MEMORANDUM

TO: Fred W. Gorbet, Chair
NERC Board of Trustees

FROM: Allen Mosher, Vice President, Policy Analysis, American Public Power Association
Jacqueline Sargent, General Manager, Platte River Power Authority, on behalf of the Large Public Power Council
John Twitty, Executive Director, Transmission Access Policy Study Group

DATE: August 6, 2014

SUBJECT: Response to Request for Policy Input

The American Public Power Association, the Large Public Power Council, and the Transmission Access Policy Study Group concur with the Policy Input submitted today by the State/Municipal and Transmission Dependent Utility Sectors of the Member Representatives Committee in response to NERC Board Chair Fred W. Gorbet's July 16, 2014 letter requesting policy input in advance of the August 2014 NERC Board of Trustees meeting.

TAPS

MEMORANDUM

TO: Fred W. Gorbet, Chair
NERC Board of Trustees

FROM: Carol Chinn
Jackie Sargent
Bill Gallagher
John Twitty

DATE: August 6, 2014

SUBJECT: Response to Request for Policy Input

The MRC's State/Municipal and Transmission Dependent Utility sectors ("SM-TDUs") appreciate the opportunity to respond to your July 16, 2014 letter to Mr. John A. Anderson, Chair of the NERC Member Representatives Committee ("MRC"), requesting policy input on topics that will be of particular interest during the upcoming August 13-14, 2014 meetings of the NERC Board of Trustees, Board committees, and NERC MRC.

This response addresses each of the four topics raised in your letter, as well as potential reliability impacts presented by the U.S. Environmental Protection Agency's June 2, 2014 Clean Power Plan Proposed Rule. We summarize our principal concerns and comments as follows:

- **Clean Power Plan Proposed Rule:** We request that NERC undertake one or more special reliability assessments of potential resource adequacy and operational impacts on the bulk power system of EPA's proposed rule.

- **Reliability Assurance Initiative ("RAI"):** It is essential for NERC to complete the design phase of RAI and begin training of NERC and Regional Entity staff in 2014, with training of registered entities taking place in early 2015. Any other implementation plan will have severe repercussions for the successful implementation of CIP Version 5.

- **Risk-Based Registration ("RBR") Initiative:** We strongly support prompt implementation of the RBR Initiative, including a commitment of resources to Phase 2. We do not view RAI to be an acceptable substitute for RBR.

- **Critical Infrastructure Protection ("CIP") Version 5 Transition:** It is incumbent on NERC to post the promised lessons learned from the transition pilots and provide additional guidance to support the transition. Industry experts are ready to assist in this effort.

- **Cybersecurity Risk Information Sharing Program ("CRISP"):** We fully support NERC's proposed role in CRISP as beneficial to the entire electric sector and are confident that final contract provisions will protect NERC from unreasonable risks.

Clean Power Plan Proposed Rule

The Clean Power Plan Proposed Rule issued by the Environmental Protection Agency on June 2, 2014[1] raises a variety of complex policy issues that require NERC Board consideration. In a nutshell, the Proposed Rule describes a process intended to reduce carbon dioxide (CO_2) emissions from existing U.S. electric generating plants, which if finalized in its proposed form, may have far-reaching impacts on bulk power system planning and operations in North America. EPA has projected that nearly 180 gigawatts of generation capacity will retire between 2010 and 2020 in response to the Clean Power Plan and other factors, such as EPA's previously finalized Mercury and Air Toxics (MATS) rule.[2] EPA also anticipates substantial changes in the economic dispatch of remaining electric generating units to achieve the proposed CO_2 emission reduction goals. The EPA has requested comments on the Proposed Rule not later than October 16, 2014.

In testimony offered to the House Energy and Commerce Subcommittee on Energy & Power on June 29, 2014, Janet McCabe, EPA's Acting Air Administrator, testified that electric reliability "was paramount in our minds as we worked through the proposal" and that EPA "consulted with FERC and DOE and other agencies that have this as a chief responsibility." The House Subcommittee on Energy & Power recently held a hearing to inquire into the extent of the EPA's consultation, including whether there was any "outreach by EPA to the North American Electric Reliability Corporation (NERC) regarding reliability impacts prior to issuing the Proposal?"[3]

Given the critical role Congress has entrusted to the Electric Reliability Organization under Section 215 of the Federal Power Act to ensure the reliability of the Bulk Power System, including the ERO's affirmative duty to "conduct periodic assessments of the reliability and adequacy of the bulk-power system in North America,"[4] we believe it is critical for NERC to undertake a rigorous and systematic analysis of the potential impacts, if any, the Clean Power Plan Proposed Rule would have on the reliability of the Bulk Power System.

We ask that the NERC Board direct NERC management to prepare a special reliability assessment that will address the potential resource adequacy effects and operational impacts of the Clean Power Plan and to communicate that analysis to the EPA in a timely manner so as to inform the EPA's consideration of stakeholder comments and development of the Final Rule. This special assessment would be modeled on the 2011 NERC study of the "Potential Impacts of Future Environmental Regulations" that was developed in conjunction with NERC's 2011 Long-Term Reliability Assessment.[5]

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[1] Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generation Units, Proposed Rule, 79 Fed. Reg. 34,830 (June 18, 2014).

[2] House Committee on Energy & Commerce, Subcommittee on Energy & Power "Preliminary Questions for the Federal Energy Regulatory Commission July 29, 2014," page 2, Question 2 at: http://docs.house.gov/meetings/IF/IF03/20140729/102558/HHRG-113-IF03-20140729-SD002.pdf

[3] Id. at page 1, Question 1(c).

[4] 16 U.S.C. 824o(g).

[5] http://www.nerc.com/pa/RAPA/ra/Reliability%20Assessments%20DL/EPA%20Section.pdf

We further recommend that the NERC Board establish a small policy-level advisory group comprised of one or more NERC Trustees, MRC members and senior industry representatives to advise NERC management and staff on issues that should be addressed by subsequent studies that will assess the reliability impacts of State decisions on implementation of the Final EPA Rule.

Issues Raised in Request for Policy Input

Item 1: Reliability Assurance Initiative

We appreciate the opportunity to comment on the ERO Inherent Risk Assessment Guide ("Assessment Guide"). Although we generally support the guide, it is just one piece of the larger RAI puzzle. Above all, it is imperative for NERC to timely complete design and program development for all elements of RAI to ensure full implementation beginning in 2015.

We are aware that certain elements of the RAI program are now being selectively applied as the RAI program is being formalized, primarily as a result of Registered Entity participation in the RAI pilot programs. Examples are the application of the Internal Controls Evaluation to scope audits and the application of Compliance Exceptions for minimal risk violations in the Enforcement Pilot programs. Having said that, we are concerned that the RAI program will not be complete and in place, including necessary training, by the time CIP Version 5 and other RAI-dependent standards become effective.

The imperative for NERC to proceed quickly and deliberately is particularly acute as it relates to the revisions directed by FERC to CIP Version 5. In Order No. 791 at PP 67-76, the Commission directed NERC to either remove the "identify, assess and correct" ("IAC") language from the 17 CIP version 5 requirements in which it was used, or to propose modifications that addressed the Commission's concerns that the IAC language was unclear with respect to compliance obligations imposed on registered entities and how it would be enforced by NERC and its Regional Entities on a consistent basis. The Commission supported NERC's move away from a "zero tolerance" approach to compliance, toward a model based on the development of strong internal controls by responsible entities and standards that focus on activities that have the greatest impact on reliability, but placed the onus upon NERC to propose modifications to its standards and to the Compliance Monitoring and Enforcement Program to meet NERC's objectives while addressing the Commission's concerns, such as providing guidance on what constitutes a successful internal controls program and clarifying when NERC will exercise enforcement discretion.

The CIP Version 5 revisions drafting team has proposed revisions that will eliminate the IAC language, predicated on NERC's express assurance that the RAI program would provide an effective substitute. With that, it is incumbent on NERC to bring this program to fruition, and to inform the Commission in connection with its anticipated filing of the CIP Version 5 revisions that this is NERC's and the industry's common understanding. SM-TDUs urge the Board to set a strict schedule so that the RAI program is complete and in place by the end of this year – 2014 – followed in early 2015 by a systematic RAI training program for registered entities.

It is also important for NERC to communicate how RAI will achieve its original goals: to remove the zero tolerance approach and reduce the administrative burden of the current compliance

enforcement program. Whether those goals will be reached is not clear, based on the limited information provided at this point in time.

Lastly, you mention in your letter that the ERO Enterprise is finalizing documentation to complete a single design for the four modules outlined in the Compliance Oversight Framework: (i) risk elements, (ii) inherent risk assessment (IRA), (iii) internal controls evaluation (ICE), and (iv) compliance monitoring and enforcement program (CMEP) tools. Having access to all of these interdependent documents is crucial to our ability to provide you with input on any one of the documents the ERO Enterprise plans to issue. Although we will review the Assessment Guide again when the other documentation is made available for industry comment, we provide these high level responses to the questions listed in your letter:

1. *Do you agree with the process design of the draft IRA Guide to appropriately scope oversight? Are there areas for enhancement in the draft IRA Guide that would address specific concerns (please provide examples)?*

   Answer:

   We note with some concern that there are repeated references to the evaluation of each registered entity's internal controls (e.g., the ICE module) in the IRA Guide, calling into question the workability of treating them as separate modules. Also of concern are risk factor examples that would improperly treat small entities as "High Risk" (if, for example, they have only a limited internal compliance program, or a limited array of power resources). See Appendix C. In addition, we are concerned with the application of a "professional judgment" standard by the Compliance Enforcement Authorities ("CEAs") (see pp. 11-12 of IRA Guide). Given the enforcement discrepancies among CEAs in the past, we seek assurance that CEAs will apply their professional judgments in a consistent manner. Finally, the Assessment Guide references the Bulk Power System (BPS). Since NERC reliability standards consistently reference the Bulk Electric System (BES), not the BPS, a conforming set of changes to the IRA Guide and other RAI modules should be made.

2. *What additional information or examples would help demonstrate the processes outlined in the draft IRA Guide?*

   Answer:

   The following additional considerations will help clarify/demonstrate the processes outlined:

   a. Clarify how and when tools such as Appendix C identified in 3.2.1.3 – Risk Factor Analysis will be utilized. The current draft indicates the tool "can" be used.

   b. Clarify with an example when a registered entity would not be subject to the Assessment Guide process. The "subject to" language is used in the third sub bullet under 2.2.1 – risk elements module inputs to IRA module.

   c. Appendix C, page 21 of 22, Peak Load under the Peak Load and Capacity row, we believe ">1000" should be "<1000".

3. *What types of training and information on the draft Assessment Guide would be beneficial to support clear communication and expectations between the CEA and registered entity for gathering and assessing data pertinent to risk?*

   Answer:

   We do not have a specific opinion on the types of training and information at this time. However, we do offer that it is more important for NERC to consider how and when it will be training the CEAs to ensure consistent application of the Assessment Guide and other RAI modules. The CEAs should be trained first, followed by a comprehensive training/communication strategy for registered entities for the entire RAI program.

4. *Are there any other considerations not identified in the draft IRA Guide that you believe need to be addressed?*

   Answer:

   In Attachment A to this letter, SM-TDUs identify a number of substantive and technical corrections and omissions, in addition to those mentioned above, that should be addressed in revising the draft IRA Guide. We are hopeful that additional RAI modules will first be vetted with the industry before inclusion in a package requesting policy input for Board consideration, so that "policy input" comments at this level of detail can be avoided in the future.

Item 2: Risk-Based Registration Initiative

SM-TDUs support NERC's Risk-Based Registration Initiative ("RBR") as a long-overdue effort to "right-size" the NERC compliance registry to include only those entities that have a material impact on Bulk Electric System ("BES") reliability, while ensuring that this reform creates no material gaps in NERC's reliability programs. Many of the nearly 2000 entities on the NERC Compliance Registry pose little to no risk to the BES, or are subject to demonstrating compliance with requirements far in excess of what is needed to protect the BES and ensure reliable operations. This situation is inefficient, burdensome, and reflects an outdated, one-size-fits-all approach to registration, standards and compliance that is incompatible with the risk-informed focus that NERC seeks to bring to all of its activities.

Tailoring entities' compliance responsibilities to their impact on the grid will relieve some small entities from NERC compliance burdens altogether, and reduce the burden on others by limiting applicability and eliminating functional registrations that are not material to reliability, thereby allowing the industry and the ERO Enterprise to enhance reliability by focusing resources on material risks to reliability. While we expect RAI to help NERC refocus CMEP activities for the ERO Enterprise, it is no substitute for RBR's potential to eliminate or reduce compliance obligations not justified based on risk. Phase I of RBR goes a long way toward achieving these important objectives by:

- Incorporating the revised Bulk Electric System definition into the NERC Statement of Compliance Registry Criteria.
- Increasing size thresholds and adding refining criteria to limit registration of small DPs that do not perform core BES reliability functions, while addressing BES protection systems.
- Eliminating functional registrations that have insignificant reliability impact (IA, LSE, and PSE).
- Providing for a new process, modeled on the BES exceptions process, for case-by-case requests to register or deregister a particular entity where the "bright line" registration criteria do not capture the materiality of its impact on the BES.

Based on the above overview, we respond to the specific questions posed in the July 16 Policy Input letter:

1. *Are there any additional issues that should be considered when completing the technical assessments needed to measure the potential risks to Bulk Electric System reliability from the proposed reforms?*

   The draft design framework identifies the key questions to be addressed through technical assessments. We understand that NERC is considering whether an additional "low end" floor should be placed on registrations (e.g., a lower limit on the size of entities registered as UFLS-Only DPs) in light of their limited contribution to BES reliability, relative to the burden on all (NERC, Regional Entities, and registered entities) imposed by such registrations. SM-TDUs support performance of technical assessments to further reduce registrations of small entities not justified based on risk (e.g., a 10 MW entity's contribution to the effectiveness of a regional UFLS program is unlikely to be sufficient to warrant registration).

   We note that NERC recently initiated a survey of registered DPs that will estimate the likely impacts of the proposed revised criteria, by, for example, identifying the number of DPs between 25 and 75 MW that are participants in UFLS programs. We look forward to reviewing the results of that survey.

2. *Do you agree with the proposed design of the RBR program? Are there areas for enhancement that would address specific concerns?*

   SM-TDUs agree with the proposed Phase I RBR design. We also strongly encourage consideration of including a MW floor on DP registration, as discussed in response to question 1.

   We also see significant benefits from Phase II, in which sub-set lists of applicable standards would be developed for TO/TOPs and GO/GOPs, respectively, that pose limited risks to BES reliability or are not in a position to contribute substantial capability toward reliable operation of the BES. For example, an entity with operational control of one limited BES transmission Element may lack the wide area view and operational span of control needed to

perform many BES functions or to ensure compliance with certain requirements applicable to TOPs.

We urge the Board to endorse both the Phase I implementation plan and an aggressive plan to proceed with Phase II for both the TO/TOP and GO/GOP tailoring efforts in 2015.

3. *Do the implementation plan and ROP revisions provide a clear and concise plan toward implementation of the proposed design?*

   SM-TDUs support the proposed Registry Criteria revisions and implementation plan, which provides for full deployment of RBR Phase I in 2015. It is vital that RBR be rolled out and implemented uniformly across all of the Regional Entities; achieving continent-wide consistency is an ongoing challenge that will need strong NERC leadership and guidance. Prompt implementation is necessary to avoid compliance expenditures by all involved that are not justified based on risk. While full implementation of some elements of RBR may entail changes to the NERC Rules of Procedure and modifications to NERC reliability standards that will require industry due process and regulatory approvals, NERC has the ability to exercise discretion with regard to focusing compliance and enforcement activities, and to accelerate standards revisions in coordination with the Standards Committee.

   NERC's experience with the "P81" initiative to retire redundant and duplicative reliability standards illustrates how NERC can expedite implementation of the RBR initiative. While the P81 petition was pending before the Commission, NERC removed the thirty-four P81 standards from the Actively Monitored List, told auditors to stop auditing those standards, told Regional Entities to "hold" any new and existing violations, and told Registered Entities to document, but not self-report, any violations of those standards.[6]

4. *Are there additional venues or mechanisms that NERC should consider to communicate the details of the proposed design and implementation plan?*

   SM-TDUs support use of trade associations to enhance NERC's outreach efforts. Although FERC staff members have participated in RBRAG, NERC should reach out frequently to FERC staff as the details of RBR are crystalized.

5. *Are there any other considerations not identified in the draft design framework that you believe need to be addressed in this initiative?*

   The draft design framework identifies the need for "improved procedures, with defined timelines … for registration and deactivation, as well as Reliability Standard applicability class determinations and associated appeals," but the draft documents do not include the contemplated modifications. These improved procedures are crucial to making RBR a success. The consistency and accountability benefits of RBR would also be enhanced if the

[6] See: http://www.nerc.com/files/Guidance_for_Compliance_Monitoring_and_Enforcement_pending_retirement_pursuant_to_Paragraph_81_040913.pdf

determinations of the NERC-led panels were shared not only throughout the ERO Enterprise as described by the draft design framework, but also with stakeholders.

Item 3: Critical Infrastructure Protection Version 5 Transition

In the Policy Input letter, the NERC Board:

. . . seeks input from the MRC on steps that NERC and the Regional Entities can take to enhance the effectiveness of their transition guidance and coordination efforts to provide stakeholders increased confidence that their CIP Version 5 transition efforts and activities are meeting implementation expectations. Similarly, please provide input on what activities and resources you view as most useful to achieving confidence in entities' transition efforts.

SM-TDUs believe the most useful activity to achieve confidence in the transition effort is for NERC Compliance and Enforcement staff to communicate timely lessons learned from the CIP Version 5 Implementation Study Pilots (Study) and provide guidance on the CIP Version 5 CMEP. NERC clearly stated in its Informational Filing on the Implementation Study:[7]

> NERC expects to keep industry informed regarding progress compared with key Study milestones, key issues that arise and solutions to address them, lessons that are learned by Study Participants throughout the Study, best technology practices to meet the intent of CIP Version 5, best practices to demonstrate compliance with CIP Version 5 …
>
> The Study will conclude in April 2014 in order to provide the most useful information to the industry as soon as possible. NERC will share information learned through the Study with industry and other stakeholders throughout the Study Period. Information may be shared through publication on the NERC website, webinars, or through other means. Following the conclusion of the Study, NERC and the Regional Entities will prepare a report that identifies key conclusions, lessons learned, and recommendations for transition to CIP Version 5.

Recently, a significant lesson learned from the CIP Version 5 Implementation Study was presented by NERC Compliance staff to the NERC Critical Infrastructure Protection Committee (CIPC) at its June meeting.[8] NERC needs to communicate these lessons learned and other positions broadly, not just to CIPC attendees. Industry is waiting for NERC to officially communicate these positions by posting them to the Study lessons learned website and incorporating these lessons learned into CMEP guidance. Major decisions that will increase or decrease the scope of a registered entity's compliance program must be communicated without delay so resources are not wasted on developing compliance material for facilities that are out of scope.

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[7] Informational Filing of NERC regarding the CIP V5 Implementation Study October 11, 2013: http://www.nerc.com/FilingsOrders/us/NERC%20Filings%20to%20FERC%20DL/Informational%20Filing%20re%20CIP%20Implementation%20Study.pdf

[8] CIPC Presentation June 10, 2014: http://www.nerc.com/comm/CIPC/Agendas%20Highlights%20and%20Minutes%202013/Presentations%20--%20June%2010-11,%202014.pdf

The transition from CIP Version 3 to Version 5 will be challenging for both industry and NERC/Regional staff. Industry will be more confident in proceeding with implementing CIP compliance programs when NERC timely addresses the compliance and enforcement questions being raised by registered entities. SM-TDUs urge the Board to set a firm schedule for Study milestones and posting of Study lessons learned. NERC should then staff this effort appropriately to achieve those milestones.

The transition to CIP V5 will not be instantaneous on April 1, 2016. SM-TDUs request that the CMEP guidance developed by NERC allow for leniency in the audit approach while all parties adjust to the expanded CIP applicability and new requirements. The Commission states in Order No. 791, P173:

> To the extent that extraordinary circumstances may hinder timely compliance, we suggest that responsible entities work with their relevant compliance enforcement authority and NERC to address implementation issues.

In addition, SM-TDUs support strongly the proposal advanced in NERC's Staff's draft transition guidance document to signal that registered entities are free now to transition to Version 5 compliance without fear that they will therefore be held in violation of Version 3. The transition document proposes to instruct auditors to consider compliance with Version 5 to establish compliance with Version 3. Because the transition cannot be accomplished overnight, this approach seems equitable, while advancing ultimate compliance with Version 5. SM-TDUs believe NERC has ample discretion to implement this approach.

SM-TDUs offer our subject matter experts to work with NERC Compliance and Enforcement staff to discuss reasonable transition audit scoping for inclusion in the CMEP guidance.

Finally, we note that the Board of Trustees agenda includes as Item 9e the approval of a revised draft Cyber Asset Survey as a Section 1600 data request. Industry has not been provided the opportunity to review and comment on this revised draft. Considering the volume of comments and concerns submitted on the original survey draft, we would recommend that the Board of Trustees delay approval of this item, until it is shown that industry concerns have been addressed. We recognize that this survey is in response to a FERC directive and time is of the essence, but that should not preclude the opportunity for reasonable due process through notice and comment.

Item 4: Cybersecurity Risk Information Sharing Program

In the Policy Input letter, the NERC Board seeks input from the MRC on two policy questions concerning NERC's proposed participation in the Cybersecurity Risk Information Sharing Program ("CRISP")[9]:

[9] The NERC ES-ISAC's proposed roles and responsibilities for CRISP are described in Agenda Item 4d of the July 16, 2014 MRC Informational Session, posted at: http://www.nerc.com/gov/bot/MRC/Agenda%20Highlights%20nad%20Minutes%202013/MRC_Info_Session_07-16-14a_Complete.pdf

1. *Should NERC take on the risks and challenges associated with serving as the program lead for CRISP, as described in the MRC Informational Session background materials, and do you have any specific comments regarding the structure of the program?*

2. *On July 15, 2014, NERC posted the final draft of its 2015 business plan and budget and included detailed information regarding a proposed initial funding mechanism for NERC's participation in the CRISP program. Do you have any specific comments regarding the proposed initial funding mechanism?*

SM-TDUs strongly support expanded funding for and enhanced capabilities for the NERC Electricity Sector Information Sharing and Analysis Center ("ES-ISAC") and including that funding within NERC's section 215 Business Plan and Budget and annual assessments to load-serving entities. In particular, we support of NERC's plans to expand the capabilities of the NERC ES-ISAC through participation as program manager for CRISP, as well as plans to physically separate the ES-ISAC from other NERC personnel and programs in the D.C. office.

SM-TDUs are confident that a master contract agreement between NERC and participating utilities can and will be developed and executed to effectuate the ES-ISAC's roles and responsibilities as CRISP program manager, service provider, and communication hub, while insulating NERC from reasonably foreseeable potential legal and financial liabilities associated with its participation in CRISP. Each of the participating utilities will bear the direct costs of installing Information Sharing Devices and other equipment required for the CRISP program on their systems. As is the case currently, participating utilities will bear the ongoing costs incurred to analyze these information flows. All electricity sector entities in North America will benefit tangibly from NERC's efforts on this front, even when they do not participate directly in the ES-ISAC, because these efforts serve to increase the resiliency of the entire sector.

SM-TDUs view NERC's proposed business plan for the ES-ISAC to be fully consistent with NERC's role as the Electric Reliability Organization for North America, charged with ensuring the reliable operation of the bulk-power system. The NERC budget is an equitable approach for funding the ES-ISAC, including these new initiatives. While a small percentage of the ES-ISAC's participants are not on the NERC compliance registry, each such entity is paying its load ratio share of NERC's budget, including the ES-ISAC. If and when NERC or the ES-ISAC undertake analytical projects that do not provide broad benefits to the electricity sector as a whole, these costs can and should be directly assigned to the beneficiaries, with the revenues received credited against NERC's operating expenses.

We also support NERC's proposal to physically separate the ES-ISAC from other NERC staff in the Washington, D.C. office. We also urge NERC to develop and approve a revised ES-ISAC Code of Conduct on information sharing. The effectiveness of the ES-ISAC depends upon the timely sharing of highly sensitive information between the federal government and industry of

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Additional details, including NERC's preliminary CRISP budget projections for 2015, with projected expenses to be recovered from CRISP participants, as well as amounts that will be included in the assessments to be recovered from load-serving entities, are shown in the July 15, 2014 CRISP Overview to the 2nd Draft of the NERC 2015 Business Plan and Budget, posted at:
http://www.nerc.com/gov/bot/FINANCE/2015nercbsnsplnbgt/NERC%202015%20BPB%20CRISP%20Background%20Material%20and%20Budget%20Impact%20Analysis.pdf

actual and potential threats to and vulnerabilities within the nation's electricity infrastructure. ES-ISAC participants need to have complete confidence that they can share highly sensitive information about potential threats and vulnerabilities to their assets without a second thought that such reporting will be subject to disclosure of company-specific information to any other entity, including other departments within NERC. The physical separation of the ES-ISAC, in conjunction with a robust ES-ISAC Code of Conduct codifying this separation of functions, will provide industry with the assurance it needs to report first and analyze later.

The NERC Board, stakeholders and regulatory authorities have an obligation to review, comment on and approve the NERC Business Plan and Budget, including the ES-ISAC. At some juncture, NERC may propose to undertake projects within the ES-ISAC that we may oppose, because such projects are inappropriate for NERC, excessively costly, or better performed by other organizations. At this point, we see no indications that NERC has undertaken activities in this area that are inconsistent with its mission, which includes cyber and physical security of the nation's electricity sector infrastructure.

Thank you for the opportunity to provide this policy input.

Attachment A
SM-TDU Comments
Draft IRA Guide

State-Municipal and Transmission Dependent Utility Proposed Substantive and Technical Corrections to the NERC Draft Inherent Risk Assessment Guide

The following other substantive and technical corrections not covered in NERC's draft Inherent Risk Assessment Guide should be addressed:

a) Provide a definition for the term "risk" in the glossary. It is likely this definition was created in the Risk Elements module and should be included in all module guides.

b) Incorporate risk velocity as one of the Risk Elements module input considerations in the first bullet in 2.2.1.

c) The guide states that there will be a periodic review. Review should be aligning with the TOP, BA or RC review cycle year or a 6 year compliance review cycle for all other entities.

d) There should be an appeals procedure permitted at the outcomes phase of the IRA.

e) Corroborating information should be allowed from the entity under review. This will ensure better accuracy and fewer challenges to a determination later on.

f) In section 4.2, no document retention time is stated. A possible retention time could be for the same duration as indicated in the NERC Rule of Procedure for Audit document retention. Only the latest information should be retained, not prior cycle information.

g) In section 5.0, among the tools not identified are the information portals to securely collect the information and store the material that needs to be retained.

h) There is no mention about how the information collected and used to perform the IRA will be protected and kept confidential.

i) It is not clear if the Appendix B Information Attribute list is exclusive or if examples of some information categories will be needed including their sources.

j) In Appendix B, Primary Information Attributes, the transmission and generation portfolio should be limited to those elements that are determined to be BES.

k) Appendix B lists "Major changes to entity's operations" as portfolio changes to assets. What about corporate restructuring and fundamental governance changes that could affect the operational efficiency and reliability of an entity yet not affect the asset portfolio? Indicating this in Appendix C as an example under BPS Exposure is not appropriate.

l) In Appendix C, it is not clear how the ruggedness of terrain should be a risk factor. The risk factor should be characterized as how an entity deals with that terrain to ensure it can

perform timely restoration. For instance, a very mountainous and rugged terrain with no vegetation does not pose a high risk as is implicated in the table.

m) Under SCADA/EMS, characterizing having no SCADA/EMS as low risk needs clarification. Was this low risk designation meant for an entity that did not need SCADA/EMS or is it due to no issues with the entity's SCADA/EMA system?