

via e-mail to ROPcomments@nerc.net

Comments of American Public Power Association and Transmission Access Policy Study Group on August 26, 2014 Posting of Draft Risk-Based Registration Documents

The American Public Power Association (APPA) and Transmission Access Policy Study Group (TAPS) appreciate the opportunity to comment on NERC's Risk-Based Registration initiative (RBR). We strongly support the RBR proposals, and applaud the hard work of NERC staff in developing and revising the draft documents on an aggressive schedule. With only very minor exceptions, the Framework and proposed changes to the Rules of Procedure (ROP) are reasonable and well-calculated to achieve the RBR initiative's vital goal of ensuring that the right entities are subject to the right set of reliability standards. The RBR proposals will eliminate or reduce compliance costs that are not justified based on risk to BES reliability, and that therefore impose an undue and unnecessary burden on all involved. Implementation of the RBR proposals will not only maintain reliability, but will support reliability by allowing NERC and the Regional Entities to focus their efforts, rather than having their attention diluted by hundreds of entities whose ability to impact BES reliability is, at most, minimal. It will also allow over-registered entities to focus their own efforts on functions for which they continue to be registered, where they can impact reliability, and on fulfilling their primary responsibility of keeping the lights on at reasonable cost.

I REMOVAL OF FUNCTIONAL ENTITY CATEGORIES FROM THE STATEMENT OF COMPLIANCE REGISTRY CRITERIA

NERC proposes to remove three functional entity categories from the Statement of Compliance Registry Criteria, and to deactivate all registrations for such categories. The three categories—Interchange Authority (IA), Load-Serving Entity (LSE), and Purchasing-Selling Entity (PSE)—are not material to reliability, and their removal from NERC's compliance and enforcement authority will not pose a risk to BES reliability. APPA and TAPS support these proposals.

APPA and TAPS are not aware of any IA reliability tasks (a) that are material and (b) for which other functional entities are not already responsible. This result is consistent with NERC's own review, as demonstrated in the draft Technical Report.

As NERC's review has confirmed, the LSE is primarily a market function; the tasks currently assigned to the LSE that serve a necessary reliability purpose (i.e., are not appropriate for retirement) are duplicative of responsibilities placed on other functional entities, and/or obligations imposed by other enforceable mechanisms such as the OATT.¹ The risk of removing LSEs from the NCR is therefore minimal, and does not warrant the burden on all involved of retaining LSEs on the registry.

Finally, as also confirmed by NERC's analysis, the PSE has no reliability-related responsibilities that are not already adequately handled by another functional entity.

II CHANGES TO DISTRIBUTION PROVIDER CRITERIA

APPA and TAPS also strongly support the proposed revisions to the Registry Criteria for Distribution Providers (DPs). These changes will significantly reduce burdens on both small DPs and the ERO, without posing a material risk to reliability. Except in very unusual cases, imposing DP requirements on entities with peak load below 75 MW or not directly connected to the BES, that do not own or operate protection systems for BES reliability or provide NPIRs, is not necessary from a risk-based perspective. Data assembled by NERC thus far suggests that DPs with peak load under 75 MW serve a very small proportion of U.S. load, and that including these entities on the Compliance Registry is not needed to accomplish the primary reliability objectives of standards applicable to DPs, particularly when viewed in the context of reliability standards' purpose of avoiding BES instability, uncontrolled separation, and cascading outages. We expect that the ongoing technical studies by NERC staff will confirm this result.

Moreover, to provide further mitigation of any risk that would result from complete deactivation of DPs with peak load under 75 MW, or that are not directly connected to the BES, NERC is proposing that any such DP that "is the responsible entity that owns, controls, or operates UFLS Protection System(s) needed to implement a required UFLS Program designed

¹ While tariff requirements are not equivalent to Section 215 obligations, the existence of enforceable tariff requirements reduces the risk posed by removal of Section 215 obligations. Therefore, tariff requirements are relevant to assessing whether the residual risks, if any, posed to BES reliability are sufficient to warrant continued registration for compliance and enforcement of NERC standards under Section 215.

for the protection of the BES” be retained on the NCR as a UFLS-Only DP, subject to “PRC-006-1 and any Regional Reliability Standard(s) whose purpose is to develop or establish a UFLS Program... in effect as of November 1, 2014, as well as any other Reliability Standards that identify UFLS-Only Distribution Providers in their applicability section.” UFLS-Only DPs would not, however, be responsible for any other DP reliability standards, including standards whose purpose is maintaining UFLS protection systems, unless UFLS-Only DP is identified in the Applicability Section.

Based on consultation with our members, APPA and TAPS are confident that this conservative proposal strikes the right balance: it ensures that such DPs continue to participate in existing UFLS programs, without imposing on their ratepayers the additional costs of compliance with all other DP standards. NERC’s proposal to limit UFLS-Only DPs’ obligations to the sorts of requirements included in PRC-006-1 (e.g., “provide data to its Planning Coordinator(s) according to the format and schedule specified by the Planning Coordinator(s) to support maintenance of each Planning Coordinator’s UFLS database” and “provide automatic tripping of Load in accordance with the UFLS program design and schedule for application determined by its Planning Coordinator(s) in each Planning Coordinator area in which it owns assets”), without requiring compliance with protection system maintenance standards such as PRC-005-1.1b and PRC-008-0, is appropriate and consistent with the “risk-based” philosophy of this initiative: the small utilities that will be registered as UFLS-Only DPs have limited resources, and the burden on them (and thus on their ratepayers) of providing documentation of relay maintenance sufficient to satisfy those standards is significant. The minimal risk posed to BES reliability if such an entity fails to adequately maintain its relays does not justify imposing unnecessary costs on small utilities and their ratepayers. Thus, APPA and TAPS urge NERC to adhere to the proposed treatment of UFLS-Only DPs.

III ENHANCED DRAFT FRAMEWORK AND IMPLEMENTATION PLAN

APPA and TAPS generally support the draft Framework and Implementation Plan. Our only concern has to do with Phase 2 of the RBR initiative. Specifically, NERC has determined that some proposals—most notably, consideration of sub-set lists of applicable Reliability Standards for lower-risk TO/TOPs and GO/GOPs—could not be addressed on the same aggressive schedule as the rest of RBR, and those proposals are thus to be considered in Phase 2

of the RBR initiative. This bifurcation is reasonable. It is crucial, however, that momentum be maintained after Phase 1 is complete; the issue of appropriately scaled treatment of lower risk TO/TOPs and GO/GOPs is of great importance to our members. The draft implementation plan states that “Further information on Phase 2 will be provided at the November Board meeting,” but does not provide a schedule for Phase 2; we urge NERC to add specific Phase 2 dates to the draft Implementation Plan to help ensure that Phase 2 does not fall by the wayside in the press of other matters in 2015.

IV RULES OF PROCEDURE

APPA and TAPS generally support NERC’s proposed ROP changes. We note a few limited concerns: First, Section III.C.9 of proposed Appendix 5A seems to suggest that the NERC-led review panel will apply the materiality test, other criteria, and notes to every proceeding. We believe that this is an oversight; it would plainly be inappropriate for the review panel to apply the materiality test or aggregate risk analysis to a dispute between a registered entity and a Regional Entity over the appropriate application of the threshold criteria. In addition, since both individual and aggregate risk analysis are included in the notes to Appendix 5B, it is unnecessary and potentially confusing to list them separately in subsection 9 (while the materiality test is likewise in the notes, we believe that it is likely significant enough to warrant a specific mention). Finally, it’s not clear what was meant by “other criteria,” but we believe that listing “threshold criteria, materiality test, and/or notes” would cover the waterfront. For the sake of clarity, therefore, we suggest that subsection 9 be revised to read “In reaching a decision, the NERC-led review panel will, as applicable to the particular request for panel review, apply the threshold criteria, materiality test, ~~and/or other criteria and~~ notes, set forth in Appendix 5B, Statement of Compliance Registry Criteria, ~~and may also include a review of individual and aggregate system-wide risks to, and considerations of, reliability of the BPS, as anchored in the new BES Definition.~~”

NERC proposes to replace the terms “Load-Serving Entity,” “Interchange Authority,” and “Purchasing-Selling Entity” in Appendix 2 of the ROP, and throughout the ROP, with lower-case versions, because they will no longer be included in Appendix 5B as functional registration categories. This is inconsistent with the Rules of Procedure; while entities will no longer be registered as LSE, IA, or PSE, NERC does not propose to remove the terms from the list of

defined terms in Appendix 2, which states that any term defined in Appendix 2 should be capitalized where it is used in accordance with the Appendix 2 definition. In other words, a term's capitalization is based on whether it is defined in Appendix 2, not whether it is a functional registration category. NERC could, however, delete the definition of Interchange Authority from Appendix 2, because the term's only occurrences in the ROP are with respect to it as a functional registration category; if it is deleted throughout the ROP, it no longer needs to be defined in Appendix 2. LSE and PSE are both used in other contexts in the ROP, and thus both definitions need to remain in Appendix 2.

V TECHNICAL REPORT

Because the draft Technical Report is still a work in progress, with studies still ongoing, we do not provide extensive comments here. The goal of the Technical Report is to provide the NERC BOT and FERC with a sound basis for approval of the RBR proposal. NERC and stakeholders have both data and on-the-ground experience demonstrating that RBR is necessary, and that it will not result in a material risk to BPS reliability (and NERC's ongoing studies are expected to result in additional data). For the most part, therefore, we believe that improving the draft Technical Report is a matter of describing that data and experience clearly and in adequate detail.

CONCLUSION

Thank you again for the opportunity to support and comment on NERC's important Risk-Based Registration initiative.