

MEMORANDUM

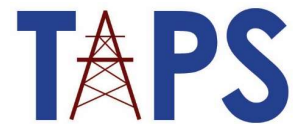
TO: Ken DeFontes, Chair
NERC Board of Trustees

FROM: John McCaffrey, Senior Regulatory Counsel, American Public Power Association
John Di Stasio, President, Large Public Power Council
Terry Huval, Executive Director, Transmission Access Policy Study Group

DATE: February 1, 2023

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

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' January 11, 2023 letter requesting policy input in advance of the February 15-16, 2023 NERC Board of Trustees meetings.



MEMORANDUM

TO: Ken DeFontes, Chair
NERC Board of Trustees

FROM: John Haarlow
Terry Huval
John Twitty
Brian Evans-Mongeon

DATE: February 1, 2023

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

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 January 11, 2023 letter to MRC Chair Roy Jones in which the Board of Trustees (Board) requests MRC input concerning prioritization of NERC activities and effective engagement with stakeholders. In particular, the Board requests MRC input on the following two questions:

1. What efforts underway at NERC do you believe do not provide value or are driving a disproportionate use of resources relative to the risk being mitigated?
2. What steps can NERC and industry take to achieve a better balance of resources relative to the risks being mitigated?

The SM-TDUs respond to the Board's questions below. We look forward to discussing these issues and other agenda items during the meetings of the Board and the MRC on February 15-16, 2023.

Summary of Comments

- The SM-TDUs appreciate the Board's request for input concerning prioritization and effective engagement, as we share industry concerns about the volume of NERC-related work, as well as the effectiveness of those efforts.
- Focusing on the risk categories identified in the 2021 ERO Reliability Risk Priorities Report, the SM-TDUs view issues associated with Grid Transformation and Extreme Events as the highest priorities for Bulk Power System (BPS) reliability, and we offer some specific observations on these issues. The SM-TDUs believe that past and ongoing work on addressing Security Risks have helped the industry reach a level of maturity that has significantly reduced the risks in this category.
- NERC should be mindful that efforts to promote NERC agility and sustainability, while aimed at helping the ERO and industry respond to reliability risks more efficiently and effectively, often require stakeholder time and attention without necessarily resulting in any lightening of industry workloads on key reliability issues.

- An effective process for prioritizing the most critical NERC efforts is essential to managing resource constraints and allowing NERC and its stakeholders to effectively address pressing reliability risks. A principal challenge in implementing such effective prioritization is tracking and managing the large number of committees, working groups, and other formal commitments that require NERC and stakeholder attention.
- One concept that the SM-TDUs would like NERC to consider is the formation of a group that would focus specifically on prioritizing or “triaging” specific initiatives at NERC.
- The SM-TDUs emphasize the importance of collaboration and cooperation between NERC and stakeholders in seeking to prioritize and respond to the myriad BPS reliability challenges facing the industry.

SM-TDUs’ Response

The SM-TDUs welcome the Board’s request for input concerning prioritization and effective engagement as the ERO and the industry face an expanding set of challenges driven by the ongoing grid transformation and the frequency and severity of significant weather events. NERC and its stakeholders are being called upon to tackle this expanding set of challenges with finite financial and personnel resources. Accordingly, prioritizing the efforts that are likely to be most important and effective in promoting BPS reliability is essential. The SM-TDUs provide some observations on particular reliability issues in response to Question No. 1, and we offer some broader process suggestions in response to Question No. 2 that the SM-TDUs believe would help NERC and its stakeholders identify and prioritize the most important BPS reliability issues in a consistent and effective manner.

1. What efforts underway at NERC do you believe do not provide value or are driving a disproportionate use of resources relative to the risk being mitigated?

The SM-TDUs are reluctant to characterize particular NERC efforts as lacking in value or to suggest that resources are not being properly allocated in response to particular risks. NERC and its stakeholders, however, do not have limitless resources to utilize in supporting BPS reliability. Thus, as the Board correctly recognizes, prioritization is key to the success of NERC’s mission to reduce risks to the reliability, resilience, and security of the BPS. The SM-TDUs have observed in past policy input responses that treating everything as an emerging risk makes it difficult to prioritize the right issues. Stated another way, if everything is a priority, then nothing is a priority. Accordingly, the SM-TDUs offer a number of suggestions below about prioritizing particular NERC efforts in response to BPS reliability challenges.

While the SM-TDUs provide input regarding priorities here, we note as an initial matter that it would be helpful to understand better where NERC and the ERO Enterprise spends most of its time and resources. The Business Plan and Budget process provides transparency into allocation of the ERO Enterprise’s financial resources, but additional information on how management and staff spend their time would be informative. This would help us understand which issues are garnering the most attention and resources among the committees, working groups, task forces, and NERC staff to potentially redirect this focus into more appropriate areas.

The SM-TDUs focused on NERC’s 2021 ERO Reliability Risk Priorities Report (Risk Report) prepared by the Reliability Issues Steering Committee (RISC) in responding to the Board’s

question.¹ Public power has endorsed NERC's Risk Framework as the process for determining priorities,² and we believe that the 2021 Risk Report provides an important roadmap of NERC priorities. The report groups BPS risks into four categories: (1) Grid Transformation; (2) Extreme Events; (3) Security Risks; and (4) Critical Infrastructure Interdependencies.

The SM-TDUs generally agree that Grid Transformation and Extreme Events should be top priorities, but, as the Risk Report indicates, these are quite broad and encompass multiple issues. These broad categories should be translated into specific priorities with a clear NERC action plan to address specific risks. The SM-TDUs submit that there should be a process to prioritize specific risks within the Grid Transformation and Extreme Events categories. The SM-TDUs offer the following observations on specific issues related to the Grid Transformation and Extreme Events categories:

- *IBRs*: Addressing IBR issues is important, and we appreciate NERC's efforts on these issues over the past few years. Treating something as a priority does not necessarily mean acting hastily, and we think NERC has focused the appropriate level of resources and attention on IBR issues, handling the challenges through studies, guidelines, work groups, etc. NERC's approach was both deliberate and thorough. Now with FERC's recent IBR registration order and notice of proposed rulemaking on perceived IBR reliability gaps, NERC has already done a lot of the groundwork to respond to FERC's orders.
- *Winter Storms*: FERC and NERC in late December 2022 announced a joint inquiry into Winter Storm Elliott. This comes about a year after FERC and NERC staff released their final report examining the impact of the February 2021 Winter Storm Uri, and while the industry is in the process of implementing and revising winter weatherization standards.³ The SM-TDUs appreciate the importance of assessing weather-driven events, but we caution that not every such event requires an in-depth inquiry/analysis. We have some concerns about the level of time and resources necessary to conduct such inquiries in cases where lessons learned and potential mitigation measures can be drawn from prior similar events.
- *Electric/gas interdependency*: The Risk Report primarily focuses on electric-natural gas interdependency as part of its discussion of the Critical Infrastructure Interdependencies risk category. The SM-TDUs believe, however, that electric-gas harmonization issues should be regarded as part of the grid transformation discussion. As the grid interconnects more and more IBRs, many of which are variable energy resources, flexible resources become more critical. Natural gas resources play an important role in power portfolios, and the grid's reliance on gas will become more prominent as other baseload resources like coal and nuclear retire. The gas-electric harmonization forum being conducted by the North

¹ The report is available at:

https://www.nerc.com/comm/RISC/Documents/RISC%20ERO%20Priorities%20Report_Final_RISC_Approved_July_8_2021_Board_Submitted_Copy.pdf.

² See Framework to Address Known and Emerging Reliability and Security Risks (Feb. 2021), available at: https://www.nerc.com/comm/RISC/Related%20Files%20DL/Framework-Address%20Known-Emerging%20Reliabilit-Securit%20%20Risks_ERRATTA_V1.pdf.

³ EOP-011-2 goes into effect on April 1, 2023 in the United States. EOP-011-3 and EOP-012-1 have been filed for regulatory approval. And Phase 2 of the Extreme Cold Weather project is developing EOP-011-4 and EOP-012-2.

American Energy Standards Board (NAESB) has identified a timeline for its process that will require participation and engagement on multiple fronts including federal and state regulatory agencies. This will not happen on a quickened pace.

With respect to the third BPS risk category included in the Risk Report – Security Risks – the SM-TDUs agree that physical and cybersecurity remain priorities, though it is important to recognize the past and ongoing work on these issues that has helped the industry achieve a level of maturity that significantly reduces security risks.

The SM-TDUs acknowledge the increase in physical attacks on substations in recent years, but industry is, among other responses, effectively leveraging the E-ISAC, the Electricity Subsector Coordinating Council, and relationships with government partners in responding to this uptick in attacks. We caution against overcompensating for this risk, as in the SM-TDUs' experience, physical attacks are typically isolated events that are not undertaken with the intent of causing significant disruption of electric service. The industry cannot reasonably protect against all physical attacks given the expense and level of construction needed to fortify all bulk substations. The SM-TDUs hope to engage further on these issues in connection with FERC's recent order directing NERC to submit a report concerning the adequacy of CIP-014. As to cybersecurity, the industry has a largely mature program in place after nearly a decade of effort. Reliability Standard CIP-003 provides a robust level of protection based on the risks we face today. Expanding standards to low-impact facilities generally will not provide reliability value relative to the risk being mitigated.⁴ And lastly, the SM-TDUs do not believe that electromagnetic pulse (EMP) risks are critical. The research and assessments of the U.S. Government (*e.g.* DOE) and industry groups such as EPRI should simply be monitored. Any substantive developments from those efforts ought to be considered for possible standards development in a more targeted way rather than included in a standards development process that could potentially draw NERC and industry resources and staff away from higher priority issues. In addition, we are not convinced that industry in general has the expertise and resources to effectively develop and implement mitigations of this risk.

As to the fourth risk category in the Risk Report – Critical Infrastructure Interdependencies – the SM-TDUs generally agree that, while important, this category of risks is appropriately ranked as lower priority than the other categories (subject to our discussion above regarding gas-electric coordination issues).

The SM-TDUs note that the categories included in the Risk Report dovetail largely, but not entirely, with the NERC priority areas of focus included in the 2023-25 business plan and budget (*i.e.*, energy, security, agility, and sustainability). As discussed above, the SM-TDUs generally believe that NERC's priorities should be focused on energy and security matters, as these issues directly impact reliability of the BPS. While the goals of enhancing NERC agility and sustainability are generally laudable to the extent that they can help the ERO and industry respond to reliability risks more efficiently and effectively, these efforts often require stakeholder time and attention without necessarily resulting in any lightening of industry workloads on key reliability issues.

⁴ The SM-TDUs recognize that FERC's recent order on internal network security monitoring (INSM) requires NERC to assess the feasibility of extending INSM to low-impact BES Cyber Systems.

Given all of the technical considerations surrounding these priorities, it will be essential that the Reliability and Security Technical Committee (RSTC) be given the resources to provide the analytical work that is needed to support the wide range of issues being addressed. We are interested in seeing the details of the emerging RSTC work plan that will come out of the meetings the Committee held in late January/early February and whether it is in a position to support the wide range of topics it has been assigned. As discussed in response to Question No. 2 below, the SM-TDUs believe that NERC may want to consider additional or different processes to help prioritize these efforts.

2. What steps can NERC and industry take to achieve a better balance of resources relative to the risks being mitigated?

In responding to Question No. 1, the SM-TDUs provided observations concerning the prioritization of specific reliability risk categories. In response to Question No. 2, the SM-TDUs wish to identify some process concerns and offer constructive suggestions for potential improvements that would help NERC and its stakeholders identify and prioritize the most important BPS reliability issues in a consistent and effective manner.

The SM-TDUs share the concerns referenced in the Board's policy input letter about the volume of NERC-related work and the associated resource requirements, as well as the effectiveness of those efforts. Personnel and financial resources are limited for both NERC and industry, and resource constraints are exacerbated by the fact that many of the most engaged subject matter experts (SMEs) are serving on team rosters for multiple projects.

An effective process for prioritizing the most critical NERC efforts is essential to managing resource constraints and allowing NERC and its stakeholders to effectively address pressing reliability risks. A principal challenge in implementing such effective prioritization is tracking and managing the large number of committees, working groups, and other formal commitments that require NERC and stakeholder attention. For example, the SM-TDUs' understanding is that the RSTC currently has as many as 35 groups reporting to it.

The importance of resource limitations cannot be overstated. This issue is particularly salient as it relates to the technical analysis being asked of the RSTC. Over-reliance on the RSTC when it simply does not have the resources to support an overabundance of priorities may place the ERO Enterprise in a position where necessary technical analysis is not always possible at the appropriate level. For example, in the case of the Standards Authorization Review process, the recently proposed changes to the standards development process call for SARs vetted by the RSTC to be eligible for informal, rather than formal, posting, with no requirement for the drafting team to respond to stakeholder comments received on the SAR. The lack of available resources for the RSTC may make its determinations less reliable, and not in the best interest of the ERO Enterprise business model, and reliability more broadly.

Under the Risk Framework adopted by the Board, the RSTC and the RISC are both intended to play a role in identifying and prioritizing NERC responses to reliability risks. In the SM-TDUs' experience, however, the challenges associated with managing the volume of ongoing work have made it difficult to consistently prioritize issues effectively.

One concept that the SM-TDUs ask NERC to consider is the formation of a group that would focus specifically on prioritizing or “triaging” specific initiatives at NERC, and address new issues as they arise. While the SM-TDUs are open to different ways of structuring such a group, one approach might be to have a committee that comprises members of the Board, NERC management, and the MRC. The group might be modeled, for example, on the Business Plan and Budget Input Group. Such a group might also be used to inform any Board decisions on the use of new Rule of Procedure 322 currently posted for stakeholder comment. The group would be informed by the work of the committees, but could focus on identifying priorities. Specific objectives for this group could include the development of an effective process and tool for establishing criteria to measure risk and risk mitigation tactics, as well as an overall accountability system for tracking and measuring performance (*i.e.*, meeting effort/initiative objectives) and process metrics for assessing effectiveness, in the spirit of continual improvement of the risk identification, prioritization, and mitigation processes. The SM-TDUs are interested in pursuing this collaborative concept with the Board, NERC management, and other stakeholders, to help make the ERO Enterprise more efficient and agile overall.

The SM-TDUs are mindful of the fact that, having expressed concern about the current number of NERC committees and working groups, we are proposing to create another one. We believe, however, that having a collaborative group dedicated to prioritizing NERC efforts would likely help alleviate some of the resource constraints currently faced by NERC and stakeholders.

More effective prioritization of ongoing NERC initiatives (whether accomplished through a new stakeholder group or otherwise) could, for example, allow for reduction of the current number of committees and working groups. Not all reliability risks require standards; industry best practices may be sufficient for many mature programs. Lower priority issues that are currently the focus of a committee, working group, or task force, might simply be monitored, allowing unneeded groups to be suspended or eliminated and freeing up staff and SMEs with the appropriate expertise to focus on priority issues.

As a more general point, the SM-TDUs emphasize the importance of collaboration and cooperation between NERC and stakeholders in seeking to prioritize and respond to the myriad BPS reliability challenges facing the industry. The SM-TDUs are very appreciative of efforts by the Board and NERC management to maintain open dialogue with the public power sector, and we look forward to opportunities for ongoing engagement. Ultimately, a strong focus on encouraging collaboration, trust, and a growing reliance on best practices that industry and NERC can embrace because it is in the best interests of all will help foster a culture of accountability focused on promoting the best reliability outcomes for the BPS.