limits (SOLs) as follows:

**R2. The Transmission Operator shall establish SOLs (as directed by its Reliability Coordinator) for its portion of the Reliability Coordinator Area that are consistent with its Reliability Coordinator's SOL Methodology.**

The NERC Glossary defines "System Operating Limit" as:

**The value (such as MW, MVar, Amperes, Frequency or Volts) that satisfies the most limiting of the prescribed operating criteria for a specified system configuration to ensure operation within acceptable reliability criteria. System Operating Limits are based upon certain operating criteria. These include, but are not limited to:**

- **Facility Ratings (Applicable pre- and post-Contingency equipment or facility ratings)**
- **Transient Stability Ratings (Applicable pre- and post-Contingency Stability Limits)**
- **Voltage Stability Ratings (Applicable pre- and post-Contingency Voltage Stability)**
- **System Voltage Limits (Applicable pre- and post-Contingency Voltage Limits)**

The interconnecting TOP is responsible for meeting FAC-014-2 Requirement 2. GOs, by complying with FAC-009-1, provide interconnecting TOPs with the facility ratings, including their interconnection facilities. The interconnecting TOP has the software and system information to make the necessary above calculations. In addition the TOP can influence the facility rating calculations by limiting a generator's output if necessary to meet the operating criteria in the SOL definition – see TOP-001-1 (<http://www.nerc.com/files/TOP-001-1.pdf>). As long as the interconnecting TOP has facility ratings associated with a generator (including its interconnection facilities), the interconnecting TOP can and should be the only entity making the determination of real-time SOLs. Generators with interconnection facilities lack the software and system data of the

interconnecting TOP to make SOL calculations beyond the boundaries of their interconnection facilities. Consequently, SOLs calculated by generators with interconnection facilities for which the generator's "transmission system" ends at its boundary with the interconnecting TOP would be meaningless since it would only limit a generator TOP to operating its facilities within their ratings. Moreover, if generators with interconnection facilities could provide calculation and communication of SOLs, that information would be of no value. It would only create excessive communication requirements that would compete with communications needed to maintain the reliability of the system. Consequently, FAC-014-2 should not apply to generators with interconnection facilities.

(Standard: <http://www.nerc.com/files/FAC-014-2.pdf>.)

### **3. PER-002-0 — Operating Personnel Training**

The Draft Directive requires a generator with interconnection facilities to comply with the following requirements of PER-002-0:

- R2.** Each Transmission Operator and Balancing Authority shall have a training program for all operating personnel that are in:
  - R2.1.** Positions that have the primary responsibility, either directly or through communications with others, for the real-time operation of the interconnected Bulk Electric System.
  - R2.2.** Positions directly responsible for complying with NERC standards.
- R3.** For personnel identified in Requirement R2, the Transmission Operator and Balancing Authority shall provide a training program meeting the following criteria:
  - R3.1.** A set of training program objectives must be defined, based on NERC and Regional Reliability Organization standards, entity operating procedures, and applicable regulatory requirements. These objectives shall reference the knowledge and competencies needed to apply those standards, procedures, and requirements to normal, emergency, and restoration conditions for the Transmission Operator and Balancing Authority operating positions.
  - R3.2.** The training program must include a plan for the initial and continuing training of Transmission Operator and Balancing Authority operating personnel. That plan shall address knowledge and competencies required for reliable system operations.
  - R3.3.** The training program must include training time for all Transmission Operator and Balancing Authority operating personnel to ensure their operating proficiency.
  - R3.4.** Training staff must be identified, and the staff must be competent in both knowledge of system operations and instructional capabilities.
- R4.** For personnel identified in Requirement R2, each Transmission Operator and Balancing Authority shall provide its operating personnel at least five days per year of training and drills using realistic simulations of system emergencies, in addition to other training required to maintain qualified operating personnel.

There are several problems created by attempting to make PER-002 applicable to generators with interconnection facilities. First, as the Draft Directive points out, "Since a GO/GOP does not operate a generator transmission lead similarly to the manner in which a traditional utility operates

other transmission facilities, an interim solution is to apply a more limited subset of TO/TOP reliability standards to GOs/GOPs until the efforts of the longer term reliability standard drafting teams are completed. ...” Reliability Standards to date have not been written with the intent of only having a subset of the Standard as being applicable to a particular Registered Entity. Second, PER-005-1 was recently approved by FERC Order No. 742 and has a 24 month implementation period. The expectation that a GO could implement the controls and programs associated with the closely related predecessor standard, PER-002-0, in 6 months is not realistic. Last, the Draft Directive assumes there is no intent to apply the requirements of PER-002 to control room operators at individual generating facilities. To do so would contravene the approval record of the Reliability Standard. FERC has been clear in Order Nos. 693 and 742 that PER-002 is not applicable to individual GOPs. Because the Directive requires a GOP to also register as a TOP does not mean PER-002, as understood and approved by FERC, should apply to an individual generator and the control room operators.

The training requirements under PER-002 are for those that operate the grid power flows. Generators as users of the grid do not operate the grid. They do not have operational authority and do not communicate orders about system operation. Therefore, creating training plans for operators who have no authority to influence system operation is unnecessary.

The transmission training a GO/GOP would be required to implement (PER-002) for operating its generation interconnection facilities is very limited in scope. If the Draft Directive is implemented, the GO/GOP will be operating an extremely limited and basic piece of the transmission system, so only a very small subset of TOP knowledge and skills would need to be addressed in any training. Consequently, GO/GOP with interconnection facilities should not be required to be trained in the full TOP curriculum for a small subset of knowledge. Extensive transmission system training curriculum for GOs is therefore an inefficient use of resources and does not fill any reliability gap.

Any type of transmission operator certification that might be considered for a GOP in this position would be extremely difficult if not impossible to implement. Most of the tasks a transmission operator performs will not be performed by the GOP. This results in a limited pool of tasks and knowledge on which to build a certification. The validity of any such certification would be questionable at best.

The communication and coordination of transmission operators and generators is covered in FERC’s pro forma Large Generator Interconnection Agreements (LGIA) approved in Order 2003-A<sup>12</sup> (Appendix 6) with language in Article 8.1 that is typical in many interconnection agreements:

“Operational communications shall be activated and maintained under, but not be limited to, the following events: system paralleling or separation, scheduled and unscheduled shutdowns, equipment clearances, and hourly and daily load data.”

Article 9.3 also illustrates the close coordination required between the two entities:

“Transmission Provider may provide operating instructions to Interconnection Customer consistent with this LGIA and Transmission Provider’s operating protocols and procedures as they may change from time to time. Transmission

Provider will consider changes to its operating protocols and procedures proposed by Interconnection Customer.”

In the LGIA, the Interconnection Customer is “any entity ... that proposes to interconnect its Generating Facility with the Transmission Provider's Transmission System.” The Interconnection Customer operates both its generator and its interconnection facilities. Therefore, protocols and procedures needed between the TOP and interconnecting generators are established in the LGIA and do not need to be duplicated in reliability protocols such as PER-002.

If NERC wants GOPs who operate interconnection facilities to be trained, the most effective way to accomplish that is to modify PER-002-0 to require that TOPs include GOPs in their training. GOPs training by themselves won't improve reliability, but having them train with their interconnecting TOPs may.

(Standard: <http://www.nerc.com/files/PER-002-0.pdf>.)

#### 4. PRC-001-1 — System Protection Coordination

Although Reliability Standard PRC-001-1 contains both GOP and TOP obligations, the Draft Directive would require compliance with R2, R2.2, and R4 by a generator with interconnection facilities. The PRC -001-1 requirements include:

- R2. Each Generator Operator and Transmission Operator shall notify reliability entities of relay or equipment failures as follows:**
  - R2.1. If a protective relay or equipment failure reduces system reliability, the Generator Operator shall notify its Transmission Operator and Host Balancing Authority. The Generator Operator shall take corrective action as soon as possible.**
  - R2.2. If a protective relay or equipment failure reduces system reliability, the Transmission Operator shall notify its Reliability Coordinator and affected Transmission Operators and Balancing Authorities. The Transmission Operator shall take corrective action as soon as possible.**
- R3. A Generator Operator or Transmission Operator shall coordinate new protective systems and changes as follows.**
  - R3.1. Each Generator Operator shall coordinate all new protective systems and all protective system changes with its Transmission Operator and Host Balancing Authority.**
  - R3.2. Each Transmission Operator shall coordinate all new protective systems and all protective system changes with neighboring Transmission Operators and Balancing Authorities.**
- R4. Each Transmission Operator shall coordinate protection systems on major transmission lines and interconnections with neighboring Generator Operators, Transmission Operators, and Balancing Authorities.**

In R2.2, the only “system reliability” that a generator with interconnection facilities has is situational awareness of its interconnection facilities. Its interconnecting TOP also would have situational awareness of the interconnected generator through its interconnection agreements. Requiring the reporting by generators with interconnection facilities of “protective relay or equipment” failures for its interconnecting facilities to “its Reliability Coordinators and affected

Transmission Operators and Balancing Authorities” would create excessive communications among these entities. TOPs have the authority and responsibility under PRC-001-1 to make decisions on what to report to other system entities regarding an interconnected generator regarding a “protective relay of equipment” failure. The TOP’s wider system view and control is more valuable than the generator reporting to Reliability Coordinators, Balancing Authorities or other TOPs. Including generators with interconnection facilities in this notification protocol has the potential to undermine reliability by, in essence, putting another “cook in the kitchen.”

(Standard: <http://www.nerc.com/files/PRC-001-1.pdf>.)

#### 5. PRC-005-1a — Transmission and Generation Protection System Maintenance and Testing

The Draft Directive has not adequately supported making PRC-005-1a applicable TO/TOPs for generators with interconnection facilities.

PRC-005-1a Requirements:

R1. Each Transmission Owner and any Distribution Provider that owns a transmission Protection System and each Generator Owner that owns a generation Protection System shall have a Protection System maintenance and testing program for Protection Systems that affect the reliability of the BES. The program shall include:

R1.1. Maintenance and testing intervals and their basis.

R1.2. Summary of maintenance and testing procedures.

R2. Each Transmission Owner and any Distribution Provider that owns a transmission Protection System and each Generator Owner that owns a generation Protection System shall provide documentation of its Protection System maintenance and testing program and the implementation of that program to its Regional Reliability Organization on request (within 30 calendar days). The documentation of the program implementation shall include:

R2.1. Evidence Protection System devices were maintained and tested within the defined intervals.

R2.2. Date each Protection System device was last tested/maintained.

(Standard: [www.nerc.com/files/PRC-005-1a.pdf](http://www.nerc.com/files/PRC-005-1a.pdf))

#### 6. TOP-001-1 — Reliability Responsibilities and Authorities

Reliability Standard TOP-001-1 requires compliance with R1 as follows:

**R1. Each Transmission Operator shall have the responsibility and clear decision-making authority to take whatever actions are needed to ensure the reliability of its area and shall exercise specific authority to alleviate operating emergencies.**

If a generator with interconnection facilities implemented R1, this assumes that the generator would have authority under operating emergencies. It calls into question what is the “area” referred to in R1. Moreover, it puts the generator in a position of violating its FERC-approved interconnection agreement with its interconnecting TOP. Below is an example of typical language

in a LGIA:

**13.4 Immediate Action.** Unless, in Interconnection Customer's reasonable judgment, immediate action is required, Interconnection Customer shall obtain the consent of Transmission Provider, such consent to not be unreasonably withheld, prior to performing any manual switching operations at the Large Generating Facility or Interconnection Customer's Interconnection Facilities in response to an Emergency Condition either declared by Transmission Provider or otherwise regarding the Transmission System.

Thus, a generator with an interconnection facility (responsible for just a generator's interconnection facilities) may not be able to take "whatever actions are needed to ensure reliability" due to its interconnection agreement obligations. Generators with interconnection facilities should not be put in the position of having conflicting legal agreements and being pressured to select between which one should get preference.

For all the above reason TOP-001-1 should not be applicable to generators with interconnection facilities.

(Standard: <http://www.nerc.com/files/TOP-001-1.pdf>).

#### 7. TOP-004-2 — Transmission Operations<sup>13</sup>

The Draft Directive would require a generator's TOP with authority for its interconnection facilities to comply with the following requirement:

- R6.** Transmission Operators, individually and jointly with other Transmission Operators, shall develop, maintain, and implement formal policies and procedures to provide for transmission reliability. These policies and procedures shall address the execution and coordination of activities that impact inter- and intra-Regional reliability, including:
- R6.1.** Monitoring and controlling voltage levels and real and reactive power flows.
  - R6.2.** Switching transmission elements.
  - R6.3.** Planned outages of transmission elements.
  - R6.4.** Responding to IROL and SOL violations.

With regard to the reference to "individually and jointly with other Transmission Operators," generators' interconnection facilities should be considered "other Transmission Operators" in R6 and only coordinate with their respective interconnecting TOP, while their interconnecting TOP would coordinate with other interconnecting TOPs as well as generators with the interconnection facilities. Generators with interconnection facilities should not be developing policies and procedures with TOPs to which their facilities are not directly connected. NERC's Draft Directive should not attempt to inject generators with interconnection facilities into the Reliability Standards that address system operation communications. System operators should not have their responsibilities encroached upon by system users as this would undermine, rather than enhance, reliability.

As noted previously in the discussion on PER-002-0 and TOP-001-1, interconnection agreements typically address such items as R6.1, R6.2, and R6.3 between the generator and its interconnecting

TOP. To the extent that an interconnection agreement does address these areas, those should be considered as “formal policies and procedures” for these sub-requirements.

With regard to R6.4, EPSA recommends that the Draft Directive’s required application of this sub-requirement be withdrawn for the reasons previously stated above addressing FAC-014-2

(Standard: <http://www.nerc.com/files/TOP-004-2.pdf>.)

**8. TOP-006-2 — Monitoring System Conditions.**<sup>14</sup>

While Reliability Standard TOP-006-2 has both GOP and TOP requirements, the following requirements would be applicable to a lesser TOP’s (i.e., GOP’s) interconnection facilities.

**R3. Each Reliability Coordinator, Transmission Operator, and Balancing Authority shall provide appropriate technical information concerning protective relays to their operating personnel.**

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**R6. Each Balancing Authority and Transmission Operator shall use sufficient metering of suitable range, accuracy and sampling rate (if applicable) to ensure accurate and timely monitoring of operating conditions under both normal and emergency situations.**

With regards to R3, does NERC’s Draft Directive intend that generators with interconnection facilities provide technical information concerning their protective relays to their operating personnel? In essence generator would be providing information to itself which is unnecessary.

As R6 is written, it would be unclear what a generator with interconnection facilities would be metering and to whom that information would be reported. Importantly, the reliability intent for R6 is addressed in the metering section of a generator’s interconnection agreement with its interconnecting TOP. Application of TOP-006-2 to generators with interconnection facilities is unnecessary as metering is already addressed in the generator’s interconnection agreement.

(Standard: <http://www.nerc.com/files/TOP-006-2.pdf>.)



