

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

Mandatory Reliability Standards
for the Bulk-Power System

Docket No. RM06-16-000

COMMENTS OF THE CANADIAN ELECTRICITY ASSOCIATION

Pursuant to the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“FERC” or the “Commission”) and the Commission’s Notice in Docket No. RM06-16-000, the Canadian Electricity Association (“CEA”) respectfully submits these comments to the Notice of Proposed Rulemaking regarding Mandatory Reliability Standards for the Bulk-Power System (“NOPR”).¹

Background

On October 20, 2006, the Commission issued a NOPR with regard to the North American Electric Reliability Council’s (“NERC”) request to approve its proposed Reliability Standards. In the NOPR, FERC proposes to approve 83 of the 107 proposed Reliability Standards and to allow the remaining 24 Reliability Standards to remain pending at the Commission until further information is provided by NERC. The Commission chose not to remand to NERC any of the 107 proposed Reliability Standards.

¹ The Canadian Electricity Association is the national forum and voice of the evolving electricity business in Canada. At the heart of the Association is a core of corporate utility member companies accounting for the vast majority of Canada’s installed generating capacity and virtually all its transmission capacity. In addition, major electrical manufacturers and corporate consulting companies and several hundred other companies and individual members are grouped within CEA’s broad structure.

Comments

The U.S. legislation had been drafted to provide that the Commission can either approve a standard proposed by the Electric Reliability Organization (“ERO”) or can remand the standard back to the ERO. The Commission, however, cannot modify a standard. This approach to standard-setting and approval was developed, in part, to allow for the creation of an international ERO, where no governmental authority would be able to set standards that would necessarily apply to entities subject to the authority of another governmental body. Instead, only the organization that reflects the interests and concerns of both U.S. and Canadian entities would set the Reliability Standards.

The remand provision was intended to be used sparingly, depending instead on the ERO standard-setting process to develop standards that take into account the interests and concerns of Canadian and U.S. entities and that can effectively operate for both Canada and the United States. In fact, to the extent a remand is required, this would be a clear indication that the ERO standard-setting process has failed to effectively reflect the concerns of interests both north and south of the border.

While FERC is not proposing to remand any of the standards, FERC is proposing to direct NERC to modify a number of the standards after those standards go into effect. CEA is mindful that a number of the standards proposed to the Commission for approval represent a “work-in-progress” and, further, reflect the first time the Commission has reviewed the standards for approval. Nevertheless, CEA is concerned that the directives, while not remands, reflect an engagement in the standard-setting process that may interfere with the ERO’s ability to effectively function as an international body.

While it is important for a regulator to ensure that the Reliability Standards submitted for approval meet the criteria for approval, it is equally important that the Reliability Standards be developed in a manner that respects the jurisdictional sovereignty of the respective governmental authorities. CEA understands that the current NERC Reliability Standards submission is unique in that certain of the standards were not considered complete when first submitted to the Commission for approval. But CEA wishes to emphasize the importance of the ERO process in developing Reliability Standards that can be implemented in all relevant jurisdictions. The ERO can work effectively as an international organization only if the relevant governmental authorities respect the integrity of the standards-setting process.

General guidance from a governmental authority in addressing issues of concern regarding certain standards would be useful to the ERO in revisiting certain standards. However, specific and detailed directives from a governmental authority with respect to those same standards could limit the ERO's ability to effectively balance the interests and concerns of the North American utility industry and could limit the ERO's ability to craft a revised standard that would receive approval from the other governmental authorities. An effective international ERO requires that governmental authorities trust the ERO standard-setting process and respect the jurisdictional sovereignty of the other relevant governmental authorities.²

Conclusion

CEA requests that, in the future, the Commission exercise caution in the issuance of specific directives on how certain of the proposed Reliability Standards should be revised,

² An example of the problem a specific directive from FERC could have on the standard-setting process can be found in the FERC directive contained in paragraph 231 of the NOPR. In that paragraph, FERC directs NERC to "submit a modification to CIP-001-0 that ... (3) requires an applicable entity to contact appropriate federal authorities, such as the Department of Homeland Security, in the event of sabotage within a specified period of time." At this time, there would likely be sensitivities among relevant Canadian authorities with regard to such reporting requirements, and this should more appropriately be addressed through the NERC standard-setting process.

whether such standards are remanded or approved. Such specific directives could have the effect of limiting the ERO's ability to revise the standard in a manner that reflects the concerns of both Canadian and U.S. interests.

Respectfully submitted,

_____/s/_____
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