

**RESPONSE TO SENATOR BINGAMAN’S MARCH 13, 2002 “DEAR COLLEAGUE” LETTER
ON RELIABILITY LEGISLATION**

<i>Sen. Bingaman</i>	<i>Response</i>
1. S. 517 “gives FERC the responsibility and gives great flexibility to defer to expert organizations, regional entities and states to implement this obligation.”	FERC need not defer to anyone on anything. It is given sweeping new authority to pre-empt the judgments of existing state, regional and national organizations with respect to the ability of the transmission system to supply consumer demand. Fails to account for INTERNATIONAL nature of North American grid.
2. The NERC-Western Governors Association Amendment would create “a tangle of procedural red tape.”	The NERC-WGA amendment builds upon the existing system that has worked well to assure bulk power system reliability. Unlike, S. 517, it does not require the creation of a new FERC bureaucracy. Bulk power system reliability would continue to be managed outside FERC’s hearing rooms unless a problem arises that requires FERC intervention.
3. “The amendment would require FERC to create a reliability structure....”	No, FERC need only approve a reliability organization that meets the requirements specified. It is S. 517 that would require FERC to create a new reliability bureaucracy to take over a function [reliability of the grid] that FERC does not now perform.
4. The amendment “creates a complaint process that is so cumbersome that it could take months or years to finally reach a compliance order.”	Nothing in the amendment does this. FERC can entertain a complaint at any time, and move as quickly as it deems warranted.
5. “Only in one part of the country is there any likelihood that an interconnection-wide entity can be created – the West beyond the Rocky Mountains.”	In fact, an interconnection-wide entity exists now in Texas. Whether an Eastern interconnection-wide entity is created is up to the East. The physical reality is that actions taken on an interconnection-wide basis do not affect entities outside that interconnection, and therefore present less need for federal oversight. Actions taken by a region within an interconnection, by contrast, affect others in the interconnection outside the region. Thus, there may be a need for federal supervision to assure that reliability outside the region taking action is protected.

<p>6. “This structure is so complex as to render it unworkable. If someone is acting in a way that the national reliability experts think endangers the stability of the delivery system, those experts should not have to go through a cumbersome process to remedy the problem.”</p>	<p>This structure largely reflects the way reliability has been managed for the North American bulk power system. Legislation is needed to ensure that the reliability experts, who are NOT at FERC, can take the actions necessary to protect the grid, and make them stick. This will be less cumbersome than putting FERC in charge.</p>
<p>7. “It would be ironic for the industry to come to a consensus on how to deal with these important reliability issues just as the Congress passes a bill that requires a different structure.”</p>	<p>There is NO industry consensus on how to structure the relationship between reliability standards and the organization(s) that promulgate those standards; and business practice standards and the organization(s) that promulgate those standards. The bulk of industry agrees that there should continue to be a separate organization that focuses solely on reliability, and that this organization should coordinate closely with whatever organization devises business practice standards. Some, however, would sacrifice reliability for the sake of commercial advantage. Because FERC has ultimate oversight in the U.S. for the reliability organization and whatever business standards organization ultimately is approved, FERC can assure that the necessary coordination occurs between reliability and business practice standards.</p>