

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

**Reliability Monitoring, Enforcement
and Compliance Issues**

Docket No. AD14-9-000

**Prepared Remarks of Steven T. Naumann
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My name is Steven Naumann. I am Vice President, Transmission and NERC Policy for Exelon Corporation. I appreciate the invitation to participate in this conference and the opportunity to discuss several of the ongoing ERO initiatives. Exelon has participated in ERO activities for years, including at senior levels. I presently serve on the Members Representative Committee and previously served as Chair. Sue Ivey, one of Exelon's transmission executives, serves on the RF Board and previously served as Chair. She also served as Chair of the Physical Security Standard Drafting Team. Jennifer Sterling and Dave Weaver, both directors in our transmission organization, serve on the Standards and Planning Committees, respectively, with Mr. Weaver serving as Vice Chairman of the Planning Committee. Many other Exelon employees participate on standards drafting teams. Because of the multitude of reliability issues, we participate directly as well as through EEI and EPSA, and are active in the North American Transmission and Generator forums. We believe reliability is important and have programs and processes in place which incent employees to self-report suspected violations. Long before the ERO initiated a standard on system protection failures, Exelon companies conducted root cause analyses of system protection failures and cascaded lessons learned across our operating companies.

Over the past seven years we have found that the ERO compliance and enforcement process has focused on processing, reporting and filing all violations. Progress has been made using spreadsheet filings and find, fix and track but progress has been slow and the time and effort placed on the Registered Entities continues to be significant. Each change by the ERO takes time to achieve a degree of uniformity by the regions.

In my view, while many of the initiatives are important to the future activities of NERC and the Regional Entities, the most important is the Reliability Assurance Initiative (RAI). At previous Commission technical conferences on reliability, the statement has been made that priorities must be set. If everything is a priority, nothing is a priority. While all of the initiatives have merit, NERC must prioritize the implementation of these initiatives. NERC must also include change management as essential to the success of any of these initiatives.

The conference agenda lists four ERO programs for discussion on this panel: risk-based registration, ERO initiatives based on risk, implementation of the revised BES definition, and RAI. To this list, I would add three initiatives or programs related to the security of the grid that will demand substantial commitment of time and resources by NERC, the Regional Entities and Registered Entities and which must be considered in the prioritization – implementation of the CIP Version 5 standards, the continued strengthening of the ES-ISAC, and the implementation of the proposed Physical Security Standard. I will focus my remarks on the implementation of RAI, particularly in conjunction with the implementation of the CIP version standards, and the activities of the ES-ISAC.

Exelon supports the broad NERC strategic initiative to manage its programs based on risk to the reliability of the Bulk Power System (“BPS”). In addition, Exelon, in participation with EEI, has strongly asserted that NERC focus its resources on its core programs and activities to ensure the successful and efficient management of those resources. The establishment of the Reliability Issues Steering Committee (RISC) provides essential input to the Standards Committee and NERC, including the Board of Trustees, to set priorities based on risk to the reliability of the BPS. NERC should continue to integrate the recommendations of RISC into its decision-making. In addition, experience has shown that not every risk to the reliability of the BPS is best-addressed by a standard. Asset owners, working through the Generator and Transmission Forums, are better able to develop responses to many reliability issues than through the NERC processes.¹ NERC and the forums should increase this collaboration.

As part of Exelon’s support for a risk-based approach, Exelon, in conjunction with EEI, has for several years asked NERC to overhaul the compliance and enforcement program in recognition of the fact that the overwhelming number of enforcement actions are immaterial to reliability, drive unnecessary administrative cost burdens, serve as a significant distraction for company personnel who have important responsibilities for planning and operations, and provide very weak incentives to maintain strong performance levels. Moreover, because of concerns with auditors’ in-field interpretations of what after-the-fact is viewed as ‘ambiguous’ wording in standards, and

¹ A good example where the forums performing analysis is more appropriate can be seen in the analysis of performance of certain 345kV circuit breakers. See NATF Report for the NERC Board of Trustees (BOT) – May 2014, Item 15.c at pp. 2-3, located at http://www.nerc.com/gov/bot/Agenda%20highlights%20and%20Mintues%202013/board_agenda_package_May_2014.pdf.

hypertechnical applications, such as viewing the word ‘a’ to mean evidence must be in a single document, Registered Entities have been forced to be concerned about each and every word in new and changed standards, thus ‘infecting’ and slowing down the standards development process. Even seven years after implementation of the ERO’s compliance and enforcement processes, we still see different audit interpretations by different regions. Many times, this forces a focus in the standards on compliance, rather than a focus on reliability. While I do not want to focus on the past, these issues make overhaul of the compliance and enforcement program essential.

While NERC’s messages concerning RAI continue to offer the hope for meaningful change, discussions among registered entities reflect little meaningful progress and concern about the successful implementation of RAI by all of the regions.

Exelon supports RAI. The desired “end state” that allows NERC and Regional Entities discretion over whether to initiate an enforcement action or whether to address an issue outside of enforcement, for example, through assurance of timely mitigation, will benefit the reliability of the BPS by assuring that the resources of FERC, NERC, Regional Entities and Registered Entities can be focused on those matters that pose the greatest risk to reliability. The proposal to allow self-reports of minimal issues to be aggregated and submitted periodically is also an essential reform although statements and presentations by NERC Staff appear to state that this process will only be made available to entities that participate in a still-to-be-clarified extensive review of internal controls are troubling or that those entities not participating in the internal controls review will not be entitled to a “presumption of discretion.”

These reforms must be implemented in a consistent manner across the entire ERO Enterprise as soon as possible. While Exelon appreciates that development of the reforms as well as the pilot programs take time, Registered Entities cannot wait another few years for full implementation. Exelon understands from its experience and through first-hand discussions with other Registered Entities, that some regions are already employing RAI-like approaches in audits and other compliance and enforcement activities. While movement in that direction is laudable, all regions should be implementing a consistent ERO-wide program as soon as possible.

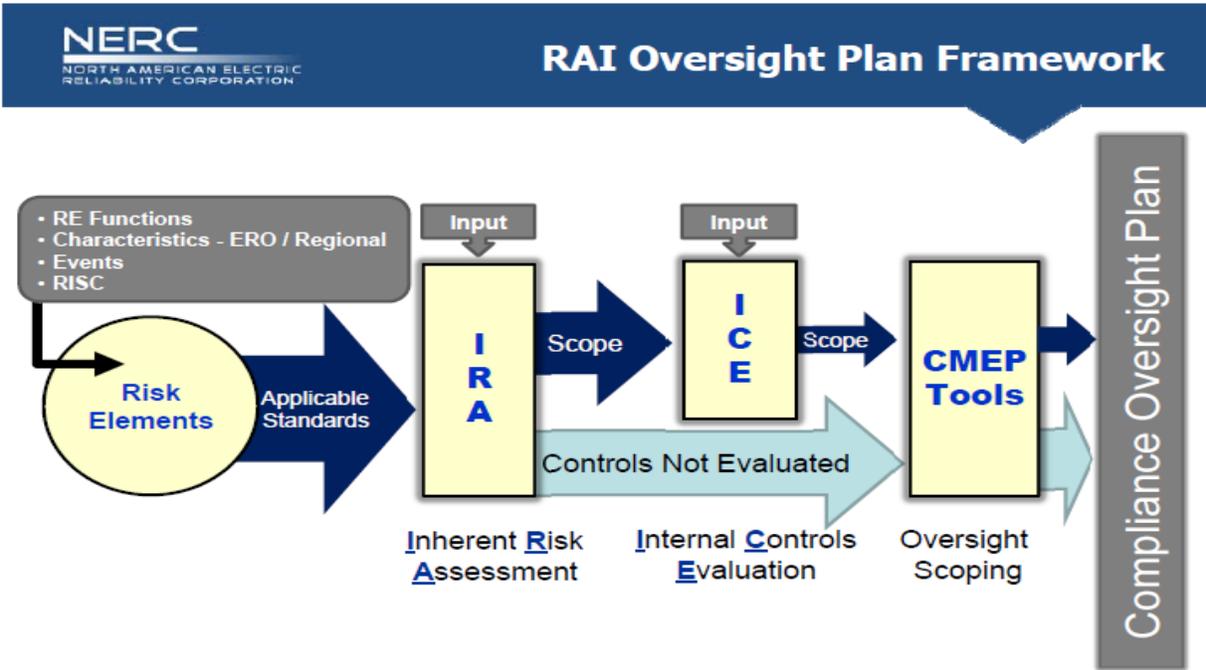
The full implementation of RAI on an expedited schedule is critical to the implementation of the CIP version 5 standards, which must be implemented for high and medium category assets by April 2016. RAI and CIP 5 implementation are inextricably linked. The Commission itself recognized this in approving the Version 5 standards while directing the removal of the “identify, assess and correct” language. Our understanding is that RAI will be implemented ERO-wide on January 1, 2016 and CIP Version 5 becomes effective April 1, 2016. This means that there is no room for slippage of the RAI implementation schedule. And in fact, NERC and the regions should devote their full attention and resources to implementing RAI as soon as possible.

While the messages about RAI are hopeful, as I said, what concerns Exelon as well as others is that the change management process is not discussed in any meaningful way. Change management is an approach to transitioning individuals, teams and entire organizations to a desired end state. There are scores of management texts and articles written on the importance of change management but the bottom line of the approach is that implementing the change requires asking – What

do we want to achieve with this change, why, and how will we know that the change has been achieved? Who is affected by this change, and how will they react to it? How much of this change can we achieve ourselves, and what parts of the change do we need help with? These aspects also relate strongly to the management of personal as well as to organizational changes. With numerous reliability processes being changed the challenge for NERC, Regional Entities and Registered Entities is making sure the ball is not being dropped. Think of several relay races being run on the same track at the same time and making sure no one drops the baton. That is our concern – that these changed processes be well planned out, well communicated and well executed. RAI itself involves numerous process changes, such as changes in auditor training and reviews of internal controls. Each process must work right and fit together at the right time.

RAI will involve a broad range of procedural as well as cultural changes within all organizations – NERC, the Regional Entities, and companies. The old approach of “every violation must be enforced” will be replaced with a risk-based approach that seeks to ensure reliability by focusing on compliance and management controls. For a successful RAI rollout, change management requires that NERC and the Regional Entities make their implementation plan clear to Registered Entities as soon as possible. A chart with milestones is important but not enough. The following chart is what stakeholders were shown at the May Board of Trustees Compliance Committee meeting.²

² Board of Trustees Compliance Committee Presentation at p. 6 (May 6, 2014), located at http://www.nerc.com/gov/bot/BOTCC/Compliance%20Committee%202013/botcc_presentations_May_2014.pdf.



The yellow boxes describe the functions at the highest level. But as every engineer knows, to understand any process, you need to understand the workings inside the ‘black box.’ NERC must make its expectations clear to all of the key actors involved at NERC itself, the Regions and companies.

The Commission can assist in this process by making clear its support for RAI and identifying any concerns that may affect the details and implementation of it. We have heard Acting Chairman LaFleur make a point several times raising concerns that ‘little things’ can turn into ‘big things.’ While the ‘A’ in RAI stands for Assurance, we need to make sure this, as well as other questions the Commission may have get answered in a timely manner. Simply said, we need regulatory certainty. NERC Staff has stated that implementation of RAI and the exercise of discretion is consistent with the existing rules of procedure. But stakeholders have heard concerns by some Regional Entities as to whether formal Commission approval is necessary. If there is

any doubt on this issue, it needs to be settled early on. As I mentioned earlier, there is no room for slippage in the schedule given the upcoming CIP Version 5 implementation deadline. If NERC needs to make any filings or seek any approvals for RAI, this must be known as soon as possible.

Implementation of the CIP version 5 standards will involve a broad range of complex design, planning, management, business, budget and compliance controls challenges. There is a great appetite among Registered Entities for timely and practical compliance guidance. Version 5 goes much further than a step change – it is a programmatic redesign and expansion of scope that requires careful planning and execution. Given the size and the nature of the work needing to be performed, registered entities have urged NERC to begin a focused discussion aimed at developing a complete set of guidance materials by no later than August 2014. Several volunteer companies have already engaged in pilot activities and have identified a small but significant number of technical and implementation issues that must be addressed. NERC needs to develop, communicate and execute a single plan for CIP Version 5 guidance materials as an urgent priority.

I would like to turn briefly to the issue of the ES-ISAC. The Commission did not mention this in its list of initiatives to be discussed, but given the importance of protecting the security of the grid from both cyber and physical threats, Exelon believes it must be one of NERC's priority functions.

The electric utility industry needs a strong and well-functioning ISAC. We believe NERC has made great progress in carrying out this important role. One major initiative will be implementation of much of the analysis and information sharing as utilities

implement the federal government technology Cybersecurity Risk Information Sharing Program (“CRISP”). CRISP is a public-private partnership to facilitate the timely sharing of cyber threat information and develop situational awareness tools to enhance the ability of the Electric Sector to identify, prioritize and coordinate the protection of its critical infrastructure. The ES-ISAC is being asked to play a more central role in the management of CRISP and Exelon, as one of the utilities that started participation in CRISP at the beginning of this year, fully supports this role. This is an important function that is outside of the NERC Standards program but which the Electricity Sub-sector Coordinating Council (“ESCC”) believes will make an important contribution to the security of the electric systems.

However, as we go forward, it is critical that NERC take additional steps to ensure the separation of the information gathering and sharing activities of the ISAC from all other program areas at NERC, especially Compliance and Enforcement. Unless there is a clear and enforced separation from compliance and enforcement, there will be a chilling effect on information sharing with the ISAC.³ On May 16, NERC promulgated a document entitled “Electricity Sector Information Sharing and Analysis Center Code of Conduct.” Exelon looks forward to working with NERC and all ERO stakeholders to review this document and ensure that functional separation of the ES-ISAC is fully implemented so that the important work of the ISAC can be fully carried on.

On the issue of risk-based registration, Exelon supports continued discussion on potential changes to the registration process. As this discussion takes place, it will be critically important to remain faithful to and in compliance with the decisions made by

³ Cf. *Dombrowki v. Pfister*, 380 U.S. 479, 487-89 (1965).

the Commission in its orders on the BES, as well as all orders approving mandatory reliability standards. Given the Commission's orders on the definition of BES, NERC cannot indirectly alter that definition through application of a registration process that exempts certain entities. Any changes to the registration process must also consider the technical changes underway in the electric utility industry that will impose new challenges to ensure situational awareness. We urge NERC to ensure that any new registration process avoids developing into yet another complex, costly and bureaucratic system.

In closing, Exelon urges NERC to establish priorities for implementation of existing and new initiatives. Achieving a sustainable steady state on new programs is essential. NERC, the Regional Entities and Registered Entities need some breathing room to ensure that the priority initiatives and requirements – particularly RAI and CIP version 5 implementation – are expeditiously and effectively implemented. Management of these major changes is essential. I look forward to discussion with the Commissioners and panelists on these topics.

Respectfully submitted,

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