

FERC Reliability Technical Conference

Panel III: ERO Performance and Initiatives

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Chairman Bay, Commissioners, staff and fellow panelists. My name is Sonia Mendonca and I am the Deputy General Counsel and Vice President of Enforcement at the North American Electric Reliability Corporation (NERC). I appreciate the opportunity to present today on the implementation of the risk-based Compliance Monitoring and Enforcement Program (CMEP).

During the last two years, NERC and the Regional Entities identified changes to certain processes to enhance the effectiveness of compliance monitoring and enforcement activities. On February 19, 2015, the Commission approved these changes, subject to certain conditions.

The risk-based CMEP is a critical factor in the implementation of the ERO Enterprise's strategic goal 2, which provides that the ERO Enterprise shall:

Be a strong enforcement authority that is independent, without conflict of interest, objective, and fair, and promote a culture of reliability excellence through risk-informed compliance monitoring and enforcement. The ERO retains and refines its ability to use standards enforcement when warranted and imposes penalties and sanctions commensurate with risk.... The ERO Enterprise holds industry accountable for violations that create serious risk to the BES; resulting actions are timely and transparent to industry.¹

NERC and the Regional Entities have made significant progress in implementing the risk-based CMEP during the first quarter of 2015. All of the related processes are being carried out throughout the ERO Enterprise by all Regional Entities. Training of ERO Enterprise staff and outreach efforts to industry stakeholders also continue.

Ensuring the successful implementation of the risk-based CMEP is a priority of NERC for 2015. The ERO Enterprise has identified success factors and related metrics to assess the success of the implementation of

¹ See ERO Enterprise Strategic Plan 2015-2018, as approved by the NERC Board in November 2014, available at http://www.nerc.com/AboutNERC/Documents/ERO_Enterprise_Strategic_Plan_2015-2018_Board%20Approved_November_2014.pdf.

the risk-based CMEP.² Over the course of 2015, NERC will collect information related to each measurement in order to determine the appropriate benchmarks and possible targets for future years.

NERC is evaluating the implementation of the program from quantitative and qualitative perspectives. The quantitative aspects include certain implementation-focused metrics such as how many entities participate in the self-logging program or how many inherent risk assessments have been performed to date. These metrics are temporary in nature and are simply intended to track the rate of implementation of the various processes. For example, in the first quarter of 2015, there was an increase in the number of compliance exceptions processed, as well as entities allowed to self-log noncompliance posing a minimal risk to the reliability of the bulk power system compared to the end of 2014.³ In addition, in the last two quarters, the ERO Enterprise conducted inherent risk assessments for 115 entities, more than half of the entities in the 2015 audit schedule. In 23 cases, the inherent risk assessment resulted in a modification of the compliance monitoring method being used to one more tailored to the specific risks identified.

A qualitative review of these processes is also ongoing.⁴ The review includes an assessment of consistency of Regional Entity processes and procedure documents with the risk-based CMEP design, sampling of activities related to the performance of specific components of the risk-based CMEP design for quality assurance, and providing feedback, training, and recommendations to Regional Entities for improvement. NERC has committed to reporting on its evaluation of the program through an annual filing to the Commission, beginning in February 2016. Quarterly public reports are also posted on the NERC website.⁵

NERC is also committed to evaluating the impact of the risk-based processes on reliability performance, reduction of reliability risks, and compliance efficiencies. For example, NERC is tracking, over the course of 2015, noncompliance with the Reliability Standards and Requirements associated with the risk elements identified as priorities for monitoring in 2015. Over time, this will allow NERC to better understand the impact of the identification of such priorities on compliance with the related Reliability Standards and Requirements, from the perspective of the number and seriousness of noncompliance. NERC also analyzes

² See Board of Trustees Compliance Committee Open Session Agenda Package, item 3 at pp. 18-22, *available at* <http://www.nerc.com/gov/bot/BOTCC/Compliance%20Committee%202013/BOTCC%20Open%20Agenda%20Package%2011%20February%202015.pdf>.

³ Specifically, 127 instances of noncompliance posing a minimal risk to the reliability of the bulk power system were processed as compliance exceptions. These 127 instances represented 54% of all of the noncompliance processed by the ERO Enterprise during this period. In addition, 37 registered entities are now allowed to self-log (from 19 entities as of the end of 2014).

⁴ For more information regarding the oversight processes used in such reviews, please see Board of Trustees Compliance Committee Open Session Agenda Package item 5, *available at* <http://www.nerc.com/gov/bot/BOTCC/Compliance%20Committee%202013/BOTCC%20Open%20Agenda%20Package%2006%20May%202015.pdf>.

⁵ See e.g., <http://www.nerc.com/pa/comp/CE/Compliance%20Violation%20Statistics/Compliance%20Violation%20Statistics%20-%20First%20Quarter%202015.pdf>.

noncompliance to identify patterns, trends, and areas of focus. In addition, NERC reports on representative examples and themes.⁶

Serious risk violations of Reliability Standards continue to happen only infrequently. However, when they occur, as was the case with a set of CIP violations filed with the Commission in April, the ERO Enterprise has the ability to dedicate resources to them, commensurate with the risk. This is consistent with one of the primary purposes of the risk-based approach to compliance and enforcement, which is to allow a proper allocation of resources by using streamlined mechanisms to handle lower-risk noncompliance.

NERC believes that feedback mechanisms among all of the operational areas of the ERO Enterprise are essential and is committed to the continuous improvement of these mechanisms. The primary feedback mechanism among Event Analysis, Standards, and Compliance is driven by ERO Enterprise metric 2, which requires NERC to assess all Category 3 and above events for Standards and Compliance gaps and close identified gaps within one year of the gap analysis report's conclusion being released, unless a technical study is needed. Additional feedback mechanisms include the process of identifying and prioritizing risks for monitoring of registered entities on an annual basis.⁷ In addition, there are multiple, informal feedback mechanisms within NERC and between NERC and the rest of the ERO Enterprise. NERC is working with Regional Entities to further enhance and expand existing feedback mechanisms and identify areas for improvement. The status of feedback mechanisms also will be discussed in NERC's annual filing in compliance with the Commission's February 19, 2015 order regarding NERC's risk-based Compliance Monitoring and Enforcement Program.

Thank you for the opportunity to present on these issues today. I look forward to answering any questions.

⁶ See Board of Trustees Compliance Committee Open Session Agenda Package, item 5, Appendix, *available at* <http://www.nerc.com/gov/bot/BOTCC/Compliance%20Committee%202013/BOTCC%20Open%20Agenda%20Package%206%20May%202015.pdf>.

⁷ See Risk Elements Guide for Development of the 2015 CMEP IP, *available at* http://www.nerc.com/pa/comp/Reliability%20Assurance%20Initiative/Final_RiskElementsGuide_090814.pdf.