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COMMENTS OF TRANSMISSION ACCESS POLICY STUDY GROUP ON JULY 20, 2017 POSTING OF ERO ENTERPRISE LONG-TERM STRATEGY, OPERATING PLAN, AND 2018 METRICS

TAPS appreciates the opportunity to comment on NERC's draft strategic and operational planning documents. We provide our input regarding the three most important goals for the ERO Enterprise to achieve over the next five to seven years, then respond briefly to each of the three documents.

We urge NERC to involve stakeholders meaningfully in the development of strategic documents. At a minimum, active dialogue with the MRC must take place early in the process; when consultation occurs too late in the development of the documents for stakeholder input to have any real effect on the final product, such consultation is nothing but an empty gesture.

I. PRIORITIES

The priorities proposed below have a significant effect on all registered entities, regardless of size, and support the ERO's core mission.

A. Risk-responsive reliability standards

The original Paragraph 81 effort to eliminate standards and requirements that are not necessary for an adequate level of reliability, NERC Project 2013-02, succeeded in eliminating a good deal of the "low-hanging fruit." The second phase of that effort foundered, however.

1. Periodic review of standards

Although evaluation based on the Paragraph 81 criteria is meant to be part of the review of all standards, that evaluation has not significantly reduced the number of unnecessary requirements.[1] Indeed, in the preliminary grades posted as part of the 2017 review,[2] three members of the Standing Review Team said that almost all 47 requirements "meet the Paragraph 81 criteria," and the fourth said that 43/47 did not. The P 81 criteria are criteria for elimination,[3] but based on the reviewers' other responses, it seems likely that all four intended to indicate that

[1] The recent graph presented to the Standards Oversight and Technology Committee (Reliability Standards Quarterly Status Report at 2 (Aug. 9, 2017) , http://www.nerc.com/gov/bot/BOTSOTC/Board%20of%20Trustees%20%20Standards%20Oversight%20and%20Tech1/SOTC_Open_Meeting_August_3_2017_Agenda_Package_PARTICIPANT.pdf) does not accurately reflect the compliance burden, because the 499 requirements it includes do not account for subrequirements, each of which is separately subject to noncompliance penalties; doing so increases the number to over 1500. Nor can such a graph capture the significant burden associated with *changes* to requirements.

[2] Periodic Review Standing Review Team Preliminary Grades (2017), http://www.nerc.com/pa/Stand/2017%20Periodic%20Review%20Standing%20Review%20Team%20%20Standar/Standards_Grading-2017_Master_Workbook_06192017.xlsx.

[3] Paragraph 81 Project Technical White Paper at 8-12 (Dec. 20, 2012), http://www.nerc.com/pa/Stand/Project%20201302%20Paragraph%2081%20RF/P81_Phase_I_technical_white_paper_FINAL.pdf.

they believe most of the requirements should *not* be eliminated pursuant to the P 81 criteria. Since the summary of those grades does not even reference the P 81 responses, however, it is impossible to tell what impact the apparent recommendation of three of the four reviewers that most requirements be retired had. More generally, it is a mystery to even the most involved stakeholders how the grading is done, what the resulting grade means, and how the results are used in making decisions about whether a standard should be retained, revised, or retired.

These issues need to be clarified. Going forward, TAPS believes that grading of standards, like standards development, should be purely a stakeholder task; it is inappropriate for either NERC staff or the Regional Entities to have a vote in standards grading.

2. New Paragraph 81 project

In support of NERC's core mission, and particularly the Draft Operating Plan's first goal of "risk-responsive reliability standards," TAPS suggests that a new, focused Paragraph 81 project be initiated with the explicit goal of reducing the number of requirements. We believe that it is possible to avoid some of the pitfalls that plagued Phase 2 of the original effort. In particular, a single drafting team should be in charge of all revisions and retirements associated with the Paragraph 81 effort. In addition, a policy-level advisory group assembled by the trade associations proved valuable in the Reliability Assurance Initiative and Risk-Based Reliability efforts; such an advisory group should be convened to provide guidance to the P 81 drafting team. TAPS commits to assist in setting up a process for this P 81 review, and will provide at least one member for the advisory group and one for the drafting team.

B. Cost effectiveness of standards

The description of the Draft Operating Plan's Goal 1, risk-responsive reliability standards, includes: "Reliability Standards are clear, timely, effective in mitigating risks to reliability, *and consider cost-effectiveness/impact*" (emphasis added). TAPS agrees that cost effectiveness and impact must be considered; ratepayers should not be forced to pay more than necessary to mitigate a risk, or forced to pay for mitigation when the cost of mitigation is greater than the benefit of mitigating the risk. Members of NERC staff, however, have indicated that they believe consideration of cost effectiveness should be "high level" and not get into cost-benefit analysis (CBA).

Cost effectiveness does not lend itself to high-level, abstract consideration. It requires quantification and comparison of the likely costs and benefits of the proposed action and alternatives. TAPS recognizes that this analysis will require significant person-hours, but it is eminently feasible; the methods of CBA are well-established, including CBA of regulations in particular. NERC should develop a process through which it can obtain the necessary data. NERC staff should then analyze proposed standards during the drafting process, and revisit the analysis two years after implementation, when actual cost numbers are available.[4]

A defensible cost-benefit analysis of a reliability standard depends on a shared definition of risk. NERC should rely on the well-documented existing definition of "Adequate Level of

[4] While the presence of FERC directive may limit NERC's discretion not to address a particular risk, NERC retains the flexibility to propose an equally effective and efficient alternative. Thus, it remains essential for NERC to perform the CBA and submit the results to FERC as part of its filing to comply with the FERC directive.

Reliability."[5] Use of this definition will also ensure that the scope of standards does not expand beyond Section 215 of the Federal Power Act.

C. Regulatory certainty

Despite the proliferation of tools interpreting standards, there remains a great deal of uncertainty regarding how an entity can *be* compliant and how it can *demonstrate* compliance. At the core of this problem is that compliance is not adequately addressed during standard development, often at the request of members of NERC staff who take the position that compliance should not be a consideration in drafting requirements. In fact, standards (like any regulation) would ideally make clear what is necessary for compliance, without the need for separate compliance guidance. Nor can a drafting team or ballot pool member be confident that a proposed requirement will have the intended effect unless it is clear what the requirement requires. A central goal of drafting teams must be to draft clear, unambiguous standards; NERC staff participating in the drafting process should facilitate that effort. For example, RSAW comments should be routinely posted and shared with the drafting team; that is not currently the case.

As much as possible, a standard should be self-contained, minimizing the need for subjective judgment on compliance and enforcement matters. To the extent additional Compliance Guidance is necessary, registered entities need both transparency with respect to how Compliance Guidance is endorsed and used by CEAs, and clarity about which of the various components of and materials associated with standards a registered entity can rely on. In other words, the CEA must communicate expectations consistently, and registered entities must be able to rely on those statements.

II. STRATEGIC AND OPERATIONAL DOCUMENTS

A. Long-Term Strategy

Since the ERO is a creature of statute, its long-term strategy must take the regulatory boundaries of Section 215 and the existing definition of Adequate Level of Reliability as its starting point. The draft document, however, fails to acknowledge the existence of such boundaries. Consistent with Section 215, reliability standards should focus on preventing instability, cascading outages, and uncontrolled separation. Similarly, the ERO's assessment of emerging risks must take account of the limits of the ERO's mandate and of the allowable scope of reliability standards.

B. Operating Plan

According to the Draft Operating Plan's introduction, NERC's strategic and operational planning process is informed by, among others, the RISC report. Despite the acknowledgement of the RISC report, however, it is not clear that the Draft Operating Plan's Goals, Contributing Activities, and Metrics are aligned with the RISC report's priorities. The cover letter to the draft documents states that "[f]or the first draft, the mapping to and appendix of recommendations from the most recent RISC report have been removed for ease of review purposes. These recommendations will appear in the final draft with any mapping adjustments as needed." We look forward to reviewing the mapping in the next draft.

[5] Informational Filing of North American Electric Reliability Corporation on the Definition of "Adequate Level of Reliability," No. RR06-1 (May 10, 2013), eLibrary No. 20130510-5126.

The draft lists too many Contributing Activities, and many of the activities listed are broad, ill-defined, and discretionary in nature. Contributing Activities need to be focused and clarified. In addition, NERC should state whether and to what extent resources are prioritized for activities included in the Operating Plan, and if so, how that prioritization is communicated.

The draft should be revised to encourage leveraging of efforts by stakeholders, industry forums, and others. Doing so allows the ERO to make use of industry expertise and prevents the unnecessary duplication of efforts.

C. Metrics

TAPS appreciates NERC's addition to this year's draft Metrics of metric 7, measure c, a measure based on improvements in ERO Enterprise Effectiveness Survey results for 2018 compared to 2016. Although, as acknowledged in Figure 12, the change in overall responses is not statistically significant, there may be more information to be gleaned from the survey results; for example, what percent of responses are "unfavorable"? This approach would make metric 7, measure c more analogous to metric 1, which looks at the number of events in Categories 1-5. Another possibly informative measure in future years would be the number and severity of issues resolved via the new ERO Enterprise Alignment Process.

More generally, the majority of the draft metrics do not directly reflect ERO performance; only in metric 7 (ERO Enterprise's efficiency and effectiveness) is there a clear causal connection between ERO performance and the measures. ERO performance metrics should focus on program management efficiency and effectiveness. They should also be forward-looking, rather than focusing on issues that are now largely mitigated. NERC should of course continue to measure industry performance in these areas, but the strategic plan should target and look for measures of success for both significant risk and emerging risks to BES reliability. We understand that the draft metrics are based on the State of Reliability Report; while that report is a valuable source of information and analysis about the current "big picture," it is less useful as a source of specific yardsticks by which to measure the ERO's performance going forward.

The ERO Enterprise's performance objectives need to be anchored to achieving and maintaining an adequate level of reliability. Without this anchoring objective, we may implicitly set our goal at an unachievable, ever increasing, and unaffordable outcome of zero BES events, and spend resources to further mitigate particular BES risks that are already well controlled.

Similarly, performance metrics must reference the BES. With North America's increased reliance on natural gas and distributed energy resources, the ERO, industry, and policy makers are increasingly focused on the performance characteristics and reliability of infrastructures that directly affect, but are not part of the BES. The ERO certainly can have an important assessment and educational role within these areas – but its performance metrics must focus on areas within its statutory authority.