



NORTH AMERICAN ELECTRIC RELIABILITY COUNCIL

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Talking Points of Rick Sergel, President and CEO North American Electric Reliability Council

From a Commission staff email:

Panel I: Standard Setting:

How do you now interface with NERC and how do you plan to interface with the ERO?; How you respond now to NERC and Regional Council actions and how you plan to respond to the ERO's actions as it establishes, implements, and enforces reliability standards?; The challenges you might face regarding any new process.

Good morning. I am Rick Sergel, President and CEO of NERC. We appreciate the opportunity to participate in this technical conference.

A very long time ago a professor in my MBA program implanted in my management DNA that "structure follows strategy". If we follow that good advice then decisions on how the electric reliability organization should be structured and how the ERO and other participants in the electricity industry should relate to each other must flow from the vision one has for the ERO.

This is NERC's vision for a strong ERO:

- The ERO will be an international center for excellence in reliability.
- The ERO will be open to participation by all with an interest in the reliability of the bulk power system in North America and will not be dominated by any particular segment of the industry.
- The ERO will develop robust, technically sound reliability standards.
- Those reliability standards will be applied consistently across North America, through effective, regionally based, compliance and enforcement programs.
- The ERO will support market solutions to reliability problems where that is possible, with the clear understanding that we won't have competition if we don't have a reliable electric system.

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- The ERO will drive to improve the performance and reliability of the bulk power system. It will do so not just by setting and enforcing standards but by monitoring, evaluating, and measuring the status of the power system. Only through measured improvement can you be assured that the ERO will live up to its promise to support a more reliable electric system.
- The ERO, working closely with the regions, will accomplish these tasks efficiently and effectively.

I believe this vision is completely consistent with and supported by the new reliability statute that the Congress has adopted and the Commission is now implementing.

With this vision for the ERO in mind, I'd like to discuss several important questions that are raised by the Commission's rulemaking and the numerous comments filed in response.

First, all proposed reliability standards must come to the Commission through the ERO. If the ERO is to assure a robust, technically sound set of reliability standards for the North American electric system, then the ERO must be in a position to bring its judgment to bear as standards are being proposed. If the ERO is to assure that standards are developed in a fair, open, balanced, and inclusive process, then the ERO must be able to assure itself that the process established to create standards were in fact followed. The ERO will have a fair, open, balanced, and inclusive standards process that has at its core the technical expertise of the industry's participants.

Having all proposed standards come to the Commission through the ERO does not mean that every standard must go through the same process. The statute accords a rebuttable presumption to a standard developed by an Interconnection-wide organization to be applied on an Interconnection-wide basis, and the ERO's procedural rules should take that into account. If an Interconnection-wide organization develops a standard in a fair, open, balanced, and inclusive process, then it makes no sense for the ERO to start the process all over again when the proposed standard reaches the ERO. But the presumption is rebuttable, which means the ERO must make a judgment. I submit that judgment should be made on a limited set of factors after a limited opportunity for interested persons to be heard. Was the process followed? Does the standard have adverse consequences outside the region? Does the standard so fail to provide for reliability that there is a likely and substantial threat to public health, safety, welfare, or national security? Does the standard impose a serious and substantial burden on competition not necessary for reliability?

Likewise, regional standards should come to the Commission through the ERO. The process for review should be structured to assure that the vision of robust technically sound standards developed in a fair, open, balanced, and inclusive way is assured for regional standards as well.

Second, the Commission has appropriately recognized the need for an assured source of funding for the ERO's activities in support of reliability. We believe that assured source of funding must be extended to the activities the regional entities undertake pursuant to delegated authority. We expect that the ERO will make a single filing with the Commission, as well as appropriate regulatory authorities in Canada, which includes both the ERO and the regional budgets. This raises the question of what is the appropriate level of ERO oversight of regional budgets.

Returning to the vision for the ERO, we must have consistent and effective compliance, audit, and enforcement programs in place across the continent. We will need to establish a process with

the regions to ensure that both ERO and regional budgets are fully adequate to do the job. That will require transparency and a level of consistency, both between the ERO and the regions and among the regions as well.

Third, the bulk electric system spans the international borders to the north and the south. The ERO must have that same reach. The Bilateral Electric Reliability Oversight Group has developed principles to guide the formation of the international ERO and coordination among the regulators. NERC has long had Canadian participation in its programs and has recently assured even stronger representation including assuring the opportunity for an adequate level of Canadian participation on the ERO's board and committees. We expect that to continue into the ERO. NERC has endorsed the bilateral principles and is developing the ERO to meet those principles. In order to have an effective international ERO, it is essential that the oversight and approval activities of the regulatory authorities on both sides of the border be coordinated. The need for coordination among regulators will arise in several different contexts: certification or other recognition of the ERO itself; annual approval of the ERO's budget and requested funding; review and approval of proposed reliability standards; assuring consistency in approaches to compliance and enforcement; and oversight of the ERO's activities. We strongly encourage the Commission to work with its counterparts in the Canadian provinces to develop mechanisms to accomplish that needed coordination.

I also want to highlight two of the recommendations we included in our comments for strengthening the ability of the ERO and the regional entities to meet the vision I have outlined and achieve the purposes of the reliability legislation.

- The regulations should make clear that all owners, operators, and users of the bulk power system must comply with (1) the Commission's regulations implementing the Act, (2) approved reliability standards, (3) procedural rules adopted by the ERO and regional entities, and (4) requests for data submitted by the ERO and regional entities issued in furtherance of the Act. There is no point to having disputes about whether the ERO or a regional entity has the authority to require particular procedures. And if the ERO is to live up to its promise of driving to improve the performance and reliability of the electric system, then it must be able to get the data it needs to do the analysis. The Final Rule should require users of the bulk power system to respond to such requests for data.
- The regulations should require all owners, operators, and users of the bulk power system to register with the ERO and appropriate regional entity. The Act and the regulations proposed in the NOPR charge the ERO and the regional entities with monitoring and enforcing approved reliability standards. The ERO and regional entities must have a mechanism to learn the identity of the owners, operators, and users of the bulk power system in order to ensure that all such entities are complying with the reliability standards. A registration requirement will also aid those who must comply with the reliability standards in gaining a clear understanding of their responsibilities under the standards. The Final Rule should, therefore, include a provision requiring owners, operators, and users of the bulk power system to register with the ERO and the appropriate regional entity.

Thank you again for the opportunity to participate.

From a Commission staff email:

Panel III: Review of Industry Standards

Panelists will provide their views on the following questions such as: What are the processes you use to develop standards?; What do you believe are your successes?; What are your challenges?; How do you improve upon standards that are found to be deficient?; What are the lessons learned from your process that would be useful for the Commission to utilize to assure high reliability in the electric power system?

Good afternoon. My name is Rick Sergel. I am President and CEO of NERC.

A cornerstone function of the ERO is the development of reliability standards for the North American bulk power system. Reliability begins with owners, operators, and users of the bulk power system adhering to standards that are technically sound, unambiguous, and measurable. The August 2003 northeast blackout underscores the importance of reliability standards and accountability for compliance with those standards to the economy, security, safety, health, and welfare of our North American society.

The existing NERC reliability standards process, which is accredited by the American National Standards Institute as being open, fair, balanced, and inclusive, provides the best possible approach to harnessing the technical expertise of the industry in the development of reliability standards; the experience thus far is that the process works because the industry is committed to strong standards that hold bulk power system owners, operators, and users accountable for their actions. The process is consensus-based, with the ballot body divided into nine segments representing all industry groups as well as customers and government officials. Consensus does not require unanimity, but does require a super-majority (two-thirds) coupled with a high quorum requirement (75 percent). This assures that a standard, once approved, has broad acceptance within the industry.

The existing NERC reliability standards (the so-called Version 0 standards plus a few others) provide a necessary and sufficient foundation from which to build a world-class set of reliability standards. The existing standards are effective in the near-term for holding entities accountable for reliable performance. They are the rules that we use today to plan and operate the system. The existing standards were developed using the same process that is called for in the legislation. Indeed, NERC's current standards process was specifically developed to meet the requirements of the legislation. Not approving any of the existing standards would send the wrong message and immediately reduce that accountability.

That is not to say that the existing standards are all they could be. NERC is now revising some of those standards, to sharpen them and add missing compliance elements. Equally important, NERC is developing new standards to address specific recommendations from the August 2003 blackout and to add standards on important subjects where standards don't exist now. NERC looks forward to working with the Commission to develop a roadmap for prioritizing the development of new standards and further improving the existing standards to meet the Commission's objectives. Obviously, if the Commission concludes that a proposed standard does not meet the statutory test for approval, we would not expect the Commission to approve it. But we also would urge the Commission to recognize that the current standards are the ones being used to operate the system. A standard could be targeted for improvement, even while the existing standard is in place. The question needs to be asked whether we would be better off with

no standard covering an aspect of operating the bulk power system while the proposed standard is remanded for revision, or whether a less than complete standard still would be beneficial.

Reliability standards, business practices, and commercial interests are inextricably linked. NERC observes its market interface principles to ensure reliability standards have the minimum necessary impacts on business practices and commerce and works closely with the North American Energy Standards Board to coordinate reliability standards and business practices. That relationship with NAESB has worked well, and we would expect it to continue as NERC transitions to the ERO.

Bottom line: We now have some 91 standards called Version 0 that the industry voted overwhelmingly to adopt last April. We do need to put some additional detail on some of them, but that should not prevent us from getting the ones we have recognized and in place as ERO standards.