

Opening Statement of Mark Crisson

Chief Executive Officer, American Public Power Association (APPA)

FERC Technical Conference

Reliability Standards Development and NERC and Regional Entity Enforcement,
Docket No. AD10-14-000

July 6, 2010

I want to thank the Commission for the invitation to speak today on the current state of mandatory reliability standards development and enforcement. APPA and its members have been focused on the development of, and compliance with, mandatory reliability standards since the passage in 2005 of Section 215 of the Federal Power Act. APPA supported the passage of Section 215 because it recognized that a mandatory reliability regime was needed to ensure the reliable operation of the bulk power system; voluntary standards and peer pressure alone were no longer sufficient to get the job done.

Section 215 sets out a unique hybrid regulatory regime that requires the North American Electric Reliability Corporation (NERC), its Regional Entities (REs), the industry, and the Commission all to work together in harness. NERC, as the certified Electric Reliability Organization (ERO), develops reliability standards and enforces them in the first instance, with the help of the REs. The industry participates in the ERO's standards development process, which under Section 215 must provide for due process, openness, and balancing of interests in developing standards. This Commission reviews the resulting reliability standards and either approves them or remands them to the ERO for further consideration, giving due weight to the technical expertise of the ERO. This Commission also reviews the penalties that the ERO and its REs levy for violations of reliability

standards, and can affirm, modify or set aside those penalties. The Commission can also bring its own independent enforcement actions.

Since the passage of Section 215, APPA and its members have expended very substantial time and resources (both monetary and human) on the development of reliability standards and on compliance with those standards. There are over 330 APPA members now on the NERC Compliance Registry. Public power system employees have dedicated many hours to working on NERC standards drafting teams, submitting comments to NERC on proposed standards, and participating in balloting pools. They actively participate on NERC technical Committees and corresponding RE committees and task forces. If you go to a NERC Board of Trustees meeting, you will see many public power representatives serving on the Member Representatives Committee in various capacities. Given how leanly staffed many public power systems are, the relatively small size of many of them, and the current fiscal stresses on local government budgets, this is no small feat. Within APPA, we have also made reliability standards development and compliance a high staff priority, as evidenced by Allen Mosher's current volunteer service as the Chairman of NERC's Standards Committee.

We are now three years into compliance with mandatory standards. It makes sense to stop and assess where we are and how well this unique regulatory regime is working.

We have all come a very long way in three years, and have much to be proud of. Even within this short timeframe we are seeing reliability improvements. APPA will continue to support the reliability standards framework, but I need to convey to you the four prime concerns that my

members have with the current state of standards development and enforcement.

First, there is a need for a better working relationship among the Commission, NERC and its REs, and industry representatives. Over the last few years, the relationship gradually seems to have become less collaborative and more adversarial. Perhaps we in the industry missed some signals, because the series of reliability-related orders that the Commission issued on March 18 caught us largely by surprise. Taken together, these orders seem to signal deep dissatisfaction on the Commission's part with NERC's and the industry's performance in a number of areas. These orders have caused the industry in turn to "circle the wagons," filing responsive pleadings in numerous dockets to protect our substantive interests and legal flanks.

While understandable, this certainly is not the optimal way to ensure the reliability of the bulk power system. APPA is very heartened by the Commission's decision to hold this technical conference, as a way to start a direct dialogue on these important issues. We pledge to participate fully in any further discussions that the Commission may see fit to initiate to improve the working relationship. We believe that collaboration and discussion will get us all further along the road to better bulk power system reliability than filing for rehearing of Commission orders and pursuing court appeals. Perhaps the 2011 NERC Reliability Standards Development Plan now being developed could serve as a focal point for such discussions.

Second, both the industry and the Commission should take full advantage of the opportunities that NERC's change in leadership brings. I have personally been very impressed with both Gerry Cauley's words and deeds in the months

since he has become NERC's CEO. I know my members feel the same way. Gerry has reached out to public power, making the time to come to many of our members' meetings to discuss his plans and priorities. He clearly has a vision of how NERC can foster increased electric industry reliability, and a roadmap to help us get there. I urge the Commission to support his vision as well and to work with him to help achieve it.

Third, we all need to step back and assess whether we are getting the most reliability bang for our compliance buck. My members are expending very substantial financial and human resources on reliability standards compliance. I hear again and again from them that they are spending many, many person hours documenting compliance with a myriad of reliability standards. Many are spending substantial dollars on outside consultants and lawyers to assist with these documentation tasks. If they thought that the production of these documents had a demonstrable positive effect on bulk power system reliability, they might feel more cheerful about expending these dollars, but in fact, they do not think so. Instead, their view is that these documentation tasks actually take time and resources away from activities that could improve bulk power system reliability, and this makes them very frustrated. While I, and they, understand that proper documentation is necessary in some cases to demonstrate compliance with reliability standards, the ERO and REs, the Commission, and the industry all need to consider together how we can tame the associated paperwork beast.

Fourth and finally, the ERO, REs and industry need to have a very important dialogue with the Commission about the ultimate purpose of the mandatory reliability standards regime. When Section 215 was passed, with broad industry

support, we in public power thought that the purpose was to improve the reliable operation of the “bulk-power system,” by avoiding instability, uncontrolled separation or cascading failures of that system. I suspect others in the industry and at NERC thought so too, because this is what the statute says. But we are now becoming quite concerned that the Commission has a different concept of reliability, under which any outage resulting in a more than *de minimis* loss of load is unacceptable, and may result in the levying of very substantial monetary penalties if a violation of a reliability standard is somehow involved. The amount of monetary and human resources that would be required for the industry to meet such a concept of reliability is frankly staggering to contemplate. APPA hopes that this is not the Commission’s concept of bulk power system reliability, but if it is, we need to discuss this difference in views, and very soon.

Again, thank you for the invitation to speak, and I look forward to the open dialogue called for in the agenda.