August 18, 2004

Mr. Edward A. Schwerdt
Executive Director
Northeast Power Coordinating Council
1515 Broadway, 43rd Floor
New York, NY 10036-8901

RE: FUTURE ROLE OF THE REGIONAL RELIABILITY COUNCILS

Dear Mr. Schwerdt:

This letter is submitted on behalf of the ISO/RTO Council (IRC), in response to your request for stakeholder input on the review by the Regional Managers Committee of the future role of the Regional Reliability Councils (RRCs).

CONTEXT

The IRC supports the need for U.S. federal legislation to ensure that reliability standards are mandatory and enforceable throughout the U.S. However, given the uncertainty in whether or when the current draft legislation will be implemented, we believe it is appropriate for NERC and the RRCs to make the changes now that will align them to the extent possible with the respective requirements for the ERO and Regional Entities given in the draft legislation.

We suggest the following for inclusion as principles:

- RRC processes should be open, fair and balanced regarding interests of affected parties. In particular, a RRC's standard development processes should accommodate and encourage input from other regions whose reliability might potentially be impacted by a proposed (standalone) regional standard.
- The RRCs should be organizationally distinct from NERC, to maintain regional perspectives and represent needs of their collective members, but the RRC-NERC relationship should ensure accountability, quality and enforcement of reliability standards.
- RRCs' processes for developing and enforcing standards need not be uniform across all RRCs. Where a RRC's current process or approach is effective, there should not be a requirement to change it solely to provide uniformity.

FUNCTIONS AND SERVICES

The IRC is supportive generally of the current responsibilities and services of the RRCs. The present comments are intended to be selective, not comprehensive.

Development of Regionally-Specific Reliability Standards

We support the continued allowance for both standalone regional standards and regional differences within NERC standards.

We also believe it is appropriate to continue to require a standalone regional standard to be no less stringent than any corresponding NERC standard, including any applicable regional difference.[1]

We support, with qualification, the current provision for a regional standard to receive final approval through the region's own approval process; that is, not to require subsequent approval by NERC. The qualification we recommend adding is as follows:

- The region developing the regional standard must have a standard development process that explicitly accommodates input from all regions whose reliability would potentially be impacted by the proposed standard. Additionally, any potentially impacted region would have recourse to the NERC dispute resolution process.
- The region developing the regional standard must submit a statement to NERC attesting that the standard fully meets the NERC criteria for regional standards.[2]

Assessment of Reliability and Coordination of Planning

Currently the RRC in its annual reliability assessments and coordination of planning performs the important role of integrator, helping to ensure the overall integrity of a region's reliability, including inter-regional aspects.

With the implementation of the NERC Reliability Functional Model, authority for assessments of reliability and the development of reliability plans will be assigned to the new Planning Authorities, which in some areas will be the ISOs/RTOs. While the Functional Model does not specify integrated assessments and coordinated plans for the entire region, a RRC and its associated Planning Authorities may well decide to continue to have the RRC perform these services.

Compliance Monitoring and Enforcement

The IRC supports the RRCs having delegated authority from NERC for enforcement of compliance with NERC standards. Consistent with NERC being the single point of responsibility for reliability standards, such delegation should come directly from NERC, i.e. not be undertaken unilaterally by a RRC, or imposed by a regulatory authority.

GOVERNANCE

Regulatory Oversight

The IRC sees the RRCs as an integral part of the reliability framework, for example as enforcers of compliance with standards. It is important therefore that any regulatory oversight of NERC by appropriate authorities in the U.S., Canada and Mexico extends to include oversight of the appropriate RRCs.

One concept that should be considered is the development of a comprehensive Memorandum of Understanding (MOU) to be signed by NERC, the RRCs, and the appropriate oversight authorities in the U.S., Canada and Mexico.

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[1] A regional difference is an integral part of a NERC standard, and may be more or less stringent than the main part of the standard. See the NERC Reliability Standards Process Manual, version 2.1, March 11, 2003, pages 20-22, located at ftp://ftp.nerc.com/pub/sys/all_updl/oc/stp/BOT-Approved-Revisions-to-RPSM-Version-2.1.pdf.

[2] Ibid.

Funding

The final report of the U.S.-Canada Power System Outage Task Force recommends that the U.S. and Canadian authorities develop a regulator-approved mechanism for funding NERC and the RRCs, based on transmission rate surcharges administered and disbursed under regulatory supervision. Such a mechanism would ensure the independence of NERC and the RRCs from the parties they oversee. It was noted there should be little impact on electricity bills.

The IRC supports this recommendation and recommends that funding allocation be based on Net Energy for Load and be a part of the ISO/RTO Tariff or similar mechanisms for Regions without ISO/RTOs.

Budget approval is another area having potential for complexity, given that there are multiple authorities in the U.S., Canada and Mexico whose approval would be required. The IRC recommends that authorities provide input into the budget approval processes, but do not formally approve budgets. This recommendation raises issues with respect to RRC governance that will need to be addressed.

Mechanisms to Make Standards Mandatory and Enforceable

The absence of reliability legislation in the U.S. clearly complicates the objective of having mandatory and enforceable standards throughout the U.S. Provincial regulatory frameworks in Canada are either currently meeting this objective or judged capable of becoming so with relatively minor legislative or regulatory changes.

It is recognized that fully meeting the objective in the U.S. may in fact not be achievable in the absence of new legislation, especially for entities and jurisdictions beyond FERC's direct authority. The IRC recommends that all ISO/RTOs seek the inclusion of language in their Tariffs that mandates compliance to NERC reliability standards and Regional reliability standards that the Regions develop and enforce. For Regions without ISO/RTOs, Reliability Authorities, regulatory authorities, NERC and the RRCs should proceed actively and in a coordinated manner to meet the objective to the extent possible, rather than waiting for a failsafe solution.

A multi-pronged approach would seem appropriate. It might include:

- A requirement by FERC that (jurisdictional) transmission providers and network customers must comply with NERC and RRC standards as part of meeting the condition in their Order No. 888 *pro forma* Open Access Transmission Tariff (OATT) to follow "Good Utility Practice";[3]
- Removing any authority gaps in reliability frameworks in Canada and Mexico;
- Developing the MOU among NERC, the RRCs, and the regulatory authorities in the U.S., Canada and Mexico, regarding their respective roles in establishing non-compliance with standards, administering sanctions and hearing appeals;
- Increasing effort to get all relevant entities to enter voluntarily into contractual agreements respecting reliability (such as those used in WECC) or into the membership agreements used in other RRCs.

Membership and Participation

The IRC believes that membership in both NERC and the RRCs could be available to all entities that have a direct physical or commercial connection to the Bulk Electricity System (BES). However, the adoption of new membership requirements at NERC and the RRCs must be contingent on suitable resolution of governance and funding considerations. An entity that joins NERC must also be required to join the appropriate RRC.

[3] FERC specified this approach in its Policy Statement on Matters Related to Bulk Power System Reliability, issued April 19, 2004 [see http://www.ferc.gov/whats-new/comm-meet/041404/E-6.pdf].

Participation in the standard development activities of NERC and the RRCs should not require membership. The essential requirement is that all entities with a connection to the BES comply with NERC and RRC standards.

BOUNDARIES

Currently, ISOs/RTOs have a primary responsibility for maintaining reliability, and this will continue in the future. They will apply to become the "authority entities" of the NERC Reliability Functional Model, i.e. the Reliability Authorities, Balancing Authorities and Planning Authorities that will be central to maintaining reliability under the regional and redeveloped NERC standards. We recommend that an ISO/RTO be encompassed entirely within a single Region. More than one ISO/RTO, and/or other entities may belong to a single Region, but a Regional boundary would not cross an ISO/RTO. This principle should apply to all of the NERC "authority entities".

Sincerely,

[original signed by W.J. Museler]

William J. Museler

Chairman, IRC

NYISO President & CEO