

Briefing Note - Panel 4: Role of Regional Entities in the ERO

Background

Regional Reliability Councils (RRCs) are the original organizations formed to address electricity reliability for interconnected systems. The RRCs jointly established NERC as a continent-wide body for reliability, and currently constitute NERC's membership.

With the proposed establishment of the ERO and the expectation that NERC will become the ERO, the future relationship between the RRCs and the ERO needs to be established. The draft U.S. legislation contains some provisions addressing RRCs, but several issues remain open for interpretation.

U.S. Legislation

The draft U.S. legislation defines a "Regional Entity" and establishes FERC's authority over Regional Entities within the U.S. It also allows for standards or modifications to standards to be proposed by a Regional Entity to apply within its region.

The U.S. legislation also provides for the delegation of the ERO's authority for enforcement to a Regional Entity, where that promotes effective and efficient reliability administration. The ERO and FERC must rebuttably presume that a proposal for delegation to a regional entity organized on an interconnection-wide basis should be approved. The Regional Entity can also be delegated the authority to propose reliability standards to the ERO. FERC has the authority to modify the delegation or to assign the ERO's enforcement authority directly to a Regional Entity. The legislation also sets conditions for a Regional Entity before this delegation can take place, which include the makeup of its Board, and that it satisfies the same conditions as those for the ERO in terms of its ability to develop and enforce standards, independence and fair stakeholder representation, equitable allocation of fees, fair procedures for enforcement, provisions for public comment, and recognition in Canada and Mexico as appropriate.

The legislation provides for a FERC or ERO oversight role where a penalty is imposed by the Regional Entity for a violation of a standard. This raises the question of the corresponding oversight role of authorities in Canada and Mexico regarding Regional Entities.

NERC Report

The NERC Regional Managers Committee in their report *Examination of the Future Role of the RRCs and Assessment of Eastern Interconnection Regional Reliability* reviewed options for RRCs and recommend, as the basis for RRC operation and evolution, the following approach:

- Regional reliability entities and a continent-wide Electric Reliability Organization would be responsible for all reliability assurance functions and services consistent with U.S. legislation and coordinated with Provincial regulation.
- Regional entities would perform other such services as determined by State and Provincial regulators and members.

- There would be Federal/State/Provincial regulatory backstop.

This would be supplemented by a reevaluation of functions performed by the Regional Reliability Councils in light of the creation of ISO/RTOs to minimize duplication of efforts and clearly delineate responsibilities between RRCs and other organizations.

The study examined, but rejected, other approaches such as having only regional councils and abolishing NERC, and vice versa. It also rejected having a single RRC for the Eastern Interconnection and having ISOs/RTOs replace both NERC and the RRCs.

The recommended basic model is developed further by specifying the adoption of the approach of aligning the RRCs with the draft U.S. reliability legislation.

In particular, selections from the language of the draft legislation were associated with the following five recommended principles for defining the RRCs:

1. Open and Inclusive Membership
2. Fair and Balanced Governance
3. Independence
4. Compliance
5. Organization Boundaries

The recommended first steps in the implementation of the recommended approach are to be carried out by the individual RRCs as follows:

1. Each RRC should develop an assessment using the five fundamental principles and:
 - a. Identify gaps in its ability to meet the fundamental principles
 - b. Develop and implement recommendations to assure it meets the fundamental principles
2. After each RRC has determined that it meets or has developed a plan to meet each of the five fundamental principles, the RRC should develop an assessment of the necessary functions required to effectively carry out the responsibilities under the proposed U.S. legislation. After completion of the individual RRC assessments, the RRCs and NERC should work together to:
 - a. Establish a common understanding and definition of compliance and assurance functions across all of North America
 - b. Develop common approaches to compliance and enforcement administration across North America; a common “look and feel” with regional requirements highlighted
3. The RRCs should evaluate their existing boundaries to determine if there are other boundaries that could more effectively accomplish reliability management for the industry.

Questions - Panel 4: Role of Regional Entities in the ERO

- What should be the role of the regional entities in the ERO?
- What is the appropriate regulatory oversight of the regional entities?
 - Should the ERO have a role in approving or requiring assurance of regional entity protocols, rules or implementations of reliability standards? If so, what should that role be? What should be the role of FERC and the authorities in Canada and Mexico?
 - How should FERC and the authorities in Canada and Mexico oversee the regional entities with respect to the enforcement of reliability standards? Do FERC and/or authorities in Canada and Mexico have a role in: approving regional standards; reviewing sanctions or appeals of sanctions for violations of NERC standards determined by a regional entity under delegated authority; reviewing proposed regional entity Bylaw changes?
- How should regional entities be governed? In particular:
 - How should the Board of a regional entity be constituted to reflect the international nature of the grid (where the regional entity spans an international border)? For example, should there be designated Canadian/Mexican representation on the Board of a regional entity having Canadian/Mexican members?