



invoked by the Commission and (2) incorporate the ability to adjust the timeliness of the process to meet a Commission-imposed deadline and still allow for due process.”

NERC is an international entity and is structured to allow for effective input from interested Canadian parties in the development of Reliability Standards. The standard-setting process is further structured to respect the jurisdictional sovereignty of the respective governmental authorities, thereby allowing for the development of Reliability Standards that can be implemented in all relevant jurisdictions. The ERO can work effectively as an international organization only if the relevant governmental authorities respect the integrity of the standards-setting process as currently designed.

CEA is concerned that the Commission directives to NERC in the January 18 Order would require NERC to develop a process that would impede NERC’s ability to effectively balance the interests and concerns of the North American utility industry. Moreover, CEA believes that the Commission’s directives could limit NERC’s ability to craft a revised standard that would receive approval from all relevant governmental authorities.

On February 20, 2007, NERC filed with FERC a request for clarification, or in the alternative, for rehearing, regarding, in part, the directives described above. In the request, NERC asks that FERC clarify that NERC may continue to use the standards development process, but must have provisions in place to allow the development process to be exercised in a time frame that meets the Commission’s directive. CEA supports this interpretation of the January 18 Order, although CEA still cautions that the time frame must allow for effective Canadian input in the standards development process and adequate review by the relevant governmental authorities for standards approval.

In its filing, NERC further seeks a rehearing if FERC intended to state in the January 18 Order (1) that it may prescribe the substantive contents of a reliability standard and order the ERO to adopt the standard or (2) that NERC must have procedures in place to develop and adopt a standard within a limited time frame without using the standards development process. In support of this request for rehearing, NERC argued, in part, that if the Commission were to prescribe the specific content of a reliability standard, it would limit the opportunity for direct Canadian participation in the development of the standard and could result in conflicting requirements among the relevant jurisdictions.

CEA agrees with NERC that Commission directives that limit the ability of NERC to develop Reliability Standards pursuant to the standard-setting process could limit the ability of Canadian interests to effectively participate in the standard-setting process. Such a directive could also prevent Canadian governmental authorities from having an effective voice in the standards development and approval process. CEA further agrees with NERC that, if the Commission were to prescribe the specific content of a reliability standard, it could result in conflicting requirements among the relevant jurisdictions.

Prescribing the substantive contents of a reliability standard and ordering that the standard be adopted or directing that a standard be developed within a limited time frame outside the standards development process would undermine NERC's ability to operate effectively as an international ERO. Such directives would limit the ability of Canadian entities to participate in the standards development process. Further, such directives would undermine the ability of FERC and Canadian governmental authorities to coordinate in the development and approval of Reliability Standards, and in the resolution of any issues arising should a particular standard be

remanded. As NERC noted in its filing, the result of such directives could be the approval of conflicting requirements on the standards to be adopted by NERC.

### **Conclusion**

An effective international ERO requires that governmental authorities trust the ERO standard-setting process and respect the jurisdictional sovereignty of the other relevant governmental authorities. As explained above, CEA requests clarification that the FERC directives are not intended to interfere with NERC's standard-setting process, or impede its ability to operate effectively as an international standard-setting organization. In the alternative, CEA requests that the Commission grant rehearing regarding the directives contained in the January 18 Order, as described above, and to modify such directives consistent with the concerns raised in this request.

Respectfully submitted,

\_\_\_\_\_/s/\_\_\_\_\_  
Hans Konow  
President and CEO  
Canadian Electricity Association  
66 Slater Street, Suite 1210  
Ottawa, Ontario K1P 5H1  
Canada

Dated: March 13, 2007