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ONE HUNDRED EIGHTH CONGRESS

U.S. House of Representatives
Committee on Energy and Commerce
Washington, DC 20515-6115

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May 13, 2004

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Mr. Michael R. Gent
President and CEO
North American Electric Reliability Council
Princeton Forrestal Village
116-390 Village Boulevard
Princeton, New Jersey 08540-5731

Dear Mr. Gent:

As we head into the summer cooling season, the specter of last year's massive blackout remains of utmost concern. The U.S.-Canada Power System Outage Task Force issued its report on March 31, 2004, entitled "Final Report on the August 14th, 2003 Blackout in the United States and Canada: Causes and Recommendations."

The report contains several interesting findings and recommendations, including a section highlighting the need to reform the governance of the North American Electric Reliability Council's (NERC) regional reliability councils.

Page 40 of the report raises the issue of "organizational independence" for the ECAR regional reliability council. This section notes that in 2003, ECAR's budget was \$5.15 million funded by its member utilities through a formula that considers generation, load served, miles of high voltage lines, etc., and that all policy and technical decisions for ECAR "including all interpretations of NERC guidelines, policies, and standards" are developed by committees composed of staff from ECAR member utilities.

This section further notes the following:

ECAR has a staff of 18 full-time employees, headquartered in Akron, Ohio. The staff provides engineering analysis and support to the various committees and working groups. Ohio Edison, a FirstEnergy subsidiary, administers salary, benefits, and accounting services for ECAR. ECAR employees automatically become part of Ohio Edison's (FirstEnergy's) 401(k) retirement plan; they receive FE stock as a matching share to employee 401(k) investments and can purchase FE stock as well. **Neither ECAR staff nor board members are required to divest stock holdings in ECAR member companies.**" (emphasis added)

Mr. Michael R. Gent
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This strikes me as a rather curious practice, a concern that seems borne out by a later section of the report which notes that "It is difficult for an entity dominated by its members to find that the members' standards and practices are inadequate" (p.40). While it is common practice for corporate employees to receive stock in their company or to purchase company stock (usually at a reduced price), this practice is usually employed as a retention tool, to literally invest employees in the success of a company.

This hardly seems an appropriate practice for employees charged with regulatory oversight, and seems to pose an inherent conflict since such actions could effect the company's bottom line.

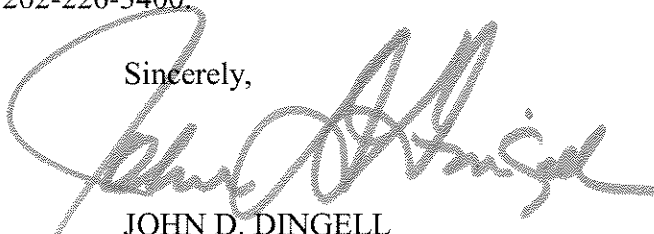
Is this practice limited to ECAR or are all of the regional reliability councils structured in a similar fashion? If so, please provide a detailed list of the regional reliability councils; the number of employees in each; the benefits structure of each, including stock benefits and employee stock purchase plans and any bonus policies in place, such as the granting of additional stock due to corporate performance. If this situation is limited to ECAR please explain what steps have been taken to mitigate this obvious conflict of interest.

Section 10 of the report, entitled "Recommendations to Prevent or Minimize the Scope of Future Blackouts" addresses this problem in its second recommendation, calling for the development of "a regulator-approved mechanism for funding NERC and the regional reliability councils, to ensure their independence from the parties they oversee" (p. 143).

Do you agree with this recommendation? If not, why not? If so, what steps are being taken to adopt this recommendation?

I would appreciate a response no later than May 27, 2004. If you have questions please contact me, or have your staff contact Bruce Harris or Sue Sheridan of the Committee on Energy and Commerce Democratic staff at 202-226-3400.

Sincerely,

A handwritten signature in dark ink, appearing to read "John D. Dingell", written in a cursive style.

JOHN D. DINGELL
RANKING MEMBER

cc: The Honorable Joe Barton, Chairman
Committee on Energy and Commerce

The Honorable Ralph M. Hall, Chairman
Committee on Energy and Air Quality

The Honorable Rick Boucher, Ranking Member
Subcommittee on Energy and Air Quality