

FERC Reliability Technical Conference -- Panel II Continuing Evolution of NERC Enforcement and Compliance Activities

Remarks of Mark Rossi

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July 9, 2013

Chairman Wellinghoff, Commissioners, Staff, and fellow panelists. My name is Mark Rossi and I am a Senior Vice President and the Chief Operating Officer at NERC. I want to thank the Commission for holding this conference today to discuss the key trends and initiatives regarding the reliability of our nation's grid.

As part of NERC's compliance monitoring and enforcement program, we assess the trends in compliance with the reliability standards and there are several themes emerging. Perhaps the most encouraging is the trend in our Key Compliance Monitoring Index.¹ The trend over the last eighteen months shows industry has demonstrated strong performance in meeting the standards with high violation risk factors indicating an overall reduced risk to reliability. Clearly, industry has taken positive steps and these have contributed to some of the reliability improvements discussed on the previous panel.

On a broader basis, non-CIP violations appear to have leveled off, remaining roughly flat from 2010 to 2012.² While the number of incoming CIP violations increased from 2010 through 2011, we are seeing a slight decreasing trend in 2012. Monitoring violation trends will continue, and we will pay particular attention to the version transitions of the CIP Reliability Standards, as well as the associated implementation plans and audit cycles. NERC is working on various fronts to address the increase in CIP violations.

The most significant effort at this time relates to transition to the CIP Version 5 Reliability Standards. As noted in our recently filed in our NOPR comments, NERC is planning to conduct pilot programs with selected entities to identify issues and solutions associated with the transition that can be shared with other stakeholders and to prevent unnecessary compliance burdens as industry transitions to the new standards should they be approved.

Two other relevant compliance and enforcement trends include the continued high level of self-identified violations by industry and the use of the Find, Fix, Track and Report (FFT) program. Historically, self-identified violations represent 70% or more of the ERO enterprise caseload. Similarly, approximately 40%

¹ http://www.nerc.com/pa/RAPA/PA/Performance%20Analysis%20DL/2013_SOR_May%2015.pdf

² See <http://www.nerc.com/pa/comp/Pages/Compliance-Violation-Statistics.aspx>

of all violations are processed through the FFT program throughout the ERO enterprise. Taken together, these two trends tell us that industry has established a strong record of tracking its performance and that a high percentage of the violations found can be attributed to low risk areas.

Looking ahead, the Reliability Assurance Initiative (RAI) program is our strategic initiative to transform the current compliance and enforcement program to one that is forward-looking, focuses on high reliability risk areas and reduces the administrative burden on registered entities. The RAI program has three main goals:

- Building on the success of FFT, develop enforcement incentives to distinguish between poor performance that must to be discouraged and positive behaviors that contribute to higher accountability and improved performance.
- Design a compliance program that recognizes an entity's risk to reliability along with its management controls and corrective action programs used to meet the reliability standards.
- Reduce the administrative burdens of the compliance and enforcement program on industry while gaining efficiencies.

There are significant benefits to be gained through the RAI program. First, and perhaps most importantly, it better aligns to a culture of reliability. It appropriately gives credit to entities that demonstrate strong management practices and a culture of complying with the reliability standards. Similarly, it focuses the emphasis of compliance monitoring on areas that pose the greatest risk to reliability enabling an entity to improve weaker areas. And by improving the incentives of the formal enforcement process, we will provide better signals to industry on expected performance related to the desired level of risk, while eliminating the administrative burdens associated with processing lower risk issues. This results in a more effective program addressing risks to reliability consistent with internal control approaches used in other areas of the corporation.

These enhancements to our compliance and enforcement strategy will not lead to easier or softer compliance. They are intended to align resources to addressing the most important reliability concerns while reducing administrative burdens.

The RAI work has been organized into a series of phases that develop features incrementally. The priorities for the remainder of 2013 include:

- Identify and implement process improvements for self-reports and FFT enhancements, to continue to align NERC and the Regional Entity enforcement processing activities with the level of risk a particular issue poses to the reliability of the bulk power system (BPS);

- develop a common ERO auditor handbook to guide compliance auditors and to implement consistent compliance audit practices across the ERO footprint; and
- initiate prototype and pilot programs to develop our approach to assess an entity's relevant management practices for reliability.

As the Commission recognized in its June 20, 2013 order accepting NERC's FFT compliance filing, *"the FFT program is improving the ability of NERC and its Regional Entities to more efficiently process lesser-risk possible violations, enabling them to reduce the backlog of pending enforcement cases and focus on issues of greater importance to Bulk-Power System reliability."* NERC submits that this will continue to be the case, and the impact of the FFT program will be even more significant upon implementation of the additional enhancements to the program that were approved in the same order.

FFT has enabled NERC and Regional Entities to expand their experience with identifying minimal (and, by exclusion, moderate and serious or substantial) risk issues. In addition, FFT has allowed NERC, Regional Entities and registered entities to acquire experience with addressing these issues through a significantly reduced record along with simplified processes and documentation requirements. As noted earlier, approximately 40% of violations have been processed through the FFT program since the beginning of the program in September 2011.

FFT was the first step in implementing the notion that not all instances of noncompliance require the same type of enforcement process. With FFT, a noncompliance is formally identified as a Possible Violation pursuant to the NERC rules. If an issue qualifies for FFT treatment based on the assessment of the risk, once the issue is found and fixed, the subsequent process steps that would involve the allegation and confirmation of the violation are halted. To date, the issue has been disposed of through an informational filing with FERC, and these will be publicly posted on NERC's web site going forward.

The natural evolution of the FFT process is to get to the point where an instance of noncompliance that presents a lower risk to reliability is not required to be formally identified as a Possible Violation and, therefore, trigger an enforcement action. Rather, NERC and the Regional Entity would have the discretion to address the issue within the compliance space. In this sense, FFT is the platform for moving NERC and the Regional Entity into a process in which an instance of noncompliance that poses a minimal (and in the future, moderate) risk to the reliability may be recorded and excluded from the enforcement process. Three specific projects under the RAI program are focused on developing the processes and tools to support such evolution, while ensuring that visibility and accountability are maintained.

Another significant area of focus for the RAI program is the evaluation of a company's management practices or internal controls. The inclusion of internal controls into compliance monitoring is a paradigm shift from backward-looking monitoring to forward-looking monitoring. This approach is forward-looking

because it enables an entity to focus its resources on how it runs its business to achieve its reliability objectives and to address the specific risks to reliability. A registered entity's internal controls will be tailored to its business operations and may differ depending on several factors including the entity's size, the registered functions it performs, where it is located, the unique types of facilities and configurations operated as well as how it is connected to its neighbors. Hence, we must be able to tailor our compliance approach to accommodate these differences as opposed to a "one size fits all" approach.

Under the RAI program, NERC and the Regional Entities are developing our processes by conducting a small number of pilot programs. These pilots are excellent laboratories by which the newly developed internal controls and risk assessment methods can be tested as well as modified based upon results from the field, firsthand experiences and lessons learned. It also provides a valuable learning opportunity for NERC, the regions and industry to better understand how this new process will work. The learnings from these pilots will be one of the major inputs we use to guide the changes necessary to achieve the program goals and deliver the benefits of this improved approach to compliance monitoring.

In conclusion, NERC is charting a path forward to transform its compliance and enforcement program so that it will allow us to better focus on risks to reliability, while reducing overall industry burden to manage risks to reliability. The current trends indicate that industry is performing well in meeting the high risk reliability standards and it has established a strong record of self-reporting. The FFT program also demonstrates that a high percentage of the violations found can be attributed to low risk areas. The changes proposed under the RAI program will build on these positive trends and have the potential to deliver significant benefits by better aligning our collective resources to focus on the important reliability concerns and by eliminating unnecessary and costly administrative burdens of the current processes.

I wish to thank the Commission for their invitation and attention. I look forward to our discussions.