



**Federal Energy Regulatory Commission**  
**July 6, 2006**  
**Technical Conference**  
**Statement of**  
**Chairman Joseph T. Kelliher**

**Review of the North American Electric Reliability Council's  
Proposed Reliability Standards (RM06-16-000)**

"Today, the Commission holds a technical conference focusing on the May 11, 2006 Staff Preliminary Assessment of the North American Electric Reliability Council's (NERC's) proposed reliability standards. This assessment was issued as part of the Commission's duty to establish enforceable standards that assure bulk power system reliability.

Last September, I asked staff from the Division of Reliability to begin a comprehensive review of NERC's existing reliability standards. The Preliminary Staff Assessment issued on May 11<sup>th</sup>, was the result of that effort.

The Assessment finds that NERC's existing program of voluntary standards represents "a solid foundation on which to maintain and improve the nation's reliability." However, the Assessment cites various "deficiencies" in the proposed NERC standards. The Assessment makes no legal findings and makes no recommendation about which standards should be accepted, conditionally accepted, or remanded by the Commission. It merely identifies the standards' strengths and deficiencies from the staff's perspective. The Staff Assessment identified the following areas of concern:

- Blackout Report Recommendations
- Ambiguity
- Technical Adequacy
- Measures and Compliance
- Undue Negative Impact on Competition
- Fill in the Blank Standards
- Applicability

In many instances, the deficiencies cited are among those identified by NERC, and are the subject of a work plan NERC has proposed. In other cases, the staff cites deficiencies that are not part of NERC's proposed work plan. The Assessment is meant to provide a basis by which industry stakeholders can submit their comments about the effectiveness of NERC's reliability standards as well as suggestions for an appropriate plan for addressing any immediate as well as longer-term improvements which might be necessary. Of particular concern to the Commission is whether any deficiencies can be remedied in a timely fashion and in a manner that will assure the reliability of the Nation's bulk power system.

To date, we have received over 50 comments, including responses from federal and provincial agencies within Canada. Although the commenters were not necessarily in agreement with every aspect of the Assessment, many were highly complimentary about the quality of the staff review and the manner in which the Assessment was organized. I have also heard directly from several organizations about the quality and content of the Assessment and my thanks and congratulations go out to the staff in the Division of Reliability who were responsible for the composition of such a high quality and professional document.



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I also want to recognize the tremendous progress that NERC has made over the past year towards strengthening reliability standards. Moving from a regime of voluntary compliance with unenforceable reliability standards to one of mandatory compliance with standards backed by significant penalty authority is not an easy matter. While the Preliminary Assessment identified deficiencies in the proposed reliability standards, the fact is that the reliability standards proposed by NERC are stronger than the standards that existed on the day the Energy Policy Act of 2005 was enacted. NERC deserves credit for this progress.

The release of this Assessment is part of an open and inclusive process by which the Commission will be implementing mandatory reliability standards. Because the industry is moving from a voluntary to mandatory system of compliance, it is important to provide ample opportunity for both our colleagues in Canada and Mexico and industry stakeholders to participate in the process and make sure we "get it right". Therefore as announced on April 18<sup>th</sup>, the Commission will evaluate the adequacy of the existing reliability standards through a rulemaking process. The Preliminary Assessment is part of that review. Interested parties were encouraged to provide written comments on the Assessment by June 26<sup>th</sup>. Today we will hear oral comments about the Assessment and the reliability standards. These proceedings will help establish a record that will assist the Commission to issue a Notice of Proposed Rulemaking (NOPR) this fall to act on each of the reliability standards that have been submitted by NERC. Interested parties will have further opportunity for comment on the standards and the process for reviewing those standards after the NOPR is released by the Commission. After notice and comment, the Commission will issue a final rule approving, conditionally accepting, or remanding the reliability standards. Once approved, those standards will be mandatory and enforceable as to all users, owners, and operators of the bulk power system.

The Commission may approve a proposed reliability standard if it determines the standard is just, reasonable, not unduly discriminatory or preferential, and in the public interest. Order No. 672 subsequently provided guidance on the criteria the Commission will use in determining if proposed standards meet the statutory requirements. The guidance states that the proposed reliability standard must be designed to achieve a specified reliability objective, and be clear and unambiguous regarding what is required and who is required to comply. For a standard to receive Commission approval, it need not reflect best practice, but it must assure reliability. Ultimately, the Commission has a responsibility to approve proposed standards that provide a reasonable assurance of bulk power system reliability.

It is important to reiterate that the Energy Policy Act does not provide for a "one size fits all" approach towards reliability standards. Under the Energy Policy Act, regional entities will propose standards to the reliability organization charged with standards development, the Electric Reliability Organization (ERO), which can then propose to the Commission those regional standards it has approved. This process allows for regional variations to North American reliability standards such as those necessary to accommodate a more stringent level of reliability or those that are necessary due to physical differences in the bulk power system from one region to another. If



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Congress had intended for a "one size fits all" approach, the law would not provide for regional variations.

We have a legal duty under the Energy Policy Act to assure that proposed reliability standards "provide for reliable operation of the bulk power system." To me, that means carefully reviewing proposed reliability standards and assuring they have technical support and are written so that they are enforceable against "all users, owners, and operators of the bulk power system," as the law provides. We will, of course, give due weight to the technical expertise of the ERO and regional entities organized on an interconnection-wide basis.

In my view, we do not have discretion to approve standards that fall short of the statutory criteria. However, we have some discretion on how to proceed in the event a proposed standard does not clearly meet the statutory test. We cannot let the perfect be the enemy of the good, but we also cannot make standards enforceable if we cannot find those standards assure bulk power system reliability. Once we approve standards that meet the statutory test, we can then focus on assuring effective enforcement and improving reliability standards over time.

Today's discussions will focus on (1) the standards' ability to meet the criteria established in Order No. 672, (2) the Common Issues identified by the Assessment and their applicability when reviewing the standards, (3) how existing reliability standards can be improved over time and, where necessary, new standards can be developed, and (4) what processes might be necessary when coordinating across international borders to enact and subsequently enforce mandatory reliability standards.

As I conclude, I want to recognize and welcome Kellan Fluckiger from the Alberta Department of Energy, Kim Warren from Ontario, and Mr. Jose Femat and Ms. Carlota Cagigas from the Comision Reguladora de Energia in Mexico. The Commission recognizes the importance of continued cooperation with our neighbors in Canada and Mexico, as we not only share borders and a transmission grid but potentially an ERO as well. Good governance of the ERO, including the approval and enforcement of clear and effective reliability standards, will benefit all of our nations.

I look forward to hearing the views of the panelists."