

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Reliability Technical Conference

Docket No. AD13-6-000

Prepared Statement of Kevin Burke

July 9, 2013

Good morning Mr. Chairman and Commissioners. I am Kevin Burke, CEO of Consolidated Edison and am here this morning representing the Edison Electric Institute and its member companies. As the CEO of the company responsible for keeping the lights on in a major metropolitan area, I am strongly aware of the importance of reliability to our customers and, therefore, the importance of the issues we are covering today. I am pleased to be here to continue the reliability discussions that we began in 2011.

At the 2011 technical conferences, I emphasized certain themes that should govern how NERC operates and these themes are just as important today. I stated while NERC is responsive and responsible, it would benefit from having clearer guidance on setting goals and priorities, and establishing reasonable expectations for its own work. I noted that I shared the Commission's view that we must identify the most cost-effective, expeditious way to address the risk of widespread cascading outages and uncontrolled system separation, and this is where NERC's focus should be. As I stated in 2011, NERC's prioritization process should ultimately result in NERC activities falling into four categories: high priority, low priority, do not implement, and terminate implementation. In focusing on electric reliability, however, we must balance the demands of maintaining bulk power system reliability with the need to provide distribution system reliability, which is where most system outages occur.

At the prior two conferences I stated that NERC should continue to focus on its core function of developing and enforcing standards and it deserves to be reiterated here. NERC has had some recent successes in this regard, such as the critical infrastructure protection (CIP) Version 5 standards, vegetation management standards and the bulk electric system rule.

NERC 2013 State of Reliability Report and Progress Made Since 2011

NERC has made progress in the past two years, including efforts to streamline compliance and enforcement, develop standards, and significant activities aimed at the technical assessment of reliability risk and performance of the bulk power system. Moreover, NERC's recently issued State of Reliability report highlights that the availability of the bulk power system is high, and an adequate level of reliability is being maintained, as is required by the Federal Power Act. In addition, the five-year assessment of the risk to the bulk power system reliability, based on the number of violations of NERC's standards, has trended lower. Also, to the extent that there were concerns, as shown by the severe reliability index, they were all storm-related.

The report also contains more information on relay misoperations and equipment failure, as recommended by the 2012 report. As the report notes, we need to continuously improve and refine our methods for assessing overall reliability. In the next report, NERC could seek to show more explicitly the link between violations of reliability standards and consequences for the bulk power system. The industry will continue to be vigilant as there are still issues that require significant work, such as cybersecurity and gas-electric coordination. The implementation of the Version 5 CIP standards will require a large-scale commitment of industry resources. Notwithstanding the significant work that remains, we should all welcome the good news regarding the overall reliability of the bulk power system.

NERC's prioritization of standards and their development has remained a top initiative since 2011. The Commission's June 26th Order approving process changes for standards development correctly notes that there is still more work to be done on improving standards development. Nevertheless, I am pleased to report that EEI believes that progress has been made in this area. In particular, I stated at the previous technical conferences that cybersecurity was appropriately identified as a top priority by NERC. NERC filed CIP Version 5 with the Commission in a timely manner on January 31, 2013, two months in advance of the Commission required date for submission. EEI (and its members) played a significant role in bringing the standard to a successful vote. We commend the Version 5 Standards Drafting-Team and stakeholders for their commitment, hard work, focused effort and energized debate, which resulted in a vote of overwhelming support. Version 5 is a good example of standards developed through a stakeholder process that are technically strong and include a more explicit consideration of cost effectiveness, especially in its proposed method for compliance implementation.

On this note of cost effectiveness, it is particularly important that the CIP Version 5 standards inclusion of a proposal that responsible entities should implement some of the substantive requirements in a manner that will "identify, assess, and correct." The standards drafting team included the "identify, assess and correct" language to incent registered entities to implement robust internal security control programs that will improve reliability. This proposal is important to further the goal that all involved in compliance, (registered entities, the regional entities, and NERC), focus their efforts on the issues most important to maintain system reliability. This focus cannot happen unless we also make sure that we are reducing the time and attention associated with the processing of low level deficiencies. Because of the breadth of the

Version 5 standards, both in terms of the assets covered and the controls required, it is essential that a compliance process be implemented that is commensurate with the anticipated reliability benefit.

Other regulatory authorities have evolved their auditing and compliance programs to reduce the compliance time and cost associated with low level violations similar to the “identify, assess and correct” process proposed for Version 5. For example, the enforcement of the 2002 Sarbanes-Oxley Act has changed significantly over the last ten years. At Con Edison, we initially reviewed nearly 2,000 accounting controls per year because regulation for high and low risk prioritization had not been adopted. In 2007 the Public Company Accounting Oversight Board approved a new auditing standard that was aimed at reducing high compliance costs by using a risk-based approach to assess internal controls and eliminating prescriptive requirements. We have since gained operational efficiency, reduced compliance costs and significantly reduced risk because we are permitted to focus on key matters that are more likely to result in a material weakness. We have achieved similar success with our environmental, health and safety programs. The Nuclear Regulatory Commission has also evolved its compliance activities over the years, allowing operators to find, fix, and record various operational or maintenance issues, enabling minor matters to be resolved without the use of more formal and costly enforcement processes. The Commission has expressed legitimate concerns regarding the implementation details for the “identify, assess and correct” proposal, but it should be approved subject to a compliance filing as to its implementation details, as proposed by EEI and NERC.

I note that while NERC’s find, fix and track program has had some success in reducing the administrative time and cost associated with processing potential violations, additional streamlining is required. We all want to reduce the possibility of cascading outages and

uncontrolled system separation. We must also continue, however, to reduce the time spent on processing trivial violations so that the focus will be where it belongs, on the most important violations and system events. NERC's 2013-16 strategic plan states that a key deliverable for NERC is to improve the compliance process to improve the efficiency and effectiveness of NERC and the regional entities such that reliability goals can be achieved while reducing unnecessary costs of compliance. Achieving this goal will require continuous and sustained effort. Your June 20, 2013 order on find, fix and track represents progress, but there is still more to do.

NERC, in conjunction with stakeholders, should continue to develop changes to the NERC compliance and enforcement program that, like the reason for the "identify, assess and correct" language, emphasizes the development of internal controls so that compliance and enforcement programs are proportionate to the risk. This approach is the foundation of NERC's Reliability Assurance Initiative. EEI is committed to working with NERC and other stakeholders in the development and implementation of this initiative. Joe Kelliher will address these critical issues in more detail in the next panel.

EEI appreciates the steps forward in the Commission's June 20th Order that proposes to retire 34 NERC requirements and 41 Commission directives. I would like to thank NERC and involved stakeholders for their hard work in developing the criteria and proposing an initial list of requirements for elimination.

Critical and Emerging Reliability Issues

The Commission has appropriately asked what the most important reliability issues are today and going forward for the next five to ten years. I have reviewed the Gerry Cauley priority list from 2011, and I still think it is a good list focused on a wide range of possible vulnerabilities. I note

that not all of these are issues that need to be resolved through reliability standards, and therefore do not belong with NERC. In addition, for some of these issues – right-of-way maintenance and cybersecurity – we are near completion of the NERC standards and we look forward to approval and implementation of CIP Version 5. Even with respect to cybersecurity, not all cyber issues necessarily belong with NERC. For example, the work on cybersecurity continues on the legislative front right now, especially with respect to information sharing. NERC’s 2013 Reliability report also highlights relay misoperations as an area of concern. We feel this issue is best handled through the North American Transmission Forum and its focus on best practices.

NERC’s Event Analysis Reports can also be of significant value to the industry in highlighting issues. These reports provide thorough analyses and findings allowing for consistent and enhanced understanding of issues that need to be investigated. For example, NERC’s Southwest Outage Report recommended that companies obtain information on the operations of neighbors, including transmission outages, generation outages and schedules, load forecasts, and scheduled interchanges. Con Edison, the New York Independent System Operator (NYISO) and others have taken information from this report and others and used it to improve inter-regional and utility communication. However, report issuance can be slow. The Southwest Outage Report was issued seven months after the incident. More timely and complete reporting would provide an even greater benefit to reliability.

As far as longer term issues are concerned, the changing resource mix is something that we all need to be concerned about, including increased reliance on demand response and intermittent renewable resources. Gas-electric coordination should also remain a focus area. I don’t believe that these are issues that require NERC standards, but they are important reliability issues that we must continue to monitor. Con Edison has been working on gas-electric

coordination for a long time and has required generators to be dual-fuel capable to help ensure reliability. Dual fuel capability can be a relatively low cost reliability solution for gas fired generators in the event of gas disruption, as compared to building gas transmission redundancy. The increasing penetration of demand response also requires attention as we rely upon it more. For example, Con Edison asked the NYISO to assess whether it is measuring demand response accurately. Accurate measurement is critical to help us determine whether New York's reliability studies properly account for the demand response contribution to reliability. The more demand response is relied upon as a resource, the more important it becomes to ensure accurate measurement of DR resources.

Intermittency of renewable resources will also continue to be an area that requires attention. In New York, for example, wind generation has increased from 48 MW of installed capacity in 2003 to 1,634 MW in 2013. The variability of this wind resource was amply demonstrated during the July 17-18, 2012 heat wave in New York State. Wind generation was approximately 800-900 MW on July 17th and dropped to less than 200 MW on July 18th. We must accordingly continue to play close attention to this issue.

North American Transmission Forum (NATF)

I am pleased to report that the NATF continues to make strong progress. For example, it has already played an important role in developing best practices for implementing reliability standards and conducting intensive peer review processes to assist companies in improving performance. Examples here include protecting critical infrastructure and preventing relay misoperation, which was a focus of the NERC 2013 State of Reliability report. It has also established a human performance practices group focused on identifying actionable approaches to help reduce error rates and consequence. More than 2,600 subject matter experts participate in

its groups and programs. These initiatives focus on developing best practices to maintain bulk power system reliability. EEI believes that NATF should lead in this area while NERC keeps its focus on developing and enforcing standards in a prioritized and efficient manner.

Thank you again for the opportunity to participate in this conference today and I look forward to our discussion.