

## MEMORANDUM

**TO:** Kristen Iwanechko, Secretary  
NERC Member Representatives Committee

**FROM:** Allen Mosher, Vice President, Policy Analysis & Reliability Standards,  
American Public Power Association  
Jacqueline Sargent, General Manager, Platte River Power Authority, on  
behalf of the Large Public Power Council  
John Twitty, Executive Director, Transmission Access Policy Study  
Group

**DATE:** January 29, 2014

**SUBJECT:** Response to Request for Policy Input

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The American Public Power Association, the Large Public Power Council, and the Transmission Access Policy Study Group have reviewed and concur in the response submitted today by the State/Municipal and Transmission Dependent Utility Sectors to NERC Board Chair Fred W. Gorbet's January 8, 2014 letter requesting policy input in advance of the February 5-6, 2014 NERC Board of Trustees meeting.



## MEMORANDUM

**TO:** Kristin Iwanechko, Secretary  
NERC Member Representatives Committee

**FROM:** Carol Chinn  
John DiStasio  
Bill Gallagher  
John Twitty

**DATE:** January 29, 2014

**SUBJECT:** Response to Request for Policy Input

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The MRC's State/Municipal and Transmission Dependent Utility sectors ("SM-TDUs") appreciate the opportunity to respond to the January 8, 2014 letter from NERC Board Chair Fred W. Gorbet to Mr. John A. Anderson, Chair-elect of the NERC Member Representatives Committee ("MRC"), requesting policy input on topics that will be of particular interest during the upcoming February 5-6, 2014 meetings of the NERC Board of Trustees, Board committees, and NERC MRC.

This response is divided into three parts. Part one emphasizes the importance of completing the Reliability Assurance Initiative ("RAI") before standards that include RAI-type language or are otherwise dependent on RAI become effective. Part two addresses each of the topics raised in Mr. Gorbet's letter: (i) the Proposed Operating Personnel Communications Protocols Standard, (ii) the 2014-2017 ERO Enterprise Strategic Plan and Performance Metrics and the 2015 Business Plan and Budget Schedule, and (iii) the Critical Infrastructure Protection ("CIP") Version 5 Order No. 791 Response Plan. Part three expresses our full support for Gerry Cauley's risk-based registration initiative.

### **I. Reliability Assurance Initiative**

SM-TDUs appreciate the progress we have seen on RAI, but more must be done. As we have expressed previously, NERC and the Board of Trustees should afford RAI its highest priority.

Developing and implementing RAI is one of the key deliverables identified in the ERO's Strategic Plan to "Promote a culture of compliance that supports reliability excellence within industry" in which the ERO "works with industry to identify standards, procedures, practices and controls to address reliability risks."<sup>1</sup> The importance of RAI extends well beyond the ERO's compliance and enforcement programs. We have gratefully reached the point where RAI is relied upon in standards development. NERC has expressed comfort with removing the "identify, assess, and correct" ("IAC") language in the Critical Infrastructure Protection ("CIP") Version 5 requirements, which was meant to address "zero-tolerance" concerns, if the processes currently

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<sup>1</sup> See: MRC Agenda Item 5 –ERO Enterprise Three-Year Strategic Plan for 2014-2017, Goal 2, page 4 at: [http://www.nerc.com/gov/bot/MRC/Agenda%20Highlights%20nad%20Minutes%202013/MRC\\_Agenda\\_Package-February\\_2014.pdf](http://www.nerc.com/gov/bot/MRC/Agenda%20Highlights%20nad%20Minutes%202013/MRC_Agenda_Package-February_2014.pdf)

being tested as part of RAI can be implemented as part of the compliance approach. The proposed COM-002-4 standard includes similar language that is intended to address “zero tolerance” concerns applicable to operating instructions during non-emergency conditions. Again, these concerns could be addressed through an RAI-based approach.

These plans make it critical that RAI be complete and in place by the time these and other RAI-dependent standards become effective (and as soon as possible thereafter with respect to other reliability standards). SM-TDUs are encouraged by the progress reflected in the agenda materials distributed to the MRC. However, significant substantive work has yet to be concluded with respect to defining the measures by which the regional entities and NERC will evaluate entity risk, as a reflection of the nature of the functions each registered entity performs, the facilities it operates, and the maturity of its compliance program and internal controls. This material remains a critical, unfinished piece of this program.

We encourage NERC to keep the lines of communication open with FERC on RAI. We believe open communication with FERC has been helpful in the past and will continue to be helpful going forward.

## **II. Policy Input Topics**

### **A. Operating Personnel Communications Protocols**

SM-TDUs support the combined COM-002-4. As we stated in Part I, it is critical that RAI be complete and in place before this standard becomes effective. We also want to make sure that the Reliability Standard Audit Worksheet (“RSAW”) is locked down. Once the draft RSAW is approved, it should not be changed without the Board’s approval. This will ensure that any changes will be transparent and open for comment. This approach was included in the Standard Process Input Group recommendations that were accepted and endorsed by the NERC Board in May 2012. The February 2014 Standard Oversight and Technology Committee Agenda Item 7 addresses RSAWs, but not this important aspect. Finally, we want to emphasize that the standards should be written in a systematic approach. COM-002-4 strays somewhat from this direction by including training requirements within it. Consistent with a systematic approach, we believe PER-005, System Personnel Training, should be the home of all system operator-related training.

### **B. 2014-2017 ERO Enterprise Strategic Plan and Performance Metrics and the 2015 Business Plan and Budget Schedule**

SM-TDUs believe that the multi-year ERO Enterprise Strategic Plan, including the five goals, is a major step in the right direction. In particular, we are pleased to see as part of Goal 5 the emphasis for the ERO to operate as a collaborative enterprise. We believe collaboration is critical to moving forward on a myriad of NERC initiatives. We also believe that the four new metrics: (i) Reliability Results, (ii) Assurance Effectiveness, (iii) Risk Mitigation Effectiveness, and (iv) Program Execution Effectiveness, are targeted and will provide for proper evaluation of the ERO Enterprise.

SM-TDUs note that the Standards Committee Chair has raised several concerns with the ERO strategic plan and recommended that NERC align its goals for the Standards program with the

Board approved 2014-16 Reliability Standards Development Plan and Standards Work Plan. The SC Chair further recommended modifications to NERC's proposed performance Metric 4, Sub-metric A, to align consideration of the Independent Expert Review Panel's recommendations with other principles and obligations that govern development and approval of reliability standards, including the NERC standards development process and the overriding goal of achieving timely approval of proposed standards by applicable regulatory authorities. SM-TDUs support these recommendations. We also support the Standards Committee's efforts to move NERC's reliability standards to a "steady state" by 2015, if not sooner. This is a "stretch goal" – but one well worth striving for.

As to the 2015 Business Plan and Budget Schedule, we are pleased that it provides the industry with the opportunity to review the NERC and Regional Entity budgets at the same time – a review that was not available previously. Finally, we understand that NERC is incurring and plans to incur expenses to overhaul its website and upgrade other IT-related areas. We look forward to the opportunity to review those planned expenses when available.

### **C. Critical Infrastructure Protection ("CIP") Version 5 Order No. 791 Response Plan**

We generally support the proposed response plan to Order No. 791. Although we agree that the removal of the IAC language makes sense if a compliance approach is developed with RAI principles, as we stated in Part I, RAI must be complete and in place before CIP Version 5 becomes effective, to ensure that registered entities understand their obligations and have sufficient time to develop and implement the internal controls and other processes needed to make this approach work. Also, we caution that only after the IAC language was added to Version 5 of the CIP standards did the proposed standards garner the votes for a successful ballot. Therefore, it is incumbent on NERC and the drafting team to reach out to the industry and explain how a compliance approach developed with RAI principles will address the industry's previous concerns, namely "zero tolerance." We stand ready to help in this regard and look forward to reviewing the forthcoming revised standards in more detail.

### **III. Risk-Based Registration**

SM-TDUs strongly support the "Risk-Based Registration" initiative outlined by Gerry Cauley during the January 8 MRC Informational Session Conference Call and Webinar<sup>2</sup> and outlined in greater detail in MRC Agenda Item 8.<sup>3</sup>

We agree that the current registration paradigm is out of step with NERC's ongoing efforts to align standards, compliance, and enforcement with risk to the grid. Many of the nearly 2000 entities on the NERC Compliance Registry pose little to no risk to the Bulk Electric System ("BES"), or are subject to demonstrating compliance with requirements far in excess of what is needed to protect the BES and ensure reliable operations. For example, a small distribution utility

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<sup>2</sup> See: Agenda Item 4e – Approach to Developing a Risk-based Compliance Registration Framework at: [http://www.nerc.com/gov/bot/MRC/Agenda%20Highlights%20nad%20Minutes%202013/MRC\\_Info\\_Session\\_01-08-14a\\_Complete.pdf](http://www.nerc.com/gov/bot/MRC/Agenda%20Highlights%20nad%20Minutes%202013/MRC_Info_Session_01-08-14a_Complete.pdf)

<sup>3</sup> See: Agenda Item 8 – Risk-based Registration Project at: [http://www.nerc.com/gov/bot/MRC/Agenda%20Highlights%20nad%20Minutes%202013/MRC\\_Agenda\\_Package-February\\_2014.pdf](http://www.nerc.com/gov/bot/MRC/Agenda%20Highlights%20nad%20Minutes%202013/MRC_Agenda_Package-February_2014.pdf)

with several miles of 115 kV BES transmission is subject to the same 500+ requirements as a multistate vertically-integrated utility Transmission Owner and Operator with hundreds of miles of high voltage transmission. And a Distribution Provider/Load Serving Entity with a peak load of 10 MW with facilities that are part of a required UFLS program—often for historical reasons—is subject to the full set of DP/LSE standards. To make matters worse, the NERC Rules of Procedure lack clear deregistration procedures and timelines, leaving entities that are over-registered under the current registry criteria subject to compliance while their deregistration requests remain in limbo. This situation is inefficient, burdensome, and reflects an outdated, one-size-fits-all approach to registration, standards and compliance that is incompatible with the risk-informed focus that NERC seeks to bring to all of its activities. Tailoring entities' compliance responsibilities to their impact on the grid will relieve some small entities from NERC compliance burdens altogether, reduce the burden on others through more targeted applicability, and save significant resources for all involved, thereby allowing the industry and the ERO enterprise to enhance reliability by focusing their resources on material risks to reliability. And with the upcoming implementation of the revised BES definition, the time is right to reform the registry to reflect risk.

In the MRC Informational Session, Mr. Cauley proposed a timeline for this initiative that would culminate in presentation of a new registration framework and transition plan at the November 2014 Board of Trustees meeting. The proposed timeline is ambitious but achievable, because many promising approaches can be used in combination to achieve a risk-based approach to registration. These approaches include:

- Increasing the size thresholds or adding new refining criteria to limit registration of entities that do not perform core BES reliability functions (e.g., small DPs/LSEs and GOs/GOPs; TOs/TOPs that perform local transmission functions);
- Using the successful GO-TO model to address the limited BES reliability impacts of DPs with limited BES transmission elements, by extending the applicability of certain requirements to such DPs, rather than registering such entities as TO/TOPs; and
- Reexamining the need for registration of entities performing functions that seem to have an insignificant reliability impact (e.g., PSEs).

SM-TDUs urge the Board to endorse this important initiative and ensure that NERC staff has the resources necessary to meet the proposed deadlines.

Thank you for the opportunity to provide this policy input.