

I. DESCRIPTION OF TRADE ASSOCIATIONS

APPA is the national service organization representing the interests of not-for-profit, state, municipal and other locally-owned electric utilities throughout the United States. More than 2,000 public power systems provide over 15 percent of all kilowatt-hour ("kWh") sales to ultimate customers, and do business in every state except Hawaii. Collectively, public power systems serve over 47 million people. All APPA utility members are load-serving entities, with the primary goal of providing customers in the communities they serve with reliable electric power and energy at the lowest reasonable cost, consistent with good environmental stewardship. This orientation aligns the interests of APPA-member electric utilities with the long-term interests of the residents and businesses in their communities. Three hundred twenty-seven public power utilities are now included on the NERC compliance registry and are thus directly subject to NERC reliability standards, pursuant to FPA Section 215.

EEI is the association of the nation's shareholder-owned electric utilities and its affiliates world-wide. Its members own or operate approximately 70% of the electric industry assets in this country. In addition, its members include Generator Owners and Operators, Transmission Owners and Operators, Load-Serving Entities, and other entities that are subject to mandatory Reliability Standards developed and enforced by NERC.

ELCON is the national association representing large industrial consumers of electricity. ELCON member companies produce a wide range of products from virtually every segment of the manufacturing community. ELCON members operate hundreds of major facilities and consume power in the footprints of all organized markets and other regions throughout the United States.

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.

The Large Public Power Council represents the 26 largest state and municipally-owned utilities in the nation, including the larger, asset-owning members of the public power community.

TAPS is a trade association of transmission-dependent electric utilities in more than 35 states, promoting open and non-discriminatory transmission access to the electric grid. As transmission-dependent utilities, TAPS members are highly reliant on the reliability of electric facilities owned and operated by others. In addition, many TAPS members participate in the development of and are subject to compliance with NERC's mandatory reliability standards. Thus, TAPS is sensitive to both the need for standards to support grid reliability, as well as the need to make the standards clear and cost-effective.

II. COMMUNICATIONS

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III. COMMENTS

In its March 2012 order, the Commission sought NERC's views on whether certain "requirements could be removed from the Reliability Standards with little effect on reliability and an increase in efficiency of the ERO compliance program."¹ On February 28, 2013, NERC submitted a petition for Commission approval of the retirement of 34 requirements within 19 Reliability Standards. The petition was the product of an extensive collaborative effort involving stakeholders and NERC staff to implement the so-called "P 81 project" by identifying

¹ March 2012 Order, 138 FERC ¶ 61,193 at P 81.

requirements that could be eliminated in their entirety without compromising the reliability of the Bulk-Power System.

On June 20, 2013, the Commission issued the NOPR in this docket proposing to approve NERC's petition and additionally identifying 41 outstanding directives that the Commission proposes to withdraw. The Commission states that the identified outstanding directives were based on the following three guidelines: (1) whether the reliability concern underlying the outstanding directive has been addressed in some manner, rendering the directive stale; (2) whether the outstanding directive provides general guidance for standards development rather than a specific directive; and (3) whether the outstanding directive is redundant with another directive.² The Commission states that the withdrawal will have little impact on the reliability of the Bulk-Power System.³

The Trade Associations strongly support the Commission's proposal in the NOPR to approve the proposed retirement of the 34 requirements identified by NERC and to withdraw the 41 directives identified by the Commission. These proposals reflect recognition that many of the existing requirements and many of the outstanding directives are no longer necessary to assure the reliability of the Bulk-Power System. The NOPR is consistent with other efforts ongoing at the Commission and NERC to allocate the resources of all those involved – the Commission, NERC, the Regional Entities and registered entities – to those issues that pose the greatest risk to the reliability of the Bulk-Power System.

² NOPR at P 2.

³ NOPR at P 2.

While supporting the NOPR proposal in its entirety, the Trade Associations recommend that the Commission consider alternative criteria for the withdrawal of unnecessary directives in order to more closely align these criteria to those used in this docket for the retirement of existing standards. While the Trade Associations do not object to the Commission's proposed application of its own criteria in this docket, the NOPR does not clearly explain the differences in criteria for consideration of the two groups. Moreover, simple logic suggests that the basis for retirement of requirements and withdrawal of Commission reliability directives should be consistent, if not uniform.

As a practical matter, the discrepancy between the criteria for withdrawal of FERC directives and the retirement of existing requirements may very well call for the development of requirements that meet the criteria for retirement. To avoid this unintended consequence, the Trade Associations recommend that: (1) the following criteria be adopted in the Final Order for the withdrawal of Commission directives, and (2) the Commission open a docket to apply the criteria to all outstanding directives.

Specifically, the Trade Associations recommend that the Commission adopt the following criteria for the review in future proceedings of whether a directive should be withdrawn⁴:

Criterion A: Reliability Benefits

Development of a new or revised reliability standard in response to the Commission's directive does little, if anything, to benefit or protect the reliable operation of the BES.

⁴ The proposed criteria are based on NERC's proposed Paragraph 81 Criteria, found at Exhibit A of the NERC petition filing (PDF pp. 43-49) and at page 7 of the Standard Drafting Team's "P81 Technical White Paper," Exhibit E (PDF pp. 324-397). The NERC Petition is filed at http://elibrary.ferc.gov:0/idmws/file_list.asp?document_id=14093963

Criteria B: Redundancy and Burden

If the directive does not satisfy the Reliability Benefits Criterion, does it nonetheless meet one or more of the following criteria for identifying redundancy and undue burden?

- (1) the reliability concern underlying the outstanding directive has been addressed in some manner, rendering the directive stale or otherwise redundant;
- (2) the outstanding directive provides general guidance for standards development rather than a specific directive;
- (3) the outstanding directive is redundant with another directive;
- (4) the outstanding directive requires responsible entities to perform a function that is administrative in nature, does not support reliability and is needlessly burdensome;
- (5) the outstanding directive requires responsible entities to collect data without a direct connection to a reliability gap;
- (6) the outstanding directive requires responsible entities to develop a document (e.g., plan, policy or procedure) which is not necessary to protect BES reliability;
- (7) the outstanding directive obligates responsible entities to report to a Regional Entity, NERC or another party or entity without a direct connection to a reliability gap;
- (8) the outstanding directive requires responsible entities to periodically update (e.g., annually) documentation, such as a plan, procedure or policy without an operational benefit to reliability;
- (9) the outstanding directive is a commercial or business practice, or implicates a commercial rather than reliability issue; or
- (10) the outstanding directive is redundant with another governmental regulation (e.g., an Open Access Transmission Tariff provision or North American Energy Standards Board (“NAESB”) business practice, etc.)

To be sure, these criteria are broader than those employed in support of the withdrawal the Commission has proposed and suggest more directives that can be withdrawn. For example, according to NERC’s April 1, 2013 filing on the status of outstanding directives being addressed through the Standards development process, the

following examples seem to do little to promote reliability of the Bulk-Power System (Criterion A: Reliability Benefits) and also meet one or more of the Criteria B:

Redundancy and Burden:

“Include a requirement that interchange information must be submitted for all point-to-point transfers entirely within a balancing authority area, including all grandfathered and non-Order No. 888 transfers.” Page 46 of NERC filing; Order No. 693 at Paragraph 817. (Criteria B(9) and B(10)).

“. . . consider the available technologies and software as it develops this modification to VAR-001-1 and identify a process to assure that the Reliability Standard is not limiting the application of validated software or other tools.” Page 79 of NERC filing; Order No. 693 at Paragraph 1875. (Criteria B(2) and B(9)).

With the maturation of the ERO, it is clearer now than it might have been in the past that Reliability Standards and the associated directives that do not serve reliability should be withdrawn or retired, to ensure that the ERO and stakeholders are focused on the development of high quality, technically sound, results-based Standards, rather than Reliability Standards that are unnecessary for the protection of the Bulk-Power System. Accordingly, based on the Trade Associations’ observations, we request that the Commission in the Final Rule adopt the above criteria for withdrawing directives, and open a docket for consideration of additional directives that may satisfy the broader criteria proposed above.

For the reasons set forth in these comments, the Trade Associations respectfully request that the Commission approve the retirement of the 34 requirements and the withdrawal of the 41 directives identified in the NOPR.

Respectfully submitted,

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