

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Mandatory Reliability Standards for the
Bulk-Power System

Docket No. RM06-16-000

**COMMENTS OF THE TRANSMISSION ACCESS
POLICY STUDY GROUP**

INTRODUCTION AND SUMMARY OF OVERARCHING CONCERN

The Transmission Access Policy Study Group (“TAPS”) appreciates the opportunity to comment on the October 20, 2006 Notice of Proposed Rulemaking, 117 F.E.R.C. ¶ 61,084 (“NOPR”). Although TAPS has strongly supported the reliability legislation and the Commission’s steps to date to implement it, TAPS has serious concerns about the NOPR. In particular, we highlight our pervasive concern that the Commission proposes to overstep its statutory role by directing specific changes to standards, and most significantly, by expanding the applicability to small systems of standards it proposes to make mandatory and enforceable through penalties.

Specifically, changes to standards, especially determinations as to the responsibility to comply with standards, must be vetted through NERC, not directly imposed by the Commission. The Commission has no authority, through “interpretation,” to change NERC’s “bulk electric system” definition, which frames and is used throughout NERC standards, and thereby modify standards it is proposing to approve. The statute also bars the Commission from using “interpretation” to expand the applicability of standards to small systems that had no notice of such intended application when the standards were adopted through NERC’s statutory standards development process. Nor is the NOPR’s rewrite of NERC’s bulk electric system definition consistent

with the statutory bulk power system definition, which is limited to facilities “*necessary* for operating an interconnected electric energy transmission network.” FPA Section 215(a)(1), 16 U.S.C. §824o(a)(1).

The statutory scheme also mandates reconsideration of the NOPR’s refusal to adopt the compliance registry criteria proposed in NERC’s June 13, 2006 Reply Comments in Docket No. RR06-1-000, which the NOPR incorrectly characterizes as a “blanket waiver.” To the contrary, the NERC registry criteria establish reasonable general thresholds, but expressly enable NERC and its Regional Entities (“REs”) to go below those thresholds where they find it is necessary. Further, the Commission should not substitute its judgment for NERC’s expert assessment of the reach of compliance obligations that would most effectively achieve Congress’ bulk system reliability directive. NERC and its REs should be responsible to register all entities to which standards should reasonably apply, thus providing clear notice of compliance obligations. Until such registration, an entity should be able to rely on its exclusion from the registry. The NOPR’s proposed regulation should be modified to clearly provide that issues of applicability will be determined with reference to the NERC compliance registry.

By intruding into the role Congress carved out for NERC, the Commission inadvertently undermines reliability and imposes undue burdens on small systems that will adversely impact competition. The NOPR’s apparent proposal to require compliance with NERC standards by two thousand small entities, which have no material impact on bulk system reliability, will impose unnecessary costs on these entities. Rather than strengthening bulk system reliability, the NOPR’s application of standards to small

entities is likely to thwart Congress' intent by diluting the ability of NERC and its REs to audit and enforce compliance by entities that could cause cascading outages—the reliability concerns that underlie NERC standards and that motivated the legislation.

As detailed below, TAPS asks the Commission to respect the statutory division of labor as to reliability and reject the NOPR's over-reaching application of standards and associated compliance obligations to small entities. TAPS generally supports comments submitted today by the American Public Power Association ("APPA"), but files these comments to highlight its members' significant concerns.

I. INTEREST OF TAPS

TAPS is an informal association of transmission-dependent utilities in more than 30 states, promoting open and non-discriminatory transmission access.¹ As entities entirely or predominantly dependent on transmission facilities owned and controlled by others, TAPS members are particularly concerned that reliability standards not become a means to confer competitive advantages or disadvantages on particular types of market participants. We are very concerned by the NOPR's proposal to greatly expand the reach of costly reliability standards to many small entities that can have no material impact on reliability.

¹ TAPS is chaired by Roy Thilly, CEO of Wisconsin Public Power Inc. ("WPPI"). Current members of the TAPS Executive Committee include, in addition to WPPI, representatives of: American Municipal Power-Ohio; Blue Ridge Power Agency; Clarksdale, Mississippi; ElectriCities of North Carolina, Inc.; Florida Municipal Power Agency; Geneva, Illinois; Illinois Municipal Electric Agency; Indiana Municipal Power Agency; Madison Gas & Electric Co.; Missouri River Energy Services; Municipal Energy Agency of Nebraska; Northern California Power Agency; Oklahoma Municipal Power Authority; Southern Minnesota Municipal Power Agency; and Vermont Public Power Supply Authority.

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II. COMMENTS

A. *Legal Standard as it Relates to Key Concerns*

Under the statutory scheme established by Congress, it is NERC, not the Commission, that is the expert entity responsible for developing and establishing reliability standards. The Commission's role is limited to approving a standard if it determines it to be "just, reasonable, not unduly discriminatory or preferential, and in the public interest." FPA Section 215(d)(2), 16 U.S.C. § 824o(d)(2). In making that determination, the Commission "shall give due weight to the technical expertise of the Electric Reliability Organization with respect to the content of a proposed standard ... but shall not defer with respect to the effect of a standard on competition." *Id.* If the Commission finds the standard does not meet these criteria, its only course is to remand the standard to the ERO "for further consideration." Section 215(d)(4). Section 215(d)(5) authorizes the Commission to order the ERO to submit a standard or modification "that addresses a specific matter."

What the Commission does not have is the authority it has elsewhere in the FPA to "determine" the just and reasonable standard (*see, e.g.*, Section 206(a)). It can neither

directly change a standard nor tell NERC to adopt a specific change. The NOPR deviates from the statutory scheme when it proposes to approve standards and specify “*how* and why they need to be improved.” NOPR P 47 (emphasis added). While Section 216(d)(5) allows the Commission to explain its concerns and require NERC to submit a standard “that addresses a specific matter,” it is up to NERC to decide precisely “how” a standard needs to be improved.

A very troubling example of the NOPR’s attempt to go beyond the Commission’s statutory authority is its proposal to expand the applicability of standards in the guise of “interpreting” the bulk electric system (“BES”) definition (which is used in and frames the standards²) contrary to its express terms. One thing the Commission cannot do under this statutory scheme is to change a standard, or any part of a standard (*e.g.*, the NERC Glossary or, in particular, NERC’s BES definition) that it is approving as mandatory and enforceable. The Commission can no more alter the scope or applicability of a standard than it can change any other term in a standard. To the extent the Commission has concerns about the reach of proposed standards, it should require NERC to address those concerns and then reassess the reasonableness of affected standards, taking account of any expanded applicability, *before* such standards are made mandatory with regard to smaller entities.

For the Commission to modify standards it reviews by “interpreting” the BES definition also improperly end-runs NERC’s statutory standards development process, which requires notice and an opportunity for public comment, and “due process,

² The entire set of standards is called “Reliability Standards for the Bulk Electric Systems of North America.” See ftp://www.nerc.com/pub/sys/all_updl/standards/rs/Reliability_Standards_Complete_Set.pdf at 1.

openness, and balance of interests.” Section 215(c)(2)(D). More generally, expanding applicability of standards to small systems that were not viewed, by themselves or NERC, as subject to the standards shortchanges the process before NERC and evades statutory notice requirements. The ANSI process would have been fundamentally different if 2000 small entities had had notice that proposed standards were intended to apply to them. If the NOPR’s expanded reach of standards had been known and noticed at the time standards were considered through the NERC standards development process, the complexion and size of the ballot bodies (not to mention the challenges involved in achieving the quorum required by NERC’s ANSI process with potentially 1000+ additional entities registered to vote) could well have been starkly different, with different outcomes. Section 215(d)(4)’s remand requirements for standards that the Commission disapproves in whole or part confirms Congress’ intent to protect the integrity of NERC’s notice and comment standards development process.

Even if the Commission has authority to change the scope of standards it reviews, it could not find that such revised standards meet the statutory test. The Commission must recognize that it would be unjust, unreasonable, and unduly discriminatory and preferential to take standards developed for larger entities and apply them to small entities that have no material impact on the reliability of the interconnected transmission network. It would also be contrary to the public interest. Given the undue and unreasonable cost burden such application would place on small entities, the adverse impact on competition would be severe. Nor would there be measurable reliability benefits from this mismatch. Indeed, an adverse impact on reliability is more likely. Such unwarranted expansion of applicability would unnecessarily strain NERC and RE

compliance efforts and distract from the real work Congress intended. It would also prompt the retirement of small peaking units that, while operating infrequently, provide a valuable contribution to adequacy.

B. Applicability Issues

1. Definition of User of the Bulk Power System/Applicability to Small Entities

The NOPR (P 51) rejects “blanket waivers” in preference to determining applicability on a standard-by-standard basis. TAPS asks the Commission to reconsider that approach, adopt NERC’s June registry guidelines, and modify the regulatory text to make clear that issues of applicability will be determined with reference to the NERC compliance registry. It should be NERC’s responsibility to register all entities to which standards should reasonably apply, thus providing them with clear notice of their compliance obligations. If NERC misses an entity that could materially impact the reliability of the interconnected transmission system, it should be required to immediately register that entity. Until such registration, the small entity should be able to rely on its exclusion from the registry.

NERC’s June 13, 2006 Reply Comments in Docket No. RR06-1-000 proposed reasonable limits on its compliance registry (“June registry criteria”):

Any entity reasonably deemed material to the reliability of the bulk power system should be registered, irrespective of other considerations.

To address [this] principle the regional reliability councils, working with NERC, will (presently) identify and (eventually) register any entity that they deem material to the reliability of the bulk power system.

In order to promote consistency, NERC, the regional reliability councils and, once they are established, the regional entities ... intend to use the following criteria as

the basis for determining whether particular entities should be identified as candidates for registration. All organizations meeting or exceeding the criteria will be identified as candidates.

Load-serving Entity:

- 1) Load-serving entity peak load is > 25 MW and is directly connected to the bulk power system, or;
- 2) Load-serving entity is designated as the responsible entity for facilities that are part of a required regional under-frequency load shedding (UFLS) program designed, installed, and operated for the protection of the bulk power system, or;
- 3) Load-serving entity is designated as the responsible entity for facilities that are part of a required regional under-voltage load shedding (UVLS) program designed, installed, and operated for the protection of the bulk power system.

Distribution Provider:

- 1) Distribution provider system serving >25 MW of peak load that is directly connected to the bulk power system.
 - Exclusion: A distribution provider will not be registered based on this criterion if responsibility for data sharing and reporting to NERC and regional entities have been transferred by acceptable contract to another entity, such as an load-serving entity, balancing authority, transmission operator, G&T cooperative, or municipal joint action agency.
- Or;
- 2) Distribution provider is the responsible entity that owns, controls or operates facilities that are part of any of the following protection systems or programs designed, installed, and operated for the protection of the bulk power system:
 - a. a required regional UFLS program.
 - b. a required regional UVLS program.
 - c. a required regional special protection system.

d. a transmission protection system.

- Exclusion: A distribution provider will not be registered based on these criteria if effective control and responsibility for maintenance and operation have been transferred by acceptable contract to another entity, such as an load-serving entity, balancing authority, transmission operator, G&T cooperative, or municipal joint action agency.

Generator Owner / Operator:

- 1) Individual generating unit > 20 MVA (gross nameplate rating) and is directly connected to the bulk power system, or;
 - 2) Generating plant/facility > 75 MVA (gross aggregate nameplate rating) or when the entity has responsibility for any facility consisting of one or more units that are connected to the bulk power system at a common bus with total generation above 75 MVA gross nameplate rating, or;
 - 3) Any generator, regardless of size, that is a black start unit material to and designated as part of a transmission operator entity's restoration plan, or;
 - 4) Any generator, regardless of size, that is determined by the regional entity... to be material to the reliability of the bulk power system.
- Exclusion: A generator owner/operator will not be registered based on these criteria if effective control and responsibility for maintenance and operation of the generator/generation have been transferred by acceptable contract to another entity, such as an load-serving entity, G&T cooperative or municipal joint action agency.

Transmission Owner:

- 1) An entity that owns an integrated transmission element associated with the bulk power system 100 kV and above, or lower voltage as defined by the regional entity...; or
- 2) An entity that owns a transmission element below 100 kV associated with a facility that is included on a critical facilities list that is defined by the regional entity..., or;

3) Ownership of radial transmission facilities serving only load with one transmission source are generally not included in this definition.

Notes to the above Criteria

1. The above are general criteria only. The regional entity... considering registration of an organization not meeting (e.g., smaller in size than) the criteria may propose registration of that organization if the regional entity... believes and can *reasonably demonstrate* that the organization is a bulk power system owner, or operates, or uses bulk power system assets, and is material to the reliability of the bulk power system. Similarly, the regional entity... considering not registering an organization that meets the criteria may propose that the organization not be registered if the regional entity... believes and can reasonably demonstrate that the bulk power system owner, operator, or user does not have a material impact on the reliability of the bulk power system.

NERC June 13, 2006 Reply Comments, Appendix B at 3-4 (footnote omitted).

After deferring consideration of NERC's proposal to this proceeding,³ the Commission (NOPR P 51) proposes to reject what it terms a "blanket waiver" in favor of a standard-by-standard approach. TAPS strongly disagrees with the NOPR's approach. We ask the Commission to either approve NERC's June 13 registry criteria, or send them back to NERC for further consideration, with mandatory application of standards deferred until NERC submits waiver criteria the Commission finds acceptable. The Commission, however, cannot do what it is proposing to do here—approve standards with broader compliance coverage than NERC proposed, consistent with its BES definition.

³ *North American Electric Reliability Corp.*, 116 F.E.R.C. ¶ 61,062 PP 703, 710 (2006), *reh'g denied in relevant part*, 117 F.E.R.C. ¶ 61,126 (2006).

The NOPR's approach fails to give due weight to NERC's expert assessment as to the appropriate applicability of mandatory standards. Under the statutory scheme, NERC, not this Commission, is to make the judgment as to whether the benefits of more expansive compliance with standards by small entities outweigh the detriment to reliability in terms of strain on NERC and RE enforcement resources, the need to tailor standards to be more appropriate for smaller entities, and potential harm from what can be anticipated as the retirement of small generators that today provide occasional benefits, *e.g.*, from an adequacy perspective. Thus, it is up to NERC, not FERC, to assess whether, using the NOPR's CIP-001 example (P 51), allowing a 1 MW entity off the hook in reporting sabotage will materially impair *bulk system* reliability. Similarly, it is up to NERC to assess whether it makes sense to impose communications requirements for very small systems under COM-001/002, or whether it would be worth the effort to tailor standards to work for such systems, as even the NOPR concedes would be necessary,⁴ assuming (incorrectly) that the need to protect the communication equipment of large systems could justify registration of entities NERC would otherwise exclude.⁵ Indeed, the NOPR's concern for avoiding "lowest common denominator" standards (PP 1175-76) argues for strong standards to be applied with robust enforcement where they matter in terms of avoiding cascading outages, not for watering down the whole

⁴ See NOPR n.42 (observing that redundant, sophisticated communications systems would not be required for a small system).

process by requiring and auditing compliance by small entities for whom the standards are ill-suited and unduly onerous.

The Commission needs to give due weight to NERC's technical expertise unless the Commission determines the standard will have an adverse effect on competition. But here it is not NERC's guidelines that will have a severely adverse impact on competition, but rather the NOPR's proposal to ensure that every entity, no matter how small and insignificant, is subject to mandatory compliance with reliability standards. The NOPR's rejection of NERC's June registry criteria in preference to a standard-by-standard approach, coupled with the proposed approval of 83 standards without granular limits on applicability, means the standards will be applicable on June 1, 2007 to all entities that fit the functional category definition, regardless of size. This result would occur because the Functional Model, which the applicability sections of standards reference, contains no express limitation on entities with the identified functional characteristic to which it applies. The NOPR's proposal to subject several thousand small systems (that NERC would exclude from the registry) to compliance with reliability standards designed for much larger entities will impose an undue and disproportionate cost burden that will impair the small systems' ability to compete with the larger systems that surround them. Unwarranted extension of large-system-centric standards to small systems could even prompt the sale of a small system to the local IOU (to avoid compliance obligations, on

⁵ A small system that by itself would not have a material impact on the BES should not have to register just because it has an RTU or any other communication equipment that communicate with a larger system. The larger system has communication compliance requirements that should extend to all outside communications. For example, a virus on a small system's communication equipment should have no material impact on a larger system that complies with its obligation to prevent these types of intrusions from all sources. The larger system should not be able to evade its compliance requirements by treating the small system (or anyone else) as a "trusted source." Rather the large system should be held accountable for compliance with communication standards as to all its communications, including with the smaller system.

an individual system level, as an LSE or distribution provider⁶). The unjustified application of costly standards drafted with large generators in mind, to small generators that have no material impact on bulk system reliability, could reduce the number of generators available to discipline prices during extreme peak conditions (by prompting retirement of small peaking units that rarely run).

Failure to apply NERC's reasonable registration thresholds, which were designed to ensure that compliance with standards is demanded only where compliance makes some sense, "could also have a significant impact on the reporting burden of small entities that have not previously complied with the NERC standards on a voluntary basis," as the NOPR concedes (P 1160). Absent such limits, the Commission cannot satisfy its obligations under the Regulatory Fairness Act ("RFA"), 5 U.S.C. 501-12,⁷ *see* NOPR PP 1172-76. Even with NERC's proposed registry criteria, the standards would apply to hundreds of additional municipal and cooperative systems.

Finally, the NOPR mischaracterizes NERC's June registry criteria as a "blanket waiver" (P 51). As quoted above, the criteria call for case-by-case identification and enable NERC and its REs to go below the general threshold requirements where they determine it is necessary. The burden should be on the REs and their members to identify entities that should be registered; they have the information necessary to make that determination and no incentive to fail to register a small entity that has a potentially material impact on the bulk system.⁸ NERC's June registry criteria provide the flexibility

⁶ Once the small systems is sold to a larger system, micro-level imposition of LSE- and DP-related standards magically disappears.

⁷ *See* APPA/NRECA joint comments on RFA issues, submitted today.

⁸ The November 27, 2006 Midwest Reliability Organization ("MRO") letter, which asks MRO Balancing

in standards application that the NOPR seems to find desirable (P 52), and can work with revised standards that provide for more granular specification of applicability. Further, the registration process provides a mechanism to work out applicability concerns, as the NOPR recognizes at P 47.

Thus, the Commission should adopt the flexible criteria proposed by NERC last June. In any case, the NERC compliance registry should be the determinant of applicability, subject to dispute resolution as provided in the NERC Rules of Procedure, as the NOPR correctly observes at P 47. By omitting this crucial step, the language of the proposed regulation would arguably require compliance by entities that NERC and its REs have determined do not need to comply. Thus, TAPS joins APPA in proposing that the regulatory text of § 40.1, Applicability, be modified as follows:

- (a) This part applies to all applicable users, owners and operators of the Bulk-Power System within the United States (other than Alaska or Hawaii), including, but not limited to, entities described in section 201(f) of the Federal Power Act.
- (b) Each Reliability Standard made effective by § 40.2 must identify the subset of users, owners and operators of the Bulk-Power System to which a particular Reliability Standard applies.
- (c) Determinations as to applicability of standards to particular entities shall be resolved by reference to the NERC compliance registry.

Inclusion of this suggested language would ensure that entities have notice of the applicability of standards before they may be subject to penalties as a result of enforcement by FERC or NERC. If NERC concludes an entity is improperly omitted

Authorities, Transmission Operators, and Joint Action Agencies, using specified criteria, to identify any entities that should be included in the registry, provides a reasonable approach to ensuring appropriate

from the registry, it should add such entity to the registry for prospective application of standards, subject to Commission review.

2. Joint Action Agencies

TAPS supports the NOPR's suggestion (P 53) that NERC develop procedures to permit joint action agencies to accept compliance for their members, and has been working with NERC to make this avenue useful both to NERC and to the JAAs and their members. We believe that important strides have been made toward allowing JAAs to accept compliance responsibility on a standard-specific basis—to take responsibility to the extent permitted by an individual JAA's contracts with its members—avoiding a counter-productive “all or nothing” approach.

Further, to ensure comparability, JAAs should be allowed (where authorized by their contracts with their members) to cost-effectively achieve compliance with a standard at the JAA level (*i.e.*, on the same total-system basis on which the compliance of larger utilities is assessed), rather than to simply stand in the shoes of their individual members. For example, large utilities are not required to include under-frequency load shedding equipment at each substation, regardless of size; rather, they must provide sufficient under-frequency response only for their load viewed as a whole. Comparable treatment is essential for small loads served at wholesale. Particularly where the small distribution provider is part of a JAA that has the contractual ability to take responsibility to provide the necessary response, under-frequency load shedding requirements should be assessed from the perspective of the JAA's total load, rather than imposing much greater granularity on JAAs than on major IOUs serving retail load. UFLS standards should not

registration. A copy of the MRO letter is attached hereto as Appendix A (without attachments).

apply on a mandatory basis to *each* Distribution Provider that has the equipment, without flexibility to have compliance assessed on a JAA-wide basis.

Thus, where a JAA accepts compliance responsibility and a standard is susceptible to JAA-level assessment of compliance, the Commission should ask NERC to adopt such assessment to avoid an adverse impact on competition. To the extent standards do not currently allow for flexibility to assess compliance at the JAA level, the Commission should instruct NERC to address this important comparability issue in its standard development process. Pending such modifications, such standards should not apply to small systems, consistent with NERC's BES definition and its June registry criteria.

3. Use of the NERC Functional Model

The NOPR proposes to use the NERC Functional Model to identify the entities to which each Reliability Standard applies, and to require NERC to submit modifications to the Functional Model for Commission approval. *See* NOPR at PP 46, 48. In so proposing, the NOPR rightly recognizes the Model's close link to the standards and commenter concerns that "any future modification to the Functional Model could affect the categories of entities that must comply with a particular Reliability Standard, without the benefit of the open, stakeholder process required when the ERO develops a modification to a Reliability Standard." NOPR at P 48. If the Functional Model is changed to re-assign responsibility for a particular standard or requirement from one function or functional entity to another, the result could effectively alter the standard without taking the change through the ANSI process or treating the standard as a modified standard requiring additional FERC approvals. A change in the Functional

Model could change the standard in a way that makes it unjust, unreasonable and unduly discriminatory or preferential.

While Version 2 of the Functional Model was in place when the Version 0 and 1 reliability standards went through the ANSI process, NERC (through its committees) is currently considering an “updated” Version 3 Functional Model. If Version 3 is ultimately approved by NERC and filed with the Commission, the Commission will need to consider how changes from Version 2, the model implicit in the standards now being considered for approval, impact each previously approved standard and, if necessary, remand the Functional Model changes at least as applied to affected standards to enable NERC to vet them, in conjunction with consideration of the affected standards.

However, the NOPR focuses too narrowly when it requires only the submission of *modifications* to the Functional Model. *See* P 48. Version 2 of the Functional Model has never been filed with or reviewed by this Commission and, while approved by NERC’s Standing Committees and its Board, does not have the benefit of the full ANSI stakeholder balloting process required of standards. Both Version 2 and the Version 3 modifications now under consideration are controversial. Thus, the Functional Model requires a “ground up” review, with a full opportunity for submission of comments before this Commission considers action.

In addition, TAPS cautions that because the Functional Model includes no express size limitations, NERC and the Commission standards can rely on the Functional Model to define applicability of standards only if such limits are imposed by NERC’s June registry criteria (*see* Part B.1 above) and its BES definition (*see* Part B.4 below). Incorporating more granular limitations in the standards will be helpful on a going

forward basis, but such a step cannot ensure that the standards now proposed to be approved will operate in a just, reasonable and not unduly discriminatory manner, as TAPS' discussions of the specific standards below make clear.

4. Bulk Power System v. Bulk Electric System

The NOPR adopts an overly broad interpretation of the facilities included in the statutory term "bulk power system" and, based on that misinterpretation, proposes (at P 68) to "interpret" NERC's bulk electric system definition, for purposes of approving initial standards, in a manner that is contrary to the BES definition's express terms. TAPS strongly opposes the NOPR's proposal to define the facilities comprising the bulk power system and, in the process of approving standards, to change the foundation upon which the proposed standards rest and were approved through NERC's ANSI process. Instead, TAPS supports NERC's recommendation that the current bulk electric system definition continue to be used for purposes of the reliability standards proposed for approval, with any changes to that definition remanded to NERC for vetting through the ANSI process, which would allow parallel changes to the standards. *See* NOPR P 65. The evaluation of what facilities not included in the BES definition are covered by the BPS definition should be left to NERC in the first instance.

The reliability legislation was aimed at providing mandatory and enforceable standards to guard against cascading outages like the 2003 blackout.⁹ Consistent with that goal, Section 215 is aimed at the "bulk power system." The statutory definition,

⁹ *See, e.g., The Energy Policy Act of 2005: Hearings Before the Subcomm. on Energy and Air Quality of the H. Comm. on Energy and Commerce*, 109th Cong., Ser. No. 109-1, at 26 (2005) (statement of Cynthia A. Marlette, Gen. Counsel, Fed. Energy Regulatory Comm'n).

which Order 672 adopts (*see, e.g.*, n.2; P 21), provides (FPA § 215(a)(1)) (emphasis added):

(1) The term “bulk-power system” means-

(A) facilities and control systems *necessary* for operating an interconnected electric energy transmission network (or any portion thereof); and

(B) electric energy from generation facilities *needed* to maintain transmission system reliability.

The term does not include facilities used in the local distribution of electric energy.

Significantly, Congress defined BPS far more narrowly than “all facilities used for ... transmission [of electric energy in interstate commerce] or sale of electric energy [at wholesale in interstate commerce]” that fall within Commission jurisdiction under Section 201(b)(1). The statute’s “bulk system” focus explicitly contemplates and excludes transmission facilities that are not “local distribution”¹⁰ but that are not so crucial to transmission system reliability as to warrant inclusion as BPS.

Instead of reading the BPS definition as covering only those facilities *needed* to maintain the reliability of the interconnected network, the NOPR assumes it covers “the movement of power in bulk to points of distribution for allocation to retail electricity customers” (P 60), *i.e.*, all transmission facilities, with only local distribution facilities excluded (P 63).¹¹ Armed with this misreading of the BPS definition that gives meaning only to the final clause of Section 215(a)(i) (*i.e.*, the exclusion of local distribution), and

¹⁰ By covering a scope more narrow than Section 201(b)(1)’s jurisdiction over “all facilities used for ... sale of electric energy [at wholesale in interstate commerce],” the BPS definition does not encompass low voltage facilities included in the Commission’s Section 210(b)(1) jurisdiction because of their use for wholesale sales. *See* Order 888, Appendix G, affirmed in *TAPS v. FERC*, 225 F.3d 667, 695-96 (D.C. Cir. 2000).

stressing that Congress sought to “further the objective of maintaining the reliability of the entire Bulk-Power System, including the reliability of all of the elements of the transmission component of the Bulk-Power System” (NOPR P 66, emphasis original), the Commission proposes to “interpret” the term bulk electric system to fill the gaps it felt were left by NERC’s definition. NERC defines BES as:

As defined by the Regional Reliability Organization, the electrical generation resources, transmission lines, interconnections with neighboring systems, and associated equipment, generally operated at voltages of 100 kV or higher. Radial transmission facilities serving only load with one transmission source are generally not included in this definition.

NERC Glossary at 2.¹² In contrast, the NOPR (P 68) proposes (emphasis added):

[F]or the initial approval of proposed Reliability Standards, the continued use of NERC’s definition of bulk electric system as set forth in the NERC glossary is appropriate. However, we *interpret* the term “bulk electric system” to apply to all of the $\geq$ 100 kV transmission systems and any underlying transmission system ($<$ 100 kV) that could limit or supplement the operation of the higher voltage transmission systems. It would also include transmission to all significant local distribution systems (but not the distribution system itself), load centers, and transmission connecting generation that supplies electric energy to the system. If there is a question concerning which underlying transmission system limits or supplements the operation of the higher voltage transmission system, the Commission proposed that the ERO would provide the final determination on a case by case basis.

¹¹ The NOPR seems also to read BPS to include all facilities that “impact” reliability (P 69).

¹² Glossary of Terms Used in Reliability Standards, adopted Feb. 7, 2006, effective Apr. 1, 2006, at 2, attached as part of Ex. A to Petition of the North American Electric Reliability Council and North American Electric Reliability Corporation for Approval of Reliability Standards (Apr. 4, 2006), *available at* FERC eLibrary accession no. 20060404-4001 and ftp://www.nerc.com/pub/sys/all_updl/ero/stdapp/Standards-Application-Complete.pdf.

TAPS urges the Commission to heed NERC's advice, instead of plunging forward toward a head-on collision with the statutory scheme. The Commission may not deprive the ERO of the statutorily-required respect for its expert determination as to which facilities qualify as BPS. Nor can the Commission lawfully rewrite (through "interpretation") the BES definition that runs through the standards it is proposing to approve. Rather, if it proposes to adopt reliability standards, it must do so with the definitions built into those standards – the NERC BES definition as interpreted by NERC.

The BES definition is an integral part of the proposed standards, which are entitled: "Reliability Standards for the Bulk Electric Systems of North America."¹³ The BES term pervades the standards.¹⁴ NERC filed its Glossary with the standards and,

¹³ ftp://www.nerc.com/pub/sys/all_updl/standards/rs/Reliability_Standards_Complete_Set.pdf at 1.

¹⁴ See, for example, CIP-002-1 (Cyber Security- Critical Cyber Asset Identification): "NERC Standards CIP-002 through CIP-009 provide a cyber security framework for the identification and protection of Critical Cyber Assets *to support reliable operation of the Bulk Electric System.*" A.3 (Purpose) (emphasis added). "The risk-based assessment shall consider the following assets:... Transmission substations that support the reliable operation of the [BES]; generation resources that support the reliable operation of the [BES]." B.R1.2 (Requirements).

EOP-005-0 (System Restoration): "... disturbance in which one or more areas of the Bulk Electric System become isolated or blacked out..." "...necessary actions to restore Bulk Electric System frequency to normal, including adjusting generation, placing additional generators online, or load shedding." B.R9 (Requirements).

EOP-008-0 (Plans for Loss of Control Center Functionality): "... contingency plan to continue the monitoring and operation of the electrical equipment under its control to maintain Bulk Electrical System reliability..." C.M1 (Measures).

IRO-004-0 (Reliability Coordination- Operations Planning): "ensure the Bulk Electric System can be operated reliably in anticipated normal and Contingency conditions." A.3 (Purpose).

PER-001-0 (Operating Personnel Responsibility and Authority): "Transmission Operator and Balancing Authority operating personnel must have the responsibility and authority to implement real-time actions to ensure the stable and reliable operation of the Bulk Electric System." A.3 (Purpose).

PRC-003-1 (Regional Procedure for Analysis of Misoperations of Transmission and Generation Protection Systems): "To ensure all transmission and generation Protection System Misoperations affecting the reliability of the Bulk Electric System (BES) are analyzed and mitigated." A.3 (Purpose).

PRC-022-1 (Under-Voltage Load Shedding Program Performance): "Ensure that Under Voltage Load Shedding (UVLS) programs perform as intended to mitigate the risk of voltage collapse or voltage instability in the Bulk Electric System (BES)." A.3 (Purpose).

finding that “the NERC glossary is an important supplement to understanding the mandatory and enforceable Reliability Standards,” the NOPR (at P 1154) proposes to approve the Glossary, while (unlawfully) directing changes, including “modifi[cation] of the definition of ‘bulk electric system’ consistent with” its earlier discussion. *See* P 1156. As acknowledged in the NOPR (P 65), NERC recommended against a global change in the BES definition because it would affect many Reliability Standards. The Commission itself recognizes that wholesale substitution of a new term could lead to unintended consequences within certain standards. NOPR P 70.

Apparently recognizing it is on thin ice in attempting to directly change the BES definition, the NOPR characterizes its action as an “interpretation.” But the Commission cannot lawfully “interpret” the BES definition contrary to its terms. As quoted above, NERC’s BES definition is generally limited to facilities 100 kV and higher excluding radials to load served by a single transmission source. In contrast, under the NOPR’s “interpretation,” *all* 100 kV facilities and any underlying transmission system that could limit or supplement the operation of the higher voltage transmission systems would be included, as would “transmission to all significant local distribution systems (but not the distribution system itself), load centers, and transmission connecting generation that supplies electric energy to the system.” NOPR P 68. Thus, the NOPR’s “interpretation” would include most, if not all, radials excluded by NERC’s BES definition. NERC’s BES definition cannot be lawfully “interpreted” by the Commission to mean the opposite of what it actually says.

If the Commission doesn’t like NERC’s BES definition, it should remand it (along with the standards that rest on it) to NERC “for further consideration.” Section

215(d)(4). Or it can approve the BES definition as drafted, and direct NERC to submit a revised standard “that addresses a specific matter.” Section 215(d)(5). In that way NERC can consider the BES and BPS definitions through its ANSI process and, to the extent NERC proposes to revise the BES definition, revise affected standards to accommodate that change.

Any other course would not only defy the statutory limits on the Commission’s authority to change standards, but would result in the approval of standards that cannot possibly meet the statutory test. As noted above, the NOPR concedes that “unintended substantive changes” could result from substitution of a new definition for BES. P 70. It would plainly be unjust, unreasonable and anticompetitive to change the scope of standards retroactively after they emerged from the ANSI process, to apply them to entities for which they were not designed and where application would be unduly burdensome and have severe competitive impacts. Nor would it promote reliability to strain NERC and RE enforcement efforts by focusing on entities that are highly unlikely to cause, or even contribute to cascading outages, while neglecting those who could.¹⁵ And any other course would also have serious implications for the required Commission’s RFA certification.¹⁶

In no event, however, should the Commission adopt the NOPR’s confusing “interpretation” of the BES definition. For example, what is a “significant local distribution system” – 2 MW or 200 MW? Does it matter whether the local distribution system is served off a radial line, or at 69, 34.5, or even 12.5 kV? Is “significance”

¹⁵ There has been no showing that the problems addressed by Section 215 were created by the small entities that the NOPR would sweep under NERC standards.

measured from the perspective of potential to trigger cascading outages or can a local distribution system be “significant” from the point of view of serving the 100 or 100,000 customers that rely on that system? What is the difference between a “significant local distribution system” and a “load center,” which apparently need not be “significant” from any perspective?

These expansions of the BES definition cannot be squared with the statute’s focus on *bulk* transmission facilities “*necessary* for operating an interconnected electric energy transmission network” and its exclusion of “local distribution.” Section 215(a)(1)(A) (emphasis added). Nor can the NOPR’s proposal to include facilities below 100 kV “that could *limit or supplement the operation* of the higher voltage transmission systems” (NOPR P 68, emphasis added),¹⁷ even if they are not “necessary for operating” the bulk system. Section 215(a)(1)(A). The NOPR’s addition (P 68) of “transmission connecting generation that supplies electric energy to the system” adds circularity,¹⁸ not to mention an enormous stretch beyond the statute. Section 215(a) defines BPS as “electric energy from generation facilities *needed to maintain transmission network reliability.*” The statutory definition plainly does not reach a 10 MW generator connected to local distribution facilities that operates 10 hours a year and which might, on occasion, supply energy to the grid (in excess of behind-the-meter consumption). Thus, even if it were legally permissible for the Commission to rewrite, through “interpretation,” NERC’s BES

¹⁶ See APPA and NRECA joint RFA comments filed today in this docket.

¹⁷ The NOPR’s inclusion of all facilities that “*could* limit or supplement the operation of the higher voltage transmission system” also adds significant ambiguity. Does “could” encompass *any* imaginable set of circumstances?

¹⁸ What is the referenced “system”? Is it the truly “bulk power” system or does it include the facilities (improperly) swept into the NOPR’s bloated BES “interpretation” as set forth in P 68?

definition, the NOPR's revision should be rejected as both inconsistent with the statutory BPS definition and impermissibly vague in the context of standards to be enforced through potentially severe penalties.

C. Mandatory Reliability Standards

1. Legal Standard and Commission Options

See Part A above.

2. Trial Period

As discussed in APPA's comments, a trial period is necessary; rather than making all standards enforceable with penalties as of June 1, 2007, while allowing the ERO discretion not to impose penalties against small entities during the first six months, is insufficient. As the NOPR recognizes (P 93), small entities that have not historically participated in NERC, and may not be familiar with what is required for compliance with the standards, are most seriously disadvantaged by the lack of a trial period. The NOPR's proposal to deny a trial period, but leave penalties for violations by such systems to ERO discretion, still exposes them to disciplinary actions, potentially including penalties. More generally, the NOPR's "big bang" approach to reliability enforcement is likely to adversely impact the orderly and organized enforcement of standards by NERC and the REs that was intended by Congress. Thus, a trial period is important in all events, but particularly if the Commission persists in its effort to dictate overbroad applicability of standards.

D. Common Issues

1. Measures, Level of Non-Compliance, and Ambiguity

In its rush to get standards in place and enforced, the Commission is willing to adopt standards that are "sufficiently clear and enforceable" even if they are missing

crucial parts, such as Measures and Levels of Non-Compliance. *See* NOPR P 106. The Commission also appears willing to tolerate ambiguous standards in some instances. *See* NOPR P 112. TAPS shares APPA's concern that enforcement, through penalties, of standards that are ambiguous or lack Measures and Levels would not be just and reasonable, and would be unduly discriminatory.

2. Fill-in-the-Blank Standards

Order 672¹⁹ made clear that "uniformity of Reliability Standards should be the goal and the practice, the rule rather than the exception," Order 672 at P 290, with regional differences limited to those that are more stringent than the continent-wide Reliability Standard (including covering matters not addressed in continent-wide standards), or "necessitated by a physical difference in the Bulk-Power System." *Id.* at P 291. The Commission stressed the importance of uniformity within an interconnection. *Id.* at P 292.

As the NOPR recognizes (P 121), fill-in-the-blank standards undermine Order 672's uniformity directive, and will result in many inconsistencies that cannot be justified based on physical differences in the bulk power system or as regional standards more stringent than the continent-wide standard. By effectively delegating standard setting to the regional entity, they violate the fundamental structure of Section 215, in which the ERO alone can set reliability standards, subject to Commission review.

¹⁹ *Rules Concerning Certification of the Electric Reliability Organization; and Procedures for the Establishment, Approval, and Enforcement of Electric Reliability Standards*, Order No. 672, 71 Fed. Reg. 8,662 (Feb. 17, 2006), III F.E.R.C. Stat. & Regs. ¶ 31,204 (to be codified at 18 C.F.R. pt. 39), *corrected*, 71 Fed. Reg. 11,505 (Mar. 8, 2006), *on reh'g*, Order No. 672-A, 71 Fed. Reg. 19,814 (Apr. 18, 2006), III F.E.R.C. Stat. & Regs. ¶ 31,212 ("Order 672").

Fill-in-the-blank standards are particularly troublesome when they leave flexibility for implementation based on market-driven needs of individual market participants (*e.g.*, CBM). Even where it is the region, and not individual market participants, that gets to fill in the blank, the region's choice may reflect the historical lack of a balanced process for developing standards at the regional level, allowing certain classes of market participants to determine the region's choice. While Order 672 requires balanced decision-making on a forward-looking basis,²⁰ the Commission needs to be concerned that at least in some regions, existing regional standards do not reflect anything close to balanced decision-making. Thus, there is significant potential for standards that have undue effects on competition. In any event, the reasonableness of "fill-in-the-blank" standards cannot be assessed until the blanks are filled.

The NOPR proposes not to approve or remand "fill-in-the-blank" standards until the Commission receives supplemental information from NERC, after its review to ensure regional differences only where more stringent than the continent-wide standard or justified by physical differences. PP 121-23. The NOPR also proposes that regional "fill-in-the-blank" standards be developed through NERC's ANSI process or through a regional process approved by NERC (P 122 & n.99), subject to ERO and Commission review.

While TAPS supports the NOPR's proposal to defer consideration of these standards, TAPS urges the Commission to view with skepticism regional differences within an interconnection that are not justified by physical differences. Such regional standards, even if more stringent, can wreak havoc on the competitive markets the

²⁰ Order No. 672, at P 728.

Commission is seeking to promote, especially where entities within the same transmission system or RTO are subject to different regional standards. For example, if a region within an interconnection adopts standards more stringent than adjacent regions, the competitive market will be tilted by the differential burden placed on market participants. Similarly, inconsistent regional UFLS standards not justified by physical differences impose unjust burdens on JAAs whose integrated load is split between NERC regions as a result of choices made by their host transmission provider/balancing authority. And it could result in inappropriate imposition on small entities of regional standards developed by and for the larger entities that have dominated a region. Thus, the Commission should ask NERC to address these important competitive issues in reviewing regional standards before they are submitted to “fill-in-the-blank.”²¹ Further, because of the potential for adverse impacts on the markets, Commission scrutiny of the effect on competition, without deference to NERC, will be required.

Finally, TAPS asks the Commission to take a hard line on *stealth* “fill-in-the-blank” standards, *i.e.*, standards that appear complete, but that regions have applied inconsistently. For example, as written, MOD-016-1 (Documentation of Data Reporting Requirements for Actual and Forecast Demands, Net Energy for Load, Controllable Demand-Side Management) applies to Planning Authorities and Regional Reliability Organizations, and the NOPR (at P 706) would extend applicability to Transmission

²¹ For example, as to PRC-006, regional UFLS standards that require multi-step load shedding, should be justified by physical differences to avoid imposition of unnecessary hardship on small entities without benefiting reliability. While it may be appropriate for large distribution providers to shed load in multiple steps, multi-step UFLS requirements (now applicable in SERC) are not appropriate for relatively small systems, and are not feasible for small DPs (*e.g.*, 1 MW). The cost of installing equipment necessary to perform such a task for a small system far outweighs any benefits achieved. TAPS recommends that the Commission ask NERC to address application of demand thresholds below which entities subject to UFLS requirements can meet those requirements in one step, rather than multiple steps.

Planners. TAPS has no problem with the stated or proposed applicability of MOD-016-1, but opposes regional interpretations that apply the standard more broadly. Specifically, SERC's supplement to MOD-016-1 makes the standard applicable to LSEs, even though LSEs do not have the ability to identify the scope and details of the data needed to be reported for system modeling and reliability analyses. Nor are there any physical differences that make LSEs in SERC more capable in this regard than LSEs in other regions. The Commission should make clear that it expects standards to be applied in a consistent and uniform manner as written, and will look closely at regional variations not justified by physical differences.

E. Individual Reliability Standards

With some exceptions (discussed below), NERC's proposed standards are acceptable to TAPS if applied consistent with the definitions and registry limitations proposed by NERC. However, many standards would become unjust, unreasonable, and unduly discriminatory or preferential if (as proposed by the NOPR) they were made more broadly applicable by expanding NERC's BES definition or rejecting NERC's June registry criteria,²² or by the NOPR's specific directions as to a particular standard.

²² For example, if applied beyond NERC's BES definition and June registry criteria, FAC-008-1/FAC-009-1 and PRC-001/-004 would become unduly burdensome on owners of small generating units and limited transmission facilities that do not have a material impact on the reliability of the interconnected transmission network.

If TOP-001-0 were applied to small systems, or operators of transmission facilities that are outside the scope of NERC's BES definition, the requirements imposed by this standard would pose an unjustifiable cost burden. Such non-grid transmission facilities are not necessarily staffed 24/7 and would not be in a position to take the immediate action called for by R2. Nor should they be expected to do so, given their non-material impact on the reliability of the bulk transmission grid.

TOP-002-2 highlights the need to carve out small generators through application of NERC's June registry criteria. The BA and TP should not have to coordinate, on a daily basis, with a small generator that rarely runs, as R3 would require if applied with no limits on applicability. Such mandated interactions would burden all involved and create an unnecessary distraction from the real business at hand.

Therefore, the Commission should approve reliability standards subject to the existing BES definition and NERC's June registry criteria.²³ As discussed in Parts B.4 above, if the Commission believes that expansion of the BES definition or compliance registry is warranted, it should ask NERC to consider such expansion, as well as how the standards should be revised to accommodate such expansion. It should do the same if, notwithstanding TAPS arguments below as to the inappropriateness of expanding specific standards, the Commission continues to believe such expansions are appropriate.

1. BAL: Resource and Demand Balancing

a) BAL-006-1 (Inadvertent Interchange)

In our June 26, 2006 Comments on Staff Preliminary Assessment ("June 26 Comments") at 9-14, TAPS demonstrated that the existing treatment of Balancing Authority inadvertent interchange, which the NOPR proposes to make mandatory and enforceable through approval of BAL-006-1, is not comparable to the treatment of energy imbalances. This discrimination promotes the proliferation of small control areas (which advances neither reliability nor efficiency) and creates undue competitive impact. It

Particularly with the expansion proposed in the NOPR (*see* P 667, directing NERC to require transmission owners to list the contingencies used in performing system operation and planning studies), MOD-010-0 would impose unnecessary costs on small systems if applied without the limitation of NERC's BES definition and NERC's June registry criteria. Nor would such application improve reliability. Modeling will be complicated by the incorporation of low voltage or radial transmission facilities or small generators that have no material impact on bulk transmission system reliability, without improving the results. In any event, NERC and its REs – not the Commission – should determine the level of modeling required for reliability, not this Commission.

²³ For example, as reflected in EOP-009's "purpose" section, this standard should apply only to blackstart units material to the Regional System Restoration Plan. Indeed, the references to the "Regional Blackstart Capability Plan" in the requirements section of the standard confirm that this limitation is intended. And it is necessary. Most blackstart units are capable of restoring load only within their local areas and do not provide blackstart capacity for the region. Adoption of NERC's June registry criteria, which sweep in blackstart units "material to and designated as part of the transmission operator entity's restoration plan" reasonably reduces the unnecessary application of this standard (and related, quite onerous CIP standards not yet before the Commission for review).

makes it particularly hard for non-control area utilities to cost-effectively utilize intermittent resources,²⁴ and disadvantages them in competing to serve wholesale loads – even if their cost of power is identical, non-control-area utilities must factor in significant energy imbalance charges that the Balancing Authority never has to face.²⁵

Our June 26 Comments (at 11-12) also detailed TAPS’ efforts to have the issue addressed through NAESB, and NAESB’s inability to reach consensus on this competitively charged issue. On November 29, 2005, NAESB’s Wholesale Electric Quadrant (“WEQ”) modified the report by its Inadvertent Interchange Payback Task Force (“IIPTF”), which had been deliberating for more than two years, to make clear that it recommended retaining the return-in-kind regimen for control areas purely because of lack of consensus.²⁶ The IIPTF Report’s recommendation now reads:²⁷

The IIPTF reviewed numerous possible solutions to the settlement of Inadvertent Interchange and determined that, at this time, no consensus can be reached regarding alternatives to the NAESB Version 0 standard.

TAPS’ June 26 Comments also described (at 10-12) that while the OATT Reform NOPR proposed some improvements in the treatment of imbalances, it continues to maintain disparate treatment. The OATT Reform NOPR’s treatment of imbalance energy

²⁴ See TAPS Pre-Technical Conference Comments in *Assessing the State of Wind Energy in Wholesale Electricity Markets*, Docket No. AD04-13-000 (Dec. 23, 2004) (providing concrete illustration of the severe and discriminatory impact of imbalance penalty).

²⁵ See *Okla. Gas & Elec. Co.*, 80 F.E.R.C. ¶ 61,012 (1997), *reh’g denied*, 85 F.E.R.C. ¶ 61,035 (1998) (rejecting arguments that transmission provider was serving itself and favored wholesale customers on a preferential basis and finding that no energy imbalances will be experienced by partial requirements customer served by transmission provider).

²⁶ See December 3, 2005 revised draft minutes of the November 29, 2005 WEQ meeting, along with the redlined IIPTF recommendation and attachment (the IIPTF Report), *available at* http://www.naesb.org/weq/weq_ec.asp (last viewed on Jan. 3, 2007).

²⁷ *Id.*

fails to ensure comparability with the return-in-kind treatment of Balancing Authority inadvertent energy, with many of the adverse effects on competition caused by the existing imbalance regimen.²⁸

The Order 888 Reform NOPR attempts to justify continued discrimination on the ground that imbalance and inadvertent energy “are not comparable.” OATT Reform NOPR at P 245. Although the Commission asserts that inadvertent energy “is caused by the combined effects of all the generation and loads in the control area and not simply the loads and generation of the transmission provider,” *id.*, the lion’s share of inadvertent energy is typically under the control of the transmission provider (or Balancing Authority) that controls the vast majority of the load and generation in the balancing area. Neither this difference without meaningful distinction nor “historical practices” – the Commission’s other stated reason (OATT Reform NOPR at P 245) – justifies radically different regimes for inadvertent and energy imbalance, especially where the difference has significant impacts on competition. Nor can the competitive impact of dramatically different treatment of what are plainly very similar services be justified by the Commission’s statement that it does “not believe that the two [services] should have *precisely* the same treatment.” *Id.* (emphasis added). If anything, the evidence would support a more stringent regimen for inadvertent than imbalance, and not vice versa. The

²⁸ The OATT Reform NOPR proposes to eliminate the \$100/MWh penalty for under-deliveries beyond the 1.5%/2 MW band, and instead to require that charges be based on incremental cost (or some multiple thereof), provide an incentive for accurate scheduling, and address the special circumstances of intermittent generators. Order 888 Reform NOPR at P 239. While this would seem to be a step in the right direction, the NOPR proposes to include in the OATT both energy and generation imbalance schedules, and raises questions as to whether and the extent to which netting should be permitted even within the same Balancing Authority. *Id.* at P 247. The NOPR also proposes that incremental costs may include “commitment costs (to the extent additional commitments are needed),” and raises questions as to the inclusion of demand, redispatch, and additional regulation reserve costs. *Id.* at P 244 & n. 234.

most notorious abusers have been Balancing Authorities/transmission providers,²⁹ and the Staff Assessment (at 32) observes that inadvertent is increasing.

Given the partition among NERC, NAESB, and OATT Reform of responsibility for the various regimens that create this discrimination, the Commission has an obligation to do more than what it proposes to do here—state that the issue is being addressed in the OATT Reform docket (NOPR P 208), while approving standards that perpetuate the preferential treatment of Balancing Authority inadvertent (NOPR P 206). Under Section 215 (and Section 205 and 206), the Commission has an obligation to ensure comparable treatment of two forms of essentially the same service—whether by expanding the payback-in-kind opportunities for imbalance or by requiring Balancing Authorities to pay for inadvertent energy (beyond the return-in-kind bandwidth applicable to imbalances) at incremental cost (calculated in a manner comparable to the incremental cost calculation that would apply to imbalances beyond the bandwidth under the OATT Reform final rule). Indeed, Section 215(d)(2) requires the Commission not to defer to NERC with respect to the effect of a standard on competition.

In short, the Commission cannot meet its statutory responsibilities by shuffling this issue between proceedings without ever eliminating the discriminatory treatment of imbalance and inadvertent (including allowance of accumulations of large amounts of inadvertent, on which the NOPR seeks comments at P 207). It must act promptly to “eradicate” that discrimination.³⁰

²⁹ *E.g.*, in what has been termed Cinergy’s “grand theft electric” (see *Cinergy’s Brazen Taking from Grid Stuns Market, Prompts Drive for Penalties*, Power Markets Week, November 22, 1999), as found by ECAR, in six to eight different hours during a heat wave in July 1999, Cinergy drew from the interconnection 1500-1700 MW of power without incurring any penalty.

³⁰ *Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Services by*

2. CIP: Critical Infrastructure Protection

a) CIP-001-1 (Critical Infrastructure—Sabotage Reporting)

This standard is currently too vague to be enforceable with penalties, and should therefore not be approved until NERC has further defined “sabotage” and the facilities to which the standard applies.

As the NOPR observes (P 224), the term “sabotage” is not defined. For example, where is the line between sabotage and ordinary vandalism? Nor does this standard (unlike other cyber security standards) require identification of the facilities to which it applies. The facilities, or classes of facilities, that must be monitored should be limited to those that may have a significant impact on the reliability of the interconnected bulk system. And the standard contains no floor on applicability.

Particularly if applied without the limitation of NERC’s BES definition (as now applied) and without the limitations proposed by NERC through its June compliance registry criteria, approval of this standard is likely to cause more harm than good. Excessive reporting has a high cost, in terms of diverting resources to deal both with “noise” and associated compliance issues.³¹

Public Utilities; Recovery of Stranded Costs by Public Utilities and Transmitting Utilities, Order No. 888, 61 Fed. Reg. 21,539, 21,561, 21,565 (May 10, 1996), [1991–1996 Regs. Preambles] F.E.R.C. Stat. & Regs. ¶ 31,036, at 31,670, 31,678, *clarified*, 76 F.E.R.C. ¶ 61,009 (1996), *modified*, Order No. 888-A, 62 Fed. Reg. 12,274 (Mar. 14, 1997), [1996–2000 Regs. Preambles] F.E.R.C. Stat. & Regs. ¶ 31,048, *order on reh’g*, Order No. 888-B, 62 Fed. Reg. 64,688 (Dec. 9, 1997), 81 F.E.R.C. ¶ 61,248 (1997), *order on reh’g*, Order No. 888-C, 82 F.E.R.C. ¶ 61,046 (1998), *aff’d in part and remanded in part sub nom. Transmission Access Policy Study Group v. FERC*, 225 F.3d 667 (D.C. Cir. 2000), *aff’d sub nom. New York v. FERC*, 535 U.S. 1 (2002).

³¹ If entities must “contact appropriate federal authorities, such as the Department of Homeland Security, in the event of sabotage within a specified period of time” as proposed by FERC (NOPR at P 227), and if the term “sabotage” is not further defined, federal authorities such as the Department of Homeland Security or the Federal Bureau of Investigation may find themselves inundated with reports of stolen signs and knocked-over mailboxes.

3. COM: Communications

a) COM-001-1 (Telecommunications)

The NOPR (PP 249-52) proposes to expand applicability of this standard to Distribution Providers and Generation Operators. TAPS opposes both expansions.

This standard requires redundant communications “where applicable.” *See* COM-001-1 R.1.4. This ambiguous requirement, especially if extended to DPs and Generation Operators, would impose redundancy requirements well beyond what is reasonably necessary for bulk system reliability. The NOPR concedes that the requirements for a small entity with “minimal Bulk Power System facilities” should be far less than the sophisticated communication system “with redundancy and diverse routing requirements” required of a large IOU. NOPR n.42. It is far from clear that application of this standard to a wider range of functions, with no floor on entity size, is justified. The NOPR provides no basis for expanding reliability standards enforceable by penalty to, *e.g.*, a 2 MW DP or Generator, much less one that has no connection to the bulk transmission system.

The NOPR’s proposal to extend application of this standard to DPs and Generation Operators provides another illustration of the Commission over-stepping its bounds. It is NERC, not this Commission, that needs to make an expert judgment as to whether this standard has coverage sufficient to protect the reliability of the bulk system. If the Commission has concerns about the scope of this standard, it should ask NERC to consider whether expanded applicability is appropriate and, if so, what modifications to the standard should be made. In any event, applicability should be limited through NERC’s June registry criteria and NERC’s BES definition.

4. EOP: Emergency Operations Planning

a) EOP-004-1 (Disturbance Reporting)

This standard mandates reporting for various events within very stringent time frames. While necessary and appropriate for larger systems, these reporting requirements would be overly burdensome if applied to small systems, particularly if not clarified.

For example, reports of vandalism or loss of half of firm load for 15 minutes or more must be submitted within 60 minutes. Vandalism of low voltage equipment is not an infrequent occurrence and generally has no impact on the reliability of the bulk power system. Similarly, the loss of half (or more) of the load of a small (*e.g.*, 5 MW) system would be far too insignificant to affect the bulk power system. Industrial customers routinely can drop their loads by more than that without notice.

Other reporting triggers also merit evaluation, especially as applied to small systems. For example, Incident No. 7, as listed in Table 1 of EOP-004, includes reporting of fuel supply emergencies, with a threshold of fuel inventory or hydro storage levels $\leq 50\%$ of normal. This threshold would likely encompass normal fuel tank maintenance activities. Further, where (as in the case of Nebraska and Wyoming), hydro levels have been below 50% for multiple years, treatment as an emergency requiring reporting seems inappropriate.

Before it goes into effect, the standard should be clarified to exclude from the reporting requirement events that are both commonplace and insignificant. In any event, limitation of the entities to which it is applicable, through NERC's BES definition and June registry criteria, would be essential for this standard to be deemed reasonable.

b) EOP-008 (Plans for Loss of Control Center Functionality)

The NOPR (P 337) proposes to direct NERC to submit a modification to this standard to provide for backup capabilities with minimum requirements set forth in P 335. The Commission “understands that backup control facilities can be costly but, *when needed*, are essential for reliability.” NOPR P 336 (emphasis added). It also recognizes the need to “balance...cost and reliability benefits” by providing flexibility, and while proposing to direct NERC to require all reliability coordinators to have full backup, the NOPR asks whether this requirement should extend to “balancing authorities and large transmission operators.” *Id.*

A NERC Standards Drafting Team is already working on a modification to this standard. That team, which has small system representation, is focusing on functional rather than physical requirements. A small BA might be able to meet the functional requirements for a backup control center with, for example, a contract with another entity, while larger entities might need a physical backup center to meet the functional requirements.

Rather than directing specific modifications to this standard that would inappropriately burden small systems with the cost of dual facilities, the Commission should identify objectives to provide guidance to the drafting team, while waiting to consider the revised standard upon its submission.

5. FAC: Facilities Design, Connections, Maintenance, and Transfer Capabilities

a) FAC-002-1 (Coordination of Plans for New Generation, Transmission, and End User Facilities)

This standard appears to assume that Load-Serving Entities and Distribution Providers actively participate in planning for new facilities. This is not the case. Load-

Serving Entities provide data to other entities that actually perform the assessments. While Distribution Providers directly connected to the transmission system have responsibility for the interface between transmission and distribution, those connected at lower voltage levels would not, contrary to the NOPR's suggestion (at P 359). It may be appropriate to require DPs and LSEs to provide certain data regarding certain new facilities to some or all of the other entities identified in FAC-002, but very few DPs or LSEs have the expertise to perform any of the other tasks required by FAC-002. Given the limited role of LSEs and DPs in the planning process and their limited expertise, and the undifferentiated tasks assigned by this standard, application on a mandatory basis, subject to penalties, is not appropriate. The NOPR's suggestion (P 360) that responsibilities be differentiated in procedures manuals does not ensure that the standard, as now drafted, meets statutory requirements. For example, it would plainly be unreasonable to require LSEs to provide the transmission planning evaluations and assessments called for by R.1.

This standard should not be made mandatory and enforceable through penalties until it has been clarified. At minimum, its application should be restricted through NERC's June registry criteria and the BES definition.

6. IRO: Interconnection Reliability Operation and Coordination
 - a) IRO-005-1 (Reliability Coordination—Current Day Operations)

Requirement 13 of this standard states that “[i]n instances where there is a difference in derived limits,...Load-Serving Entities...shall always operate the Bulk Electric System to the most limiting parameter.” Load-Serving Entities do not operate

the system within the System Operating Limit (SOL) or Interconnection Reliability Operating Limit (IROL). The only thing an LSE, particularly a small LSE, can do is shed load. Thus, if the standard is to be made mandatory as drafted, it should apply only within the parameters proposed by NERC—subject to its BES definition and its June registry criteria. Further, given the apparent error in the standard, the Commission should ask NERC to re-examine it.

7. MOD: Modeling, Data, and Analysis

a) MOD-001 to -009 (ATC/TTC/TRM/CBM)

In our June 26, 2006 Comments on the Staff Assessment, TAPS strongly agreed with Staff's concerns about ATC/TTC/CBM/TRM standards. As explained in the TAPS Comments in the OATT Reform rulemaking,³² TAPS sees significant flaws and undue competitive impacts in the way these standards now operate, and urges the Commission to make these calculations transparent, consistent, and better yet, regional. In particular, we have noted the significant potential for abuses from the current flexibility afforded transmission providers in the calculation of CBM and TRM, as documented by NERC's April 14, 2005 Long-Term AFC/ATC Task Force Final Report,³³ and questioned how TRM or, especially, CBM can be viewed as reliability standards if they are optional to the transmission provider.

Given the strong direction on these issues in the OATT Reform NOPR, TAPS assumed that the Commission would not be approving the Version 0 standards on these

³² See August 15, 2005 TAPS Comments in RM05-17-000; TAPS November 22, 2005 NOI Comments in Docket No. RM05-25 at 28-31; August 7, 2006 TAPS OATT Reform NOPR Comments in Docket No. RM05-25 at 15-34.

³³ Available at ftp://www.nerc.com/pub/sys/all_updl/mc/ltatf/LTATF_Final_Report_Revised.pdf in Docket No. RM05-25.

competitively crucial issues, but would continue to address them forcefully in Docket Nos. RM05-17-000 and RM05-25-000. Although that is the course largely adopted by the NOPR in this proceeding, the NOPR (PP 642, 648) proposes to approve MOD-006-0 (Procedure for the Use of Capacity Benefit Margin Values) and MOD-007-0 (Documentation of the Use of Capacity Benefit Margin), although with directions to improve these standards. Such action is inconsistent with the Commission's general approach to ATC/TTC/TRM/CBM standards in this docket and the OATT Reform NOPR. It wrongly treats CBM—a reservation optional to the TO—as a reliability issue includable in a mandatory standard. Further, given the absence of clear access of non-TO LSEs to CBM, the NOPR's proposed expansion of MOD-007 to include such LSEs (NOPR PP 647-48) frankly seems bizarre.

As to the comments sought by this NOPR regarding TRM and CBM (*see, e.g.*, P 656), TAPS refers the Commission to its August 7, 2006 Comments in Docket No. RM05-25 at 21-24, in which TAPS proposes innovative approaches to take CBM and (to the extent it is intended to cover transmission required for reserve sharing) TRM out to the hands of individual TPs and to therefore reduce the opportunity for abuse.

- b) MOD-017-0 (Aggregated Actual and Forecast Demands and Net Energy for Load)
MOD-018-0 (Treatment of Nonmember Demand Data and How Uncertainties are Addressed in the Forecasts of Demand and Net Energy for Load)
MOD-019-0 (Reporting of Interruptible Demands and Direct Control Load Management)
MOD-020 (Providing Interruptible Demands and Direct Control Load Management Data to System Operators and Reliability Coordinators)

MOD-017, as proposed by NERC, requires LSEs, Planning Authorities, and Resource Planners to gather data about actual integrated and peak hourly demands and

net energy for load (“NEL”) for the prior year and forecast peak demands and NEL for the next two (monthly peak) to five (yearly peak) years. The NOPR (P 714) proposes to direct NERC to modify that standard to require (1) reporting of temperature and humidity along with peak load and (2) reporting of accuracy, error and bias of load forecasts compared to actual loads with due regard to temperature and humidity variations. With respect to MOD-019 and -020, the NOPR (PP 723, 729) similarly directs NERC to submit new requirements for reporting of the accuracy, error and bias of controllable load forecast. The NOPR (P 718) proposes to approve MOD-018 as proposed.

TAPS has concerns with the Commission’s proposed expansion of MOD-017, -019 and -020. TAPS is concerned that the NOPR’s recommendation may be interpreted to direct measuring compliance as a function of forecast accuracy. However, reliance on percentage-based deviations as a measurement of compliance is inappropriate when applied to very small entities because an error that in absolute terms is too small to affect the Bulk Power System might be a significant percentage of the entity’s load. The percentage deviation from a forecasted peak of small (*e.g.*, 10 MW) entity will almost always be significantly higher than the percentage deviation of a large (more than 10,000 MW) entity, but the smaller system’s deviation will have little if any impact on the bulk transmission system. In other contexts, the Commission has recognized that reliance solely on percentage deviations as a compliance measure measures can produce discriminatory results, and has applied MW minimums to minimize the undue discrimination that would otherwise result.³⁴

³⁴ *Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Services by Public Utilities; Recovery of Stranded Costs by Public Utilities and Transmitting Utilities*, Order No. 888-A, 62 Fed. Reg. 12,274, at 12,308 (Mar. 14, 1997), [1996-2000 Regs. Preambles] F.E.R.C. Stat. &

A similar concern may apply to the MOD-018 requirement that entities “[a]ddress assumptions, methods, and the manner in which uncertainties are treated in the forecasts of aggregated peak demands and Net Energy for Load.” The treatment of uncertainty in a small entity’s forecast is insignificant. Load forecast uncertainty should be addressed at an aggregate level on a regional basis (as often done in the establishment of reserve obligations); knowledge of how individual small entities handle forecast uncertainty is unnecessary.

The NOPR also proposed to expand reporting of temperature and humidity (PP 711-714). Entities organized on a wider basis than LSEs are in a better position to determine and compile the appropriate weather data to use for regional or system assessments. Aggregating weather data from many LSEs may not yield the same result as gathering the data system-wide because of necessary methodological limitations on LSEs, such as an inability to synchronize their peaks across the system. While weather normalizing individual utility peaks may be helpful, the assessment of regional reliability as a function of peak demand conditions may require a different methodology, including peak synchronization.

In addition, the NOPR’s proposal to expand MOD-017’s reporting of temperature and humidity overlooks data on other factors that also affect the accuracy of forecasts, such as the overall size of the load served, regional economic shifts, and disasters (natural or man-made). Humidity may not be a relevant factor on many winter peaking systems,

Regs. ¶ 31,048, at 30,232-30,234 (subsequent history omitted); *Southwest Power Pool, Inc.*, 114 F.E.R.C. ¶ 61,289, PP 57, 102. *See also* Midwest Independent System Operator Transmission and Electricity Markets Tariff § 40.3.4(a)(ii) (tolerance band minimum of 5 MW and maximum of 25 MW for uninstructed deviations).

while other factors (*e.g.*, the amount of precipitation in areas with a significant amount of irrigation pumping loads) may have a larger impact.

As discussed in Part D.7.b above, the NOPR's specific directives to NERC to modify MOD-017 go beyond its statutory authority to direct NERC to submit a standard addressing a specific subject matter under Section 215(d)(5). If the Commission believes expansion of this standard is needed, it should identify its concerns to NERC, and enable NERC to consider how to address those concerns, while not discriminating against smaller systems.

Finally, as these comments demonstrate, application of these standards should in any event be limited through the NERC June registry criteria and the BES definition to minimize needless burden. As noted above as to MOD-018, knowledge of how a few large entities' load forecasts incorporate uncertainty would be worthwhile from a regional perspective, but knowledge of how small entities handle uncertainty is an unnecessary distraction.

8. PER: Personnel Performance, Training and Qualifications

- a) PER-002 Operating Personnel Training
PER-003 Operating Personnel Credentials

TAPS strongly opposes the NOPR's proposal (PP 780, 790) to expand applicability to Generation Operators of the very costly training and certification requirement standards now applicable to Balancing Authorities, Transmission Operators and Reliability Coordinators. Such expanded applicability, especially in the case of small systems, will have a very significant cost impact without yielding benefits to reliability. For a small system, these extensive training requirements will require creation of new positions to handle training and extra staff. The heavy cost burden is likely to cause

premature retirement of generation that is operated only occasionally, with a loss to generation adequacy and flexibility in meeting load. Although the NOPR elsewhere recognizes the need to balance cost and reliability benefit (*see, e.g.*, NOPR P 336), no such balancing was undertaken here. Nor has the Commission evaluated the impact on competition of imposing such an onerous standard on small generators. Thus, imposing these costly standards on Generation Operators, without regard to their impact on the grid, cannot be justified.

The Commission should reconsider its approach. As discussed in Part D.3.a above, if the Commission has concerns about the impact on bulk system reliability of Generation Operator training and credentials, it should ask NERC to consider what expansion, if any, is appropriate, rather than directing a specific expansion.

Further, the significant burden imposed by compliance with these standards highlights the need to limit applicability (even as they are now drafted) to NERC's BES and the June NERC registry criteria. To alter these standards, after they have been approved through the ANSI process, by sweeping in operators of radial transmission facilities through the NOPR's "interpretation" of the BES definition, would exceed the Commission's authority and violate the just, reasonable and not unduly discriminatory standard.

9. TOP: Transmission Operations

a) TOP-006-1 (Monitoring System Conditions)

The NOPR (P 1015) is proposing to approve this standard while directing NERC to modify the standard to provide, among other things, a "minimum set of tools ... that will aid in situational awareness." While such advanced tools may be appropriate for

major Generation Operators and Transmission Operators, such tools would likely impose an undue burden on small Generation Operators, and on Transmission Operators of non-BES facilities. Nor would there likely be any reliability benefit to imposing such a burden on small entities that would not impact bulk system reliability.

Consistent with the limits on the Commission's authority under the statutory scheme, instead of directing NERC to require minimum analysis tools, the Commission should direct NERC to consider whether minimum analysis tools are necessary and for what subset of Generation Operators and Transmission Operators. Thus, the Commission should allow NERC to exercise its expert judgment to exclude from application small entities with no impact on bulk system reliability.

10. VAR: Voltage and Reactive Control

a) VAR-001-1 and 002-1 (Voltage and Reactive Control)

TAPS questions the NOPR's proposal to expand applicability of these standards to LSEs. Purchasing and Selling utilities are already subject to the standards, and are required to satisfy any reactive requirements through purchasing Ancillary Service #2 under the OATT (or self supply). The addition of LSEs as an additional applicable entity serves no reliability purpose.

In addition, these standards highlight the importance of limiting applicability through NERC's BES definition and June registry criteria. Otherwise, VAR-002 would impose undue burdens on very small generators that do not provide any substantial reactive power in any event. Indeed, VAR-001, R.3 appropriately contemplates exemption of certain generators.

F. Glossary

See Part B above, discussing the BES definition.

G. Information Collection Statement

Although the NOPR (P 1158-59) expresses uncertainty about the number of entities that will be complying with NERC standards for the first time, its proposed overbroad application of standards would encompass several thousand municipal systems. While JAAs might provide some help, the burden will be extremely heavy, and should not be underestimated. As the NOPR itself suggests (P 1160), exclusion of small entities that have no material impact on the reliability of the interconnected bulk transmission system is necessary to avoid overwhelming additional reporting and record keeping requirements.

H. Regulatory Flexibility Act Certification

As discussed in Part B above, it is essential that reasonable limits be placed on the applicability of reliability standards not only to lessen the economic impact on small entities, but also to allow NERC and its REs to focus their efforts in a manner that will be far more beneficial for reliability. As described by APPA and NRECA in their joint RFA comments, RFA considerations mandate that the Commission reverse course from the NOPR and adopt NERC's June registry criteria and its BES definition.

CONCLUSION

For the reasons described above, the Final Rule should take account of TAPS Comments so that it accords with the statute and truly serves the goal of promoting the bulk system reliability.

Respectfully submitted,

/s/ Cynthia S. Bogorad

Robert C. McDiarmid

Cynthia S. Bogorad

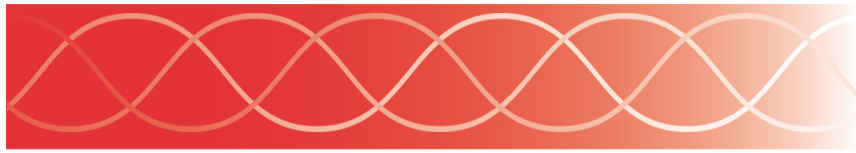
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January 3, 2007

APPENDIX A



Wayne VanOsdol
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November 27, 2006

Dear Balancing Authorities, Transmission Operators, and Joint Action Agencies in the Midwest Reliability Organization Region:

The U.S. Energy Policy Act of 2005 establishes an Electricity Reliability Organization (ERO), backed and regulated by the Federal Energy Regulatory Commission (FERC), to ensure and enhance the reliability of the U.S. bulk power system. It also establishes that compliance with reliability standards, once approved by FERC, will be mandatory for all bulk power system users, owners, and operators in the U.S. Similar arrangements are being pursued within Canadian jurisdictions. In addition, regional reliability standards, once approved by FERC, will be mandatory for all bulk power system users, owners, and operators within the applicable region.

FERC named the North American Electric Reliability Council (NERC) to be the ERO in the U.S. NERC is also pursuing similar status within Canadian jurisdictions, and NERC, as the international ERO, and consistent with the U.S. – Canadian Bilateral Principles, will delegate functions and authority to approved Regional Entities. The MRO is seeking to become a Cross Border Regional Entity (CBRE), recognizing its U.S. and Canadian constituency.

NERC and MRO are responsible for registering operating entities (owners, operators, and users of the bulk power system) within its corporate region. Earlier this year, you were asked to register as one or more of the entities identified in the NERC functional model. This letter is to communicate the implementation of the next phase of the registration process. NERC is initiating a broader program to identify additional organizations potentially required to be included in the registry and to confirm the information of organizations currently on the registry.

The Compliance Registry Criteria identified in Attachment A of this letter describes how NERC and the regions will identify organizations - particularly smaller or relatively (electrically) isolated entities - that may be required to register. The definition for each function in which an entity must register is included in Attachment A. Please recognize that NERC and the regions must also identify the entities responsible for funding the implementation of the ERO; however, that work has been completed and is not addressed in this letter.

NERC, the regional entities, and other industry participants have come to a consensus that an appropriate set of additional candidates or entities can be identified at this time, while reserving the ability to consider other entities later, if and when needed. Selection principles and criteria for the identification of these additional entities were required. Two key principles regarding the entity selection process have been identified and generally agreed to by stakeholders to the organization registration issue. They are:

1. There needs to be consistency between regions (i.e., regional entity system footprints) and across the continent with respect to which entities are registered, and;
2. Any entity reasonably deemed material to the reliability of the bulk power system should be registered, regardless of other considerations.

To address the second principle, stakeholders are in agreement that NERC, the Regional Entities, and Cross Border Regional Entities (CBREs) will (presently) identify and (eventually) register any entity that they deem relevant to the reliability of the bulk power system. Criteria provided in Attachment A of this letter is to be used as the basis for identifying candidates for registration.

Although NERC and MRO are responsible for the registry, as Balancing Authorities, Transmission Operators, and Joint Action Agencies, your help is needed to establish an accurate registry.

MRO staff must review and compile all registration information as received from you, contact all additional entities identified, and submit the information to NERC by no later than December 15, 2006. Entities in the MRO Registry have the right to appeal their inclusion in the registry; however, the immediate MRO goal is to be as accurate as possible and avoid erroneous entities in the registry.

MRO is requesting the MRO Balancing Authorities, Transmission Operators, and Joint Action Agencies to perform the following.

- 1) Review and validate your registration information found in Attachment B.
- 2) Using the criteria in Attachment A of this letter, identify entities connected to your system that are not listed in the Attachment B. For any entity identified, please enter contact information in the "Entity Identification Form" (Attachment C).
- 3) Send all information for the two items above to mco@midwestreliability.org ASAP and by no later than Friday December 8, 2006. Please enter "entity registration" in the subject line of your email. MRO staff will work with you and NERC if errors are identified in step #1 above, and will contact entities directly who are identified by you performing step #2. Please provide a confirmation of your registration information (item #1) in your response email.

If you have any questions or comments, please contact Wayne VanOsdol at 651-855-1714 and at ww.vanosdol@midwestreliability.org.

Wayne VanOsdol
MRO Compliance Manager