UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Mandatory Reliability Standards)	**Docket No. RM06-16-000**
For the Bulk-Power System)	

ADVICE OF THE WESTERN INTERCONNECTION REGIONAL ADVISORY BODY ON THE PROPOSED APPROVAL OF RELIABILITY STANDARDS

The Western Interconnection Regional Advisory Body (WIRAB) submits advice to the Federal Regulatory Energy Commission (Commission) on its Notice of Proposed Rulemaking (NOPR) issued on October 20, 2006, which proposes to approve 83 mandatory reliability standards.[1]

Section 215(j) of the Federal Power Act (FPA) authorizes WIRAB to provide the Commission advice on "whether a standard proposed to apply within the region is just, reasonable, not unduly discriminatory or preferential, and in the public interest."[2] The WIRAB advice was unanimously approved by the 14 representatives of the Governors and Premiers of Alberta, Arizona, British Columbia, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, South Dakota, Utah, Washington and Wyoming.

I. INTRODUCTION

The Commission proposes to approve 83 of the 107 mandatory Reliability Standards. The Commission would approve 22 Reliability Standards without further action, and approve the other 61 Reliability Standards in conjunction with proposed

[1] Mandatory Reliability Standards for the Bulk-Power System, 117 FERC ¶ 61,084, Docket No. RM06-16-000 (October 20, 2006).
[2] Section 215(j) of the Federal Power Act (FPA), 16 U.S.C. 824.

modifications over the next two to three years. The Commission proposes requesting additional information on 24 other proposed Reliability Standards before taking any further action. No proposed Reliability Standards would be remanded.

WIRAB applauds the diligent work of the North American Reliability Corporation (NERC) to develop and file 107 proposed Reliability Standards before the Commission in the docket referenced above. WIRAB acknowledges and commends the Commission for its efforts to review and implement a system of mandatory and enforceable reliability standards by June 2007, consistent with the statutory requirements of Section 215 of the FPA and the rules adopted in Order 672.[3]

On July 25, 2006, WIRAB filed advice on the FERC Staff Assessment of proposed Reliability Standards and recommended that the Commission should adopt a trial period or field test prior to imposing monetary sanctions for violations of Reliability Standards.[4] Other entities filing comments supported the trial period.[5] WIRAB believes that the experience of the Western Electricity Coordinating Council (WECC) with its Reliability Management System (RMS) demonstrates important benefits of using a trial period for implementing new reliability standards. The trial period is an important mechanism to clarify and improve the interpretation of standards by those being regulated and the regulators, and helps identify unanticipated problems with standards and compliance metrics. We believe that a trial period places the appropriate emphasis on promoting compliance in the face of foreseeable startup problems, ambiguities, and

[3] *Rules Concerning Certification of the Electric Reliability Organization: Procedures for the Establishment, Approval and Enforcement of Electric Reliability Standards,* Order No. 672, 71 FR 8662 (February 17, 2006), FERC Stats. & Regs. ¶ 31,204 (2006), *order on reh'g*, Order No. 672-A, 71 FR 19814 (April 18, 2006), FERC Stats. & Regs. ¶ 31,212 (2006). (Hereinafter *Order 672*)

[4] Advice of the Western Interconnection Advisory Body on Implementation of Mandatory Reliability Standards, Docket No. RM06-16-000, July 25, 2006.

[5] Western Electricity Coordinating Council, Alberta Department of Energy, American Public Power Association, The ISO/RTO Council.

inconsistent enforcement among Reliability Entities. This will be particularly important if the Commission insists on approving 61 proposed Reliability Standards that the Commission acknowledges has missing or ambiguous metrics or compliance information. Moreover, the trial period will reduce the prospects of an enforcement program that becomes overly burdened by undue litigation arising from the issuance of penalties on entities during this transition period.

WIRAB understands the Commission's goal to have enforceable Reliability Standards in place by June 2007. We are concerned, however, that the path proposed in the NOPR, to reject a trial period and approve standards without adequate metrics and compliance information, will create problems of enforcement in implementing the new mandatory Reliability Standards. We address the specific problems in more detail below.

II. CONCERNS ABOUT AN ENFORCEMENT QUAGMIRE

In Order 672, the Commission established a list of factors to serve as criteria for approving Reliability Standards. The list includes the following:

- The proposed Reliability Standard should be clear and unambiguous regarding what is required and who is required to comply. Users, owners and operators of the Bulk-Power System must know what they are required to do to maintain reliability.[6]

- The possible consequences, including range of possible penalties, for violating a proposed Reliability Standard should be clear and understandable by those who must comply.[7]

- There should be clear criterion or measure of whether an entity is in compliance with a proposed Reliability Standard. It should contain or be accompanied by an objective measure of compliance so that it can be enforced and so that enforcement can be applied in a consistent and non-preferential manner.[8]

[6] Order 672 at P. 325.
[7] *Id*. at P. 326.
[8] *Id*. at P. 327.

WIRAB endorses the criteria the Commission set out in Order 672 for mandatory and enforceable Reliability Standards. WIRAB understands that many of the currently proposed Reliability Standards do not meet these criteria. In the desire to implement Reliability Standards by June 2007, the Commission has apparently decided to approve Reliability Standards that fall short of these criteria and direct NERC to make improvements over the next two to three years.

WIRAB believes that mandatory Reliability Standards should include adequate metrics and compliance information. WIRAB disagrees with the Commission assertion that Reliability Standards can be consistently enforced based solely on "sufficiently clear and enforceable Requirements" specified in the proposed Reliability Standard.[9] For example, Reliability Standard PRC-001 Requirement 2.1 and 2.2 require that Generator Operators and Transmission Operators "shall take corrective action as soon as possible" in the event that a protective relay or equipment failure reduces system reliability. The Requirements, Measures or compliance information, however, do not provide guidance on the length of time that is permitted for corrective action.

We believe that Measures and Levels of Non-Compliance are essential elements of mandatory and enforceable Reliability Standards. The Measure component of a Reliability Standard provides a "clear criterion or measure of whether an entity is in compliance with a proposed Reliability Standard."[10] Additionally, the Measure provides an objective metric of compliance that helps ensure that Reliability Standards can be

[9] NOPR at 106.
[10] Order 672 at P. 325.

enforced and that "enforcement can be applied in a consistent and non-preferential manner."[11]

Reliability Standards should also be clear about the consequence of not complying with standards. The Level of Non-Compliance component serves to inform regulated and regulator entities about the "possible consequences, including range of possible penalties, for violating a proposed Reliability Standard" and should be clear and understandable by the entities that must comply.[12]

We are also concerned that a complex penalty structure that requires Regional Entities to consider multiple subjective mitigating and aggravating factors when assessing penalties for violations of Reliability Standards will compound the problems of missing and ambiguous Measures and Levels of Non-Compliance. A simple penalty structure would reduce enforcement ambiguities, increase uniformity among Regional Entities, as well as promote greater clarity for the regulated entities.

A trial period for implementing Reliability Standards would reduce enforcement problems. In the NOPR, however, the Commission rejected a formal trial period for two reasons.[13] First, the Commission "is increasingly concerned that a trial period that commences with the effective date of mandatory Reliability Standards may interfere with mandatory and enforceable Reliability Standards being in effect by next summer."[14] Second, the Commission notes that "the proposed Reliability Standards have already been in effect for a substantial period of time on a voluntary basis" and concludes a trial period is not necessary since most entities should be familiar with the proposed

[11] *Id*. at 327.
[12] *Id*. at P. 326.
[13] NOPR at P. 92.
[14] *Id.*

mandatory Reliability Standards.[15] For entities that have not been under voluntary Reliability Standards, the Commission proposes that the "ERO and Regional Entities use their enforcement discretion in imposing penalties on such entities" during an initial six month period."[16]

WIRAB disagrees with the Commission's assessment that a trial period is not necessary in making the transition from voluntary to mandatory standards. We believe the NERC standards have evolved with revisions that specify new measures and features that were not part of the original voluntary standards. For example in the NOPR, the Commission proposes expanding the scope of applicable entities in PER-002-0 from transmission operators and balancing authorities to generator operators, operations planning and operations support staff.[17] NERC is given the responsibility to develop the training for these new groups of personnel subject to the standard. There will be additional burdens imposed on entities to document, report and collect information pursuant to the new mandatory Reliability Standards.

Moreover in the Western Interconnection, the size and scope of the proposed NERC standards far exceeds the current WECC RMS standards. There are 18 RMS standards applicable to about 40 entities in the Western Interconnection. WECC's approach has been to develop its mandatory RMS standards based on the vital few requirements that address the greatest risks of potential cascading outages. The RMS standards include clear metrics and a simple penalty structure. In contrast, the NOPR proposes approving 83 Reliability Standards with more than 1000 requirements applicable to hundreds of entities across the Western Interconnection. In the long-term, it

[15] *Id.*
[16] *Id* at P. 93.
[17] NOPR at P. 772-773.

makes sense to make these requirements mandatory, but rushing to do so without allowing time for education and the development of systems that facilitate compliance is more likely to result in a regulatory quagmire than the reliability that the standards are supposed to ensure. Many of the NERC-proposed Reliability Standards omit or contain ambiguous metrics and compliance information. WECC will face a significant increase of duties and responsibilities in the transition to new mandatory Reliability Standards. We expect other Regional Entities will face a similar increase in enforcement duties.

Thus, we believe that the Commission invites inconsistent and ambiguous enforcement by Regional Entities without a trial period, adequate metrics and compliance information in Reliability Standards, and with the use of a complex penalty structure. We foresee that Regional Entities and the ERO may become burdened by a plethora of litigation over penalties imposed on entities during this transition period. We are concerned about a potential enforcement quagmire that diverts the attention and resources of WECC and NERC from the task of promoting compliance with the most important standards for maintaining the reliability of the Western Interconnection.

WIRAB notes an additional concern regarding the coordination of mandatory Reliability Standards approved in the United States with Canada and Mexico. We anticipate that some Canadian provinces or Mexican authorities may approve NERC-proposed Reliability Standards with changes or modifications that differ from the version approved by FERC. It would be appropriate for NERC to have a process that identifies the variances in standards for the respective jurisdictions. We believe it is important to incorporate minor variations across such jurisdictions in order to minimize the possibility of a governmental authority remanding a NERC standard. The goal of this process

should be to develop a consistent system of North-America wide mandatory reliability standards, but retain the flexibility for some jurisdictional variation when uniformity is not immediately possible.

Finally, WIRAB reiterates its earlier concerns about Western Reliability Centers.[18] The proposed Reliability Standards create 137 requirements that apply to these Reliability Centers. The Commission's October 24 decision to deny statutory funding for Western Reliability Centers will hamper WECC's ability to implement its strategic plan for Reliability Centers, and undermine the ability of Western Reliability Centers to comply with the applicable Reliability Standards.

III RECOMMENDATIONS

Based on the concerns discussed above, WIRAB offers the following advice to the Commission.

Recommendation 1. WIRAB agrees that the Commission should not remand any of the proposed 107 Reliability Standards.

Recommendation 2. WIRAB recommends that the 22 proposed mandatory Reliability Standards with adequate Measures and Levels of Non-Compliance be approved, provided that standards applicable to Reliability Coordinators[19] are implemented with statutory funding available to Western Reliability Centers discussed in Recommendation 4.

Recommendation 3. WIRAB recommends the Commission approve the 61 proposed mandatory Reliability Standards that the Commission identified as needing improvement, provided that the Commission grants Regional Entities broad discretion to

[18] Advice of the Western Interconnection Regional Advisory Body On Funding Western Reliability Coordinators, Docket No. RR06-3-000, November 24, 2006.
[19] INT-010-1 and TOP-007-0.

enforce these standards over a six-month to one-year transition period[20] and provided that standards applicable to Reliability Coordinators[21] are implemented with statutory funding available to Western Reliability Centers discussed in Recommendation 4. Regional Entities would have full discretion whether to levy penalties based on their expertise and best judgment given the type of violation and potential implications for system reliability.

Recommendation 4. WIRAB recommends the Commission approve standards in the Western Interconnection applicable to Reliability Coordinators[22] only if the Commission approves statutory funding for Western Reliability Centers under Section 215 of the Federal Power Act.

Recommendation 5. WIRAB recommends the Commission be prepared to expeditiously consider and approve forthcoming proposed Regional Reliability Standards from WECC that build upon the existing RMS standards and strengthen reliability in the Western Interconnection. These standards are clear and unambiguous, have measures of compliance and have been field tested. Several of these standards supplement and are more stringent than the standards proposed for approval in the NOPR. Other standards are critical for reliability in the Western Interconnection, but are not proposed for approval in the NOPR.

WIRAB respectfully asks the Commission to consider the five recommendations in its decision to implement proposed mandatory Reliability Standards in this proceeding.

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[20] During this transition period, WIRAB expects that NERC will develop, test and adopt robust metrics and compliance information and regulated entities will become familiar with compliance requirements.

[21] BAL-004-0, CIP-001-0, COM-001-0, COM-002-1, EOP-002-1, EOP-004-0, EOP-005-1, EOP-006-0, EOP-008-0, INT-004-1, IRO-001-0, IRO-002-0, IRO-003-1, IRO-004-1, IRO-005-1, IRO-006-3, PER-003-0, PER-004-0, TOP-001-0, TOP-003-0, TOP-005-1, TOP-006-0.

[22] Reliability Standards applicable to Reliability Coordinators include the following 24 standards: BAL-004-0, CIP-001-0, COM-001-0, COM-002-1, EOP-002-1, EOP-004-0, EOP-005-1, EOP-006-0, EOP-008-0, INT-004-1, INT-010-1, IRO-001-0, IRO-002-0, IRO-003-1, IRO-004-1, IRO-005-1, IRO-006-3, PER-003-0, PER-004-0, TOP-001-0, TOP-003-0, TOP-005-1, TOP-006-0, TOP-007-0.

Dated this 3rd day of January, 2007.

Respectfully submitted,

John Savage, Chairman
Western Interconnection Regional Advisory Body