



# REMG

## REGIONAL ENTITY MANAGEMENT GROUP

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Panel 3: ERO Initiatives

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The Regional Entity Management Group (REMG) appreciates the opportunity to participate in today's conference to discuss policy issues related to the reliability of the Bulk-Power System. My name is Scott Henry, and I have the honor of serving as the current chair of the REMG, in addition to serving as President and CEO of SERC Reliability Corporation. Individually, and as a group, the Regional Executives are dedicated to working with the Commission, the ERO, and the Stakeholders to ensure a reliable electric grid.

My objective, as a member of this panel, is to provide the Regional perspective on three ERO Initiatives—risk-based registration, including “tiering” of facilities, implementation of the revised BES definition, and the Reliability Assurance Initiative.<sup>1</sup> The first two topics address the threshold questions of “who and what” will be subject to the Commission's reliability jurisdiction. Currently, with Commission directives in mind, the Regions are working closely with NERC to calibrate the coverage of reliability standards to take into account more precisely the risk that both registered entities and facilities pose to grid reliability. The last topic is a

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<sup>1</sup> These remarks do not address prioritizing or differentiating facilities based on how critical they are to the reliable and secure operation of the Bulk Power System as related issues are presently being addressed in the implementation of the CIPv5 standards with respect to low, medium, and high impact facilities. Needless to say, any criteria adopted by the Commission there should inform comparable analyses with respect to their applicability to other standards.



comprehensive endeavor of the ERO, Regional Entities, and Registered Entities to address “how” the Regions in particular can effectively enforce the reliability standards outside a “zero-tolerance” approach in light of the risk that certain violations create for grid reliability. In their own way, all three topics touch upon the breadth and width of the Commission’s jurisdiction, and each initiative in turn aims to adjust the coverage of the standards so they neither over nor under-reach for the purposes of reliability.

#### **A. Risk-Based Registration Initiative**

Truly, one of the success stories of the establishment of the Federal reliability program has been the relatively seamless and generally uncontentious process of registering over 1,900 users, owners, and operators of the Bulk Power System and over 4,700 functions. This reflects the concerted efforts of NERC and the Regional Entities, and the cooperation and support of the Registered Entities themselves. Nevertheless, after eight years of experience with the registration process, the Regional Entities agree with NERC that the criteria for determining an entity’s status and functions should be reevaluated, in particular as those criteria take risk into account. To that end, NERC should initially target the Distribution Provider, Purchasing Selling Entity, and Load Serving Entity functions, where more risk-informed criteria could result in a more practical application of the standards to smaller entities and changes to the compliance registry that appropriately address risk. In addition, threshold criteria must consider risk based on past performance and potential harm in the future. For example, violation history associated with vegetation management indicates past risk and must still be considered, even though improved practices by Registered Entities have reduced the number of related violations.



While the Regional Entities support reexamining the registration criteria, we also urge that this effort be conducted holistically to avoid unnecessarily complicating the process and possibly causing more harm than good. In other words, this reexamination must include consideration of the aggregate effects of revising the criteria to ensure that the registration process does not unintentionally overlook specific risks that impact reliability. Some of the revisions that have been offered for consideration—such as removing subsets of Registered Entities or functions, reclassifying Transmission Owners as Distribution Providers, and developing multiple thresholds for other functions—if not analyzed as a whole could have the unwanted effect of replacing a “one-size fits all” approach with a “two or three sizes fits all” approach. This would make the registration process much more complex and possibly threaten to unwind the currently stable structure of registered entities and functions. The applicability to appropriate entities may be best addressed through revisions to the applicability of specific standards, rather than through changes to registration criteria.

In addition, the other initiatives for discussion on this panel are affected by the issues being addressed through changes to the registration criteria. For example, while the registration criteria and the BES definition have different applications (to entities and facilities, respectively), the new BES definition and exception process may resolve the issue of small entities whose facilities are not necessary for the reliable operation of the BES. More to the point, the BES definition proceeding and the RAI effort are both expected to be implemented later this year; given that the final impact of these initiatives is yet unknown, a complete redesign of the registration process now could be premature and possibly counterproductive.



For all these reasons, the Regional Entities have recommended that NERC proceed at this time with a consideration of the changes that represent the lowest risk in the ROP Compliance Registry Criteria, especially with respect to the DP, PSE, and LSE functions. For our part, the Regional Entities will work with NERC and the industry within the Risk Based Registration initiative process, while focusing on enhancing consistent implementation of the existing registration criteria and working through the BES proceeding and RAI efforts, to which I will now turn.

## **B. BES Definition**

Two years ago, after the issuance of Order No. 773, the Regional Entities committed to place a high priority on consistent implementation of the BES definition and the associated exception process where facilities that are not necessary for the reliable operation of the interconnected transmission network may be excluded from the BES definition. We believe that significant progress has been made in this area. Working with NERC, the Regional Entities have developed a single set of business processes that will be used to guide the Regional Entities in addressing requests for BES exceptions. We have also helped to develop an ERO-wide IT tool to support the common ERO-wide business processes. The main outstanding issue, of course, is the extent to which the Registered Entities will use the exception process—an issue that will become clearer in a few weeks after the July 1 effective date of the revised BES definition and the implementation of that process. If the exception process is used more than existing plans will accommodate, the Regional Entities have adequate methods to address any unbudgeted needs.



### **C. Reliability Assurance Initiative**

The RAI is a multi-faceted effort by the ERO, the Regional Entities, and the Registered Entities to—as described by the Commission in Order No. 791—“transform the current compliance and enforcement program into one that focuses on high reliability risk areas and reduces the administrative burden on registered entities.” In brief, there are two objectives of RAI. First, RAI revisits the original 2007 compliance and enforcement paradigm that had zero tolerance for violations by requiring that all matters, no matter the risk, became enforcement matters. While the Regional Entities could exercise discretion in determining an appropriate remedy, there were no alternatives to enforcement to resolve lower risk matters. This approach led to misallocation of resources, and while expedited enforcement mechanisms has helped in streamlining administration, the costs and due process associated with all violations processed as enforcement proceedings has led to a focus on compliance that ultimately undermined or at least seriously detracted from the very purpose behind the program, namely, a reliable grid, by not adequately considering the risk that certain violations and even certain registered entities posed to reliability. While NERC and the Regional Entities developed several ways to streamline the processing of violations, even taking risk into consideration, until RAI was initiated in 2012, none of the efforts comprehensively spoke to this issue. NERC and the Regional Entities are now piloting alternatives to enforcement for lower risk matters which are permitted under the current rules.

The second objective of RAI is to make compliance monitoring of Registered Entities more effective by considering risk in the scope of our work under the CMEP. Not all standards carry the same impact to reliability. There are varying factors to be considered such as size,



type and location of facilities, breadth and depth of management practices and controls around key reliability functions. As we have matured since 2007, our approach to compliance monitoring has matured. Today, our annual implementation plan explicitly allows Regional Entities to consider risk factors in the scope of audits. Several Regional Entities, along with NERC, have been piloting different techniques in developing compliance monitoring scope around risk and using the current CMEP tools in different ways. This is a step in the right direction. However, more work needs to be done to ensure consistent practices across the Regional Entities. Specifically, at this time, NERC and the Regional Entities are working together to integrate the results of the pilots using a team made of representatives from NERC and the Regional Entities, working with an external consultant. There are two deliverables in the short term – first, development of procedures to be used to assess risk in the scoping of compliance oversight, including audits and second, development of procedures to evaluate management practices embodied in internal controls around reliability standards. Development of common procedures, along with the necessary training, should provide a platform for consistency. NERC and the Regions expect to have both of these deliverables completed by the end of the summer.

The RAI is thus intended to transform the current compliance and enforcement program into one that is forward-looking, focuses on high reliability risk areas, facilitates compliance for registered entities, and creates alternative paths outside of enforcement to resolve minor matters. For this purpose, starting in March 2013, several Regional Entities and Registered Entities became engaged in pilot programs as the initial steps towards full RAI implementation. In this regard, the Regional Entities appreciate that the Commission previously has recognized



the value of pilot projects, pointing out that “[n]o matter how good the data suggesting that a regulatory change should be made, there is no substitute for reviewing the actual results of a regulatory action.”<sup>2</sup> With this in mind, each pilot project has endeavored to further define the risk-based approach and develop effective tools, training, procedures, and policies to allow NERC and the Regional Entities to deploy these concepts in a consistent manner across all Regions.

The biggest obstacle to any change is in managing expectations, and this is no exception. RAI contemplates that compliance monitoring will continue to be conducted, although the scope of audits and other compliance monitoring activities will be more focused on areas of identified risk. In essence, the Regional Entities will expend most of their compliance monitoring resources on the greatest risks in their Regions. Meanwhile, we will encourage registered entities to refocus their resources away from “check the box” compliance to effective risk management and governance in their organizations.

The Regional Entities recognize that RAI represents a sea change in compliance and enforcement of the mandatory reliability standards. For this reason, we have approached the effort methodically and carefully, keeping in regular communication to learn from each other’s experiences and to promote consistency in the operation of their pilots. We are working together with NERC to integrate all pilots into a uniform national program. In addition, NERC and the Regional Entities are systematically working to integrate the main components of RAI (Risk Identification, Inherent Risk Assessment, Internal Control Evaluation, and CMEP Tool

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<sup>2</sup> Order No. 637, FERC Stats. & Regs. ¶ 31,091 (2000), at p. 31,279. The U.S. Court of Appeals for the D.C. Circuit agrees: “For at least 30 years this court has given special deference to agency development of such experiments, precisely because of the advantages of data developed in the real world.” *Interstate Natural Gas Association of America v. Federal Energy Regulatory Commission*, 285 F.3d 18, 24 (D.C. Cir. 2001).



selection) into a program that all Regions can consistently and effectively implement. Of course, the Regional Entities recognize that RAI implementation will be challenging, for example, training and tools are needed to ensure consistency and transition plans will need to be developed in conjunction with the industry. Nevertheless, we firmly believe that the nation's electric grid will be more reliable and secure as a result, and plan to devote the necessary effort and resources to make it a continental reality.

Thank you. This concludes my remarks.