UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Reliability Technical Conference	Docket No. AD14-9-000

WRITTEN STATEMENT OF CAROL CHINN
ON BEHALF OF
FLORIDA MUNCIPAL POWER AGENCY AND THE
TRANSMISSION ACCESS POLICY STUDY GROUP
FOR THE JUNE 10 TECHNICAL CONFERENCE

Thank you for the invitation to participate in today's technical conference. This conference, and particularly this panel on NERC Performance, comes at an important time considering the Electric Reliability Organization's ("ERO") upcoming Five-Year Performance Assessment.

I am here today representing Florida Municipal Power Agency ("FMPA") and TAPS—the Transmission Access Policy Study Group, an association of transmission dependent utilities in more than thirty-five states. As FMPA's Regulatory Compliance Officer, I am acutely aware of both the importance of a reliable and secure Bulk-Electric System ("BES"), as well as the heavy compliance burden borne by registered entities, even if they are small systems with limited impact on BES reliability.

As a member and past chairman of NERC's Member Representatives Committee ("MRC"), I am actively engaged in NERC policy issues. I also have the unique perspective of having had the opportunity to work in the then newly created FERC Division of Reliability shortly after passage of the 2005 Energy Policy Act. It is nice to be among familiar faces and former colleagues.

I will provide my views on questions posed regarding Standard Development Process; Compliance and Enforcement; and Security. As I will describe, important strides are being made on a number of fronts, but we have a ways to go.

I. STANDARD DEVELOPMENT PROCESS

As former co-chair of the Standards Process Input Group ("SPIG"), I am pleased that the Commission has asked about implementation of the SPIG Recommendations that were adopted by the NERC Board of Trustees in May 2012. The short answer is that the Standards Development Process has been enhanced by efforts to implement SPIG Recommendations, but because such implementation is incomplete we are not yet achieving our goals of clear, risk-informed, high-quality, and cost-effective standards.

NERC and stakeholders have implemented a number of SPIG Recommendations to make Standard Drafting Teams ("SDTs") more efficient at producing timely standards that pass ballots and receive regulatory approval. Better policies for formation and composition of SDTs, early outreach, improved balloting process, and better project management have helped reduce the amount of time it takes to develop most standards.

But further improvements are required to see benefits that would come from full implementation of recommendations made by SPIG to meet the challenge: "How will standards be developed to effectively achieve reliability objectives through clear, high quality Results-Based Standards (RBS) requirements in a cost effective manner."[1] For example, SPIG recommended that Standards Development Process address "Cost effectiveness of standards and standards development" by **"**[e]nsur[ing] cost

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[1] *Recommendations to Improve the NERC Standards Development Process* at 12, Recommendation 4 (May 9, 2012), http://www.nerc.com/gov/bot/MRC/Related%20Files%20DL/StandardProcessInputGroupMay92012FINAL.pdf ("SPIG Report").

effectiveness of standards through documentation of alternatives analysis" and "[i]nclud[ing] cost impact/reliability benefit analysis in the final standards package posted for ballot."[2] To date, NERC under the guidance of the Standards Committee has conducted cost effectiveness pilots for two Standard projects. At this time, NERC's "Cost Effectiveness Analysis Process" ("CEAP") still lacks a clear implementation plan, and continues to struggle with how to provide timely cost-effectiveness information, while minimizing burden on stakeholders for providing data needed for the CEAP process. Thus, this is still a work in progress.

Another important SPIG Recommendation is "Alignment of standards requirements/measures with Reliability Standards Audit Worksheets (RSAWs)."[3] To "[e]nsure clarity on reliability objectives and compliance obligations," and thereby to improve transparency and facilitate stakeholder consensus in supporting new and revised standards, SPIG's recommendations included:[4]

> ii. Compliance staff will develop RSAWs (that will be used in the auditing of compliance) in conjunction and coincident with the development of the standard.
>
> iii. Post entire package for stakeholder comment, including standards and RSAWs (RSAWs are not balloted).
>
> iv. Changes to RSAWS after the ballot body develops measure/standard require Board approval.

Progress has been made on the first two measures: developing RSAWs, which describe how a standard will be enforced, concurrently with associated standards; and

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[2] *Id.*

[3] *Id.*

[4] *Id.*

making the RSAWs available before balloting of standards. But these practices have not been uniformly applied. For example, we still do not have an RSAW for CIP version 5.

However, post-balloting changes in the RSAWs have not been subject to NERC BOT approval as SPIG recommended. Absent such safeguard, posting RSAWs before balloting could become problematic, where stakeholders vote for a new standard based on the initial RSAW's explanation of what will be expected, only to find a different set of rules applied after the standard is approved and enforced. Such a practice would erode the trust that is central to the Standards Development Process and, more generally, the ERO's regulatory structure.

This deficiency has now been addressed. When industry concerns about post-balloting RSAW revisions were brought to the attention of the NERC Board this February, the MRC was urged to create an RSAW Working Group, which I chaired and in which Board member Bruce Scherr (who chairs the BOT Compliance Committee) actively participated. These efforts produced an RSAW revision process that requires posting of substantive revisions to RSAWs for industry comment, with the revised RSAW forwarded, along with any comments not accepted, to the Chair of the BOT Standards and Oversight Technology Committee, who will determine whether the revised RSAW goes into effect or whether full SOTC review is required. This process, which was endorsed at the May BOT meeting, strikes the right balance, recognizing NERC's compliance and enforcement role, while providing needed transparency and accountability. Other administrative RSAW concerns were brought to light through this effort. We look forward to continuous improvement on the RSAW front, so as to provide regulatory certainty for registered entities.

SPIG took a cue from the Commission's proactive "P 81 initiative"[5] by recommending "The retirement of standards that are no longer needed to meet an adequate level of reliability."[6] On this important recommendation, it is frankly hard to assess where we are. The effort started off well, with industry leaders focused at the "right" strategic level with an approach that makes sense, and resulted in the "Phase 1" proposal to eliminate the "low-hanging fruit." This Phase 1 retirement proposal was approved by the Commission, along with the helpful withdrawal of 41 Commission directives.[7] With the decision not to pursue Phase 2 as such, but instead to integrate P 81 considerations into the standards review process, it is less clear that we are receiving the intended fruits of this vital initiative. For example, at the May SOTC meeting, it was reported that of the 281 requirements recommended for retirement (either by stakeholders under P 81 Phase 2 or by the Independent Expert Review Panel, or both): 179 requirements have been addressed by a drafting team in projects; 80 requirements are in current projects; and 22 requirements are unassigned to a project.[8] But this report sheds little light on how many requirements were actually "retired" in this P 81 effort. The presentations to date have not been sufficiently detailed to indicate whether we are succeeding in eliminating requirements that are unnecessary or duplicative. At a minimum, more needs to be done to communicate the results of P 81 efforts and to make sure they do not get lost in the shuffle.

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[5] *See N. Am. Elec. Reliability Corp.*, 138 FERC ¶ 61,193, P 81 (2012).

[6] SPIG Report at 12.

[7] *Elec. Reliability Org. Proposal to Retire Requirements in Reliability Standards*, 145 FERC ¶ 61,147 (2013).

[8] See *Reliability Standards Quarterly Status Report* at 37, presented at the May 6, 2014 SOTC meeting, http://www.nerc.com/gov/bot/BOTSOTC/Board%20of%20Trustees%20%20Standards%20Oversight%20and%20Tech1/SOTC_presentations_May_2014.pdf.

Another key SPIG Recommendation involved formation of "a Reliability Issues Steering Committee (RISC) to conduct front-end, high level review of nominated reliability issues and direct the initiation of standards projects or other solutions that will address the reliability issues."[9] The SPIG Report describes the RISC role as "analyz[ing] the criteria, triag[ing] the nomination, and decid[ing] to reject, recommend alternatives, or develop a standard,"[10] so that RISC functioned as part of the "Front End" high-level review of issues nominated for standards development, and a risk-based approach could be used to focus such efforts on projects with high impact to reliability. This recommended role envisioned that the RISC would provide analysis of new and emerging reliability issues that would inform NERC staff and the Standards Committee as to whether an issue needs to be addressed with a Reliability Standard or whether an alternate reliability tool would work better. Not every problem should be solved with a standard.

The RISC was put in place (TAPS Executive Director John Twitty has served on the RISC since its inception), and has contributed high-level strategic priority setting. However, as reflected in the November 6, 2013 report to the MRC,[11] several SPIG Recommendations related to RISC have not yet been fully implemented, and the MRC's recent review of SPIG implementation highlighted the need for the RISC's strategic priorities to be integrated with NERC's planning—Business Planning, Resource

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[9] SPIG Report at 6, Recommendation 2.

[10] SPIG Report at 9, Figure 2.

[11] *Standards Process Input Group (SPIG) Recommendations: Implementation Status* (Nov. 6, 2013), http://www.nerc.com/gov/bot/MRC/Agenda%20Highlights%20nad%20Minutes%202013/MRC%20Quarterly%20Meetings_MRC_Presentations_Nov_2013_Complete.pdf.

Allocation, and Committee Plans.[12] In particular, the project-based triage function that SPIG envisioned for RISC has not been implemented, although there is some indication that this may be changing (for the better, in my view).

In short, on many SPIG Recommendations, we are heading in the right direction, but we are not there yet.

II. COMPLIANCE AND ENFORCEMENT

But we will not get the Standards Development Process right until we get compliance and enforcement right. Moving away from a "zero tolerance approach" is fundamental to improving the quality of standards so that they are geared towards reliability risk, without compliance risk distractions.[13] We also appreciate the Commission's support of the need to move away from a zero tolerance approach.[14] Again, while we know where we are trying to go, we are definitely not there yet.

The distance between where we are and where we need to get to is illustrated by the low scores received by NERC in last fall's Five-Year Performance Assessment update survey for its work in enforcement.[15] The analysis presented at the May 2014 MRC meeting showed the same ten most violated standards in 2013: CIP, PRC-005,

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[12] *See Minutes: Member Representatives Committee* (Nov. 6, 2013), http://www.nerc.com/gov/bot/MRC/Agenda%20Highlights%20nad%20Minutes%202013/MRC_1113m_Complete_Approved.pdf.

[13] See industry comments regarding quality of standards, SPIG Report at 4.

[14] *Version 5 Critical Infrastructure Prot. Reliability Standards*, 145 FERC ¶ 61,160, P 69 (2013).

[15] In the update survey, reflecting 326 responses—double the response rate compared to the three-year report— NERC received the lowest average scores for its work involving enforcement, registration and certification, reliability assessment and critical infrastructure protection, while average scores for enforcement ranged from 1.7 to 2.3 (on a scale of 1 to 5). *ERO Enterprise Three-Year Strategic Plan and 2014 Performance Metrics: Member Representatives Committee Meeting* (Feb. 5, 2014), http://www.nerc.com/gov/bot/MRC/Agenda%20Highlights%20nad%20Minutes%202013/MRC_Presentations-February_5_2014.pdf.

VAR-002, and FAC-009.[16] These results reflect the continued high level of self-discovery/self reporting of violations associated with high volume activities, with many opportunities to miss the full compliance mark, in a zero tolerance environment. Clearly the current compliance and enforcement approach imposes an excessive resource drain on NERC, Regional Entities, and registered entities.

Find, Fix, and Track has been helpful, but it is still resource intensive from the registered entity point of view, and does not fundamentally alter the current zero tolerance approach. NERC's Reliability Assurance Initiative ("RAI") offers greater potential for significantly reducing unnecessary compliance and enforcement costs while enhancing reliability. But RAI, which was initially called Compliance Enforcement Initiative ("CEI"), has been in development for two years. It has evolved and holds promise, but RAI is still in the pilot stage and we are awaiting communication regarding RAI program details, so registered entities can have regulatory certainty. Also, RAI's emphasis on assessment of a registered entity's strong internal controls may be difficult to apply to small entities; while NERC has made clear that it does not intend a one-size-fits-all approach, the models identified so far often entail a complexity far beyond the reach of small systems.

Our best hope is NERC's Risk-Based Registration Initiative. This effort is intended to align registration with risk to the BES, so not as many small entities with insignificant potential impact on the BES remain subject to NERC compliance, imposing a significant burden on all involved with little benefit to reliability. Many of the nearly

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[16] *See Agenda: Board of Trustees Compliance Committee* at 11 (May 6, 2014), http://www.nerc.com/gov/bot/BOTCC/Compliance%20Committee%202013/botcc_agenda_package_May_2014.pdf.

2000 entities on the NERC Compliance Registry pose little to no risk to the BES, or are subject to demonstrating compliance with requirements far in excess of what is needed to protect the BES and ensure reliable operations. To make matters worse, the NERC Rules of Procedure lack clear deregistration procedures and timelines, which has left entities that are over-registered under the current registry criteria subject to compliance while their deregistration requests remain in limbo. This situation is inefficient, unduly burdensome, and reflects an approach to registration that is incompatible with the risk-informed focus that NERC seeks to bring to all of its activities. To address these concerns, TAPS and FMPA have been actively engaged with NERC and other stakeholders on the Risk Based Registration initiative.

In short, we strongly support, and are working hard to help bring about, a risk-informed approach to registration, compliance, and enforcement.

III. SECURITY

A. Physical Security

FERC imposed an unprecedented requirement of NERC and the industry to produce a new physical security standard within 90 days. NERC and industry responded diligently and produced a new standard that fully complies with the Commission's directives in record time.[17] One of the reasons for this success was the decision to focus on those high-risk assets that could cause widespread instability, uncontrolled separation, or cascading outages if they were rendered inoperable.

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[17] *See* Petition of the North American Electric Reliability Corporation for Approval of Proposed Reliability Standard CIP-014-1, May 23, 2014, *N. Am. Elec. Reliability Corp.*, Docket No. RM14-15-000, http://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=13553569.

B. CIP v5 Implementation

The CIP v5 standards are complex and reflect a major shift from the previous versions of the CIP standards, so it should come as no surprise that implementation brings some challenges. I want to highlight three examples of common implementation challenges, and the role that NERC can play in helping to address them by providing timely guidance to industry.

First, industry needs more guidance on the transition from CIP v3-v4-v5. NERC has made significant efforts to keep industry informed on transition issues—there have been several versions of a transition guidance document, NERC has hosted webinars, and NERC has various pilot programs that will result in additional lessons learned and guidance for utilities trying to implement CIP v5. But NERC's guidance has been evolving over time on this complex issue: NERC still plans to revise its transition guidance document; NERC needs to complete its Transition Study; and as previously mentioned, NERC is still working on the CIP v5 RSAW. The sooner NERC provides clear, definitive guidance, the better it will be for reliability so the industry can confidently move ahead with implementation.

Second, implementing the asset identification required by CIP-002-5 has proven to be challenging. CIP-002-5 was intended to provide bright-line criteria for classifying assets as Low, Medium, or High impact, so that registered entities could easily identify and classify their assets. But in practice, CIP-002-5's asset identification has been much more complex than anticipated, with the difficulty increased by uncertainty as to how the criteria will be interpreted and applied by NERC. Additional guidance from NERC on these issues—perhaps in the form of an RSAW—is essential.

The third implementation issue concerns shared facilities. In Florida and around the country, it is not unusual for a single facility to house equipment owned by multiple entities. This poses a particular problem for achieving the access control required by the CIP standards. The entity that owns the main facility needs to simultaneously control access to the facility and ensure that other equipment owners have access to their own equipment. Unintended consequences may be that facility owners simply tell the other equipment owners that they can no longer have access to the facilities, needlessly raising costs. NERC guidance can help minimize these kinds of problems.

These three examples highlight a common theme: when implementing a standard as complex as CIP v5, we will run into unanticipated problems, so we need NERC to take a very active role in giving timely guidance on how to resolve implementation complications.

There is also a question of how the above guidance should be issued. The Standards Processes Manual Section 11 provides a process to "enhance stakeholder understanding and implementation of a Reliability Standard."[18] We support using this process for NERC and stakeholders to issue the necessary guidance. This is an excellent opportunity for NERC and stakeholders to work together to resolve outstanding questions on the implementation of CIP v5, or, in the alternative, if needed, implement an expeditious process to have the current CIP standards drafting team make the necessary revisions to the requirements themselves.

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[18] *NERC Standards Processes Manual, Version 3* at 43, June 26, 2013, http://www.nerc.com/pa/Stand/Documents/Appendix_3A_StandardsProcessesManual.pdf.

In conclusion, ERO performance is moving in the right direction, specifically with the recent enhancements to the Standards Development Process. But we are not there yet. And until some significant Compliance Monitoring and Enforcement Program improvements are truly across the finish line and implemented, we will continue to be distracted from the end goal: Reliability of the Bulk Electric System.

Once again, I would like to thank the Commission for this opportunity and look forward to your questions and the panel's discussion of these critical issues.