

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Rules Concerning Certification of the Electric  
Reliability Organization; and Procedures for  
The Establishment, Approval, and  
Enforcement of Electric Reliability Standards

Docket No. RM05-30-000

TECHNICAL WORKSHOP  
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TESTIMONY OF MICHAEL G. MORRIS  
ON BEHALF OF  
THE EDISON ELECTRIC INSTITUTE

Good morning. I am Michael G. Morris, Chairman of the Edison Electric Institute, and Chairman, President and CEO of American Electric Power. I am appearing today on behalf of EEI. EEI appreciates the opportunity to address the Commission on implementation of the reliability provisions of the Energy Policy Act of 2005 (EPAct). We commend the Commission and the staff on convening this conference. We believe it is very important to discuss the technical and transition issues surrounding Electric Reliability Organization (ERO) implementation, especially those involving the interplay between the ERO and the Regional Entities. It is particularly important that the Commission is holding this conference at this time so that it can consider today's discussion before finalizing its reliability rule.

As we said in our October comments, EEI supports a strong ERO. Among other things, a strong ERO will provide a comprehensive international reliability program with full participation by all users, owners and operators. It will also provide certainty and consistency with regard to compliance enforcement. In addition to finalizing your ERO rule, in order to get a strong ERO in place as soon as practicable, we believe the

Commission needs to focus on three things: (1) certification of the ERO and putting enforceable ERO standards in place, (2) establishing the relationship between the ERO and the Regional Entities and putting regional standards in place, and (3) doing this pursuant to a transition plan that avoids any “gap” in reliability standards. I will focus my remarks primarily on the second and third points.

### Regional Entities And Regional Standards

Maintenance of reliability is both a national and regional matter. In the new ERO structure, many compliance enforcement activities will be carried out at the regional level. Likewise, many important regional reliability standards will be developed to address regional differences in operations, systems, resources, and the like. The EPAct reliability scheme must be balanced—we must have a strong ERO at the top, but at the same time we must make good use of the significant expertise, experience and capability residing at the regional level. In the end, the ERO must exercise close oversight of Regional Entities to ensure that proposed standards adequately maintain reliability and that regional enforcement programs are of the highest quality.

The ERO will harness regional expertise and resources through the delegation agreements – the agreements whereby the ERO will delegate compliance enforcement duties to the Regional Entities and ensure that responsibilities are clearly delineated. These delegation agreements will determine the essential elements of the ERO – Regional Entity relationship. They are also the mechanism for achieving consistency among regional compliance programs. EEI has strongly supported and facilitated the development of a pro forma Regional Delegation Agreement for two reasons. First, EEI believes that the key elements of all of the delegation agreements, to the greatest extent

possible, should be the same. Second, to the extent regional differences are necessary and appropriate, they should be negotiated by working from a common delegation agreement.

Under the leadership of Ed Schwerdt of the Northeast Power Coordinating Council, and with the participation of the other regional reliability councils and NERC, significant progress has been made on the pro forma delegation agreement. NERC, the regional councils, and stakeholders will continue to refine this document, which will be filed by NERC with its ERO certification application in mid-February.

In addition to undertaking delegated enforcement duties, the Regional Entities may propose standards to the ERO. As part of the effort to develop a pro forma delegation agreement, we have been focusing on this important function, and we have been grappling with definitional issues that likely will be discussed in this conference today. For example, what constitutes a “regional standard” or a “regional difference” that must be filed with the ERO for approval? What qualifies as “regional criteria” that may not need to be filed for approval? EEI believes that it is very important that the Commission, as well as the ERO and the Regional Entities, have a clear understanding of these definitional issues. Today’s conference should help all parties to move towards a meeting of the minds on these matters.

### The Transition

As the ERO transition process moves forward, EEI strongly recommends that the Commission support the formation of an industry forum within the ERO to focus on best practices and ‘lessons learned.’ As stated in our October comments, the Institute of Nuclear Power Operations (INPO) has established a solid track record of promoting

nuclear safety, reliability, and operational excellence, based on the critical feature of conducting candid peer-to-peer discussions of lessons learned on a confidential basis. Adopting the INPO model within the ERO is critical to owners and operators if they are to ultimately evolve to the mode of continuous performance improvement from bottom-line compliance with mandatory standards.

Reliability mechanisms must also be in place continuously during the period that the industry is transitioning to new reliability institutions. EEI strongly believes a workable transition plan is essential so that there is no “gap” in reliability in the event some standards need modification or improvement. EEI supports the Commission’s goal of putting in place a complete set of enforceable standards at the earliest practicable time. We encourage the Commission to move with all due speed, but at the same time, the Commission must ensure that there is never a gap in reliability standards.

In anticipation that NERC will file its “Version 0” reliability standards with the Commission for approval in February, we urge the Commission to approve as many of these standards as possible. We are encouraged by the Chairman’s statements earlier this month, that in the event a particular standard requires improvement, the Commission will consider granting “conditional” approval so that the standard can be enforced during the period the Commission or the ERO is considering revisions to strengthen it. Approaches such as this avoid “gaps” in reliability, both with respect to ERO standards and Regional Entity standards.

Finally, implementation of the ERO provisions of EPAct requires a great number of interrelated steps and activities. I would urge the Commission to carefully consider sequencing issues. For example, regional delegation agreements cannot be executed until

the ERO has been certified and all regional negotiations are completed, which in turn, depends upon how the Commission views the pro forma delegation agreement.

Likewise, regional standards and the processes the regions use to develop their standards will depend in part on Commission rulings on ERO standards and ERO standard-setting processes. EEI believes that NERC should submit a transition plan for Commission approval as part of its ERO application that addresses these sorts of sequencing issues.

The more effectively we handle these issues, the faster we will put in place the reliability enforcement structures that we have sought for so long, and which now has been enacted into law by Congress.