MEMORANDUM

TO: Ken DeFontes, Chair
NERC Board of Trustees

FROM: Jack Cashin, Director, Policy Analysis and Reliability Standards, American Public Power Association
John Di Stasio, President, Large Public Power Council
Terry Huval, Executive Director, Transmission Access Policy Study Group

DATE: October 20, 2021

SUBJECT: Response to Request for Policy Input to NERC Board of Trustees

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The American Public Power Association, Large Public Power Council, and 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 Ken DeFontes September 29, 2021 letter requesting policy input in advance of the November 2021 NERC Board of Trustees meetings.

MEMORANDUM

TO: Ken DeFontes, Chair
NERC Board of Trustees

FROM: John Haarlow
Terry Huval
John Twitty

DATE: October 20, 2021

SUBJECT: Response to Request for Policy Input to NERC Board of Trustees

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The Sector 2 and 5 members of the NERC Member Representatives Committee (MRC), representing State/Municipal and Transmission Dependent Utilities (SM-TDUs), appreciate the opportunity to respond to your September 29, 2021 letter to MRC Chair Paul Choudhury requesting input on opportunities for improving Electric Reliability Organization (ERO) agility. Specifically, the Board of Trustees (Board) asks: (1) Do you agree that more-nimble ERO Enterprise programs are desirable with the rapid changes occurring in the electricity sector and, (2) are there opportunities for exploring new ways of working and making processes more efficient and agile? We look forward to discussing these issues and other agenda items during the virtual meetings of the Board, Board committees, and the MRC on November 3-4, 2021.

Summary of Comments

- **The SM-TDUs generally agree that increasing ERO agility is desirable given rapid changes in the sector.**
  - **We support ERO efforts to increase efficiency and effectiveness and believe such efforts promote greater ERO agility.**
  - **Maintaining NERC's American National Standards Institute (ANSI) accreditation is key to ensuring the effectiveness of ERO standards, which, in turn, promotes ERO agility.**

Responses to Specific Questions

1. **Do you agree that more-nimble ERO Enterprise programs are desirable with the rapid changes occurring in the electricity sector?**

The SM-TDUs generally agree that nimbler ERO programs are desirable and believe that the ERO should always work to be increasingly agile. The SM-TDUs also agree that ERO agility is particularly important given the rapid changes in the electricity sector and the challenges that such changes can pose for the reliability of the Bulk Power System (BPS).

An important way to promote ERO agility would be to focus on the ERO's ongoing efforts to increase organizational efficiency and effectiveness. However, efficiency should not sacrifice engagement effectiveness and collaboration. Accordingly, efficiency should be examined, but only

after effectiveness is ensured. Similarly, effectiveness, especially the effectiveness of the collaborative process must be assured when considering faster more agile NERC processes. With these considerations in mind, SM-TDUs are confident that ERO agility can be increased.

The public power Sectors appreciate and support the ERO's important efforts toward greater efficiency and effectiveness. The activities cited in the policy input letter, such as the Align Tool and real estate cost reductions, have indeed made the ERO increasingly agile. The SM-TDUs would also point to ERO studies and reports that are more focused and provide actionable information. The Reliability Security and Technical Committee (RSTC) is a productive technical forum for discussing and working through issues.

It is also important to remember that industry has proven it can act quickly when a problem is clearly identified with technical analysis and supporting data. The development and approval of the CIP-014 Physical Security Reliability Standard demonstrated where agility and collaboration can coexist. Industry had the same success in streamlining the development of the CIP-013 Supply Chain Standard to address emerging supply chain risks.

Further, the ERO is already tackling issues associated with the transformation of the BPS, including challenges presented by a changing generation resource mix, extreme weather, and cybersecurity threats. Each of these areas includes sub-issues that can overlap with another area. For example, the resource mix is affected by increased renewable penetration driven by concerns about climate change and extreme weather. Moreover, inverters associated with certain renewable resources can increase vulnerability to cyber-attacks. The interrelationship of these issues requires a deliberate process that asks the right questions, discerns the issues that the ERO can address, and develops effective solutions. The ERO's processes are designed to recognize these interrelated risks and ask the right question(s) to ensure that each risk is appropriately met without inadvertently affecting another risk. This requires an appropriate level of collaboration so that duplication, overlap and unintended consequences are avoided.

SM-TDUs support current ERO processes that sustain NERC's ANSI accreditation. The ANSI process provides a crucial framework for ERO collaboration to develop standards in an effective and efficient manner.

SM-TDUs note the importance of subject matter expert (SME) expertise and input in the standards process was implicitly recognized in the Federal Power Act legislation that established the ERO.[1] ANSI certification can help avoid anti-trust concerns that might otherwise be raised by industry collaboration on reliability standards.[2]

SM-TDUs are concerned that some policymakers may view the ANSI process as unreasonably slowing the pace of Standards development. On the contrary, the ANSI process allows for channeling the appropriate SMEs to support standards development. This is especially important with cyber security standards which often address complex and emerging issues. Moreover, the

[1] Section 215(d)(2) requires that the FERC give ―due weight to the Electric Reliability Organization's technical expertise.

[2] https://www.ansi.org/news/standards-news/all-news/2013/12/ansi-publishes-new-antitrust-policy-and-revised-code-of-ethics-for-institutes-members-and-volunteers-10

collaborative ANSI process promotes consensus and buy-in from impacted stakeholders, which helps avoid litigation and other challenges to standards. Such a consensus-driven process might take more time, but it provides greater effectiveness in the long run by avoiding the uncertainty and potentially disruptive effects of litigation as well as significant gaps in industry buy-in. The SM-TDUs would want to avoid any rush to judgement that would impede ERO efficiency but more importantly limit the organization's effectiveness and potentially slow rather than facilitate the organization's agility.

2. Are there opportunities for exploring new ways of working and making processes more efficient and agile?

The SM-TDU industry Sectors look forward to working with the ERO Enterprise to find ways to increase program effectiveness and agility. Through collaborative ANSI approved processes the Sectors are willing to examine rules and processes and consider any revisions needed to adapt to reliability challenges. The SM-TDUs welcome the opportunity to work with NERC to ensure the shared mission of effective and efficient reduction of risks to the reliability and security of the grid.

The public power Sectors believe that several new programs are taking shape that will promote ERO agility. NERC"s "Framework to Address Known and Emerging Reliability and Security Risks" ("Framework"), for example, identifies and prioritizes risks and their mitigation for addressing reliability, resilience, and security issues. The SM-TDUs support the Framework's repeatable method for the identification, prioritization, and mitigation of emerging reliability and security risks. The Framework provides a good foundation for addressing known and emerging risks to support the continued reliability and security for the transforming BPS and supports NERC's increased agility goal.

Another potential avenue for improving ERO agility would be increased used of self-certifications, especially for medium and smaller sized utilities. Wider consistent use of accepted standards for risks that align with utility size should facilitate faster NERC scheduled engagements. NERC can provide guidance to the regions regarding the implementation of such a program.

Supply Chain Solution Clarity

The SM-TDUs would like to offer one additional clarification that was discussed at both the Federal Energy Regulatory Commission's September 30, 2021 Reliability Technical Conference, as well as the recent NERC Trades Meeting. Certification/accreditation of vendors in the industry supply chain from the public power Sectors' perspective should not be confused with white or black-lists or vendor library concepts that have been suggested as ways to promote supply chain cybersecurity. White and black-lists would provide industry with a purchasing guide. The library concept, in contrast, provides vendor information from which industry can assess that vendor. The SM-TDUs believe a certification or accreditation program would allow NERC to accept certification from a third party concerning the cybersecurity process and programs of industry vendors. For example, NERC acceptance of FedRamp certification has been cited as a potential model. We continue to believe that a collaborative effort among industry (including vendors), NERC and the Federal government could facilitate such third-party certification acceptance. The

SM-TDUs would submit that such certification acceptance would increase both industry and NERC supply chain agility.

The SM-TDUs look forward to the MRC meeting discussion on Board questions and NERC's winter readiness efforts.