

UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION

North American Electric Reliability  
Corporation

Docket No. RC11-6-002

**COMMENTS OF THE EDISON ELECTRIC  
INSTITUTE, THE AMERICAN PUBLIC POWER  
ASSOCIATION, ELECTRICITY CONSUMERS  
RESOURCE COUNCIL, THE NATIONAL RURAL  
ELECTRIC COOPERATIVE ASSOCIATION, THE  
TRANSMISSION ACCESS POLICY STUDY GROUP,  
THE ELECTRIC POWER SUPPLY ASSOCIATION  
AND THE LARGE PUBLIC POWER COUNCIL**

On May 14, 2012, the North American Electric Reliability Corporation (“NERC”) filed its Compliance Filing in response to the Commission’s March 15, 2012 Order in this proceeding, *North American Electric Reliability Corp.*, 138 FERC ¶ 61,193 (2012) (“March 15 Order”).<sup>1</sup> Pursuant to the Commission’s May 25, 2012 Notice of Filing, the Edison Electric Institute (“EEI”), the American Public Power Association (“APPA”), the National Rural Electric Cooperative Association (“NRECA”), the Transmission Access Policy Study Group (“TAPS”), the Electricity Consumers Resource Council (“ELCON”), the Electric Power Supply Association (“EPSA”) and the Large Public Power Council (“LPPC”) (collectively, the “Trade Associations”), intervenors in the above-captioned proceeding,<sup>2</sup> submit these comments in support of NERC’s Compliance Filing.

---

<sup>1</sup> *Clarified*, 139 FERC ¶ 61,168 (2012).

<sup>2</sup> The Trade Associations were granted intervention in Paragraph 38 of the March 15, 2012 Order, in response to the Trade Associations’ October 21, 2011 Motion to Intervene and Comments, eLibrary No. 20111021-5043.

## I. COMMENTS

The Commission's March 15 Order accepting NERC's Find, Fix, Track and Report Initiative ("FFT"), with conditions, directed NERC (*id.* P 66) to submit a compliance filing explaining the principles it will employ in evaluating an entity's compliance history and, in addition, to (*id.* P 80):

- (1) Describe how NERC and Regional Entity compliance and enforcement personnel will be trained to implement Phase II and, for informational purposes, provide copies of any training materials prepared for this purpose;
- (2) Explain the procedures for coordination and collaboration between compliance personnel and enforcement personnel in evaluating FFT eligibility during Phase II;
- (3) Explain how NERC intends to obtain consistent treatment of possible violations for FFT treatment among the Regional Entities and as between NERC and the Regional Entities; and
- (4) Describe the process for certification or qualification of specific personnel to participate in eligibility determinations during Phase II.

The March 15 Order's compliance directive thus focused NERC's attention on elements of the FFT program that are crucial to its success: the tools required to ensure fair and consistent application of FFT and the processes to enable FFT determinations to be made not only by enforcement personnel, but also by compliance personnel. The real benefit of FFT—refocusing time and resources away from issues that pose lesser risks to bulk-power system reliability so that they can be reallocated towards activities that enhance reliability—cannot be realized unless NERC can achieve consistency of application within and across regions, and within and across both enforcement and compliance personnel. The Trade Associations expect to see increased resource prioritization

benefits of FFT for NERC, regional entities, and registered entities when compliance personnel are authorized to make FFT decisions in the field.

NERC's Compliance Filing satisfies the Commission's directives by describing the guidance, extensive training, and other mechanisms that NERC and its regional entities are putting in place to achieve consistent application of the factors, such as compliance history, used to make FFT determinations in a manner that will reinforce the culture of compliance that the Commission, NERC and the industry all intend to instill. NERC's Compliance Filing also highlights the training, coordination, and qualification programs that are critical to achieving fair and consistent application of FFT and to expanding the program to compliance personnel. While NERC appears to have moved away from a discrete Phase I/Phase II approach in favor of "ensuring the sustainability and expandability" of the FFT program (Compliance Filing at 2-3), its focus on continuous expansion of the scope and effectiveness of FFT appears intended to more quickly yield the efficiencies and value everyone hopes the FFT program can achieve.

Of course, the proof will be in the results. And NERC has its work cut out for it, as highlighted by the apparent inconsistency in the application of FFT by the various regional entities, as shown in NERC's May 14, 2012 Report on the Compliance Enforcement Initiative.<sup>3</sup> The Trade Associations expect NERC's tools, as described in the Compliance Filing, will be up to the important challenge it has taken on. We therefore look forward to a twelve-month report from NERC that documents the consistent application of FFT across regions, along with expanded application of FFT to

---

<sup>3</sup> eLibrary No. 20120514-5140 ("NERC Report"). *See, e.g.*, NERC Report at 12-13 (regional variation in application of FFT), 16 (regional variation in obstacles to application of FFT as reported by survey by regional entities).

reduce the violation backlog and refocus resources of NERC, its Regional Entities, and registered entities, on activities that will enhance reliability.

Respectfully submitted,

/s/\_\_\_\_\_.

**AMERICAN PUBLIC POWER ASSOCIATION**

Susan N. Kelly, Senior Vice President of  
Policy Analysis  
and General Counsel

Allen Mosher, Vice President of Policy  
Analysis and Reliability Standards

AMERICAN PUBLIC POWER ASSOCIATION  
1875 Connecticut Avenue, NW  
Suite 1200

Washington, DC 20009-5715

(202) 467-2900

skelly@publicpower.org

amosher@publicpower.org

**TRANSMISSION ACCESS POLICY STUDY  
GROUP**

Cynthia S. Bogorad

Rebecca J. Baldwin

Latif M. Nurani

SPIEGEL & MCDIARMID LLP

1333 New Hampshire Avenue, NW

Washington, DC 20036

(202) 879-4000

cynthia.bogorad@spiegelmc.com

rebecca.baldwin@spiegelmc.com

latif.nurani@spiegelmc.com

Attorneys for Transmission Access Policy  
Study Group

**EDISON ELECTRIC INSTITUTE**

James P. Fama, Vice President – Energy  
Delivery  
Barbara A. Hindin, Associate General  
Counsel  
EDISON ELECTRIC INSTITUTE  
701 Pennsylvania Avenue, NW  
Washington, DC 20004  
(202) 508-5019

**ELECTRICITY CONSUMERS RESOURCE  
COUNCIL**

John P. Hughes, Vice President, Technical  
Affairs  
ELECTRICITY CONSUMERS RESOURCE  
COUNCIL  
1111 Nineteenth Street, NW  
Suite 700  
Washington, DC 20036  
(202) 682-1390  
jhughes@elcon.org

**LARGE PUBLIC POWER COUNCIL**

Jonathan D. Schneider  
Jonathan P. Trotta  
STINSON MORRISON HECKLER LLP  
1150 Eighteenth Street, NW  
Washington, DC 20036  
(202) 728-3034

Attorneys for the Large Public Power  
Council

**ELECTRIC POWER SUPPLY ASSOCIATION**

Nancy E. Bagot, Vice President of  
Regulatory Affairs  
Jack Cashin, Director of Regulatory Affairs  
ELECTRIC POWER SUPPLY ASSOCIATION  
1401 New York Avenue, NW  
Suite 1230  
Washington, DC 20005  
(202) 628-8200  
NancyB@epsa.org  
jcashin@epsa.org

**ELECTRICITY CONSUMERS RESOURCE  
COUNCIL**

W. Richard Bidstrup  
CLEARLY GOTTLIEB STEEN & HAMILTON  
LLP  
2000 Pennsylvania Avenue, NW  
Suite 900  
Washington DC 20006  
(202) 974-1760  
rbidstrup@cgsh.com

Attorneys for Electricity Consumers  
Resource Council

**NATIONAL RURAL ELECTRIC  
COOPERATIVE ASSOCIATION**

Richard Meyer, Senior Regulatory Counsel  
Barry Lawson, Associate Director, Power  
Delivery and Reliability  
NATIONAL RURAL ELECTRIC COOPERATIVE  
ASSOCIATION  
4301 Wilson Boulevard  
Arlington, VA 22203  
(703) 907-5811  
richard.meyer@nreca.coop  
barry.lawson@nreca.coop

June 15, 2012

CERTIFICATE OF SERVICE

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

Dated on this 15th day of June, 2012.

*/s/Cynthia S. Bogorad*

---

Cynthia S. Bogorad

Law Offices of:  
Spiegel & McDiarmid LLP  
1333 New Hampshire Avenue, NW  
Washington, DC 20036  
(202) 879-4000