MEMORANDUM

TO: Holly Mann, Secretary
NERC Member Representatives Committee

FROM: Allen Mosher, Vice President, Policy Analysis & Reliability Standards, American Public Power Association
Bill Gaines, Director of Utilities and CEO, Tacoma Utilities, on behalf of the Large Public Power Council
John Twitty, Executive Director, Transmission Access Policy Study Group

DATE: October 30, 2013

SUBJECT: Response to Request for Policy Input

The American Public Power Association, the Large Public Power Council, and the Transmission Access Policy Study Group have reviewed and concur in the response submitted today by the State/Municipal and Transmission Dependent Utility Sectors to NERC Board Chair Fred W. Gorbet's October 9, 2013 letter requesting policy input in advance of the November 6-7, 2013 NERC Board of Trustees meeting.

In addition, the American Public Power Association, the Large Public Power Council, and the Transmission Access Policy Study Group are sponsors of the Trade Association Policy Input on the Reliability Assurance Initiative, which was submitted on October 29, 2013.

MEMORANDUM

TO: Holly Mann, Secretary
NERC Member Representatives Committee

FROM: Tim J. Arlt
John DiStasio
Bill Gallagher
John Twitty

DATE: October 30, 2013

SUBJECT: Response to Request for Policy Input

The MRC's State and Municipal and Transmission Dependent Utility sectors ("SM-TDUs") appreciate the opportunity to respond to the October 9, 2013 letter from NERC Board Chair Fred W. Gorbet to Ms. Carol Chinn, Chair of the NERC Member Representatives Committee ("MRC"), requesting policy input on topics that will be of particular interest during the upcoming November 6-7, 2013 meetings of the NERC Board of Trustees, Board committees, and NERC MRC.

This response addresses each of the topics raised in Mr. Gorbet's letter: (i) Operating Personnel Communications Protocols, (ii) Critical Infrastructure Protection ("CIP") Transition, and (iii) the Reliability Assurance Initiative ("RAI") and Find, Fix, Track and Report ("FFT") programs.

As you review our responses to these urgent topics, SM-TDUs also urge the NERC Board of Trustees to recognize and to direct NERC management to give greater focus on the regulatory burden that NERC's mandatory standards and compliance programs impose on registered entities, particularly the many small entities that are subject to NERC reliability standards despite their limited impacts on or ownership of Bulk Electric System ("BES") facilities. Much can be done to reduce this regulatory burden, without reducing the assurance that NERC and its regulators have that the NERC standards and compliance programs provide for reliable operation and planning of the BES. Reducing this regulatory burden will also make more efficient use of NERC's budget, by better focusing resources on performance issues that pose a material impact on BES reliability.

I. Operating Personnel Communications Protocols

SM-TDUs support the development and approval of a single, combined communication protocols Reliability Standard that covers emergency, alert and normal operating conditions for the BES, while recognizing that performance expectations for applicable registered entities and NERC's approach to compliance and enforcement should differentiate between emergency and non-emergency conditions. Our initial review indicates the recently proposed draft standard COM-002-4 strikes an appropriate balance between these considerations, while fully responding to the NERC Board's and Standards Oversight and Technology Committee's Resolutions. We are nonetheless concerned that the severely shortened, 15-day comment and ballot period directed by the Standards Committee for COM-002-4 will foreclose resolution of major technical objections to the proposed standard. More fundamentally, the proposed draft relies heavily on the as-yet untested application of

the NERC Reliability Assurance Initiative. Even modest changes to the Compliance Elements of the proposed standard – the Measures, Violation Risk Factors, Violation Severity Levels and Reliability Standard Audit Worksheets – would undermine the balance outlined above. Further delays in the development and implementation of RAI will certainly jeopardize successful implementation of COM-002-4.

SM-TDUs believe a strict, zero defect performance expectation for use of three-part communications by operating personnel is appropriate for the issuance of and response to Reliability Directives during emergencies and other adverse operating conditions on the BES. In marked contrast, the emphasis for Operating Instructions issued during normal conditions should be on behavioral, management and compliance assurance. First, each BES system operator should be trained in three-part communications (and other communication protocols) such that his or her use of such practices during normal operations is equally routine during emergency conditions. Second, each registered entity's management team should be confident that its operating personnel will follow the protocols on a consistent basis and that management practices and controls will detect both departures from these communication protocols, as well as opportunities for improved performance. Third, NERC and regional compliance and enforcement staff should have reasonable assurance that the evidence proffered by each registered entity demonstrates it meets these performance expectations.

For a number of very practical considerations, SM-TDUs urge the Trustees to be cautious and measured in their efforts to bring this project to conclusion. The combined communication standard is unusual if not unique among NERC standards in that it touches on the day-to-day activities of thousands of industry employees engaged in real time operations and that its application as drafted will apply to many thousands of routine communications every day. We also believe the immature, untested nature of RAI takes the proposed standard beyond "in flight maintenance" into the world of simultaneous program design and operation. A poorly designed or implemented standard could actually increase the risk of BES performance errors, by diverting the focus of operators and management from what is being communicated to how the communication takes place.

For these reasons, it is imperative that NERC and the industry have a clear, common understanding of the communication protocols and management controls that will be required at least one year prior to the effective date of the proposed standard. We support a balanced approach that focuses on education and training during a 12-month trial period to allow the industry to implement training programs and test its processes. Any failures identified in an audit or an events analysis during the trial period would not trigger any penalties, but would be noted for further evaluation. After the trial period, any failures would trigger an automatic re-training or coaching of the individual(s) in question, as well as improvements to the registered entity's management controls.

Finally, SM-TDUs seek assurance from the Trustees that NERC will not seek to modify the Compliance Elements of proposed COM-002-4 after it has been approved by the registered ballot body, without due process that protects the balance now present in the standard. Even modest changes to the Measures, VSLs, or RSAWs, such as changing "Reliability Directive" to "Operating Instruction" in the Severe VSL for Requirement R3, would transform COM-002-4 into a zero defect standard and drown the industry and NERC in compliance administrivia.

II. Critical Infrastructure Protection ("CIP") Transition

We endorse the concept of pilots for the CIP transition from Version 3 to Version 5. NERC and the industry will both benefit immensely from pilots that provide practical lessons learned on the implementation of the Version 5 Requirements, including lessons on how to make a staged transition between versions without creating transitional security gaps or reducing operational performance. We emphasize that the final transition guidance document will be very important. We understand that CIP Version 5 is pending before the Federal Energy Regulatory Commission and commit to work with NERC to meet applicable regulatory effective dates. We also urge the Commission to approve the CIP Version 5 standards as filed as quickly as possible, including approval of Requirements that direct entities to "identify, assess and correct" deficiencies in their CIP programs, as well as Requirement R2 of CIP-003-5 that directs entities to implement programmatic controls for Low Impact Cyber Systems.

III. RAI and FFT

SM-TDUs are eager to learn more about how RAI is progressing at the NERC and regional staff level. We support the Trade Associations' October 29 Policy Input on RAI, including the October 1 Questions for Clarification Regarding RAI. The Trade Associations' questions asked NERC staff for ongoing updates in several areas, including whether there have been fundamental changes to the project's conceptual elements, such as entity risk assessment and the identification of high quality internal controls, as well as greater clarity on RAI project management through posting of agreed-upon project elements, timelines, and milestones. We believe that more effective ongoing communication between NERC staff and the industry will lead the industry to better understand how RAI is proceeding and be better positioned to provide input and active involvement when appropriate. Public communications will also support early reconciliation between disparate regional approaches to RAI.

SM-TDUs continue to be supportive of the NERC FFT program and its evolution into an integral part of RAI. We continue to believe that many elements of FFT can be expanded today, without waiting for the completion of RAI. For example, to date most of the savings from the FFT program have inured purely to NERC and the Regional Entities, largely because registered entities must assume that Regional Entities expect all potential violations to be self-reported – even where it is more likely than not that a possible violation will later receive FFT treatment. NERC should extend FFT into a trial of "Find, Fix and Record" on registered entity books for low risk violations that are unlikely to result in a Notice of Violation. The registered entity would remain responsible for identifying such violations, remediating them as they occur, and tracking trends in its performance.

Thank you for the opportunity to provide this policy input.