

Electric Reliability Organization Proposal to Retire Requirements in Reliability Standards) **Docket No. RM13-8-000**
)

The Canadian Electricity Association (“CEA”) appreciates this opportunity to submit comments in support of the U.S. Federal Energy Regulatory Commission’s (“FERC” or “the Commission”) Notice of Proposed Rulemaking (“NOPR”) issued on June 20, 2013 in the above-captioned docket. In the NOPR, the Commission proposes to approve the retirement of 34 requirements within 19 Reliability Standards identified by the North American Electric Reliability Corporation (“NERC”), the Commission-certified Electric Reliability Organization (“ERO”). In addition, the Commission proposes to withdraw 41 outstanding Commission directives that instruct NERC to modify specific Reliability Standards, as the Commission believes that withdrawal of these directives will have little impact on Bulk-Power System (“BPS”) reliability. FERC is seeking comment on all aspects of these two proposals, and in particular, whether the latter proposal could have a detrimental effect on BPS reliability.¹

I. INTRODUCTION

Founded in 1891, CEA is the national forum and voice representing the full value chain of the evolving electricity business in Canada. CEA members generate, transmit, distribute and market electrical energy to industrial, commercial, residential and institutional customers across Canada every day. In addition, major electrical manufacturers, corporate consulting companies and several hundred other company and individual members are grouped within CEA's broad

¹ See NOPR at P 84 and P 87.

structure. CEA members include Generator Owners and Operators, Transmission Owners and Operators, Purchasing-Selling Entities, Distribution Providers, Load-Serving Entities and other entities that are subject to Reliability Standards, pursuant to the respective frameworks in place in Canadian jurisdictions governing electric reliability compliance and enforcement.

II. COMMUNICATIONS

All communications, correspondence, pleadings, and other documents regarding this proceeding should be directed to the following persons:

Jim Burpee
President and Chief Executive Officer
Patrick Brown
Director, U.S. Affairs
Canadian Electricity Association
275 Slater Street, Suite 1500
Ottawa, Ontario K1P 5H9
Canada
(613) 627-4124
brown@electricity.ca

Bonnie Suchman
Troutman Sanders LLP
401 9th Street, N.W.
Suite 1000
Washington, DC 20004
(202) 274-2908
bonnie.suchman@troutmansanders.com

III. COMMENTS

1. CEA strongly supports the Commission’s proposal to approve retirement of the 34 Reliability Standards requirements identified by NERC.

In its March 2012 Order conditionally accepting NERC’s Compliance Enforcement Initiative (“CEI”) and “Find, Fix, Track and Report” (“FFT”) programs, the Commission extended a unique opportunity to NERC, Regional Entities and the industry. Paragraph 81 (“P81”) of that Order invited these parties to make specific proposals to the Commission for identification and retirement of unnecessary or redundant requirements in the existing body of

NERC's Reliability Standards.² CEA strongly believes that NERC's February 2013 petition ("Petition") is responsive to FERC's invitation and merits approval as filed.

CEA agrees with the assertion in NERC's Petition that the proposed retirement of the 34 requirements will have little to no effect on reliability, and will "allow industry stakeholders to focus their resources appropriately on reliability risks and will increase the efficiency of the ERO compliance program."³

Moreover, CEA believes that the Petition is responsive to FERC's admonition that NERC set forth in detail the technical basis for its belief that the proposed requirements warrant retirement. The technical justification provided for the proposed retirement of each requirement is sound and is based on a robust set of criteria developed during the joint collaboration effort formed among industry stakeholders, NERC and the Regional Entities in response to the March 2012 Order.

It should be stressed that these criteria are much more stringent than the fundamental benchmarks established in the March 2012 Order (i.e. that requirements proposed for retirement either: [1] provide little protection for BPS reliability or [2] are redundant with other aspects of the Reliability Standards). As stated in NERC's Petition and as noted in the NOPR, the three main criteria employed by the P81 team consist of multiple sub-criteria and questions designed to determine that there is no reliability gap created by the proposed retirement, to recognize requirements appropriate for retirement, and to assist in making informed decisions regarding whether requirements are even appropriate to propose for retirement.⁴ In formulating and applying these criteria, CEA believes that the P81 team surpassed the benchmark set by the Commission for providing sufficient technical justification to support the identification of a

² See *North American Electric Reliability Corp.*, 138 FERC ¶ 61,193, at P 81.

³ See Petition at 2.

⁴ NOPR at P 8.

given requirement for retirement. The NOPR attests to this exemplary effort on the part of the P81 team, as the NOPR accepts NERC's explanations for all 34 requirements proposed for retirement as to why the specific requirement provides little protection to BPS reliability or is redundant with other aspects of the Reliability Standards.

In addition, CEA believes that consideration of the specific approach originally undertaken in the P81 project serves to further validate arguments in support of approval of these 34 requirements for retirement. As noted in the supplemental material included in NERC's Petition, the initial phase of the P81 project was designed to identify Reliability Standard requirements that could easily satisfy the criteria for retirement.⁵ NERC's Petition rightly characterizes these as "lower-level facilitating requirements."⁶ Thereafter, subsequent phases were planned to allow for more technical research or extensive editing of language that was deemed to be necessary for additional identification of unnecessary or redundant requirements.

Accordingly, the 34 requirements which the Commission proposes to approve for retirement in the instant proceeding represent what NERC, the Regional Entities and industry experts have identified as the lowest of the low-hanging fruit under the P81 effort. The exceptionally high degree of support earned by the P81 project from the Registered Ballot Body – over 96% – acts as further proof of this fact. Combined with the solid technical justification put forth by the P81 team, CEA believes that this should serve as a major impetus for expeditious approval by the Commission of this initial batch of requirements for retirement.

2. CEA encourages all applicable ERO governmental authorities, including the Commission, to urge NERC to maintain P81 as a high priority initiative going forward.

⁵ Petition, Exhibit D at 2.

⁶ *Ibid* at 7.

CEA has been a steadfast proponent of what has become known as the “Paragraph 81” or “P81” project since its inception. For example, CEA participated in the joint collaborative effort formed among NERC, Regional Entity and industry representatives to compile a list of proposed requirements and to develop additional criteria for identification of a requirement for retirement. Also, as noted in NERC’s Petition, NERC was authorized to state that CEA officially supported filing of that Petition. And more recently, CEA has expressed support in numerous forums for maintaining P81 as a high priority activity for NERC going forward.⁷

Overall, CEA regards the P81 project as playing a pivotal role in the ongoing push to streamline NERC’s compliance and enforcement processes, and to achieve greater efficiencies in the execution of NERC’s core program areas. Success in the P81 effort will yield significant dividends in terms of helping to ensure that NERC’s focus is directed towards those activities that have the greatest potential impact on reliability and that the benefits of the reliability standards regime are proportionate to the costs incurred.

CEA believes that a strong articulation by all applicable ERO governmental authorities – i.e. those in Canadian jurisdictions as well as the Commission – of expectations for success on P81 is vital to sustaining momentum behind the project. This is especially true, in view of the modification to the scope of the P81 project set forth in the *2013-2015 NERC Reliability Standards Development Plan* (“2013-2015 RSDP”) submitted by NERC to FERC in December 2012. As noted in NERC’s Petition, in lieu of subsequent project phases seeking to identify requirements for retirement, the 2013-2015 RSDP stipulates that the P81 concept will be applied globally across all ongoing and new standards projects, and that requirements which were

⁷ For example, see the February 2013 policy input filed by CEA to the NERC Board of Trustees. [Available: http://www.nerc.com/docs/bot/agenda_items/February%202013/Policy_Input_Received_February_2013-PUBLIC.pdf. Retrieved 26 August 2013].

initially proposed but ultimately not included during the first phase will be considered as Reliability Standards are evaluated through the major work areas identified under the plan.⁸

While CEA sees the merit in this proposed approach, CEA is also cognizant that much of the success of the initial phase – which resulted in the identification of the 34 requirements proposed for retirement in the instant NOPR – was attributable to a joint collaborative effort among numerous parties working vigorously and expeditiously to respond to a direct invitation issued by an ERO governmental authority.

The efforts and outcomes of subsequent phases of P81 activity are beyond the scope of the instant proceeding. Nevertheless, CEA believes that the interests of all stakeholders in the North American reliability regime would be well-served by a clear statement of support by applicable ERO governmental authorities for continued progress on P81 and a clear recognition by these authorities that forward movement on P81 is critical to fully achieving a significant paradigm shift in monitoring and enforcing compliance with Reliability Standards.

3. CEA supports the Commission’s proposal to withdraw outstanding directives and does not believe that the withdrawal of the 41 directives listed in the NOPR will have a detrimental effect on BPS reliability.

CEA applauds the Commission’s decision to broaden the scope of the instant proceeding beyond the proposed approval of requirements for retirement. The incorporation into this proceeding of actions in support of FERC’s periodic retrospective analysis of existing regulations, pursuant to Executive Order 13579, is wholly complementary to the efforts to reduce unnecessary administrative and compliance burdens imposed under the existing body of NERC Reliability Standards.

⁸ Petition at 9.

CEA regards the Commission's proactive approach in this regard as being responsive to concerns raised by many parties in various forums over the years – in particular, during the series of Technical Conferences the Commission has convened to discuss policy issues related to BPS reliability. For example, entities representing Canadian industry and government interests alike previously have called for greater forbearance on FERC's part in its oversight of the ERO and have highlighted challenges associated with the volume of directives issued by FERC.⁹ CEA commends the Commission for preparing this proposal and expresses support for this proposal being enshrined in the Final Rule.

With respect to FERC's solicitation of input on whether the withdrawal of the 41 directives will have a detrimental effect on reliability, CEA believes that the three guidelines used by the Commission to identify the directives¹⁰ are reasonable and obviate any concern or risk that BPS reliability will suffer as a result of the rescission of these directives. However, mindful that the Commission intends to continue reviewing its inventory of outstanding directives for opportunities to withdraw those that are no longer necessary for reliability, CEA wishes to echo a recommendation put forward by the Trade Associations in this docket – namely, that the Commission's guidelines for withdrawal of directives should align more closely with the criteria applied for retirement of Reliability Standards requirements. A more consistent basis for application will best facilitate efforts under these two parallel courses of action going forward.

⁹ See *Priorities for Addressing Risks to the Reliability of the Bulk-Power System*, Docket No. AD11-6-000 (February 8, 2011), Comments of Ed Tymofichuk, Vice-President, Transmission, Manitoba Hydro on Behalf of the Canadian Electricity Association; *Reliability Technical Conference*, Docket No. AD12-1-000 (November 29, 2011), Comments of Peter Fraser, Managing Director, Regulatory Policy, Ontario Energy Board.

¹⁰ NOPR at P 2.

IV. CONCLUSION

CEA appreciates the opportunity to provide comments and respectfully requests that any action taken by FERC in this proceeding be consistent with the comments set forth herein.

Respectfully submitted,

/s/ Patrick Brown

Patrick Brown
Director, U.S. Affairs
Canadian Electricity Association
275 Slater Street, Suite 1500
Ottawa, Ontario K1P 5H9
Canada

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