

Mr. David Cook, Vice President & General Counsel
North American Electric Reliability Council
116-390 Village Boulevard
Princeton, NJ 08540-5731

Subject: Draft ERO Application Comments

Dear David:

The Independent Electricity System Operation (“IESO”) for Ontario appreciates the opportunity to provide comments on the proposed draft ERO application (“Draft”). The IESO asks that NERC accept this submission in a manner of providing broad comments rather than restricting our remarks to specific sections as presumed in the provided NERC Comment Form.

The IESO is a member of the ISO/RTO Council (“IRC”) and is a signatory to the submission filed by the IRC in respect of Draft. The IESO also participated in and supports the positions contained in the submission filed by the Canadian Electricity Association (“CEA”). The IESO’s submission is intended to complement these submissions while focusing on Ontario-specific aspects.

General Comments

For many years the IESO has actively promoted the need for mandatory and enforceable reliability standards that would apply to all owners, users and operators of the North American interconnected bulk power system. The IESO fully supports the creation of an Electric Reliability Organization (“ERO”) through which such standards would be developed and also enforced. This mandatory enforcement concept is consistent with the IESO’s enforcement of NERC, NPCC and its own reliability standards. The IESO stands ready to work with NERC through the ERO application process.

In our efforts to support the ERO concept, the IESO has worked to develop and support the Bilateral Principles¹, and we have actively followed the industry activity surrounding the development of the ERO. In particular, the IESO has appeared before the Federal Energy Regulatory Commission (“FERC”) to discuss ERO certification, and we have submitted individual comments as well as being a signatory to the IRC’s and CEA’s submissions on the FERC ERO NOPR². Although we are encouraged by NERC’s NOPR comments regarding the

¹ August 3, 2005, Principles for an Electric Reliability Organization That Can Function on an International Basis (FPT Group, DOE and FERC)

² FERC Docket RM05-30-00

development of a “strong and effective North American ERO”³, we are troubled by the potential model the Draft suggests.

Although the Draft may satisfy FERC’s regulatory structure, more substantive content was expected reflecting differing reliability authorities and responsibilities within each province. Within Ontario, and likely other provinces, the regulatory process is much different than those imposed by FERC or required by the US Energy Policy Act 2005 (“EPAct”). The IESO urges NERC to revise its application to recognize these different regulatory requirements. We also expect NERC to provide simultaneous applications to the Ontario Energy Board (“OEB”) and FERC.

Compliance and Enforcement

During the December 13, 2005 meeting between the Ontario Ministry of Energy, the Ontario Energy Board, the IESO and NERC, NERC was advised that Ontario will recognize the ERO as a standards authority for Ontario. The Ontario parties stated, however, that our enforcement and compliance model in place today will not change upon recognition of the ERO. NERC was reminded that under Ontario’s model the IESO has successfully enforced reliability standards and market rules for nearly four years.

Ontario’s compliance and enforcement model automatically adopts NERC and Northeast Power Coordinating Council (“NPCC”) reliability standards as mandatory rules for all entities connected to the bulk power system in Ontario upon final approval by NERC or NPCC. The IESO’s arms-length Market Assessment and Compliance Division currently performs these reliability standard compliance and enforcement duties on entities within Ontario, including the IESO. The OEB acts as the final adjudicator for sanction appeals in Ontario. This model and the IESO’s relationship with the OEB and NPCC have functioned well in the past and Ontario will be operating in this manner in the future. The ERO compliance methodology and Regional Entity (“RE”) delegation agreement with NPCC needs to accommodate Ontario’s model.

Funding

While the IESO supports the primary approach of a NEL funding mechanism for the ERO and RE, the proposed NERC model creates some concern. Given Ontario’s decision to maintain its compliance and enforcement activities within the province, NERC’s proposed funding mechanism could see Ontario users paying for increased compliance costs associated with an external regulator’s requirements. Ontario participants are already paying for enforcement and compliance services through efficient IESO activities. Marginal increases may be acceptable as overall interconnection-wide reliability is improved, however, significant increase in costs to Ontario would not be appropriate.

³ NERC, October 7, 2005, Submission to FERC Docket RM05-30-00, Page 4

Organization Structure

NERC's proposed ERO organization structure appears to have shifted from a volunteer industry based participation model that has served NERC and the industry so well in the past. While recognizing some increases with staffing levels and associated costs are likely inevitable in the new organization, NERC seems to be advocating an expanded organization with involvement in areas beyond those mandated. It appears that NERC has proposed additional functionality including items such as situational awareness, additional information exchange and reporting, and organization certification. The IESO believes significant industry stakeholdering should be completed prior to NERC implementing any new or expanded functions.

Stakeholdering

NERC acknowledges that the Draft is incomplete; however the brief comment period permitted for the Draft and the potential lack of a comment process for the missing content is cause for concern. The stakeholdering process is critical and we look forward to supplying additional comments on a more comprehensive draft application.

Nonetheless, NERC was provided with valuable stakeholder input from the PLSC's Task Groups and specifically the Members Task Group. The IESO supports the Members Task Group's recommendation on Segment grouping, including a Canadian Segment. The Canadian Segment is vitally important to ensure the views of Canadian entities are heard. The IESO is also concerned with ISO/RTOs being included in the same Segment as Regional Entities. ISO/RTOs and REs may have different objectives and functions, thus separate representation on the Membership Committee is needed to ensure appropriate representation.

Respectfully Submitted,

/s/ Kim Warren

Kim Warren
Manager, Regulatory Affairs
Independent Electricity System Operator
655 Bay Street, Suite 410
P.O. Box 1
Toronto, Ontario, Canada
M5G 2K4

January 13, 2006

cc:

Karen Spolar (via email at karen.spolar@nerc.net)
North American Electric Reliability Council
116-390 Village Boulevard
Princeton, NJ
08540-5731