

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

Reliability Standards Development and
NERC and Regional Entity Enforcement

Docket No. AD10-14-000

**COMMENTS OF THE CANADIAN ELECTRICITY ASSOCIATION ON THE JULY 6,
2010 RELIABILITY STANDARDS DEVELOPMENT TECHNICAL CONFERENCE**

Introduction

The Canadian Electricity Association (“CEA”)¹ submits these comments in response to the Federal Energy Regulatory Commission’s (“FERC” or “the Commission”) solicitation of comments from interested parties regarding the issues discussed at the Reliability Standards Development Technical Conference (“the Conference”) held on July 6, 2010, and as a supplement to the comments presented by Nicholas Ingman on July 6, 2010 on behalf of CEA.² The Conference was convened by FERC to address industry perspectives on the standards development process used by the Electric Reliability Organization (“ERO”), the North American Electric Reliability Corporation (“NERC”); communication and interactions between the Commission, the ERO and Regional Entities; and ERO and Regional Entity monitoring and enforcement.

¹ Founded in 1891, CEA is the national forum and voice of the evolving electricity business in Canada. The Association contributes to the regional, national and international success of its members through the delivery of quality value-added services. At the heart of CEA is a core of corporate utility member companies. In addition, major electrical manufacturers and corporate consulting companies and several hundred other company and individual members are grouped within CEA's broad structure. CEA members generate, transmit and distribute electrical energy to industrial, commercial, residential and institutional customers across Canada every day. From vertically integrated electric utilities, to power marketers, to the manufacturers and suppliers of materials, technology and services that keep the industry running smoothly -- all are represented by this national industry association.

² *Notice Soliciting Comments*, 75 Fed. Reg. 40,819 (July 7, 2010).

Background

CEA supports the reliability standard-setting model contained in Section 215 of the FPA, which allows for effective participation by all North American stakeholders in the development of reliability standards. Because standards are first developed through the process and then submitted to the relevant governmental authorities for approval, such a process is respectful of jurisdictional sovereignty by allowing for the approval of the resulting standards in all relevant jurisdictions. This model also recognizes jurisdictional sovereignty through the existence of the remand provision in the U.S. legislation, which is also incorporated into the processes for standards approval in a number of Canadian provinces and which is incorporated into the existing NERC standard setting procedures. This component assures that no governmental authority has the ability to unilaterally modify standards that would apply to the whole system, and that any variances are accommodated through the collective process. At the same time, it gives public authorities the confidence that the system has a government backstop, providing governmental authorities on both sides of the border with the confidence that standards developed through that process reflect their concerns.

While CEA supports the NERC process, CEA also recognizes that certain issues have arisen with respect to the standards development process that merit attention. While it is important that such issues be addressed, CEA cautions that, given matters of jurisdictional sovereignty, the best solutions lie within the NERC process. It is in that spirit that CEA provides the comments, below.

Need for Improved Communication and Collaboration between FERC, Canadian Governmental Authorities, NERC and Industry

The most salient and common message emerging from the Conference was the need to improve communication and collaboration among all of the parties who share the responsibility

for the reliability of the bulk power system – FERC, Canadian governmental authorities, NERC and industry participants. As such, we offer the following suggestions to strengthen communication and collaboration between industry and government on reliability issues and priorities.

A. Improving Communication and Coordination Between and Among the Relevant Governmental Authorities

During the Conference, Commissioner Phil Moeller asked MaryAnne Aldred of the Ontario Energy Board how FERC can best strike a balance in listening to the concerns of Canadian entities. We believe that the existing government to government process offers such a balance, but suggest some further enhancements to that process to strengthen and enhance governmental communication and coordination.

In February 2004, the Bilateral Electric Reliability Oversight Group (“Bilateral Group”) was established to address issues concerning an international framework for electric reliability. It was originally comprised of representatives from FERC, the U.S. Department of Energy (“DOE”) and the Federal-Provincial-Territorial Electricity Working Group (“FPT Group”) of the Council of Energy Ministers of Canada. In June 2005, members of the Bilateral Group agreed to Terms of Reference. These Terms of Reference recognize the importance of coordination and cooperation of the relevant governmental authorities in exercising their respective responsibilities to assure the reliability of the international grid. In August 2005, DOE and the FPT Group jointly submitted to FERC “Principles for an Electric Reliability Organization that Can Function on an International Basis” (“Bilateral Principles”), based on dialogue with stakeholders across Canada and the U.S. The Bilateral Principles played a critical role in guiding the establishment of the ERO. With the addition of representatives from the Government of Mexico in 2007, the Bilateral Group has since been renamed the Trilateral

Electric Reliability Oversight Group (“Trilateral Group.”) Over the years, the Bilateral Group – and now the Trilateral Group -- has served as an important forum for the relevant North American governmental authorities to identify issues related to the international aspects of the ERO’s operation and to discuss options for resolving those issues.

In terms of improved communication and coordination between FERC and relevant Canadian governmental authorities, we first ask that FERC remain committed to the principles contained in both the Terms of Reference and the Bilateral Principals. The Terms of Reference recommends that the Bilateral Group (now the Trilateral Group) engage in the following activities with respect to the development of reliability standards: (1) monitor the standards development process within the ERO and identify and consult on issues of concern; and (2) identify and consult on issues of concern related to international aspects. Further, the Terms of Reference recommend that the Bilateral Group (now the Trilateral Group) should:

1. *Examine ways to avoid and resolve disagreements and to promote consistency across the border with regard to the funding of the ERO, the remand of a standard by a regulatory body, and the enforcement of reliability standards;*
2. *Consult on other reliability policy and reliability regulatory issues that arise over time; and*
3. *Share information concerning the standards, practices, planning, and initiatives of the ERO in order to maintain and improve the reliability, security, and commerce of the international bulk power supply system.*

Moreover, in terms of the remand of a standard, the Bilateral Principles provide that “the ERO should notify all relevant regulatory authorities, and should work to ensure that all concerns of such regulatory authorities are addressed prior to the resubmission of the standard to FERC and authorities in Canada.” Adhering to these principles will help to strengthen cross-border cooperation and coordination, thereby enhancing the reliability of the North American grid.

CEA believes that adjustments to the Trilateral Group’s mission could further assist government and industry in improving communication and collaboration amongst reliability

stakeholders. CEA believes that such adjustments would strengthen the Trilateral Group's contributions to maintaining an international reliability framework which effectively aligns with the original Bilateral Principles.

In terms of such adjustments, CEA believes that government to government communication could benefit from a more open process. Adding transparency and inclusiveness to the Trilateral Group's meetings, by inviting industry and NERC representatives to participate and opening a portion of the proceedings to the public, would allow for the governmental authorities to gain a better understanding of the relevant reliability issues. Such transparency would be of value to all stakeholders, even those in the U.S., given the international nature of the transmission grid and the international nature of certain reliability issues. Further, we recommend increased representation of governmental authorities in the FPT Group and FERC at the highest possible level of seniority. And we suggest that at least one meeting per year include the relevant Commissioners and comparable Canadian decision-makers. Finally, we believe that increased communication and cooperation can occur where there is an increase in the number of meetings and where such meetings of the Trilateral Group are held at regularly scheduled intervals.

As a member of the Trilateral Group, FERC has expressed its commitment to approaches that ensure the ERO can work effectively on an international basis. CEA urges FERC to consider how modifications and enhancements to the Trilateral Group's mandate could help improve communication and collaboration between governments and industry in the three countries.

B. Establishing a Process to Facilitate Discussion on Reliability Issues

During the Conference, participants discussed at length a recommendation of Bonneville Power Administration Administrator & CEO Stephen J. Wright to establish a forum to facilitate and increase high-level communication and collaboration within the “reliability infrastructure leadership” – defined by Administrator Wright as FERC, Canadian regulators, NERC, Regional Entities and bulk power system participants. Administrator Wright presented his proposal as a solution to what he characterized as increased tension and diminished trust among the leadership. According to his testimony, the forum would enable stakeholders to “air differences, understand perspectives, seek to clarify roles, and...set priorities and track implementation of measures to achieve those priorities.”³ Administrator Wright argued that senior-level engagement in the forum would be critical to its ultimate success.

CEA appreciates that Administrator Wright’s proposition represents a constructive attempt to overcome the current obstacles to effective communication amongst stakeholders. However, CEA does not support the creation of a new leadership forum. Industry and governmental authorities in both the U.S. and Canada have invested considerable time, effort and resources in establishing an international ERO structure. This structure already offers numerous points of interface between industry and government representatives. Moreover, in the current economic climate, the resources of many industry participants and governmental authorities are already stretched thin, which would result in lack of participation by some key stakeholders.

In lieu of adding another layer to the reliability framework, CEA recommends convening additional technical conferences in the future. CEA viewed the Conference as a constructive means through which all of the relevant North American stakeholders could engage in an open,

³ Opening Statement of Stephen Wright, Administrator and Chief Executive Officer, Bonneville Power Administration, FERC Technical Conference, Reliability Standards Development and NERC and Regional Entity Enforcement, July 6, 2010, p. 4.

good-faith and effective dialogue over the critical issues that continue to impact the development of reliability standards. And CEA was encouraged by the interest exhibited by FERC Commissioners and staff in soliciting input from Canadian representatives. CEA found the Conference to have great value in engaging the industry and FERC in a dialogue on important issues affecting reliability, and suggest continuing such an approach in the future. To further engage Canadian representatives, we encourage FERC to include Canadian governmental authorities as equal partners in the process, with representation from Canadian industry on the various panels.

As previously stated, CEA supports more industry-accessible Trilateral meetings, and the convening of a Commissioner-level meeting at least once a year. We further believe that such an annual governmental meeting would present an ideal opportunity to hold a technical conference to discuss relevant reliability issues. And because high governmental officials will be present for the Trilateral meeting, such officials would be present for the technical conference, as well.

Additionally, a technical conference could be convened within the existing NERC structure. Such an approach could take advantage of the international ERO framework, effectively engaging industry participants and governmental authorities in the U.S. and Canada. In CEA's view, the incorporation of such forums under NERC's umbrella would present two distinct advantages: one, it reinforces the statutory intent of Section 215 of the Federal Power Act for the ERO to serve as the primary vehicle for ensuring bulk power system reliability; and two, it more easily accommodates the convening of future technical conferences in both Canada and the U.S.

C. Enhanced FERC Engagement in the NERC Member Representatives Committee and Board of Trustees Meetings

As discussed above, CEA believes that efforts should be made to take advantage of existing structures that are intended to serve as communication channels between industry and government. Strengthening the effectiveness of existing forums at NERC offers another opportunity for improving communication and collaboration amongst the relevant North American reliability stakeholders. During the Conference, one panelist noted that the recent quarterly meetings of the NERC Member Representatives Committee (MRC) and Board of Trustees (BOT) in May 2010 in Baltimore benefited significantly from the presence and participation of Commissioner Norris and Chairman Wellinghoff, respectively. The attendance of Commission members enabled industry participants to bring matters of concern directly to the Commission's attention, while Commissioners availed themselves of the opportunity to convey key messages to industry.

This type of high-level dialogue yields valuable dividends – the expectations of all stakeholders are made clear; uncertainty is reduced; priorities are agreed upon; and the collaborative process is further nurtured, thereby boosting the prospects for developing reliability solutions that will be accepted by all of the relevant parties. At the Conference, a different panelist noted that the MRC and BOT in their current manifestations do not always attract CEO-level input and engagement, which in turn complicates efforts to induce participation from Commissioners. CEA believes that increased high-level regulatory engagement at the BOT and MRC levels will attract CEO-level input and engagement, thereby increasing effective communication and collaboration on reliability issues.

Conclusion

CEA agrees that the North American electric reliability regime stands to benefit significantly from enhanced communication and collaboration between all of the relevant stakeholders in government and industry, both north and south of the border. CEA believes that investments to date in the current ERO structure as well as significant cost constraints at present behoove stakeholders to seek to strengthen the effectiveness of existing processes – in particular, the Trilateral Group, Technical Conferences, and the NERC MRC and BOT – which already serve as points of interface between government and industry.

Respectfully submitted,

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